

OSMRE Approves Amendment to the Pennsylvania Abandoned Mine Land Reclamation Plan

December 3, 2024

Pittsburgh, PA

The Foundation Mineral and Energy Law Newsletter

Pennsylvania – Mining

(by **Joe Reinhart**, **Sean McGovern**, **Christina Puhnaty** and **Alexandra Graf**)

On August 16, 2024, the Office of Surface Mining Reclamation and Enforcement (OSMRE) approved Pennsylvania's proposed modification of its Pennsylvania Abandoned Mine Land Reclamation Plan under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) by adding Reclamation Plan Amendment No. 3 to allow the Pennsylvania Department of Environmental Protection (PADEP) to administer a State Emergency Abandoned Mine Land Reclamation Program. See 89 Fed. Reg. 66,563 (Aug. 16, 2024). Pennsylvania submitted Reclamation Plan Amendment No. 3 for approval to OSMRE in 2016. Reclamation Plan Amendment No. 3 covers coordination of emergency reclamation work between Pennsylvania and OSMRE as well as procedures for implementing the National Environmental Policy Act and other Pennsylvania procedures. The Pennsylvania Abandoned Mine Land Reclamation Plan, including its amendments, is available [here](#).

Emergency response reclamation activities involve "enter[ing] upon any land where an eligible abandoned coal mine related emergency exists . . . to restore, reclaim, abate, control, or prevent the adverse effects of legacy coal mining practices and to do all things necessary or expedient to protect the public health, safety, or general welfare." Reclamation Plan Amendment No. 3, pt. G(I) (citing SMCRA § 410(b), 30 U.S.C. § 1240(b)). Pennsylvania defines an "emergency" in Reclamation Plan Amendment No. 3 as "a sudden danger or impairment or previously unknown condition, related to legacy coal mining, which represents a high probability of substantial physical harm to health, safety or general welfare" *Id.* at pt. G(III)(1). Under Reclamation Plan Amendment No. 3, PADEP will perform the investigations and eligibility findings for proposed emergency projects under title IV of SMCRA and will subsequently submit this information to an OSMRE official to make the requisite finding of fact and emergency declarations that are required under section 410(a) of SMCRA. PADEP will coordinate its emergency reclamation projects with OSMRE, in part by following the procedures in the OSMRE *Federal Assistance Manual*, ch. 4-120.

Copyright © 2024, The Foundation for Natural Resources and Energy Law, Westminster, Colorado

Babst | Calland
Attorneys at Law

PITTSBURGH, PA | CHARLESTON, WV | HARRISBURG, PA | LAKEWOOD, NY | STATE COLLEGE, PA | WASHINGTON, DC