

No. 1986-171

## AN ACT

HB 1642

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; and providing penalties," further providing for reclamation plans; and providing for the establishment of an Emergency Bond Fund for anthracite deep mine operators.

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

Section 1. The title of the act of May 31, 1945 (P.L.1198, No.418), known as the Surface Mining Conservation and Reclamation Act, amended November 30, 1971 (P.L.554, No.147), is amended to read:

## 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.

Section 2. Section 4(a)(2)F of the act, amended October 12, 1984 (P.L.916, No.181), is amended to read:

Section 4. Mining Permit; Reclamation Plan; Bond.—(a) Before any person shall hereafter proceed to mine minerals 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:

\* \* \*

F. Except for permit applications based upon leases in existence on January 1, 1964 for bituminous coal surface mines, or leases in existence on January 1, 1972 for anthracite coal surface mining operations and all noncoal surface mining operations, [or leases in existence on October 20, 1980 for coal refuse disposal areas and surface effects of underground mines,] the application for a permit shall include, upon a form prepared and furnished by the department, the written consent of the landowner to entry upon any land to be affected by the operation by the operator and by the Commonwealth and any of its authorized agents prior to the initiation of

surface mining operations, during surface mining operations and for a period of five years after the operation is completed or abandoned for the purpose of reclamation, planting, and inspection or for the construction of any pollution abatement facilities as may be deemed necessary by the department for the purposes of this act. In the case of leases in existence in January 1, 1964, for bituminous coal surface mines, or leases in existence on January 1, 1972 for anthracite coal surface mining operations and all noncoal surface mining operations, **[or leases in existence on October 20, 1980 for coal refuse disposal areas and surface effects of underground mines,]** the application for permit shall include upon a form prescribed and furnished by the department, a notice of the existence of such lease and a description of the chain of title:

(i) Such forms shall be deemed to be recordable documents, and prior to the initiation of surface mining operations under the permit, such forms shall be recorded by the applicant at the office of the recorder of deeds in the county or counties in which the area to be affected under the permit is situate.

(ii) **The [form prepared and furnished by the department for the written consent of the landowner to entry upon land to be affected by the operation or as a notice of the existence of leases on January 1, 1964 for bituminous coal surface mines, leases existing on January 1, 1972 for anthracite coal surface mining operations and all noncoal surface mining leases in existence on October 20, 1980 for coal refuse disposal areas and surface effects of underground mines,] forms shall require the information and execution necessary to provide entry upon land to be affected by the operation without constraints pertaining to the assignability, transferability or duration of the consent except as provided for in this act. Furthermore, this form shall not be construed to alter or constrain the contractual agreements and rights of the parties thereto[.]:** *Provided, however, That, in the case of permit applications for coal refuse disposal areas, coal preparation facilities which are not situated on a surface mining permit area and the surface activities of underground mines, the applicant shall submit a description of the documents upon which the applicant bases the right to enter upon the surface land and conduct mining activities. During the mining activities and for a period of five (5) years after completion or abandonment of the mining and reclamation activities, the department shall have access to permitted surface facilities and lands for the purpose of reclamation, planting and inspection or for the construction of pollution-abatement facilities deemed necessary by the department for the purposes of this act. If a landowner fails or refuses to comply with an order issued under this section, the landowner shall be liable for reasonable legal expenses incurred by the department in enforcing the order. For purposes of this section, "landowner" includes a person holding title to or having a proprietary interest in either surface or subsurface rights. Compliance with this section shall satisfy the requirements of subsection (g) of section 315 of the act of June 22, 1937 (P.L.1987, No.394), known as "The Clean Streams Law," and subsection (m) of section 5 of the act of September 24, 1968 (P.L.1040, No.318), known as the "Coal Refuse Disposal Control Act."*

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

**Section 4.7. Anthracite Deep Mine Operators Emergency Bond Fund.—**

**(a) Within thirty (30) days of the effective date of this section, the department shall establish an Emergency Bond Fund for the purpose of reclaiming any anthracite deep mined lands which may be abandoned after the effective date of this section and on which the bond required by law and established by regulation has not been posted due to circumstances set forth in subsection (d).**

**(b) The department shall collect from the following classes of licensed anthracite deep mine operators a fee of twenty-five cents (25¢) for each ton of coal extracted from mining operations for which the required bond has not been posted due to the circumstances set forth in subsection (a):**

**(1) Licensed anthracite deep mine operators who submit to the department three letters of rejection from three separate bonding companies licensed to do business in this Commonwealth, stating that the operator has been denied a bond and the grounds for rejection.**

**(2) Licensed anthracite deep mine operators whose bonds are canceled due to the insolvency or bankruptcy of any insurance company or surety company licensed to do business in this Commonwealth.**

**(c) The department shall deposit appropriations and the moneys collected into the Emergency Bond Fund. The department may establish such recordkeeping and reporting requirements as may be necessary for the purpose of implementing this section. Each operator affected by this section shall remit the fees to the department within forty-five (45) days following the sale of the tonnage on which the fee has been levied. The collection and deposit of the fees shall continue until the fund has reached a level that equals the number of acres for which no bond has been posted multiplied by the per-acre bonding requirement as established by rules and regulations of the department.**

**(d) If the bonds of any anthracite deep mine operator are canceled due to the insolvency or bankruptcy of any insurance company or surety company authorized to do business in this Commonwealth, and if replacement bonds from any other company are unavailable to the operator, even though the operator possesses sufficient financial resources to otherwise qualify for a bond, or if the operator has received the letters of rejection provided for in subsection (b), the operator shall so notify the department in writing. Notice to the department in the case of an operator who has received the letters of rejection provided for in subsection (b) shall contain the letters of rejection and such other information as the Environmental Quality Board may, by regulation, prescribe. In lieu of a bond, the operator's reclamation obligation for each site for which a permit has been applied shall be secured by the Emergency Bond Fund provided for in subsection (a) until such time as the site has been reclaimed or until an original or replacement bond, as the case may be, has been obtained by the operator: Provided, however, That no permit shall be issued under this subsection unless the operator has filed with the department a minimum payment of one thousand dollars (\$1,000)**

*toward the bond obligation and borrowed the remaining balances from the Emergency Bond Fund to cover the bond amounts for the entire permit area, as required by law. At such time as the operator has satisfied a reclamation obligation secured by the fund provided for in section 1, the department shall release to the operator the fees collected, in whole or in part, according to the bond release schedule provided for by regulation. Any operator whose bond obligation is met by this section and whose permit application has been approved shall, throughout the term of the permit, undertake all reasonable actions to obtain an original or replacement bond, as the case may be, for said site.*

*(e) The Environmental Quality Board may adopt regulations which require the operator to demonstrate, from time to time, that he has made such reasonable attempts to obtain an original or replacement bond.*

*(f) In collecting the fees provided for and in securing reclamation obligations, the department shall maintain a separate record for each operator. The fees paid by an operator may be used only to secure the reclamation obligations of the operator.*

*(g) The sum of fifty thousand dollars (\$50,000) is hereby appropriated to the department for immediate deposit into the Emergency Bond Fund to provide the necessary funds for loans to qualified anthracite deep mine operators to provide the required bonds to obtain mining permits.*

Section 4. This act shall take effect immediately.

APPROVED—The 12th day of December, A. D. 1986.

DICK THORNBURGH