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PENNSYLVANIA

ABANDONED MINE RECLAMATION PLAN

AMENDMENT NO. 1

UNDER THE PROVISIONS OF  
THE FEDERAL SURFACE MINING CONTROL  
AND RECLAMATION ACT OF 1977

1992

PREPARED BY THE OFFICE OF MINERAL RESOURCES MANAGEMENT  
DEPARTMENT OF ENVIRONMENTAL RESOURCES

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**EXHIBITS:**

- 2A. Assistant Counsel's Opinion of Authority for P.L. 101-508  
and Fund Authorization for the AMD Set Aside Program
  
- 5. DER Organization Chart and Office of Mineral Resources  
Management Organization Chart
  
- 11A. Public Participation in Parts D and E of the Reclamation Plan  
(Amendment No. 1)

## INTRODUCTION

The Pennsylvania Department of Environmental Resources (DER) has administered the Title IV AML Reclamation Program in Pennsylvania since July 31, 1982. One of the requirements for achieving primacy was federal approval of our Abandoned Mine Reclamation Plan (Plan).

On November 5, 1990, P.L. 101-508, the Abandoned Mine Reclamation Act of 1990, was enacted, making significant changes to the original Title IV AML Program. The purpose of this Reclamation Plan Amendment is to modify Pennsylvania's Plan to allow implementation by DER of the initiatives authorized under P.L. 101-508.

This Plan Amendment consists of two new parts that will be added to the original Plan which included parts A, B, and C. New Part D presents updates of the information, policies and procedures contained in the original Plan. New Part E contains a description of Pennsylvania's proposed program modifications to implement the new P.L. 101-508 initiatives and provides the information regarding these initiatives specifically required under 30 CFR 884.13.

Part D

**UPDATE OF THE AML RECLAMATION PROGRAM UNDER P.L. 95-87 and P.L. 101-508**

This Part D updates information contained in Part B in the original Plan and also provides additional information for the new initiatives under P.L. 101-508. Major Roman numeral headings track the Part B headings of the original Plan.

**I. PROGRAM ELEMENTS & TIMING**

- A. Pennsylvania will continue to follow the established priorities listed in Part B for work on abandoned mine lands. To date, this program has concentrated entirely on reclaiming Priority I and II problems. Because of the large number of Priority I and II problems which remain, Pennsylvania will continue to address these high priority problem areas. However, work will also be done under the new acid mine drainage (AMD) initiative and other new initiatives as presented within this Amendment.
  
- B. High priority problem sites mined after August 3, 1977, where bonds have been forfeited, may now be eligible for funding, if the Department makes either of the following findings:

- (1) The surface coal mining operation occurred during the period beginning on August 4, 1977, and ending on or before July 31, 1982 and funds for reclamation or abatement which are available pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site; or,
  
- (2) The surface coal mining operation occurred during the period beginning on August 4, 1977, and ending on or before November 5, 1990, the date of enactment of P.L. 101-508, and the surety of such mining operator became insolvent during such period, and funds immediately available from proceedings relating to such insolvency, or from any financial guarantee or other source are not sufficient to provide for adequate reclamation or abatement at the site.

In determining which sites to reclaim, the Department shall follow the priorities stated in paragraphs (1) and (2) of Section 403(a) of P.L. 95-87. The Department shall ensure that priority is given to those sites which are in the immediate vicinity of a residential area or which have an adverse economic impact upon a community.

- C. Acid mine drainage (AMD) projects may now be eligible for funding. Pennsylvania may receive and retain without regard to the three year limitation referred to in Section 402(g)(1)(D) of P.L. 95-87 up to 10 percent of the total of the grants made annually to Pennsylvania under Sections 402(g)(1) and (5) of P.L. 95-87 if such amounts

are deposited into an acid mine drainage abatement and treatment fund established under Pennsylvania law as provided in Section 402(g)(7) of P.L. 95-87.

- D. Pennsylvania may expend up to 30 percent of funds allocated in any year through grants made available under paragraphs (1) and (5) of Section 402(g) (State Share and Discretionary Share available for distribution) 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 coal mining practices.

If the adverse effect on water supplies occurred both prior to and after August 3, 1977, Section 404 shall not be construed to prohibit Pennsylvania from using funds for water supplies, if Pennsylvania determines that such adverse effects occurred predominantly prior to August 3, 1977.

