

CHAPTER 29

COAL MINING

H. F. 670

AN ACT relating to mining and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. POLICY.

1. It is the policy of this state to provide for the rehabilitation and conservation of land affected by coal mining and preserve natural resources, protect and perpetuate the taxable value of property, and protect and promote the health, safety and general welfare of the people of this state.

2. The general assembly finds and declares that because the federal Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87, provides for a permit system to regulate the mining of coal and reclamation of the mining sites and provides that permits may be issued by states which are authorized to implement the provisions of that Act, it is in the interest of the people of Iowa to enact the provisions of this Act in order to authorize the state to implement the provisions of the federal Surface Mining Control and Reclamation Act of 1977 and federal regulations and guidelines issued pursuant to that Act.

Sec. 2. NEW SECTION. DEFINITIONS. As used in this Act, unless context otherwise requires:

1. "Committee" means the state soil conservation committee.
2. "Department" means the department of soil conservation.
3. "Director" means the administrative officer of the department of soil conservation or a designee.
4. "Fund" means the abandoned mine reclamation fund established pursuant to this Act.
5. "Imminent danger to the health and safety of the public" means the existence of a condition or practice, or a violation of a permit or other requirement of this Act in a coal mining and reclamation operation, which could reasonably be expected to cause substantial physical harm to persons outside the permit area before it can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself or herself to the danger during the time necessary for abatement.
6. "Mine" means an underground mine operation or surface mine operation developed and operated for the purpose of extracting coal.
7. "Operator" means a person engaged in coal mining who removes or intends to remove more than fifty tons of coal from the earth by coal mining within twelve consecutive calendar months in one location.

8. "Permit" means a permit to conduct surface coal mining and reclamation operations issued by the department.

9. "Permit area" means the area of land indicated on the approved map submitted with the operator's application.

10. "Prime farmland" has the same meaning as prescribed by the United States secretary of agriculture and published in the federal register on January 31, 1978.

11. "Secretary" means the United States secretary of the interior or a designee.

12. "State program" means the procedures for regulating coal mining and reclamation operations established by this Act.

13. "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of such operations after the effective date of this Act.

14. "Surface coal mining operations" means both:

a. Activities conducted on the surface of lands in connection with a surface coal mine or surface operations and surface impacts incident to an underground coal mine subject to the requirements of this Act. However, these activities do not include the extraction of coal incidental to the extraction of other minerals if coal does not exceed sixteen and two-thirds percent of the tonnage of minerals removed for purposes of commercial use or sale or include coal explorations subject to this Act.

b. The areas upon which such activities occur or where such activities disturb the natural land surface.

15. "Unwarranted failure to comply" means the failure of an operator to prevent the occurrence of or abate a violation of a permit or a requirement of this Act due to indifference, lack of diligence, or lack of reasonable care.

Sec. 3. NEW SECTION. MINING LICENSE.

1. A person shall not engage in a surface coal mining operation without first obtaining a license from the department. Licenses shall be issued upon application submitted on a form provided by the department and accompanied by a fee of fifty dollars. An applicant shall furnish on the form information necessary to identify the applicant. Licenses expire on December thirty-first following the date of issuance and shall be renewed by the department upon application submitted within thirty days prior to the expiration date and accompanied by a fee of ten dollars.

2. The department may, after notification to the committee, commence proceedings to suspend, revoke, or refuse to renew a license of a licensee for repeated or willful violation of any of the provisions of this Act or of the federal Coal Mine Health and Safety Act of 1969.

3. The hearing shall be held pursuant to chapter seventeen A (17A) of the Code not less than fifteen nor more than thirty days after the mailing or service of the notice. If the licensee is found to have willfully or repeatedly violated any of the provisions of this Act or of the federal Coal Mine Health and Safety Act of 1969, the committee may affirm or modify the proposed suspension, revocation, or refusal to renew the license.

4. Suspension or revocation of a license shall become effective thirty days after the mailing or service of the decision to the licensee. If the committee finds the license should not be renewed, the renewal fee shall be refunded and the license shall expire on the expiration date or thirty days after mailing or service of the decision to the licensee, whichever is later.

Sec. 4. **NEW SECTION. MINE SITE PERMIT.**

1. Prior to beginning mining or removal of overburden at mining site, an operator shall obtain a permit from the department for the site. Application for a permit shall be made upon a form provided by the department. The permit fee shall be established by the department in an amount not to exceed the cost of administering the permit provisions of this Act.

The application shall include, but not be limited to:

a. A legal description of the land where the site is located and the estimated number of acres affected.

b. A statement explaining the authority of the applicant's legal right to operate a mine on the land.

c. A reclamation plan meeting the requirements of this Act.

d. A determination by an appropriate state or federal agency of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity, and quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the department of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability. If the department finds that the probable total annual production at all locations of a coal mining operator will not exceed one hundred thousand tons, the determination of probable hydrologic consequences and a statement of the result of test borings on core samplings which the department may require shall upon the written request of the operator be performed by a qualified public or private laboratory designated by the department and the cost of the preparation of the determination and statement shall be assumed by the department.

2. All permits issued pursuant to the requirements of this Act shall be issued for a term not to exceed five years. If the applicant demonstrates that a specified longer term is reasonably needed to allow the applicant to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for the longer term, the department may grant a permit for the longer term. A successor in interest to a permittee who applies for a new permit within thirty days of succeeding to the interest and is able to continue the bond coverage may continue coal mining and reclamation operations according to the approved mining and reclamation plan of the original permittee until the successor's application is granted or denied.

3. A permit terminates if the permittee has not commenced the coal mining operations covered by the permit within three years of its issuance. However, the department may grant reasonable extensions of time upon a showing that the extensions are necessary because of litigation precluding

the commencement or threatening substantial economic loss to the permittee or because of conditions beyond the control and without the fault or negligence of the permittee. If a coal lease is issued under the federal Mineral Leasing Act, as amended, extensions of time may not extend beyond the period allowed for diligent development in accordance with section 7 of that Act. If coal is to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee is deemed to have commenced mining operations when the construction of the synthetic fuel or generating facility is initiated.

4. A valid permit carries the right of successive renewal upon expiration within the boundaries of the existing permit. On application for renewal the burden shall be on the opponents of approval. Upon application the renewal shall be issued unless the department establishes any of the following:

a. The terms and conditions of the existing permit are not being satisfactorily met.

b. The present coal mining and reclamation operation is not in compliance with the environmental protection standards of this Act.

c. The renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas.

d. The operator has not shown that the performance bond for the operation and any additional bond the department may require will continue in full force and effect for the renewal requested.

e. Additional revised or updated information required by the department has not been provided.

5. A permit renewal shall be for a term not to exceed the period of the original permit.

Application for renewal shall be made at least one hundred twenty days prior to the expiration of the permit. Prior to the approval of a renewal of permit the department shall provide notice to the appropriate public authorities.

