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	U·S·DEPARTMENT OF THE INTERIOR OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT DIRECTIVES SYSTEM	Subject Number: AML-18 Transmittal Number: 751 Date: NOV 16 1992

Subject: Annual Distribution of AML Grant Appropriation to States and Tribes

Approval: [signature] **Title:** Director

1. Purpose. This Directive provides policy and procedures for use by the Office of Surface Mining Reclamation and Enforcement (OSM) in the annual distribution of the Abandoned Mine Land (AML) grant appropriation to States and Indian tribes.

2. Summary. This Directive implements the changes required by the Abandoned Mine Reclamation Act of 1990 regarding the method used to distribute the AML grant appropriation.

The Appendix details the grant appropriation distribution process including: 1) providing for emergency program funding; 2) determining the State/Tribal and Federal shares of the remaining grant appropriation; 3) distributing State/Tribal share funds to individual States and Tribes; 4) distributing Federal share funds; and 5) making adjustments for the minimum program. Changes to procedures include setting percentages of State and Federal share of the grant appropriation at 55 and 45 percent, respectively, and funding the minimum program supplemental adjustment and State emergency grants solely from the Federal Expense (g)(3) account of the Federal share.

3. Definitions.

a. Distribution. The process by which OSM assigns specific amounts of the AML grant appropriation to each program State and Indian tribe based on a formula using a State/Tribe's percentage of the State and Tribal share of the Fund and historical coal production, taking into account amounts for State emergency programs and the minimum program supplemental adjustment.

b. Federal Share of Grants. The portion of AML funds (appropriation, grant appropriation, grant distribution, and grant awards, deobligations, and recoveries) funded from the Federal share of the Fund, i.e., from the Historical Coal Distribution (HCD) (g)(5) account and the Federal Expenses (g)(3) account.

c. Federal Share of the Fund. The unappropriated Federal share balance of the Fund through September 30, 1991 and: 1) 50 percent of annual AML fee collections from program States and

Tribes; 2) 100 percent of interest, penalties, administrative costs, court costs, and other miscellaneous receipts paid to OSM (e.g., proceeds from coal sales and lien payments associated with AML projects); and 3) 100 percent of fees collected in non-program States. The Federal share of the Fund consists of three accounts: (g)(2) for funding RAMP; (g)(3) for funding the Federal expenses (Small Operator Assistance Program, emergency projects, projects in non-program States and Indian tribes, supplemental adjustment for minimum-level programs, and administration by the Secretary); and (g)(5) for HCD for funding grants.

d. Minimum Program. The distribution of AML funds to program States/Tribes whose funding would otherwise be below $2.0 million. These States/Tribes must have sufficient unfunded inventory of AML health and safety problems (priority 1 and 2) in order to receive Federal share grant funds to raise the combination of both the State/Tribal share and Federal share of a particular State/Tribe's grant funds to the minimum program level.

e. State/Tribal Share of Grants. The portion of AML funds (grant appropriation, grant distribution, and grant awards, deobligations, and recoveries) funded from the State and Tribal share of the Fund, i.e., the (g)(1) account.

f. State and Tribal Share of the Fund. The sum of the unappropriated State and Tribal share balances in the Fund as of September 30, 1991, and 50 percent of annual fee collections in program States and Tribes.

4. Policy/Procedures.

a. Policy. The Surface Mining Control and Reclamation Act (SMCRA) of 1977, as amended, requires that beginning October 1, 1991, 50 percent of fee collections in program States and Tribes are to be allocated to the State and Tribal share of the Fund. The remaining collections are allocated to the Federal share of the Fund and are divided into: 20 percent for RAMP; 40 percent for Federal expenses such as the Small Operator Assistance Program, emergency projects, projects in non-program States and Tribes, minimum programs, and administration by the Secretary; and 40 percent for additional grants to the States and Tribes based on historical coal production.

It is a primary goal of OSM to ensure that its distribution policy avoids adversely impacting individual State and Tribal programs. The annual AML grant distribution is to be based on collections as of September 30, the end of the prior fiscal year. The first step in the process shall be deducting the amount needed to fund State emergency programs from the total grant

appropriation. Next, the distribution of non-emergency AML grant funds to the States and Tribes shall be by setting the percentages of State/Tribal and Federal shares of the grant appropriation at 55 percent State share and 45 percent Federal share. OSM shall distribute the State/Tribal share of the grant appropriation based upon each State/Tribe's respective percentage of the total unappropriated State and Tribal share of the Fund. Lastly, after determining the amount necessary for the minimum program supplemental adjustment from the Federal share of the grant appropriation, the remaining Federal share of the grant appropriation shall be distributed in accordance with Section 402(g)(5) of SMCRA based upon each State/Tribe's respective percentage of the total historical coal production.

