

## § 875.16

the State's or Indian Tribe's submission and provide for public comment. The Director will then:

- (1) Evaluate any comments received;
- (2) Determine whether the funding meets the requirements of this part;
- (3) Determine whether the funding is in the best interest of the State or Indian tribe AML program;
- (4) If the determinations under paragraphs (f)(2) and (f)(3) of this section are positive, approve the request for funding the activity or construction; and
- (5) Approve funding under paragraph (f)(4) of this section only at a cost commensurate with its benefits towards achieving the purposes of the Surface Mining Control and Reclamation Act of 1977.

[59 FR 28173, May 31, 1994, as amended at 68 FR 9502, Feb. 27, 2003]

### § 875.16 Exclusion of certain noncoal reclamation sites.

(a) You, the uncertified State or Indian tribe, may not use moneys from the Fund or from prior balance replacement funds provided under § 872.29 of this chapter for the reclamation of sites and areas designated for remedial action under the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 *et seq.*) or that have been listed for remedial action under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 *et seq.*).

(b) You, the certified State or Indian tribe, may not use moneys distributed from the Fund under section 402(g)(1) of SMCRA for the reclamation of sites and areas designated for remedial action under the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 *et seq.*) or that have been listed for remedial action under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 *et seq.*).

[73 FR 67640, Nov. 14, 2008]

### § 875.17 Land acquisition authority—noncoal.

The requirements specified in parts 877 (Rights of Entry) and 879 (Acquisition, Management and Disposition of Lands and Water) shall apply to a

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State's or Indian tribe's noncoal program except that, for purposes of this section, the references to coal shall not apply. In lieu of the term *coal*, the word *noncoal* should be used.

[59 FR 28173, May 31, 1994]

### § 875.18 Lien requirements.

The lien requirements found in part 882—Reclamation on Private Land shall apply to a State's or Indian tribe's noncoal reclamation program under Section 411 of the Act, except that for purposes of this section, references made to coal shall not apply. In lieu of the term *coal*, the word *noncoal* should be used.

[59 FR 28173, May 31, 1994]

### § 875.19 Limited liability.

No State or Indian tribe shall be liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out an approved State or Indian tribe abandoned mine reclamation plan. This section shall not preclude liability for costs or damages as a result of gross negligence or intentional misconduct by the State or Indian tribe. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence or intentional misconduct.

[59 FR 28173, May 31, 1994]

### § 875.20 Contractor eligibility.

Every successful bidder for any contract by an uncertified State or Indian tribe under this part, or for a contract by a certified State or Indian tribe to undertake noncoal reclamation using moneys distributed from the Fund under section 402(g)(1) of SMCRA, must be eligible under §§ 773.12, 773.13, and 773.14 of this chapter at the time of contract award to receive a permit or be provisionally issued a permit to conduct surface coal mining operations. This section does not apply to any contract by a certified State or Indian tribe that is not for coal reclamation.

[73 FR 67641, Nov. 14, 2008]