

1 AMENDED AND THE SECTION IS AMENDED BY ADDING SUBSECTIONS TO
2 READ:

3 SECTION 4. MINING PERMIT; RECLAMATION PLAN; BOND.--* * *

4 (G) SUBJECT TO THE PUBLIC NOTICE REQUIREMENTS OF SUBSECTION
5 (B), IF THE DEPARTMENT IS SATISFIED THE RECLAMATION COVERED BY
6 THE BOND OR PORTION THEREOF HAS BEEN ACCOMPLISHED AS REQUIRED BY
7 THIS ACT, IT MAY, IN THE CASE OF SURFACE COAL MINING OPERATIONS,
8 UPON REQUEST BY THE PERMITTEE RELEASE IN WHOLE OR IN PART THE
9 BOND OR DEPOSIT ACCORDING TO THE FOLLOWING SCHEDULE: (1) WHEN
10 THE OPERATOR HAS COMPLETED THE BACKFILLING, REGRADING AND
11 DRAINAGE CONTROL OF A BONDED AREA IN ACCORDANCE WITH HIS
12 APPROVED RECLAMATION PLAN, THE RELEASE OF SIXTY PER CENT OF THE
13 BOND FOR THE APPLICABLE PERMIT AREA, SO LONG AS PROVISIONS FOR
14 TREATMENT OF POLLUTIONAL DISCHARGES, IF ANY, HAVE BEEN MADE BY
15 THE OPERATOR; (2) WHEN REVEGETATION HAS BEEN SUCCESSFULLY
16 ESTABLISHED ON THE AFFECTED AREA IN ACCORDANCE WITH THE APPROVED
17 RECLAMATION PLAN, THE DEPARTMENT SHALL RETAIN THAT AMOUNT OF
18 BOND FOR THE REVEGETATED AREA WHICH WOULD BE SUFFICIENT FOR THE
19 COST TO THE COMMONWEALTH OF REESTABLISHING REVEGETATION. SUCH
20 RETENTION OF BOND SHALL BE FOR THE DURATION OF LIABILITY UNDER
21 THE BOND AS PRESCRIBED IN SUBSECTION (D). NO PART OF THE BOND
22 SHALL BE RELEASED UNDER THIS SUBSECTION SO LONG AS THE LANDS TO
23 WHICH THE RELEASE WOULD BE APPLICABLE ARE CONTRIBUTING SUSPENDED
24 SOLIDS TO STREAMFLOW OR RUNOFF OUTSIDE THE PERMIT AREA IN EXCESS
25 OF THE REQUIREMENTS OF LAW OR UNTIL SOIL PRODUCTIVITY FOR PRIME
26 FARMLANDS HAS RETURNED TO EQUIVALENT LEVEL OF YIELD AS NONMINED
27 LAND OF THE SAME SOIL TYPE IN THE SURROUNDING AREA UNDER
28 EQUIVALENT MANAGEMENT PRACTICES AS DETERMINED FROM THE SOIL
29 SURVEY PERFORMED PURSUANT TO SUBSECTION (A)(2)I. WHERE A
30 PERMANENT IMPOUNDMENT IS TO BE RETAINED, THAT PORTION OF BOND

1 UNDER THIS SUBSECTION MAY BE RELEASED UNDER THIS SUBSECTION SO
2 LONG AS PROVISIONS FOR SOUND FUTURE MAINTENANCE BY THE OPERATOR
3 OR THE LANDOWNER HAVE BEEN MADE WITH THE DEPARTMENT; (3) WHEN
4 THE OPERATOR HAS COMPLETED SUCCESSFULLY ALL MINING AND
5 RECLAMATION ACTIVITIES, AND HAS MADE PROVISIONS WITH THE
6 DEPARTMENT FOR THE SOUND FUTURE TREATMENT OF POLLUTIONAL
7 DISCHARGES, THE RELEASE OF THE REMAINING PORTION OF THE BOND,
8 BUT NOT BEFORE THE EXPIRATION OF THE PERIOD SPECIFIED FOR
9 OPERATOR RESPONSIBILITY IN SUBSECTION (D). IN THE CASE OF
10 NONCOAL SURFACE MINING OPERATIONS, IN LIEU OF THE SCHEDULE AND
11 CRITERIA FOR RELEASE OF BONDS PROVIDED FOR IN THIS SUBSECTION,
12 THE SCHEDULE AND CRITERIA FOR RELEASE OF BONDS SHALL BE AS SET
13 FORTH IN REGULATIONS PROMULGATED HEREUNDER. NO BOND SHALL BE
14 FULLY RELEASED UNTIL ALL REQUIREMENTS OF THIS ACT ARE FULLY MET.
15 UPON RELEASE OF ALL OR PART OF THE BOND AND COLLATERAL AS HEREIN
16 PROVIDED, THE STATE TREASURER SHALL IMMEDIATELY RETURN TO THE
17 OPERATOR THE AMOUNT OF CASH OR SECURITIES SPECIFIED THEREIN.

18 (G.1) FOR OPERATIONS CONDUCTED UNDER PERMITS ISSUED AFTER
19 MARCH 31, 1983, THE DEPARTMENT SHALL ESTABLISH BY REGULATION
20 REQUIREMENTS FOR ABATEMENT OF POLLUTIONAL DISCHARGES AND
21 ALTERNATIVE FINANCIAL RESPONSIBILITY, INCLUDING A PROGRAM OF
22 SELF-BONDING AND OTHER PROGRAMS AS MAY BE NECESSARY TO PROVIDE
23 FOR THE FUTURE TREATMENT OF POLLUTIONAL DISCHARGES.

