

## **Chapter 1—General Provisions**

### **Section 101 -- Short Title.**

This act shall be known and may be cited as the Abandoned Mine Land and Mine Water Recycling Act.

### **Section 102 -- Legislative Findings.**

The General Assembly hereby finds and declares as follows:

- (1) There are numerous abandoned mines in Pennsylvania, affecting thousands of acres of land, which have not been reclaimed. The overwhelming majority of the abandoned mine land does not contain a regulated substance or a release of a regulated substance but contains naturally occurring minerals that have been removed from the ground or were disturbed by mining activities which, in many cases, has resulted in the formation of mine drainage which may cause water pollution.
- (2) The elimination of public health, safety, welfare, and environmental hazards on exiting abandoned mine land across this Commonwealth is vital to their use and reuse as sources of employment, economic development, housing, recreation and open space areas. The reuse of abandoned mine land is an important component of a sound land use policy that will help prevent the needless development of farmland, open space areas and natural areas.
- (3) Existing Commonwealth laws, regulations and programs governing reclamation of abandoned mine land using federal funds meet federal requirements and establish appropriate standards for completing reclamation. The scope of the abandoned mine land problem is enormous and persons who are not responsible persons may incur potential liability should they voluntarily restore the abandoned mine land without protections. Therefore, additional procedures and incentives should be put in place to encourage such persons to voluntarily develop and implement plans to restore abandoned mine land to a productive use.
- (4) Restoration of abandoned mine land found to contain a regulated substance or a release of a regulated substance can best be addressed pursuant to the act known as the Land Recycling and Environmental Remediation Standards Act.

- (5) Incentives are needed to encourage people to voluntarily develop and implement plans for mine water recycling. This mine water may originate from abandoned mine land, from forfeited mine sites and, from the approximately 500 permitted mine sites on which approximately 28 billion gallons of mine water is annually treated by the mine operator or the successor.
- (6) Left in their unreclaimed condition, abandoned mine lands substantially degrade the quality of the environment, prevent or impede the reuse of land and water resources, endanger the health, safety and welfare of the public and hinder economic development.
- (7) Many abandoned mine sites are located in economically depressed areas that could benefit substantially from restoration and reuse of land that currently pose serious hazards to public safety.
- (8) Commonwealth agencies should coordinate their efforts and resources to maximize the reuse of abandoned mine lands.
- (9) Additional financial resources are needed to restore abandoned mine lands that could be used for economic development projects and to encourage the recycling or use of mine water.
- (10) Many abandoned surface and underground mines either discharge mine water or contain pools of mine water that impair or threaten the quality of groundwater and surface waters of the Commonwealth.
- (11) The discharge of mine water from these abandoned surface and underground mines and mine pools adversely affects the environment and public health, safety and welfare, and economic development.
- (12) Discharges of mine water from abandoned mines occur for which there is no liable party or no viable party responsible for the reclamation of the land or treatment of the mine water.
- (13) The Commonwealth lacks sufficient funds to reclaim all of the abandoned mine land in Pennsylvania or to treat all discharges of mine water from abandoned surface and underground mines.
- (14) Recent droughts have demonstrated the importance of conserving existing water resources and the development of additional sources of usable water is essential for the public welfare and the furtherance of economic development.

- (15) Mine water recycling at abandoned and permitted mine sites will both protect the environment and the public welfare and will enhance economic development in the Commonwealth.

**Section 103 -- Purpose.**

The purposes of this act are:

- (a) To protect the public health, safety and welfare and encourage economic development by establishing incentives that encourage the restoration and reuse of abandoned mine land and mine water recycling.
- (b) To protect public health, safety and welfare and encourage economic development through these incentives which allow abandoned mine land and mine water liabilities to be converted into economic assets.

**Section 104 -- Definitions.**

“Abandoned mine land” – Unreclaimed land affected by surface or underground mining or processing or disposal of coal, clay or other minerals, including mine sites for which the bonds have been forfeited and collected by the department.

“DCED” – The Department of Community and Economic Development.

“Department or DEP” – The Department of Environmental Protection.

“Grayfield site” – Any property containing abandoned mine land or mine water, as those terms are defined in this section, and which is subject to this act.

