

**SURFACE MINING CONSERVATION AND RECLAMATION ACT
REMINING INCENTIVES REPORT
1996-2000**

**Prepared for the:
Senate Environmental Resources and Energy Committee
and
House of Representatives Conservation Committee**

**Prepared by the:
Department of Environmental Protection**

Office of Mineral Resources Management

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I. Executive Summary

In accordance with the requirements of Section 4.11b of SMCRA regarding the Department's reclamation and remining programs, this report is submitted to the Senate Environmental Resources and Energy Committee and to the House of Representatives Conservation Committee. Section 4.11b was added to SMCRA by passage of Act 43 on May 24, 1996. This report provides the status of the Department's reclamation and remining programs authorized under SMCRA Sections 4.8, 4.9, 4.10, 4.12, 4.13, and 18. Information is current to May 31, 2000.

Since inception, Pennsylvania's remining programs have been very successful. Coal mine operators using these programs have committed to reclaiming 7,878 acres of remine area, equivalent to \$38,397,740 in reclamation value. The Department has spent \$1,149,781 in staff time and Remining Operator's Assistance Program (ROAP) contracts to support the various remining incentive programs. This represents a benefit to cost ratio of 33:1.

The Government Financed Reclamation Contracts (GFRC) program is for contracted operations that will reclaim Abandoned Mine Lands (AML) sites at little or no cost to the government. Since January 1995, 32 contracts covering 587.9 acres have been issued. Nine contracts have been completed. One contract established a vertical flow wetland that improved two miles of stream. Eight contracts (reclaiming coal refuse piles), covering 92.0 acres have been completed, providing a reclamation value of approximately \$607,410. The Department has spent \$96,219 in staff time to manage this program. This represents a benefit cost ratio of 6:1. When the remaining contracts are successfully completed a total reclamation value of \$6,266,090 will be realized. Recent changes in the federal Surface Mine Control and Reclamation Act have authorized a similar federal program. This program combines both the State and Federal provisions in its expanded form of Government Financed Construction Contracts (GFCC).

The ROAP provides an incentive to remine and reclaim AML areas by providing financial assistance for most of the cost of permitting the remining area. Between August 1996 and May 31, 2000 twenty-four operators requested to participate in this program on 41 remining sites. Through May 31, 2000 thirteen projects have resulted in permits. If all of the in process projects become permits, the value of the reclamation could reach \$14,558,500. The Department has spent \$669,474 in staff time and consultant contracts. This represents a benefit cost ratio of 22:1.

Under the Financial Guarantees program, DEP provides low-cost bonding of remining areas. As of May 31, 2000, 78 coal mine operators used Financial Guarantees to bond 231 mining permit increments. Those operations have reclaimed 680.8 acres of AML. This saved the Commonwealth an estimated \$3,744,400 in AML reclamation. The same 78 coal mine operators have also agreed to reclaim an additional 3,167.9 acres. It will take 3–7 years to complete this reclamation. When completed the total estimated reclamation value is \$17,423,450. The Department has spent \$373,397 in staff time for this program. This represents a benefit cost ratio of 47:1.

The Bond Credits program also provides an incentive to an operator to reclaim an area of AML. They may earn a "bond credit" under a Consent Order and Agreement with the Department by reclaiming an AML area. Four licensed mine operators have submitted proposals for Bond Credit projects. Three projects have been reclaimed and one is in process. 26.2 acres of AML were reclaimed under this program. This represents a reclamation value of \$149,700. The Department has spent \$10,668 in staff time for this program over four fiscal years. This represents a benefit cost ratio of 14:1.

The Department has not promulgated regulations nor established final criteria for the Designating Areas Suitable for Remining Program. This program was initially deemed to be of lower priority to the mining industry than the other remining incentive programs.

Section 18 of SMCRA, as amended by Act 43 of 1996, authorizes the Secretary to transfer a total of \$1,000,000/year into the Remining Environmental Enhancement Fund (REEF) to fund the ROAP program and the Designating Areas Suitable for Remining program. Through May 30, 2000 the ROAP program has received appropriations of \$700,000 to REEF (\$450,000 from the Surface Mining Conservation and Reclamation Fund, \$125,000 from the Coal Refuse Disposal Control Fund, and \$125,000 from the Bituminous Mine Subsidence and Land Conservation Fund). The ROAP program spends about \$250,000/year, which is sufficient to fund approximately 15 projects each year. All authorized funds have been spent or encumbered for specific projects as of May 31.

