
	U.S. DEPARTMENT OF THE INTERIOR OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT  <b>DIRECTIVES          SYSTEM</b>	Subject Code: TSR-12
		Transmittal Number: 990
		Date: 6/13/17
<b>Subject: Post-Act Reclamation Program</b>		
Approval: Glenda H. Owens 		Title: Acting Director

1. **Purpose.** This Directive establishes the policies and procedures for the administration of the Post-Act Reclamation Program, hereafter called the Civil Penalty Reclamation Program (CPRP). This program is for the reclamation of lands adversely affected by coal mining practices that occurred after August 3, 1977.

2. **Summary of Changes.**

- a. Updated sections impacted by revisions to the Federal Assistance Manual (FAM).
- b. Update personnel roles and responsibilities to accurately reflect the administration of the CPRP.
- c. Update to show minimal information needed in all applications for funds under the CPRP.
- d. Update of approval processes.
- e. Update section 8. "References".

3. **Policy.** This Directive establishes the responsibilities and procedures for submitting, approving and administering eligible civil penalty projects. Funds for the program are generated from collection of civil penalties as authorized by Section 518 of the Surface Mining Control and Reclamation Act (SMCRA), 30 U.S.C. §1268.

4. **Responsibilities.**

- a. Director. Final review and approval of projects funded by the CPRP.
- b. Office of Planning, Analysis and Budget (OPAB).
  - (1) Accounting for funds collected pursuant to the payment of civil penalties;

- (2) Determining, after consultation with the Director, the amount of funding available for CPRP projects for the upcoming fiscal year and report the amount to the RDs by June 30;
  - (3) Disbursing funds for approved projects to the appropriate accounts and offices;
  - (4) Accounting for the disbursement of funds each fiscal year (FY).
- c. Regional Directors (RD). Notifying Field Office Directors (FOD) to solicit their respective States/Tribes for CPRP proposals. The RDs will review submitted proposals and as a group shall prioritize all accepted proposals based on severity and benefits derived. Finally, RDs insure that grant or federal contract applications are reviewed and processed to final award so that the award may take place within the fiscal year it was approved for funding.
  - d. Field Office Directors (FOD)/Field Division Chiefs (FDC). Soliciting their respective State/Tribe/Federal Offices for CPRP proposals. The FOD/FDC will review proposals for completeness and forward to the appropriate Regional Director.

5. **Procedures**. The following procedures will be used to solicit, review, and approve Post-Act Reclamation requests.

a. After the amount of funds available for CPRP funding for the next fiscal year is determined by OPAB and Director's office, the RDs shall request the FODs and FDCs to notify qualified States/Tribes and Federal offices of the opportunity to submit CPRP proposals

b. All proposals shall meet the guidelines within Section 3 of the 'Standard Operating Procedures for Requesting Civil Penalty Reclamation Program Funds' (SOP), included in Appendix A of this Directive. Proposals shall follow the format shown in Appendix B of this directive. At a minimum the information required in all submittals shall include the following:

(1) Eligibility Information - Documentation that shows the mining occurred after August 3, 1977.

(2) Project Priority of Submission – Characterization of the site conditions and surrounding areas to determine the current risk to the health and safety of the public, and actual or potential adverse impacts to the environment. The description will be used determine the relative priority of the project compared to other eligible projects.

(3) Information on the status of any Alternative Enforcement actions that were or are being taken. If alternative enforcement was not initiated explain the reason(s) why it was not pursued.

(4) Describe in detail how civil penalty funds will be used to augment existing bond forfeiture monies.

(5) A reclamation plan that includes maps, pictures, diagrams and cost estimates.

(6) Include a description of how the proposed work will improve the environment and protect public health and safety.

(7) Characterize the support (or opposition) of the landowners and local government to the project.

(8) Realty information including any secured right of entries.

(9) Description of any and all economic, social and environmental benefits of completing the project.

c. The FOD/FDC shall review submitted proposals for completeness and forward completed and reviewed proposals to the RD by August 30.

d. The procedures for approval/disapproval of CPRP requests will follow Section 4 of the SOP included as Appendix A of this Directive. The general outline for review and approval includes:

(1) The FOD reviews submittals for completeness from their respective State/Tribes. For Federal program states, the FOD shall have its staff gather all necessary information.

(2) Once the FOD is satisfied with the proposal, it is forwarded to the RD.

(3) All RDs shall meet and approve/disapprove and prioritize requests.

(4) The prioritized project list with supporting documentation shall be submitted to Director's office no later than October 30.

(5) The Director shall review proposals and notify appropriate RDs and OPAB which projects are approved for funding.

