

§ 881.11

has been acquired, and an opinion as to the protection which the documents conveying the various rights, titles, and interests in the land afford the project work and as to any defects in the title.

(g) If necessary, State and local authorities shall procure the enactment of State or local laws or ordinances providing authority to participate in the work and projects conducted pursuant to the regulations in this part on lands owned by the State, the local authorities, or private persons, and the requisite authority to permit the State or local authorities to meet the obligations imposed by the regulations in this part or a cooperative agreement and to enter into project contracts of the kind and nature contemplated for the work to be performed.

§ 881.11 Nondiscrimination.

The State shall comply with the provisions of section 301 of Executive Order 11246 (Sept. 24, 1965; 30 FR 12319, 12935) and shall incorporate the provisions prescribed by section 202 of Executive Order 11246 in each project contract, and shall undertake and agree to assist and cooperate with the Director and the Secretary of Labor, obtain and furnish information, carry out sanctions and penalties, and refrain from dealing with debarred contractors, all as provided in said section 301.

§ 881.12 Civil rights.

State or local authorities shall comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352) and all requirements imposed by or pursuant to the regulations of the Department of the Interior entitled "Nondiscrimination in Federally-assisted Programs of the Department of the Interior—Effectuation of Title VI of the Civil Rights Act of 1964" (43 CFR part 17) and shall give assurances of compliance in such forms as may be required by the Director.

PART 882—RECLAMATION ON PRIVATE LAND

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30 CFR Ch. VII (7-1-14 Edition)

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

SOURCE: 47 FR 28599, June 30, 1982, unless otherwise noted.

§ 882.1 Scope.

This part authorizes reclamation on private land and establishes procedures for recovery of the cost of reclamation activities conducted on privately owned land by the OSM, State, or Indian tribe.

§ 882.10 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 882 and assigned it control number 1029-0057. This information is being collected to meet the mandate of section 408 of SMCRA, which allows the State or Indian tribe to file liens on private property that has been reclaimed under certain conditions. This information will be used by the regulatory authority to ensure that the State or Indian tribe has sufficient programmatic capability to file liens to recover costs for reclaiming private lands. 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 67642, Nov. 14, 2008]

§ 882.12 Appraisals.

(a) A notarized appraisal of private land to be reclaimed which may be subject to a lien under § 882.13 shall be obtained from an independent appraiser. The appraisal shall state—

- (1) The estimated market value of the property in its unreclaimed condition; and
- (2) The estimated market value of the property as reclaimed.

(b) This appraisal shall be made prior to start of reclamation activities. The agency shall furnish to the appraiser information of sufficient detail in the form of plans, factual data, specifications, etc., to make such appraisals. When reclamation requires more than 6

months to complete, an updated appraisal under paragraph (a)(2) of this section shall be made to determine if the increase in value as originally appraised has actually occurred. Such updated appraisal shall not include any increase in value of the land as unreclaimed. If the updated appraised value results in lower increase in value, such increase shall be used as a basis for the lien. However, an increase in value resulting from the updated appraisal shall not be considered in determining a lien. OSM shall provide appraisal standards for Federal projects, and the State or Indian tribes shall provide appraisal standards for State or Indian tribal projects consistent with generally acceptable appraisal practice.

§ 882.13 Liens.

(a) OSM, State, or Indian tribe has the discretionary authority to place or waive a lien against land reclaimed if the reclamation results in a significant increase in the fair market value; except that—

(1) A lien must not be placed against the property of a surface owner who did not consent to, participate in or exercise control over the mining operation which necessitated the reclamation work.

(2) The basis for making a determination of what constitutes a significant increase in market value or what factual situation constitutes a waiver of lien will be made by OSM, State, or Indian tribe pursuant to the Congressional intent expressed in section 408 of the Act and consistent with State or Indian tribal laws governing liens.

(3) A lien may be waived if findings made prior to construction indicate that the reclamation work to be performed on private land shall primarily benefit the health, safety, or environmental values of the greater community or area in which the land is located; or if the reclamation is necessitated by an unforeseen occurrence, and the work performed to restore that land will not result in a significant increase in the market value of the land as it existed immediately before the unforeseen occurrence; and

(4) OSM, State, or Indian tribe may waive the lien if the cost of filing it, in-

cluding indirect costs to OSM, State, or Indian tribe, exceeds the increase in fair market value as a result of reclamation activities.