The Legislature also authorized the establishment of the Remining Financial Assurance Fund (RFAF) in the 1996 SMCRA. This fund is used to provide the reserve for the Financial Guarantee and Bond Credits Programs. These amendments authorized the Department to transfer up to \$5,000,000 from the Land and Water Development Fund to the RFAF. \$1,000,000 was transferred into the RFAF in 1996. A second \$1,000,000 was transferred into the RFAF in 1997. No expenditures are planned from RFAF. The Bond Credit program is required to have funds in the RFAF at least equal to funds issued as Bond Credits. The Financial Guarantee program is authorized to use an actuarial formula (mine permit forfeiture rate + a safety factor) to leverage the amount of money in the reserve.

The Department requested that the Office of Administration conduct an audit of the Financial Guarantee and Bond Credit Programs at an early stage. The audit was completed on February 11, 1999. A complete listing of the Office of Administration's recommendations and the Department's responses is included in Appendix I.

II. Conclusions

The Department has developed four of the five remining incentive programs authorized by the 1996 amendment to the SMCRA. These are Government Finance Reclamation Contracts (GFRC), Remining Operator's Assistance Program (ROAP), Financial Guarantees, and Bond Credits. The fifth program, Designating Areas Unsuitable for Mining, was a lower priority. In the time the four programs have been available (Fiscal years 96-99) coal mine operators have used them to aid in completing reclamation of 851.6 acres of land (769.6 acres of abandoned surface mined land and 92.0 acres of abandoned coal refuse). This equates to an approximate reclamation value of \$4,842,510 (completed reclamation areas only). In general, it takes several years to negotiate leases, obtain permits, and then remine and reclaim a site. There are many projects in the process of permitting, remining, or reclamation not yet completed. During the same time period the industry agreed to reclaim 7,870 additional acres of remine area. During the next 3 - 7 years, these in-process projects should result in an estimated \$38,397,740 of reclamation.

Departmental costs to operate these programs are minimal. Roughly half is staff time and the other half is for ROAP consultant contracts. No additional staff was hired for these programs. Existing staff absorbed the remining program work as additional duties.

These programs are encouraging AML reclamation at a dramatic cost saving to the Commonwealth. The environment is enhanced, the mine operators are receiving support, and the Commonwealth's AML burden is being reduced. This is a win-win situation for everyone in the Commonwealth. The Governor's Reclaim PA program aims to maximize reclamation of Pennsylvania's \$15 billion AML legacy. Remining by the industry is a major component of this reclamation effort. These remining incentives have become the keystone in the Commonwealth's Reclaim PA program. The Department will continue to identify and develop all possible incentives to encourage and expand remining operations. This program is intended to expand the financial incentive for operators to remine and reclaim abandoned mine lands as opposed to virgin lands, and to maximize the reclamation of AML sites by the mining industry.

Early in the permit application process an operator may apply to the Department for a remining bond. The Department would be responsible to make an AML eligibility determination, calculate the cost of reclaiming the AML site, and gather other requisite information needed by OSM to do a review as required by the National Environmental Project Act of 1969 and render an authorization to proceed, the same as with any AML project. The conventional bond for the permit will be calculated. The Department will issue a sum-certain guarantee as part of the requisite bond in an amount equal to the cost of reclaiming the AML portion of the permit. The operator will provide a bond for the difference between the state-issued guarantee and the full conventional bond calculation. If it is possible to ascertain preexisting AML liability after the site has been re-affected under an existing permit, operators may use this program on existing sites.

Recommendations:

- The mining industry (Larson Enterprises, Inc.; Johnson Brothers Coal Company; E. P. Bender Coal Company; Robinson Coal Company; Kerry Coal Company) has asked that the maximum financial guarantee limits for operators (\$240,000) and for individual permits (\$80,000) be raised. Four coal mine operators have been at the maximum limit, and have had to wait while completion reports were processed to use financial guarantee on the next permit. Sixteen permits have the maximum \$80,000 financial guarantee bond.
- The Department spent or encumbered all allocated ROAP funds by the end of the 1999 fiscal year. To date, the ROAP program has received appropriations of \$700,000 from REEF, \$450,000 has come from the Surface Mining Conservation and Reclamation Fund, \$125,000 has come from the Coal Refuse Disposal Control Fund, and \$125,000 has come from the Bituminous Mine Subsidence and Land Conservation Fund. The ROAP program spends about \$250,000/year, which is sufficient to fund approximately 15 projects. *Continue to transfer needed funds for ROAP.*
- Develop and incorporate into a future regulation package several modifications to Chapter 86 to clarify the existing regulations that control the financial guarantee and bond credit programs.
- Enact the proposed remining tax credit legislation. This proposed incentive, when used alone or in conjunction with existing incentives, should dramatically increase AML reclamation by the mining industry.