“Grayfield Site Restoration Plan” – A plan to restore and reuse abandoned mine land or to recycle mine water and which plan was prepared in accordance with the requirements of this act.

“Mine water” – Ground water or surface water, which is polluted as a result of mining activity to the degree that the water, if discharged without treatment, would not meet the effluent limits contained in applicable department regulations, adversely affects the hydrological balance or otherwise results in adverse impacts to waters of the Commonwealth, including water located in an abandoned underground mine, water discharging from an abandoned underground or abandoned surface mine, water discharging from an abandoned area which has been affected by mining activities, water discharging from a permitted mine site and water located in a permitted underground mine.

“Mine water recycling” – Activities and mine water uses approved by the department that are expected to reduce or eliminate the production or discharge of mine water or which will result in reduction or abatement of the pollution load in mine water or which will contribute to the restoration of the hydrologic balance or prevent or eliminate adverse impacts to the waters of the Commonwealth.

“Person” - A natural person, partnership, association or corporation or any agency, instrumentality or entity of Federal or State Government. Whenever used in any clause prescribing and imposing a penalty, or imposing a fine or imprisonment, or both, the term "person" shall include the members of an association and the directors, officers or agents of a corporation.

“Recycle” – To engage in mine water recycling.

“Regulated substance” – The term shall have the same meaning as given to it in the act of May 19, 1995 (P.L. 4, No. 2).

“Release” – The term shall have the same meaning as given to it in the act of May 19, 1995 (P.L. 4, No. 2).

“Responsible person” – A person who by law is responsible for the reclamation of a mine site or responsible to treat mine water.

“Restoration” – All acts taken to restore abandoned mine land.

“Restore” – The act of reffecting abandoned mine land pursuant to this act for the purpose of returning the land to a productive use including the relocation, consolidation, treatment or otherwise affecting preexisting mine water in order to facilitate the reuse of the abandoned mine land. The term shall not include activities which create new or additional mine water.

“Solid waste” – The term shall have the same meaning given to it in the act of July 7, 1980 (P.L. 380, No. 97), known as the Solid Waste Management Act.

“Surface water” – The term shall have the same meaning as given to it in the act of June 22, 1937 (P.L. 1987, No. 394), known as the Clean Streams Law.

“Underground mine” – A mine located beneath the land surface and from which coal, clay or other minerals are or have been extracted by removal of the coal, clay or other mineral from between layers of adjacent material.

“Water Rights Act” – The act of June 24, 1939 (P.L. 842).

“Waters of the Commonwealth” - The term shall have the same meaning as given to it in the act of June 22, 1937 (P.L. 1987, No. 394), known as the Clean Streams Law.

**Section 105 -- Powers and Duties of the Department.**

- (a) The department shall have the power and authority to take all actions deemed necessary to implement, administer and enforce this act, to reclaim or restore abandoned mine land and to protect the public's health, safety and welfare and the environment through means which encourage the reclamation, restoration or reuse of abandoned mine land and which encourage mine water recycling.
- (b) The department shall have the power to issue such orders as are necessary to enforce the provisions of this act, the regulations promulgated hereunder, and any authorizations issued hereunder as well as the authority to revoke, suspend or modify an authorization issued under this act.
- (c) The department shall have the power to enter and inspect, as often as may be necessary:
  - (1) All abandoned mine lands prior to, during and after restoration.
  - (2) All grayfield sites containing mine water prior to, during and after mine water recycling.

**Section 106 -- Rulemaking and Fees.**

- (a) The Environmental Quality Board is authorized to promulgate such regulations as are necessary to implement the provisions of this act.
- (b) The Environmental Quality Board shall by regulation set fees in amounts sufficient to cover the department's cost to administer this act by establishing fees for the review of the Part A and Part B Grayfields Assessments, the Grayfields Site Restoration Plan, the requests for authorization to withdraw mine water and for the inspection of the grayfield project. The department may set reasonable interim fees to cover its costs pending the adoption of fee regulations under this provision.
- (c) The fees established under subsection (c) shall be increased each year after implementation by the percentage, if any, by which the Consumer Price Index for the most recent calendar year exceeds the Consumer Price Index for the calendar year 1989. For purposes of this subsection:
  - (1) The Consumer Price Index for any calendar year is the average of the Consumer Price Index for All-Urban Consumers, published by the United States Department of Labor, as of the close of the twelve (12) month period ending on August of each calendar year.