24 (G.2) FOR OPERATIONS CONDUCTED UNDER PERMITS ORIGINALLY OR
25 FIRST ISSUED PRIOR TO MARCH 31, 1983, WHICH ENCOUNTERED DRAINAGE
26 FROM PREVIOUS MINING AND WERE MINED IN ACCORDANCE WITH THE RULES
27 AND REGULATIONS OF THE DEPARTMENT IN EFFECT AT THE TIME, THE
28 PERMITTEE SHALL NOT INCUR ANY LIABILITY OR RESPONSIBILITY UNDER
29 THIS ACT OR ANY OTHER LAW, RULE OR REGULATION OF THE
30 COMMONWEALTH UNLESS THE DEPARTMENT DEMONSTRATES THAT THE MINING

1 ACTIVITIES OF THE PERMITTEE HAVE CAUSED ADDITIONAL POLLUTION. IF
2 THE DEPARTMENT SO DEMONSTRATES, THE PERMITTEE SHALL BE
3 RESPONSIBLE FOR SUCH ADDITIONAL POLLUTION PURSUANT TO SUBSECTION
4 (G.1). IF THE DEPARTMENT FAILS TO DEMONSTRATE THAT THE MINING
5 ACTIVITIES OF THE PERMITTEE HAVE CAUSED ADDITIONAL POLLUTION,
6 THE BONDS SHALL BE RELEASED AS PROVIDED FOR IN SUBSECTION (G):
7 PROVIDED, HOWEVER, THAT THE PERMITTEE SHALL NOT BE REQUIRED TO
8 MAKE ANY PROVISIONS FOR THE CURRENT OR FUTURE TREATMENT OF
9 DRAINAGE FROM PREVIOUS MINING.

10 (G.3) FOR PURPOSES OF SUBSECTIONS (G) AND (G.1),
11 "POLLUTIONAL DISCHARGE" SHALL MEAN A DISCHARGE ENTERING THE
12 WATERS OF THIS COMMONWEALTH AND FOR WHICH THE DEPARTMENT
13 DEMONSTRATES A VIOLATION OF WATER QUALITY STANDARDS RESULTING IN
14 DEGRADATION OF THE RECEIVING WATERS.

15 * * *

16 SECTION 2. SECTION 4.2(F) OF THE ACT, AMENDED OCTOBER 10,
17 1980 (P.L.835, NO.155), IS AMENDED TO READ:

18 Section 4.2. General Rule Making; Health and Safety.--* * *

19 (f) (1) Any surface mining operator who affects a public or
20 private water supply by contamination or diminution shall
21 restore or replace the affected supply with an alternate source
22 of water adequate in quantity and quality for the purposes
23 served by the supply. If any operator shall fail to comply with
24 this provision, the secretary may issue such orders to the
25 operator as are necessary to assure compliance.

26 (2) It shall be presumed, as a matter of law, that any
27 surface mining operator or owner is responsible, without proof
28 of fault, negligence or causation, for all pollution, except
29 bacteriological contamination, or diminution of public or
30 private water supplies, within one thousand linear feet of the

1 boundaries of the land affected or acreage assigned to the
2 surface mining operation under section 3.1 by a permit issued by
3 the department. There shall be only five defenses to the
4 presumptions of liability provided herein. Any surface mining
5 operator or owner must affirmatively prove by a preponderance of
6 evidence that one of the following conditions exist:

7 (i) The landowner or water supply company refused to allow
8 the surface mining operator or owner access to conduct a survey
9 prior to commencing surface mining activities.

10 (ii) The water supply is not within one thousand linear feet
11 of the boundaries of the land affected or the acreage assigned
12 to the surface mining operation under section 3.1 by a permit
13 issued by the department.

14 (iii) The pollution or diminution existed prior to the
15 surface mining activities as determined by a survey conducted
16 prior to commencing surface mining activities.

17 (iv) The pollution or diminution occurred as a result of
18 some cause other than the surface mining activities.

19 (v) The landowner, water supply user or water supply company
20 refuses to allow the surface mining operator or owner access to
21 determine the cause of pollution or diminution or to replace or
22 restore the water supply.

23 (3) If the secretary finds that immediate replacement of an
24 affected water supply used for potable or domestic needs is
25 required to protect health and safety, and that the operator or
26 owner has appealed or failed to comply with an order issued
27 pursuant to this subsection, the secretary may restore or
28 replace the affected water supply with an alternate source of
29 water utilizing moneys from the Surface Mining Conservation and
30 Reclamation Fund. The secretary shall recover the costs of

1 restoration or replacement, including costs incurred for design
2 and construction of facilities, from the responsible operators
3 or owners. Any such costs recovered shall be deposited in the
4 Surface Mining Conservation and Reclamation Fund.

5 (4) Any operator or owner aggrieved by the secretary's order
6 issued pursuant to this subsection shall have the right within
7 thirty days of receipt of such order to appeal to the
8 Environmental Hearing Board. The secretary's order, when
9 appealed by any operator or owner, shall not be used to block
10 the issuance of new permits or the release of bonds when a stage
11 of reclamation work is completed. Hearings under this subsection
12 shall be in accordance with the act of July 13, 1988 (P.L.530,
13 No.94), known as the "Environmental Hearing Board Act," and 2
14 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of
15 Commonwealth agencies) and Ch. 7, Subch. A (relating to judicial
16 review of Commonwealth agency action).

17 (5) A surface mining operator or owner who provides a
18 successful defense to the presumption of liability shall be
19 entitled to recover the costs incurred, including, but not
20 limited to, the costs of temporary water supply, design,
21 construction, restoration or replacement costs, attorney fees
22 and expert witness fees from the department.

23 (6) Nothing herein shall prevent any landowner or water
24 supply company who claims pollution or diminution of a water
25 supply from seeking any other remedy that may be provided for at
26 law or in equity.

27 (7) A surface mining operation conducted under a surface
28 mining permit issued by the department before the effective date
29 of this act shall not be subject to the provisions of clauses
30 (2), (3), (4), (5) and (6) of this subsection, but shall be

1 subject to clause (1) of this subsection.

2 * * *

3 ~~Section 2. This act shall take effect in 60 days.~~ <—

4 SECTION 3. SECTION 4.7 OF THE ACT, ADDED DECEMBER 12, 1986 <—

5 (P.L.1570, NO.171), IS AMENDED TO READ:

6 SECTION 4.7. ANTHRACITE [DEEP] MINE OPERATORS EMERGENCY BOND
7 FUND.--(A) WITHIN THIRTY (30) DAYS OF THE EFFECTIVE DATE OF
8 THIS SECTION, THE DEPARTMENT SHALL ESTABLISH AN EMERGENCY BOND
9 FUND FOR THE PURPOSE OF RECLAIMING ANY ANTHRACITE DEEP MINED OR
10 SURFACE MINED LANDS WHICH MAY BE ABANDONED AFTER THE EFFECTIVE
11 DATE OF THIS SECTION AND ON WHICH THE BOND REQUIRED BY LAW AND
12 ESTABLISHED BY REGULATION HAS NOT BEEN POSTED DUE TO
13 CIRCUMSTANCES SET FORTH IN SUBSECTION (D).

