

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 898 Session of 2011

INTRODUCED BY TOMLINSON, M. WHITE, FONTANA AND EICHELBERGER,
MARCH 25, 2011

REFERRED TO ENVIRONMENTAL RESOURCES AND ENERGY, MARCH 25, 2011

AN ACT

1 Amending the act of December 19, 1984 (P.L.1093, No.219),
2 entitled "An act relating to noncoal surface mining
3 conservation and reclamation," further providing for
4 temporary cessation and for local ordinances.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Sections 13 and 16 of the act of December 19,
8 1984 (P.L.1093, No.219), known as the Noncoal Surface Mining
9 Conservation and Reclamation Act, are amended to read:

10 Section 13. Temporary cessation.

11 (a) General rule.--Except with the express written approval
12 of the department as provided in subsection (b), the operator
13 shall maintain mining and reclamation equipment on the site at
14 all times, shall conduct an active operation and shall conduct
15 surface mining operations on the site on a regular and
16 continuous basis.

17 (b) Application for temporary cessation.--Before temporary
18 cessation of operations, the operator shall submit a written
19 application to the department, including a statement of the

1 number of acres that have been affected, the reason for
2 cessation, the date on which temporary cessation is anticipated
3 and the date on which the operator anticipates that operations
4 will resume. Except as provided in subsection (c), the
5 department may not approve the temporary cessation of an
6 operation for a period exceeding 90 days unless [the cessation
7 is due to seasonal shutdown or labor strikes.] one of the
8 following applies:

9 (1) The cessation is due to seasonal shutdown or labor
10 strikes.

11 (2) Litigation precludes active surface mining
12 operations.

13 (3) There are conditions which were beyond the control
14 and without the fault or negligence of the permittee.

15 (c) Operations producing highway or construction
16 aggregates.--For operations producing highway or construction
17 aggregates, where the temporary cessation is due to the absence
18 of a current regional market for the mineral being mined,
19 temporary cessation may not exceed five years.

20 (d) Cessation not a release of obligations.--Temporary
21 cessation shall not relieve the operator of his obligation to
22 comply with the provisions of this act, the regulations
23 promulgated hereunder and the conditions of his permit,
24 including, but not limited to, compliance with all applicable
25 environmental protection performance standards.

26 Section 16. Local ordinances.

27 Except with respect to zoning ordinances adopted pursuant to
28 Article VI of the act of July 31, 1968 (P.L.805, No.247), known
29 as the Pennsylvania Municipalities Planning Code, all local
30 ordinances and enactments purporting to regulate surface mining

1 are hereby superseded. The Commonwealth, by this enactment,
2 hereby preempts the regulation of surface mining as herein
3 defined.

4 Section 2. The amendment of section 16 of the act shall
5 apply to any subdivision and land development plan pending on or
6 after the effective date of this section.

7 Section 3. This act shall take effect immediately.