- (2) The revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

## **Chapter 2 – Scope and Procedures.**

### **Section 201 -- Scope.**

- (a) Eligible persons.
  - (1) The incentives provided in Chapters 3 and 5 of this act and the protections provided in Chapters 3 and 7 of this act shall be available to a person who is not a responsible person who voluntarily develops and implements a plan to restore abandoned mine land or who voluntarily develops and implements a plan for mine water recycling whenever these activities are conducted pursuant to the provisions of this act.
  - (2) The incentives provided under Chapters 3 and 5 of this act shall be available to a responsible person who voluntarily develops and implements a plan for mine water recycling, which the responsible person is treating in accordance with the Commonwealth's mining regulations, whenever the mine water recycling is conducted pursuant to the provisions of this act.
- (b) Construction with other laws.
  - (1) Except as provided in Section 202(f), remediation of abandoned mine land containing a regulated substance or a release of a regulated substance is governed by and shall be conducted in accordance with the Land Recycling and Environmental Remediation Standards Act whenever site remediation is voluntarily conducted or required under The Clean Streams Law, the Air Pollution Control Act, the Solid Waste Management Act, the Infectious and Chemotherapeutic Waste Law, the Hazardous Sites Cleanup Act, and the Storage Tank and Spill Prevention Act.
  - (2) Nothing in this act is intended to nor shall it be construed to amend, modify, repeal or otherwise alter any provision of the Surface Mining Conservation and Reclamation Act, the Bituminous Mine Subsidence and Land Conservation Act, the Coal Refuse Disposal Control Act, the Noncoal Surface Mining Conservation and Reclamation Act or any act cited in this section relating to civil and criminal penalties, enforcement actions or remedies available to the department or in any way to amend, modify, repeal or alter the authority of the department to take appropriate civil and criminal action under these statutes.

**Section 202 -- Part A and Part B Grayfield Assessments.**

- (a) To be eligible for the incentives provided in Chapters 3 and 5 of this act or liability protection provided in Chapters 3 and 7 of this act, a person who meets the eligibility requirements of Section 201 shall complete a Part A Grayfield Assessment and, if required, a Part B Grayfield Assessment in compliance with this section.
- (b) A person who proposes to restore an abandoned mine land or to recycle mine water shall initiate the process by completing a Part A Grayfield Assessment of the site in order to document the existing abandoned mine land features and existing mine water and to determine the likelihood of past releases or the presence of regulated substances on the grayfield site.
- (c) The Part A Grayfield Assessment shall be submitted to the department as a written report sealed by a professional engineer or a professional geologist. The report shall contain, at a minimum:
  - (1) The results of a comprehensive records search to determine, to the extent possible, past ownership and usage of the grayfield site;
  - (2) A summary of any interviews of persons familiar with the site or activities conducted thereon;
  - (3) A map showing the boundaries of the site and the location of existing abandoned mine land features, and a description of the abandoned mine land features, including any surface discharges of mine water and the location of any underground mine pool water;
  - (4) A description of the quality of any mine water and, if the mine water discharges to the surface, the quantity and quality of such discharges;
  - (5) A Grayfield Site Restoration Plan which shall include, at a minimum:
    - (i) A description of the uses proposed for the abandoned mine land or mine water;
    - (ii) A description of the economic benefits and the number of new short-term and long-term jobs which will be created by the restoration or recycling project;
    - (iii) A description of the benefits to the environment and the public health, safety and welfare which will result from the restoration or recycling project;
    - (iv) A description of the activities, including site improvements and construction, which will be necessary to implement the restoration or recycling project, both on site and off site;
    - (v) An estimation of the costs and, if known, the source(s) of funding to implement the restoration or recycling project;
    - (vi) The identities of the persons or entities who will be involved with the restoration or recycling project, including

- the ownership or control of the restored abandoned mine land or of the mine water, if known;
- (vii) A description of any adjacent properties which will be affected by the restoration and subsequent reuse of the abandoned mine land;
  - (viii) A description of any adjacent properties which will be affected by the mine water recycling; and
  - (ix) A proposed schedule for the implementation of the Grayfield Site Restoration Plan; and
- (6) Any other information the person chooses to submit for consideration by the department.



