

**PART 875—CERTIFICATION AND
NONCOAL RECLAMATION**

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

SOURCE: 47 FR 28596, June 30, 1982, unless otherwise noted.

§ 875.1 Scope.

This part establishes land and water eligibility requirements and for noncoal reclamation.

§ 875.5 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 67640, Nov. 14, 2008]

§ 875.10 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 875 and assigned it control number 1029–0103. This information establishes procedures and requirements for State and Indian tribes to conduct noncoal reclamation under abandoned mine land funding. The information is needed to assure compliance with SMCRA and the Omnibus Budget Reconciliation Act of 1990. Persons must respond to obtain a benefit. A Federal agency may not conduct or sponsor, and you are not required to respond to, a collec-

tion of information unless it displays a currently valid OMB control number.

[73 FR 67640, Nov. 14, 2008]

§ 875.11 Applicability.

(a) If you are a State or Indian tribe that has not certified under section 411(a) of SMCRA, you must follow these noncoal reclamation requirements when you use State share funds under § 872.16, Tribal share funds under § 872.19, or historic coal funds under § 872.23 to conduct reclamation projects on lands or water affected by mining of minerals and materials other than coal.

(b) If you are a State or Indian tribe that has certified under section 411(a) of SMCRA:

(1) you must use State or Tribal share funds distributed to you under section 402(g)(1) of SMCRA before October 1, 2007 in accordance with this part; and

(2) you may use prior balance replacement funds distributed to you under section 411(h)(1) of SMCRA, certified in lieu funds distributed to you under section 411(h)(2), or both to maintain certification as required by §§ 875.13 and 875.14. The noncoal reclamation requirements of this part do not apply to the use of prior balance replacement funds or certified in lieu funds.

[73 FR 67640, Nov. 14, 2008]

§ 875.12 Eligible lands and water prior to certification.

Noncoal lands and water are eligible for reclamation if:

(a) They were mined or affected by mining processes;

(b) They were mined and left or abandoned in either an unreclaimed or inadequately reclaimed condition prior to August 3, 1977;

(c) There is no continuing responsibility for reclamation by the operator, permittee, or agent of the permittee under statutes of the State or Federal Government or by the State 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

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cost of reclamation, moneys sufficient to complete the reclamation may be sought under part 886 of this chapter;

(d) The reclamation has been requested by the Governor of the State or equivalent head of the Indian tribe; and

(e) The reclamation is necessary to protect the public health, safety, general welfare, and property from extreme danger of adverse effects of noncoal mining practices.

[59 FR 28172, May 31, 1994, as amended at 73 FR 67640, Nov. 14, 2008]

§ 875.13 Certification of completion of coal sites.

(a) The Governor of a State, or the equivalent head of an Indian tribe, may submit to the Secretary a certification of completion of coal sites. The certification must express the finding that the State or Indian tribe has achieved all existing known coal-related reclamation objectives for eligible lands and waters under section 404 of SMCRA or has instituted the necessary processes to reclaim any remaining coal related problems. In addition to the above finding, the certification of completion must contain:

(1) A description of both the rationale and the process used to arrive at the above finding for the completion of all coal-related reclamation under section 403(a)(1) through (3).

(2) A brief summary and resolution of all relevant public comments concerning coal-related impacts, problems, and reclamation projects received by the State or Indian tribe prior to preparation of the certification of completion.

(3) A State or Indian tribe agreement to acknowledge and give top priority to any coal-related problem(s) that may be found or occur after submission of the certification of completion and during the life of the approved abandoned mine reclamation program.

(b) After review and verification of the information contained in the certification of completion, the Director shall provide notice in the FEDERAL REGISTER and opportunity for public comment. After receipt and evaluation of all public comments and a determination by the Director that the certification is correct, the Director shall

concur with the certification and provide final notice of such concurrence in the FEDERAL REGISTER. This concurrence shall be based upon the State's or Indian tribes commitment to give top priority to any coal problem which may thereafter be found or occur.

(c) Following concurrence by the Director, a State or Indian tribe may implement a noncoal reclamation program pursuant to provisions in section 411 of SMCRA.

(d) The Director may, on his or her own initiative, make the certification referred to in paragraph (a) of this section on behalf of your State or Indian tribe if:

(1) Based upon information contained in the AML inventory, the Director determines that all coal reclamation projects meeting the priorities described in § 874.13(a) of this chapter in the jurisdiction of your State or Indian tribe have been completed; and

(2) Before making any determination, the Director provides the public an opportunity to comment through a notice in the FEDERAL REGISTER.

[59 FR 28172, May 31, 1994, as amended at 73 FR 67640, Nov. 14, 2008]

§ 875.14 Eligible lands and water after certification.

(a) Following certification, eligible noncoal lands, waters, and facilities are those—

(1) Which were mined or processed for minerals or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status before August 3, 1977. However, for Federal lands, waters, and facilities under the jurisdiction of the Forest Service, the eligibility date is August 28, 1974. For Federal lands, waters and facilities under the jurisdiction of the Bureau of Land Management, the eligibility date is November 26, 1980; and

(2) For which there is no continuing reclamation responsibility under State or other Federal laws.

(b) If eligible coal problems are found or occur after certification, you must submit to us a plan that describes the approach and funds that will be used to address those problems in a timely manner. You may address any eligible coal problems with the certified in lieu