The factors listed above are explained in further detail in the attached Appendix, AML GRANT DISTRIBUTION DETAILED INSTRUCTIONS.

b. Responsibilities.

(1) The Director, through the Budget Officer, supplies the AML appropriation figures for AML grants, RAMP and Federal expenses to the Division of Abandoned Mine Land Reclamation (DAMLR). The Director also approves the final distribution of the AML grant appropriation.

(2) The Deputy Director for Operations and Technical Services (DD/OTS) reviews and concurs with the proposed annual grant distribution prior to Director approval, and the DD/OTS approves any exception(s) to the formula-based distribution calculations. Any subsequent changes (e.g., additional funds resuballotted from emergency grant recoveries to a particular State) are considered exceptions after the annual distribution and are approved by the DD/OTS.

(3) The Assistant Director, Reclamation and Regulatory Policy (AD/RRP) is responsible for reviewing the distribution calculation provided by the Division of Financial Management (DFM) for correct application of established policy and procedures, and concurring that the distribution is in accordance with this Directive prior to DD/OTS review. The AD/RRP coordinates exception requests (made before or after the annual distribution) for approval by the DD/OTS. The AD/RRP is the lead official in answering policy questions regarding the distribution.

(4) The Assistant Director, Finance and Accounting (AD/F&A) is responsible for determining the amount of both the State/Tribal share and Federal share of grant funds to be distributed to each State and Tribe in accordance with this

Directive. The AD/F&A is responsible for forwarding copies of the annual distribution to the Field Offices, with copies for the States and Tribes. The AD/F&A is the lead official in answering questions regarding financial figures used in the distribution.

(5) The Assistant Director, Field Operations (AD/FO) is responsible for reviewing Field Office requests for exceptions to the distribution calculation, coordinating the review of exception requests with the Assistant Director, Eastern Support Center/Western Support Center, (AD/ESC and AD/WSC) and forwarding such requests, together with a recommendation whether to approve exception requests, through the AD/RRP for DD/OTS approval.

(6) The Assistant Director, Eastern Support Center/Western Support Center are responsible for advising the AD/FO of any concerns raised during the review of Field Office requests for exceptions to the distribution calculations.

(7) The Field Office Directors (FODs) are responsible for informing the AD/FO, while concurrently sending a copy to AD/ESC and AD/WSC, of any State/Tribal requests or special need for exceptions, including State emergency program grant needs. The FODs are responsible for informing their respective States and Tribes of the annual distribution.

c. Procedures.

(1) The FODs forward to the AD/FO by September 15, concurrently with a copy to AD/ESC and AD/WSC, an update of the existing grant estimates for State emergency programs. The FODs should contact emergency program States, if necessary, to verify whether the previously supplied "18-month estimate" for emergency administrative and construction grants is still accurate. State emergency program requests are to be analyzed by FODs based on State estimates, historical emergency expenditures in the State, and discussions between the Field Office and State officials. Emergency grant estimates should not include amounts for contingencies or extremely large one-time events. Note: State emergency distribution is prone to limitation by congressional appropriation language.

(2) The AD/FO coordinates review of State emergency grant estimates with both AD/ESC and AD/WSC and forwards exception requests, together with a recommendation to approve them, through the AD/RRP to the DD/OTS.

(3) The DD/OTS approves State emergency grant estimates as exceptions to the distribution formula. Approved exceptions are to be returned to the AD/RRP to be included in the request for DFM to calculate the State/Tribal grant appropriation distribution. Requests for exceptions after the annual distribution follow the same procedure.

(4) By October 5, DAMLR provides DFM with a list of the States and Tribes indicating the amount of total estimated cost of the State/Tribe's remaining inventory of priority 1 and 2 problem areas. These figures are used to limit the minimum program supplemental adjustment to either $2.0 million or the remaining cost of priority 1 and 2 problem areas in the State/Tribe, whichever is less.

(5) By November 1, DAMLR defines the distribution parameters based on: provisions contained in the new fiscal year's appropriations bill and report; SMCRA; this Directive; and any approved exception and decision documents.