14 (B) THE DEPARTMENT SHALL COLLECT FROM THE FOLLOWING CLASSES
15 OF LICENSED ANTHRACITE DEEP MINE OPERATORS AND ANTHRACITE
16 SURFACE MINE OPERATORS A FEE OF TWENTY-FIVE CENTS (25¢) FOR EACH
17 TON OF COAL EXTRACTED FROM MINING OPERATIONS FOR WHICH THE
18 REQUIRED BOND HAS NOT BEEN POSTED DUE TO THE CIRCUMSTANCES SET
19 FORTH IN SUBSECTION (D):

20 (1) LICENSED ANTHRACITE DEEP MINE OPERATORS AND ANTHRACITE
21 SURFACE MINE OPERATORS WHO SUBMIT TO THE DEPARTMENT THREE
22 LETTERS OF REJECTION FROM THREE SEPARATE BONDING COMPANIES
23 LICENSED TO DO BUSINESS IN THIS COMMONWEALTH, STATING THAT THE
24 OPERATOR HAS BEEN DENIED A BOND AND THE GROUNDS FOR REJECTION.

25 (2) LICENSED ANTHRACITE DEEP MINE OPERATORS AND ANTHRACITE
26 SURFACE MINE OPERATORS WHOSE BONDS ARE CANCELED DUE TO THE
27 INSOLVENCY OR BANKRUPTCY OF ANY INSURANCE COMPANY OR SURETY
28 COMPANY LICENSED TO DO BUSINESS IN THIS COMMONWEALTH.

29 (C) THE DEPARTMENT SHALL DEPOSIT APPROPRIATIONS AND THE
30 MONEYS COLLECTED INTO THE EMERGENCY BOND FUND. THE DEPARTMENT

1 MAY ESTABLISH SUCH RECORDKEEPING AND REPORTING REQUIREMENTS AS
2 MAY BE NECESSARY FOR THE PURPOSE OF IMPLEMENTING THIS SECTION.
3 EACH OPERATOR AFFECTED BY THIS SECTION SHALL REMIT THE FEES TO
4 THE DEPARTMENT WITHIN FORTY-FIVE (45) DAYS FOLLOWING THE SALE OF
5 THE TONNAGE ON WHICH THE FEE HAS BEEN LEVIED. THE COLLECTION AND
6 DEPOSIT OF THE FEES SHALL CONTINUE UNTIL THE FUND HAS REACHED A
7 LEVEL THAT EQUALS THE NUMBER OF ACRES FOR WHICH NO BOND HAS BEEN
8 POSTED MULTIPLIED BY THE PER-ACRE BONDING REQUIREMENT AS
9 ESTABLISHED BY RULES AND REGULATIONS OF THE DEPARTMENT.

10 (D) IF THE BONDS OF ANY ANTHRACITE DEEP MINE OPERATOR OR
11 ANTHRACITE SURFACE MINE OPERATOR ARE CANCELED DUE TO THE
12 INSOLVENCY OR BANKRUPTCY OF ANY INSURANCE COMPANY OR SURETY
13 COMPANY AUTHORIZED TO DO BUSINESS IN THIS COMMONWEALTH, AND IF
14 REPLACEMENT BONDS FROM ANY OTHER COMPANY ARE UNAVAILABLE TO THE
15 OPERATOR, EVEN THOUGH THE OPERATOR POSSESSES SUFFICIENT
16 FINANCIAL RESOURCES TO OTHERWISE QUALIFY FOR A BOND, OR IF THE
17 OPERATOR HAS RECEIVED THE LETTERS OF REJECTION PROVIDED FOR IN
18 SUBSECTION (B), THE OPERATOR SHALL SO NOTIFY THE DEPARTMENT IN
19 WRITING. NOTICE TO THE DEPARTMENT IN THE CASE OF AN OPERATOR WHO
20 HAS RECEIVED THE LETTERS OF REJECTION PROVIDED FOR IN SUBSECTION
21 (B) SHALL CONTAIN THE LETTERS OF REJECTION AND SUCH OTHER
22 INFORMATION AS THE ENVIRONMENTAL QUALITY BOARD MAY, BY
23 REGULATION, PRESCRIBE. IN LIEU OF A BOND, THE OPERATOR'S
24 RECLAMATION OBLIGATION FOR EACH SITE FOR WHICH A PERMIT HAS BEEN
25 APPLIED SHALL BE SECURED BY THE EMERGENCY BOND FUND PROVIDED FOR
26 IN SUBSECTION (A) UNTIL SUCH TIME AS THE SITE HAS BEEN RECLAIMED
27 OR UNTIL AN ORIGINAL OR REPLACEMENT BOND, AS THE CASE MAY BE,
28 HAS BEEN OBTAINED BY THE OPERATOR: PROVIDED, HOWEVER, THAT NO
29 PERMIT SHALL BE ISSUED UNDER THIS SUBSECTION UNLESS THE OPERATOR
30 HAS FILED WITH THE DEPARTMENT A MINIMUM PAYMENT OF ONE THOUSAND

1 DOLLARS (\$1,000) TOWARD THE BOND OBLIGATION AND BORROWED THE
2 REMAINING BALANCES FROM THE EMERGENCY BOND FUND TO COVER THE
3 BOND AMOUNTS FOR THE ENTIRE PERMIT AREA, AS REQUIRED BY LAW. AT
4 SUCH TIME AS THE OPERATOR HAS SATISFIED A RECLAMATION OBLIGATION
5 SECURED BY THE FUND PROVIDED FOR IN SECTION 1, THE DEPARTMENT
6 SHALL RELEASE TO THE OPERATOR THE FEES COLLECTED, IN WHOLE OR IN
7 PART, ACCORDING TO THE BOND RELEASE SCHEDULE PROVIDED FOR BY
8 REGULATION. ANY OPERATOR WHOSE BOND OBLIGATION IS MET BY THIS
9 SECTION AND WHOSE PERMIT APPLICATION HAS BEEN APPROVED SHALL,
10 THROUGHOUT THE TERM OF THE PERMIT, UNDERTAKE ALL REASONABLE
11 ACTIONS TO OBTAIN AN ORIGINAL OR REPLACEMENT BOND, AS THE CASE
12 MAY BE, FOR SAID SITE.

