

(i) Eligible under section 404 of SMCRA and include any of the priorities described in section 403(a) of SMCRA; and

(ii) The subject of the expenditure from the forfeiture of a bond required under section 509 of SMCRA or from other State sources to abate and treat acid mine drainage.

(d) After the conditions specified in paragraphs (a) and (b) of this section are met, OSM may approve a grant and the State or Indian tribe may deposit moneys into the special fund account. The moneys so deposited, together with any interest earned, must be considered State or Indian tribal moneys.

[73 FR 67641, Nov. 14, 2008]

PART 877—RIGHTS OF ENTRY

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

SOURCE: 47 FR 28597, June 30, 1982, unless otherwise noted.

§ 877.1 Scope.

This part establishes procedures for entry upon lands or property by OSMRE, States, and Indian tribes for reclamation purposes. For certified States or Indian tribes conducting noncoal reclamation projects under the provisions of part 875, the term “noncoal” replaces all references to “coal” in this part.

[80 FR 6446, Feb. 5, 2015]

§ 877.10 Information collection.

The information collection requirements contained in §§ 877.11 and 877.13(b) were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned clearance number 1029-0055. This information is being collected to meet the mandate of section 407 of the Act, which provides that States or Indian tribes, pursuant to an approved reclamation program, may use the police power, if necessary, to effect entry upon private lands to conduct reclamation activities or exploratory studies if the landowner’s

consent is refused or the landowner is not available.

This information will be used by the regulatory authority to ensure that the State/Indian tribe has sufficient programmatic capability to conduct reclamation activities on private lands. The obligation to respond is mandatory.

§ 877.11 Written consent for entry.

Written consent from the owner of record and lessee, or their authorized agents, is the preferred means for obtaining agreements to enter lands in order to carry out reclamation activities. Nonconsensual entry by exercise of the police power will be undertaken only after reasonable efforts have been made to obtain written consent.

§ 877.13 Entry and consent to reclaim.

(a) OSM, the State, or Indian tribe or its agents, employees, or contractors may enter upon land to perform reclamation activities or conduct studies or exploratory work to determine the existence of the adverse effects of past coal mining if consent from the owner is obtained.

(b) If consent is not obtained, then, prior to entry under this section, the OSM, State, or Indian tribe shall find in writing, with supporting reasons that—

(1) Land or water resources have been or may be adversely affected by past coal mining practices;

(2) The adverse effects are at a state where, in the interest of the public health, safety, or the general welfare, action to restore, reclaim, abate, control, or prevent should be taken; and

(3) The owner of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices is not known or readily available, or the owner will not give permission for OSM, State, or Indian tribe or its agents, employees, or contractors to enter upon such property to restore, reclaim, abate, control, or prevent the effects of past coal mining practices.

(c) If consent is not obtained, OSM, State, or Indian tribe shall give notice of its intent to enter for purposes of conducting reclamation at least 30

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days before entry upon the property. The notice shall be in writing and shall be mailed, return receipt requested, to the owner, if known, with a copy of the findings required by this section. If the owner is not known, or if the current mailing address of the owner is not known, notice shall be posted in one or more places on the property to be entered where it is readily visible to the public and advertised once in a newspaper of general circulation in the locality in which the land is located. The notice posted on the property and advertised in the newspaper shall include a statement of where the findings required by this section may be inspected or obtained.

§ 877.14 Entry for emergency reclamation.

(a) OSM, its agents, employees, or contractors shall have the right to enter upon any land where an emergency exists and on any other land to have access to the land where the emergency exists to restore, reclaim, abate, control, or prevent the adverse effects of coal mining practices and to do all things necessary to protect the public health, safety, or general welfare.

(b) Prior to entry under this section, OSM shall make a written finding with supporting reasons that the situation qualifies as an emergency in accordance with the requirements set out in section 410 of the Act.

(c) Notice to the owner shall not be required prior to entry for emergency reclamation. OSM shall make reasonable efforts to notify the owner and obtain consent prior to entry, consistent with the emergency conditions that exist. Written notice shall be given to the owner as soon after entry as practical in accordance with the requirements set out in § 877.13(c) of this chapter.

PART 879—ACQUISITION, MANAGEMENT, AND DISPOSITION OF LANDS AND WATER

Sec.

879.1 Scope.

879.5 Definitions.

879.11 Land eligible for acquisition.

879.12 Procedures for acquisition.

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879.13 Acceptance of gifts of land.

879.14 Management of acquired land.

879.15 Disposition of reclaimed land.

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

SOURCE: 47 FR 28597, June 30, 1982, unless otherwise noted.

§ 879.1 Scope.

This part establishes procedures for acquisition of eligible land and water resources for emergency abatement activities and reclamation purposes by you, a State or Indian tribe, with an approved reclamation program that has not certified completion of coal reclamation or a certified State or Indian tribe conducting noncoal reclamation activities under part 875 of this chapter, or by us. It also provides procedures for the management and disposition of lands acquired by the State, the Indian tribe, or us. For certified States or Indian tribes conducting noncoal reclamation projects under the provisions of part 875, the term “noncoal” replaces all references to “coal” in this part.

[80 FR 6446, Feb. 5, 2015]

§ 879.5 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 67641, Nov. 14, 2008]

§ 879.11 Land eligible for acquisition.

(a)(1) We may acquire land adversely affected by past coal mining practices with moneys from the Fund.

(2) You, an uncertified State or Indian tribe or a certified State or Indian tribe conducting noncoal reclamation projects under part 875 of this chapter, may acquire land adversely affected by past coal mining practices with moneys from the Fund or with prior balance replacement funds and certified in lieu funds provided under §§ 872.29 and 872.32 of this chapter, provided that we first approve the acquisition in writing.

(3) Before acquiring land under paragraph (a)(1) of this section or approving land acquisition under paragraph (a)(2) of this section, we must make a finding