

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Senator Cassady**

A Bill

ACT 500 OF 1995
SENATE BILL 288

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE §§15-58-104, 15-58-202, 15-
9 58-401, 15-58-503 AND 15-58-510 TO REMOVE THE EXEMPTION
10 FOR PERMITS FOR SURFACE COAL MINING OPERATIONS AFFECTING
11 TWO ACRES OR LESS; TO INCLUDE CERTAIN TECHNICAL SERVICES
12 FOR THE DETERMINATION OF THE PROBABLE HYDROLOGIC
13 CONSEQUENCES OF THE MINING AND RECLAMATION OPERATIONS WITH
14 THE COST TO BE BORNE BY THE ARKANSAS DEPARTMENT OF
15 POLLUTION CONTROL AND ECOLOGY IN ACCORDANCE WITH
16 REGULATIONS ISSUED BY THE ARKANSAS POLLUTION CONTROL AND
17 ECOLOGY COMMISSION; TO REMOVE THE PROHIBITION ON PERMIT
18 APPROVAL DUE TO UNCORRECTED VIOLATIONS RESULTING FROM AN
19 UNANTICIPATED EVENT OR CONDITION AT A SURFACE COAL MINING
20 OPERATION ON LANDS ELIGIBLE FOR REMINING; AND FOR OTHER
21 PURPOSES."

Subtitle

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23
24 "TO AMEND THE SURFACE COAL MINING AND
25 RECLAMATION ACT."

26
27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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29 SECTION 1. Arkansas Code 15-58-104 is amended to add subdivisions (17)
30 and (18) to read as follows:

31 "(17) Unanticipated event or condition means an event or condition
32 encountered in a remining operation that was not contemplated by the
33 applicable surface coal mining and reclamation permit;

34 (18) Lands eligible for remining means those lands that would
35 otherwise be eligible for expenditures under Arkansas Code 15-58-401."

36

1 SECTION 2. Arkansas Code 15-58-202 (a)(1) is amended to read as
2 follows:

3 "(1) To adopt, amend, and issue rules and regulations in accordance with
4 the procedures set forth herein pertaining to surface coal mining and
5 reclamation operations, in accordance with but no more restrictive than Public
6 Law 95-87, consistent with the general intent and purposes of this chapter,
7 and consistent with but no more restrictive than the regulations issued by the
8 Secretary of the Interior pursuant to Public Law 95-87, as required for the
9 state to develop an approved state program and to assume and retain exclusive
10 jurisdiction over the regulation of surface coal mining and reclamation
11 operations pursuant to § 503 of Public Law 95-87."

12

13 SECTION 3. Arkansas Code 15-58-503 (a)(2) is amended to read as
14 follows:

15 "(2) The regulations shall specifically provide that all applications
16 shall include a determination of the probable hydrologic consequences of the
17 mining and reclamation operations, both on and off the mine site, with respect
18 to the hydrologic regime, quantity, and quality of water in surface and
19 groundwater systems, including the dissolved and suspended solids under
20 seasonal flow conditions and the collection of sufficient data for the mine
21 site and surrounding surface areas so that an assessment can be made by the
22 director of the probable cumulative impacts of all anticipated mining in the
23 area upon the hydrology of the area and particularly upon water availability.
24 However, this determination shall not be required until hydrologic information
25 on the general area prior to mining is made available from an appropriate
26 federal or state agency. The permit shall not be approved until the
27 information is available and is incorporated into the application. The costs
28 of the following activities, which shall be performed by a qualified public or
29 private laboratory or other public or private qualified entity designated by
30 the Department shall, upon written request of the small operator, be borne by
31 the Department in accordance with regulations issued by the commission:

32 (A) The determination of the probable hydrologic consequences required
33 by this subdivision (a)(2), including the engineering analysis and designs
34 necessary for the determination; and

35 (B) The development of cross-sections, maps and plans of land to be

1 affected by an application for a surface coal mining and reclamation permit
2 which shall be prepared by or under the direction of a qualified registered
3 professional engineer or geologist with assistance from experts in related
4 fields such as land surveying and landscape architecture, showing pertinent
5 elevation and location of test borings or core samplings and depicting the
6 following information: the nature and depth of the various strata of
7 overburden; the location of subsurface water, if encountered, and its quality;
8 the nature and thickness of any coal or rider seam above the coal seam to be
9 mined; the nature of the stratum immediately below the coal seam to be mined;
10 all mineral crop lines and the strike and dip of the coal to be mined, within
11 the area of the land to be affected; existing or previous surface mining
12 limits; the location and extent of known workings of any underground mines,
13 including mine openings to the surface; the location of aquifers; the
14 estimated elevation of the water table; the location of spoil, waste, or
15 refuse areas and topsoil preservation areas; the locations of all impoundments
16 for waste or erosion control; any settling or water treatment facility;
17 constructed or natural drainways and the location of any discharges to any
18 surface body of water on the area of land to be affected or adjacent thereto;
19 and profiles at appropriate cross sections of the anticipated final surface
20 configuration that will be achieved pursuant to the operator_s proposed
21 reclamation plan;

