

CHAPTER 4-130 ACID MINE DRAINAGE SET-ASIDE PROGRAM

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4-130-00 What does this chapter do?

This chapter explains procedures for you to establish, fund, and operate an acid mine drainage (AMD) set-aside account. The set-aside program allows you, the recipient of an Abandoned Mine Land (AML) program grant from us, the Office of Surface Mining Reclamation and Enforcement (OSMRE), to deposit some AML funds into the AMD set-aside account, and use the funds and interest for AMD problems.

4-130-10 Where do these requirements come from?

The AMD abatement and treatment program is authorized in Section 402(g)(6) of the Surface Mining Control and Reclamation Act, as amended (SMCRA). It was first authorized in 1990. The 2006 SMCRA amendments increased the funding limits and removed a previous requirement for us to approve an AMD plan.

4-130-20 Who may establish an Acid Mine Drainage Fund?

You may establish an AMD set-aside fund if you are a state or tribe with an approved reclamation program which has not certified it has completed coal reclamation.

4-130-30 What money can you use for your AMD set-aside?

- A. Each year you may keep and deposit the following funds into your AMD set-aside account.
1. Up to thirty percent (30%) of the State or Tribal Share Funds distributed to you this year. State or Tribal share funds (abbreviated in our accounting system as SS) are authorized by section 402(g)(1) of SMCRA.
 2. Up to thirty percent (30%) of the historic coal funds distributed to you this year. Historic Coal Funds (HC) are authorized in section 402(g)(5).
- B. You may not put Prior Balance Replacement Funds (HU) or Minimum Program Make-up Funds (FE), in an AMD set-aside account.
- C. You should apply for the set-aside funds, and we will award them, as a separate subaccount within your annual AML program grant.

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4-130-40 How may you spend funds from the AMD set-aside account?

- A. You must spend amounts from the fund, together with all interest earned, for the abatement of the causes and treatment of the effects of AMD in a comprehensive manner within a qualified hydrologic unit affected by coal mining practices.
- B. A “qualified hydrological unit” means a hydrologic unit which meets the following requirements:
 - 1. Water quality has been significantly affected by acid mine drainage from coal mining practices in a manner that adversely impacts biological resources.
 - 2. The unit contains lands and waters that meet both the following requirements.
 - a. Eligible under section 404 of SMCRA, and include any of the coal priorities described in section 403(a).
 - b. The subject of expenditure from the forfeiture of a bond under section 509 or from other State sources to abate and treat acid mine drainage.
- C. We consider all funds you deposit in the set-aside account, plus interest earned, to be state or tribal funds.
- D. You may use funds in the AMD set-aside account to meet another Federal grant program’s matching requirement as long as the goals of the other program are comparable to set-aside program.