(6) RDs notify FOD/FDC of results of Director's review. FOD/FDC will then notify the State/Tribe to submit a grant application in accordance with Financial Assistance Manual section 4-400-30. For Federal program, FOD shall direct staff to develop procurement package.

(7) The OPAB forwards an Allotment Document, with appropriate accounting information to the RD for signature.

(8) The RD shall sign and return Allotment Document to OPAB for

processing. OPAB shall then disburse funds to appropriate accounts.

6. **Reporting Requirements.** None.

7. **Effect on Other Documents.** Previous version of Directive TSR-12 issued June 19, 1990, superseded.

8. **References.**

- a. Public Law 97-258 Title 31; Money and Finance, Section 1513, 1514 and 1517.
- b. Department of Interior Manual, Part 328; Administrative Control of Funds.
- c. 30 CFR 845.21 and 30 CFR 700.5.
- d. Section 518, 30 U.S.C. §1268, of Surface Mining and Control Act of 1977, as amended.
- e. FAM Chapter 4-400.

9. **Effective Date.** Upon Signature of Acting Director.


10. **Distribution.** By electronic format. All OSMRE directives are publicly available at <http://www.osmre.gov/irg/directives.shtm>.

11. **Appendices.**

- a. Appendix A: Standard Operating Procedures for Requesting Civil Penalty Reclamation Program Funds.
- b. Appendix B: Request for Federal Civil Penalty Project Funds Standard Format
- c. Appendix C: Process Flow Chart

12. **Annexes.** None

13. **Contact.** Program Support Directorate, Division of Regulatory Support.

 <p>U.S. DEPARTMENT OF THE INTERIOR OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT</p> <h2 style="text-align: center;">Standard Operating Procedures</h2>	
<p><b>Title: Requesting Civil Penalty Reclamation Program Funds</b></p>	
<p><b>SOP Number:</b> CP-001</p> <p><b>Version Number and Date:</b> No. 1 Draft; 11/8/2016, No. 2 Draft; 11/16/2016, No. 3 Final 3/6/2017</p> <p><b>Supersession Version Number &amp; Date:</b> NA</p>	<p><b>Effective Date:</b></p> <p><b>Review Date:</b></p>

1. **Introduction.** The Office of Surface Mining Reclamation and Enforcement (OSMRE) collects civil penalties under Section 518, of the Surface Mining Control and Reclamation Act (SMCRA). C, 30 U.S.C. §1268. To the extent authorized, in applicable annual appropriations, the civil penalty funds can be used to restore and reclaim lands adversely affected by coal mining after August 3, 1977, that are otherwise ineligible for Abandoned Mine Lands Reclamation funds. The Director may allocate these civil penalty funds at his/her discretion for reclamation of projects on any State, Federal or Indian lands based on the following priorities identified in 30 CFR 845.21:

- Emergency projects as defined in 30 CFR 700.5
- Reclamation projects which qualify for priority 1 or 2 under section 403 of SMCRA, 30 U.S.C. §1233 and
- Reclamation of Federal bond forfeiture sites.

Regarding Federal bond forfeitures, civil penalty funds can also be used with reclaiming bond forfeiture sites. The OSMRE Directive TSR-12 previously entitled “Post Act Reclamation Program” now named “Civil Penalty Reclamation Program” (CPRP), provides guidance and outlines responsibilities, policy, and procedures.

2. **Purpose.** In FY 2016, the Internal Control Review (ICR) for the civil penalty post-act reclamation program identified several weaknesses in the process. One weakness and recommendation was the need to develop a standard format/template for funding requests that would solicit the appropriate information needed for an informed decision on the project proposal. At the time of the ICR, no approved format existed for standardizing civil penalty project funding requests. This SOP provides the standardized form and process to ensure consistency of information among OSMRE and States and step-by-step procedures for processing such civil penalty funding requests.

3. **Information Required.** By June 30 each year, the Budget Officer of the Office of Planning, Analysis and Budget (OPAB) shall notify the Regional Directors (RD) on the amount of civil penalty funds that are available for disbursement for the upcoming fiscal year. The RD will notify the Field Office Director (FOD) to inform State/Tribes and Federally controlled offices of the opportunity to submit project proposals. By August 30, proposals shall be submitted to the respective RD's office. The proposals shall be reviewed and prioritized by the RD and submitted to the Director's office by October 30.