13 (E) THE ENVIRONMENTAL QUALITY BOARD MAY ADOPT REGULATIONS
14 WHICH REQUIRE THE OPERATOR TO DEMONSTRATE, FROM TIME TO TIME,
15 THAT HE HAS MADE SUCH REASONABLE ATTEMPTS TO OBTAIN AN ORIGINAL
16 OR REPLACEMENT BOND.

17 (F) IN COLLECTING THE FEES PROVIDED FOR AND IN SECURING
18 RECLAMATION OBLIGATIONS, THE DEPARTMENT SHALL MAINTAIN A
19 SEPARATE RECORD FOR EACH OPERATOR. THE FEES PAID BY AN OPERATOR
20 MAY BE USED ONLY TO SECURE THE RECLAMATION OBLIGATIONS OF THE
21 OPERATOR.

22 (G) THE SUM OF FIFTY THOUSAND DOLLARS (\$50,000) IS HEREBY
23 APPROPRIATED TO THE DEPARTMENT FOR IMMEDIATE DEPOSIT INTO THE
24 EMERGENCY BOND FUND TO PROVIDE THE NECESSARY FUNDS FOR LOANS TO
25 QUALIFIED ANTHRACITE DEEP MINE OPERATORS AND ANTHRACITE SURFACE
26 MINE OPERATORS TO PROVIDE THE REQUIRED BONDS TO OBTAIN MINING
27 PERMITS.

28 SECTION 4. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:
29 SECTION 4.8. PENNSYLVANIA REMINING FUND.--(A) THERE IS
30 HEREBY ESTABLISHED A SEPARATE ACCOUNT IN THE STATE TREASURY TO

1 BE KNOWN AS THE PENNSYLVANIA REMINING FUND. ALL MONEYS IN THIS
2 FUND ARE HEREBY APPROPRIATED TO THE DEPARTMENT ON A CONTINUING
3 BASIS. THE FUND SHALL BE ADMINISTERED BY THE DEPARTMENT FOR THE
4 PURPOSE OF PROVIDING THE FINANCIAL ASSURANCE NEEDED TO FULFILL
5 THE RECLAMATION BOND REQUIREMENTS ESTABLISHED UNDER THIS ACT
6 FOR:

7 (1) REMINING ABANDONED MINE LANDS OR AREAS WHERE THE
8 DEPARTMENT HAS FORFEITED BONDS, INCLUDING COAL REFUSE PILES.

9 (2) PROVIDING BOND CREDITS FOR RECLAIMING ABANDONED MINE
10 LANDS OR LAND THAT WAS SUBJECT TO BOND FORFEITURE, INCLUDING
11 COAL REFUSE PILES.

12 (B) (1) FINANCIAL ASSURANCE UNDER THIS SECTION MAY BE
13 APPROVED BY THE DEPARTMENT FOR REMINING ACTIVITIES INVOLVING
14 SURFACE MINING ANTHRACITE AND BITUMINOUS COAL AND RECLAMATION OF
15 COAL REFUSE PILES.

16 (2) ANY LICENSED MINE OPERATOR APPLYING FOR FINANCIAL
17 ASSURANCE OR BOND CREDITS FROM THE REMINING FUND MUST PROVE TO
18 THE DEPARTMENT THAT THE OPERATOR HAS NO LIABILITY FOR
19 RECLAMATION OR POLLUTION AT THE PROPOSED SITE OF REMINING.

20 (3) THE LICENSED MINE OPERATOR MUST DEMONSTRATE TO THE
21 DEPARTMENT THAT REMINING IS TECHNOLOGICALLY AND ECONOMICALLY
22 FEASIBLE AT THE PROPOSED SITE OF REMINING.

23 (4) FINANCIAL ASSURANCE OR A BOND CREDIT UNDER THIS SECTION
24 MAY BE APPROVED BY THE DEPARTMENT IN COMBINATION WITH
25 CONVENTIONAL COLLATERAL, SURETY OR SELF-BONDING AGREEMENTS.
26 HOWEVER, THE ASSURANCE OR BOND CREDIT SHALL APPLY ONLY TO THAT
27 PORTION OF THE PERMIT AREA TO BE REMINED.

28 (5) THE DEPARTMENT MAY REQUIRE, AS A CONDITION OF GRANTING
29 THE FINANCIAL ASSURANCE OR BOND CREDIT, THAT THE OPERATOR POST A
30 CONTRACT PERFORMANCE BOND TO INSURE THAT THE OPERATOR COMPLETES

1 THE PROPOSED REMINING. THE PERFORMANCE BOND IS TO BE ONLY IN AN
2 AMOUNT NECESSARY TO COVER THOSE AREAS PROPOSED TO BE REMINED AND
3 SHALL BE RELEASED BY THE DEPARTMENT UPON COMPLETION OF THE WORK
4 DESCRIBED IN THE APPROVED RECLAMATION PLAN.

5 (6) MINE OPERATORS WHOSE APPLICATIONS HAVE BEEN APPROVED BY
6 THE DEPARTMENT TO PARTICIPATE IN THE REMINING FUND SHALL NOT BE
7 REQUIRED TO PAY ANY PER-ACRE RECLAMATION FEES OR ASSESSMENTS
8 ESTABLISHED BY THE DEPARTMENT FOR THE AREA COVERED BY THE
9 PROPOSAL OR PERMIT APPLICATION. IN ADDITION, ANY PERMIT
10 APPLICATION FEE COLLECTED OR ASSESSED BY THE DEPARTMENT SHALL BE
11 RETURNED OR WAIVED.

12 (7) PRIORITY FOR PARTICIPATION IN THE REMINING FUND SHALL BE
13 GIVEN TO LICENSED MINE OPERATORS PROPOSING REMINING WITHIN AREAS
14 DESIGNATED SUITABLE FOR RECLAMATION BY REMINING.

15 (C) TO BE ELIGIBLE TO RECEIVE FINANCIAL ASSURANCE UNDER THIS
16 SECTION TO CONDUCT REMINING OPERATIONS, A LICENSED MINE OPERATOR
17 WHO IS OTHERWISE ELIGIBLE TO OBTAIN A PERMIT SHALL, IN ADDITION
18 TO ANY OTHER APPLICABLE PERMITTING REQUIREMENTS OF THIS ACT:

19 (1) SUBMIT A MINING APPLICATION TO THE DEPARTMENT CLEARLY
20 INDICATING WHICH AREAS THE OPERATOR INTENDS TO REMINE AND WHICH
21 AREAS, IF ANY, ARE TO BE MINED FOR THE FIRST TIME.

