

June 13, 2022

Secretary Deb Haaland  
Department of Interior  
1849 C Street, N.W.  
Washington DC 20240

Deputy Director Glenda Owens  
Office of Surface Mining Reclamation and Enforcement  
1951 Constitution Ave., NW  
Washington, DC 20240

Via electronic mail to: [getinfo@osmre.gov](mailto:getinfo@osmre.gov)

Re: Comments on draft guidance on Bipartisan Infrastructure Law Abandoned Mine Land Grant Program.

Dear Secretary Haaland and Deputy Director Owens:

We applaud Congress's commitment to legacy pollution remediation and reclamation in the Bipartisan Infrastructure Law (BIL). And we are pleased to see that the Department of Interior's draft guidance includes new requirements and recommendations that states consider potential workforce, equity, and climate benefits of AML clean up. We are also pleased to see guidance related to performance measures and reporting on grant outcomes.

We offer comments to improve implementation, reporting, and assessment of the Abandoned Mine Lands Grant Program. We also note where AML grant requirements can be aligned with the Orphaned Well Site Plugging, Remediation, and Restoration section of the BIL and with related federal funding and policy aimed at supporting displaced coal workers and communities, such as the Interagency Working Group on Coal.

In particular, we recommend establishing comparable and effective data methods and reporting requirements for AML grants to allow the Secretary and the public to account for the workforce benefits and environmental justice outcomes of the program. We offer recommendations that include:

1. A coordinated national data strategy;
2. Updated restoration plans and strategies;
3. Independent monitoring and assessment; and
4. Alignment with equity and workforce requirements and assistance in related federal programs.

### **1. Coordinated National Data Strategy**

The program requires the Office of Surface Mining Reclamation and Enforcement (OSMRE) to submit a report to Congress detailing the progress made under the BIL AML grant program. We recommend that DOI require consistent, robust, and comparable data standards from each state that will be essential to reporting, comparing, and assessing program outcomes. The draft guidance requires that reporting

connect reclamation spending and outcomes directly to socioeconomic benefits in specific places and communities. To do so, OSMRE must be able to build a georeferenced database with data standards that allow activities to be joined with additional federal data, including Mine Safety and Health Administration (MSHA), U.S. Census, and others.

Data standards and reporting must include:

- Each AML site captured in the e-AMLIS system should be assigned a unique ID that matches or is consistent with the Mine Safety and Health Administration (MSHA) where no current mine ID exists. States should be required to consult with MSHA to ensure AML unique ID is consistent and can be joined with MSHA databases. This allows for AML spending, employment, and restoration data to be joined with historic annual production, mine safety reports, and to additional data that utilize the MSHA mine ID, such as EIA data about coal deliveries, prices, and characteristics (EIA utilizes the MSHA Mine ID in its fossil fuel delivery database).
- Required socioeconomic data, such as jobs and cost reporting, must include fields that match fields in other relevant federal databases. Relevant fields include:
  - Census Tract code<sup>1</sup> that aligns with detailed demographic data,
  - Environmental data, including methane and water quality, must include fields that match relevant databases from EPA and other regulatory agencies to allow for analysis of pollution and emissions.
  - Employment and cost data using standard NAICS codes (using Bureau of Labor Statistics occupations for reference).<sup>2</sup> For example, reclamation work is often categorized as commercial construction and waste management sectors. Surface restoration can involve research sectors and agronomy (e.g., ecological consultants to agronomists, soil scientists, native seed suppliers, et al).
- We recommend that the e-AMLIS system also be compatible with data generated and reported by states as part of the BIL Orphaned Well program grants. The two programs have similar requirements and recommendations related to tracking and reporting employment, spending, equity, and environmental outcomes. Ensuring the two data systems can be joined will allow for a broader assessment of the benefits associated with legacy pollution cleanup spending in the BIL.
- National AML data must be freely available to the public in multiple digital formats, including PDF, csv, MS Excel, and other relevant database formats as determined by the Secretary.
- The national database must be organized in a way that allows users, including OSMRE, reporting States, contractors, other federal agencies, and the public, to utilize data in the ways required by the program, including:
  - Generate and report summary statistics,
  - Prioritize activities using environmental pollution, methane emission, populations at risk, workforce, and cost estimates,

