

## **Abandoned Mine Reclamation Fund Reauthorization Priorities**

Reauthorization of the Abandoned Mine Reclamation Fund Fee is important to protect our communities and families from hazards posed by coal mines abandoned before 1977. Dangerous shafts, mountains of black waste, polluted waters, and depressed economies afflict ½ of the citizens of the United States. The Abandoned Mine Reclamation Fund is the primary source of money available to states and tribes to fix these problems. We have successfully used the fund to clean up toxic mine water, extinguish mine fires, and eliminate other dangerous abandoned mine hazards. Public health and welfare, restoration of the land, and cleaning of polluted streams requires congressional action to reauthorize the fee collection until the year 2036. Failure to act continues a cycle of depressed economies and unemployment while exposing our communities and families to health and safety hazards. Congress needs to act now and reauthorize the Abandoned Mine Reclamation Fund fee collection.

### 1. Reauthorization until year 2036

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) established the Abandoned Mine Reclamation Fund to reclaim areas abandoned before modern environmental standards required mine operators to reclaim their sites. Income to the fund is generated by today's mine operators on every ton of coal they mine – ranging from 10 to 35 cents/ton. Current highest fee is 28 cents/ton due to the reductions included in the 2006 amendments. Money from this fund is distributed to coal mining states like Pennsylvania to support abandoned mine reclamation programs. The scope of the abandoned mine problem continues to outpace available resources. Based on requested funding levels, projected future production, and estimated costs of cleaning up inventoried sites, it will take 15 years to address most of the abandoned mine problems. Extending the program 15 years would honor the intentions of the original law to unburden communities plagued by unreclaimed coal mines. **Collection to the fund is set to expire in 2021. Public health and welfare, restoration of the land, and cleaning of polluted streams requires congressional action.**

### 2. Restructure the Fees

Title IV of the Surface Mining Control and Reclamation Act (SMCRA), P.L. 95-87, established the AML program. It also established the AML Fund supported by reclamation fees paid by current coal mining operations. Since the enactment of SMCRA in 1977, the per ton reclamation fees have never accounted for inflation while the cost of reclamation continues to rise. Based on statistics from Bureau of Labor Statistics, \$1.00 in 1983 equaled \$2.39 in 2014. In the SMCRA Amendments Act of 2006 (H.R. 6111), the fee structure is listed as following: (*Section 402(a) of SMCRA, as revised*)

Through September 30, 2007:

*Surface:*            35

*Underground:* 15

*Lignite:* 10

FY 2008-2012: (10% reduction)

*Surface:* 31.5

*Underground:* 13.5

*Lignite:* 9

FY 2013-2021: (20% cumulative reduction)

*Surface:* 28

*Underground:* 12

*Lignite:* 8

Over the years, states have addressed many of the historical priority problems that were caused by past surface mining activities. Many of the high-cost P1/P2 problems that remain to be addressed in PA resulted from past underground coal mining (eg. underground mine fires, mine subsidence prone areas, large coal refuse piles, and contaminated groundwater used for drinking water supplies). Many current P3 problems are also the result of past underground coal mining. Restructuring the fees will provide much-needed funding to reclaim the \$7.2B inventory that remains. If fees were restructured to account for specific grades and worth of coal, over the next decade \$2.97 Billion in fees would be collected in the US. This is a net increase of \$594 Million across the entire US.

***In order to account for the points listed above, we propose that the reclamation fee should be restructured to 35 cents per ton of coal produced by surface coal mining and underground mining, except that the reclamation fee for lignite coal shall be at a rate of 2 per centum of the value of the coal at the mine, or 10 cents per ton, whichever is less.***

3. Increase Minimum Program State funds to \$5 Million annually

States which have significant AML problems, but which have small AML programs, are supposed to be guaranteed minimum funding of their programs by statutory mandate. Since 2006, this funding has been set at \$3 million. In recent years, minimum program states have received significantly less due to sequestration. Additionally, in recent years, OSMRE has discontinued support to states and tribes with AML emergencies forcing states and tribes to use annual allotment to mitigate AML emergencies. Increasing this amount would help make up for past under-funding and ensure that states and tribes with significant AML problems but low production would be able to continue running effective programs. This potentially affects ten states. **Annual funding for minimum program states should be raised to \$5 million.**

4. Exempt SMCRA Title IV Grants from Sequestration

Each year we continue to see cuts in the 5 – 7% range for the mandatory funding that supports state and tribal AML programs. Over time, this is adding up to a substantial amount of money. States have already lost over \$50 Million. If the AML Fund grants continue to be subject to sequestration, States will lose upwards of \$188 Million and Pennsylvania alone stands to lose upwards of \$37 million over the remaining seven years of the current AML program. Funds in the AML Trust Fund collected through SMCRA Title IV are not taxpayer funds, they are dedicated funds which can only be used for AML reclamation, and thus will not accomplish deficit reduction. The only way to exempt these funds from sequestration is to include it in legislation. ***The SMCRA Title IV grants should be exempt from sequestration and all Title IV sequestered funds should be given back to the states, retroactive to FY 2013.***

## **The Pennsylvania AML Campaign Also Supports:**

### Establish Direct Line Item in OSM Budget for Emergency Projects

Section 410 of SMCRA requires OSMRE to fund the emergency AML program using OSM's "discretionary share" under Section (402)(g)(3)(B), which is entirely separate from state and tribal non-emergency AML grant funding under Sections (402)(g)(1), (g)(2), and (g)(5).