- (7) The fee established by regulation or the interim fee adopted under this act to cover the department's cost of reviewing the Part A and Part B Grayfield Assessments and the Grayfields Site Restoration Plan and of inspecting the grayfield project site.
- (d) The Grayfield Site Restoration Plan to restore abandoned mine land and or to recycle mine water submitted as part of the Part A Grayfield Assessment shall be reviewed by the department as part of the review of the Part A Grayfield Assessment.
    - (1) The department shall not approve a Part A Grayfield Assessment if it determines that the proposed Grayfield Site Restoration Plan will result in an increase in the existing quantity or a decrease in the existing quality of mine water or cause new mine water.
    - (2) The department shall not approve a Part A Grayfield Assessment when the Grayfield Site Restoration Plan includes a mine water recycling proposal that the department determines fails to demonstrate that the proposed mine water recycling will achieve at least one of the following:
      - (i) Reduce or eliminate the production or discharge of mine water.
      - (ii) Reduce or abate the pollution load in the mine water.
      - (iii) Contribute to the restoration of the hydrologic balance.
      - (iv) Prevent or eliminate adverse impacts to the waters of the Commonwealth.
  - (e) The department will review the Part A Grayfield Assessment report to assure that it meets the requirements of Subsections (c) and (d) of this section. Within 90 days of receipt of a complete Part A Grayfield Assessment report, the department will provide the person who submitted the Part A Grayfield Assessment a notice of one or more of the following:
    - (1) The Part A Grayfield Assessment indicates, or the department has credible reason to believe, that a release of a regulated substance occurred or is likely to occur at the grayfield site or regulated substances are present on the grayfield site and a Part B Grayfield Assessment shall be required pursuant to Subsection (f) of this section.
    - (2) The proposed Grayfield Site Restoration Plan to restore abandoned mine land or to recycle mine water is disapproved because the proposed activity will cause more mine water, further degrade the mine water or cause new mine water.
    - (3) The proposed Grayfield Site Restoration Plan to recycle mine water is disapproved because the proposal to recycle mine water fails to demonstrate it will: reduce or eliminate the production or

discharge of mine water; or, reduce or abate the pollution load in the mine water; or, prevent or eliminate adverse impacts to the waters of the Commonwealth; or, contribute to the restoration of the hydrologic balance.

- (4) The proposed Grayfield Site Restoration Plan to restore abandoned mine land or to recycle mine water is approved or approved with conditions.
  
- (f) A Part B Grayfield Assessment shall only be required if the department or the person submitting the Part A Grayfield Assessment has determined or has reason to believe that a regulated substance is present or the release of a regulated substance has occurred or is likely to occur on the grayfield site. The purpose of the Part B Grayfield Assessment shall be: to verify the presence of regulated substances on the grayfield site; to characterize, quantify, and delineate the location of any such regulated substance; to determine the applicability of other state statutes and regulations, if any, to the management of such regulated substances; and, to determine the impact of the presence of such regulated substances on the site restoration plan contained in the Part A Grayfield Assessment. The Part B Grayfield Assessment shall consist of the appropriate sampling and analysis of soil, water, and other substances necessary to accomplish these purposes. The results of the Part B Grayfield Assessment shall be submitted to the department in a written report certified by a professional engineer or professional geologist. Sites determined to contain a regulated substance shall be governed by and remediated in accordance with the Land Recycling and Environmental Remediation Standards Act unless the amount of contamination is limited and can be easily removed and properly disposed at a permitted waste disposal facility. In such cases, the subsequent restoration of abandoned mine land or the mine water recycling may proceed under this act.
  
- (g) Within ninety (90) days of receipt of a complete Part B Grayfield Assessment report, the department shall provide the person who submitted the report with a notice of one or more of the following:
  - (i) Whether the Part B Grayfield Assessment adequately verifies, characterizes, quantifies and delineates the presence of regulated substances on the grayfield site.
  - (ii) Whether any other state statutes or regulations apply to the management of such regulated substances.
  - (iii) Whether the presence or management of any regulated substances requires modification of the Grayfield Site Restoration Plan contained in the Part A Grayfield Assessment.