22 (2) CALCULATE THE AMOUNT OF BOND THAT WOULD BE NEEDED TO
23 COVER THE AREA TO BE REMINED, OR THE INITIAL AREA OF REMINING.

24 (3) REQUEST TO BE CONSIDERED BY THE DEPARTMENT FOR
25 PARTICIPATION IN THE REMINING FUND.

26 (D) A BOND CREDIT IN THE FORM OF A BOND LETTER MAY BE ISSUED
27 BY THE DEPARTMENT TO A LICENSED MINE OPERATOR WHO IS OTHERWISE
28 ELIGIBLE TO OBTAIN A PERMIT. THE DEPARTMENT SHALL ADHERE TO THE
29 FOLLOWING PROCEDURES WHEN ISSUING A BOND CREDIT, IN ADDITION TO
30 ANY OTHER APPLICABLE PERMITTING REQUIREMENTS OF THIS ACT:

1 (1) REQUIRE A LICENSED MINE OPERATOR TO SUBMIT A PROPOSAL TO
2 THE DEPARTMENT TO REMINE A SPECIFIC AREA, TOGETHER WITH THE
3 ESTIMATED COST OF THE RECLAMATION TO OCCUR.

4 (2) APPLY THE BOND CREDIT AGAINST ANY RECLAMATION BOND
5 OBLIGATION SELECTED BY THE MINE OPERATOR, EXCEPT THE RECLAIMED
6 AREA THAT RESULTS IN THE BOND CREDIT.

7 SECTION 4.9. DESIGNATING AREAS SUITABLE FOR RECLAMATION BY
8 REMINING.--(A) THE DEPARTMENT SHALL DESIGNATE AREAS OF THIS
9 COMMONWEALTH THAT ARE SUITABLE FOR RECLAMATION BY REMINING,
10 INCLUDING COAL REFUSE PILES, USING ANY OR ALL TYPES OF SURFACE
11 MINING ACTIVITIES, IF THE DEPARTMENT DETERMINES THAT RECLAMATION
12 PURSUANT TO THE REQUIREMENTS OF THIS ACT IS TECHNOLOGICALLY AND
13 ECONOMICALLY FEASIBLE.

14 (B) IN DESIGNATING AREAS SUITABLE FOR RECLAMATION BY
15 REMINING, THE DEPARTMENT SHALL CONSIDER THE FOLLOWING:

16 (1) THOSE LANDS WHICH WERE AFFECTED BY SURFACE OR DEEP
17 MINING ACTIVITIES, INCLUDING COAL REFUSE PILES, PRIOR TO AUGUST
18 3, 1977, OR FOR WHICH THE COMMONWEALTH HAS FORFEITED THE
19 RECLAMATION BOND, AND WHICH ARE CAUSING OR CONTRIBUTING TO THE
20 POLLUTION OF THE WATERS OF THIS COMMONWEALTH.

21 (2) AREAS WHICH, IF REMINED, WOULD RESULT IN ENHANCEMENT OF
22 NEARBY RECREATION, NATURAL OR SCENIC AREAS.

23 (3) AREAS WHERE REMINING WOULD RESULT IN A SIGNIFICANT
24 ECONOMIC OR SOCIAL ENHANCEMENT OF THE SURROUNDING REGION.

25 (4) AREAS THAT DO NOT NOW MEET THE WATER QUALITY CRITERIA OF
26 25 PA. CODE CH.93 (RELATING TO WATER QUALITY STANDARDS) BUT
27 WHICH, IF REMINING OCCURS, ARE LIKELY TO MAINTAIN EXISTING OR
28 ENHANCE DOWNSTREAM WATER USES AND WATER QUALITY AND WHICH ARE
29 UNLIKELY TO CAUSE FURTHER DEGRADATION OF RECEIVING STREAM WATER
30 QUALITY.

1 (5) AREAS WHICH CONTAIN OR ARE CONTIGUOUS TO COAL RESERVES
2 OF ACCEPTABLE QUALITY AND ACCESSIBILITY TO A MARKET.

3 (6) THE OVERALL TECHNICAL SUITABILITY AND FEASIBILITY OF THE
4 AREA TO BE RECLAIMED THROUGH REMINING.

5 (C) (1) THE DEPARTMENT MAY ACCEPT NOMINATIONS FOR AREAS
6 SUITABLE FOR RECLAMATION BY REMINING FROM THE MINING AND
7 RECLAMATION ADVISORY BOARD OR FROM ANY PERSON OR SHALL NOMINATE
8 AREAS ITSELF. THE DEPARTMENT SHALL DETERMINE WITHIN THIRTY (30)
9 DAYS WHETHER TO ACCEPT THE NOMINATION FOR FURTHER STUDY.

10 (2) THE DEPARTMENT SHALL PREPARE A DETAILED REPORT ON THE
11 PROPOSED AREA, WITHIN ONE HUNDRED TWENTY (120) DAYS OF ITS
12 ACCEPTANCE OF A NOMINATION OF AN AREA FOR STUDY, BASED ON THE
13 CRITERIA OUTLINED IN SUBSECTION (B). THE REPORT SHALL CONTAIN
14 ENOUGH BACKGROUND INFORMATION ON THE PROPOSED AREA TO ALLOW A
15 MINE OPERATOR TO DIRECTLY USE ITS CONTENTS IN THE PREPARATION OF
16 A PROPOSAL OR PERMIT APPLICATION TO REMINE THE AREA.

17 (3) PRIOR TO MAKING ANY DESIGNATION, THE REPORT PREPARED BY
18 THE DEPARTMENT SHALL BE REVIEWED BY THE MINING AND RECLAMATION
19 ADVISORY BOARD. THE DEPARTMENT SHALL ALSO PUBLISH A NOTICE IN
20 THE PENNSYLVANIA BULLETIN ESTABLISHING A PUBLIC COMMENT PERIOD
21 OF AT LEAST A THIRTY (30) DAYS ON THE REPORT. THE COMMENT PERIOD
22 SHALL ALSO BE ADVERTISED AT LEAST ONCE A WEEK FOR TWO WEEKS IN A
23 NEWSPAPER OF GENERAL CIRCULATION IN THE PROPOSED DESIGNATION
24 AREA.

