

with the Title V regulatory authority, you decide to proceed with the reclamation project, then you and the Title V regulatory authority must concur in the following determinations:

(1) You must concur in a determination of the limits on any coal refuse, coal waste, or other coal deposits which can be extracted under the part 707 exemption or counterpart State/Indian Tribe laws and regulations.

(2) You must concur in the delineation of the boundaries of the AML project.

(c) *Documentation.* You must include in the AML case file:

(1) The determinations made under paragraphs (a) and (b) of this section;

(2) The information taken into account in making the determinations; and

(3) The names of the parties making the determinations.

(d) *Special requirements.* For each project, you must:

(1) Characterize the site in terms of mine drainage, active slides and slide-prone areas, erosion and sedimentation, vegetation, toxic materials, and hydrologic balance;

(2) Ensure that the reclamation project is conducted in accordance with the provisions of 30 CFR subchapter R;

(3) Develop specific-site reclamation requirements, including performance bonds when appropriate in accordance with State procedures; and

(4) Require the contractor conducting the reclamation to provide prior to the time reclamation begins applicable documents that clearly authorize the extraction of coal and payment of royalties.

(e) *Limitation.* If the reclamation contractor extracts coal beyond the limits of the incidental coal specified in paragraph (b)(1) of this section, the contractor must obtain a permit under Title V of SMCRA for such coal.

[64 FR 7483, Feb. 12, 1999]

## PART 875—NONCOAL RECLAMATION

Sec.

875.1 Scope.

875.10 Information collection.

875.11 Applicability.

875.12 Eligible lands and water prior to certification.

875.13 Certification of completion of coal sites.

875.14 Eligible lands and water subsequent to certification.

875.15 Reclamation priorities for noncoal program.

875.16 Exclusion of certain noncoal reclamation sites.

875.17 Land acquisition authority—noncoal.

875.18 Lien requirements.

875.19 Limited liability.

875.20 Contractor responsibility.

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

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.

### § 875.10 Information collection.

The collection of information contained in part 875 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029-0103. The information will be used to determine if noncoal reclamation is being accomplished according to legislative mandate. Response is required to obtain a benefit in accordance with Public Law 95-87. Public reporting burden for this information is estimated to average 32 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Office of Surface Mining Reclamation and Enforcement, Information Collection Clearance Officer, room 640 N.C., 1951 Constitution Avenue NW., Washington, DC 20240 and the Office of Management and Budget, Paperwork Reduction Project (1029-0103), Washington, DC 20503.

[59 FR 28172, May 31, 1994]

### § 875.11 Applicability.

The provisions of this part apply to all reclamation projects on lands or water mined or affected by mining of

## Surface Mining Reclamation and Enforcement, Interior

## § 875.14

minerals and materials other than coal and are to be carried out with money from the Fund and administered by a State or Indian tribe under an approved reclamation program according to part 884 of this chapter.

### § 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 cost of reclamation, monies sufficient to complete the reclamation may be sought under parts 886 or 888 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]

### § 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 expressing the finding that the State or Indian tribe has achieved all existing known coal-related reclamation objectives for eligible lands and waters pursuant to Section 404 of the Act (30 U.S.C. 1234), or has instituted the necessary processes to reclaim any remaining coal related problems. In addition to the above finding, the certification of completion shall contain:

(1) A description of both the rationale and the process utilized to arrive at the above finding for the completion of all coal-related reclamation pursuant to Section 403(a) (1) through (5).

(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.

[59 FR 28172, May 31, 1994]

### § 875.14 Eligible lands and water subsequent to certification.

(a) Following certification by the State or Indian tribe of the completion of all known coal projects and the Director's concurrence in such certification, eligible noncoal lands, waters, and facilities shall be 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 prior to August 3, 1977. In determining the eligibility under this subsection of Federal lands, waters, and facilities under the jurisdiction of the Forest Service or Bureau of Land