

WPCAMR Regional Coordinator's Report

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LEGISLATIVE ROUNDUP

STATE

- **Extending and Updating PA's Coal Refuse Energy and Reclamation Tax Credit (Senate Bill 618 and House Bill 1481)**

Amends the tax reform Code of 1971 as amended by the Act of July 13, 2016. Provides a 10 year extension of the PA Coal Refuse Energy and Reclamation Tax Credit to 2036. Increases the amount of tax credit pool to \$45M beginning in fiscal year 2019-2020.

The waste coal to energy industry has been a valuable partner in reclamation in PA. WPCAMR sent a letter of support for these two bills. Both of these bills were referred to the finance committee in May 2019. S.618 was re-referred to Appropriations (Senate) in June of 2019. No movement since.

- **State Budget**

Pennsylvania's General Assembly has to pass a new budget by Nov. 30. That's when the current budget expires, and when the current legislative session ends. But in order to approve new spending and revenue plans, lawmakers must confront a projected \$5 billion tax revenue shortfall that's expected to last through 2021 — the result of job losses and slow economic activity during the pandemic.

Legislators normally pass a 12 month budget in June before sending it to the governor for his signature. But this year, Gov. Tom Wolf and the General Assembly agreed to a \$28.5 billion, five-month interim budget as the state emerged from the first wave of the pandemic. They hoped that by putting off the tough decisions until November, it would give the state time to focus on its pandemic response and recover from all the job losses.

In the meantime, State legislators were hoping that Congress would approve another stimulus package. However, no such package is likely at this point. It's possible that the General Assembly may be looking to the environmental stewardship fund and others for revenue.

Other Topics of State Interest

- **Regional Greenhouse Gas Initiative (RGGI)**

The Pennsylvania Environmental Quality Board (EQB) is now accepting comments on the proposal for Pennsylvania to take part in the Regional Greenhouse Gas Initiative to reduce climate change pollution from electric power plants. Comments may be submitted through the [eComment system](#). Comments will be accepted through January 14, 2021. The EQB will also host **10** virtual public hearings beginning December 8 through December 14, 2020. All comments received whether written or in spoken testimony are given equal weight.

RGGI is a multi-state program that sets a cap for allowances of CO₂ then assigns a price for those emissions. The state comes up with allowances for generators over 25Mwatts.

Now, from what I understand, Pennsylvania is proposing free allowances for all waste coal-to-energy plants so that they would be functionally exempt from RGGI. We continue to work cooperatively with the Waste Coal-to-Energy industry as it is vital to reclamation efforts in the State. We plan to make a simple comment that encourages the State to continue to foster that industry because of its involvement in reclamation activities.

- **Susquehanna River Basin Commission (SRBC) Proposed Policy**

The proposed policy would offer fee incentives for applicants to prioritize the use of AMD as sources of consumptive use make-up water in dockets before the commission, through different options, including treatment of an AMD discharge. SRBC accepted comments on the draft policy through November 18. I had several comments/questions about the policy that I forwarded to SRBC. While the idea of utilizing the AMD as a source of consumptive use make-up water is a generally good idea, most of my concerns centered around the lack of Federal Good Samaritan protection and ramifications of the use of AMD with regard to State Good Sam and Clean Water Act stipulations. Another concern I had was regarding operation and maintenance for AMD treatment system that would be created by an entity so it could utilize the AMD water for consumptive use. The way the proposed policy reads is that the entity would be responsible for OM&R for as long as the withdrawal permit is in place. After that, it's unknown who would be taking over OM&R. We hope the SRBC will consider OM&R and Good Samaritan issues as it looks at this proposed policy more closely.

FEDERAL

- **The Moving Forward Act (H.R. 2)**

H.R. 2, “The Moving Forward Act” sponsored by Rep. Peter DeFazio (D-OR) was introduced June 11, 2020. This bill addresses provisions related to federal-aid highways, transit, highway safety and other issues related to infrastructure. With regard to AML, this bill contains provisions with language addressing Reauthorization of SMCRA, the RECLAIM Act, and the Community Reclamation Partnership Act. The bill was passed by the House and is now in the hands of the Senate. It will likely be taken apart and the constituent bills (eg. HR2156, HR4248, etc) placed into some sort of Senate bill package. However, due to the Senate’s preoccupation with Coronavirus and the Lame Duck Session, we may not see any kind of movement on this until it’s re-introduced in the 117th Congress.

- **S.3971 The Abandoned Mine Land Reclamation Fee Reauthorization Act**

Introduced by Senators Barasso and Enzi (R-WY), this bill has gotten quite a bit of support from NMA but has largely been panned by the national environmental groups. In a nutshell, S.3971 contains a SMCRA reauthorization measure, a RECLAIM-type of incentive that doesn’t address economic growth, exempts AML grants to the States from Sequestration and returns sequestered funds to the states, and the Community Reclamation Partnership Act (Good Sam-type of bill). The downfalls of this bill are: reauthorization for only 7 years; lack of economic parameters for the additional RECLAIM-like distributions from the unappropriated balance; and, perhaps more importantly, the 35% decrease in fees collected for all types of coal mined currently. There has been and continues to be no general consensus from the States on supporting this bill. At this time, there doesn’t seem to be much appetite in the current Senate for this bill and it doesn’t appear it will be re-introduced in the new Congress.