III. Introduction

This report has been prepared in accordance with the requirements of Section 4.11b of SMCRA. Section 4.11b requires a report regarding the Department's reclamation and remining programs to the Senate Environmental Resources and Energy Committee and to the House of Representatives Conservation Committee. Section 4.11b was added to SMCRA by passage of Act 43 on May 24, 1996. This report provides the status of the Department's reclamation and remining programs authorized under SMCRA Sections 4.8, 4.9, 4.10, 4.12, 4.13, and 18.

There are five primary reclamation and remining programs authorized by these sections of SMCRA:

- Section 4.8 - Government Financed Reclamation Contracts (GFRC)
- Section 4.9 - Designating Areas Suitable for Remining
- Section 4.10 - Remining Operator's Assistance Program (ROAP)
- Section 4.12 - Financial Guarantees to Ensure Reclamation
- Section 4.13 - Reclamation Bond Credits Program

Section 18 of SMCRA includes the creation of Remining Environmental Enhancement Fund (REEF) and Remining Financial Assurance Fund (RFAF). The status of both of these funds is included in Sections V and VI, respectively, of this report.

In addition to the program descriptions contained in this report, appropriate tables for each program showing site/operator lists, project cost, reclamation dollar value, acres reclaimed and pertinent dates are contained in the Appendices to this report. Many of the remining incentive programs refer to a "remined area". The "remined area" is defined as the AML area to be reclaimed and up to 300 feet of adjacent previously unmined area that is needed to complete the reclamation.

This report covers the period from May 24, 1996 (passage of the Act 43 Amendment to SMCRA) to May 31, 2000. This report will be submitted to the Mining and Reclamation Advisory Board (MRAB) as required by Section 4.11c5 of SMCRA. The MRAB's comments are included as Appendix A.

IV. Individual Program Descriptions

A. SMCRA Section 4.8 - Government Financed Reclamation Contracts

The Government Financed Reclamation Contracts (GFRC) program is for contracted operations that will reclaim AML sites at little or no cost to the government. This program is also known as the No Cost Government Financed Reclamation Contracts Program. Regulations were deemed unnecessary for this program. This program allows removal of incidental coal or coal refuse during the reclamation of an AML site. Occasionally, it is

necessary to remove coal in order to effectively and efficiently reclaim an AML site. It is also possible to greatly reduce the cost to the government by allowing coal or coal refuse to be removed to offset the cost of the reclamation project.

Coal refuse is the waste product generated from the physical or chemical cleaning or processing of coal. It contains pyrite (the major culprit in the formation of AMD), residual coal, and various types of rocks and spoil. The Bureau of Abandoned Mine Reclamation has inventoried 854 abandoned coal refuse piles, covering 8,600 acres in 36 of the 67 Pennsylvania counties. The estimated cost to reclaim these piles is \$257 million.

Under the GFRC program, the mining industry has made progress in reclaiming coal refuse and other AML sites at no additional direct cost to the Commonwealth. Since January 1995, 32 contracts covering 587.9 acres have been issued. Nine contracts have been completed. One contract established a vertical flow wetland that improved two miles of stream. Eight contracts (coal refuse pile reclamation), covering 92.0 acres have been completed, saving the Commonwealth approximately \$607,410. When the remaining contracts are successfully completed, an additional \$6,266,090 value will have been realized. The Department's average cost/acre has been \$1164/acre to reclaim AML under this program. The individual projects are listed in Appendix B.

The GFRC program was recently expanded when a similar program was authorized by the federal Surface Mine Control and Reclamation Act. The new program is known as the Government Financed Construction Contracts (GFCC) program. The USDI Office of Surface Mining Reclamation and Enforcement (OSM) approved an Amendment to Pennsylvania's Abandoned Mine Reclamation Plan (see Appendix C). On March 26, 1999 the Government Financed Construction Contracts (GFCC) program replaced the initial GFRC program. GFCC can allow incidental coal removal as part of AML reclamation contracts, authorizes no cost reclamation contracts and allows reclamation of AML adjacent to active mining operations using excess spoil.

