

## **§ 872.11**

Budget (OMB) has approved the information collection requirements of part 872 and assigned it control number 1029-0054. The information is used to determine whether States and Indian tribes will be granted funds for reclamation activities. States and Indian tribes must respond to obtain a benefit in accordance with SMCRA. 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.

### **§ 872.11 Where do moneys in the Fund come from?**

Revenue to the Fund includes—

(a) Reclamation fees we collect under section 402 of SMCRA and Part 870 of this chapter;

(b) Amounts we collect from charges for use of land acquired or reclaimed with moneys from the Fund under part 879 of this chapter;

(c) Moneys we recover through satisfaction of liens filed against privately owned lands reclaimed with moneys from the Fund under part 882 of this chapter;

(d) Moneys we recover from the sale of lands acquired with moneys from the Fund or by donation;

(e) Moneys donated to us for the purpose of abandoned mine land reclamation; and

(f) Interest and any other income earned from investment of the Fund. We will credit interest and other income only to the Secretary's share.

### **§ 872.12 Where do moneys distributed from the Fund and other sources go?**

(a) Each State or Indian tribe with an approved reclamation plan must establish an account to be known as a State or Indian Abandoned Mine Reclamation Fund. These funds will be managed in accordance with the OMB Circular A-102.

(b) Revenue for the State and Indian Abandoned Mine Reclamation Funds will include—

(1) Amounts we granted for purposes of conducting the approved reclamation plan;

(2) Moneys collected from charges for uses of land acquired or reclaimed with

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moneys from the State or Indian Abandoned Mine Reclamation Fund under part 879 of this chapter;

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

(4) Moneys the State or Indian tribe recovered from the sale of lands acquired under Title IV of SMCRA; and

(5) Such other moneys as the State or Indian tribe decides should be deposited in the State or Indian Abandoned Mine Reclamation Fund for use in carrying out the approved reclamation program.

(c) Moneys deposited in State or Indian Abandoned Mine Reclamation Funds must be used to carry out the reclamation plan approved under part 884 of this chapter and projects approved under § 886.27 of this chapter.

### **§ 872.13 What moneys does OSM distribute each year?**

(a) Under Title IV of SMCRA, each Federal fiscal year we must distribute to you, the States and Indian tribes with approved reclamation plans, the moneys listed in this section. We distribute all Fund moneys and other moneys from the Treasury that have been designated for mandatory distribution. We provide information to you showing how we calculated your distribution. We distribute the following moneys:

(1) State share funds to uncertified States as described in § 872.14;

(2) Tribal share funds to uncertified Indian tribes as described in § 872.17;

(3) Historic coal funds to uncertified States and Indian tribes as described in § 872.21;

(4) Minimum program make up funds to eligible uncertified States and Indian tribes as described in § 872.26;

(5) Prior balance replacement funds to certified and uncertified States and Indian tribes as described in § 872.29; and

(6) Certified in lieu funds to certified States and Indian tribes as described in § 872.32.

(b) We calculate annual fee collections for coal produced in the previous Federal fiscal year on a net cash basis. This means that we use collections that are paid for the current Federal fiscal year to adjust fees that were

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overpaid or underpaid in prior fiscal years.

(c) We distribute any Congressionally-appropriated funds for grants to you out of the Federal expense funds when the appropriation becomes available.

(d) You may apply for any or all distributed funds at any time after the distribution using the procedures in part 885 of this chapter for certified States and Indian tribes or part 886 for uncertified States and Indian tribes.

### § 872.14 What are State share funds?

“State share funds” are moneys we distribute to you from your State share of the Fund each Federal fiscal year under section 402(g)(1)(A) of SMCRA. Your State share of the Fund is 50 percent of the reclamation fees we collected from within your State (excluding fees collected on Indian lands) and allocated to you, the State, in the Fund for coal produced in the previous fiscal year.

### § 872.15 How does OSM distribute and award State share funds?

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

(1) You must have and maintain an approved reclamation plan under part 884 of this chapter; and

(2) You cannot be certified under section 411(a) of SMCRA.

(b) If you meet the eligibility requirements in paragraph (a) of this section, we will distribute and award these State share funds to you as follows:

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

For the Federal fiscal year(s) beginning . . .	The amount of State 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.

For the Federal fiscal year(s) beginning . . .	The amount of State share funds we annually distribute to you will be . . .
(iv) October 1, 2022 (fiscal year 2023).	The amount remaining in your State share of the Fund.

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

### § 872.16 Are there any restrictions on how States may use State share funds?

Yes. You may only use State 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 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.

### § 872.17 What are Tribal share funds?

“Tribal share funds” are moneys we distribute to you from your Tribal share of the Fund each Federal fiscal year under section 402(g)(1)(B) of SMCRA. Your Tribal share of the Fund is 50 percent of the reclamation fees we collected and allocated to you, the Indian tribe(s), in the Fund for coal produced in the previous fiscal year from the Indian lands in which you have an interest.

### § 872.18 How will OSM distribute and award Tribal share funds?

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

(1) You must have and maintain an approved reclamation plan under part 884 of this chapter; and

(2) You cannot be certified under section 411(a) of SMCRA.

(b) If you meet the eligibility requirements in paragraph (a) of this section, we will distribute and award these Tribal share funds to you as follows: