

Surface Mining Reclamation and Enforcement, Interior

§ 873.12

percent of reclamation fees received for coal produced during the previous Federal fiscal year in your State or on Indian lands within your jurisdiction;

(2) The funds we annually distribute to you are in lieu of moneys we otherwise would distribute to you from State share funds under §872.14 or Tribal share funds under §872.17 had you not been excluded from receiving those funds under section 401(f)(3)(B) of SMCRA; and

(3) Subject to §872.35, we annually distribute certified in lieu funds to you as shown in the following table:

In the Federal fiscal year(s) beginning on . . .	The amount of certified in lieu funds we annually distribute to you will be equal to . . .
(i) October 1, 2008	25 percent of your 50 percent share of annual reclamation fee collections.
(ii) October 1, 2009	50 percent of your 50 percent share of annual reclamation fee collections.
(iii) October 1, 2010	75 percent of your 50 percent share of annual reclamation fee collections.
(iv) October 1, 2011, and thereafter.	100 percent of your 50 percent share of annual reclamation fee collections.

(c) We award these funds to you in grants according to the provisions of part 885 of this chapter.

(d) At the same time we distribute certified in lieu funds to you under this section, we transfer the same amount to historic coal funds and make those funds available for annual grants under §872.21 that same Federal fiscal year. We allocate, distribute, and award the transferred funds according to the provisions of §§ 872.21, 872.22, and 872.23.

(e) We will distribute to you the amounts we withhold under paragraph (b) of this section in two equal annual installments. We will do this in Federal fiscal years 2018 and 2019.

§ 872.34 Are there any restrictions on how you may use certified in lieu funds?

There are no limitations or restrictions on the use of certified in lieu funds in 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.

§ 872.35 When will OSM reduce the amount of prior balance replacement funds or certified in lieu funds distributed to you?

(a) In any fiscal year in which the amount of Treasury funds required to be transferred under §§872.30 and 872.33 of this chapter and under section 402(i)(1) of SMCRA exceeds the maximum annual limit of \$490 million, we will adjust the amount of these payments to reduce them to the level of the cap. Each distribution or transfer for the FY will be reduced by the same percentage.

(b) We will not include amounts under section 402(h)(5)(A) as part of this calculation.

PART 873—FUTURE RECLAMATION SET-ASIDE PROGRAM

Sec.

873.1 Scope.

873.11 Applicability.

873.12 Future set-aside program criteria.

AUTHORITY: 30 U.S.C. 1201 *et seq.*

SOURCE: 59 FR 28170, May 31, 1994, unless otherwise noted.

§ 873.1 Scope.

This part provides requirements for the award of grants to States or Indian tribes for the establishment of special trust accounts that will provide funds for coal reclamation purposes after September 30, 1995.

§ 873.11 Applicability.

The provisions of this part apply to funds awarded, as defined in §872.5 of this chapter, under section 402(g)(6)(A) of SMCRA before its amendment on December 20, 2006, and their use by the States or Indian tribes for coal reclamation purposes after September 30, 1995.

[73 FR 67633, Nov. 14, 2008]

§ 873.12 Future set-aside program criteria.

(a) Any State or Indian tribe may receive and retain, without regard to the limitation referred to in section 402(g)(1)(D) of SMCRA, up to 10 percent of the total of the funds distributed annually to such State or Indian tribe under sections 402(g)(1) and (5) of

SMCRA for a future set-aside fund if such amounts were awarded before December 20, 2006. The State or Indian tribe must deposit all set-aside funds awarded into a special fund established under State or Indian tribal law. The State or Indian tribe must expend amounts awarded (together with all interest earned on such amounts) solely to achieve the priorities stated in section 403(a) of SMCRA.

(b) Moneys the State or Indian tribe deposited in the special fund account, together with any interest earned, are considered State or Indian tribal moneys.

[73 FR 67638, Nov. 14, 2008]

PART 874—GENERAL RECLAMATION REQUIREMENTS

Sec.

874.1 Scope.

874.5 Definitions.

874.10 Information collection.

874.11 Applicability.

874.12 Eligible coal lands and water.

874.13 Reclamation objectives and priorities.

874.14 Water supply restoration.

874.15 Limited liability.

874.16 Contractor eligibility.

874.17 AML agency procedures for reclamation projects receiving less than 50 percent government funding.

AUTHORITY: 30 U.S.C. 1201 *et seq.*

SOURCE: 47 FR 28596, June 30, 1982, unless otherwise noted.

§ 874.1 Scope.

This part establishes land and water eligibility requirements, reclamation objectives and priorities, and reclamation contractor responsibility.

[59 FR 28171, May 31, 1994]

§ 874.5 Definitions.

As used in this Part—

Reclamation plan or *State reclamation plan* means a plan that a State or Indian tribe submitted and that we approved under section 405 of SMCRA and part 884 of this chapter.

[73 FR 67638, Nov. 14, 2008]

§ 874.10 Information collection.

In accordance with 44 U.S.C. 3501 *et seq.*, the Office of Management and

Budget (OMB) has approved the information collection requirements of part 874 and assigned it control number 1029-0113. This information is used to ensure that appropriate reclamation projects involving the incidental extraction of coal are conducted under the authority of section 528(2) of SMCRA and that selected projects contain sufficient environmental safeguards. Persons must respond to obtain a benefit. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

[73 FR 67639, Nov. 14, 2008]

§ 874.11 Applicability.

You must comply with the requirements in this part for—

(a) Reclamation projects using moneys from the Fund;

(b) Reclamation projects using prior balance replacement funds provided to uncertified States and Indian tribes under § 872.29 of this chapter; or

(c) Coal reclamation projects by certified States and Indian tribes required to maintain certification under section 411(a) of SMCRA and the agreement required by §§ 875.13(a)(3) and 875.14(b) of this chapter to maintain that certification.

[73 FR 67639, Nov. 14, 2008]

§ 874.12 Eligible coal lands and water.

Coal lands and water are eligible for reclamation activities if—

(a) They were mined for coal or affected by coal mining processes;

(b) They were mined prior to August 3, 1977, and left or abandoned in either an unreclaimed or inadequately reclaimed condition; and

(c) There is no continuing responsibility for reclamation by the operator, permittee, or agent of the permittee under statutes of the State or Federal government, or as a result of bond forfeiture. Bond forfeiture will render lands or water ineligible only if the amount forfeited is sufficient to pay the total cost of the necessary reclamation. In cases where the forfeited bond is insufficient to pay the total cost of reclamation, additional moneys