- (h) If the Part B Grayfield Assessment demonstrates that a regulated substance is not present on the grayfield site, then restoration of the abandoned mine land or the mine water recycling can proceed under this act.
- (i) If the Part B Grayfield Assessment demonstrates that a regulated substance is not present on the grayfield site but that other waste regulated by the Solid Waste Management Act is present on the grayfield site, then that waste must be addressed in accordance with the Solid Waste Management Act and restoration of the abandoned mine land or mine water recycling can proceed under this act.
- (j) Within sixty (60) days of the completion of the implementation of the approved Grayfield Site Restoration Plan, required by Subsection (c)(5) of this section, the person who submitted the plan shall submit to the Department a Final Grayfield Site Restoration Report. This report shall be sealed by a professional engineer or professional geologist and shall contain, at a minimum:
  - (i) An itemized description of how the restoration project complied with the approved Grayfield Site Restoration Plan or, if deviations occurred, a description of such deviations; and
  - (ii) A description of the identity and quantity of any regulated substance, solid waste or contaminated soil found and removed from the site and the permitted facilities where these materials were properly disposed, which description shall include copies of all sampling and analytical results, reports, manifests and receipts relating to the removal, transportation and disposal of such materials.

### **Chapter 3 -- Use of Mine Water**

#### **Section 301 -- Authorization from the Department.**

- (a) Withdrawals of mine water before it enters surface water and use of mine water on or off the grayfield site will only receive the benefits and protections of this act if they are made in accordance with a written authorization from the department and the requirements of this act and regulations promulgated hereunder. The department may authorize an eligible person who uses mine water pursuant to an approved mine water recycling plan under this act to acquire water rights for such mine water in the same manner and using the same standards and procedures as provided for the acquisition of surface water by a public water supply agency under the Water Rights Act. The authorization shall state the maximum amount of mine water that may be withdrawn, the date by which the person must

begin to use the mine water and a date of expiration and such other conditions as may be necessary to protect the environment and the public's health, safety and welfare.

- (b) A person who proposes to use mine water pursuant to an approved mine water recycling plan shall file a request for authorization along with the Part A Grayfield Assessment. The request for authorization shall be consistent with the Grayfield Site Restoration Plan contained in the Part A Grayfield Assessment and the Water Rights Act provisions and shall include, at a minimum:
  - (1) Identification of the person seeking the authorization;
  - (2) A statement of the maximum amount of mine water to be withdrawn and the proposed use, including a detailed description of how the mine water will be withdrawn, transported, stored, treated, and managed after treatment and a description of any measures that will be taken to protect the environment and the public health, safety and welfare.
  - (3) The proposed location of the mine water withdrawal.
  - (4) Hydrogeologic data demonstrating that the proposed withdrawal and use of the mine water will not adversely affect the current or reasonably foreseeable uses of adjacent public, domestic, commercial, industrial, agricultural or aquacultural water supplies.
  - (5) The fee established by regulation or the interim fee adopted under this act to cover the department's cost of reviewing the Part A and B Grayfield Assessments, the Grayfield Site Restoration Plan, the authorization request, and inspecting the grayfield project site, and
  - (6) Any other information identified by the department.
- (c) An authorization for mine water recycling under this act shall only be issued if it has been demonstrated to the department's satisfaction that the amount of mine water to be withdrawn will not adversely affect the current and any reasonably foreseeable uses of adjacent water supplies and otherwise satisfies the requirements of this act and the regulations adopted hereunder.

- (d) An authorization under this section for mine water recycling under this act shall only be issued to a person engaged in the project as a principal as distinguished from an agent or an independent subcontractor.
- (e) An authorization issued under this section for mine water recycling under this act shall become void unless the person to whom the authorization has been issued begins use of the mine water within four years of issuance of such authorization, unless another time period has been specified by the department in the authorization issued under this act.
- (f) All rights to use the mine water covered by an authorization to withdraw mine water and which were granted by this act cease to exist upon the abandonment, return, expiration or termination of the authorization.
- (g) All discharges of the withdrawn mine water to a surface water shall comply with applicable water quality standards.