22 (C) The geologic drilling and a statement of the result of such test
23 borings or core samplings from the permit area, including, logs of the drill
24 holes; the thickness of the coal seam found, and an analysis of the chemical
25 properties of such coal; the sulfur content of any coal seam; chemical
26 analysis of potentially acid or toxic-forming sections of the overburden; and
27 chemical analysis of the stratum lying immediately underneath the coal to be
28 mined except that the provisions of this paragraph may be waived by the
29 director with respect to the specific application by a written determination
30 that such requirements are unnecessary;

31 (D) The collection of archeological information and any other
32 historical information sufficient to prepare accurate maps to an appropriate
33 scale clearly showing all man made features and significant known
34 archeological sites existing on the date of application, and the preparation
35 of plans necessitated thereby;

1 (E) Pre-blast surveys, as requested by a resident or owner of a man-
2 made dwelling or structure within one-half mile of any portion of the
3 permitted area. The applicant or permittee shall conduct the pre-blast survey
4 of such structures and submit the survey to the director and a copy to the
5 resident or owner making the request;

6 (F) The collection of site-specific resource information and production
7 of protection and enhancement plans for fish and wildlife habitats and other
8 environmental values required by the director under this act;

9 (G) The department shall provide or assume the cost of training small
10 operators concerning the preparation of permit applications and compliance
11 with the regulatory program, and shall ensure that small operators are aware
12 of the assistance available under this subdivision; and

13 (H) A coal operator that has received assistance pursuant to this
14 subdivision shall reimburse the department for the cost of the services
15 rendered if the director finds that the operator_s actual and attributed
16 annual production of coal for all locations exceeds 300,000 tons during the
17 twelve months immediately following the date on which the operator is issued
18 the surface coal mining and reclamation permit."

19

20 SECTION 4. Arkansas Code 15-58-503 (a) (3) is amended by adding a new
21 subdivision to read as follows:

22 "(G) After the date of enactment of this subdivision, the prohibition
23 of subdivision (a) (3) (E), above, shall not apply to a permit application due
24 to any violation resulting from an unanticipated event or condition at a
25 surface coal mining operation on lands eligible for remining under a permit
26 held by the person making such application. As used in this subdivision, the
27 term violation, has the same meaning as such term has under subdivision
28 (a) (3) (E). The authority of this subdivision and §15-58-510 (e) shall
29 terminate on September 30, 2004."

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31 SECTION 5. Arkansas Code 15-58-401 (b) (2) is amended to read as
32 follows:

33 "(2) A finding that the surface coal mining operation occurred during
34 the period beginning on August 4, 1977, and ending on or before November 5,
35 1990, and the surety of such mining operator became insolvent during such

1 period, and, as of the date of enactment of this section, funds immediately
2 available from proceedings relating to such insolvency or from any financial
3 guarantee or other source are not sufficient to provide for adequate
4 reclamation or abatement at the site."

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6 SECTION 6. All provisions of this act of a general and permanent
7 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
8 Code Revision Commission shall incorporate the same in the Code.

9

10 SECTION 7. If any provision of this act or the application thereof to
11 any person or circumstance is held invalid, such invalidity shall not affect
12 other provisions or applications of the act which can be given effect without
13 the invalid provision or application, and to this end the provisions of this
14 act are declared to be severable.

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16 SECTION 8. All laws and parts of laws in conflict with this act are
17 hereby repealed.

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19 SECTION 9. EMERGENCY. It is hereby found and determined by the General
20 Assembly of the State of Arkansas that the development of a small operator
21 assistance program which conforms to the requirements of Public Law 95-87 is
22 immediately necessary to the development, administration and enforcement of
23 surface coal mining and reclamation program. Therefore, an emergency is
24 hereby declared to exist and this act being necessary for the immediate
25 preservation of the public peace, health and safety shall be in full force and
26 effect from and after its passage and approval.

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30 APPROVED: 3-1-95

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