25 (4) NO LATER THAN SIX (6) MONTHS AFTER ITS ACCEPTANCE OF A
26 NOMINATED AREA FOR STUDY, THE DEPARTMENT WILL MAKE A DECISION ON
27 WHETHER TO DESIGNATE AN AREA AS SUITABLE FOR REMINING.

28 SECTION 4.10. REMINING OPERATOR'S ASSISTANCE PROGRAM.--(A)
29 THE DEPARTMENT SHALL ESTABLISH A PROGRAM TO ASSIST AND PAY FOR
30 THE PREPARATION OF PROPOSALS AND APPLICATIONS FOR LICENSED MINE

1 OPERATORS OTHERWISE ELIGIBLE TO OBTAIN A PERMIT FOR REMINING
2 ABANDONED MINE LAND AND LAND SUBJECT TO BOND FORFEITURES,
3 INCLUDING COAL REFUSE PILES. THE PROGRAM SHALL INCLUDE, BUT NOT
4 BE LIMITED TO, THE PREPARATION OF HYDROLOGIC, SURFACE AND GROUND
5 WATER DATA, OVERBURDEN ANALYSIS AND OTHER INFORMATION TO SUPPORT
6 A PROPOSAL OR APPLICATION.

7 (B) MINE OPERATORS PARTICIPATING IN THE REMINING OPERATOR'S
8 ASSISTANCE PROGRAM SHALL NOT BE REQUIRED TO PAY ANY PER-ACRE
9 RECLAMATION FEES OR ASSESSMENTS ESTABLISHED BY THE DEPARTMENT
10 FOR THE AREA COVERED BY THE PROPOSAL OR PERMIT APPLICATION. IN
11 ADDITION, ANY PERMIT APPLICATION FEE COLLECTED OR ASSESSED BY
12 THE DEPARTMENT SHALL BE RETURNED OR WAIVED.

13 SECTION 4.11. PENNSYLVANIA RECLAMATION AND REMINING
14 PROGRAM.--(A) THE DEPARTMENT SHALL ESTABLISH A RECLAMATION AND
15 REMINING PROGRAM TO PROVIDE INCENTIVES AND ASSISTANCE TO RECLAIM
16 ABANDONED MINE LANDS AND LAND THAT IS SUBJECT TO BOND
17 FORFEITURES, INCLUDING COAL REFUSE PILES. THE DEPARTMENT IS
18 AUTHORIZED TO EXPEND MONEYS FROM THE SURFACE MINING CONSERVATION
19 AND RECLAMATION FUND AND THE CLEAN WATER FUND FOR THIS PROGRAM.
20 THE PROGRAM SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING
21 ELEMENTS:

22 (1) THE ENCOURAGEMENT OF THE RECLAMATION OF ABANDONED MINE
23 LANDS BY ACTIVE SURFACE COAL MINE OPERATORS.

24 (2) THE ENCOURAGEMENT OF THE RECOVERY OF REMAINING COAL
25 RESOURCES ON ABANDONED MINE LANDS AND MAXIMIZING RECLAMATION OF
26 SUCH LANDS IN THE PROCESS.

27 (3) THE DEVELOPMENT OF AN OPERATOR QUALIFICATION SYSTEM.

28 (4) PROVISION FOR THE REMOVAL OF EXISTING COAL WASTE PILES,
29 SLURRY PONDS, IMPOUNDMENTS, EMBANKMENTS AND OTHER AREAS
30 CONTAINING SUCH WASTE MATERIALS; AND ENCOURAGING THE ENHANCED

1 USE OF COAL WASTE MATERIALS AS AN ALTERNATIVE ENERGY FUEL.

2 (5) THE ENCOURAGEMENT OF LOCAL GOVERNMENT PARTICIPATION IN
3 ABANDONED MINE LAND AGREEMENTS.

4 (B) (1) NOTWITHSTANDING ANY PROVISION OF LAW TO THE
5 CONTRARY, THE DEPARTMENT MAY ENTER INTO NO-COST RECLAMATION
6 CONTRACTS IN WHICH THE COST OF RECLAMATION IS ASSUMED BY THE
7 OPERATOR. ANY LICENSED SURFACE MINE OPERATOR OR COAL MINE
8 OPERATOR HAVING NO HISTORY OF VIOLATIONS SHOWING A LACK OF
9 ABILITY OR INTENTION TO COMPLY WITH THIS ACT OR OTHER FEDERAL OR
10 STATE ENVIRONMENTAL LAWS MAY MAKE A PROPOSAL TO RECLAIM
11 ABANDONED MINE LAND OR TO REMOVE A COAL REFUSE PILE.

12 (2) THE REMOVAL OF COAL REFUSE SHALL NOT INVOLVE ANY
13 REPROCESSING OF COAL REFUSE OR THE RETURN OF COAL REFUSE
14 MATERIAL TO THE COAL REFUSE DISPOSAL AREA FROM WHICH THE PILE IS
15 REMOVED.

16 (3) WHERE THE EXTRACTION OF COAL IS NECESSARY TO PHYSICALLY
17 ACCOMPLISH THE RECLAMATION OF THE ABANDONED MINE LAND, THE
18 DEPARTMENT MAY AUTHORIZE EXTRACTION OF THE COAL WITHOUT A VALID
19 SURFACE MINING PERMIT IN ACCORDANCE WITH REGULATIONS PROMULGATED
20 BY THE DEPARTMENT.

21 (C) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (B)(2), THE
22 DEPARTMENT MAY ENTER INTO NO-COST RECLAMATION CONTRACTS WITH THE
23 OWNERS OR OPERATORS OF PROJECTS WHICH UTILIZE COAL WASTE
24 MATERIALS AS AN ALTERNATIVE FUEL AND WHICH UTILIZE COAL WASTE
25 ASH AND COAL WASTE MATERIALS IN COAL AND NONCOAL LAND
26 RECLAMATION ACTIVITIES PROVIDED THAT:

27 (1) THE COAL WASTE ASH IS GENERATED FROM A CIRCULATING
28 FLUIDIZED BED COMBUSTION FACILITY AND DOES NOT HAVE THE
29 CHARACTERISTICS OF A "HAZARDOUS WASTE" AS DEFINED PURSUANT TO
30 THE ACT OF JULY 7, 1980 (P.L.380, NO.97), KNOWN AS THE "SOLID

1 WASTE MANAGEMENT ACT."

2 (2) THE VOLUME OF BACKFILL MATERIAL IS COMPOSED OF LESS THAN
3 FIFTY PER CENT COAL REFUSE REMOVED AS REJECT MATERIAL IN THE
4 REMINING OPERATION WHICH IS DISPOSED TOGETHER WITH COAL WASTE
5 ASH.

