



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION



Bureau of Mining Programs

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

Act 95

Established Bioenergy Crop Bonding Incentive

Sites must:

- Include re-mining
- Be revegetated with Bioenergy Crops
- Have Stage 2 bond released

Context for Act 157

- 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

Act 157

- 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)

Citation Corrections

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.

Regulatory Timeline

- 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.
 - 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.
 - No change based on this suggestion in order to minimize the risk and assure the long-term viability of the LRFG program.

Public Comment/Responses

- One commentator noted that the language over-emphasized the efforts to minimize the per-acre reclamation fee.
 - 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.

IRRC Comments

- 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.
 - 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.

▶ Recommendation

DEP recommends that the board approve the final-form regulation for the land reclamation financial guarantees and bioenergy crop bonding.



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Bureau of Mining Programs

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