

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE I. LAND RESOURCES

CHAPTER 77. NONCOAL MINING

Subchapter A. GENERAL PROVISIONS

§ 77.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

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Environmental acts—The term includes the following:

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(vi) The Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—~~1396.31~~ **1396.19b**).

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Subchapter C. PERMITS AND PERMIT APPLICATIONS

**REVIEW, PUBLIC PARTICIPATION, ITEMS AND CONDITIONS OF
PERMIT APPLICATIONS**

§ 77.126. Criteria for permit approval or denial.

(a) A permit, permit renewal or revised permit application will not be approved, unless the application affirmatively demonstrates and the Department finds in writing, on the basis of the information in the application or from information otherwise available, that the following apply:

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(6) The applicant or related party, as indicated by past or continuing violations, has not shown a lack of ability or intention to comply with the act or the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—[1396.31] 1396.19b).

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Subchapter D. BONDING AND INSURANCE REQUIREMENTS

BOND FORFEITURE

§ 77.254. Preservation of remedies.

(a) Remedies provided in law for violation of the act, the Surface Mining **Conservation** and Reclamation Act (52 P. S. §§ 1396.1—[1396.31] 1396.19b), The Clean Streams Law (35 P. S. §§ 691.1—691.1001), the Air Pollution Control Act (35 P. S. §§ 4001—4015), [the act of June 25, 1913 (P. L. 555, No. 355), known as The Water Obstructions Law (32 P. S. §§ 681—691) (Repealed)] the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66), [the Pennsylvania Solid Waste Management Act (Repealed) (35 P. S. §§ 6001—6017)] the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21), regulations thereunder or the conditions of the permits, are expressly preserved.

(b) Nothing in this subchapter is an exclusive penalty or remedy for violations of law. Action taken under this subchapter does not waive or impair other remedies or penalties provided in law.

CHAPTER 86. SURFACE AND UNDERGROUND COAL MINING: GENERAL

Subchapter A. GENERAL PROVISIONS

§ 86.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

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Acts—Include the following:

(i) The Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—[1396.31a] 1396.19b).

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§ 86.6. Extraction of coal incidental to government-financed construction or government-financed reclamation projects.

(a) Extraction of coal incidental to government-financed construction or government-financed reclamation projects is exempt from the permitting requirements of the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—[1396.19a] 1396.19b) and this chapter as it relates to surface mining activities and operations, and Chapters 87 and 88 (relating to surface mining of coal; and anthracite coal) if the following conditions are met:

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Subchapter B. PERMITS

GENERAL REQUIREMENTS FOR PERMITS AND PERMIT APPLICATIONS

§ 86.12. Continued operation under interim permits.

(a) A person conducting coal mining activities under a permit issued in accordance with Chapter 13 (relating to compliance with the Surface Mining Control and Reclamation Act of 1977), who has filed an application for permit under § 86.14(a) (relating to permit application filing deadlines) for which the Department has not rendered a decision may conduct these activities under the permit beyond the period prescribed in § 86.11(c) (relating to general requirements for permits) if:

(1) A timely and complete application for a permit has been made to the Department under this chapter.

(2) The Department has not yet rendered an initial administrative decision with respect to the application.

(3) The operations are conducted in compliance with terms and conditions of the permit, Chapter 13, the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—[1396.25] 1396.19b), the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66), [the] The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21), the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and the Air Pollution Control Act (35 P. S. §§ 4001—4015).

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§ 86.17. Permit and reclamation fees.

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(e) In addition to the bond established under §§ 86.143, 86.145, 86.149 and 86.150 and subject to the exception provided for in § 86.283(c) (relating to procedures), the applicant for a permit or a permit amendment shall pay a per acre reclamation fee for surface mining activities except for the surface effects of underground mining. This reclamation fee will be assessed for each acre of the approved operational area and shall be paid by the applicant prior to the Department's issuance of a surface mining permit. If a permit amendment results in an increase in the approved operational area, the reclamation fee will be assessed on the increased acreage and shall be paid by the operator prior to the Department's issuance of the permit amendment.