(6) By November 15, DFM provides DAMLR with a fee collection report which lists the individual State and Tribe balances of the State and Tribal share of the Fund and the unappropriated Fund balances of the Federal share accounts ((g)(2), (g)(3), and (g)(5)).

(7) When the appropriation bill becomes law, the AML appropriation figures are supplied to DAMLR by the Budget Officer, Office of the Director. DAMLR then requests DFM to make the distribution calculations.

(8) Within 15 days of receipt of DAMLR's request to perform the annual distribution, DFM will provide DAMLR with distribution calculations for programmatic review to assure the results adhere to the distribution parameters and this Directive.

(9) Within 15 days of DAMLR receipt of the distribution calculation from DFM, the AD/RRP will provide acceptance of distribution calculations to the DD/OTS along with a memorandum for the Director's approval.

(10) Upon approval of the AML grant appropriation distribution by the Director, the distribution is sent by memorandum under the Director's signature to the Budget Officer, AD/ESC and AD/WSC, AD/RRP, AD/FO, and AD/F&A for implementation. DFM will provide copies of the approved distribution calculation to all the Field Offices, accompanied by a copy for the State(s) and Tribe(s).

5. Reporting Requirements. None

6. Effect On Other Documents. This Directive supersedes Temporary Directive 92-1, entitled "Distribution of FY 1992 AML Grant Appropriation to States/Tribes" dated November 19, 1991, and Directive AML-18, entitled "Annual Allocation of AML Grant Funds to States/Tribes" dated November 5, 1990.

7. References. Section 402(g) of the Surface Mining Control and Reclamation Act of 1977, as amended.

8. Effective Date. Upon issuance.

9. Contact. Chief, Division of Abandoned Mine Land Reclamation, (202) 208-5365, and Chief, Division of Financial Management, (303) 236-0331.

10. Keywords. AML Grant Allocation, Distribution, Emergency program, Minimum program, State/Tribal and Federal shares.

11. List of Appendices. AML Grant Distribution Detailed Instructions.

APPENDIX

AML GRANT DISTRIBUTION DETAILED INSTRUCTIONS

INTRODUCTION

This is the Appendix to OSM Directive AML-18 entitled, "Annual Distribution of AML Grant Appropriation to States and Tribes." These guidelines contain specific instructions implementing OSM policy as it relates to AML grant distribution calculations.

DISTRIBUTION FORMULA

I. EXCEPTIONS TO THE DISTRIBUTION PROCESS.

In instances where it is determined that the formula defined in this Directive does not adequately address specific circumstances, decision documents concerning those issues will be prepared to be approved by the DD/OTS (prior to making the annual grant distribution calculation where possible). For example, this mechanism will treat how OSM may implement a new provision included in a congressional appropriation.

II. STANDARD DISTRIBUTION FORMULA.

(A) AML Fund Figures.

o The following figures for various AML fund components will be presented in the distribution package for informational purposes: unappropriated balance, cumulative appropriations, total collections through the end of the prior fiscal year, State and Tribal share of the Fund and Federal share of the Fund, each of the three Federal share accounts ((g)(2), (g)(3) and (g)(5)), Federal expense and RAMP appropriation, and State and Tribal share of the Fund and Federal shares of the Fund available for grants.

(B) Funding for State Emergency Programs.

o Funding for State emergency programs is deducted from the total grant appropriation before dividing the remaining grant appropriation into State/Tribal and Federal shares.

o Funding for State emergency programs approved after the annual distribution can be funded from among the following: 1) transfer of funds from the Federal Reclamation Program if provided for by Congress; 2) the pool of funds created by deobligations from prior year emergency grants; and 3) State emergency funds never granted.

o State emergency program funding is based on State estimates provided in advance of the applicable fiscal year, historical emergency expenditures, and discussions between State and Field Office officials.

o Costs necessary to administer a State emergency program may be funded, at the discretion of the State, either from within the State's emergency distribution or from the State's non-emergency distribution.

o Monies that are recovered from prior year State emergency grants will be returned to the emergency pool and used as necessary to fund subsequent emergency program needs in any State. Deobligations and unawarded State emergency grant funds from the current fiscal year will remain available to the State until the end of the fiscal year. At the end of the fiscal year, the balance of unawarded emergency funds will return to the pool.