In FY 2011, OSM issued guidance to the states that the agency "will no longer declare emergencies." OSM has shifted responsibility for emergencies to the states and tribes with the expectation that they will utilize non-emergency AML funding to address them. The result of this shift is that states must utilize a portion of their P1/P2 AML funding to address emergency projects. Restoring emergency funding is critical to preserving the limited resources available to the states to address their high priority inventories.

***We urge Congress to approve direct line-item in OSMRE's budget specifically to fund emergency projects thereby allowing the states to utilize their annual AML grant to fund high Priority P1/2 projects.***

### Maintain Priority Ranking Criteria of priorities 1, 2, and 3

Three priority areas are eligible for funding to correct adverse effects of coal mining practices under Title IV. Priority 1 provides for the protection of public health, safety, general welfare, and property from extreme danger. Priority 2 provides for the protection of public health, safety, and general welfare. Priority 3 provides for the restoration of degraded land and water resources and the environment. States have the discretion to use their allocations from the Fund for projects falling into any of the three priorities. **The current priorities should be maintained, including the ability to fund water-related projects under Priorities 2 and 3.**

### Maintain Mandatory Distribution

With the 2006 amendments to SMCRA, distributions to the states were no longer subject to Congressional appropriation and the distributions were made mandatory. ***Mandatory distribution should continue so Pennsylvania can receive the most funding possible in a given year.***

### Maintain 30% Set-Aside Option for States and Tribes

Pennsylvania has the flexibility to direct funding to AMD with the 30% AMD Set-Aside provision. Up to 30% of a state's annual grant may be "set aside" specifically to implement projects that eliminate sources of AMD or treat waters degraded by AMD. A state chooses annually what percentage (0%–30%) of its grant it will set aside to address AMD problems during that year. Pennsylvania has taken advantage of this provision to construct and maintain AMD treatment systems. ***It is important to maintain the 30% Set-Aside provision to maintain flexibility for use of funds.***

### Maintain transfer of interest to the Combined Benefit Fund

Interest generated on the Abandoned Mine Reclamation Fund is currently transferred to the Combined Benefit Fund to defray health care costs for retired miners and their dependents whose companies have gone bankrupt or are no longer in business. The CBF pays for health care expenses remaining after Medicare and Medicaid reimbursement and pays for prescription drugs. There are approximately 60,000 beneficiaries, whose average age is 78 years old. **The transfer of interest to the Combined Benefit Fund should continue.**

### Reaffirm Support for OSM's Watershed Cooperative Agreement Program

The Watershed Cooperative Agreement Program (WCAP) was implemented by OSMRE in FY 1999. The purpose of the WCAP is to make funds available directly to not-for-profit organizations, especially small local watershed organizations, to undertake local projects to clean streams affected by abandoned mine drainage. WCAP has increased local volunteer interest and involvement in local watershed protection and remediation projects addressing past mining pollution. Since 1996, WCAP has distributed \$15.2 Million to 178 individual projects. WCAP has helped to leverage Millions of dollars of additional state, private and foundation funding to projects implemented by non-profit groups.

**We support a continuation of the WCAP.**

### Funding for water (Abandoned Mine Drainage)

Abandoned mines leak acidic, alkaline, and metal-contaminated water, polluting public water supplies, destroying fish and wildlife habitat, depressing local economies, and threatening human health and safety. Pennsylvania is representative of eastern coal states with abandoned mine drainage (AMD) problems, and abandoned mine drainage is the largest contributor to water quality impairment in the Commonwealth. Over 5,500 miles of Pennsylvania's streams are impaired by AMD. **It is critical that abandoned mine drainage problems continue to be eligible for funding.**

### Encourage redevelopment of abandoned mine lands

As abandoned mine lands are reclaimed, they offer potential locations for economic development projects. By developing and marketing abandoned mine lands that would normally struggle to attract new investment, these "grayfields" can be turned into regional assets by creating economic opportunities, preventing sprawl, and conserving open space and natural resources. For example, government facilities could be encouraged to locate on these sites rather than on previously undeveloped green spaces. **States should be able to use Title IV funds in ways that promote reclamation, leverage private investment, and, where it is appropriate, encourage redevelopment.**