

Reprinted 2/79

MAR 8 1979

HOUSE FILE 670

Place On Calendar

By COMMITTEE ON ENERGY

(Formerly Study Bill 62)

Passed House, Date 3-26-79 (p. 1120) Passed Senate, Date \_\_\_\_\_

Vote: Ayes 92 Nays 0 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved JUN 24, 1979

## A BILL FOR

1 An Act relating to mining and providing penalties.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

670

1 Section 1. NEW SECTION. POLICY.

2 1. It is the policy of this state to provide for the  
3 rehabilitation and conservation of land affected by coal  
4 mining and preserve natural resources, protect and perpetu-  
5 ate the taxable value of property, and protect and promote  
6 the health, safety and general welfare of the people of this  
7 state.

8 2. The general assembly finds and declares that because  
9 the federal Surface Mining Control and Reclamation Act of  
10 1977, Pub. L. 95-87, provides for a permit system to regulate  
11 the mining of coal and reclamation of the mining sites and  
12 provides that permits may be issued by states which are  
13 authorized to implement the provisions of that Act, it is  
14 in the interest of the people of Iowa to enact the provisions  
15 of this Act in order to authorize the state to implement the  
16 provisions of the federal Surface Mining Control and  
17 Reclamation Act of 1977 and federal regulations and guidelines  
18 issued pursuant to that Act.

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

21 1. "Committee" means the state soil conservation commit-  
22 tee.

23 2. "Department" means the department of soil conserva-  
24 tion.

25 3. "Director" means the administrative officer of the  
26 department of soil conservation or a designee.

27 4. "Fund" means the abandoned mine reclamation fund es-  
28 tablished pursuant to this Act.

29 5. "Imminent danger to the health and safety of the public"  
30 means the existence of a condition or practice, or a violation  
31 of a permit or other requirement of this Act in a coal mining  
32 and reclamation operation, which could reasonably be expected  
33 to cause substantial physical harm to persons outside the  
34 permit area before it can be abated. A reasonable expectation  
35 of death or serious injury before abatement exists if a

1 rational person, subjected to the same conditions or practices  
2 giving rise to the peril, would not expose himself or herself  
3 to the danger during the time necessary for abatement.

4 6. "Mine" means an underground mine operation or surface  
5 mine operation developed and operated for the purpose of ex-  
6 tracting coal.

7 7. "Operator" means a person engaged in coal mining who  
8 removes or intends to remove more than fifty tons of coal  
9 from the earth by coal mining within twelve consecutive calen-  
10 dar months in one location.

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

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

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

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

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

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

27 14. "Surface coal mining operations" means both:

28 a. Activities conducted on the surface of lands in con-  
29 nection with a surface coal mine or surface operations and  
30 surface impacts incident to an underground coal mine subject  
31 to the requirements of this Act. However, these activities  
32 do not include the extraction of coal incidental to the ex-  
33 traction of other minerals if coal does not exceed sixteen  
34 and two-thirds percent of the tonnage of minerals removed  
35 for purposes of commercial use or sale or include coal explora-

1 tions subject to this Act.

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

4 15. "Unwarranted failure to comply" means the failure  
5 of an operator to prevent the occurrence of or abate a viola-  
6 tion of a permit or a requirement of this Act due to indif-  
7 ference, lack of diligence, or lack of reasonable care.

8 Sec. 3. NEW SECTION. MINING LICENSE.

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

20 2. The department may, after notification to the commit-  
21 tee, commence proceedings to suspend, revoke, or refuse to  
22 renew a license of a licensee for repeated or willful viola-  
23 tion of any of the provisions of this Act or of the federal  
24 Coal Mine Health and Safety Act of 1969.

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

33 4. Suspension or revocation of a license shall become  
34 effective thirty days after the mailing or service of the  
35 decision to the licensee. If the committee finds the license

1 should not be renewed, the renewal fee shall be refunded and  
2 the license shall expire on the expiration date or thirty  
3 days after mailing or service of the decision to the licensee,  
4 whichever is later.