Sec. 5. NEW SECTION. PUBLIC NOTICE AND HEARING.

1. An applicant for a coal mining and reclamation permit or its renewal shall file a copy of the application for public inspection with the county recorder of each county where the mining is proposed to occur.

2. An applicant for a coal mining and reclamation permit or its renewal shall submit to the department a copy of his or her advertisement of the ownership, precise location, and boundaries of the land to be affected. At the time of submission the advertisement shall be placed by the applicant in a local newspaper of general circulation in the locality of the proposed mine weekly for four consecutive weeks. The department shall notify various local governmental bodies, planning agencies, sewage and water treatment authorities, and water companies where the proposed mining will take place, informing them of the operator's intention to mine a particularly described tract of land, indicating the application number and where a copy of the proposed mining and reclamation plan may be inspected. They may submit written comments within a reasonable period established by the department on the effect of the proposed operation on the environment within their area of responsibility. The comments shall immediately be transmitted to the

applicant and shall be made available to the public at the same locations as the mining permit application.

3. A person having an interest which is or may be adversely affected or a federal, state, or local governmental agency may file written objections to the proposed initial or revised application for a permit for coal mining and reclamation operation with the department within sixty days after the last publication of the advertisement. The objections shall immediately be transmitted to the applicant and shall be made available to the public. If objections are filed and an informal conference requested within a reasonable time, the department shall hold an informal conference in the locality of the proposed mining operations and shall publish the date, time and location in a newspaper of general circulation in the locality at least two weeks prior to the scheduled conference date. Upon request by an interested party, the department may arrange with the applicant access to the proposed mining area for the purpose of gathering information relevant to the proceeding. An electronic or stenographic record shall be made of the conference proceeding, unless waived by all parties. The record shall be maintained and shall be accessible to the parties until final release of the applicant's performance bond. If all parties requesting the informal conference stipulate agreement prior to the conference and withdraw their request, the conference need not be held.

4. An application for a permit shall show a certificate issued by an insurance company authorized to do business in this state certifying that the applicant has a public liability insurance policy in force for that mining and reclamation operation or evidence satisfactory to the department that the applicant has an adequate self-insurance plan. The policy or self-insurance plan shall provide for personal injury and property damage protection adequate to compensate persons entitled to compensation because of damage as a result of coal mining and reclamation operations including use of explosives. The policy or self-insurance plan shall be maintained in full force and effect during the terms of the permit, any renewal and all reclamation operations.

Sec. 6. NEW SECTION. BLASTING PLAN REQUIRED.

1. An application for a permit shall contain a blasting plan which outlines the procedures and standards by which the operator will meet the requirements of the department.

2. The department may promulgate rules requiring the training, examination, and certification of persons engaging in or directly responsible for blasting or use of explosives in coal mining operations.

Sec. 7. NEW SECTION. ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS. The department shall promulgate rules consistent with but not more restrictive than all of the environmental performance standards of Pub. L. 95-87 and the permanent regulations issued pursuant to that Act on or before March 13, 1979. All coal mining operations and coal exploration operations in the state shall comply with applicable performance standards of Pub. L. 95-87, the permanent regulations issued by the federal office of surface mining on or before March 13, 1979, this Act, and all rules issued pursuant to this Act.

Sec. 8. NEW SECTION. DETERMINING IF LAND IS UNSUITABLE FOR MINING.

1. The department by rule shall designate a site unsuitable for coal mining if the department determines on the basis of an application or petition that reclamation as required by this Act is not technologically and economically feasible and may designate a site unsuitable for coal mining if such operations will:

a. Be incompatible with existing state or local land use plans or programs.

b. Affect fragile or historic lands in which the operations could result in significant damage to important historic, cultural, scientific, or esthetic values or natural systems.

c. Affect renewable resource lands in which such operations could result in a substantial loss or reduction of long range productivity of water supply or of food or fiber products, and such lands to include aquifers and aquifer recharge areas.

d. Affect natural hazards lands in which such operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology.

2. The requirements of this section do not apply to lands on which coal mining operations are being conducted as of August 3, 1977, or under a permit issued pursuant to this Act or pursuant to section eighty-three A point twelve (83A.12) of the 1979 Code or where substantial legal and financial commitments in an operation were in existence prior to January 4, 1977.

3. Prior to designating a land area as unsuitable for coal mining operations, the department shall prepare a detailed statement on the potential coal resources of the area, the demand for coal resources, and the impact of the designation on the environment, the economy, and the supply of coal.

4. A person having an interest which is or may be adversely affected may petition the department to have an area designated or to have the designation terminated. The petition shall contain allegations of facts with supporting evidence tending to establish the allegations. Within ten months after receipt of the petition the department shall hold a public hearing in the locality of the affected area, after appropriate notice and publication of the date, time, and location of the hearing. After a person has filed a petition and before the hearing, any person may intervene by filing allegations. Within sixty days after the hearing, the department shall issue and furnish to the petitioner and any other party to the hearing a written decision regarding the petition and the reasons. If all the petitioners stipulate agreement prior to the hearing and withdraw their request, the hearing need not be held.

5. Subject to valid existing rights, coal mining operations, except those which exist on the effective date of this Act, shall not be permitted on any of the following:

a. Lands within the boundaries of units of the national park systems, the national system of trails, the national wilderness preservation system, the national wildlife refuge systems, the wild and scenic rivers system, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act and national recreation areas designated by act of congress.

b. Lands which will adversely affect any publicly-owned park or places included in the national register of historic sites unless approved jointly by the department and the federal, state, or local agency with jurisdiction over the park or the historic site.

c. Within one hundred feet of the outside right-of-way line of a public road, except where mine access roads or haulage roads join the right-of-way line and except that the department may permit such roads to be relocated or the area affected to lie within one hundred feet of such road, if after public notice and opportunity for public hearing in the locality a written finding is made that the interests of the public and the landowners affected thereby will be protected.

d. Within three hundred feet of an occupied dwelling or a privately-owned building, unless waived by the owner, or within three hundred feet of a public building, school, church, community, or institutional building, public park, or within one hundred feet of a cemetery.

Sec. 9. NEW SECTION. PERMIT APPROVAL OR DENIAL.

1. Upon the basis of a complete mining application and reclamation plan or a revision or renewal, the department shall grant, require modification of, or deny the application for a permit in a reasonable time set by the department and notify the applicant in writing. The applicant shall have the burden of establishing that the application is in compliance with all the requirements of this Act. Within ten days after granting of a permit, the department shall notify the political subdivision in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land.

