

any land adversely affected by past coal mining practices, if acquisition is necessary for successful reclamation and if such acquisition is approved in advance by OSM. Federal regulations at 30 CFR 879.11 authorize State acquisition of land adversely affected by past coal mining upon approval by OSM, if the land, after restoration, abatement, control or prevention of adverse effects of past coal mining practices, will serve recreational, historic conservation or provide open space benefits, and permanent facilities will be constructed on the land for the restoration, reclamation, abatement, control or prevention of the adverse effects of past coal mining practices. By contrast, the Kentucky AML Plan proposal would allow the State to acquire the lands if the lands will serve the enumerated (*i.e.*, recreational, *etc.*) purposes or if permanent facilities will be constructed. As such, this revision does not comply with the Federal regulations or with section 407(c) of SMCRA. We are approving the proposed change to the extent that Kentucky will meet both criteria in their acquisition of lands. We are not approving the word "or," which appears at the end of paragraph 1 of the section entitled "Lands for Permanent Facilities." We note, however, that OSM approval is always required prior to acquisition of these lands and acquisition must be carried out in accordance with Federal law and regulations.

Acquisition of Real Property by Donation (p.6–3)

This section has been revised to eliminate subdivision 2(e), which requires itemizations of any unpaid taxes or assessments levied, assessed or due which could operate as a lien on the interest offered, and subdivision 2(f), which states that a deed of conveyance shall be executed, acknowledged and recorded in the name of the Commonwealth of Kentucky after acceptance of an offer.

The Federal regulations at 30 CFR 879.13(b) allow States to use applicable State law when accepting donations of land. Therefore, we are approving the deletion of the above provisions with the understanding that Kentucky will continue to follow all applicable State laws when accepting donations of real property.

Step-by-Step Procedure for Land Acquisition (pp. 6–4 through 6–9)

Kentucky has revised this section by updating the names of departments and titles of certain departmental officials. As these revisions do not have a

substantive effect on the State's AML program, we are approving them.

Management of Acquired Lands (p. 6–9)

Kentucky has proposed to move this section from the approved Errata Sheet for the original 1981 Plan into the text of Chapter 6 of the plan. It is intended to comply with the requirements at 30 CFR 884.13(c)(4), which requires a description of policies and procedures regarding land acquisition, management and disposal. Specifically, this section corresponds to the Federal regulations at 30 CFR 879.14, "Management of acquired land." Because the provision is identical in substance to the one approved by OSM in 1982 and contained in the Errata Sheet, it remains approved in its new location.

Disposition of Reclaimed Lands (p. 6–10)

Kentucky has proposed to revise this section by adding a requirement that the appraised value of a property be stated in a land disposition notice. This change is based on recommendations made by OSM in the 1981 OSM Review (Administrative Record No. KY–57). With this change, the Plan remains in compliance with the Federal regulations at 30 CFR 879.15, pertaining to disposition of reclaimed land. Therefore, the change is approved. Also, the State elected to allow land sales to be conducted by either public auction or sealed bid, whereas the approved Errata Sheet for the 1981 Plan allowed sealed bids to be accepted prior to the sale date, followed by a public auction. This change likewise leaves the Plan in compliance with the Federal regulations at 30 CFR 879.15, and it is therefore approved.

Reclamation on Private Lands (pp. 7–4 to 7–6)

Kentucky has proposed to revise these sections as follows:

(1) *Levy of Lien:* Addition of a requirement that the landowner be provided a statement of the increase in market value, an itemized statement of reclamation expenses, and notice that a lien will or will not be filed in accordance with 30 CFR 882.13.

In this case, the Kentucky revisions are more stringent than the Federal requirements at 30 CFR 884.13. The Federal program requires that within 60 days of filing a lien the property owners may petition under local law to determine the increase in market value to their land and may appeal any decisions under local law. Under the new section of State law, within 60 days of the reclamation work, the land owner shall be notified of the above.

Landowners are given an opportunity to appeal any increases in market value within 60 days of the lien being filed. Although the Kentucky law, as proposed, does not allow for the specific appeal of the lien itself, any liens are only possible where there is an increase in property value. Thus, here the landowner's rights are still protected. We are therefore approving this change.

(2) *Satisfaction Of Liens:* The reference to "State Abandoned Mine Reclamation Fund" is changed to "Abandoned Mine Reclamation Fund," and Appendix 7-A and Attachment 7–1 have been deleted.

This change was recommended by OSM since there is not a State Abandoned Mine Reclamation Fund in Kentucky. Kentucky works under grants of State and Secretary share monies from the Abandoned Mine Reclamation Fund defined under SMCRA. If Kentucky someday does decide to have a State Abandoned Mine Reclamation Fund it will have to be legislated and could be used to account/administer set aside funds given them from the AML Fund, since these monies cease to be "AML Funds" once given to the State. Furthermore, Appendix 7–A and its Attachment 7–1 pertain only to contracting for reclamation of pre and post law coal mining permits for which the performance bond has been forfeited. The DAML administers forfeited bond money to accomplish reclamation as a collateral duty. DAML has a separate section within their Construction Branch that handles bond forfeiture planning and reclamation, which is accounted separately from AML work to reflect Title V costs for Kentucky I&E (Title V) Grant debiting. Therefore, these procedures are best documented by DAML as standard operating procedures rather than being in the AML Plan. As such, we find that these amendments are approvable, as they do not render the State program less effective than the Federal requirements.

Rights of Entry (pp. 8–7 and 8–18)

Kentucky has revised their program so that the reference to "Division of Abandoned Lands (DAL)" has been changed here, and throughout the document, to "Division of Abandoned Mine Lands (DAML)." As this change is not substantive, and therefore will not render the State program less effective than the Federal program, we are approving it.

Personnel Staffing Policies (pp. 11–1 and 11–3)

Kentucky has revised their program in accordance with Federal requirements