

# Chronology

of

## Steps Taken by Pennsylvania and the Office of Surface Mining Reclamation and Enforcement to Address Issues Raised by the 1991 Part 732 Notice and 30 CFR § 938.16(h)

DATE	DESCRIPTION
August 1991	Report titled, "Pennsylvania Bond Program as an Alternative Bonding System". The report concludes that the PA bond pool is insolvent and finds that the reclamation is not addressing AMD discharges.
October 1, 1991	Section 732 based 60-Day letter informed Pennsylvania that alternative bonding system liability included pollutional discharges from forfeited sites, and that the existing system was not capable of fully addressing that financial liability.
October 26, 1991	PADEP guidance document which states the policy that bonds will not be released when post mining discharges are in violation of regulation.
December 4, 1991	A transmittal letter from PADEP. The letter transmits the signed award for the FY 1992 Alternative Bonding System Cooperative Agreement. The agreement provided \$100,000 in Federal Funds to perform an actuarial assessment of the PA alternative bonding system.
December 6, 1991	Letter from PADEP to OSM responding the Oct 1, 1991, 60-Day Letter outlining the Department's plans to address the identified concerns. Trust funds were identified as a means to address the deficiencies.
March 3, 1992	Letter from the Harrisburg Field Office Director to the Secretary of PADEP outlining additional steps that the state must take to satisfy the October 1, 1991, 732 letter. (PA 802.02)
May 27, 1992	Pennsylvania provides follow-up letter (PA 802.3) TO PA 802.1 of March 3, 1992. The letter explains that legislative changes are required before Pennsylvania can pursue the site specific trust funds for long-term treatment of post-mining discharges. The letter also states that the proposal to increase to \$50 permit fee to \$100 was submitted to the Environmental Quality Board in April.
	Harrisburg Field Office oversight report on administrative aspects of

<b>DATE</b>	<b>DESCRIPTION</b>
June 1992	the PA bonding program. The report identified and resolved issues with the security of bonding instruments.
August 19, 1992	Internal OSM Memorandum concerning addition of AMD treatment cost calculations to OSM's bonding handbook and a request for interim guidance on the same subject.
December 1992	Legislation allowing PADEP to impose site-specific treatment trust funds on sites where AMD discharges develop (ACT 173). Act 173 also provided alternative financing mechanisms for the perpetual treatment of mine drainage. (PA 817.00)
February 18, 1993	Pennsylvania submits proposal to OSM to increase the per-acre permit application fee from \$50 to \$100. (PA 818.00)
April 23, 1993	PADEP Program Guidance titled, "Bond Adjustments/Release for Post-Mining Discharges." The policy stated that additional bond should be required when AMD is identified on a mine site. The amount of additional bond was to be calculated based on the cost for PADEP to treat the discharge for 50 years. The policy also allowed release of bonds where the discharge had only a minimal impact.
July 1993	PADEP contracted with an independent actuarial firm for a review and financial analysis on the soundness of the alternative bonding system.
July 16, 1993	Actuarial study of the PA bonding program is completed. The actuary found the program solvent for land reclamation, but found it insolvent for addressing AMD discharges.
July 1993	Harrisburg Field Office oversight report on bond forfeited sites prior to reclamation. The report noted extended time frames in achieving final land reclamation of the sites.
August 1993	Regulatory revisions to increase reclamation fund revenue were adopted raising the per-acre permit application fee from \$50 to \$100.
September 28, 1993	OSM's letter to Pennsylvania providing comments on the July 16, 1993, actuarial study of the Pennsylvania bonding program prepared by Milliman & Robertson, Inc. (PA 802.04)
September 1993	PADEP submits a bonding program proposal to the Governor and the legislature that would create a master trust fund capable of treating AMD on primacy and pre-primacy abandoned/forfeited sites. The proposal estimated the costs at \$50 million.