2. A permit or revision application shall not be approved unless the application affirmatively demonstrates and the department finds in writing on the basis of the application or other information documented in the approval, and made available to the applicant, the following:

a. The permit application is accurate, complete and in compliance with all the requirements of this Act.

b. The applicant has demonstrated that reclamation as required by this Act and the state program can be accomplished under the reclamation plan contained in the permit application.

c. The department has assessed the probable cumulative impact of all anticipated mining in the area on the hydrologic balance and the proposed operation has been designed to prevent material damage to hydrologic balance outside permit area.

d. The area proposed to be mined is not included within an area designated unsuitable for coal mining or is not within an area proposed for such designation.

e. If the private mineral estate has been severed from the private surface estate, the applicant has submitted any of the following:

(1) The written consent of the surface owner to the extraction of coal.

(2) A conveyance that expressly grants or reserves the right to extract the coal by surface mining.

(3) If the conveyance does not expressly grant the right to extract coal by surface mining methods, the surface-subsurface legal relationship as

determined in accordance with state law. This Act does not authorize the department to adjudicate property rights disputes.

3. The applicant shall file with the permit application a schedule listing any and all notices of violations of this Act and any law or rule of the federal or a state government pertaining to air or water environmental protection incurred by the applicant in connection with a coal mining operation during the three previous years. The schedule shall also indicate the final resolution of the notice of violation. If any information available to the department indicates that a coal mining operation owned or controlled by the applicant is currently in violation of this Act or the other laws referred to in this subsection, the permit shall not be issued until the applicant submits proof that such violation has been corrected or is in the process of being corrected to the satisfaction of the regulatory authority which has jurisdiction over the violation and the permit shall not be issued to an applicant after a finding by the department after an opportunity for a hearing that the applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violations of this Act.

4. If the area proposed to be mined contains prime farmland, the department shall, after consultation with the United States secretary of agriculture, and pursuant to regulations issued by the secretary with the concurrence of the secretary of agriculture, grant a permit to mine on prime farmland if the department finds in writing that the operator has the technological capability to restore such mined area, within a reasonable time, to equivalent or higher levels of yield as nonmined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction standards established by section seven (7) of this Act. Any operator who mines coal on agricultural land shall restore such mined area, within a reasonable time, to equivalent or higher levels of yield as nonmined agricultural land of similar quality in the surrounding area under equivalent levels of management.

5. Within sixty days a person having an interest which is or may be adversely affected may appeal to the committee the decision of the department granting or denying a permit as a contested case under chapter seventeen A (17A) of the Code.

Sec. 10. NEW SECTION. PERFORMANCE BOND REQUIREMENT.

1. After a permit application has been approved but before issuance, the applicant shall file with the department, on a form furnished by the department, a bond for performance payable to the state and conditioned upon faithful performance by the operator of all requirements of this Act and all rules adopted by the department pursuant to this Act.

2. The bond shall be signed by the operator as principal and by a corporate surety licensed to do business in Iowa as surety. In lieu of a bond, the operator may deposit cash, or government securities, or certificates of deposit or letters of credit with the department on the same conditions as for filing of bonds.

3. The amount of the bond or other security required to be filed with the department shall be equal to the estimated cost of reclamation of the site if

performed by the department. The estimated cost of reclamation of each individual site shall be determined by the department on the basis of relevant factors. The department may require each applicant to furnish information necessary to estimate the cost of reclamation. The amount of the bond or other security may be increased or reduced as the permitted operation changes, or when the cost of future reclamation changes. However, the bond amount shall not be less than ten thousand dollars.

4. Liability under the bond shall be for the duration of the coal mining and reclamation operation and for a period coincident with operator's responsibility for revegetation requirements in the rules promulgated under section seven (7) of this Act.

5. If the license to do business in Iowa of a surety of a bond filed with the department is suspended or revoked, the operator, within thirty days after receiving notice from the department, shall substitute another surety. If the operator fails to make substitution, the department may suspend the operator's authorization to conduct mining on the site covered by the bond until substitution has been made. The commissioner of insurance shall notify the department whenever the license of any surety providing bond for an operator is suspended or revoked.

Sec. 11. NEW SECTION. POLITICAL SUBDIVISION ENGAGED IN MINING. An agency or political subdivision of the state or a publicly-owned utility or corporation of a political subdivision which engages or intends to engage in coal mining shall meet all requirements of this Act.

Sec. 12. NEW SECTION. REVISION OF PERMITS.

1. An operator may apply for a revision or cancellation of a permit. The application shall be submitted by the operator on a form provided by the department, and shall contain information as required by the department.

The department shall establish rules for determining the scale or extent of a revision request to which all permit application information requirements and procedures including notice and hearings, shall apply. Revisions which propose significant alterations in the reclamation plan shall be subject to notice and hearing requirements.

2. An application for a revision of a permit shall not be approved unless the department finds that reclamation as required by this Act can be accomplished under the revised reclamation plan.

3. Extensions to the area covered by the permit except incidental boundary revisions must be made subject to the requirements for an application for new permit.

4. If the application is to cancel the permit as it pertains to any or all of the unmined part of a site, the department shall, after ascertaining that overburden has not been disturbed or deposited on the land, order release of the bond or the security posted on that portion of the land being removed from the permit and cancel or amend the operator's permit to conduct mining on the site. Land where overburden has been disturbed or deposited shall not be removed from a permit or released from bond or security under this section.

5. A transfer, assignment, or sale of the rights granted under a permit shall not be made without the written approval of the department.

6. Fees for revision or cancellation shall be determined by the department but shall not exceed the cost of administering revisions or cancellations of permits as authorized under this section.

7. The department shall review outstanding permits within a time limit prescribed by rule and may require reasonable revision or modification of the permit provisions during the term of the permit. However, the revision or modification shall be based upon a written finding and subject to notice and hearing requirements established by the department.

Sec. 13. NEW SECTION. INSPECTIONS AND MONITORING.

1. The department shall make inspections of any mining and reclamation operations as are necessary to evaluate the administration of this Act and authorized representatives of the department shall have a right to entry at any mining and reclamation operation. If the operator refuses to consent to the inspection, the department shall request the attorney general to immediately obtain a warrant for the inspection.

The department shall determine what records and other information shall be maintained and furnished to the department by the operators for the effective administration of this Act.

2. The inspections by the department shall:

a. One complete inspection per calendar quarter and at least one partial inspection on an irregular basis in those months where a complete inspection is not performed.

b. Occur without prior notice to the permittee, agents or employees except for necessary on-site meetings with the permittee.

c. Include the filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of this Act.

3. If the department has reason to believe that an operator is in violation of a requirement of this Act or a permit condition, the department shall immediately order an inspection of the coal mining operation within ten days of receiving notice of the alleged violation.

4. An operator shall conspicuously maintain a clearly visible sign at the entrances to the mining and reclamation operation which sets forth the name, business address, permit number and phone number of the operator.

