

§ 872.19

(1) We annually distribute Tribal share funds to you as shown in the following table:

For the Federal fiscal year(s) beginning . . .	The amount of Tribal share funds we annually distribute to you will be . . .
(i) October 1, 2007 and October 1, 2008.	50 percent of your 50 percent share of reclamation fees collected on prior fiscal year coal production.
(ii) October 1, 2009 and October 1, 2010.	75 percent of your 50 percent share of reclamation fees collected on prior fiscal year coal production.
(iii) October 1, 2011 and continuing through September 30, 2022.	100 percent of your 50 percent share of reclamation fees collected on prior fiscal year coal production.
(iv) October 1, 2022 (fiscal year 2023).	The amount remaining in your Tribal share of the Fund.

(2) We award these funds to you in grants according to the provisions of part 886 of this chapter.

§ 872.19 Are there any restrictions on how Indian tribes may use Tribal share funds?

Yes. You may only use Tribal share funds for:

- (a) Coal reclamation under § 874.12 of this chapter;
- (b) Water supply restoration under § 874.14 of this chapter;
- (c) Noncoal reclamation under § 875.12 of this chapter that is requested under section 409(c) of SMCRA;
- (d) Deposit into an acid mine drainage abatement and treatment fund under Ppart 876 of this chapter;
- (e) Land acquisition under § 879.11 of this chapter; and
- (f) Maintenance of the AML inventory under section 403(c) of SMCRA.

§ 872.20 What will OSM do with unappropriated AML funds currently allocated to the Rural Abandoned Mine Program ?

Under section 402(h)(4)(B) of SMCRA, we will make available any moneys that remain allocated to RAMP and that were not appropriated or moved to other allocations before December 20, 2006, for possible transfer to the three United Mine Workers of America (UMWA) health care plans described in section 402(h)(2) of SMCRA.

30 CFR Ch. VII (7–1–10 Edition)

§ 872.21 What are historic coal funds?

(a) “Historic coal funds” are moneys provided under section 402(g)(5) of SMCRA based on the amount of coal produced before August 3, 1977, in your State or on Indian lands in which you have an interest. Under the Surface Mining Control and Reclamation Act Amendments of 2006, which were enacted as Division C, Title II, Subtitle A of P.L. 109-432, each year we allocate and distribute 30 percent of annual AML fee collections for coal produced in the previous fiscal year plus 60 percent of any other revenue to the Fund as historic coal funds to supplement grants to States and Indian tribes.

(b) Historic coal funds also include moneys we reallocate under sections 401(f)(3)(A)(i), 411(h)(1)(A)(ii), and 411(h)(4) of SMCRA, including:

- (1) The moneys we reallocate based on prior balance replacement funds distributed under § 872.29, which will be available to supplement grants beginning with Federal fiscal year 2023; and
- (2) The moneys we reallocate based on certified in lieu funds distributed under § 872.32, which will be available to supplement grants in Federal fiscal years 2009 through 2022.

§ 872.22 How does OSM distribute and award historic coal funds?

(a) To be eligible to receive historic coal funds, you must meet the following criteria:

- (1) You must have and maintain an approved reclamation plan under part 884 of this chapter;
- (2) You cannot be certified under section 411(a) of SMCRA; and
- (3) You must have unfunded Priority 1 and 2 coal problems remaining under sections 403(a)(1) and (2) of SMCRA.

(b) If you meet the eligibility requirements in paragraph (a) of this section, we distribute these moneys to you using a formula based on the amount of coal historically produced before August 3, 1977, in your State or from the Indian lands concerned.

(c) We annually distribute historic coal funds to you as shown in the following table:

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For the Federal fiscal years beginning	The amount of historic coal funds we annually distribute to you will be
(1) October 1, 2007 and October 1, 2008.	50 percent of the amount we calculate using the formula described in paragraph (b) of this section.
(2) October 1, 2009 and October 1, 2010.	75 percent of the amount we calculated using the formula described in paragraph (b) of this section.
(3) October 1, 2011 and continuing through September 30, 2022.	100 percent of the amount we calculate using the formula described in paragraph (b) of this section.
(4) October 1, 2022 (fiscal year 2023), and thereafter.	100 percent of the amount we calculate using the formula described in paragraph (b) of this section until funds are no longer available or you have reclaimed your remaining Priority 1 and 2 coal problems.

(d) In any given year, we will only distribute to you the historic coal funds that you need to reclaim your unfunded Priority 1 or 2 coal problems. Your distribution of State or Tribal share funds under § 872.14 or § 872.17 plus your distribution of historic coal funds along with unused funds from prior allocations could be more than you need to reclaim your remaining high priority problems. If that occurs, we will reduce the historic coal funds we distribute to you to the amount that you need to fully fund reclamation of all your remaining Priority 1 or 2 coal problems.

(e) We award these funds to you in grants according to the provisions of part 886 of this chapter.

§ 872.23 Are there any restrictions on how you may use historic coal funds?

Yes. You may only use historic coal funds for:

- (a) Coal reclamation under § 874.12 of this chapter;
- (b) Water supply restoration under § 874.14 of this chapter;
- (c) Noncoal reclamation under § 875.12 of this chapter that is requested under section 409(c) of SMCRA;
- (d) Deposit into an acid mine drainage abatement and treatment fund under part 876 of this chapter;
- (e) Land acquisition under § 879.11 of this chapter; and
- (f) Maintenance of the AML inventory under section 403(c) of SMCRA.

§ 872.24 What are Federal expense funds?

“Federal expense funds” are moneys available in the Fund that are not allocated or distributed as State share funds (§ 872.14), Tribal share funds (§ 872.17), historic coal funds (§ 872.21), or minimum program make up funds (§ 872.26). Congress must appropriate Federal expense funds before we may expend them.

§ 872.25 Are there any restrictions on how OSM may use Federal expense funds?

(a) We may use Federal expense funds only for the purposes in sections 402(g)(3)(A) through (D) and 402(g)(4) of SMCRA, which include the following:

- (1) The Small Operator Assistance Program under section 507(c) of SMCRA (not more than \$10 million annually);
- (2) Emergency projects under State, Tribal, and Federal programs under section 410 of SMCRA;
- (3) Nonemergency projects in States and on lands within the jurisdiction of Indian tribes that do not have an approved abandoned mine reclamation program under section 405 of SMCRA;
- (4) The Secretary’s administration of Title IV of SMCRA and this subchapter; and
- (5) Projects authorized under section 402(g)(4) in States and on lands within the jurisdiction of Indian tribes that do not have an approved abandoned mine reclamation program under section 405 of SMCRA.

(b) We will not deduct moneys that we have annually allocated or distributed as Federal expense funds under sections 402(g)(3)(A) through (D) or (4) of SMCRA for any State or Indian tribe from moneys we annually allocate or distribute to a State or Indian tribe under the authority of sections 402(g)(1) or (5) of SMCRA.

(c) We expend moneys under the authority in section 402(g)(3)(C) of SMCRA only in States or on Indian lands where the State or Indian tribe does not have an abandoned mine reclamation program approved under section 405 of SMCRA.