

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

# A Bill

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

22  
23 "TO AMEND THE SURFACE COAL MINING AND  
24 RECLAMATION ACT."  
25

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

28  
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."

1

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

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

13

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

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

34 (A) The determination of the probable hydrologic consequences required  
35 by this subdivision (a)(2), including the engineering analysis and designs

1 necessary for the determination; and

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

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

33           (D) The collection of archeological information and any other  
34 historical information sufficient to prepare accurate maps to an appropriate  
35 scale clearly showing all man made features and significant known

1 archeological sites existing on the date of application, and the preparation  
 2 of plans necessitated thereby;

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

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

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

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

21

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

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

32

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

35 "(2) A finding that the surface coal mining operation occurred during

1 the period beginning on August 4, 1977, and ending on or before November 5,  
2 1990, and the surety of such mining operator became insolvent during such  
3 period, and, as of the date of enactment of this section, funds immediately  
4 available from proceedings relating to such insolvency or from any financial  
5 guarantee or other source are not sufficient to provide for adequate  
6 reclamation or abatement at the site."

7

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

11

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

17

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

20

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

29

30

31

32

33

34

35

- 1
- 2
- 3
- 4
- 5