6 (D) THE DEPARTMENT SHALL PREPARE A REPORT TO THE SENATE
7 ENVIRONMENTAL RESOURCES AND ENERGY COMMITTEE AND THE HOUSE
8 CONSERVATION COMMITTEE OF THE HOUSE OF REPRESENTATIVES ON JULY 1
9 OF EACH YEAR, GIVING A STATUS REPORT ON ACTIVITIES COVERING THE
10 DEPARTMENT'S RECLAMATION AND REMINING PROGRAMS UNDER THIS
11 SECTION AND SECTIONS 4.8, 4.9, 4.10 AND 18 OF THIS ACT. THE
12 REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO:

13 (1) THE NUMBER AND NAMES OF OPERATORS PARTICIPATING IN THE
14 PROGRAMS UNDER SECTIONS 4.8, 4.9, 4.10 AND THIS SECTION AND THE
15 BOND FORFEITURE RECLAMATION PROGRAMS UNDER SECTION 18.

16 (2) THE NUMBER OF ACRES OF ABANDONED MINE LAND, LAND SUBJECT
17 TO BOND FORFEITURE AND COAL REFUSE PILES RECLAIMED.

18 (3) THE DOLLAR VALUE OF THESE RECLAMATION ACTIVITIES.

19 (4) RECOMMENDATIONS FOR PROVIDING ADDITIONAL INCENTIVES FOR
20 THE RECLAMATION OF AREAS PREVIOUSLY MINED.

21 (5) THE COMMENTS OF THE MINING AND RECLAMATION ADVISORY
22 BOARD ON THE ANNUAL REPORT.

23 SECTION 5. SECTION 18(F) AND (G) OF THE ACT, ADDED OCTOBER
24 12, 1984 (P.L.916, NO.181), ARE AMENDED TO READ:

25 SECTION 18. SURFACE MINING CONSERVATION AND RECLAMATION
26 FUND; PAYMENTS TO CLEAN WATER FUND.--* * *

27 (F) WHEN [AN] A LICENSED MINE OPERATOR DESIRES TO RECLAIM
28 PROPERTY ON WHICH THE DEPARTMENT HAS FORFEITED BONDS FOR FAILURE
29 TO COMPLETE THE RECLAMATION PLAN OR IS GRANTED A PERMIT ON
30 PROPERTY CONTIGUOUS TO A PROPERTY ON WHICH THE DEPARTMENT HAS

1 FORFEITED BONDS FOR FAILURE TO COMPLETE THE RECLAMATION PLAN,
2 THE OPERATOR OR PERMITTEE SHALL BE PROVIDED THE OPPORTUNITY TO
3 MAKE A PROPOSAL TO COMPLETE THE RECLAMATION PLAN OF THE
4 FORFEITED BOND AREA. THE PROPOSAL SHALL CONTAIN ESTIMATED COSTS
5 AND THE NECESSARY INFORMATION UPON WHICH THE DEPARTMENT CAN
6 DETERMINE THE COST EFFECTIVENESS OF THE PROPOSAL. UPON RECEIPT
7 OF THE PROPOSAL, THE SECRETARY MAY NEGOTIATE AND ENTER INTO A
8 CONTRACT WITH THE OPERATOR OR PERMITTEE TO COMPLETE THE
9 RECLAMATION PLAN. A DETERMINATION WHETHER TO NEGOTIATE SHALL BE
10 MADE BY THE DEPARTMENT WITHIN THIRTY (30) DAYS OF RECEIPT OF THE
11 PROPOSAL; AND CONTRACT NEGOTIATIONS SHALL BEGIN WITHIN THIRTY
12 (30) DAYS OF THE DETERMINATION TO NEGOTIATE.

13 (G) THERE IS HEREBY CREATED A MINING AND RECLAMATION
14 ADVISORY BOARD TO ASSIST THE SECRETARY TO EXPEND THE FUNDS FOR
15 THE PURPOSES PROVIDED BY THIS ACT AND TO ADVISE THE SECRETARY ON
16 ALL MATTERS PERTAINING TO MINING AND RECLAMATION WHICH SHALL
17 INCLUDE, BUT NOT BE LIMITED TO, EXPERIMENTAL PRACTICES,
18 ALTERNATE METHODS OF BACKFILLING, SELECTION OF RECLAMATION
19 PROJECTS, ALTERNATE RECLAMATION METHODS, OBLIGATIONS FOR
20 PREEXISTING POLLUTION LIABILITY, ALTERATION OF RECLAMATION
21 PLANS, RECLAMATION FEES AND BONDING RATES AND METHODS.

22 (1) THE BOARD SHALL BE COMPRISED OF [THREE (3)] FOUR (4)
23 COAL OPERATORS, TWO (2) OF WHOM SHALL BE LICENSED BITUMINOUS
24 SURFACE MINE OPERATORS AND [ONE (1)] TWO (2) OF WHOM SHALL BE
25 [A] LICENSED ANTHRACITE SURFACE MINE [OPERATOR] OPERATORS; FOUR
26 (4) PUBLIC MEMBERS FROM THE CITIZENS ADVISORY COUNCIL, WHO SHALL
27 BE APPOINTED BY THE COUNCIL; ONE (1) MEMBER SHALL BE A
28 REPRESENTATIVE OF A CORPORATE SURETY WHICH ISSUES RECLAMATION
29 BONDS IN PENNSYLVANIA; TWO (2) MEMBERS, ONE (1) FROM THE
30 ANTHRACITE AND BITUMINOUS LICENSED PROFESSIONAL ENGINEERS AND

1 ONE (1) FROM THE COUNTY CONSERVATION DISTRICTS, WHO SHALL BE
2 APPOINTED BY THE STATE CONSERVATION DISTRICT COMMISSION; FOUR
3 (4) MEMBERS OF THE GENERAL ASSEMBLY, TWO (2) FROM THE SENATE,
4 ONE (1) MEMBER FROM THE MAJORITY PARTY AND ONE (1) MEMBER FROM
5 THE MINORITY PARTY, WHO SHALL BE APPOINTED BY THE PRESIDENT PRO
6 TEMPORE, AND TWO (2) FROM THE HOUSE OF REPRESENTATIVES, ONE (1)
7 FROM THE MAJORITY PARTY AND ONE (1) FROM THE MINORITY PARTY, WHO
8 SHALL BE APPOINTED BY THE SPEAKER OF THE HOUSE OF
9 REPRESENTATIVES.