- **RECLAIM Act (H.R. 2156)**

RECLAIM had been re-introduced in the US House of Representatives April of 2019. The RECLAIM Act would, once again, expedite the distribution of \$1B from the AML fund beginning in fiscal year 2020. The primary sponsor is Rep. Matt Cartwright (D-PA). Original co-sponsors are: Rep. Hal Rogers (R-K), Rep. Don Beyer (D-VA), and GT Thompson (R-PA).

There is some level of support but certainly not overwhelming from Congressional personnel at this time. The bill was marked up on May 1, 2019. Supporters are waiting for it to be officially reported out of Committee but the lack of a “pay for” is holding it up. This continued lack of a “pay for” remains one of its biggest impediments to moving.

Earlier this summer, HR2, a very large infrastructure and stimulus bill was introduced in the House. Among the bills that were contained in that large bill was language from HR2156 (The RECLAIM Act) and HR 4248 (The Reauthorization bill). HR2 passed the House and went on to the Senate where it began to be pulled apart so the Senate could fashion something of its own. As of this day, the Senate has not acted on either the RECLAIM Act or Reauthorization from the remnants of HR2 due to the continuing work on a stimulus bill to address Coronavirus impacts. It may be that the Senate will take up these bills after the August recess (whatever is left of it) but if the bills do not get attention before the end of September, our next chance for passage of either bill will be during a lame duck session after elections. As far as I know now, the Governor's office remains neutral on RECLAIM. Other groups such as Trout Unlimited, have taken a qualified support stance. So has WPCAMR.

We understand that supporters of RECLAIM are working with the States to overcome the hesitancy of States to support RECLAIM on a wholesale basis. The hesitancy of many States is due mostly to the provision that deals with reallocation of unspent funding and the timeframe for the annual grants. Once those two items are rectified to everyone's satisfaction, RECLAIM stands a better chance of getting a larger degree of support although it still has trouble finding its "pay for". If the states and groups are not in agreement about those items, RECLAIM will not have the support level it needs to move forward.

It doesn't appear likely that this bill will move in the Lame Duck Session. It is likely that this bill will be re-introduced in the next Congress. We understand that Rep. Cartwright is still interested in a "coal package". Time will tell.

- **S.1193 AML Fund Fee Re-authorization**

In April 2019, Sen. Joe Manchin (D-WV) introduced legislation to extend the SMCRA fee on active coal mining. It's a simple bill with only the fee extension but we understand that Manchin is very willing to work with our community to incorporate other important items into the bill. This bill is still in the Senate Committee for Energy and Natural Resources. Since this bill has a long way to go to address other needs and is basically a placeholder bill, WPCAMR has no position on this bill yet. Senator Casey (D-PA) recently became a co-sponsor of this bill. Senator Toomey (R-PA) is not yet a co-sponsor. The IMCC and TU are calling on Senator Manchin (who is on the pertinent committee) to call for a hearing on AML as soon as possible.

The PA AML Campaign would like to see the following items put into the bill at some point when the time is right:

- Restoring fees to 1977 levels to account for inflation.
- Exempting funds from sequestration limits.
- Establishing a direct line item in the OSMRE budget for emergency projects.
- Increasing minimum program state/tribe funding to \$5M annually.

Again, like so many other bills, it isn't likely to move in the Lame Duck Session however, we understand that there could be a hearing before January, however small that chance may be.

- **HR 4248 Surface Mining Control and Reclamation Act Amendments of 2019**

Introduced by Rep. Matt Cartwright (D-PA) and Rep. Glenn Thompson (R-PA) in September of 2019, this bill extends the SMCRA fee and also addresses the points required by the PA AML Campaign. We have gotten quite a bit of local support for reauthorization in general and for this bill specifically. The current SMCRA fee collection sunsets in 2021, so time is of the essence. So far, the Campaign has been able to get most of the PA Delegation to support this bill however, we are still lacking support from the following representatives from PA:

- Evans (D-3)
- Perry (R-10)
- Smucker (R-11)
- Joyce (R-13)

This bill was reviewed by Committee and received a CBO score but still has yet to be officially reported out. The language from this bill was included (like RECLAIM and CRPA) in the large infrastructure bill, HR2, passed the House in late spring 2020. Like RECLAIM, reauthorization awaits action from the Senate. This bill is the best example of reauthorization measure we've seen so far in either the House or Senate and WPCAMR supports it. But, again, it is unlikely this will move (as it appears in HR2) during Lame Duck.