Government Financed Reclamation Contracts Overview:

Reclamation value of the 9 projects completed thru 5/31/2000	\$607,410
Reclamation value of the 23 projects contracted thru 5/31/2000	\$6,266,090
Number of acres of coal refuse pile completed thru 5/31/2000	92.0
Number of acres of coal refuse pile contracted thru 5/31/2000	587.9
Number of projects completed thru 5/31/2000	9

B. SMCRA Section 4.9 - Designating Areas Suitable for Remining

The Department has not promulgated regulations nor established final criteria for the Designating Areas Suitable for Remining Program. This program was initially deemed to be of lower priority to the mining industry than the other remining incentive programs. The Department also found that, considering the broad industry acceptance of the other incentive programs such as ROAP, the scope and benefits of the designating areas suitable for remining program required considerably more analysis. Development was postponed. Conceptual plans for the program are available.

C. SMCRA Section 4.10 - Remining Operator's Assistance Program (ROAP)

The regulations for the ROAP program were promulgated as 25 Pa. Code Sections 86.261-270 and became effective on August 24, 1996 (Appendix D).

ROAP provides an incentive to an operator to remine and reclaim an AML area that the operator would not otherwise reclaim. This incentive is in the form of Department financial assistance towards the cost of permitting the remining area. ROAP pays qualified consultants to collect and analyze permit-specific hydrogeologic data and prepare reports used in the mine permit application.

Between August 1996 and May 31, 2000 twenty-four operators have requested to participate in this program on forty-one remining sites. As of May 31, 2000 thirteen projects resulted in permits. When completed, the operators will have backfilled and reclaimed 659 acres. The cost to the Department in ROAP assistance for these thirteen sites has been \$190,307 (includes contracted consultant expenditures). This equates to a ROAP AML remining and reclamation assistance cost of \$289/acre for the issued permits.

Seven of the 41 projects were cancelled. The data developed during these ROAP projects led the operators and the Department to conclude that the sites should not be mined due to potential degradation to the environment. The Department cost for these projects totals \$13,762.

The remaining 21 ROAP projects are in the development stage. Twelve of these have resulted in mining permit applications being submitted that are currently being reviewed. Nine ROAP projects are still in the data gathering stage. In addition to the monetary costs, the Department spends about one half of a man-year (\$21,382) in staff effort in this program. The ROAP projects are listed in Appendix E.

When all projects either in process or presently permitted are completed the value of the reclamation is estimated to be \$14,558,500. Subtracting the DEP ROAP costs of \$669,474 shows a savings to the Commonwealth of \$13,889,026.

Remining Operator’s Assistance Program (ROAP) Overview

Reclamation value of areas completed thru 5/31/00	\$341,000
Reclamation value after all supported sites become permits	\$14,558,500
Number of acres reclaimed thru 5/31/00	62
Number of remine acres reclaimed after all supported sites become permits	4,096
Number of operators participating in ROAP thru 5/31/00	24
Number of ROAP contracts started thru 5/31/00	41
Number of ROAP contracts becoming permits thru 5/31/00	13

D. SMCRA Section 4.12 - Financial Guarantees

The Financial Guarantees program regulations were promulgated as 25 Pa. Code Sections 86.281-295 and became effective on August 24, 1996 (Appendix D). Under this program, the Department provides low-cost bonds to guarantee reclamation of the remining area.

Each operator and each permit must meet the regulatory criteria to use this program. An operator is limited to a maximum Financial Guarantee value of 30% of the amount allocated in the Financial Guarantee Special Account within the RFAF. Each site is limited to a maximum Financial Guarantee value of 10% of the amount allocated in the Financial Guarantee Special Account within the RFAF. During the time covered by this report there was \$800,000 allocated to the Financial Guarantee Special Account. This allows the Department to write a maximum of \$240,000 (30% of \$800,000) worth of Financial Guarantee bonding for each qualifying operator during the time period of this report. This amount is adjusted periodically by the Department based on premium payments made by the operators as well as any bond forfeitures. An operator may not substitute Financial Guarantees for existing bonds. Financial Guarantees may not be rolled over. Financial Guarantees cannot be used to cover the reclamation obligation on another section of the permit area.

An operator does not have to pay the \$100/acre permit fee on any area bonded with Financial Guarantees. Bond release is the same as for any other bond; however, Financial Guarantees are the first bond released on a Surface Mining Permit.

The operator pays an annual premium fee for Financial Guarantees of 1% per year. The premium is paid in advance and is not refundable. The 1% fee goes into the RFAF. This is the only source of income to the fund.

Since inception of the program on January 3, 1996, about one in every five (19.2%) bonding increments that have been issued, have included Financial Guarantees.

