

that the amendment is in accordance with all applicable State and Federal laws and regulations. Accordingly, we are approving the elimination of the research and demonstration project justification for early Priority III site reclamation.

Environmental Goals (p. 3–5)

This section was added to the text of chapter 3 of the Plan, but was previously contained in the Errata Sheet for the 1981 Plan. It states that Kentucky's resources are to be protected or enhanced through AML reclamation including, but not limited to, important wildlife habitats, endangered or threatened plants and animals or their critical habitats, natural areas, wild and scenic rivers, wetlands, floodplains, soil and water, recreational resources, and agricultural productivity. Because this section has been retained exactly as it appeared in the Errata sheet, it remains approved.

Phase II Inventory (p. 3–6)

The State proposes to comply with the requirements of the Federal regulations at 30 CFR 886.23(b) by using OSM procedures concerning the Abandoned Mine Land Inventory System, required by SMCRA section 403(c). We are approving this change because it explicitly requires compliance with a provision of the Federal regulations.

Small Operator Goals (pp. 3–6 to 3–8)

This section has been revised to reference the authorizing statute at Kentucky Revised Statutes (KRS) 350.450. In addition, the State has amended its definition of small operators to include all those anticipated to mine less than 300,000 tons of coal per year. This change mirrors the Federal regulations at 30 CFR 795.6(a)(2), which also define small operators as those mining less than 300,000 tons per year. We are therefore approving this change.

Marketable Mineral Recovery (pp. 3–8, 3–9)

This section has been revised to allow all contractors, rather than just small operators, to participate in the bidding for AML projects that involve incidental coal removal, although small operators will still receive preference. The change is intended to address the situation where small operators may occasionally lack the expertise, equipment, access, etc., to perform the needed work. Kentucky's practice of allowing only small operators to bid for AML contracts that involve the incidental removal of coal is set forth in the original Plan that

we approved in 1982. See 47 FR 21435. However, because SMCRA neither mandates nor prohibits this practice, its elimination by Kentucky can likewise be approved.

Bond Forfeiture Projects (p. 3–9)

This section has been amended to change the heading from "Supplementation of Eligible Bond Forfeiture Sites" to "Bond Forfeiture Projects." This change, already contained in the Errata Sheet that we approved in 1982, is now moved to the text of the Plan. It is non-substantive in nature and is hereby approved.

The section was further revised by deleting all but the first paragraph, and by adding a paragraph that states that it is the policy of the Kentucky Division of Abandoned Mine Lands (DAML) that only eligible bond forfeiture sites are covered by the AML plan and that bond forfeiture sites must meet all priority and grant submission requirements that all other AML problem sites meet. This change in effect eliminated the previous specific requirements for bond forfeiture sites. This change is approved because it does not conflict with section 402(g)(4)(B)(ii) of SMCRA and 30 U.S.C. 1232(g)(4)(B)(ii), which created AML Fund eligibility for certain bond forfeiture sites.

Water Supply Projects (p. 3–10)

Kentucky proposed this new section to comply with SMCRA section 403(b)(1) and 30 U.S.C. 1233(b)(1), which authorizes States and Tribes to use up to 30 percent of their annual AML grants to fund projects for water supply facilities in areas that have suffered coal mining related impacts to drinking water supplies. Kentucky's new section states that:

Title IV of SMCRA was amended in 1990 to allow a state to use up to 30% of its annual AML grant to fund projects for "the purpose of protecting, repairing, replacing, constructing, or enhancing facilities relating to water supply, including water distribution facilities and treatment plants, to replace water supplies adversely affected by past coal mining practices." Kentucky will use, at its discretion, up to 30% of its annual AML grant to provide drinking water to areas of the Commonwealth where water supplies have been adversely affected by AML.

Eligibility of water supply projects and funding of the projects will be made based on guidelines developed and administered by the Division of Abandoned Mine Lands. Eligibility requirements will be developed jointly with the OSM.

Kentucky's proposal to use up to 30% of its AML grant for drinking water replacement meets the requirements of Federal law since SMCRA section 403(b)(1) allows such amount to be used

for water replacement purposes. Therefore, we are approving the change.

Project Selection (pp. 4–8 to 4–11)

Kentucky's plan includes a section providing the specific criteria used to identify and rank projects to be funded through the program. As previously approved, this subsection, designated as subsection V, discusses the development of AML construction grant applications. Under this subsection, projects to be included in a year's construction grant application are selected from a grant development action list. Those projects included in the action list are "the known Priority I and II projects where the degree and imminency of impacts are most severe, plus those supplemental bond forfeiture reclamation areas yet unaddressed."

Kentucky proposed to amend subsection V by removing the phrase, "plus those supplemental bond forfeiture reclamation areas yet unaddressed." Thus, projects included in the action list would consist only of Priority I and II projects. The State also proposed to change references to the Assistant Director of the Division of Abandoned Mine Lands to references to the Director. Finally, Kentucky proposed to change the title of subsection V from "Annual Construction Grant Application" to "Project Selection." This section has also been revised to reflect the current policy of including input from all professional staff in the project selection process and the process by which grant application elements are prepared for each project. We are approving the proposed changes because they meet the requirements of the Federal regulations at 30 CFR 884.13(c)(1), which require the State to describe its criteria for ranking and identifying projects to be funded by the AML program.

Coordination With RAMP, Indian, and Other Reclamation Programs (p. 5–1)

In the second paragraph of page 5–1, the phrase "30 CFR 884.13(f)(5)(v), Flora and Fauna of the Coalfields," was deleted and replaced with the phrase "30 CFR 884.13(f)(3), Endangered and threatened plant, fish and wildlife and their habitat." This change was made because the Federal regulation at 30 CFR 884.13(f)(5)(v) has been repealed, and because the correct reference is 30 CFR 884.13(f)(3). This is not a substantial concern.

Lands for Permanent Facilities (p. 6–1)

This section has been revised to incorporate the language at KRS 350.570(3), which authorizes the Commonwealth of Kentucky to acquire