

**SURFACE MINING CONSERVATION AND RECLAMATION ACT - MINING PERMIT
AND BIOENERGY CROP BONDING**

Act of Jul. 5, 2012, P.L. 918, No. 95

Cl. 52

Session of 2012

No. 2012-95

HB 608

AN ACT

Amending the act of May 31, 1945 (P.L.1198, No.418), entitled, as amended, "An act providing for the conservation and improvement of land affected in connection with surface mining; regulating such mining; providing for the establishment of an Emergency Bond Fund for anthracite deep mine operators; and providing penalties," further providing for mining permit; providing for bioenergy crop bonding; and making editorial changes.

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

Section 1. The definitions of "department" and "secretary" in section 3 of the act of May 31, 1945 (P.L.1198, No.418), known as the Surface Mining Conservation and Reclamation Act, are amended to read:

Section 3. Definitions.--The following words and phrases, unless a different meaning is plainly required by the context, shall have the following meanings:

* * *

"Department" shall mean the Department of Environmental [Resources] **Protection** of the Commonwealth of Pennsylvania.

* * *

"Secretary" shall mean the Secretary of the Department of Environmental [Resources] **Protection** of the Commonwealth of Pennsylvania.

* * *

Section 2. Section 4(a)(2)C of the act, amended December 18, 1992 (P.L.1384, No.173), is amended to read:

Section 4. Mining Permit; Reclamation Plan; Bond.--(a) Before any person shall hereafter proceed to mine coal by the surface mining method, he shall apply to the department, on a form prepared and furnished by the department, for a permit for each separate operation. The department is authorized to charge and collect from persons a reasonable filing fee. Such fee shall not exceed the cost of reviewing, administering and enforcing such permit. As a part of each application for a permit, the operator shall, unless modified or waived by the department for cause, furnish the following:

* * *

(2) Reclamation Plan. A complete and detailed plan for the reclamation of the land affected. Except as otherwise herein provided, or unless a variance for cause is specially allowed by the department as herein provided, each such plan shall include the following:

* * *

C. A description of the manner in which the operation will segregate and conserve topsoil and if necessary suitable subsoil to establish on the areas proposed to be affected a diverse, effective, and permanent vegetative cover of the same seasonal variety native to the area of land to be affected and capable

of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area: Provided, however, That introduced species may be used in the revegetation process where desirable and necessary to achieve the approved post-mining land use plan: And provided further, That when the department issues a written finding approving a long-term, intensive, agricultural post-mining land use as part of the permit application, the department may grant an exception to the requirements of this clause. For areas previously disturbed by surface mining activities that were not reclaimed to the standards of this act, and are proposed for remining, the department may approve a vegetative cover which, at a minimum, shall not be less than the ground cover existing before redisturbance and shall be adequate to control erosion and achieve an approved post-mining land use. **To the extent consistent with this act, the department shall encourage and promote the use of switchgrass, camelina, canola and other bioenergy crops for the revegetation of lands affected by surface mining activities, and the land so used shall be considered to be cropland for post-mining land use purposes.**

* * *

Section 3. The act is amended by adding a section to read:

Section 4.14. Bioenergy Crop Bonding.--To the extent funds are available from the appropriation to the department under section 213 of the act of June 22, 2001 (P.L.979, No.6A), known as the "General Appropriation Act of 2001," for the conservation purpose of providing sum-certain financial guarantees needed to facilitate the implementation of full-cost bonding for a fee and, in the event of forfeiture, to finance reclamation of the forfeited surface mining site in an amount not to exceed the sum-certain guarantee, or to the extent funds are otherwise appropriated, the department shall make available at no cost to the surface mine permittee of a remining site that has revegetated the remining site with switchgrass, camelina, canola or other bioenergy crops sum-certain guarantees to cover Stage III reclamation liability for the remining site under the permittee's reclamation bond and, in the event of forfeiture, to finance reclamation of the forfeited surface mining site in an amount not to exceed the sum-certain guarantee.

Section 4. Section 18(a.1) of the act, amended May 22, 1996 (P.L.232, No.43), is amended to read:

Section 18. Surface Mining Conservation and Reclamation Fund; Remining Environmental Enhancement Fund; Remining Financial Assurance Fund; Department Authority for Awarding of Grants.--

* * *

(a.1) (1) There is hereby created a special fund in the State Treasury to be known as the "Remining Environmental Enhancement Fund." The [Secretary of Environmental Resources] **secretary** is authorized to transfer at the commencement of each fiscal year a total of one million dollars (\$1,000,000) into the Remining Environmental Enhancement Fund aggregated from the following sources:

(i) License and permit fees except reclamation fees paid to the department under this act pursuant to the department's alternate bonding program.

(ii) Fines and penalties collected under this act.

(iii) Fees, fines and penalties collected pursuant to section 315 of "The Clean Streams Law," including fines and penalties from mining operations collected under section 605 or other provisions of that act.

(iv) Fees, fines and penalties collected pursuant to the act of September 24, 1968 (P.L.1040, No.318), known as the "Coal Refuse Disposal Control Act."

(v) Fees, fines and penalties collected pursuant to the act of April 27, 1966 (1st Sp.Sess., P.L.31, No.1), known as "The Bituminous Mine Subsidence and Land Conservation Act," not including funds received pursuant to section 6(a) of that act.

(2) All moneys placed in the Remining Environmental Enhancement Fund and the interest it accrues are hereby appropriated upon authorization by the Governor to the department for the costs of operating a remining and reclamation incentive program, including designating areas suitable for reclamation by remining and establishing and operating a remining operator's assistance program, but not including a bond credit or financial guarantees program.

* * *

Section 5. Section 19 of the act, amended October 10, 1980 (P.L.835, No.155), is amended to read:

Section 19. Repealer.--All acts or provisions thereof inconsistent herewith are hereby repealed: Provided, however, That the act of Assembly, approved the eighteenth day of June, Anno Domini one thousand nine hundred forty-one (Pamphlet Laws, one hundred thirty-three), entitled "An act relating to coal stripping operations; providing for the health and safety of persons employed therein and for the inspection and regulation of such operations by the Department of Mines; requiring certain information and reports, and prescribing penalties," and the act of Assembly, approved on the twenty-fifth day of June, Anno Domini one thousand nine hundred thirty-seven (Pamphlet Laws, two thousand two hundred seventy-five), entitled "An act to promote safety for the traveling public on State highways; to extend the responsibility for subsidence of such highways by the failure of vertical and lateral support, and declaring said subsidence a public nuisance; to provide for inspection of mine maps by the Department of Highways, and the furnishing to said department of copies of such mine maps in certain cases; to authorize entry by the Department of Highways into mines in certain cases; and to provide for notices to the Department of Highways of certain mining operations under or adjacent to highways; and providing penalties," and all other acts and provisions thereof, which regulate the mining of bituminous coal shall not be repealed or nullified by this act, but shall remain in full force and effect. Nothing in this act shall be construed to abrogate or modify the power and jurisdiction of the [Department of Environmental Resources] **department** to make rules and regulations, and to administer the laws of the Commonwealth applicable to open pit mining.

Section 6. This act shall take effect in 60 days.

APPROVED--The 5th day of July, A.D. 2012.

TOM CORBETT