This program uses low cost bonding as an incentive to encourage coal mine operators to reclaim AML. It takes between six months to several years to complete mining and reclamation on a site depending on the size of the operation and the depth to the coal. An operation may start on a portion of the permit bonded by means other than financial guarantees. As mining and reclamation progress across the permit, reclamation liability is reduced. A permittee may request reduction of the required amount of bond as the liability is reduced. SMCRA requires that the first bond released on a surface mining permit be the financial guarantee. In several cases the Department has approved a reduction in the total amount of bond on an active permit. This reduction in total bond has resulted in a partial or total release of the financial guarantee on some sites before the operator mined the specific area covered by the original financial guarantee. The total bond on the permit still meets the Department's criteria. The operator is still obligated to reclaim the remine area. However, the AML area to be reclaimed may not show as completed until years later. Even with the multi-year life of most mine operations, this program has already accomplished AML reclamation at an astounding rate.

As of May 31, 2000, 78 coal mine operators have used Financial Guarantees to bond 231 mining permit increments. Those operators have reclaimed 680.8 acres of AML. This has saved the Commonwealth an estimated \$3,744,400 in AML reclamation cost, based on an average of \$5,500/acre. The Commonwealth's cost to operate this program is approximately 2.5 man-years of Department staff effort each year. Applying the approximate staff cost of \$42,764/man-year, the Department's cost during the period from January 3, 1996 to May 31, 2000 for this program has been \$373,397. Dividing \$373,397 by 680.8 acres equates to an average DEP cost of \$548/acre. This cost/acre will be reduced dramatically as the AML reclamation for the issued projects is completed and factored into this calculation. The same 78 coal mine operators agreed to reclaim 3,167.9 acres of remine area. It will take 3 - 7 years to complete this reclamation. When completed the estimated reclamation value (3167.9 acres X \$5,500) will be \$17,423,450. These projects are listed in Appendix F.

Financial Guarantees Overview

Reclamation value of AML projects completed thru 5/31/2000	\$3,744,400
Reclamation value of remine acres contracted thru 5/31/2000	\$17,423,450
Number of acres of AML completed thru 5/31/2000	680.8
Number of remine acres contracted thru 5/31/2000	3,167.9
Number of operators participating thru 5/31/2000	78
Number of financial guarantees issued thru 5/31/2000	231

E. SMCRA Section 4.13 - Reclamation Bond Credits (Bond Credits)

The Bond Credits program regulations were promulgated as 25 Pa. Code Sections 86.281-295 and became effective on August 24, 1996 (Appendix D).

The Bond Credits program also provides an incentive to an operator to reclaim an area of AML that he would not ordinarily reclaim. An operator may earn a “bond credit” under a Consent Order and Agreement with the Department by reclaiming an AML area. The AML area does not have to be associated with a mining permit. The value of the bond credit is equal to the lesser of either the Department’s cost or the operator’s cost to reclaim the stipulated AML area. Once earned, the operator may use the bond credit instead of normal bonding on future mining permits.

Each bond credit may be used twice by the operator in lieu of a normal bond on a mining permit. Bond rollovers are allowed and do not count as a second use. The bond credit may also be transferred to another operator.

Four licensed mine operators have submitted proposals for Bond Credit projects. These projects have been reclaimed and one is in process.

The Commonwealth’s cost in operating this program is approximately one man/month of Department staff effort for each project. Applying the approximate staff cost of \$42,674/year, the Department’s cost for the three completed projects has been approximately \$10,668. The average DEP bond credit cost of \$407/acre compares very favorably with the Department’s AML reclamation costs (\$5,500/acre) for the contracted reclamation projects. These projects are listed in Appendix G.

Reclamation Bond Credits (Bond Credits) Overview

Reclamation value for completed projects	\$149,700
Number of acres reclaimed thru 5/31/2000	26.2
Number of projects completed thru 5/31/2000	3

V. Remining Environmental Enhancement Fund (REEF)

Section 18 of SMCRA, as amended by Act 43 of 1996, authorizes the Secretary to transfer a total of \$1,000,000/year into the REEF. This transfer shall be aggregated from revenue sources in the Surface Mining Conservation and Reclamation Fund, the Clean Water Fund, the Coal Refuse Disposal Control Fund, and the Bituminous Mine Subsidence and Land Conservation Fund. REEF is used to fund the ROAP program and the Designating Areas Suitable for Remining program.

To date, the ROAP program has received appropriations of \$700,000 from REEF (\$450,000 from the Surface Mining Conservation and Reclamation Fund, \$125,000 from the Coal Refuse Disposal Control Fund, and \$125,000 from the Bituminous Mine Subsidence and Land Conservation Fund). The ROAP program spends about \$250,000/year, which is sufficient to fund approximately 15 projects.