10 (2) THE SECRETARY SHALL [CHAIR THE MINING AND RECLAMATION
11 ADVISORY BOARD AND] APPOINT THE MEMBERS FROM THE COAL INDUSTRY,
12 THE MEMBER REPRESENTING THE CORPORATE SURETY AND THE MEMBER FROM
13 THE ANTHRACITE AND BITUMINOUS LICENSED PROFESSIONAL ENGINEERS.

14 (3) ALL MEMBERS SHALL BE APPOINTED FOR A TERM OF TWO (2)
15 YEARS, EXCEPT THAT ONE-HALF OF THE INITIAL MEMBERS SHALL SERVE
16 FOR THREE (3) YEARS. BOARD MEMBERS SHALL NOT RECEIVE A SALARY,
17 BUT SHALL BE REIMBURSED FOR ALL NECESSARY EXPENSES INCURRED IN
18 THE PERFORMANCE OF THEIR DUTIES.

19 (4) [THE BOARD SHALL MEET AT TIMES FIXED BY THE SECRETARY
20 BUT NOT LESS THAN ONCE PER YEAR. THE MINING AND RECLAMATION
21 ADVISORY BOARD SHALL REPLACE THE MINING ADVISORY COMMITTEE AND
22 ANY OTHER COMMITTEE CONSTRUED TO BE ADVISORY FOR MATTERS
23 HEREIN.] ALL ACTIONS OF THE BOARD SHALL BE BY MAJORITY VOTE. THE
24 BOARD SHALL MEET UPON THE CALL OF THE SECRETARY, BUT NOT LESS
25 THAN QUARTERLY, TO CARRY OUT ITS DUTIES UNDER THIS ACT. THE
26 BOARD SHALL SELECT FROM AMONG ITS MEMBERS A CHAIRMAN AND SUCH
27 OTHER OFFICERS AS IT DEEMS APPROPRIATE.

28 (5) THE BOARD SHALL PREPARE AN ANNUAL REPORT ON ITS
29 ACTIVITIES AND SUBMIT THE REPORT TO THE SENATE ENVIRONMENTAL
30 RESOURCES AND ENERGY COMMITTEE AND THE HOUSE [MINES AND ENERGY

1 MANAGEMENT] CONSERVATION COMMITTEE.

2 (6) THE DEPARTMENT SHALL CONSULT WITH THE BOARD IN THE
3 FORMULATION, DRAFTING AND PRESENTATION OF ALL REGULATIONS
4 PROMULGATED UNDER THIS ACT. THE BOARD SHALL BE GIVEN A
5 REASONABLE OPPORTUNITY TO REVIEW AND COMMENT ON ALL REGULATIONS
6 PROMULGATED UNDER THIS ACT PRIOR TO SUBMISSION OF SUCH
7 REGULATIONS TO THE ENVIRONMENTAL QUALITY BOARD FOR PROPOSED AND
8 FINAL CONSIDERATION. THE WRITTEN REPORT OF THE BOARD SHALL BE
9 PROVIDED TO THE ENVIRONMENTAL QUALITY BOARD WITH ANY REGULATORY
10 PROPOSAL AND FINAL RULEMAKING. THE CHAIRMAN OF THE BOARD SHALL
11 BE INVITED TO PARTICIPATE IN THE PRESENTATION OF ALL REGULATIONS
12 PROMULGATED UNDER THIS ACT BEFORE THE ENVIRONMENTAL QUALITY
13 BOARD AND TO PRESENT THE BOARD'S WRITTEN REPORT AND ANSWER
14 QUESTIONS ABOUT ITS CONTENT. NOTHING IN THIS SUBSECTION SHALL
15 PRECLUDE ANY MEMBER OF THE BOARD FROM FILING A PETITION FOR
16 RULEMAKING WITH THE ENVIRONMENTAL QUALITY BOARD IN ACCORDANCE
17 WITH PROCEDURES ESTABLISHED BY THE ENVIRONMENTAL QUALITY BOARD.

18 * * *

19 SECTION 6. (A) THE SUM OF \$50,000 IS HEREBY APPROPRIATED TO
20 THE DEPARTMENT OF ENVIRONMENTAL RESOURCES FOR IMMEDIATE DEPOSIT
21 INTO THE EMERGENCY BOND FUND TO PROVIDE ADDITIONAL FUNDS FOR
22 LOANS TO QUALIFIED ANTHRACITE DEEP MINE OPERATORS FOR BONDS
23 REQUIRED TO OBTAIN MINING PERMITS.

24 (B) THE SUM OF \$100,000 IS HEREBY APPROPRIATED TO THE
25 DEPARTMENT OF ENVIRONMENTAL RESOURCES FOR IMMEDIATE DEPOSIT INTO
26 THE EMERGENCY BOND FUND TO PROVIDE ADDITIONAL FUNDS FOR LOANS TO
27 QUALIFIED ANTHRACITE SURFACE MINE OPERATORS FOR BONDS REQUIRED
28 TO OBTAIN MINING PERMITS.

29 (C) THE SUM OF \$5,000,000, OR AS MUCH THEREOF AS MAY BE
30 NECESSARY, IS HEREBY APPROPRIATED TO THE PENNSYLVANIA REMINING

1 FUND.

2 (D) THE SUM OF \$500,000, OR AS MUCH THEREOF AS MAY BE
3 NECESSARY, IS HEREBY APPROPRIATED TO THE DEPARTMENT OF
4 ENVIRONMENTAL RESOURCES FOR THE REMINING OPERATORS' ASSISTANCE
5 PROGRAM.

6 SECTION 7. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

7 (1) SECTION 6 SHALL TAKE EFFECT ON JULY 1, 1990.

8 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60
9 DAYS.