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<sup>1</sup> [https://www.fcc.gov/form477/Geo/more\\_about\\_census\\_tracts.pdf](https://www.fcc.gov/form477/Geo/more_about_census_tracts.pdf)

<sup>2</sup> <https://www.census.gov/naics/>

- Conduct analysis on program outcomes, including economic and workforce benefits and environmental justice outcomes. For example, the socioeconomic conditions of the region where the mine is located can be accessed from 'Populations At Risk' tool maintained by Headwaters Economics (and funded by DOI).<sup>3</sup> Populations at Risk allows users to compare local characteristics to peer counties to assess the disproportionate burden of adverse human health or environmental effects of abandoned mines on underserved communities.

## **2. Update Restoration and Remediation Plans and Strategies**

Recording and reporting required data should begin with a new or updated reclamation plan for each AML site. The plan would record characteristics of the problem and related infrastructure, methane and water pollution, costs and job estimates associated with proposed activities, and related socioeconomic data that could be used to assess adverse human health or environmental effects of abandoned mines on communities of color. Conditions at existing AML sites can change over time. And the characteristics of surrounding communities and land use also change over time, potentially affecting the relative priority of sites for reclamation due to new public health and safety or economic development and equity concerns.

To the greatest extent possible, the reclamation plan requirements should match requirements for reclamation plans defined in the Orphaned Well program in the BIL. Aligning the programs will ease compliance from states and contractors, improve coordination and capacity at the federal level, and allow for comparison and summary reporting of the benefits of all legacy pollution funds in the BIL.

- Data requirements necessary to collect, report, and analyze economic and environmental justice outcomes include:
  - Mine location including GIS coordinates, FIPS and Census Tract codes. All Census Tracts that intersect a one-mile radius from the abandoned mine should be included,
  - Estimated costs and jobs associated with each type of activity, including surface restoration to reestablish ecosystems. Estimate how many people are going to be working in which occupations and for how long.
  - Include a timeline with mitigation interim offsets and job estimates associated with each phase of activity. Interim reclamation must occur during the life of the mine and begin as soon as mine development is complete.

## **3. Third Party Monitoring and Assessment**

The program must include funding for third-party monitoring and assessment of reclamation and restoration outcomes and of economic and equity outcomes of federal spending.

- We recommend that OSMRE must set aside funds for third-party monitoring and assessment. OSMRE may contract with a national NGO or firm, or contract with entities in each state. If the latter, the contracted entities must report data to a single entity that will maintain the national database and ensure transparent reporting to the public.

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<sup>3</sup> <https://headwaterseconomics.org/tools/populations-at-risk/>

- Reporting, monitoring, and third-party assessment may account for as much as 10% of total reclamation and remediation costs, in addition to state administrative costs of managing the AML grant program. These costs ensure efficient and effective spending and allow for transparency and assessment that improves the program over time. The data standards In most cases, effective reporting, monitoring, and assessment result in better outcomes.

#### **4. Alignment with equity and workforce requirements and assistance in related federal programs.**

The draft guidance sets out required activities of grant funds, including new requirements to prioritize jobs for current and former employees of the coal industry, to consider methods to identify and address any disproportionate burden of adverse human health or environmental effects of abandoned mines on communities of color, low-income communities, and Tribal and indigenous communities, and to measure and address methane emissions from AML sites. These requirements should be coordinate and aligned with related federal efforts, such as:

- States should consult with the Interagency Working Group on Coal to identify labor, community college, and NGO partners to identify, train, and place current employees of the coal industry with contractors conducting AML work. The Interagency Working Group can also align workforce priorities with other community and economic development programs targeted to communities experiencing a transition away from coal mining.
- Data standards and metrics for identifying distressed communities should be aligned with the Orphaned Well Program. Once communities are identified using metrics and geographic criteria (the Orphan Well program recommends identifying distressed Census tracts within a one mile radius of legacy pollution sites), those communities should be consulted for public input. Public engagement should identify the community impacts associated with AML sites, the kinds of solutions community members recommend, and identify potential collaboration with local and regional governments, ngo's, philanthropy, and other community stakeholders to leverage the benefits of the AML program.

Sincerely,

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