

## § 886.25

### § 886.25 How can I appeal a decision to reduce, suspend, or terminate my grant?

(a) Within 30 days of our decision to reduce, suspend, or terminate a grant, you may appeal the decision to the Director.

(1) You must include in your appeal a statement of the decision being appealed and the facts that you believe justify a reversal or modification of the decision.

(2) The Director must decide the appeal within 30 days of receipt.

(b) Within 30 days of a decision by the Director to reduce, suspend, or terminate a grant, you may appeal the decision to the Department of the Interior's Office of Hearings and Appeals. You must include in the appeal a statement of the decision being appealed and the facts that you believe justify a reversal or modification of the decision.

### § 886.26 When and how can my grant be terminated for convenience?

Either you or we may terminate or reduce a grant if both parties agree that continuing the program would not produce benefits worth the additional costs. We will handle a termination for convenience as an amendment to the grant to be approved by the OSM official authorized to approve your grant.

### § 886.27 What special procedures apply to Indian lands not subject to an approved Tribal reclamation program?

(a) This section applies to Indian lands not subject to an approved Tribal reclamation program. The Director is authorized to mitigate emergency situations or extreme danger situations arising from past mining practices and begin reclamation of other areas determined to have high priority on such lands.

(b) The Director is authorized to receive proposals from Indian tribes for projects that should be carried out on Indian lands subject to this section and to carry out these projects under parts 872 through 882 of this chapter.

(c) For reclamation activities carried out under this section on Indian lands, the Director shall consult with the Indian tribe and the Bureau of Indian Affairs

office having jurisdiction over the Indian lands.

(d) If a proposal is made by an Indian tribe and approved by the Director, the Tribal governing body shall approve the project plans. The costs of the project may be charged against Federal expense funds under § 872.25 of this chapter.

(e) Approved projects may be carried out directly by the Director or through such arrangements as the Director may make with the Bureau of Indian Affairs or other agencies.

## PART 887—SUBSIDENCE INSURANCE PROGRAM GRANTS

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

SOURCE: 51 FR 5493, Feb. 13, 1986, unless otherwise noted.

### § 887.1 Scope.

This part sets forth the procedures for grants to you, a State or Indian tribe with an approved reclamation plan to establish, administer, and operate a self-sustaining individual State or Indian tribe administered program to insure private property against damages caused by land subsidence resulting from underground coal mining.

[73 FR 67647, Nov. 14, 2008]

### § 887.5 Definitions.

As used in this part—

*Establishment*—means either the development of a subsidence insurance program or the administration or operation of a subsidence insurance program.

*Private property*—means any or all of the following: dwellings and improvements, commercial and industrial structures, utilities, underground structures such as sewers, pipes, wells and septic systems, sidewalks and driveways, and land.

*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.

*Self-sustaining* means maintaining an insurance rate structure which is designed to be actuarially sound. Self-sustaining requires that State or Indian tribal subsidence insurance programs provide for recovery of payments made in settlement for damages from any party responsible for the damages under the law of the State or Indian tribe. Actuarial soundness implies that funds are sufficient to cover expected losses and expenses including a reasonable allowance for underwriting services and contingencies. Self-sustaining must not preclude the use of funds from other non-Federal sources.

*State or Indian tribe administered* means administered either directly by a State or Indian tribe or for a State or Indian tribe through a State or Indian tribal authorized commission, board, contractor such as an insurance company, or other entity subject to State or Indian tribal direction.

[51 FR 5493, Feb. 13, 1986, as amended at 73 FR 67647, Nov. 14, 2008]

#### § 887.10 Information collection.

In accordance with 44 U.S.C. 3501 *et seq.*, the OMB has approved the information collection requirements of part 887 and assigned it control number 1029-0107. This information is being collected to support State and Indian tribal grant requests for moneys for the establishment, administration, and operation of self-sustaining State or Indian tribal administered subsidence insurance programs. States and Indian tribes are required to 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.

[73 FR 67647, Nov. 14, 2008]

#### § 887.11 Eligibility for grants.

You are eligible for grants under this part if you are a State or Indian tribe with a reclamation plan approved

under part 884 of this chapter. If you are uncertified, you must have State share funds available under § 872.14 of this chapter or Tribal share funds available under § 872.17 of this chapter. If you have certified completion of coal reclamation under section 411(a) of SMCRA, you must have certified in lieu funds available under § 872.32 of this chapter, or prior balance replacement funds available under § 872.29 of this chapter if the State legislature or Tribal council has established this purpose.

[73 FR 67647, Nov. 14, 2008]

#### § 887.12 Coverage and amount of grants.

(a) You may use moneys granted under this part to develop, administer, and operate a subsidence insurance program to insure private property against damages caused by subsidence resulting from underground coal mining. The moneys may be used to cover your costs for services and materials according to OMB cost principles, Circular A-87. You may use eligible grant moneys to cover capitalization requirements and initial reserve requirements mandated by applicable State or Tribal law provided use of such moneys is consistent with the 43 CFR part 12.

(b) You must submit a grant application under the procedures of part 885 of this chapter for certified States and Indian tribes or part 886 of this chapter for uncertified States or Indian tribes. Your application must include the following:

(1) A narrative statement describing how the subsidence insurance program is "State or Indian tribe administered"; and

(2) A narrative statement describing how the funds requested will achieve a self-sustaining individual State or Indian tribe administered program to insure private property against subsidence resulting from underground coal mining.

(c) Grants awarded to you under this part cannot exceed a cumulative total over the lifetime of the program of \$3 million.

(d) You may not use grant moneys from the Fund for lands that are ineligible for reclamation funding under Title IV of SMCRA.