



U.S. DEPARTMENT OF THE INTERIOR

**OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT**

DIRECTIVES SYSTEM

Subject Number:
GMT-10-10

Transmittal Number:
898

Date:
MAR 07 2001

Subject: Federal Assistance Manual

Approval: *Walter H. Owens* Title: Acting Director

In accordance with the planned corrective actions outlined in the FY 2000 Grants Alternative Management Control Report, this change notice revises Directive GMT-10-8, Federal Assistance Manual, Chapter 5-11, Environmental Compliance, dated January 2, 1998, as follows:

5-11-20C. A sentence is added at the beginning of the paragraph to coincide with the guidance in chapter 4-30, Grantee-Administered Emergency Reclamation Activities, and to state that an emergency is declared by the RD/FOD through the signing of a Finding of Fact, which occurs within 48 hours of receipt of complete information.

5-11-20D.3. is revised to indicate the RCC/FO will issue an authorization to proceed within 14 working days (vice 21 days) from receipt of the request.

Minor grammatical changes to implement "plain language" requirements.

FILING INSTRUCTIONS:

Remove pages

3-4, dated January 2, 1998

5-6, dated January 2, 1998

Replace with pages:

3-4, dated February 2001

5-6, dated February 2001

CHANGE NOTICE

5-11-15 (Continued)

B. State or Tribal Agency

1. As the grant applicant, the State or Tribal agency may prepare the appropriate environmental document for each proposed project.
2. If the State or Tribal agency prepares the environmental document, it also conducts initial consultations, where appropriate.

5-11-20 PROCEDURES

A. Consultations. The RCC/FO reviewer will assist the State or Tribal agency (if the State or Tribe elects to prepare the environmental document under section 5-11-15B) in carrying out any required consultations with agencies having jurisdiction over potentially affected resources. It is important to start as early as possible so that results of any required consultations can be incorporated into the environmental documents. An early start also facilitates the development of mitigation measures for consideration.

B. Preparation of Environmental Document. The following procedures apply when an environmental document is to be prepared by the grant applicant. If the State or Tribe chooses not to prepare the environmental document, the appropriate OSM RCC/FO carries out these procedures.

1. The State/Tribal agency should review the site and determine what resources or concerns could be affected and what special procedures are needed (see Exhibit X5-11-4 for a list of resources or concerns that may be affected).
2. The State/Tribal agency should then decide, based on the following criteria, what kind of environmental document should be prepared.
 - a. A categorical exclusion certification may be prepared if the proposed project meets the criteria specified in 516 DM 6, Appendix 8 and outlined in Exhibit X5-11-1.
 - b. An environmental assessment may be prepared if the proposed project does not qualify for a categorical exclusion.
 - c. An EIS is required if the proposed project would have significant impacts on one or more of the resources or concerns listed in Exhibit X5-11-4. If the State/Tribal agency finds that significant impacts could be expected from any proposal, the agency consults with the RCC/FO reviewer on preparing an EIS.
3. The State/Tribal agency then prepares the required environmental document (see recommended format provided in Exhibit X5-11-1 or X5-11-4, as appropriate), incorporating information gained as a result of the consultations and field surveys. If the document is an EA, the State/Tribal agency may also prepare a draft FONSI (see recommended format provided in Exhibit X5-11-5).
4. The State/Tribal agency sends the completed environmental document to the RD/FOD for review.

5-11-20B (Continued)

5. The State/Tribal agency monitors the reclamation project to ensure that all activities conform to the approved environmental document. If reclamation activities are altered or if new environmental circumstances are encountered, the State/Tribe must review the existing categorical exclusion determination, EA, or EIS.

If the new project activities or environmental circumstances are not in conformance with the criteria specified in 516 DM 6, Appendix 8 and as outlined in Exhibit X5-11-2, the categorical exclusion is no longer applicable. In those cases where the existing environmental document no longer accurately describes project activities or conditions, the State/Tribal agency will contact the RD/FOD for additional guidance.

- C. NEPA Compliance in the Emergency Program. An emergency is declared by the RD/FOD through the signing of a Finding of Fact. This should be done within 48 hours of receipt of information described in 4-30-50A. AML projects declared emergencies pursuant to Section 410 of the SMCRA are subject to NEPA and the requirements and procedures outlined in this chapter. The authorization by the Council on Environmental Quality (CEQ) at 40 CFR 1506.11 to abate emergency conditions without preparing an environmental document does not relieve OSM or the States/Tribes of the responsibility to complete consultation duties or obtain necessary permits in accordance with other Federal, State and local laws. It may be necessary to negotiate special consultation procedures for emergency actions to accelerate the review with other resource agencies.

1. The responsible project officer should evaluate the proposed emergency project and determine if the environmental document [environmental assessment, categorical exclusion determination, or environmental impact statement] can be completed before the abatement action must be initiated. If site conditions do not require immediate abatement, sufficient time exists to make the required NEPA finding. Consultations must be completed and the appropriate environmental document must be prepared. The completed document should be submitted to the RCC/FO with the State Investigation Report. See Exhibits X5-11-1, X5-11-2, and X5-11-4. The RD/FOD will review the environmental document and, if appropriate, issue a Categorical Exclusion Determination, or Finding of No Significant Impact (FONSI). The RD/FOD will then issue an Authorization to Proceed, in conjunction with the Finding of Fact/Funding Authorization.
2. Where emergency circumstances at the site require immediate abatement action, and the environmental document discussed in this chapter cannot be completed prior to the initiation of action, OSM and the States are authorized to act, but the action taken must be limited to that necessary to control the immediate impacts of the emergency. The following procedures are applicable:
 - a. Consultations with other State, Federal, and local interests must be completed as required by law or approved program procedures.
 - b. Specific findings or permitting responsibilities relative to the National Historic Preservation Act (see Directive AML-4, Appendix 10), Endangered Species Act, Clean Water Act and other applicable environmental statutes must be completed.

5-11-20C.2. (Continued)

- c. The RCC/FO must make a determination whether the emergency abatement action may result in a significant environmental impact. This determination must be based upon the results of the above consultations/findings, and the best site and abatement information available. In addition, the determination must include an explanation of why an abatement action has to be taken without preparation of an environmental document. The determination should be included in the finding of fact or other similar review document prepared by the RCC/FO in support of a Declaration of Emergency.
- d. Any action with a potentially significant environmental impact that must be taken to respond to an emergency, without complying with NEPA, must be brought to the immediate attention of the CEQ. For these situations, the FO, concurrent with the action being taken, must notify the Branch of Environmental and Economic Analysis which will coordinate with the Department's Office of Environmental Affairs and the CEQ as per 516 DM 5.8, and 40 CFR 1506.11. CEQ may require follow-up site activities and documentation.
- e. Actions which remain to be taken at the site of an emergency after the abatement of the immediate impacts require the preparation of an environmental document.

Please consult Directive AML-4 and REG-1 (OSM's NEPA Handbook) for additional information regarding the emergency program and NEPA compliance.

D. Review.

1. The RCC/FO will conduct a systematic review to determine adequacy of the environmental document. This review may include a site visit to verify the accuracy of information in the document.
2. Any issues raised during review of the document should be resolved with the State/Tribe through telephone conversations, meetings or site visits.
3. If the document is adequate, the RD/FOD signs the FONSI or Categorical Exclusion Determination, and notifies the State/Tribal agency that NEPA review is complete and that the State/Tribe is authorized to proceed with the project. The RCC/FO will issue an Authorization to Proceed within 14 working days from receipt of the request, or provide reasons why the action cannot be completed. Some factors affecting the RCC/FO's ability to meet the time schedule include compliance with consultation and coordination requirements and adequacy of the environmental document.
4. If the environmental document is not adequate, the RCC/FO may return the environmental document to the State or Tribe with the reasons why it is not adequate, or may supplement the document directly, as needed, to make it adequate.
5. The RCC/FO will select AML projects to inspect during and after construction to confirm the implementation of any commitments or stipulations stated in the environmental document.

ABANDONED MINE LANDS
CATEGORICAL EXCLUSION DETERMINATION

State: _____
Project Name: _____ PA # _____
Project Description: _____

Yes responses require submission of an environmental assessment.

I. GENERAL EXCEPTIONS

Does the project type specifically require an EA in 516 DM 6, Appendix 8, as specified in Item I of the attached instructions? No [] Yes []

II. DEPARTMENT OF INTERIOR EXCEPTIONS

Will the project have any of the following:

A significant adverse effect on public health or safety? No [] Yes []
An adverse effect on any of the following unique geographic characteristics? No [] Yes []
If yes, check the ones that apply.

- | | |
|---|---|
| <input type="checkbox"/> Parks (State, Local, or National) | <input type="checkbox"/> Wild or Scenic Rivers |
| <input type="checkbox"/> Recreation or Refuge Lands | <input type="checkbox"/> Wetlands |
| <input type="checkbox"/> Wilderness Areas | <input type="checkbox"/> Floodplains |
| <input type="checkbox"/> Ecologically Significant or Critical Areas | <input type="checkbox"/> Sole or Principal Drinking Water |
| <input type="checkbox"/> Prime Farmlands | <input type="checkbox"/> Aquifers |

Highly controversial environmental effects? No [] Yes []

Highly uncertain and potentially significant environmental effects or unique or unknown environmental risks? No [] Yes []

A precedent for future action or a decision in principle about future actions with potentially significant environmental effects? No [] Yes []

Directly related to other actions with individually insignificant but cumulatively significant environmental effects? No [] Yes []

Adverse effects on properties listed or eligible for listing on the National Register of Historic Places? No [] Yes []

Adverse effects on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species? No [] Yes []

No [] Yes []