

## **General Permit for Reclamation of Forfeited Non-Coal Mines**

### **BMR-GP-106**

**Revised June 2017**

#### *Description*

This general permit is for use by eligible persons for the extraction of noncoal minerals in order facilitate the reclamation of sites that have previously been forfeited prior to reclamation. The duration of the reclamation project may not exceed 2 years. The maximum area that a project may affect under this general permit is 5 acres (2.02 hectares).

This general permit is only valid for licensed mine operators who have submitted an administratively complete and acceptable registration application that has been approved in writing by the Department. A separate NPDES permit may be needed.

Persons conducting noncoal mining activities under this general permit shall implement erosion and sedimentation controls in accordance with the requirements of 25 Pa. Code Chapter 102 and shall implement the reclamation and revegetation requirements of this general permit. A full-cost reclamation bond will be required.

The Department may amend, deny, revoke or suspend an authorization to use this general permit for any project which the Department determines is likely to have an adverse effect on public health, safety, welfare or the environment, or otherwise would not be adequately regulated by the provisions of this general permit.

#### *Registration to Use the General Permit*

Prior to submitting the application to seek authorization to operate under this general permit, the operator shall request a meeting be set up by the DMO to review the site and the plans for reclamation. This meeting will allow DMO staff and the operator (or their consultant) to fully understand the proposed operations at the reclamation site. The DMO will provide information as to the forfeited permit including: acreage, bond amounts, landowner information, and any other conditions previously enacted or discovered during the previous operation. The operator will outline their proposed plan of operations at this meeting.

Persons seeking authorization to operate under this general permit must file a registration application. The Department will provide the applicant with written notification within 30 days of receipt of an application of approval/disapproval, a request for additional information or a bond request. No person can operate under this general permit until they have received the Department's written approval of their registration application. When the registration application is submitted to the Department, the applicant shall notify the municipality in which the activities will be located by registered mail that they intend to conduct activities under the general permit. The Department will notify the municipality and the county conservation district of its decision to approve or disapprove a registration application. The Department will also publish a notice in the *Pennsylvania Bulletin* of its decision to approve a registration application.

## *General Permit*

1. *Authorization*--The Department of Environmental Protection hereby authorizes, by general permit, subject to the terms, conditions and criteria set forth as follows, the extraction of noncoal minerals in order facilitate the reclamation of sites that have previously been forfeited prior to reclamation. The total area to be affected by the noncoal mining activities, excluding haul roads, cannot exceed 5 acres (2.02 hectares) or the previously affected acreage, whichever is less. The duration of the reclamation project cannot exceed 2 years. No blasting activities may take place on the permit unless they are specifically authorized under a separate Blasting Activity Permit issued pursuant to Chapter 211. No mining activity conducted under this general permit may adversely affect public or private water supplies, public utilities, other infrastructure or encounter the regional groundwater table.

2. *Standards*--This General Permit sets forth the standards to comply with Subchapters C, D, G, H and I of 25 Pa. Code Chapter 77. To the extent that the provisions of these subchapters are not addressed in this General Permit, the requirements of the Noncoal Surface Mining Conservation and Reclamation Act and 25 Pa. Code Chapter 77 apply.

3. *Effective Time Period*--The authorization to use this general permit for the extraction of noncoal minerals in order facilitate the reclamation of sites that have previously been forfeited prior to reclamation shall expire 2 years after the surface mining activities have commenced.

4. *Fees*--The fee required for obtaining authorization under this general permit is \$725.

5. *Registration to Use General Permit*--Prior to beginning surface mining activities under this general permit, the operator shall submit a registration application along with the required documentation to the appropriate District Mining Office. The applicant must demonstrate in the registration application that the activities conducted under this general permit will comply with the general permit and the applicable provisions of the Noncoal Surface Mining Conservation and Reclamation Act and the applicable Department regulations. No person is authorized to operate under this general permit until they have received the Department's written approval of their registration application.

6. *Public Notice*--The requirements under 25 Pa. Code § 77.121 (relating to public notices of filing permit applications) are waived for sites operating under this general permit. At the time of application for registration, the operator shall notify, by registered mail, the city, borough, incorporated town or township in which the activities are located that they intend to register the site under this general permit. The Department will notify the city, borough, incorporated town or township and the county conservation district of its decision to approve or disapprove the registration application. The notification shall include a copy of the appropriate part of the U.S.G.S. topographic map identifying the location of the mine site. The Department will also publish a notice in the *Pennsylvania Bulletin* of its decision to approve a registration application.

7. *Documentation of Use*--The registration application must contain documentation that the extraction of noncoal minerals under this general permit will facilitate the reclamation of the forfeited operation. This documentation must include a statement from the District Mining Office that has jurisdiction over the area in which the operation will take place. This statement must indicate that the DMO has reviewed the plan and concurs that reclamation can be achieved based on the plan submitted with the application.

8. *Limitations*--The material removed under this general permit must facilitate the reclamation of the forfeited site.

The distance limitations of 25 Pa. Code § 77.504 (relating to distance limitations) apply to activities conducted under this general permit. Waivers to the distance limitations on this general permit will be limited to situations where waivers are granted by building owners, waivers on haul roads to prevent a site from becoming landlocked or an encroachment authorized under a general permit issued under Chapter 105.