5. Each inspector shall immediately inform the operator in writing of each violation, and shall report in writing any violation to the department.

6. Copies of any record, reports, inspection materials, or information obtained under this section by the department shall be made immediately available to the public at central and sufficient locations in the area of mining so that they are conveniently available to residents in the areas of mining.

7. An employee of the department performing any function or duty under this Act shall not have a direct or indirect financial interest in any mining operation.

Sec. 14. NEW SECTION. ENFORCEMENT.

1. When on the basis of an inspection, the director determines that a condition or practice exists which creates an imminent danger to the health or safety of the public or can reasonably be expected to cause significant, imminent environmental harm to land, air, or water resources, the director

shall immediately order a cessation of coal mining and reclamation operations to the extent necessary until the director determines that the condition, practice, or violation has been abated, or until the order is modified, vacated, or terminated by the department pursuant to procedures set out in this section.

If the director finds that the ordered cessation will not completely abate the imminent danger to health or safety of the public or the significant imminent environmental harm, the director shall require the operator to take whatever steps the director deems necessary to abate the imminent danger or the significant environmental harm.

2. When on the basis of an inspection, the director determines that any operator is in violation of any requirement of this Act or permit condition, but the violation does not create an imminent danger to the health or safety of the public or cannot be reasonably expected to cause significant, imminent environmental harm, the director shall issue a notice to the operator fixing a reasonable time but not more than ninety days for the abatement of the violation and providing opportunity for public hearing.

If upon expiration of the time as fixed the director finds in writing that the violation has not been abated, the director shall immediately order a cessation of coal mining and reclamation operations relating to the violation until the order is modified, vacated, or terminated by the director pursuant to procedures outlined in this section. In the order of cessation issued by the director under this subsection, the director shall include the steps necessary to abate the violation in the most expeditious manner possible.

3. When on the basis of an inspection the director determines that a pattern of violations of the requirements of this Act or any permit conditions exists or has existed, and if the director also finds that the violations are willful or caused by the unwarranted failure of the operator to comply with any requirements of this Act or any permit conditions, the director shall immediately issue an order to the operator to show cause as to why the permit should not be suspended or revoked and the bond or security forfeited, and shall provide opportunity for a hearing as a contested case pursuant to chapter seventeen A (17A) of the Code. Upon the operator's failure to show cause, the director shall immediately suspend or revoke the permit.

4. Upon notice of intent to appeal, the committee shall schedule a hearing conducted as a contested case and not as an appeal on the violation by the operator within thirty days after the date of receipt of the notice. If the committee revokes the permit, the committee shall give the operator a specific period to complete reclamation or request the attorney general to institute bond forfeiture proceedings.

5. In any administrative proceeding under this Act or judicial review, the amount of all reasonable costs and expenses, including reasonable attorney fees incurred by a person in connection with his or her participation in the proceedings or judicial review, may be assessed against either party as the court in judicial review or the committee in administrative proceedings deems proper.

6. Notices and orders issued pursuant to this section shall set forth with reasonable specificity the nature of the violation and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the coal mining and reclamation operation to which the notice or order applies. Each notice or order issued under this section shall be given promptly to the operator or an agent and all notices and orders shall be in writing and signed. A notice or order issued pursuant to this section may be modified, vacated, or terminated by the director. Any notice or order issued pursuant to this section which requires cessation of mining by the operator expires within thirty days of actual notice to the operator unless a public hearing is held at or near the site so that any viewings of the site can be conducted during the course of the hearing.

7. A permittee issued a notice or order under this section or any person having an interest which is or may be adversely affected by the notice or order or by its modification, vacation or termination may apply to the committee for review within thirty days of receipt of the notice or order or within thirty days of its modification, vacation or termination. The review shall be treated as a contested case under chapter seventeen A (17A) of the Code. Pending completion of any investigation or hearings required by this section, the applicant may file with the department a written request that the director grant temporary relief from any notice or order issued under this section together with a detailed statement giving reasons for granting such relief. The director shall issue an order or decision granting or denying the request for relief within five days of its receipt. The director may grant such relief under such conditions as the director may prescribe if all of the following occur:

a. A hearing has been held in the locality of the permit area on the request for temporary relief in which all parties were given an opportunity to be heard.

b. The applicant shows that there is substantial likelihood that the findings of the committee will be favorable to him or her.

c. Such relief will not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air or water resources.

8. At the request of the department, the attorney general shall institute any legal proceedings, including an action for an injunction or a temporary injunction necessary to enforce the penalty provisions of this Act or to obtain compliance with this Act.

Sec. 15. NEW SECTION. PENALTIES.

1. If any person violates a permit condition or violates a provision of this Act, or a rule, or order issued under this Act, the attorney general shall, at the request of the committee, institute a civil action in the district court for injunctive relief to prevent a further violation of the condition, rule, or order, or for the assessment of a civil penalty as determined by the court not to exceed five thousand dollars per day for each day of the violation or both injunctive relief and fine. If any violations result in the issuance of a cessation order under section fourteen (14) of

this Act, the committee shall request the attorney general to institute a civil action in the district court for the assessment of a civil penalty as determined by the court not to exceed five thousand dollars per day for each day of the violation.

In determining the amount of the penalty, the court shall give consideration to the operator's history of previous violations at the particular mining operation, the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public, whether the operator was negligent, and the demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of the violation.

In the action, any previous findings of fact by the director or the committee after notice and hearing shall be conclusive if supported by substantial evidence in the record when the record is viewed as a whole.

2. A person who willfully and knowingly violates a condition of a permit or any other provision of this Act, or makes a false statement, representation, or certification, or knowingly fails to make a statement, representation, or certification in an application, record, report, plan, or other document filed or required to be maintained pursuant to this Act or any order or decision of this Act, shall be guilty of a serious misdemeanor and notwithstanding section nine hundred three point one (903.1) of the Code the maximum fine shall be ten thousand dollars.

3. Whenever a corporate operator violates a condition of a permit or any other provision of this Act or fails or refuses to comply with any provision of this Act, a director, officer, or agent of that corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties or criminal fines and imprisonment that may be imposed upon a person under this section.

4. If any operator fails to correct a violation for which a notice or order has been issued within the period permitted for its correction, the attorney general shall, at the request of the committee, institute a civil action in any district court for the assessment of a civil penalty as determined by the court of not less than seven hundred fifty dollars for each day during which the failure or violations continue.

5. An employee of the department performing any function or duty under this Act who knowingly and willfully has a direct or indirect financial interest in any coal mining operation shall be guilty of a serious misdemeanor and notwithstanding section nine hundred three point one (903.1) of the Code the maximum fine shall be two thousand five hundred dollars.

Sec. 16. NEW SECTION. RELEASE OF PERFORMANCE BONDS OR DEPOSITS.