(C) Determining State/Tribal and Federal Shares

o The remaining grant appropriation after funding State emergency programs "off-the-top" is split into State/Tribal and Federal shares. The amounts of State/Tribal and Federal shares are determined by multiplying the remaining grant appropriation by 55 percent to determine the amount of State share to be distributed to the States and Tribes. The remaining 45 percent is designated as preliminary Federal share.

(D) Distribution of State/Tribal Share.

o The State/Tribal share of the grant appropriation is multiplied by each State/Tribe's percentage of the total State and Tribal share balance in the Fund. The resulting dollar amount is each State/Tribe's individual State/Tribal share distribution for grants.

o Negative percentages are adjusted to zero prior to calculating the individual State/Tribal share distributions.

(E) Preliminary Federal Share Distribution.

o Each State/Tribe's percentage of the preliminary Federal share to be distributed is obtained by computing each State/Tribe's percentage of total historic coal production prior to 1978 based on data contained in OSM's Environmental Impact Statement on the implementation of Title IV of SMCRA (published in 1979-80). Tribal data is based on coal production information contained in the Keystone Coal Manuals from 1962 through 1977.

o States/Tribes not qualifying for HCD share funds (those States/Tribes certified or without unfunded priority 1 and 2 AML problems listed in the AML Inventory System (AMLIS) as of the end of the prior fiscal year) are excluded from the calculation. The remaining percentages of historical coal production are adjusted to total 100 percent.

o The preliminary Federal share of the grant appropriation is multiplied by each State/Tribe's adjusted percentage of total historic coal production. The resulting dollar amount is each State/Tribe's individual preliminary Federal share distribution before the minimum program supplemental adjustment.

(F) Minimum Program Supplemental Adjustment.

o Section 402(g)(8) of the Act establishes a minimum program funding adjustment. A State/Tribe is eligible for the minimum program if, as of the end of the prior fiscal year, the AMLIS listing for that State/Tribe contains unfunded priority 1 and 2 coal problem areas with an estimated cost of reclamation at or above the minimum program level of $2.0 million.

o The minimum program distribution amount includes State/Tribal share, preliminary Federal share, and the supplemental adjustment amount needed for the total distribution to equal the minimum program level.

o For States and Tribes which do not meet the above minimum program criteria, the Federal share distribution is adjusted so that the total distribution equals the estimated cost of remaining priority 1 and 2 coal problems.

o The total supplemental adjustment needed to fully fund minimum program States and Tribes shall be contributed from the preliminary Federal share of non-minimum program States and Tribes.

o The minimum program supplemental adjustment is subtracted from the non-minimum program States and Tribes in proportion to each contributing State/Tribe's percentage of the total preliminary Federal share distribution for all the non-minimum program States and Tribes.

o In States/Tribes where the sum of the State/Tribal and Federal shares were above the minimum program level, but the State/Tribe's distribution was reduced below the minimum program level by the minimum program supplemental adjustment itself, the State/Tribe's distribution is brought back up to the minimum program level amount. Federal share funds that were deducted in the minimum program supplemental adjustment shall be added back into the State/Tribe's distribution up to the amount necessary to raise the State/Tribe's distribution back up to the minimum program level.

o The calculations are then performed again to revise the total minimum program supplemental adjustment. This supplemental adjustment amount shall come from the Federal Expenses (g)(3) share of the Fund.

(G) Final Distribution.

o The State/Tribal share distribution ((g)(1) account) plus the HCD share distribution ((g)(5) account) and minimum program supplemental adjustment ((g)(3) account) constitute the non-emergency program distribution to each State/Tribe for the fiscal year.

o Special funding situations will adjust the State/Tribe's final distribution. For example, State emergency program funding amounts ((g)(3) account) will be in addition to the State's non-emergency program distribution.

(H) State/Tribal and Federal Shares of Unawarded Carryover.

o The amount of State/Tribal share, HCD share, and Federal Expenses share (for the minimum program supplemental adjustment) distributed to each State/Tribe will be added to the amount, if any, of carryover (recoveries and unawarded distribution) of each of the above shares carried forward from the previous year for that State/Tribe.

10/15/92

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UNITED STATES DEPARTMENT OF THE INTERIOR
Office of Surface Mining
Reclamation and Enforcement

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October 6, 1992

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Assistant Director, RRP	[illegible]	10/8
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REMARKS

Final Directive AML-18

Subject: Annual Distribution of AML Grant Appropriation to States and Tribes

MFS# 1343

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Chief, BTS-DAMLR

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10-6-92