

Article - Environment

§15-515.

(a) (1) Any funds that the Department receives and retains from license and special reclamation fees, mine reclamation surcharge, forfeiture of bonds, cash deposits, or securities shall be deposited to the credit of the State Treasurer in a bank the Treasurer designates. The funds shall be maintained as a special fund on the books of the Comptroller of the Treasury in an account known as the “Bituminous Coal Open-Pit Mining Reclamation Fund”. The Secretary shall use the funds to implement this subtitle and to backfill, grade, and plant areas affected by open-pit mining. However, funds received from the reclamation surcharge under § 15-509 of this subtitle shall only be used by the Secretary for reclamation of land affected by open-pit or strip method mining in the county in which the surcharge is assessed and collected.

(2) (i) Funds received from forfeiture of bonds, and the bond supplement reserve established under § 15-517 of this subtitle, when the bond is not sufficient, shall be used to reclaim the land affected by the operation on which the liability was charged on the bond and to perform the requirements of this subtitle, regulations issued under this subtitle, and permit conditions that the operator has failed to perform.

(ii) Funds received on a forfeiture in excess of the amount required to reclaim the land affected and to perform the requirements that the operator has failed to perform may be used to reclaim any other land affected by open-pit mining of bituminous coal.

(3) Funds placed in the reserve in accordance with § 15-516 of this subtitle shall be used to replace water supplies affected by any open-pit mining operation after all bonds on the operation have been fully released.

(b) The Secretary shall administer the Fund subject to the provisions for financial management and budgeting established by the Department of Budget and Management. The Secretary annually shall coordinate the preparation of a budget required to implement this subtitle, including reclamation of lands affected by bituminous coal open-pit mining.

(c) For the purpose of performing duties under this section, the Department, its agents, employees, and contractors may enter on private property for access to and reclamation of any land affected by open-pit mining or prospecting. Entry onto private property for purposes other than reclamation of land on which liability was charged on a forfeited bond may not be undertaken without prior consent of the property owner. If, after real and bona fide effort, the consent of the property owner cannot be secured, the Department may apply to a court where the property or any part of it is located for an order directing that the entry be permitted. “Bona fide effort” shall include either 30 days’ advance notice in writing by certified mail, return receipt requested, to the last known address of the property owner or posting notice on the property not less than 30 days in advance, or other requirements as the court may deem appropriate. The

Department shall reimburse the landowner or lessee who is farming the property for agricultural products destroyed or damaged by the Department's agents, employees, or contractors. The Department shall be responsible for any other damages that may be incurred as a result of entry onto private property.