<b>DATE</b>	<b>DESCRIPTION</b>
December 6, 1993	Federal Register notice deferring approval of the use of trust funds pending PADEP's submittal of any such proposals as a program amendment prior to their implementation.
May 1994	Harrisburg Field Office oversight report on bond forfeiture and reclamation of bond forfeited sites. The report noted that land reclamation was achieved on all the sites reviewed. (No AMD discharges were present on the sampled sites.)
August 1994	PADEP issues a report titled, "Best Professional Judgement Analysis for the Treatment of Post-Mining Discharges from Surface Mining Activities."
August 9, 1994	OSM Director's Briefing Paper concerning Financial Guarantees to Address Post-Mining Discharges.
December 1994	OSM and PADEP sign an agreement to conduct a joint study to determine inspection techniques to identify and address AMD risks.
May 31, 1995	OSM requests PADEP take action to finalize AMD/bonding proposals and other mechanisms to assure that the bonding program fully addresses the outstanding obligations under the 732 notification for AMD discharges. (PA 802.05)
June 20, 1995	Appalachian Region begins initiative to work with the states to develop an inspection program to identify and prevent AMD.
December 1995	PADEP published proposes rules to implement site specific treatment trust funds authorized under Act 173.
February 1996	PADEP updated the master trust fund proposal as a Report entitled "Alternative Financing Mechanisms for the Perpetual Treatment of Post-Mining Discharges" as a proposal to the Governor (Ridge) and legislature.
February 14, 1996	Appalachian Region Management Council update on the status of the effort to develop "AMD Inspection and Evaluation Procedures."
March 18, 1996	Letter from IMCC to OSM objecting the a draft of OSM's AMD Policy Statement.
April 1996	Pennsylvania's Mining and Reclamation Advisory Board recommends that PADEP submit the "Alternative Financing Mechanisms" Report, to the Governor.

<b>DATE</b>	<b>DESCRIPTION</b>
May 1996	PADEP submits the “Alternative Financing Mechanisms” Report to Governor.
May 22, 1996	PA Governor signs Act 43 (Act 1996-43, HB 1940). The Act amends Act 173 by the definition of no cost contract, correcting errors in the terminology of fund names, adding important language to insure that the surety pays the bond to Pennsylvania before being allowed to reclaim a forfeited site.
June 20 1996	Meeting of the ARCC AMD/Bonding Oversight Team.
July 29, 1996	OSM Strategic Rollout Plan for AMD Bonding Oversight Team Evaluation of Bonding Systems.
August 20, 1996	Report titled, “Acid Mine Drainage Prevention, AMD Inspection Program”. The report evaluated inspection techniques and their role in AMD prevention.
March 12, 1997	Meeting of the AR AMD/Bonding Team.
March 31, 1997	OSM AMD Policy Statement finalized.
April 24, 1997	Meeting of the AR AMD/Bonding Team.
May 13, 1997	Director’s Briefing on the AR AMD Strategy.
July 24, 1997	Meeting of the OSM/States AMD Bonding Workgroup.
September 18, 1997	Meeting of the AR AMD/Bonding Team.
October 16, 1997	Meeting of the OSM/States AMD Bonding Workgroup.
December 1997	PADEP initiates a study (Post Mortem Study) of sites that failed to prevent AMD on permits issued after 1987.
January 13, 1998	OSM Director’s briefing paper titled, “Adequacy of Bonding Programs to Address Prevention/Remediation of Pollutational Discharges.”
January 14, 1998	Meeting of the OSM/States AMD Bonding Workgroup.
January 22, 1998	A discussion paper titled “Bonding for Treatment of Acid Discharges at Permanent Program and Bond Forfeiture Sites”. The paper discusses various approaches to addressing AMD on existing primacy permits and bond forfeitures.
April 2, 1998	A Discussion Paper by the OSM/States Risk-Based Bonding subgroup