- E. Pennsylvania is constrained to follow the OSM inventory criteria for Priority 1 and Priority 2 problems in the selection of project sites. Since OSM has changed the inventory criteria numerous times since primacy, we will not list the current inventory criteria in this amendment. Pennsylvania will follow the current inventory criteria in place during the existence of this Reclamation Plan.

## II. ADMINISTRATION & MANAGEMENT

- C. Organization: An updated Exhibit regarding the organization of the Department of Environmental Resources and the Office of Mineral Resources Management is included as Exhibit 5.
- F. Accounting: A state general fund account was established in the early 1980s to receive and transfer OSM grant funds as expenditures were made. A separate new account has been established for the AMD set-aside program. This is a restricted revenue account to which interest earnings will be credited. The fund authorization letter is shown in Exhibit 2A. Up to 10% of the State Share and Discretionary Share Funds granted to Pennsylvania can be transferred directly to this new AMD account. These funds will then be considered state monies and be considered as fully obligated funds for AML Grant purposes.

## III. POLICIES & PROCEDURES

- C. Coordination With Other Agencies: Since Part B of the original Plan was written, a number of the Executive Orders and Management or Secretary's Directives which were listed have been revoked. The Directives/Executive Orders which have been revoked in their entirety are: Secretary's Directive 79-1; Executive Order 1978-18; and, Management Directive 255.5. The Directives/Executive Orders which are still in effect and which have no revisions include Executive Orders 1973-9, 1975-6, and 1981-4. Also, the Memorandum



of Understanding with the Pennsylvania Fish Commission expired without renewal on April 20, 1987. However, the Department continues to coordinate with the Fish Commission in areas of mutual concern.

On August 1, 1991 the Governor's Office abolished the Pennsylvania Intergovernmental Council (PIC). The termination of PIC eliminates the Executive Order 12372 Intergovernmental Review System for the Title IV Program. Until an alternative to the PIC process can be found, in accordance with Section 1-1.40-25 of the Federal Assistance Manual, the consultation provisions of the Intergovernmental Cooperation Act of 1968 will now be the responsibility of OSM. If an alternative to the PIC process is reinstated, we will begin using that process to notify potentially interested parties of our Title IV grant actions.

The Department's Bureau of Forestry maintains an inventory system for threatened and endangered plant and animal species. This inventory, called the Pennsylvania Natural Diversity Inventory (PNDI), is accessed for every proposed project prior to submitting it for funding and we resolve any conflicts that occur before we proceed. PNDI is a Commonwealth-wide database containing locational, historical and biological information on threatened and endangered plant and animal species. PNDI stores over 5,500 occurrences of important natural resources including threatened and endangered plant and animal species, outstanding geologic features, exceptional value watersheds and scenic rivers.

The Department currently performs surveys for the endangered species, Indiana Bat, for all portals which meet certain criteria established by the Pennsylvania Game Commission. These bat surveys can be performed by the Pennsylvania Game Commission, by Department staff, or by private consultants experienced in bat surveys.

The Department also performs Phase I archaeological and historical studies for certain projects as required by the State Historic Preservation Officer. The Phase I and historical studies are generally performed by consultants experienced in these matters.

The Department has executed Memorandum of Understandings (MOU) with many of the County Conservation Districts in the coalfields of Pennsylvania. These MOUs outline the method of cooperation between the Department and these Conservation Districts when dealing with the abandoned mine reclamation program in Pennsylvania.

E. Reclamation on Private Lands and Rights of Entry: The lien waiver criteria established in this Section was modified and approved by OSM on June 11, 1986 and reaffirmed by letter on October 24, 1989 to be as follows:

1. The property value increase is not expected to yield an after tax benefit to the property owner of over \$10,000 (gross property value increase of \$16,667); or,
2. The cost of filing the lien exceeds the amount of the lien.

This criteria will also be used for projects eligible under the new initiatives.

PART E

**PENNSYLVANIA'S RECLAMATION PLAN FOR THE NEW INITIATIVES UNDER P.L. 101-508**

**I. INTRODUCTION**

The regulations in 30 CFR Section 884.13 require that certain information be contained in the Plan when a significant change to the program is made. Therefore, that information is provided for the four new initiatives described below in Part E, Sections II, III, IV and V.

- A. The designation by the Governor of the Commonwealth of Pennsylvania of the Department of Environmental Resources as the State agency which is authorized to administer the State Reclamation Program and to receive and administer grants under 30 CFR Section 886 is still in effect as it applies to the Title IV program, including the new initiatives, and is contained in Exhibit 1.
  