WPCAMR's Reauthorization Work

We continue to head up the PA AML Campaign with Trout Unlimited and work with NAAML/IMCC on re-authorization of the Title IV fees for SMCRA, participating in conference calls, etc. The National Association of Abandoned Mine Lands Programs (NAAML), of which, the State of Pennsylvania is a member, has begun definite efforts to increase awareness about re-authorization. Principally, they have worked with the State of Wyoming to come up with video spots for publicity. We continue to work closely with the NAAML through our association with the PA AML Campaign.

Due to the Coronavirus, WPCAMR and TU staff and members of the PA AML Campaign have not been able to make visits to legislators however, we continue to communicate via email and telephone.

WPCAMR and EPCAMR in association with the PA AML Campaign has put together informational videos that are now on Youtube and "Our Work's Not Done" websites.

- **Sequestration**

At this time, it still goes on with PA losing funding from its annual Title IV grant. Part of what the AML Campaign is looking for is an end to the sequestering of Title IV grant funds. S.3971 addresses sequestration but it is unlikely to move at this time and would have to be re-introduced next Congress. We will keep abreast of any potential movement.

- **Community Reclamation Partnerships Act (CRPA) HR 315**

This bill is the second iteration of the previous bill (HR2937) from the previous Congress. A type of Federal Environmental Good Samaritan bill introduced in the House and reported out of committee, most of the work on this has been done through the Interstate Mining Compact Commission, TU and the States. This is very promising. This bill proposes a way to protect watershed groups working on AMD by amending SMCRA. According to sponsor, Rep. Darin LaHood (R-IL) when it was introduced January 8, 2019, it addresses impediments potential “Community Reclaimers” face in the reclamation process by allowing states to assume liability on their behalf, shielding them from any undue legal liability under the law. The bill has undergone markup in Committee and was reported out in February of 2020 and was scored positively by the Congressional Budget Office. The crafters of CRPA were looking for a Senate champion to take up the fight in that chamber. They still haven’t succeeded. WPCAMR supports CRPA but recognizes it needs more work to be relevant to our community.

Since that time, language from HR315 has been included in a Senate Bill (S.3971) sponsored by Senators Barrasso and Enzi of Wyoming, which also includes reauthorization. However, we understand that S.3971 likely has no chance of movement during *Lame Duck*.

Additionally, language from HR315 has been included in HR2 which had recently passed the House. But, like RECLAIM and Reauthorization in HR2, it awaits Senate action and if nothing happens during *Lame Duck*, HR315 will have to be re-introduced in the new Congress.

OTHER ITEMS

Quick Response

We continue to expend funds from QR8. We have utilized about 90% of our grant and will be finishing up this spring however, the grant expires December 31, 2020. We have requested an extension and are awaiting approval for one year.

We applied to Growing Greener for a Quick Response 9 grant but we’re not sure if/when we will know if it was successful. If we do not receive our Quick Response 9 grant from Growing Greener, Quick Response will have no funding left after Quick Response 8.

2020 and 2021 Statewide AMR Conferences

We've been working on planning the 2020 joint conference at the Ramada State College and the planning committee decided to go with a virtual conference in October 2020. From all accounts, it was a success however, being virtual and new to our group, we had some hiccups. Overall, it went well.

We are still trying to decide if the Ramada State College will be the site for the 2021 in-person conference. If Covid-19 is still making conferences difficult to hold or even impossible by June 2021, we will probably decide to go virtual once again.

Anne will have more information about our conferences and the planning.

Administrative

I received the audit from Henninger Associates for fiscal year 2019 and met with them and our Treasurer, Chelsea Walker, to go over the audit. From all accounts, we did well on our audit. If Board members wish to have a copy I can send it to them.

Also, as reported in August, our current 319 grant, originally set to expire in June 2020, was extended one year to June 2021. At which time the new grant will begin at \$130K per year for 3 years.

Also, as reported in August, we applied for a watershed cooperative agreement program grant in conjunction with Broad Top Township for \$100k. We will be getting administrative funding from that grant when it is awarded, most likely mid to late 2021.

I am currently circulating new signatory documents for the three signatories on our accounts (President, Vice-President, and Treasurer) and the bank is renewing our line of credit.

At our November 2019 Board meeting we discussed the possibility of beginning our Strategic plan update. That was put off. I am asking that we consider resuming our analysis of our existing Strategic Plan and consider having a Strategic Plan update process in 2021. I should be able to go over our existing plan at our February Zoom Board meeting so we can bring everyone up to speed on our existing plan as we prepare for the possibility of updating the plan.

Other Meetings

- PA annual AMR conference planning committee, monthly conference calls and Zoom mtgs Jan, Feb, March, April, May, June, July, Aug, Sept, and most of October.
- Weekly AML Campaign phone calls ongoing.
- Phone call with Chelsea Walker, Treasurer, to perform our reconciling of financial accounts and balancing the books in Quickbooks.
- Various phone calls from watershed groups and/or others.