All proposals shall be initially reviewed by the appropriate FOD for completeness. Projects described in the proposals to be submitted to the RD's office shall at a minimum contain the following information:

- a. **Eligibility.** Provide documentation that the proposed civil penalty project was mined after August 3, 1977.
- b. **Project Priority.** Describe and justify how the proposed project meets one of the priorities set forth 30 CFR 845.21(b), Emergency project; Priority 1 or 2 project; or post-SMCRA bond forfeiture project.
- c. **Alternative Enforcement.** Discuss the status of any alternative enforcement actions pursuant to 30 CFR Part 847 (or the State program equivalent) that were or are being taken. If alternative enforcement was not initiated, explain the reason(s) why it was not. Include information about the current status of the owners and controllers of the mining company which are responsible for the un-reclaimed mine and potential resources which may be available to complete reclamation.
- d. **Bond Forfeiture Funds.** Describe in detail how civil penalty funds will be used to augment existing bond forfeiture monies. If bond was already expended, describe the remedial work performed with the bond funds and why the civil penalty funds are needed.
- e. **Reclamation Plan.** Describe the proposed work elements of the reclamation plan. Include at a minimum maps, pictures, diagrams and a cost estimate, with sufficient details, to support the reclamation plan.
- f. **Environment/Safety.** Include detail on how the proposed project will successfully reclaim the mine site to a condition that improves the environment and protects the public health and safety. Include information that characterizes the risk to the public by describing the nearness to roads, parks, schools, public lands, and/or residential areas.
- g. **Public Support.** Characterize the support (or opposition) of the landowners and local government to the project.
- h. **Realty.** Describe and include all right of entries and covenants associated with proposed projects. If it has not been secured, discuss if attaining the right of entry might pose a problem.

i. Accomplishments. Describe the economic, social, and environmental benefits of completing the project. This information can be combined with item (f) above.

4. **Procedures for Approval/Disapproval of Civil Penalty Project Requests.**

a. Once an application for a civil penalty project is received by the FOD it will be reviewed to determine if all information required in Section 3 is included. For Federal program states, the FOD shall have staff gather all necessary information as required in Section 3 and forward to the appropriate RD.

b. Once the application is determined to be complete it shall be forwarded to the appropriate RD no later than August 30.

c. RD will review project proposal application and may request any additional information needed to process the request.

d. All RDs shall meet to review proposals and prioritize them. Projects are prioritized based on severity of problem and the benefits derived by the proposed work.

e. Prioritized project list with supporting documentation shall be submitted to the Director's office no later than October 30 for review. Additional information may be requested by the Director prior to approving project(s).

f. Once the review is complete, Director's office shall notify all appropriate RDs and the OPAB which projects are approved for funding.

g. The RD shall notify the appropriate FODs what projects were approved for funding. FOD will then notify the State/Tribe to submit a grant application in accordance with the Financial Assistance Manual (FAM) section 4-400-30. For Federal program states, the FOD will direct staff to develop a procurement package to reclaim the proposed project site.

h. The OPAB forwards Allotment Document, with appropriate accounting information to the RD for signature.

i. A signed allotment document shall be returned to OPAB for processing. OPAB shall then disburse funds into appropriate accounts.

**Request for Federal Civil Penalty Project Funds**

**FY 20**

**Date of Request:**

**Region: Regional Director Name/Signature:**

**Project Name/Location:**

**Reason for Request/Summary of Proposed Action:**

Include:

1. **Eligibility:** Provide documentation that the proposed civil penalty project was mined after August 3, 1977.
2. **Alternative Enforcement:** Information on the status of any Alternative Enforcement actions that were or are being taken. If alternative enforcement was not initiated explain the reason(s) why it was not pursued. Include information about the current status of the mining company owners or controllers and potential resources available that may be available to complete reclamation.
3. **Bond Forfeiture Funds:** Describe in detail how civil penalty funds will be used to augment existing bond forfeiture monies. If bond was already expended, describe what remedial work was performed with the bond funds and why the civil penalty funds are needed.
4. **Reclamation Plan:** Describe the proposed work elements of the reclamation plan. Include at a minimum maps, pictures, diagrams and a cost estimate, with sufficient detail, to support the reclamation plan.
5. **Environment/Safety:** Include details on how the proposed project will successfully reclaim the mine site to a condition that improves the environment and protects the public health and safety. Include information that characterizes the risk to the public by describing the nearness to roads, parks, schools, public lands, and/or residential areas.
6. **Public Support:** Characterize the support (or opposition) of the landowners and local government to the project.
7. **Realty:** Describe and include all right of entries and covenants associated with proposed projects. If it has not been secured, discuss if attaining the right of entry might pose a problem
8. **Accomplishments:** What are the economic, social, and environmental benefits for completing the project?



**Priority:**

Describe and justify how the proposed project meets one of the priorities set forth 30 CFR 845.21(b): Emergency project; Priority 1 or 2 projects; or post-SMCRA bond forfeiture project.

**Funding Amount Requested:** The amount needed to accomplish the Proposed Action. Include the amount of any existing bond forfeiture funds that will be used to augment reclamation work.

**Procedures for Approval/Disapproval of Civil Penalty Project Requests**

