

PROPOSED RULEMAKING

DEPARTMENT OF ENVIRONMENTAL PROTECTION

[25 PA. CODE CH. 86]

Surface and Underground Coal Mining: General; Advance Notice of Final-Form Rulemaking

The Department of Environmental Protection (Department) is soliciting comments on changes it recommends to be made to the proposed Coal Mine Reclamation Fees and Reclamation of Bond Forfeiture Sites regulations, which were published as proposed rulemaking at 36 Pa.B. 4200 (August 5, 2006).

In response to comments received during the official public comment period on the proposed rulemaking and following the Department's review of other related information, the Department has prepared a draft final-form regulation for public comment. The draft final-form regulation contains significant changes in the following areas:

The regulations no longer eliminate the reclamation fee. The regulations retain the fee at its current level of \$100 until January 2010. Subsequently, a mechanism for adjusting the reclamation fee, to provide revenue sufficient to fund the perpetual operation and maintenance activities at primacy Alternate Bond System (ABS) sites whose bonds were forfeited and have postmining discharges, will be used to determine the annual amount of the reclamation fee. The regulations also contain guidelines and a funding mechanism that provides for the annual review of revenues and treatment expenditures, and projections for these future costs and revenues. The

revised regulations also provide for the establishment of a perpetual fund dedicated to these ABS legacy sites and will require the Department to dedicate certain identified funding sources to paying the reclamation costs for ABS legacy sites. When this funding mechanism is actuarially sound, collection of the reclamation fee will cease.

While there is no legal requirement to provide an opportunity to comment upon the Department's recommendations for final-form rulemaking, the Department believes further discussion would serve the public interest in this instance.

A copy of the draft final-form regulations is available from the Bureau of Mining and Reclamation at (717) 787-5103. Written comments on the draft final-form regulations must be received by February 4, 2008; no fax comments will be accepted. Comments or requests for copies should be addressed or delivered to William S. Allen, Jr., Chief, Division of Monitoring and Compliance, Bureau of Mining and Reclamation, Rachel Carson State Office Building, 400 Market Street, 5th Floor, Harrisburg, PA 17101-8461. The draft final-form regulations are also available electronically through the Department website at www.dep.state.pa.us (DEP Keywords: "Public Participation; Participate"; choose "Proposals Currently Open for Comment"). Comments may be transmitted electronically to William S. Allen, Jr. at wallen@state.pa.us and must also be received by February 4, 2008.

KATHLEEN A. MCGINTY,
Secretary

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