(b) If a lien is to be filed, the OSM, State, or Indian tribe shall, within 6 months after the completion of the reclamation work, file a statement in the office having responsibility under applicable law for recording judgments and placing liens against land. Such statement shall consist of notarized copies of the appraisals obtained under § 882.12 and may include an account of moneys expended for the reclamation work. The amount reported to be the increase in value of the property shall constitute the lien to be recorded in compliance with existing Federal, State or Indian tribal laws: *Provided, however,* That prior to the time of the actual filing of the proposed lien, the landowner shall be notified of the amount of the proposed lien and shall be allowed a reasonable time to prepay that amount instead of allowing the lien to be filed against the property involved.

(c) Within 60 days after the lien is filed the landowner may petition under local law to determine the increase in market value of the land as a result of reclamation work. Any aggrieved party may appeal in the manner provided by local law.

[47 FR 28599, June 30, 1982, as amended at 73 FR 67642, Nov. 14, 2008]

§ 882.14 Satisfaction of liens.

(a) A lien placed on private property shall be satisfied, to the extent of the value of the consideration received, at the time of transfer of ownership. Any unsatisfied portion shall remain as a lien on the property.

(b) The OSM, State, or Indian tribe which files a lien on private property shall maintain or renew it from time to time as may be required under State or local law.

(c) Moneys derived from the satisfaction of liens established under this part shall be deposited in the appropriate abandoned mine reclamation fund account.

PART 884—STATE RECLAMATION PLANS

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884.17	Other uses by certified States and Indian tribes.

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

SOURCE: 47 FR 28600, June 30, 1982, unless otherwise noted.

§ 884.1 Scope.

This part establishes the procedures and requirements for the preparation, submission and approval of State reclamation plans.

§ 884.5 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 67642, Nov. 14, 2008]

§ 884.11 State eligibility.

You, a State or Indian tribe, are eligible to submit a reclamation plan if you have eligible lands or water as defined in § 700.5 of this chapter within your jurisdiction. We may approve your proposed reclamation plan if you have an approved State regulatory program under section 503 of SMCRA, and you meet the other requirements of this chapter and SMCRA. The States of Tennessee and Missouri are exempt from the requirement for an approved State regulatory program by section 402(g)(8)(B) of SMCRA. The Navajo, Hopi, and Crow Indian tribes are exempt from the requirement for an approved regulatory program by section 405(k) of SMCRA.

[73 FR 67642, Nov. 14, 2008]

§ 884.13 Content of proposed State reclamation plan.

You must submit each proposed State reclamation plan to the Director

in writing. A proposed plan for a certified State or Indian tribe must include the designation described in paragraph (a) below and a commitment to address eligible coal problems found or occurring after certification as required in §§ 875.13(a)(3) and 875.14(b) of this chapter. A proposed plan for an uncertified State or Indian tribe must include the following information.

(a) A designation by the Governor of the State or the governing authority of the Indian tribe of the agency authorized to administer the State or Tribal reclamation program and to receive and administer grants under part 885 or part 886 of this chapter.

(b) A legal opinion from the State Attorney General or the chief legal officer of the State agency that the designated agency has the authority under State law to conduct the program in accordance with the requirements of Title IV of the Act.

(c) A description of the policies and procedures to be followed by the designated agency in conducting the reclamation program, including—

(1) The purposes of the State reclamation program;

(2) The specific criteria, consistent with section 403 of the Act for ranking and identifying projects to be funded;

(3) The coordination of reclamation work among the State reclamation program, the Rural Abandoned Mine Program administered by the Soil Conservation Service, the reclamation programs of any Indian tribes located within the States, and OSM's reclamation programs; and

(4) Policies and procedures regarding land acquisition, management and disposal under 30 CFR part 879;

(5) Policies and procedures regarding reclamation on private land under 30 CFR part 882;

(6) Policies and procedures regarding rights of entry under 30 CFR part 877; and

(7) Public participation and involvement in the preparation of the State reclamation plan and in the State reclamation program.

(d) A description of the administrative and management structure to be used in conducting the reclamation program, including—