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

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

13 The application shall include, but not be limited to:

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

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

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

20 d. A determination by an appropriate state or federal  
21 agency of the probable hydrologic consequences of the mining  
22 and reclamation operations, both on and off the mine site,  
23 with respect to the hydrologic regime, quantity, and quality  
24 of water in surface and ground water systems including the  
25 dissolved and suspended solids under seasonal flow conditions  
26 and the collection of sufficient data for the mine site and  
27 surrounding areas so that an assessment can be made by the  
28 department of the probable cumulative impacts of all antic-  
29 ipated mining in the area upon the hydrology of the area and  
30 particularly upon water availability. If the department finds  
31 that the probable total annual production at all locations  
32 of coal mining operation will not exceed one hundred thousand  
33 tons, the determination of probable hydrologic consequences  
34 and a statement of the result of test borings on core samplings  
35 which the department may require shall upon the written request

1 of the operator be performed by a qualified public or private  
2 laboratory designated by the department and the cost of the  
3 preparation of the determination and statement shall be as-  
4 sumed by the department.

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

18 3. A permit terminates if the permittee has not commenced  
19 the coal mining operations covered by the permit within three  
20 years of its issuance. However, the department may grant  
21 reasonable extensions of time upon a showing that the exten-  
22 sions are necessary because of litigation precluding the  
23 commencement or threatening substantial economic loss to the  
24 permittee or because of conditions beyond the control and  
25 without the fault or negligence of the permittee. If a coal  
26 lease is issued under the federal Mineral Leasing Act, as  
27 amended, extensions of time may not extend beyond the period  
28 allowed for diligent development in accordance with section  
29 7 of that Act. If coal is to be mined for use in a synthetic  
30 fuel facility or specific major electric generating facility,  
31 the permittee is deemed to have commenced mining operations  
32 when the construction of the synthetic fuel or generating  
33 facility is initiated.

34 4. A valid permit carries the right of successive re-  
35 newal upon expiration within the boundaries of the existing

1 permit. On application for renewal the burden shall be on  
2 the opponents of approval. Upon application the renewal shall  
3 be issued unless the department establishes any of the follow-  
4 ing:

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

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

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

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

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

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

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

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

25 1. An applicant for a coal mining and reclamation per-  
26 mit or its renewal shall file a copy of the application for  
27 public inspection with the county recorder of each county  
28 where the mining is proposed to occur.

29 2. An applicant for a coal mining and reclamation permit  
30 or its renewal shall submit to the department a copy of his  
31 or her advertisement of the ownership, precise location, and  
32 boundaries of the land to be affected. At the time of submis-  
33 sion the advertisement shall be placed by the applicant in  
34 a local newspaper of general circulation in the locality of  
35 the proposed mine weekly for four consecutive weeks. The

1 department shall notify various local governmental bodies,  
2 planning agencies, sewage and water treatment authorities,  
3 and water companies where the proposed mining will take place,  
4 informing them of the operator's intention to mine a  
5 particularly described tract of land, indicating the  
6 application number and where a copy of the proposed mining  
7 and reclamation plan may be inspected. They may submit written  
8 comments within a reasonable period established by the  
9 department on the effect of the proposed operation on the  
10 environment within their area of responsibility. The comments  
11 shall immediately be transmitted to the applicant and shall  
12 be made available to the public at the same locations as the  
13 mining permit application.

14 3. A person having an interest which is or may be adverse-  
15 ly affected or a federal, state, or local governmental agency  
16 may file written objections to the proposed initial or revised  
17 application for a permit for coal mining and reclamation  
18 operation with the department within sixty days after the  
19 last publication of the advertisement. The objections shall  
20 immediately be transmitted to the applicant and shall be made  
21 available to the public. If objections are filed and an in-  
22 formal conference requested within a reasonable time, the  
23 department shall hold an informal conference in the locality  
24 of the proposed mining publishing the date, time and location  
25 in a newspaper of general circulation in the locality at least  
26 two weeks prior to the scheduled conference date. Upon request  
27 by an interested party, the department may arrange with the  
28 applicant access to the proposed mining area for the purpose  
29 of gathering information relevant to the proceeding. An  
30 electronic or stenographic record shall be made of the con-  
31 ference proceeding, unless waived by all parties. The record  
32 shall be maintained and shall be accessible to the parties  
33 until final release of the applicant's performance bond.  
34 If all parties requesting the informal conference stipulate  
35 agreement prior to the conference and withdraw their request,

1 the conference need not be held.

