

## **207.21 Abandoned mine reclamation program.**

1. The division shall participate in the abandoned mine reclamation program under Title IV, Pub. L. No. 95-87. There is established an abandoned mine reclamation fund under the control of the division.

2. *a.* Lands and water eligible for reclamation or drainage abatement expenditures under this section include the following:

(1) Lands which were mined for coal or affected by such mining, waste banks, coal processing, or other coal mining processes, and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under state or federal laws.

(2) Coal lands and water damaged by coal mining processes and abandoned after August 3, 1977, if they were mined for coal or affected by coal mining processes and if either of the following occurred:

(a) The mining occurred and the site was left in either an unreclaimed or inadequately reclaimed condition between August 4, 1977, and April 10, 1981, and any moneys for reclamation or abatement that are available pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site.

(b) The mining occurred and the site was left in either an unreclaimed or inadequately reclaimed condition between August 4, 1977, and November 5, 1990, and the surety of the mining operator became insolvent during that period and, as of November 5, 1990, moneys immediately available from proceedings relating to the insolvency or from any financial guarantee or other source are not sufficient to provide for adequate reclamation or abatement at the site.

*b.* If requested by the governor, the division may fill voids and seal tunnels, shafts, and entryways resulting from any previous noncoal mining operation, and may reclaim surface impacts of any such noncoal underground or surface mines that were mined prior to August 3, 1977, and which constitute an extreme danger to the public health, safety, general welfare, or property. Sites and areas designated for remedial action pursuant to the federal Uranium Mill Tailings Radiation Control Act of 1978, 42 U.S.C. § 7901 et seq., or which have been listed for remedial action pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601 et seq., are not eligible for expenditures under this section.

3. Expenditure of moneys from the abandoned mine reclamation fund on eligible lands and water for the purpose of this program shall reflect the following priorities in the order stated:

*a.* The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices.

*b.* The protection of public health, safety, and general welfare from adverse effects of coal mining practices.

*c.* The restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices including measures for the conservation and development of soil, water, excluding channelization, woodland, fish and wildlife, recreation resources, and agricultural productivity.

*d.* The protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation, and conservation facilities adversely affected by coal mining practices.

*e.* The development of publicly owned land adversely affected by coal mining practices including land acquired as provided in this section for recreation and historic purposes, conservation, and reclamation purposes and open space benefits.

4. The division shall submit to the secretary a state reclamation plan and annual projects to carry out the purposes of this program. The plan shall generally identify the areas to be reclaimed, the purposes for which the reclamation is proposed, the relationship of the lands to be reclaimed and the proposed reclamation to surrounding areas, the specific criteria for ranking and identifying projects to be funded, and the legal authority and programmatic capability to perform such work in conformance with the provisions of Title IV of Pub. L. No. 95-87.

The division may annually submit to the secretary an application with such information as determined by the secretary for the support of the state program and implementation of specific reclamation projects.

The costs for each proposed project under this program shall include actual construction costs, actual operation and maintenance costs of permanent facilities, planning and engineering costs, construction and inspection costs, and other necessary administrative expenses.

The division shall prepare and submit annual and other reports as required by the secretary.

5. The division in participating in the abandoned mine reclamation program under Title IV of Pub. L. No. 95-87 shall have the following additional powers:

*a.* To engage in any work and to do all things necessary or expedient, including promulgation of rules, to implement and administer the provisions of this program.

*b.* To engage in co-operative projects with any other governmental unit provided that such co-operative projects shall be under a co-operative agreement conducted according to the provisions of chapter 28E.

*c.* To request the attorney general to seek injunctive relief to restrain any interference with the exercise of the right to enter or to conduct work under this program.

*d.* To construct and operate a plant or plants for the control and treatment of water pollution resulting from mine drainage. The extent of this control and treatment may be dependent upon the ultimate use of the water. The construction of a plant or plants may include major interceptors and other facilities appurtenant to the plant.

[C81, § 83.21]

C93, § 207.21

97 Acts, ch 115, § 1, 2