1. Each operator upon completion of any reclamation work required by this Act shall apply to the department in writing for approval of the work. The department shall promulgate rules consistent with Pub. L. 95-87, section 519, regarding procedures and requirements to release performance bonds or deposits.

2. The department may release in whole or part the bonds or deposits if the department is satisfied the reclamation covered by the bonds or deposits or portions thereof has been accomplished as required by this Act according

to stages determined by the department by rule. When the operator has completed successfully all surface coal mining and reclamation activities, the remaining portion of the bond shall be released upon the expiration of the period specified for operator responsibility in the rules promulgated pursuant to section seven (7) of this Act. A bond shall not be fully released until all reclamation requirements of this Act are fully met.

3. A person with a valid legal interest which might be adversely affected by release of the bond or a federal, state, or local governmental agency which has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the operation, or which is authorized to develop and enforce environmental standards with respect to such operations may file written objections to the proposed release from bond to the department within sixty days after the last publication as required by rule of a notice of a request for bond release by the operator. If written objections are filed and a hearing is requested, the department shall inform all the interested parties of the time and place of the hearing, and hold a public hearing as a contested case in the locality of the coal mining operation or at the state capital, at the request of the objectors, within thirty days of the request. The date, time, and location shall be advertised by the department in a newspaper of general circulation in the locality for two consecutive weeks.

Sec. 17. NEW SECTION. CITIZEN SUITS.

1. A person having an interest which is or may be adversely affected may commence a civil action on his or her own behalf to compel compliance with this Act as follows:

a. Against the department or any other governmental agency or subdivision which is alleged to be in violation of the provisions of this Act or of any rule, order or permit issued or against any other person who is alleged to be in violation of any rule, order or permit issued pursuant to this Act.

b. Against the department where there is alleged a failure of the department to perform any act or duty required under this Act. The suit shall be filed in the county where the mining operation is or, if against the department, in the district court for Polk county or the county of the petitioner's residence.

2. An action shall not be commenced:

a. Under subsection one (1), paragraph a of this section until sixty days after the plaintiff has given notice in writing of the violation to the department and to any alleged violator, or if the state has commenced and is diligently prosecuting a civil action against that operator for compliance with the provisions of this Act; however, the person may intervene in the action as a matter of right.

b. Under subsection one (1), paragraph b of this section until sixty days after the plaintiff has given notice in writing to the department in the manner provided by rule; however, if the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff, the action may be brought immediately after giving notice.

3. The department may intervene in any action under this section.

4. The court, in issuing a final order in an action brought pursuant to subsection one (1) of this section, may award costs of litigation including attorney and expert witness fees to any party.

5. This section does not restrict a right which any person or class may have under a statute or common law to seek enforcement of any of the provisions of this Act or to seek any other relief. The availability of judicial review of the actions of the department shall not restrict any rights established by this section.

6. A person whose person or property is injured through the violation by any operator of a rule, order, or permit issued pursuant to this Act may bring an action for damages including reasonable attorney and expert witness fees only in the county in which the coal mining operation complained of is located. This subsection shall not affect the rights or limits under workers' compensation as provided in chapter eighty-five (85) of the Code.

Sec. 18. NEW SECTION. COAL EXPLORATION PERMITS.

1. A coal exploration operation in this state which substantially disturbs the natural land surface shall be conducted in accordance with exploration rules issued by the department. The rules shall include at a minimum the following:

a. The requirement that prior to conducting an exploration the person must file with the department a notice of intention to explore describing the exploration area and the period of exploration.

b. Provisions for reclamation of the lands disturbed by the exploration in accordance with the environmental performance standards mandated by section seven (7) of this Act.

2. Information submitted to the department pursuant to this section and determined by the department, following consultation with the person submitting the information, to be confidential concerning trade secrets or privileged commercial or financial information which relates to the competitive rights of the person intending to explore the described area shall not be available for public examination.

3. A person who conducts coal exploration activities which substantially disturb the natural land surface in violation of this section shall be subject to the provisions of section fifteen (15) of this Act.

4. An operator shall not remove more than fifty tons of coal pursuant to an exploration permit without the specific written approval of the department.

Sec. 19. NEW SECTION. SURFACE EFFECTS OF UNDERGROUND COAL MINING OPERATIONS. The provisions of this Act shall be applicable to surface operations and surface impacts incident to an underground coal mine with such modifications to the permit application requirements, permit approval or denial procedures, and bond requirements as are necessary to accommodate the distinct difference between surface and underground coal mining. The department shall promulgate such modifications in its rules to allow for such distinct differences and still fulfill the purposes of this Act and be consistent with the requirements in section 516 of Pub. L. 95-87 and the permanent regulations issued pursuant to that Act.

In order to protect the stability of the land, the department shall suspend underground coal mining under urbanized areas, cities, towns,* and communities and adjacent to industrial or commercial buildings, major impoundments, or permanent streams if the director finds imminent danger to inhabitants of the urbanized areas, cities, towns,* and communities.

Sec. 20. NEW SECTION. AUTHORITY TO ENTER INTO COOPERATIVE AGREEMENTS. The department may enter into a cooperative agreement with the secretary to provide for the department to regulate mining and reclamation operations on federal lands within the state. If the department enters into a cooperative agreement with the secretary under this section, such agreement shall be conducted according to the provisions of chapter twenty-eight E (28E) of the Code.

Sec. 21. NEW SECTION. ABANDONED MINE RECLAMATION PROGRAM.

1. The department shall participate in the abandoned mine reclamation program under title IV, Pub. L. 95-87. There is established an abandoned mine reclamation fund under the control of the department.

2. Lands and water eligible for reclamation or drainage abatement expenditures under this section are those which were mined for coal or affected by such mining, waste banks, coal processing, or other coal mining processes, and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under state or federal laws.

3. Expenditure of moneys from the abandoned mine reclamation fund on eligible lands and water for the purpose of this program shall reflect the following priorities in the order stated:

a. The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices.

b. The protection of public health, safety, and general welfare from adverse effects of coal mining practices.

c. The restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices including measures for the conservation and development of soil, water, excluding channelization, woodland, fish and wildlife, recreation resources, and agricultural productivity.

d. Research and demonstration projects relating to the development of surface mining reclamation and water quality control program methods and techniques.

e. The protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation, and conservation facilities adversely affected by coal mining practices.

f. The development of publicly-owned land adversely affected by coal mining practices including land acquired as provided in this section for recreation and historic purposes, conservation, and reclamation purposes and open space benefits.

4. The department shall submit to the secretary a state reclamation plan and annual projects to carry out the purposes of this program. The plan shall generally identify the areas to be reclaimed, the purposes for which the reclamation is proposed, the relationship of the lands to be reclaimed

*Repealed by home rule Act

and the proposed reclamation to surrounding areas, the specific criteria for ranking and identifying projects to be funded, and the legal authority and programmatic capability to perform such work in conformance with the provisions of title IV of Pub. L. 95-87.