- B. A supplemental legal opinion which states that the Department of Environmental Resources has the authority under Pennsylvania law to conduct the new initiatives in accordance with the requirements of Title IV of the Act, as amended, is located in Exhibit 2A.
  
- C. A description of the policies and procedures to be followed by the Department in conducting the reclamation program includes the following:

1. The purposes of Pennsylvania's reclamation program are included in Part B, III A, page 14, and as updated in Part E, II - V.
2. The policy for project ranking and selection of projects to be developed for funding is included in Part B, III B, page 16, and as updated in Part E, II - V.
3. The coordination of reclamation work among other state agencies, the Soil Conservation Service, the State Historic Preservation Officer, the U.S. Fish and Wildlife Service, and others is included in Part B, III C, Page 19, and will apply to the new initiatives in Part E, II - V. The coordination of the AMD Abatement/Treatment Program will also involve the additional coordination efforts described in Part E, IV.
4. The policies and procedures regarding land acquisition, management and disposal are discussed in Part B, III D, page 25.
5. The policies and procedures regarding reclamation on private land are discussed in Part B, III E, page 26 and in Part D, III, E.
6. The policies and procedures regarding Rights of Entry are discussed in Part B, III E, page 26.
7. Public input into this Plan amendment has been accomplished

by sending the draft Plan amendment to the 45 coal county conservation districts. The amendment has also been sent to individual members of the Mining and Reclamation Advisory Board and the Pennsylvania Association of Conservation Districts, Inc. for their review. Intradepartmental review has been accomplished by sending the draft amendment to the Comptroller's office and the Department's legal and contracting offices for their review and comment. A notice has also been placed in a newspaper in each of the 45 coal counties in Pennsylvania and in the Pennsylvania Bulletin advising of our intention to submit a Plan amendment and how to obtain a copy. A copy of all requests for comments, notices published, comments received and our responses to those comments are contained in Exhibit 11A.

- D. A description of the administrative and management structure to be used in conducting the reclamation program includes the following:
1. The organization of the Department is discussed in Part B, II C, page 8. Exhibits 5 and 6 have been updated and consolidated into one exhibit, new Exhibit 5.
  2. The Department's personnel staffing policies are discussed in Part B II D, page 9.
  3. The Department's purchasing, procurement and contracting policies are discussed in Part B, II E, page 10.

4. The Department's accounting system is discussed in Part B, II F, page 13.

E. A general description of the reclamation activities to be conducted under the Plan includes the following:

1. The map which shows the general location of known or suspected eligible lands and waters is shown as Exhibit 12 in the original Plan.
2. The general description of the abandoned mine lands problems which occur on those lands and waters is discussed in Part C, I, page 31, and also, as follows, in Sections II through V. An additional problem that has been and will continue to be addressed under the Plan is the water supply problems caused by abandoned mine lands.
3. A discussion of how this Plan amendment proposes to address each of the problems which occurs for each of the four initiatives is discussed in detail in Sections II through V below.

F. A general description of the conditions prevailing in the areas of Pennsylvania where reclamation is planned includes the following:

1. The economic base as well as a discussion of significant esthetic, historic, cultural, and recreational sites, hydrology, flora and fauna, and mineable coal reserves are all included in Part C, V, beginning on page 35.

2. Federally endangered and threatened plants, fish, and wildlife in Pennsylvania are listed in Exhibit 10, Tab A.

**II. THE NEW INTERIM BOND FORFEITURE PROJECTS INITIATIVE (MINING OCCURRED BETWEEN AUGUST 3, 1977 AND JULY 30, 1982)**

This initiative involves reclamation of abandoned mine sites where the Department finds that the surface coal mining operation occurred during the period beginning on August 4, 1977, and ending on or before July 30, 1982 and that any funds for reclamation or abatement which are available pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site. The problems and proposed solutions which will be addressed under this initiative are discussed in Part C, II, page 32. The problems and proposed solutions addressed under this initiative are essentially the same ones which have been addressed under Pennsylvania's OSM funded BF reclamation program to date.

Most of the projects included under this initiative are surface mining problems such as unreclaimed highwalls, unfilled pits, water filled pits, refuse piles, etc. These projects are located in the coalfields statewide and there is a projected inventory of between 5 and 25 million dollars in potential projects.

The process for selecting projects under this initiative is the same as for all Title IV projects, as described above in Part B, III, B, however, the potential projects would only be those eligible under



this initiative. The projects to be funded under this initiative are those with the same or more urgent priority as other Priority I and II Title IV projects. Lower priority sites will be funded with available state funds.

