

APPENDIX 6.2 OSMRE CATEGORICAL EXCLUSIONS

Departmental Manual Part 516 Chapter 13: Managing the NEPA Process Office of Surface Mining Reclamation and Enforcement

13.5 Categorical Exclusions

A. The following OSM actions are deemed not to be major Federal actions within the meaning of Section 102(2)(C) of NEPA under Sections 501(a) or 702(d) of the SMCRA. They are hereby designated as categorical exclusions from the NEPA process and are exempt from the exceptions under 43 CFR 46.215:

- (1) Promulgation of interim regulations.
- (2) Approval of State programs.
- (3) Promulgation of Federal programs where a State fails to submit, implement, enforce, or maintain an acceptable State program.
- (4) Promulgation and implementation of the Federal lands program.

B. In addition to the actions listed in the Departmental categorical exclusions outlined in 43 CFR 46.210, many of which OSM also performs, the following OSM actions (SMCRA sections are in parentheses) are designated categorical exclusions unless the actions qualify as an exception under 43 CFR 46.215:

- (1) Monetary allotments to States for mining and mineral resources institutes (301).
- (2) Allocation of research funds to institutes (302).
- (3) Any research effort associated with ongoing abandoned mine land reclamation projects where the research is coincidental to the reclamation (401(c)(6)).
- (4) Collection of reclamation fees from operators (402(a)).
- (5) Findings of fact and entries on land adversely affected by past coal mining (407(a)).
- (6) Acquisition of particular parcels of abandoned mine lands for reclamation (407(c)).
- (7) Filing liens against property adversely affected by past coal mining (408).
- (8) Interim regulatory grants (502(e)(4)).
- (9) Disapproval of a proposed State program (503(c)).
- (10) Review of permits issued under a previously approved State program (504(d)).

- (11) Five-year permit renewal on life-of-mine plans under the Federal lands program or the Federal program for a State where the environmental impacts of continued mining are adequately analyzed in a previous environmental document for the mining operation (506(d)).
- (12) Small operator assistance program (507(c)).
- (13) Issuance of public notices and holding public hearings on permit applications involving Federal lands or under a Federal program for a State (513).
- (14) Routine inspection and enforcement activities (517).
- (15) Conflict of interest regulations (517(g)).
- (16) Assessment of civil penalties (518).
- (17) Releases of performance bonds or deposits for mining on Federal lands or under a Federal program for a State (519).
- (18) Issuance of cessation orders for coal mining and reclamation operations (521(a)(2) and (3)).
- (19) Suspension or revocation of permits (521(a)(4)).
- (20) Federal oversight and enforcement of ineffective State programs (521(b)).
- (21) Cooperative agreements between a state and the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands (523(c)).
- (22) Development of a program to assure that, with respect to the granting of permits, leases, or contracts for Federally-owned coal, no one shall be unreasonably denied purchase of the mined coal (523(d)).
- (23) Annual grants programs to States for program development, administration, and enforcement (705(a)).
- (24) Assistance to States in the development, administration, and enforcement of State programs (705(b)).
- (25) Increasing the amount of annual grants to States (705(c)).
- (26) Submission of the Secretary's annual report to the Congress (706).

- (27) The proposal of legislation to allow Indian tribes to regulate surface coal mining on Indian lands (710(a)).
- (28) The certification and training of blasters (719).
- (29) Approval of State Reclamation Plans for abandoned mine lands (405).
- (30) Development of project proposals for AML grants, including field work only to the extent necessary for the preparation and design of the proposal.
- (31) Use of AML funds to allow States or tribes to set aside State share funds in a special trust for future AML projects.
- (32) Use of AML funds in an insurance pool for the purposes of compensation for damage caused by mining prior to the date of the Act.
- (33) AML reclamation projects involving: No more than 100 acres; no hazardous wastes; no explosives; no hazardous or explosive gases; no dangerous impoundments; no mine fires and refuse fires; no undisturbed, noncommercial borrow or disposal sites, no dangerous slides where abatement has the potential for damaging inhabited property; no subsidences involving the placement of material into underground mine voids through drilled holes to address more than one structure, and no unresolved issues with agencies, persons, or groups or adverse effects requiring specialized mitigation. Departmental exceptions in 516 DM 2, Appendix 2* apply to this exclusion. All sites considered in this categorical exclusion would have to first meet the eligibility test in sections 404, 409 and 411 of SMCRA. Also projects that have been declared an emergency pursuant to section 410 of SMCRA, may be candidates for this exclusion.

**516 DM 2, Appendix 2 has been codified and is now referenced as 43 CFR 46.215.*