

# HOUSE BILL 36

M3

(9lr0636)

## ENROLLED BILL

— *Environment and Transportation/Education, Health, and Environmental Affairs* —

Introduced by **Delegate Wivell**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Surface Mining – Zone of Dewatering Influence – ~~Water Supply Replacement~~**  
3 **Remedies**

4 FOR the purpose of requiring a certain surface mining permittee to immediately implement  
5 certain safety measures under certain circumstances; requiring a certain surface  
6 mining permittee to permanently replace a certain water supply within a certain  
7 zone of dewatering influence within a certain period of time under certain  
8 circumstances; authorizing a certain surface mining permittee to seek  
9 reimbursement for certain water supply replacement costs under certain  
10 circumstances; providing for the construction of certain provisions of law relating to  
11 a contested case hearing; making a stylistic change; correcting an obsolete  
12 cross-reference; and generally relating to the zone of dewatering influence around a  
13 surface mine.

14 BY repealing and reenacting, without amendments,

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



1 Article – Environment  
2 Section 15–801(a), (e), (f), (g), (n), (p), and (u) and 15–812  
3 Annotated Code of Maryland  
4 (2014 Replacement Volume and 2018 Supplement)

5 BY repealing and reenacting, with amendments,  
6 Article – Environment  
7 Section 15–813  
8 Annotated Code of Maryland  
9 (2014 Replacement Volume and 2018 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
11 That the Laws of Maryland read as follows:

12 **Article – Environment**

13 15–801.

14 (a) In this subtitle the following words have the meanings indicated.

15 (e) “Department” means the Department of the Environment.

16 (f) “Land” means the surface of the land upon which surface mining is conducted.

17 (g) “Landowner” means a person who possesses legal title to the land.

18 (n) “Permittee” means a person who holds a valid permit to conduct surface  
19 mining and reclamation operations approved by the Department under § 15–810 of this  
20 subtitle.

21 (p) “Pit” means the place any minerals are being mined by the surface mining  
22 method.

23 (u) “Surface mining” means all of the following:

24 (1) The breaking of the surface soil in order to facilitate or accomplish the  
25 extraction or removal of minerals;

26 (2) Any activity or process constituting all or part of a process for the  
27 extraction or removal of minerals from their original location; or

28 (3) The extraction of sand, gravel, rock, stone, earth, or fill from borrow pits  
29 for highway construction purposes or other public facilities.

30 15–812.

1 (a) The General Assembly finds that in certain regions of the State dewatering of  
2 surface mines located in karst terrain may significantly interfere with water supply wells  
3 and may cause in some instances sudden subsidence of land, known as sinkholes.  
4 Dewatering in karst terrain may result in property damage to landowners in a definable  
5 zone of dewatering influence around a surface mine.

6 (b) It is the intent of the General Assembly to protect affected property owners in  
7 Baltimore, Carroll, Frederick, and Washington counties where karst terrain is found by  
8 directing the Department to establish zones of dewatering influence around surface mines  
9 in karst terrain and to administer a program requiring permittees to mitigate or  
10 compensate affected property owners in these counties.

11 15–813.

12 (a) (1) In this section the following words have the meanings indicated.

13 (2) “Dewater” or “dewatering” means to pump water out of a pit.

14 (3) “Karst terrain” means an irregular topography that is:

15 (i) Caused by a solution of limestone and other carbonate rock; and

16 (ii) Characterized by closed depressions, sinkholes, caverns, solution  
17 cavities, and underground channels that, partially or completely, may capture surface  
18 streams.

19 (4) “Lineaments” means the surface manifestation of cracks, fissures,  
20 fractures, and zones of weakness that, generally, are observable on aerial photographs as  
21 straight or nearly straight lines.

22 (b) (1) If a permittee is issued a water appropriation permit under § 5–502 of  
23 this article to dewater a pit located in karst terrain in Baltimore, Carroll, Frederick, and  
24 Washington counties, the Department shall establish, as a condition of the permittee’s  
25 surface mining permit under § 15–810 of this subtitle, a zone of dewatering influence  
26 around the surface mine.

27 (2) The areal extent of the zone of dewatering influence shall be based, as  
28 appropriate, on local topography, watersheds, aquifer limits, and other hydrogeologic  
29 factors, including the occurrence of natural fractures, cracks, crevices, lineaments, igneous  
30 dikes, changes in rock type, and variations in the water-bearing characteristics of  
31 formations.

32 (c) (1) Within the zone of dewatering influence established under subsection  
33 (b)(1) of this section, the permittee shall:



1           (3) Notwithstanding the other provisions of this subsection, the permittee  
2 and the property owner may agree on monetary compensation or other mitigation in lieu of  
3 restoration.

4           (f)   **(1)** The Department may not require a permittee to replace water supplies,  
5 as provided in this section, if the permittee demonstrates to the Department by clear and  
6 convincing evidence that the proximate cause of the loss of water supply is not the result of  
7 pit dewatering.

8           **(2) THE PERMITTEE MAY SEEK REIMBURSEMENT FOR THE COST OF A**  
9 **WATER SUPPLY REPLACEMENT FROM THE OWNER OF REAL PROPERTY THAT IS**  
10 **AFFECTED BY THE SURFACE MINE DEWATERING IF AFTER THE PERMITTEE**  
11 **REPLACES THE WATER SUPPLY IT IS DETERMINED THAT THE PERMITTEE'S**  
12 **DEWATERING ACTIVITY IS NOT THE PROXIMATE CAUSE OF THE WATER SUPPLY**  
13 **FAILURE.**

14           (g)   **(1)** The Department shall provide opportunity for a contested case hearing  
15 in accordance with [the provisions of § 5–204 of this article] **TITLE 10, SUBTITLE 2 OF**  
16 **THE STATE GOVERNMENT ARTICLE.**

17           **(2) THIS SUBSECTION MAY NOT BE CONSTRUED TO ~~WAIVE~~ STAY THE**  
18 **REQUIREMENT TO PERMANENTLY REPLACE A WATER SUPPLY OR IMPLEMENT**  
19 **APPROPRIATE SAFETY MEASURES IN ACCORDANCE WITH SUBSECTION ~~(C)(2)~~ (C) OF**  
20 **THIS SECTION.**

21           (h) The Department shall adopt regulations to establish an administrative  
22 process to expedite the resolution of water supply loss or property damage claims arising  
23 under this section.

24           (i) Compensation, restoration, or mitigation provided by this section does not  
25 apply to:

26           (1) Improvements that are made to real property within an established  
27 zone of dewatering influence following a final decision by the Department to issue a surface  
28 mining permit; or

29           (2) Improvements that are made to real property following the  
30 establishment of a zone of dewatering influence as a condition of an existing surface mine  
31 permit.

32           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 October 1, 2019.