VI. Remining Financial Assurance Fund (RFAF)

The Legislature also authorized the establishment of the RFAF in the 1996 amendments to SMCRA. This fund is used to provide the reserve for the Financial Guarantee and Bond Credits Programs. These amendments authorized the Department to transfer up to \$5,000,000 from the Land and Water Development Fund to the RFAF. \$1,000,000 was transferred into the, RFAF in 1996. A second \$1,000,000 was transferred into the RFAF in 1997.

There are no planned expenditures from the RFAF. The money in this fund is used as a reserve to guarantee the bonds written in the Bond Credit and Financial Guarantee programs. The Bond Credit program is required to have funds in the RFAF at least equal to funds issued as Bond Credits. The Financial Guarantee program is authorized to use an actuarial formula (mine permit forfeiture rate + a safety factor) to leverage the amount of money in the reserve to write more financial guarantees than is actually allocated in the fund, based on the historical rate of bond forfeitures. The initial historical rate of bond forfeitures was calculated by taking the number of permits issued in a specific year and dividing it by the number of forfeited permits in that particular year. This calculation was done for the years 1985 to 1996 to derive an annual forfeiture rate for each year. These annual forfeiture rates were averaged to determine the historical rate of bond forfeiture. This resulted in a historical rate of bond forfeiture of 6%. The 25% margin of safety was added to the historical rate of bond forfeiture to determine the adjusted historical rate of bond

forfeiture of 7.5%. Currently \$800,000 is allocated for financial guarantees, allowing the Department to write \$10,600,000 in financial guarantees.

SMCRA limits each operator to a maximum amount of financial guarantee of 30% of the amount allocated to the financial guarantee special account within the RFAF. SMCRA also limits each permit to a maximum amount of financial guarantee of 10% of the amount allocated to the financial guarantee special account within the RFAF. Currently there is \$800,000 allocated within the RFAF to the financial guarantee special account. The SMCRA limit of 30% of the amount of financial guarantee special account equates to the amount available to each operator is \$240,000. The SMCRA financial guarantee limit for the amount available for each permit is \$80,000.

Some of the permittees participating in the Financial Guarantee program have requested that the maximum amount per permit and the maximum amount per operator be raised.

The only other source of funding for the Financial Guarantee and Bond Credit Programs is from the one percent annual fee that the permittees pay for the use of the Financial Guarantees. Since the financial guarantee program became available in January 1997, the coal mine operators have paid \$155,731 in annual fees (\$9,179 in 1996, \$34,270 in 1997, \$54,584 in 1998, and \$57,698 in 1999). The annual fees must be held in reserve until the Fund for Financial Guarantees is considered actuarially sound. The Fund is actuarially sound when there is a sufficient amount of money in reserve to cover any expected losses. The Department will not be able to estimate this date until a ten-year history of use has been established. After the Fund is actuarially sound, the annual fees not needed may be allocated to one of the five remining programs authorized by the legislation.

The Department has allocated \$800,000 to the Financial Guarantee Special Account to act as the reserve for the Financial Guarantee Program. The Department has allocated \$200,000 to the Bond Credit Account to act as the reserve for the Bond Credit Program

The Bureau of Fiscal Management prepares an annual fund report, which lists the deposits, income, and expenditures for the RFAF by fiscal year. This report is included as Appendix H.

After the Legislature amended SMCRA to establish the remining incentives programs, the Department assigned staff to develop and implement the day to day processes necessary to establish the financial guarantee and bond credit programs associated with the RFAF. This development team was directed to design the program to be simple for Department staff to manage and to minimize the effort needed by the permittees. The development team is referred to as the Remining Financial Assurance Fund Oversight Committee. This Committee received a Department Excellence Award for quickly and effectively developing both programs.

At the end of the development task, the RFAF Oversight Committee requested the Office of Administration (OA) conduct an audit. The request for an audit of the Financial Guarantee and Bond Credit Programs at an early stage was to make sure that the Department had properly established the programs. The audit was completed on February 11, 1999.

The OA audit had three objectives: 1) to determine if the security over the data was adequate in the databases and over the network, 2) to determine if the funds in the financial guarantee account were being accounted for correctly and the established program limits for issuance and forfeitures were being adhered to, and 3) to determine if the issuance, usage, rollovers, releases and termination of bond credits were being accurately tracked in the database. These objectives are discussed individually in Appendix I, along with the OA recommendations and the Departments actions. OA made many recommendations for improvements to the management of the Financial Guarantee and Bond Credit Programs through the course of the audit. Many of the recommendations were implemented during the course of the audit. Most of the rest of the remaining recommendations have been implemented as of June 30, 1999.

