

**Annex A**

**TITLE 25. ENVIRONMENTAL PROTECTION**

**PART I. DEPARTMENT OF ENVIRONMENTAL  
PROTECTION**

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE I. LAND RESOURCES**

**CHAPTER 86. SURFACE AND UNDERGROUND COAL  
MINING: GENERAL**

**Subchapter B. PERMITS**

**GENERAL REQUIREMENTS FOR PERMITS AND  
PERMIT APPLICATIONS**

**§ 86.17. Permit and reclamation fees.**

\* \* \* \* \*

(e) In addition to the bond established under §§ 86.145, 86.149 and 86.150 (relating to Department responsibilities; determination of bond amount; and minimum amount), there is a \$100 per acre reclamation fee for surface mining activities except for the surface effects of underground mining. This reclamation fee may be paid as acreage within an approved surface mining permit is authorized for mining. The reclamation fee will be deposited in the Surface Mining Conservation and Reclamation Fund as a supplement to forfeited bonds. The reclamation fee shall only be used for reclaiming mining operations which have defaulted on their obligation to reclaim. **The fee required by this subsection is not required after \_\_\_\_\_ (Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.).**

**Subchapter F. BONDING AND INSURANCE  
REQUIREMENTS**

**BOND FORFEITURE**

**§ 86.187. Use of money.**

(a) Moneys received from fees, fines, penalties, bond forfeitures and other monies received under authority of the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1--1396.31), and interest earned on the moneys, will be deposited in the Fund.

\* \* \* \* \*

(b) The Department, **after notifying and consulting with the landowner**, will expend the funds to reclaim the land affected by the operation in **[such]** a manner **[as to complete]** **which completes** the approved reclamation plan of the licensed mine operator whose bonds were forfeited for the reclamation site **or an alternative reclamation plan completed under subsection (c)**. The Department**[, after notifying and consulting with the landowner,]** will expend the funds to reclaim the land affected by the operation in **[such]** a manner **[as to complete a]** **which completes an alternative** reclamation plan in compliance with subsection (c) if either of the following apply:

\* \* \* \* \*

(c) If the Department determines under subsection (b) that an alternative to the approved reclamation plan of the licensed mine operator whose bonds were forfeited for the reclamation site should be implemented, the Department will prepare and implement a plan **[that makes the bond forfeiture site suitable at a minimum for agriculture, forests, recreation, wildlife or water conservation]** that complies with the applicable performance standards in accordance with § 86.189(c)(2), (3) or (4), whichever is appropriate, and that ensures that all disturbed areas are restored to conditions that are capable of supporting either the uses they were capable of supporting before any mining, or higher or better uses.

### § 86.188. Evaluation of bond forfeiture sites.

\* \* \* \* \*

(b) The Department will prioritize a bond forfeiture site according to the following categories, which are listed in decreasing order of severity of condition:

\* \* \* \* \*

**[(5) Other sites which need reclamation.]**

(c) The Department, in selecting sites for reclamation under § 86.189(b)(1) (relating to reclamation of bond forfeiture sites), will consider the following factors:

\* \* \* \* \*

**(3) [The availability of funds to accomplish the required reclamation of the site, or that portion of the site which is threatening life, health, safety, other property or the environment.**

**(4)** The willingness of the landowner, or other person, to undertake the reclamation of the site under § 86.189(b)(2), (3) or (4), as evidenced by previous reclamation activity performed on the site or other indications of willingness to reclaim by the landowner or other person.

**[(5)] (4)** \* \* \*

**[(6)] (5)** \* \* \*

**[(7)] (6)** \* \* \*

**[(8)] (7)** \* \* \*

\* \* \* \* \*

**§ 86.189. Reclamation of bond forfeiture sites.**

\* \* \* \* \*

(c) The Department will not enter into a reclamation contract under this section with a person unless the person demonstrates the following to the satisfaction of the Department:

\* \* \* \* \*

(2) For bond forfeiture sites for which permits were issued under the Federally-approved surface coal mining regulatory program which took effect July 31, 1982, the proposed reclamation plan will result in reclamation of the site in a manner consistent with The Clean Streams Law and the regulations promulgated thereunder for active surface coal mining operations, as specified in the contract, and the Surface Mining Conservation and Reclamation Act and the regulations promulgated thereunder for active surface coal mining operations[, **except as provided in paragraph (5)**].

(3) For bond forfeiture sites for which the bonds were declared forfeit on or after May 3, 1978, and for which permits were not issued under the Federally-approved surface coal mining regulatory program which took effect July 31, 1982, the proposed reclamation plan will result in reclamation of the site in a manner that is consistent with the interim Federal program regulations first published at 42 FR 62639 (December 13, 1977), as well as The Clean Streams Law and the regulations promulgated thereunder in effect at the time the bonds were declared forfeit, as specified in the contract, and the Surface Mining Conservation and Reclamation Act and the regulations promulgated thereunder in effect at the time the bonds were declared forfeit. If the Department's permit files for the site clearly show that surface mining activities on the site occurred before August 3, 1977, the proposed reclamation plan may be consistent with paragraph (4)], **except as provided in paragraph (5)]**.

(4) For bond forfeiture sites for which the bonds were declared forfeit before May 3, 1978, the proposed reclamation plan will result in reclamation of the site in a manner that is consistent with The Clean Streams Law and the regulations promulgated thereunder that were applicable to active surface coal mining operations at the time the bonds were declared forfeit, as specified in the contract, and the Surface Mining Conservation and Reclamation Act and the regulations that were promulgated thereunder at the time the bonds were declared forfeit [, **except as provided in paragraph (5)]**.

(5) **[In lieu of relevant statutes and regulations that are specifically applicable to post mining land use, the plan for a bond forfeiture site may propose to make the site suitable at a minimum for agriculture, forests, recreation, wildlife or water conservation under § 86.187(c).**

(6)] Except in the case of a landowner of a bond forfeiture site under subsection (b)(2) and (4), the person shall demonstrate the following:

\* \* \* \* \*

**§ 86.190. Sites where reclamation is unreasonable, unnecessary or impossible; excess funds.**

(a) If the Department determines in the evaluation of a bond forfeiture site that completion of the approved reclamation plan of the licensed mine operator whose bonds were forfeited for the reclamation site or an alternative reclamation plan is unreasonable, unnecessary or physically impossible, the bond amount will be made available for expenditure from the Fund only to reclaim land and restore water supplies affected by surface mining operations for which the Department has forfeited bonds.

The reasons justifying this determination include[, **but are not limited to,**] the following:

\* \* \* \* \*

**[(3) The landowner refuses to allow the site to be reclaimed, and the site is not a hazard to public health, safety and welfare or adjacent property.]**

\* \* \* \* \*

## **Subchapter J. REMINING AND RECLAMATION INCENTIVES**

### **BONDING INCENTIVES**

#### **§ 86.283. Procedures.**

\* \* \* \* \*

**(c) [An operator approved to participate in the financial guarantees program is not required to pay the per acre reclamation fee required by § 86.17(e) (relating to permit and reclamation fees) for the remaining area.**

**(d)]** The Department will issue a letter to the operator specifying the amount of money in the financial guarantees special account in the Remining Financial Assurance Fund which has been reserved as collateral for the operator's reclamation obligations on the remaining area. A copy of the letter will be kept in the operator's permit application file.

**[(e) (d) \* \* \***