The department may annually submit to the secretary an application with such information as determined by the secretary for the support of the state program and implementation of specific reclamation projects.

The costs for each proposed project under this program shall include actual construction costs, actual operation and maintenance costs of permanent facilities, planning and engineering costs, construction and inspection costs, and other necessary administrative expenses.

The department shall prepare and submit annual and other reports as required by the secretary.

5. The department in participating in the abandoned mine reclamation program under title IV of Pub. L. 95-87 shall have the following additional powers:

a. To engage in any work and to do all things necessary or expedient, including promulgation of rules, to implement and administer the provisions of this program.

b. To engage in cooperative projects with any other governmental unit provided that such cooperative projects shall be under a cooperative agreement conducted according to the provisions of chapter twenty-eight E (28E) of the Code.

c. To request the attorney general to seek injunctive relief to restrain any interference with the exercise of the right to enter or to conduct work under this program.

d. To construct and operate a plant or plants for the control and treatment of water pollution resulting from mine drainage. The extent of this control and treatment may be dependent upon the ultimate use of the water. The construction of a plant or plants may include major interceptors and other facilities appurtenant to the plant.

Sec. 22. NEW SECTION. ACQUISITION AND RECLAMATION OF LAND.

1. a. The department, pursuant to a state program approved by the secretary, may take action as provided in paragraph b of this subsection if it finds all of the following:

(1) Land or water resources have been adversely affected by past coal mining practices.

(2) The adverse effects are at a stage where in the public interest action to restore, reclaim, abate, control, or prevent should be taken.

(3) The owners of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices are not known or readily available, or will not give permission for the United States, this state, political subdivisions, their agents, employees, or contractors to enter upon such property to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices.

b. Upon giving notice by mail to the owners if known or by posting notice upon the premises and advertising once in a local newspaper of general

circulation if not known, the department may enter upon the property adversely affected by past coal mining practices and any other property to have access to the property to do all things necessary or expedient to restore, reclaim, abate, control, or prevent the adverse effects. The entry shall be construed as an exercise of the police power for the protection of public health, safety, and general welfare and not as an act of condemnation of property or trespass. The moneys expended for the work and the benefits accruing to the property shall be chargeable against such property and shall mitigate or offset any claim on or any action brought by an owner of any interest in the property for any alleged damages because of the entry. This provision does not create new rights of action or eliminate existing immunities.

2. The department may enter upon a property for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and to determine the feasibility of restoration, reclamation, abatement, control, or prevention of such adverse effects. The entry shall be construed as an exercise of the police power for the protection of public health, safety, and general welfare and not as an act of condemnation of property or trespass.

3. The department pursuant to an approved state program may acquire any land, by purchase, donation, or condemnation, which is adversely affected by past coal mining practices if the secretary determines that acquisition of the land is necessary to successful reclamation and that:

a. The acquired land, after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices, will serve recreation and historic purposes, conservation and reclamation purposes or provide open spaces benefits and that permanent facilities such as a treatment plant or a relocated stream channel will be constructed on the land for the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices; or

b. Acquisition of coal refuse disposal sites and all coal refuse thereon will serve the purposes of title IV or that public ownership is desirable to meet emergency situations and prevent recurrences of the adverse effect of past coal mining practices.

4. Title to all lands acquired pursuant to this section shall be in the name of this state. The price paid for land acquired under this section shall reflect the market value of the land as adversely affected by past coal mining practices.

5. If land acquired pursuant to this section is deemed to be suitable for industrial, commercial, agricultural, residential, or recreational development, the department with authorization from the secretary may sell the land by public sale under a system of competitive bidding, at not less than fair market value and under rules promulgated to insure that the lands are put to proper use consistent with local land use plans.

6. The department if requested after appropriate public notice shall hold a public hearing with the appropriate notice, in the county of the lands acquired pursuant to this section. The hearings shall be held at a time that affords local citizens and governments the maximum opportunity to participate in the decision concerning the use or disposition of the lands.

7. The department may cooperate with the secretary in acquiring land by purchase, donation, or condemnation to assist the housing of people disabled as the result of employment in the mines or incidental work, persons displaced by acquisition of land pursuant to this section, or persons dislocated as the result of adverse effects of coal mining practices which constitute an emergency as determined by the secretary. The fund provided under this section shall not be used to pay the actual construction costs of housing.

Sec. 23. NEW SECTION. LIENS.

1. Before initiating a reclamation project, the department shall obtain a notarized appraisal by an independent appraiser of the value of the land before the project. Within six months after the completion of a project, the department shall itemize the money expended on the project, obtain another appraisal and shall file a lien statement in the manner provided in section five hundred seventy-two point eight (572.8) of the Code, together with the notarized appraisals, in the office of the district court clerk of each county in which a portion of the property affected by the project is located. A copy of the lien statement and the appraisal shall be served upon affected property owners in the manner provided for service of an original notice. The lien shall not exceed the amount determined by the appraiser to be the increase in the market value of the land. A lien shall not be filed in accordance with this subsection against the property of a person, who owned the surface prior to May 2, 1977, and who neither consented to, participated in nor exercised control over the mining operation which necessitated the reclamation performed.

2. The owner of property to which the lien attaches may petition the court within sixty days after receipt of service of the lien statement, to determine the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. The amount found to be the increase in value of the property shall constitute the amount of the lien and shall be recorded in the office of the district court in each county in which the owner's property is located. A party aggrieved by the decision may appeal as provided by law.

3. The lien provided in this section has priority over all other liens or security interests which have attached to the property, whenever those liens may have arisen, except liens of real estate taxes imposed upon the property.

4. The department shall report to the general assembly annually on operations under this program should the department participate in this program.

5. The department shall have the power and authority to engage in any work and to do all things necessary or expedient, including promulgation of rules, to implement and administer the provisions of an abandoned mine reclamation program.

Sec. 24. NEW SECTION. WATER RIGHTS AND REPLACEMENT. This Act shall not be construed as affecting the right of any person's interest in water resources affected by a mining operation.

The operator of a mine shall replace the water supply of an owner of interest in real property who obtains all or part of his or her supply of water for any legitimate use from an underground or surface source if the supply has been affected by contamination, diminution, or interruption proximately resulting from the mine operation.

Sec. 25. NEW SECTION. ADDITIONAL DUTIES AND POWERS OF THE DEPARTMENT. In addition to the duties and powers conferred upon the department, it shall have the power to prescribe by rule the necessary procedures and requirements of operators to carry out the purpose and provisions of this Act.