**Section 302 -- Treatment of Preexisting Discharges.**

- (a) A person who is not a responsible person and who is authorized to recycle mine water shall not be responsible for treating any of the mine water that is not withdrawn pursuant to the authorization issued under Section 301 of this act.
- (b) A responsible person who is authorized to recycle mine water is responsible to continue treatment of any portion of the mine water not withdrawn pursuant to the authorization issued under Section 301 of this act.

**Section 303 -- Termination of Withdrawal Authorization.**

- (a) A person who is not a responsible person and who is granted an authorization under Section 301 of this act to withdraw mine water pursuant to an approved mine water recycling plan shall not be responsible for treatment of the mine water covered by the authorization upon the authorization's expiration, termination or abandonment and the person shall not be subject to a citizen's suit under any statute of this Commonwealth after the authorization expires, is terminated or abandoned.
- (b) A responsible person granted an authorization under Section 301 of this act to withdraw mine water pursuant to an approved mine water recycling plan shall be responsible for treatment of the mine water covered by the authorization upon the expiration, termination or abandonment of the authorization.

**Section 304-- Effect on Other Statutes.**

- (a) This act shall not be construed to have an effect on a person's obligation to comply with the Safe Drinking Water Act, 35 P.S. §§721.1. Furthermore, this act shall not be construed to have an effect on a public water supply agency's duty to comply with the Water Rights Act.
- (b) Nothing in this act shall be construed as granting any right to use or occupy surface land.

**Chapter 4-- Economic Development**

**Section 401 -- Sole Source Contracts.**

- (a) Where the restoration of abandoned mine land or mine water recycling pursuant to an approved Grayfield Site Restoration Plan is integral to the siting of an economic development project funded, in whole or in part, with grants or loans from agencies of the Commonwealth, then, in lieu of the competitive procurement process, DEP may award a sole source contract to assist in the completion of these projects. Such contracts may be for the provision of services or materials necessary to complete site assessments pursuant to this act or to implement an approved Grayfield Site Restoration Plan, either in whole or in part.
- (b) The amount of the contract to be awarded pursuant to this section shall not exceed DEP's estimate of the cost to perform the work.
- (c) DEP will not award the contract authorized by this section to any person or related party:
  - (1) Who is a responsible person; or
  - (2) Who has forfeited any bond or has been convicted of a misdemeanor within three (3) years for violating any provision of the Act of June 22, 1937 (P.L. 1987, No. 394), known as "The Clean Streams Law"; the Act of September 24, 1968 (P.L. 1040, No. 318), known as the "Coal Refuse Disposal Control Act"; the Act of April 27, 1966 (1st Sp. Sess. P.L. 31, No. 1), known as "The Bituminous Mine Subsidence and Land Conservation Act"; the Act of January 8, 1960 (1959 P.L. 2119, No. 787), known as the "Air Pollution Control Act"; the Act of July 7, 1980 (P.L. 380, No. 97), known as the "Solid Waste Management Act"; the Act of November 26, 1978 (P.L. 1375, No. 325), known as the "Dam Safety and Encroachments Act"; The Act of May 31, 1945 (P.L. 1198, No. 418), known as the "Surface Mining Conservation and Reclamation Act; or Act of December 19, 1984 (P.L. 1093, No.

219), known as the Noncoal Surface Mining Control and Reclamation Act.”

**Section 402 -- Interagency Cooperation.**

DEP, DCED, the Pennsylvania Fish and Boat Commission, the Pennsylvania Game Commission, the Pennsylvania Historical and Museum Commission, the Department of Transportation and all other government agencies shall work together to maximize the amount of abandoned mine land that can be restored and used and the amount of mine water that can be recycled as part of an economic redevelopment project.