**III. THE NEW BANKRUPT SURETY BOND FORFEITURE PROJECTS INITIATIVE (MINING OCCURRED BETWEEN AUGUST 4, 1977 AND NOVEMBER 5, 1990)**

This initiative involves reclamation of abandoned mine sites where the Department finds that the surface coal mining operation occurred during the period beginning on August 4, 1977, and ending on or before November 5, 1990, and that the surety of such mining operator became insolvent during such period, and as of November 5, 1990, funds immediately available from proceedings relating to such insolvency, or from any financial guarantee or other source are not sufficient to provide for adequate reclamation or abatement at the site. The problems and proposed solutions which will be addressed under this initiative are discussed in Part C, II, page 32. The problems and proposed solutions addressed under this initiative are essentially the same ones which have been addressed under Pennsylvania's OSM funded BF reclamation program to date.

Most of the projects included under this initiative are surface mining problems such as unreclaimed highwalls, unfilled pits, water filled pits, refuse piles, etc. These projects are located in the coalfields statewide. It is anticipated that there will be a limited number of projects eligible under this initiative.

The process for selecting projects under this initiative is the same as for all Title IV projects, as described above in Part B, III, B; however, the potential projects would only be those eligible under this initiative. The projects to be funded under this initiative are those with the same or more urgent priority as other Priority I and II Title IV projects. Lower priority projects will be funded with available state funds.

#### **IV. THE NEW AMD ABATEMENT/TREATMENT PROGRAM INITIATIVE**

Pennsylvania has established under state law an interest bearing acid mine drainage abatement and treatment fund into which up to ten percent of the total grant funds each year will be deposited. This fund will be utilized by Pennsylvania to implement, in consultation with the Soil Conservation Service, acid mine drainage abatement and treatment plans approved by the Secretary of the Interior.

In Sections 402 (g), 6 and 7, the Act generally states that Pennsylvania may receive and retain without regard to the 3-year limitation, up to 10 percent of the total of annual grants if such amounts are deposited into an acid mine drainage abatement and treatment fund established under State law. Pennsylvania may establish under State law an acid mine drainage abatement and treatment fund from which amounts (together with all interest earned on such amounts) are expended by the State to implement, in consultation with the Soil Conservation Service, acid mine drainage abatement and treatment plans approved by the Secretary. Such plans shall provide for the comprehensive abatement of the causes

and treatment of the effects of acid mine drainage within qualified hydrologic units affected by coal mining practices. The plan shall include, but shall not be limited to, each of the following:

- (i) An identification of the qualified hydrologic unit.
- (ii) The extent to which acid mine drainage is affecting the water quality and biological resources within the hydrologic unit.
- (iii) An identification of the sources of acid mine drainage within the hydrologic unit.
- (iv) An identification of individual projects and the measures proposed to be undertaken to abate and treat the causes or effects of acid mine drainage within the hydrologic unit.
- (v) The cost of undertaking the proposed abatement and treatment measures.
- (vi) An identification of existing and proposed sources of funding for such measures.
- (vii) An analysis of the cost-effectiveness and environmental benefits of abatement and treatment measures.

Under this program, the term qualified hydrologic unit means a hydrologic unit:

(A) in which the water quality has been significantly affected by acid mine drainage from coal mining practices in a manner which adversely impacts biological resources; and

(B) which contains lands and water that are:

(I) eligible pursuant to section 404 and include any of the priorities stated in paragraph (1), (2), or (3) of Section 403(a); and

(II) proposed to be the subject of the expenditures by the State from amounts available from the forfeiture of bonds required under Section 509 or from other State sources to mitigate acid mine drainage.

The problems and proposed solutions which will be addressed under this initiative are discussed in Part C, II, page 32. The problems addressed by this initiative may be Priority III problems.

#### **V. THE REVISED WATER SUPPLY REPLACEMENT PROJECT REQUIREMENTS**

Pennsylvania may expend up to 30 percent of the funds allocated in any year for the purpose of protecting, repairing, replacing, constructing, or enhancing facilities relating to water supply, including water distribution facilities and treatment plants and to replace water supplies adversely affected by coal mining practices. Pennsylvania has funded high priority water supply replacement projects under Title

IV in previous grants and may continue to do so under this initiative. The Department will continue to rank and select projects under this initiative, in accordance with Part B, III, B.

For the purposes of project eligibility, if the adverse affect on water supplies occurred both prior to and after August 3, 1977, Title IV grant funds may be used for the project if it can be determined that such adverse effects predominantly occurred prior to August 3, 1977.