Final Rulemaking
25 Pa. Code Chapters 77, 86, 87, 88, 89, 90, and 211

Land Reclamation Financial Guarantees and Bioenergy Crop Bonding

Environmental Quality Board Meeting
April 21, 2015
Purpose of Final Rulemaking

- Implements Act 95 of 2012 (Bioenergy Crop Bonding)
- Implements Act 157 of 2012 (Land Reclamation Financial Guarantees)
- Corrects Citations
Established Bioenergy Crop Bonding Incentive

Sites must:

- Include remining
- Be revegetated with Bioenergy Crops
- Have Stage 2 bond released
In 2001, Pennsylvania converted from an Alternate Bonding System (ABS) to full-cost bonding. Conversion assistance was provided.

ABS Legacy consists of about 100 post-mining discharges which require treatment which is funded through the Reclamation Fee O & M Account.

The Reclamation Fee O & M Account is funded by a variety of funding sources.
• Established Land Reclamation Financial Guarantees program

• Provides a process for Gross Receipts Tax Transfer to Reclamation Fee O & M Account
Act 157

• The Land Reclamation Financial Guarantee program relies on funds appropriated in 2001 to support the conversion from an alternate bonding system to full-cost bonding ($7 M) and the money paid by mine operators ($5 M+)

• The regulations will incorporate existing financial guarantees (~$20 M)
Act 157 appended section 19.2 to the end of the Surface Mining Reclamation and Conservation Act, so the citations to it were revised.

Other citation errors were identified and corrected.
• Act 95 Enacted                                                                 July 5, 2012
• Act 157 Enacted                                                               October 24, 2012
• MRAB RLT Committee Meetings                                                 Jan-Sept 2013
• MRAB recommendation                                                           October 24, 2013
• EQB Proposed Rulemaking Approved                                              July 15, 2014
• PA Bulletin Proposed Rulemaking                                               October 25, 2014
• End of Public Comment Period                                                  November 24, 2014
• End of IRRC Comment Period                                                    December 24, 2014
Public Comments/Responses

• Three public commentators.
• Two commentators urged swift passage in order to assist coal mine operators.
  o The Department has proceeded as quickly as possible.
• One commentator suggested that the regulations be changed to allow other bond to be released before the financial guarantees.
  o No change based on this suggestion in order to minimize the risk and assure the long-term viability of the LRFG program.
• One commentator noted that the language over-emphasized the efforts to minimize the per-acre reclamation fee.
  o Revised the language of section 86.17 to specifically require the information needed by the MRAB regarding the projections for the reclamation fee so other potential sources of money can be identified.
The language could have the practical effect of eliminating the reclamation fee as an important revenue source for the ABS Legacy.

- The language was revised to delete the reference to “increase” of the reclamation fee.
IRRC Comments

- IRRC recommended that section 86.162b (f)(3) be revised to include the statutory language.
  - This section has been revised to incorporate the statutory language.

- IRRC suggested that section 86.162b(m)(2) be revised to specify that the payment schedule be in writing.
  - This suggested revision has been included in the final-form rulemaking.
IRRC Comments

• IRRC also commented that section 86.162b (k)(3) is not clear with respect to what a coal mine operator must demonstrate.
  o This section has been revised to include that the demonstration may be done if the operator has not been subject to any notices of violation under section 86.165 for failing to maintain a proper bond based on late payments. This revision necessitated an accompanying revision to section 86.165.
DEP recommends that the board approve the final-form regulation for the land reclamation financial guarantees and bioenergy crop bonding.
John Stefanko
Deputy Secretary for
Active and Abandoned Mine Operations

Tom Callaghan
Director, Bureau of Mining Programs

Joseph Iole
Bureau of Regulatory Counsel