(1) The reclamation fee will be deposited into a separate subaccount within the Surface Mining Conservation and Reclamation Fund called the Reclamation Fee O&M Trust Account, as a supplement to bonds forfeited from ABS Legacy Sites. The reclamation fee will be used by the Department to pay the construction costs and operation and maintenance costs associated with treating postmining polluttional discharges at ABS Legacy Sites, and the moneys may not be used for any other purpose. The interest earned on the moneys in the Reclamation Fee O&M Trust Account will be deposited into the Reclamation Fee O&M Trust Account and will be used by the Department to pay the construction costs and operation and maintenance costs associated with treating postmining polluttional discharges at ABS Legacy Sites. The interest may not be used for any other purpose. For purposes of this section, operation and maintenance costs include recapitalization costs.

(2) After the end of each fiscal year, the Department will prepare a fiscal-year report containing a financial analysis of the revenue and expenditures of the Reclamation Fee O&M Trust Account for the past fiscal year and the projected revenues and expenditures for the current fiscal year. **[Beginning with the report for fiscal year 2008-09, the] The report will include the Department's calculation of the required amount of the reclamation fee, [and] the proposed adjustment of the reclamation fee amount and information necessary for determining the need to supplement the funding of the Reclamation Fee O&M Trust Account, INCLUDING AN ESTIMATE OF THE RECLAMATION FEE FOR THE CALENDAR YEAR IMMEDIATELY FOLLOWING THE CURRENT FISCAL YEAR. The need to supplement the funding of the Reclamation Fee O&M Trust Account will be based on the need to [OFFSET AN INCREASE IN THE RECLAMATION FEE AND THE NEED TO] provide for long-term operations at ABS Legacy Sites.** The fiscal-year report will be submitted to the members of the Mining and Reclamation Advisory Board for their review and comment and will be published on the Department's web site. Notice of the report's availability will be published in the *Pennsylvania Bulletin*. The Department will review the fiscal-year report at a meeting of the Mining and Reclamation Advisory Board.

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Subchapter D. AREAS UNSUITABLE FOR MINING

CRITERIA AND PROCEDURES FOR DESIGNATING AREAS AS UNSUITABLE FOR SURFACE MINING

§ 86.121. Areas exempt from designation as unsuitable for surface mining operations.

This section and §§ 86.122—86.129 do not apply to areas on which:

(1) Surface mining operations were being conducted on August 3, 1977.

(2) Surface mining operations have been authorized by a valid permit issued under **[The] the** Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—**[1396.19a] 1396.19b**), the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66), The Clean Streams Law (35 P. S. §§ 691.1—691.1001) or The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21).

(3) A person establishes that substantial legal and financial commitments in surface mining operations were in existence prior to January 4, 1977.

Subchapter F. BONDING AND INSURANCE REQUIREMENTS

FORM, TERMS AND CONDITIONS OF BONDS AND INSURANCE

§ 86.155. Scope.

This section and §§ 86.156—**[86.162a] 86.162c** and 86.165—86.168 establish the minimum standards for the form of the bond for mining and reclamation activities, and the terms and conditions applicable to bonds and liability insurance.

§ 86.159. Self-bonding.

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(k) The self-bond shall be in a form prepared and approved by the Department and may contain special conditions as the Department may require to assure the Commonwealth's interests are fully protected. The self-bond, in addition to another term or condition of forfeiture contained in a bond required by this subchapter, shall contain the following terms and conditions:

(1) The self-bond will be forfeited if either of the following occur:

(i) Ninety days after the Department is informed by or determines that the applicant is no longer eligible to self-bond and within the 90-day period the applicant fails to submit to the Department acceptable security as provided for in this subchapter to cover its self-bonded liability.

(ii) Within 90 days of the issuance of an order to abate conditions at a site covered by a self-bond which constitutes either an actual or potential risk of harm to the environment, the applicant

fails to, except as provided for in § 86.211 (relating to enforcement-general), comply with the order or fails to submit to the Department acceptable security as provided for in this subchapter in an amount equal to the self-bonded liability.

(2) Liability under the self-bond shall be conditioned on:

(i) The applicant faithfully performing the following requirements:

(A) The Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—~~[1396.31]~~ **1396.19b**).

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(Editor's Note: Sections 86.162b and 86.162c are new and printed in regular type to enhance readability.)

§ 86.162b. Land Reclamation Financial Guarantees.

(a) The Department will designate funds in the Land Reclamation Financial Guarantee Account to underwrite Land Reclamation Financial Guarantees.

(b) The funds in the Land Reclamation Financial Guarantee Account will be used to cover obligations for all existing sum-certain financial guarantees needed to facilitate the implementation of full-cost bonding previously issued by the Department.

(c) The Department may issue Land Reclamation Financial Guarantees to financially assure the bonding obligations of qualified surface coal mining operators engaged in surface mining activities under § 86.143 (relating to requirement to file a bond).

(d) The Department will hold in reserve in the Land Reclamation Financial Guarantee Account funds that are not designated to underwrite Land Reclamation Financial Guarantees.

(e) The Department will use funds held in reserve in the Land Reclamation Financial Guarantee Account to:

(1) Assure the availability of funds to cover reclamation liabilities when there is a mine operator bond forfeiture under § 86.181 (relating to general).

(2) Underwrite sum-certain financial guarantees available under Bioenergy Crop Bonding implemented by § 86.162c (relating to Bioenergy Crop Bonding).

(3) Transfer funds available in the Land Reclamation Financial Guarantee Account to the Reclamation Fee O&M Trust Account.

(f) In administering the Land Reclamation Financial Guarantee Account, the Department will not issue:

(1) Land Reclamation Financial Guarantees for a permit in excess of 50% of the required bond amount for that permit, which is the Permit Limit.

(2) Additional Land Reclamation Financial Guarantees to a surface mining operator in excess of the Operator Limit, which is exceeded if the aggregate amount of Land Reclamation Financial Guarantees on permits issued to the operator exceeds 30% of the designated amount in the Land Reclamation Financial Guarantee Account.

(3) Additional Land Reclamation Financial Guarantees in excess of the Program Limit, which is exceeded when the aggregate amount of outstanding Land Reclamation Financial Guarantees is greater than the current designated amount in the Land Reclamation Financial Guarantee Account divided by the historical rate of mine operator bond forfeiture under § 86.181, plus a **REASONABLE** margin of safety **TO PROTECT THE ACCOUNT FROM RISK OF FORFEITURE AS** determined by the Department.

(g) Any existing sum-certain financial guarantee needed to facilitate the implementation of full-cost bonding previously issued by the Department shall be converted into a Land Reclamation Financial Guarantee subject to the following:

(1) If the conversion results in a Land Reclamation Financial Guarantee exceeding the Permit Limit established in subsection (f)(1), the Land Reclamation Financial Guarantee amount does not need to be reduced, but the permit will not be eligible for additional Land Reclamation Financial Guarantees until the total amount of the Land Reclamation Financial Guarantees for the permit is under the Permit Limit.

(2) If the conversion results in a Land Reclamation Financial Guarantee for an operator exceeding the Operator Limit established in subsection (f)(2), the Land Reclamation Financial Guarantee does not need to be reduced, but the operator will not be eligible for additional Land Reclamation Financial Guarantees until the total amount of the Land Reclamation Financial Guarantees for the operator is under the Operator Limit.

(h) The Department will periodically, but no less frequently than every 5 years, or upon request by the Mining and Reclamation Advisory Board, prepare a report containing a financial analysis of the revenue and expenditures for the Land Reclamation Financial Guarantee Account.

(1) The report will evaluate the Permit Limit, the Operator Limit, the Program Limit and the annual payment percentage rate referenced in subsection (m)(1) for Land Reclamation Financial Guarantees.

(2) The report will be submitted to the members of the Mining and Reclamation Advisory Board for their review and advice.

(3) The report will be published on the Department's web site.

(4) Notice of availability of the report will be published in the *Pennsylvania Bulletin*.

(5) The Department will review the report at a public meeting of the Mining and Reclamation Advisory Board.

(6) If the Department's review of the report at a public meeting of the Mining and Reclamation Advisory Board results in a change to the Permit Limit, the Operator Limit, the Program Limit or the annual payment percentage rate, the Department will publish a notice of the changes in the *Pennsylvania Bulletin*.

(7) Changes to the Permit Limit, the Operator Limit, the Program Limit or the annual payment percentage rate will become effective upon publication in the *Pennsylvania Bulletin*.

(i) The Department may transfer interest earned and payments collected and deposited in the Land Reclamation Financial Guarantee Account into the Reclamation Fee O&M Trust Account established under §§ 86.17 and 86.187 (relating to permit and reclamation fees; and use of money) to supplement the funding of the Reclamation Fee O&M Trust Account consistent with section 19.2(b)(5) and (6) of the Surface Mining Conservation and Reclamation Act (52 P. S. § 1396.19b(b)(5) and (6)).

(j) The Department will provide information about any proposed transfer to the Reclamation Fee O&M Trust Account to the Mining and Reclamation Advisory Board and solicit advice from Mining and Reclamation Advisory Board before making the transfer.

(k) To be eligible for a Land Reclamation Financial Guarantee, a surface coal mining operator shall demonstrate the following:

(1) The mine operator holds a valid coal mining license issued under section 3.1 of the Surface Mining Conservation and Reclamation Act (52 P. S. § 1396.3a).

(2) The mine operator, a related party, a person who owns or controls the operator, or a person who is owned or controlled by the operator satisfies the requirements of § 86.37(a)(8)—(11) and (16) (relating to criteria for permit approval or denial).

(3) For a mine operator that has previously obtained a remining financial guarantee under section 4.12 of the Surface Mining Conservation and Reclamation Act (52 P. S. § 1396.41) or a Land Reclamation Financial Guarantee that has **[MET ITS RECLAMATION OBLIGATIONS AND]**made timely payments for the remining financial guarantee program or **[HAS MADE TIMELY PAYMENTS]** for Land Reclamation Financial Guarantees. **AN OPERATOR WILL BE ELIGIBLE UNDER THIS SUBSECTION IF THEY HAVE NOT BEEN CITED THROUGH A NOTICE OF VIOLATION UNDER §86.165(a) (RELATING TO FAILURE TO MAINTAIN A PROPER BOND) WITHIN THE PREVIOUS THREE YEARS PRIOR TO THEIR REQUEST FOR A LAND RECLAMATION FINANCIAL GUARANTEE.**

(4) For operators that have not previously obtained a remining financial guarantee under section 4.12 of the Surface Mining Conservation and Reclamation Act or a Land Reclamation Financial Guarantee, the operator shall demonstrate appropriate experience in surface coal

mining and reclamation by showing that it has had a coal mining license under section 3.1 of the Surface Mining Conservation and Reclamation Act for at least 5 years and that the operator would be able to obtain a surety bond otherwise required under this chapter by submitting either of the following:

(i) A surety bond for a portion of the remaining reclamation liability for the proposed site.

(ii) A letter of acceptance from a surety company licensed to do business in this Commonwealth and which writes bonds for the reclamation of mine sites located in this Commonwealth. The acceptance letter must indicate the complete name and address of the surety company and state that the surety company would write the bond.

(l) An application for a Land Reclamation Financial Guarantee must include a description of:

(1) The environmental and safety hazards of the site for which a guarantee is proposed.

(2) The availability of coal reserves at the site.

(3) Any prior denials of surety coverage.

(m) Obtaining a Land Reclamation Financial Guarantee is subject to the following:

(1) A mine operator shall make annual payments to the Department at a rate of 1.5% of the total amount of the Land Reclamation Financial Guarantee.

(2) The first annual payment is due upon the operator's receipt of notice of the Department's approval of the operator's application to obtain a Land Reclamation Financial Guarantee. Payments shall be made annually thereafter concurrent with the permit anniversary date or in accordance with a schedule [**determined**] **PROVIDED** by the Department **IN WRITING**.

(3) The operator is responsible for making the annual payment as calculated by the Department until the amount of the bond is reduced or released in accordance with §§ 86.170—86.172 (relating to scope; procedures for seeking release of bond; and criteria for release of bond).

(4) Payments are not refundable and will be deposited into the Land Reclamation Financial Guarantee Account to be used in the event of mine operator bond forfeiture. Excess payments may be transferred by the Department to the Reclamation Fee O&M Trust Account consistent with section 19.2(b)(6) of the Surface Mining Conservation and Reclamation Act.

(5) The operator may not substitute Land Reclamation Financial Guarantees for existing collateral or surety bonds.

(n) The Department may, after soliciting advice from the Mining and Reclamation Advisory Board and publication in the *Pennsylvania Bulletin*, adjust the annual payment percentage rate

referred to in subsection (m)(1) to assure financial stability of the Land Reclamation Financial Guarantee Account and to cover the Department's costs to administer the guarantees.

(o) The Department will reduce or release an obligation covered by a Land Reclamation Financial Guarantee prior to any other bond submitted by the operator to cover the reclamation obligations of a permit, except that remaining financial guarantees issued under section 4.12 of the Surface Mining Conservation and Reclamation Act will be released before Land Reclamation Financial Guarantees.

(p) If a post-mining pollutorial discharge develops on a permit for which a Land Reclamation Financial Guarantee has been obtained, the operator shall, within 90 days of receipt of written notice by the Department, provide to the Department a separate bond or alternative financial assurance mechanism to cover the long-term treatment costs associated with the discharge or replace the Land Reclamation Financial Guarantee with other types of financial assurance mechanisms authorized for the purpose of covering the costs of treating the discharge.

(q) Upon mine operator bond forfeiture under § 86.181, the Department will declare forfeit the specified amount of the Land Reclamation Financial Guarantee for the permit in the Land Reclamation Financial Guarantee Account in addition to other bonds posted by the operator to cover the reclamation obligation on the permit.

(r) The Department's declaration of forfeiture under § 86.181 may not discharge an operator's obligation to meet the requirements of this chapter or other requirements under the Surface Mining Conservation and Reclamation Act.

(s) Upon declaration of forfeiture, the Department will use the bond money posted by the operator, the specified amount of the Land Reclamation Financial Guarantee, and any other financial assurance mechanisms to complete the reclamation of the mine site in accordance with the procedures and criteria in § 86.187 and §§ 86.188—86.190 (relating to evaluation of bond forfeiture sites; reclamation of bond forfeiture sites; and sites where reclamation is unreasonable, unnecessary or impossible; excess funds).

(t) The Department may suspend the issuance of Land Reclamation Financial Guarantees upon notice in the *Pennsylvania Bulletin* when the number of participating permits declared forfeit under this section equals the number of participating permits multiplied by the historical rate of mine operator bond forfeiture plus a margin of safety. Issuance of Land Reclamation Financial Guarantees may resume after the Department conducts an evaluation which demonstrates that adequate funding is available. The Department's evaluation will take into account advice received from the Mining and Reclamation Advisory Board.

(u) The Department will discontinue the issuance of Land Reclamation Financial Guarantees and notice will be published in the *Pennsylvania Bulletin* if 25% or more of the outstanding bond obligation for all Land Reclamation Financial Guarantees is declared forfeit under § 86.181.