Appendix I

OA Audit Recommendations and the Department's Responses.

The audit had three objectives that will be discussed individually with the findings and the Departments responses.

Objective 1 was to determine if the security over the data was adequate in the databases and over the network.

Recommendation 1: OA recommended that security should be improved by allowing each District Mining Office to modify only its own data and that all other access should be read only.

Action: The RFAF Oversight Committee redesigned the database to accomplish this recommendation and implemented it on July 1, 1999.

Recommendation 2: OA recognized that the Department was regularly backing up the databases. OA recommended that the backup tapes be stored off-site.

Action: The database backup tapes are stored off-site.

Recommendation 3: OA recommended the program and system documentation should be improved.

Action: Copies of user manuals and updates directives are now stored in the Bureau of Mining and Reclamation office. Backup documentation for Bureau of Fiscal Management fund reports showing fund transactions, standard bonding rates, reclamation costs, forfeiture rates and margins of safety were incorporated into a RFAF Committee report submitted to the Directors of the Bureaus of Mining and Reclamation and District Mining Operations on November 2, 1998.

Objective 2 was to determine if the funds in the financial guarantee account were being accounted for correctly and the established program limits for issuance and forfeitures were being adhered to.

Recommendation 4.1: OA recommended that two special accounts be established within the RFAF - one for the Financial Guarantees program and one for the Bond Credits program. OA also recommended that the funding be allocated to the special accounts on a regular basis.

Action: The Department has established the recommended two special accounts for Financial Guarantees and for Bond Credits.

Recommendation 4.2: OA recommended that the amounts in the special accounts should be reviewed at least annually.

Action: The Department will review the amounts in the special accounts annually.

Recommendation 4.3: OA recommended that the Program databases be reconciled with the ICS system.

Action: The Department is currently drafting changes to the Technical Guidance Document that will enable this to happen. The database was revised to allow the input of the revenue transmittal date, and transmittal numbers for each payment. A report was created that shows all payments received within the specified date range. These enhancements should assist in reconciling the database records with the ICS system.

Recommendation 4.4: OA recommended that copies of all annual renewals for each financial guarantee be included in the hard copy folders maintained in Bureau of Mining and Reclamation files.

Action: This was deemed unnecessary after the redesigned database was implemented on July 1, 1999.

Recommendation 4.5: OA recommended that the operator and permit limits in the Financial Guarantee program be reviewed and calculated at least annually.

Action: The RFAF Oversight Committee will incorporate this task into its procedures.

Recommendation 4.6: OA recommended that a consistent policy should be developed for prorating annual payments for financial guarantees that are issued for less than one year.

Action: The RFAF Oversight Committee revised the policy on payments and they are no longer prorated. Each Financial Guarantee is tracked separately and the operator pays for a full one-year premium before the permit gets issued. This will eliminate any inconsistencies in payment calculation. This was implemented on July 1, 1999.

Recommendation 4.7: OA recommended that the Department improve consistency of the annual financial guarantee payments and renewal payments.

Action: The RFAF Oversight Committee revised the policy on payments and they are no longer prorated. Each Financial Guarantee is tracked separately and the operator pays for a full one-year premium before the permit gets issued. This will eliminate any inconsistencies in payment calculation. The database was revised to

include showing payments past due so that instruments where the payments were missed do not disappear from the report. The database calculates the amount of the payment based on the outstanding amount on the financial guarantee. This should provide the consistency in handling the payments in all districts. The TGM is being revised to provide further clarification and to institute a policy to handle missed renewal payments consistently.

Recommendation 4.8: OA recommended that the tracking of permits with more than one financial guarantee needs improvement.

Action: The database was revised to show the total amount used on a permit and by an operator as the information is inputted into the database. The database will not allow an amount to be entered if it will cause the operator to exceed any one of the limits. The reports that show the amount of financial guarantees on a permit was revised to show the amount of financial guarantees available on the permit.

Recommendation 4.9: OA recommended that the Financial Guarantee database be modified to document and track forfeitures of financial guarantees.

Action: The Financial Guarantee database has been modified to document and track forfeitures. Site status codes were added to the database and the system automatically conducts calculations to determine if one of the two safeguards placed in the law are triggered by a forfeiture. If any one of the safeguards is triggered, the database will automatically lock up and will not allow any new records to be created. This effectively ensures the regulatory requirements are met.

Recommendation 4.10: OA recommended that the Bond Credit database be adjusted to reflect the current allocations between each office.

Action: The database reflects the current allocations.

Objective 3 was to determine if the issuance, usage, rollovers, releases and termination of bond credits were being accurately tracked in the database.

Recommendation 5.1: OA recommended that data fields follow a consistent format and use FIX naming standards and consistent format.

Action: The database has been modified to use FIX naming standards and consistent data format

Recommendation 5.3: OA recommended that edits be added to alert users when an operator limit has been exceeded.

Action: The database has been modified to post the current limits on appropriate screens. The reports that show the amount of financial guarantees used by each

operator and used on each permit have been revised to also show how much is available on that permit or for the operator. The data input screen was revised to show the limits and to display how much is currently used by the operator. The database will not allow an amount that would cause the operator to exceed the permit or operator limit to be entered. It will display screens that state what the limits are that are being exceeded.

Recommendation 5.3: OA recommended that the database be used to perform calculations when possible.

Action: The Financial Guarantee database has been modified to automate as much of the process as possible, for example it calculates the annual fee payments due date and outstanding amounts.

Recommendation 5.4: OA recommended that the audit trail be improved by indicating the permit limits in effect when each financial guarantee is issued, clearly indicating bond releases, that each financial guarantee should have its own number, linking each financial guarantee to its permit, and indicating transfers.

Action: The Financial Guarantee database has been modified to accomplish all of these recommendations. The limits that were in place when the particular guarantee was issued are a part of the record. In addition, an audit trail is created when data is entered or changed to show what the changes were, and who made the changes. Certain changes require the person entering the data to complete a comment field to explain why they made the change. This information is maintained as a part of the permanent record.

Recommendation 6.1: OA recommended that the Bond Credit database should be modified to track bond credit rollover and the partial use of a bond credit.

Action: There were no bond credits in the database at the time of the audit, therefore, the auditor could not conduct a complete evaluation. The database does track partial uses of a bond credit. The committee does not feel it is necessary to track bond credit rollovers since they do not constitute a use and do not affect the bond credit.

Recommendation 7.1: OA recommended that correspondence with program participants needs to be clearer and that bond release letters need better identification.

Action: Improvements have already been made. Letters will be reviewed again when the Technical Guidance document is updated.

Recommendation 7.2: OA recommended that the issuance and release dates be placed in separate columns and that issuance dates correspond to the mining permit issuance date.

Action: This change was not made. The committee felt that the dates although in the same column could be distinguished from each other. The queries work with the dates in the same column and keeping the dates in the same column shows a sequential history of the financial guarantee.

Recommendation 7.3: OA recommended that data fields be added to the database to track the annual payment information such as transmittal number, date submitted, and check amount.

Action: The Financial Guarantee database was redesigned to include this improvement. The District Mining Offices have started inputting data for the new payments.

Recommendation 7.4: OA recommended that the database be adjusted to calculate amounts available of financial guarantees used by an operator and amounts used on each permit.

Action: The reports that show the amount of financial guarantees used by each operator and used on each permit have been revised to also show how much is available on that permit or for the operator. The data input screen was revised to show the limits and to display how much is currently used by the operator. These amounts change as information is put into the database, so there is instantaneous verification of how close the operator is to each limit.

Recommendation 7.5: OA recommended that the Funds Available report be improved by calculating and displaying the available funds as well as the funds already committed based on the forfeiture rate and the margin of safety.

Action: The database currently calculates the available funds using the forfeiture rate plus the margin of safety. The Fund Limit report shows how much has been committed and what the remaining balance is for the fund.

Recommendation 7.6: OA recommended that the Payments Due report be improved to show the payments not received.

Action: The Payments Due report now also displays the payments not received.

Recommendation 7.7: OA recommended that calculation of initial prorated payments needs improvement.

Action: The policy was revised to eliminate prorating of payments effective July 1, 1999.

Recommendation 8.1: OA recommended that improving the telephonic data communication lines might increase response time.

Action: The telephonic data communication lines have been upgraded in all of the District Mining Offices.

Recommendation 8.2: OA recommended that response time would improve if the location of the database were moved from Hawk Run District Mining Office to the Rachel Carson State Office Building (RCSOB).

Action: The relocation of the database to the RCSOB has been discussed. As soon as the hardware becomes available (an additional server), the database will be moved.

Recommendation 8.3: OA recommended that access permissions needed adjustment because it only allowed one person to use the database at a time.

Action: The database was redesigned and upgraded to accomplish this. The upgraded Financial Guarantee database security process allows more than one person to use the database at a time.

Recommendation 9.1: OA recommended that the database design be reviewed to increase the efficiency of the processing and to display the data chronologically.

Action: The data is now displayed chronologically.