**Chapter 5 – Grayfield Site Incentives**

**Section 501 -- Grants to Public Entities.**

- (a) The department may, upon written application, award grants to municipalities, municipal authorities, regional development authorities and appropriate nonprofit organizations to accomplish the purposes of this act. Such grants may be used by the grantee to fund grayfield site assessments pursuant to this act or the implementation of approved Grayfield Site Restoration Plans or mine water recycling plans, either in whole or in part. The purposes of the grants shall be consistent with all applicable Federal and State requirements related to the source of the funds. Funding for grants awarded under this section shall come from appropriations, the Surface Mining Conservation and Reclamation Fund and such other sources as may be available to the department, including funds received from the United States for approved abandoned mine purposes. A grant awarded under this section shall be subject to such terms and conditions as established by the department.
- (b) This section shall be read in pari materia with Section 18(j) of the Act of May 31, 1945 (P.L. 1198, No. 418), known as the “Surface Mining Conservation and Reclamation Act.”

**Section 502 -- Grants to Others.**

- (a) To the extent monies are available, the department is authorized to issue grants, to a person who is not a responsible person, for the following activities provided that the grant application demonstrates that the activities will result in the creation of new, long-term jobs in Pennsylvania:
  - (1) Mine water recycling pursuant to this act.
  - (2) The restoration of abandoned mine land pursuant to this act.

- (b) The department may require matching funds as a condition of the grant, as well as other terms and conditions that may be necessary to ensure the proper administration of the grant.



**Section 503 -- Ownership of Recovered Material.**

A person who provides for treatment or recycles mine water shall be deemed to have the exclusive right to and ownership of any material, metal, or element that is recovered or removed from the mine water at the point of treatment or recycling.

**Chapter 6 – Funding**

**Section 601 -- Grayfield Funds.**

The department may accept gifts, donations, grants of money, or appropriations from any source, for use in undertaking projects or providing grants in accordance with this act. All such funds and fees and penalties collected pursuant to this act shall be deposited in the Surface Mining Conservation and Reclamation Fund and shall be used exclusively for the purposes of this act and for the department's cost to administer this act; and, for such purposes, are specifically appropriated to the department by this act.

**Chapter 7 – Grayfield Site Liability Protection**

**Section 701 -- Land Restoration Liability Protection.**

- (a) A person who is not a responsible person and who complies with this act regarding the restoration of abandoned mine land shall not be liable for the reclamation and or remediation of the site under the statutes listed in Section 201 for any abandoned mine land features or mine water identified in the Part A and Part B Grayfield Assessments submitted to and approved by the department, and shall not be subject to citizen suits or other contribution actions brought by responsible parties or any other person under state law. The restoration and or remediation liability protection provided by this Chapter applies to the following persons:
  - (1) The current or future owner of the abandoned mine land property or any other person who participated in the restoration and or remediation of the abandoned mine land;
  - (2) A person who develops or otherwise occupies the abandoned mine land;
  - (3) A successor or assign of any person to whom the liability protection applies; and
  - (4) A public utility to the extent the public utility performs activities on the abandoned mine land.
  - (5) Anyone who provides any financing that is in any way related to the acquisition or restoration of an abandoned mine land under this act.
  
- (b) A person shall not be considered to be a person responsible for a release or a threatened release of a regulated substance nor responsible for reclamation of the abandoned mine land or treatment of mine water simply

by virtue of conducting a Part A or Part B Grayfield Assessment of the grayfield site. Nothing in this section relieves a person of any liability for failure to exercise due diligence in performing an assessment of the abandoned mine land and or mine water.

**Section 702 -- Mine Water Recycling Liability Protection.**

- (a) A person who recycles mine water in accordance with this act and, where applicable, in accordance with an authorization obtained pursuant to Section 301 shall not be subject to any liability for the recycling of the mine water under the statutes listed in Section 201 for any mine water identified in the Part A and Part B Grayfield Assessments submitted to and approved by the department and shall not be subject to citizen suits or other actions brought by responsible parties or any other person. The mine water recycling liability protection provided by this Chapter applies to the following persons:
  - (1) The current or future owner of the identified property or any other person who participated in the recycling of the mine water.
  - (2) A person who develops or otherwise occupies the abandoned mine land.
  - (3) A successor or assign of any person to whom the liability protection applies.
  - (4) A public utility to the extent the public utility performs activities on the abandoned mine land.
  - (5) Anyone who provides any financing that is in any way related to a Grayfields project to recycle mine water in accordance with this act.
- (b) A person shall not be considered a person responsible for a release or a threatened release of a regulated substance nor responsible for reclamation of the abandoned mine land or treatment of mine water simply by virtue of conducting a Part A or Part B Grayfield Assessment of abandoned mine land or of mine water. Nothing in this section relieves a person of liability for failure to exercise due diligence in performing an assessment of existing mine water on the grayfield site.
- (c) A person who is legally liable for mine water treatment who voluntarily develops and implements a plan for mine water recycling in accordance with this act, whether alone or in concert with another person, is not relieved of liability to continue to treat any portion of the mine water that is not recycled. Such a person shall also resume the treatment of mine water that has been recycled under this act in the event that such mine water recycling is discontinued and failure of the responsible person to resume treatment in accordance with the Clean Streams Law and applicable regulations is a violation of this act, the Clean Streams Law and the applicable regulations.

