

§ 872.12

coal sites in a State or on Indian tribal land.

(7) Funds allocated or expended annually by the Secretary under Sections 402(g) (2), (3), or (4) of the Act for any State or Indian tribe shall not be deducted from funds allocated or granted annually to a State or Indian tribe under the authority of Sections 402(g) (1), (5), or (8) of the Act.

(8) The Secretary shall expend funds pursuant to the authority in Section 402(g)(3)(C) of the Act 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 the Act.

(c) Money deposited in State or Indian Abandoned Mine Reclamation Funds shall be used to carry out the reclamation plan approved under part 884 of this chapter and projects approved under part 888 of this chapter.

[47 FR 28595, June 30, 1982, as amended at 59 FR 28169, May 31, 1994]

§ 872.12 State/Indian Abandoned Mine Reclamation Funds.

(a) Accounts to be known as State or Indian Abandoned Mine Reclamation Funds shall be established in each State or Indian tribal government with approved reclamation plans. These funds will be managed in accordance with the Office of Management and Budget Circular A-102.

(b) Revenue shall include—

(1) Amounts granted by the OSM for purposes of conducting the approved State reclamation plan;

(2) Moneys collected from charges for uses of land acquired or reclaimed with moneys from the State Fund under part 879 of this chapter;

(3) Moneys recovered through the satisfaction of liens filed against privately owned lands;

(4) Moneys recovered by the State from the sale of lands acquired under Title IV of the Act; and

(5) Such other moneys as the State decides should be deposited in the Fund for use in carrying out the approved reclamation programs.

PART 873—FUTURE RECLAMATION SET-ASIDE PROGRAM

Sec.

873.1 Scope.

873.11 Applicability.

873.12 Future set-aside program criteria.

AUTHORITY: Pub. L. 95-87, (30 U.S.C. 1201 *et seq.*); and Pub. L. 101-508.

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 the granting of funds pursuant to Section 402(g)(6) of the Act and their use by the States or Indian tribes for coal reclamation purposes after September 30, 1995.

§ 873.12 Future set-aside program criteria.

(a) Any State or Indian tribe may receive and retain without regard to the three-year limitation referred to in Section 402(g)(1)(D) of the Act, 30 U.S.C. 1232, up to 10 percent of the total of the grant funds made annually to such State or Indian tribe pursuant to the authority in Sections 402(g) (1) and (5) of the Act, if such amounts are deposited into either of the following: (1) A special fund established under State or Indian tribal law pursuant to which such amounts (together with all interest earned on such amounts) are expended by the State or Indian tribe solely to achieve the priorities stated in Section 403(a) of the Act, 30 U.S.C. 1233, after September 30, 1995; or (2) An acid mine drainage abatement and treatment fund pursuant to 30 CFR part 876.

(b) Prior to receiving a grant pursuant to this part, a State or Indian tribe must:

(1) Establish a special fund account providing for the earning of interest on fund balances; and

(2) Specify that monies in the account may only be used after September 30, 1995, by the designated State or Indian tribal agency to achieve the priorities stated in Section 403(a) of the Act, 30 U.S.C. 1233.

(c) After the conditions specified in paragraphs (a) and (b) of this section are met, a grant may be approved and monies deposited into the special fund account. The monies so deposited, together with any interest earned, shall be considered State or Indian tribal monies.

PART 874—GENERAL RECLAMATION REQUIREMENTS

Sec.

874.1 Scope.

874.11 Applicability.

874.12 Eligible coal lands and water.

874.13 Reclamation objectives and priorities.

874.14 Utilities and other facilities.

874.15 Limited liability.

874.16 Contractor responsibility.

AUTHORITY: 30 U.S.C. 1201 *et seq.*, as amended.

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]

§ 874.11 Applicability.

The provisions of this part apply to all reclamation projects carried out with monies from the AML Fund.

[59 FR 28171, May 31, 1994]

§ 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 Fed-

eral 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 from the Fund may be sought under parts 886 or 888 of this chapter.

(d) Notwithstanding paragraphs (a), (b), and (c) of this section, coal lands and waters in a State or on Indian lands damaged and abandoned after August 3, 1977, by coal mining processes are also eligible for funding if the Secretary finds in writing that:

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

(2) The mining occurred and the site was left in either an unreclaimed or inadequately reclaimed condition between August 4, 1977, and:

(i) The date on which the Secretary approved a State regulatory program pursuant to Section 503 of the Act (30 U.S.C. 1253) for a State or September 28, 1994, for an Indian tribe, and that any funds for reclamation or abatement that are available pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site; or

(ii) November 5, 1990, that the surety of the mining operator became insolvent during such period and that, as of November 5, 1990, funds immediately available from proceedings relating to such insolvency or from any financial guarantee or other source are not sufficient to provide for adequate reclamation or abatement at the site; and

(3) The site qualifies as a priority 1 or 2 site pursuant to Section 403(a)(1) and (2) of the Act. Priority will be given to those sites that are in the immediate vicinity of a residential area or that have an adverse economic impact upon a community.

(e) Any State or Indian tribe may expend funds may available under paragraphs 402(g)(1) and (5) of the Act (30 U.S.C. 1232(g)(1) and (5)) for reclamation and abatement of any site eligible under paragraph (d) of this section, if the State or Indian tribe, with the concurrence of the Secretary, makes the findings required in paragraph (d) of