

Federal Abandoned Mine Land Reclamation Fund

Background: In 1977, Congress passed the Surface Mining Control and Reclamation Act (SMCRA) in order to address reclamation needs and the problems associated with abandoned mines. Title IV of the Act provides funding for the Abandoned Mine Land Reclamation Fund (AML Fund) through a fee on each ton of coal produced.

In 2006, the law – and the fund – was reauthorized through 2021. At the time of the 2006 reauthorization, the fee rates remained unchanged from 1977 rates and included 35 cents per ton of surface mined coal, 15 cents per ton for underground mined coal, and 10 cents per ton for lignite; however, in 2008 and again in 2013, these rates were respectively reduced by 10% each year. Funds for reclamation are divided between the federal Office of Surface Mining and 24 states with current and/or historic coal production. Since 1980, Pennsylvania has received over \$1 billion from the fund in order to address reclamation through DEP's Abandoned Mine Land Program.

Reclamation sites are prioritized from P1 through P5. P1 and P2 sites are those with hazards that present risks and threats to human health and safety. P3 sites are those that affect water resources and where the reauthorization increases to 30% of the percentage of funds that may be set aside for these problems. States may become “certified” when they have eliminated all of their high priority AML sites.

One of the major achievements of the 2006 SMCRA Amendments was that the distribution formula was adjusted so that Pennsylvania and other non-certified states would receive more reclamation funds (approximately 83% of fee collections) to deal with persistent abandoned mine legacy problems. Recent legislation by Congress has adjusted the cap that certified states can receive annually as payments of in-lieu funds.

Pennsylvania’s Challenges: In recent years, AML funding allocated to Pennsylvania has been declining. Under the 2014 AML Program Grant, Pennsylvania was awarded \$52.3 million by the federal Office of Surface Mining, which represents a 15.2% or \$9.4 million decline in funding compared to the level of funding the Commonwealth received in 2013. A number of factors are contributing to the decline in funding available to the Commonwealth, including the reductions in the fees assessed on the per ton of coal mined, the drop in coal production, and the sequestration of mandatory federal budgetary resources. Despite a decline in available resources for reclamation and restoration, the federal AML Inventory currently shows \$1.1 billion of unclaimed AML problems with severe health and safety hazards in Pennsylvania.

Policy Considerations: Leading up to the next reauthorization, the CAC believes it is imperative that the Wolf Administration stays engaged and vigilant to ensure that the Commonwealth continues to receive its fair share in order to address a still substantial backlog of AML reclamation needs, especially in light of competing priorities. Receiving maximum funding will also increase the chances that the full 30% set aside sites that affect water resources may be

used effectively and efficiently, including through distribution via grants to partners and grassroots organizations.

Beyond the federal issues, the CAC recommends the Wolf Administration develop a comprehensive abandoned mine reclamation strategy that incorporates and maximizes the effective use of federal and state public funds, private industry and local watershed groups. As part of developing this strategy, there should be a review of private liability for discharges if companies take over sites they are not responsible for so the rules are clear and predictable.