9. *Contract Miners*--A person other than the applicant, including an independent subcontractor, may operate on the site provided they comply with the approved general permit authorization and are approved by the Department prior to engaging in surface mining operations. The contract miner will be approved if they have demonstrated compliance with 25 Pa. Code § 77.126(6)--(9) (relating to criteria for permit approval or denial). The person is jointly and severally liable with the permittee for any violations of the act that the permittee is charged with and in which the person participates.

10. *Enforcement*--The permittee's failure to comply with the laws of the Commonwealth and the rules and regulations of the Department regarding noncoal surface mining activities, or failure to comply with the terms and conditions of this permit, may result in an enforcement action, in permit termination, suspension, revocation and reissuance, or modification. Nothing in this permit shall be construed to preclude the institution of any legal action or to relieve the permittee from any responsibilities, liabilities or penalties to which the permittee is or may be subject to under the Acts under which this permit is issued or any other applicable provisions of law. When an operator is having difficulty complying with the general permit, the Department may suspend the authorization to operate and require the operator to obtain an individual permit.

11. *Bonding Requirements*--The amount of the bond shall be calculated based upon the full-cost of reclamation, with a \$5,000 minimum bond to be posted on a site. The bond must be submitted to the Department and approved prior to the approval to conduct mining activities under this general permit. Once a bond amount is determined to cover the full cost of reclamation, credit will be given the amount of bond that the Department holds in forfeiture from the previous operations. The operator will be required to post the difference between the full cost of reclamation and the amount held in forfeiture.

12. *Erosion and Sedimentation Controls*--The activities conducted under this general permit must comply with 25 Pa. Code Chapter 102. An erosion and sedimentation control plan must be submitted as part of the registration.

13. *Processing of Material*--The processing allowed on sites covered by this general permit includes wet sand and gravel screening operations, dry sand and gravel operations processing of less than 150 tons per hour (136.05 metric tons/hour) of unconsolidated materials or other processing authorized under a Department Bureau of Air Quality general permit or waiver. The processing of material must be approved as a part of the registration.

14. *Reclamation*--In general, the requirements of 25 Pa. Code § 77.595 (relating to concurrent reclamation) are applicable to operations authorized by this general permit. If the applicant intends to use the reclamation plan described below and one of the seed mixtures specified in the registration form, a separate reclamation plan is not required. If the applicant intends to use alternative reclamation procedures or seed mixtures, the registration application must contain a reclamation and/or revegetation plan.

Sites must be reclaimed so that no slopes will exceed 35 degrees and the site will have positive drainage and will not pond water. No excavation of material can occur within 25 feet (7.62 meters) of the property line unless approved by the Department. The top 12 inches (0.30 meter) of soil material shall be saved and redistributed evenly across the site as required under 25 Pa. Code §§ 77.512--514 (relating to removal, storage, and redistribution). Lime and fertilizer will be applied in accordance with a soil test. The site will be seeded and mulch (hay or straw) will be applied at a minimum rate of 2.5 to 3 tons/acre (0.92--1.10 metric tons/hectare). Revegetation shall be completed no later than the end of the first growing season, as defined under 25 Pa. Code § 77.612 (relating to timing), after the mineral extraction and regrading is completed.

15. *Bond Release*--The operator will notify the affected landowner of the request for bond release by certified letter. A copy of the certified letter and return receipt must be included with the request for bond release. The affected landowner will have 30 days to notify the Department of any concerns they have about the reclamation.

Sites revegetated with grasses will be monitored by the operator for at least 1 year from the date of initial planting. Sites revegetated with trees will be monitored by the operator for two growing seasons (Spring and Fall). The bond posted for the site will be released after the monitoring period has elapsed and the revegetation has met the requirements of 25 Pa. Code § 77.618 (relating to standards for successful revegetation).

16. No condition of this general permit shall release the permittee from any responsibility or requirement under other applicable Federal or Pennsylvania statutes or regulations or local ordinances. This permit does not include authorization under Chapter 92 or 92a (relating to NPDES). A separate individual or general permit for NPDES may be required.

*17. Conditions for Operating Under the General Permit--*

a. Any modifications to erosion and sedimentation control facilities necessary to meet the terms and conditions of this permit require prior written approval.

b. The permittee shall conduct all surface mining activities as described in the approved registration of the mining activities under the general permit and all supporting documents which are incorporated herein by reference. Where there is a conflict between the application and the supporting documentation and the terms and conditions of this permit, the terms and conditions of this permit shall supersede any conflicting provisions of the application and supporting documents or revisions to the application.

c. As a condition of this permit and of the permittee's authority to conduct the activities authorized by this permit, the permittee hereby authorizes and consents to allow authorized employees or agents of the Department, without advanced notice or a search warrant, upon presentation of appropriate credentials, and without delay, to have access and to inspect all areas on which surface mining activities are being or will be conducted. The authorization and consent shall include consent to collect samples, to take photographs, to perform measurements, surveys and other tests, to inspect any monitoring equipment, to inspect the methods of operation and to inspect and/or copy documents required by the Department to be maintained.

d. The issuance of this authorization to conduct surface mining activities under a general permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights.