

PENNSYLVANIA'S REMINING INCENTIVES

Since Pennsylvania gained primary control of its mining program from the federal government in 1982, the commonwealth has led the nation in identifying and addressing abandoned mine land problems that affect public health, safety, and the environment. Pennsylvania's abandoned mine lands constitute a significant public liability while funds available through the Federal Surface Mining Control and Reclamation Act of 1977 (SMCRA) for reclamation of abandoned mine lands are limited. To address the limited funds and to better serve the citizens of the commonwealth, the Department of Environmental Protection (DEP) encourages abandoned mine land reclamation through remining.

Remining refers to mining areas that were previously mined and left abandoned. Under modern laws, a mine operator who engages in remining must reclaim the area once mining is completed. Remining has been an effective tool in reclaiming abandoned mine land.

Classic Remining Incentives

Subchapter F (Bituminous) and G (Anthracite)

The remining regulations can be found in Subchapter F of 25 Pa. Code Chapters 87 and 90 and in Subchapter G of 25 Pa. Code Chapter 88; these are often referred to as "Subchapter F" and "Subchapter G" permits. The remining regulations allow mine operators to remine areas that are hydrologically related or connected to pre-existing mine drainage discharges. Prior to the remining regulations, any mine operator who mined areas hydrologically connected to pre-existing discharges was responsible for restoring the discharge to the regulatory water quality limits for new discharges. Mine operators were reluctant to remine sites with pre-existing discharges because of potential permanent liability for the pre-existing discharge. The remining regulations allowed previously mined areas with pre-existing discharges to be mined under a revised set of water quality limits that imposes no liability unless the pre-existing discharge is degraded as a result of the current mining. This policy has enabled Pennsylvania's mining industry to remine nearly 500 sites and in nearly all cases water quality was either maintained or improved.

Variance to Approximate Original Contour

Backfilling Topsoil & Revegetation Standards

All surface mine permits issued on property where no previous mining has taken place are required to backfill the area to approximate original contour. On remining sites, the mine operator may propose an alternate method of backfilling such as terracing or mixing flat areas with steeper slopes. This type of contouring reduces reclamation costs to mine operators but still results in a land use more productive than the abandoned mine lands. In addition, since very little topsoil is typically available on remine sites, the mine operator may utilize a suitable topsoil substitute and may provide vegetation that is equal to or better than the vegetation that existed before remining.

Additional Remining Incentives

On June 18, 1996, the Environmental Quality Board approved the regulations for remining and reclamation incentives authorized by the 1992 (Act 173) and 1996 (Act 43) amendments to Pennsylvania's Surface Mining Conservation and Reclamation Act. These regulations established financial guarantees for bonding remining areas and bond credits for voluntary reclamation of abandoned mine lands.

To qualify for participation in any of these incentives, operators must have a valid mining license, pass a compliance check on both state and federal systems, and have no liability for reclamation or pollution for the abandoned mine lands proposed to be mined.

Financial Guarantees Program

The reining Financial Assurance Fund (RFAF) has a special account that provides a financial guarantee to assure the bonding obligation of a qualified operator engaged in reining. A financial guarantee may be used only on a permit that includes the reining area. Under this program operators must meet the operator and project qualifications and certain financial requirements that demonstrate ability to complete the reclamation. Upon approval to participate, operators begin an annual payment to the RFAF based on current bonding rates. The RFAF covers the operator's bonding obligation on the reining area. The applicant must be capable of making annual payments.

The incentives to mine operators in this program are that operators do not tie up their own collateral to bond the reining area, and that the annual payments are calculated at an equivalent or lower rate than most operators would pay to a bonding or surety company.

Bond Credits Program

The RFAF also has a special account that backs the bond credits program. According to program guidelines, an operator who meets the operator and project qualifications can earn bond credits by reclaiming abandoned mine lands under an agreement with DEP. The amount of credit is equal to whichever is less: the operator's or DEP's projected cost to reclaim the project area.

Bond credits are to be used by an operator as collateral on any mining bond. Bond credits can be used two times and can be transferred to another qualified operator. Bond credits may not be used to bond water loss or long-term water treatment. A bond credit expires if not used within five years.

For more information about Pennsylvania's mining and reclamation programs, contact the Bureau of Mining Programs, P.O. Box 8461, Harrisburg, PA 17105-8461, 717-787-5103, or visit www.dep.pa.gov.