Sec. 26. NEW SECTION. MINING OPERATIONS NOT SUBJECT TO THIS ACT. The provisions of this Act shall not apply to any of the following activities:

1. The extraction of coal by a landowner for his or her own noncommercial use from land owned or leased by him or her.
2. The extraction of coal for commercial purposes where the mining operation affects one-half acre or less.
3. The extraction of coal as an incidental part of federal, state or local government-financed highway or other construction under rules promulgated by the department.

Sec. 27. NEW SECTION. EXPERIMENTAL PRACTICES. In order to encourage advances in mining and reclamation practices or to allow post-mining land use for industrial, commercial, agricultural, residential, or public use including recreational facilities, the department with approval by the secretary may authorize departures in individual cases on an experimental basis from the environmental protection performance standards promulgated under sections seven (7) and twenty (20) of this Act if the experimental practices are potentially as environmentally protective, during and after mining operations, as those required by promulgated standards, the mining operations approved for particular land use or other purposes are not larger or more numerous than necessary to determine the effectiveness and economic feasibility of the experimental practices, and the experimental practices do not reduce the protection afforded public health and safety below that provided by promulgated standards.

Sec. 28. NEW SECTION. EMPLOYEE PROTECTION.

1. A person shall not discharge, or in any other way discriminate against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

2. Any employee or a representative of employees who believes that he or she has been fired or discriminated against by a person in violation of subsection one (1) of this section may, within thirty days after the alleged violation occurs, apply to the director for a review as provided by rule of the firing or alleged discrimination.

Sec. 29. Section eighty-three A point two (83A.2), subsections one (1), two (2), and fifteen (15), Code 1979, are amended to read as follows:

1. "Overburden" means all of the earth and other materials which lie above natural deposits of ~~coal~~, gypsum, clay, stone, sand, gravel or other

minerals, and includes all earth and other materials disturbed from their natural state in the process of surface mining.

2. "Surface mining" means the mining of ~~coal~~, gypsum, clay, stone, sand, gravel or other ores or mineral solids for sale or for processing or consumption in the regular operation of a business by removing the overburden lying above the natural deposits and mining directly from the natural deposits exposed, or by mining directly from deposits lying exposed in their natural state. Removal of overburden and mining of limited amounts of any ores or mineral solids ~~other than coal~~ shall not be considered surface mining when done only for the purpose and to the extent necessary to determine the location, quantity, or quality of the natural deposit, if the ores or mineral solids removed during exploratory excavation or mining are not sold, processed for sale, or consumed in the regular operation of a business.

15. "Mine" means any underground or surface mine developed and operated for the purpose of extracting any ores or mineral solids except coal.

Sec. 30. Section eighty-three A point seven (83A.7), Code 1979, is amended to read as follows:

83A.7 MINING LICENSE. No person, firm, partnership, or corporation shall engage in surface mining or operation of an underground mine or mines, as defined by section 83A.2, without first obtaining a license from the department. Licenses shall be issued upon application submitted on a form provided by the department and shall be accompanied by a fee of fifty dollars. Each applicant shall be required to furnish on the form information necessary to identify the applicant. Licenses shall ~~expire one-year--from date--of--issuance~~ on December thirty-first of each year and shall be renewed by the department upon application submitted within thirty days prior to the expiration date and accompanied by a fee of ten dollars.

Sec. 31. Section eighty-three A point eight (83A.8), Code 1979, is amended to read as follows:

83A.8 SUSPENSION OR REVOCATION OF LICENSE. The department may, with approval of the committee, commence proceedings to suspend, revoke, or refuse to renew a license of any licensee for repeated or willful violation of any of the provisions of this chapter ~~or of the--federal--Coal--Mine--Health--and Safety--Act--of--1969~~ or the federal Metal and Nonmetallic Mine Safety Act. The department shall by certified mail or personal service serve on the licensee notice in writing of the charges and grounds upon which the license is to be suspended, revoked, or will not be renewed. The notice shall include the time and the place at which a hearing shall be held before the committee to determine whether to suspend, revoke, or refuse to renew the license. The hearing shall be not less than fifteen nor more than thirty days after the mailing or service of the notice.

Sec. 32. Section eighty-three A point nine (83A.9), Code 1979, is amended to read as follows:

83A.9 HEARING--COUNSEL. Any licensee whose license the department proposes to suspend, revoke, or refuse to renew shall have the right to counsel and may produce witnesses and present statements, documents, and other information in his behalf at the hearing. If after full investigation and hearing the licensee is found to have willfully or repeatedly violated

any of the provisions of this chapter ~~ex-of-the-federal-Coal-Mine-Health--and-Safety--Act-of-1969~~ or the federal Metal and Nonmetallic Mine Safety Act, the committee may affirm or modify the proposed suspension, revocation, or refusal to renew the license. When the committee finds that a license should be suspended or revoked or should not be renewed, the department shall so notify the licensee in writing by certified mail or by personal service.

Sec. 33. Section eighty-three A point thirteen (83A.13), subsection one (1), Code 1979, is amended to read as follows:

1. Within fifteen days ~~prior--to~~ after beginning mining or removal of overburden at any surface mining site not previously registered, an operator engaging in mining in this state shall register the site with the department. Application for registration shall be made upon a form provided by the department. The registration fee shall be established by the department in an amount ~~equal--to~~ not exceeding the cost of administering the registration provisions of this chapter, as estimated by the department. The application shall include a description of the tract or tracts of land where the site is located and the estimated number of acres at the site to be affected by the mine. The description shall include the section, township, range, and county in which the land is located and shall otherwise describe the land with sufficient certainty to determine the location and to distinguish the land to be registered from other lands. The application shall include a statement explaining the authority of the applicant's legal right to operate a mine on the land.

Sec. 34. Section eighty-three A point thirteen (83A.13), subsection three (3), Code 1979, is amended by striking the subsection.

Sec. 35. Section eighty-three A point fourteen (83A.14), Code 1979, is amended to read as follows:

83A.14 BOND. The application for registration shall be accompanied by a bond or security as required under sections 83A.23 or 83A.24 if overburden is removed. After ascertaining that the applicant is licensed under section 83A.7 and is not in violation of this chapter with respect to any site previously registered with the department, the department shall register the site and shall issue the applicant written authorization to conduct surface mining on the site. ~~Nothing-in-this-section-shall--require--land--which--has-been--mined--or--from--which--overburden--has--been--removed--before--July-1-,1976--to-meet--the--standards--in--section--83A-31--Authorization-shall-not-be--issued--to-conduct--surface--coal--mining--in--areas--designated--unsuitable--pursuant--to-section-83A-13-~~

Sec. 36. Section eighty-three A point fifteen (83A.15), Code 1979, is amended to read as follows:

83A.15 AMENDMENT OR CANCELLATION. An operator may at any time apply for amendment or cancellation of registration of any site. The application for amendment or cancellation of registration shall be submitted by the operator on a form provided by the department and shall identify as required under section 83A.13 the tract or tracts of land to be added to or removed from registration. If the application is for an increase in the area of a registered site, the application shall be processed in the same manner as an application for original registration. If the application is to cancel

registration of any or all of the unmined part of a site, the department shall after ascertaining that no overburden has been disturbed or deposited on the land order release of the bond or the security posted on the land being removed from registration and cancel or amend the operator's written authorization to conduct surface mining on the site. Fees for amendment or cancellation of registration shall be determined as provided in section ~~83A-14~~ eighty-three A point thirteen (83A.13) of the Code. No land where overburden has been disturbed or deposited shall be removed from registration or released from bond or security under this section.