**Section 703 -- Preservation of Applicant Violator System Status.**

A person subject to a permit block under the applicant violator system of the states and the federal Office of Surface Mining Reclamation and Enforcement because of that person's failure to comply with any state or federal mining laws shall not be relieved of any existing liability by operation of this act nor shall the person be eligible for the liability protections of this act.

**Chapter 8 – Miscellaneous**

**Section 801 -- Unlawful Conduct.**

It shall be unlawful to fail to comply with any rule or regulation of the Department or to fail to comply with any order or permit of the Department, to violate any of the provisions of this act or rules and regulations adopted hereunder or to violate any order or permit of the Department, or to hinder, obstruct, prevent or interfere with the Department or its personnel in the performance of any duty hereunder, or to violate 18 Pa. C.S. §§ 4903 (relating to false swearing) or 4904 (relating to unsworn falsification to authorities). Any person engaging in such conduct shall be subject to the provisions of Sections 802 and 803.

**Section 802 -- Civil Penalties.**

In addition to proceeding under any other remedy available at law or in equity for a violation of a provision of this act, rule, regulation, order of the Department, or any authorization issued pursuant to this act, the Department may assess a civil penalty upon a person for such violation. Such a penalty may be assessed whether or not the violation was willful. The civil penalty so assessed shall not exceed five thousand dollars (\$5,000) per day for each violation. In determining the amount of the civil penalty the Department shall consider the willfulness of the violation, damage or injury to the lands or to the waters of the Commonwealth or their uses, enrichment of the violator, cost of restoration and other relevant factors. The correction of a violation within the period prescribed for its correction shall not preclude assessment of a penalty for the violation. If the person wishes to contest the amount of the penalty, then the amount of the civil penalty shall be forwarded to the Department for placement in an escrow account with the State Treasurer or any Pennsylvania bank, or post an appeal bond in the amount of the proposed penalty, such bond shall be executed by a surety licensed to do business in the Commonwealth and be satisfactory to the Department. If through administrative or judicial review of the proposed penalty, it is determined that the amount of the penalty shall be reduced, the secretary shall within thirty (30) days remit the appropriate amount to the person, with any interest accumulated by the escrow deposit. Failure to forward the money or the appeal bond to the secretary within thirty (30) days shall result in a waiver of all legal rights to contest the amount of the penalty. The amount assessed after administrative hearing or after waiver of administrative hearing shall be payable to the Commonwealth of Pennsylvania and shall be collectible in any manner provided at law for the collection of debts. If any person liable to pay any such penalty neglects or refuses to pay the same

after demand, the amount, together with interest and any costs that may accrue, shall constitute a judgment in favor of the Commonwealth upon the property of such person from the date it has been entered and docketed of record by the prothonotary of the county where such is situated. The Department may, at any time, transmit to the prothonotaries of the respective counties certified copies of all such judgments, and it shall be the duty of each prothonotary to enter and docket the same of record in his office, and to index it as judgments are indexed, without requiring the payment of costs as a condition precedent to the entry thereof. Any other provision of law to the contrary notwithstanding, there shall be a statute of limitations of five (5) years upon actions brought by the Commonwealth pursuant to this section.

**Section 803 -- Enforcement.**

The Department may file actions in the Courts of Common Pleas or the Commonwealth Court to aid in the enforcement of this act or any regulations or orders issued under this act.

**Section 804 -- Effective date.**

This act shall take effect in 120 days.