<b>DATE</b>	<b>DESCRIPTION</b>
	titled, "Bonding for Long-Term Treatment of Acid Mine Drainage."
April 4, 1998	Meeting of the joint OSM/States AMD Bonding Workgroup.
April 5, 1998	A Memorandum from the Interstate Mining Compact Commission (IMCC) to the members of the joint State and Federal AMD Bonding Work Group. The memo suggested ending the workgroup effort, stating there was little left for the group to accomplish.
May 27, 1998	An OSM draft Discussion Paper titled, "Treatment of Point Source Discharges from Bond Forfeiture Sites". The paper discusses SMCRA and NPDES issues regarding bond forfeiture sites with an AMD discharge.
July 1998	A Discussion Paper titled "Liability for Treatment of Discharges at Permanent Program and Bond Forfeiture Sites". The paper lays out the options for addressing liability of discharges on bond forfeited sites.
September 3, 1998	Report by the Harrisburg Field Office on the status of oversight related to AMD prevention.
September 1998	Harrisburg Field Office report titled, "Third Party Reclamation on Forfeited Permits." The study found that third party reclamation was not addressing AMD associated with the permits.
September 28, 1998	Letter from PADEP to the Pennsylvania Coal Association requesting input of ways to cover long-term treatment obligations. The letter stated that there are 331 reclaimed permits where bond release is being withheld because of AMD discharges. The letter contains the phrase, "The dog is no longer sleeping."
October 14, 1998	Harrisburg Field Office report (draft) titled, "Oversight Update: Acid Mine Drainage Prevention". The report outlined the status of Pennsylvania's AMD treatment and prevention efforts.
December 1998	Post Mortem study determines that only 17 of approximately 1700 permits issued since 1987 resulted in post-mining pollutional discharges. Discharges on the failed sites are much less severe in quality and quantity.
December 7, 1998	OSM final draft of an ARCC study of the Pennsylvania PHC/CHIA process for underground mines.
April 21, 1999	A Memorandum from PADEP transmitting a copy of their book titled, "Coal Mine Drainage Prediction and Pollution Prevention in

<b>DATE</b>	<b>DESCRIPTION</b>
	Pennsylvania". The book describes the current technology in use by PADEP to predict and prevent AMD from surface mines.
June 3, 1999	OSM receives a Notice of Intent (NOI) from Citizens for Pennsylvania's Future (PennFuture). The NOI alleged PADEP failed to perform non-discretionary duties related primarily to bonding for long-term treatment of pollutional mine drainage. With respect to OSM, the NOI alleged that it did not perform non-discretionary duties to compel PADEP to correct it's bonding program.
August 3, 1999	Letter from PADEP Chief Council (Bedrin) to PennFuture (Weist) describing the steps that PADEP was taking to address the issues raised in the NOI.
August 9, 1999	Letter from PennFuture (Weist) responding to PADEP Chief Council (Bedrin) of August 3, 1999, responding to PADEP's proposals to address NOI issues.
August 23, 1999	Letter from PennFuture (Weist) to PADEP Chief Council (Bedrin) further responding to PADEP's proposals to address NOI issues.
September 13, 1999	Letter from PADEP (Jarrett) to OSM. The letter requested answers to 17 questions related to the NOI.
September 22, 1999	Letter from PennFuture to PADEP's Chief Counsel responding to a September 13, 1999, letter.
October 6, 1999	Letter from DEP's Chief Counsel responding to a September 22, 1999 letter from PennFuture. Announcing a move from an alternative bonding system to a full-cost bonding program.
October 13, 1999	Penn Future and others fill suit against PADEP and OSM in U.S. District Court for the Middle District of Pennsylvania. The suit was based on the allegations listed in the NOI of June 3, 1999.
December 21, 1999	Letter from OSM to PADEP answering the 17 questions from their letter of September 13, 1999.
February 2, 2000	Letter from PADEP to OSM responding to OSM's letter of December 21, 1999.