(v) The Department will not approve additional Land Reclamation Financial Guarantees if Land Reclamation Financial Guarantees are discontinued. Outstanding Land Reclamation

Financial Guarantees will remain in effect until released under §§ 86.170—86.172 and §§ 86.174 and 86.175 (relating to standards for release of bonds; and schedule for release of bonds).

§ 86.162c. Bioenergy Crop Bonding.

(a) A permit is eligible for Bioenergy Crop Bonding at no cost to a surface mining permittee if the applicant demonstrates the following:

- (1) The site is a remining site as defined in § 86.252 (relating to definitions).
- (2) Stage 2 bond release has been achieved at the remining site.
- (3) The bioenergy crops listed in subparagraph (i) or (ii) have been grown at the remining site:
 - (i) Switchgrass, camelina or canola.
 - (ii) Other bioenergy crops grown to produce feedstock for biofuels, including biodiesel and ethanol, and biomass for electricity generation.
- (4) Water treatment liability has not been triggered under Chapter 87, Subchapter F, Chapter 88, Subchapter G or Chapter 90, Subchapter F (relating to surface coal mines: minimum requirements for remining areas with polluttional discharges; anthracite surface mining activities and anthracite bank removal and reclamation activities: minimum requirements for remining areas with polluttional discharges; and coal refuse disposal activities on areas with preexisting polluttional discharges).

(b) An application for Bioenergy Crop Bonding must provide the following:

- (1) Verification that the entire permitted area has achieved Stage 2 bond release consistent with § 86.174(b) (relating to standards for release of bonds).
- (2) A demonstration that the crops grown are bioenergy crops.
- (3) Crop yield data that demonstrates that the bioenergy crops are achieving acceptable crop production.
- (4) A demonstration that all temporary structures have been reclaimed.
- (5) A demonstration that there are no post-mining polluttional discharges or that all liability associated with post-mining polluttional discharges is fully covered with a full-cost bond or a fully-funded post-mining treatment trust.
- (6) Acknowledgement that the permittee intends to apply for final release of the Bioenergy Crop Bonding in a timely manner.

(c) Upon approval of a Bioenergy Crop Bonding application, the Department will release the existing bond held for Stage 3 liability.

(d) The liability period under Bioenergy Crop Bonding may not exceed 5 years. Permits with a liability period greater than 5 years because of the risk of water pollution under § 86.151(b)(1) and (c) (relating to period of liability) are not eligible for Bioenergy Crop Bonding.

(e) Bioenergy Crop Bonding for a permit will expire no later than 120 days after the expiration of the 5-year liability period.

(f) Bioenergy Crop Bonding will be replaced if the final bond release is not achieved upon the expiration of Bioenergy Crop Bonding.

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§ 86.165. Failure to maintain proper bond.

(a) If a permittee fails to promptly post additional bond required under § 86.152 (relating to adjustments), or fails to make timely deposits of bond according to the schedule submitted under § 86.161 (relating to phased deposits of collateral), or fails to make payments under § 86.162a (relating to Anthracite Deep Mine Operators Emergency Bond Fund) or fails to maintain subsidence insurance provided in § 86.162 (relating to subsidence insurance in lieu of bond), or fails to make annual payments for financial guarantees as required under § 86.283(a) (relating to procedures), **OR FAILS TO MAKE ANNUAL PAYMENTS FOR LAND RECLAMATION FINANCIAL GUARANTEES AS REQUIRED UNDER § 86.162b (RELATING TO LAND RECLAMATION FINANCIAL GUARANTEES)**, the Department will issue a notice of violation to the permittee, and if the permittee fails to correct the violation within 15 days of the notice, the Department will issue a cessation order for the permittee’s permit areas and thereafter take actions that may be appropriate.

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BOND FORFEITURE

§ 86.182. Procedures.

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(h) If the amount forfeited is:

(1) Insufficient to pay for the full cost of reclamation, the operator shall be liable for remaining costs. The Department may complete, or authorize completion of, the reclamation of the bonded area and may recover from the operator all costs of reclamation in excess of the amount forfeited.