Sec. 37. Section eighty-three A point sixteen (83A.16), Code 1979, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department may establish procedures for transferring the responsibility for reclamation of a mine site to a state agency or political subdivision which intends to use the site for other purposes. The department, with agreement from the receiving agency or subdivision to complete adequate reclamation, may approve the transfer of responsibility, release the bond or security, and terminate or amend the operator's authorization to conduct surface mining on the site.

Sec. 38. Section eighty-three A point seventeen (83A.17), unnumbered paragraph two (2), Code 1979, is amended to read as follows:

A bond or security posted under this chapter to assure rehabilitation of land affected by surface mining shall not be released until all rehabilitation work required by this section ~~and section 83A-31~~ has been performed to the department's satisfaction, except when a replacement bond or security is posted by a new operator or responsibility for reclamation is transferred under section 83A.16.

Sec. 39. Section eighty-three A point nineteen (83A.19), Code 1979, is amended to read as follows:

83A.19 REHABILITATION OF LAND. An operator of a surface mine shall rehabilitate land affected by surface mining within twelve months after the filing of a report required under section 83A.18 indicating the mining of any part of a site has been completed. Each operator, upon completion of any rehabilitation work required by section 83A.17 ~~and section 83A-31~~, shall apply to the department in writing for approval of the work. The department shall within a reasonable time determined by departmental rule inspect the completed rehabilitation work. Upon determination by the department that the operator has satisfactorily completed all required rehabilitation work on the land included in the application, the department shall release the bond or security on the rehabilitated land, shall remove the land from registration, and shall terminate or amend as necessary the operator's authorization to conduct surface mining on the site.

Sec. 40. Section eighty-three A point twenty-one (83A.21), Code 1979, is amended to read as follows:

83A.21 POLITICAL SUBDIVISION ENGAGED IN MINING. Any political subdivision of the state of Iowa which engages or intends to engage in surface mining shall meet all requirements of sections 83A.13 to 83A.20 ~~and section 83A-31~~ except the subdivision shall not be required to post bond or security on registered land. When a political subdivision engaging in

surface mining violates any provision of this chapter or any rule adopted by the department pursuant to this chapter, the department shall notify the chief administrative officer or governing body of the subdivision. If after a reasonable time determined by the department, the subdivision has not commenced corrective measures approved by the department, the violation shall be referred to the committee. The chief administrative officer or governing body of the subdivision shall be notified in writing of the referral.

Sec. 41. Section eighty-three A point twenty-three (83A.23), Code 1979, is amended to read as follows:

83A.23 FORM OF BOND. Each bond filed with the department by an operator pursuant to this chapter shall be in a form prescribed by the department, payable to the state of Iowa, and conditioned upon faithful performance by the operator of all requirements of this chapter and all rules adopted by the department pursuant to this chapter. The bond shall be signed by the operator as principal and by a corporate surety licensed to do business in Iowa as surety. In lieu of a bond, the operator may deposit cash, certificates of deposit or government securities with the department on the same conditions as prescribed by this section for filing of bonds. The amount of the bond or other security required to be filed with an application for registration of a surface mining site, or to increase the area of a site previously registered, shall be equal to the estimated cost of rehabilitating the site as required under section 83A.17 ~~and section 83A-31~~. The estimated cost of rehabilitation of each individual site shall be determined by the department on the basis of relevant factors including, but not limited to, topography of the site, mining methods being employed, depth and composition of overburden, and depth of the mineral deposit being mined. The department may require an applicant for registration or amendment of registration of a site to furnish information necessary to estimate the cost of rehabilitating the site. The penalty of the bond or the amount of cash or securities on deposit may be increased or reduced from time to time in accordance with section 83A.15.

Sec. 42. Section eighty-three A point twenty-eight (83A.28), Code 1979, is amended to read as follows:

83A.28 FORFEITURE OF BOND. The attorney general, upon request of the committee, shall institute proceedings for forfeiture of the bond posted by an operator to guarantee rehabilitation of a site where the operator is in violation of any of the provisions of this chapter or any rule adopted by the department pursuant to this chapter. Forfeiture of the operator's bond shall fully satisfy all obligations of the operator to rehabilitate affected land covered by the bond. The department shall have the power to rehabilitate as required by section 83A.17 ~~and section 83A-31~~ any surface mined land with respect to which a bond has been forfeited, using the proceeds of the forfeiture to pay for the necessary rehabilitation work.

Sec. 43. Section eighty-three A point thirty-one (83A.31), Code 1979, is repealed.

Sec. 44. An operator who has a permit for mining under section eighty-three A point twelve (83A.12), Code 1979, may continue to operate under the terms of that permit until the department takes final action on the

operator's application for a permit under this Act if the operator applies for a permit under this Act within two months of the approval of this state's program by the United States secretary of the interior.

Approved June 6, 1979

CHAPTER 30
WORKERS COMPENSATION FOR FIRE FIGHTERS AND POLICE

H. F. 198

AN ACT relating to eligibility of municipal fire and police personnel for workers' compensation.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section eighty-five point one (85.1), subsection four (4), Code 1979, is amended by striking the subsection and inserting in lieu thereof the following:

4. Persons entitled to benefits pursuant to chapters four hundred ten (410) and four hundred eleven (411) of the Code.

Sec. 2. Section eighty-five point one (85.1), subsection six (6), Code 1979, is amended by striking the subsection.

Sec. 3. This Act is effective January first following its enactment.

Approved April 23, 1979

CHAPTER 31
PROSTHETIC DEVICES FOR INJURED WORKERS

H. F. 10

AN ACT relating to furnishing prosthetic devices for injured workers.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section eighty-five point twenty-seven (85.27), unnumbered paragraph one (1), Code 1979, is amended to read as follows:

The employer, for all injuries compensable under this chapter or chapter 85A, shall furnish reasonable surgical, medical, dental, osteopathic, chiropractic, podiatry, physical rehabilitation, nursing, ambulance and hospital services and supplies therefor and shall allow reasonably necessary transportation expenses incurred for such services. The employer shall also furnish reasonable and necessary crutches, artificial members and appliances