(2) More than the amount necessary to complete the reclamation, the excess funds will be used by the Department, as approved by the Secretary, for any of the purposes provided in section 18(a) of the **[act] Surface Mining Conservation and Reclamation Act (52 P. S. § [1397.18(a)] 1396.18(a))**.

§ 86.185. Preservation of remedies.

Remedies provided in law for violation of but not limited to the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—**[1396.31] 1396.19b**), The Clean Streams Law (35 P. S. §§ 691.1—691.1001), the Air Pollution Control Act (35 P. S. §§ 4001—4015), the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66), the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003)**[, and the] and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21)**, the regulations adopted thereunder, or the conditions of the permits, are expressly preserved. Nothing in this subchapter may be construed as an exclusive penalty or remedy for the violations of law. No action taken under this subchapter may waive or impair another remedy or penalty provided in law.

§ 86.187. Use of money.

(a) Moneys received from fees, fines, penalties, bond forfeitures and other moneys received under authority of the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—**[1396.31] 1396.19b**), and interest earned on the moneys, will be deposited in the Fund.

(1) Moneys received from the reclamation fees required by § 86.17(e) (relating to permit and reclamation fees), and the interest accrued on these **[monies] moneys** will be deposited into a separate subaccount within the fund called the Reclamation Fee O&M Trust Account.

(i) The Department will deposit into the Reclamation Fee O&M Trust Account, up to \$500,000 in a fiscal year, the moneys collected from civil penalties assessed by the Department under the Surface Mining Conservation and Reclamation Act less the percentage of those penalty moneys due the Environmental Education Fund under section 8 of the Environmental Education Act (35 P. S. § 7528). If the amount of penalty moneys collected exceeds \$500,000 during a fiscal year, the Department may deposit the amount collected in excess of \$500,000 into the fund and use the excess amount in accordance with paragraph (3).

(ii) The Department may deposit into the Reclamation Fee O&M Trust Account a portion, to be determined at the Department's discretion, of the interest earned on other moneys in the fund.

(iii) The Department may deposit other moneys into the Reclamation Fee O&M Trust Account, including appropriations, donations**[, or,] or** the fees collected for **[sum-certain financial guarantees] Land Reclamation Financial Guarantees implemented by § 86.162b (relating Land Reclamation Financial Guarantees)** needed to facilitate full-cost bonding in accordance with applicable law.

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Subchapter I. [EMPLOYEE] EMPLOYEE CONFLICT OF INTEREST

§ 86.232. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Coal mining laws—Those provisions of the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—~~[1396.31]~~ **1396.19b**), The Clean Streams Law (35 P. S. §§ 691.1—691.1001), the Air Pollution Control Act (35 P. S. §§ 4001—4015), the Dam Safety and Encroachments Act (32 P. S. §§ ~~[6018.101—6018.1003]~~ **693.1—693.27**), the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66), ~~[the]~~ **The Bituminous [Coal] Mine Subsidence and Land Conservation Act** (52 P. S. §§ 1406.1—1406.21) and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), related to the regulation of surface and underground coal mines and facilities, and The Land and Water Conservation and Reclamation Act (32 P. S. §§ 5101—5121) related to abandoned mine lands reclamation for which Federal grants have been made under **[Title IV] sections 401—415** of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C.A. §§ 1231—~~[1243]~~ **1244**).

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Subchapter J. REMINING AND RECLAMATION INCENTIVES

GENERAL PROVISIONS

§ 86.252. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Act—The Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—~~[1396.19a]~~ **1396.19b**).

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Subchapter K. MINE OPERATOR'S LICENSE

§ 86.358. Suspension and revocation.

(a) The Department may suspend or revoke a license for the following reasons:

(1) Failure to comply with an order of the Department for which a supersedeas has not been granted.

(2) Failure to comply with the conditions of a permit.

(3) Failure to comply with the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1391.1—~~1396.19a~~ 1396.19b) or the regulations thereunder.

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CHAPTER 87. SURFACE MINING OF COAL

Subchapter A. GENERAL PROVISIONS

§ 87.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings unless the context clearly indicates otherwise:

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SMCRA—The Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—~~1396.25~~ 1396.19b).

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Subchapter F. SURFACE COAL MINES: MINIMUM REQUIREMENTS FOR REMINING AREAS WITH POLLUTIONAL DISCHARGES

§ 87.205. Approval or denial.

* * * * *

(b) An authorization may be denied under this subchapter if granting the authorization will, or is likely to, affect a legal responsibility or liability under The Clean Streams Law (35 P. S. §§ 691.1—691.1001), the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—~~1396.25~~ 1396.19b), Chapter 86 (relating to surface and underground coal mining: general) or Subchapters A and C—E, for the proposed pollution abatement area or other areas or discharges in the vicinity of the proposed pollution abatement area.

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CHAPTER 88. ANTHRACITE COAL

Subchapter F. ANTHRACITE UNDERGROUND MINES

§ 88.482. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Operator—A person or municipality engaged in underground mining activities as a principal, as distinguished from an agent or independent contractor. When more than one person is engaged in coal mining activities in a single operation, they shall be deemed jointly and severally responsible for compliance with the provisions of the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—~~[1396.31]~~ **1396.19b**), The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66).

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Subchapter G. ANTHRACITE SURFACE MINING ACTIVITIES AND ANTHRACITE BANK REMOVAL AND RECLAMATION ACTIVITIES: MINIMUM REQUIREMENTS FOR REMINING AREAS WITH POLLUTIONAL DISCHARGES

§ 88.505. Approval or denial.

* * * * *

(b) An authorization may be denied under this subchapter if granting the authorization will, or is likely to, affect legal responsibility or liability under The Clean Streams Law (35 P. S. §§ 691.1—691.1001), the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—~~[1396.25]~~ **1396.19b**), Chapter 86 (relating to surface and underground coal mining: general), Chapter 87, Subchapter B (Reserved) or Subchapters A—C, for the proposed pollution abatement area or other areas or discharges in the vicinity of the proposed pollution abatement area.

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CHAPTER 89. UNDERGROUND MINING OF COAL AND COAL PREPARATION FACILITIES

Subchapter A. EROSION AND SEDIMENTATION CONTROL

GENERAL PROVISIONS

§ 89.5. Definitions.

(a) The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Operator—A person or municipality engaged in underground mining activities as a principal, as distinguished from an agent or independent contractor. When more than one person is engaged in coal mining activities in a single operation, they shall be deemed jointly and severally responsible for compliance with the provisions of the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—~~1396.31~~ **1396.19b**), The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66).

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CHAPTER 90. COAL REFUSE DISPOSAL

Subchapter F. COAL REFUSE DISPOSAL ACTIVITIES ON AREAS WITH PREEXISTING POLLUTIONAL DISCHARGES

§ 90.305. Application approval or denial.

* * * * *

(b) An authorization may be denied under this subchapter if granting the authorization will, or is likely to, affect a legal responsibility or liability under The Clean Streams Law (35 P. S. §§ 691.1—691.1001), the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—~~1396.19a~~ **1396.19b**), Chapter 86 (relating to surface and underground coal mining: general) or Subchapters A—D, for the proposed pollution abatement area or other areas or discharges in the vicinity of the proposed pollution abatement area.

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Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE IV. OCCUPATIONAL HEALTH AND SAFETY

CHAPTER 211. STORAGE, HANDLING AND USE OF EXPLOSIVES

Subchapter C. PERMITS

§ 211.121. General requirements.

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(c) A permit issued under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—~~1396.19a~~ **1396.19b**), or the Noncoal Surface Mining **[and]** Conservation and Reclamation Act (52 P. S. §§ 3301—3326), and the regulations promulgated thereunder, authorizing blasting activity shall act as a blasting activity permit issued under this chapter.

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