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

15 Sec. 6. NEW SECTION. BLASTING PLAN REQUIRED.

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

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

23 Sec. 7. NEW SECTION. ENVIRONMENTAL PROTECTION PERFORMANCE  
24 STANDARDS. The department shall promulgate rules consistent  
25 with but not more restrictive than all of the environmental  
26 performance standards of Pub. L. 95-87 and the permanent  
27 regulations issued pursuant to that Act. All coal mining  
28 operations and coal exploration operations in the state shall  
29 comply with applicable performance standards of Pub. L. 95-  
30 87, the permanent regulations issued by the federal office  
31 of surface mining, this Act, and all rules issued pursuant  
32 to this Act.

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

35 1. The department by rule shall designate a site unsuit-

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

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

8 b. Affect fragile or historic lands in which the opera-  
9 tions could result in significant damage to important historic,  
10 cultural, scientific, or esthetic values or natural systems.

11 c. Affect renewable resource lands in which such opera-  
12 tions could result in a substantial loss or reduction of long  
13 range productivity of water supply or of food or fiber  
14 products, and such lands to include aquifers and aquifer  
15 recharge areas.

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

20 2. The requirements of this section do not apply to lands  
21 on which coal mining operations are being conducted on the  
22 date of enactment of this Act or under a permit issued pur-  
23 suant to this Act, or where substantial legal and financial  
24 commitments in an operation were in existence prior to January  
25 4, 1977.

26 3. Prior to designating a land areas as unsuitable for  
27 coal mining operations, the department shall prepare a de-  
28 tailed statement on the potential coal resources of the area,  
29 the demand for coal resources, and the impact of the designa-  
30 tion on the environment, the economy, and the supply of coal.

31 4. A person having an interest which is or may be ad-  
32 versely affected may petition the department to have an area  
33 designated or to have the designation terminated. The peti-  
34 tion shall contain allegations of facts with supporting evi-  
35 dence tending to establish the allegations. Within ten months

1 after receipt of the petition the department shall hold a  
2 public hearing in the locality of the affected area, after  
3 appropriate notice and publication of the date, time, and  
4 location of the hearing. After a person has filed a petition  
5 and before the hearing, any person may intervene by filing  
6 allegations. Within sixty days after the hearing, the  
7 department shall issue and furnish to the petitioner and any  
8 other party to the hearing a written decision regarding the  
9 petition and the reasons. If all the petitioners stipulate  
10 agreement prior to the hearing and withdraw their request,  
11 the hearing need not be held.

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

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

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

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

34 d. Within three hundred feet of an occupied dwelling or  
35 a privately-owned building, unless waived by the owner, or

1 within three hundred feet of a public building, school, church,  
2 community, or institutional building, public park, or within  
3 one hundred feet of a cemetery.

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

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

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

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

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

26 c. The department has assessed the probable cumulative  
27 impact of all anticipated mining in the area on the hydrologic  
28 balance and the proposed operation has been designed to pre-  
29 vent material damage to hydrologic balance outside permit  
30 area.

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

34 e. If the private mineral estate has been severed from  
35 the private surface estate, the applicant has submitted any

1 of the following:

2 (1) The written consent of the surface owner to the ex-  
3 traction of coal.

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

6 (3) If the conveyance does not expressly grant the right  
7 to extract coal by surface mining methods, the surface-  
8 subsurface legal relationship as determined in accordance  
9 with state law. This Act does not authorize the department  
10 to adjudicate property rights disputes.

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

30 4. If the area proposed to be mined contains prime  
31 farmland, the department shall, after consultation with the  
32 United States secretary of agriculture, and pursuant to  
33 regulations issued by the secretary with the concurrence of  
34 the secretary of agriculture, grant a permit to mine on prime  
35 farmland if the department finds in writing that the operator

1 has the technological capability to restore such mined area,  
2 within a reasonable time, to equivalent or higher levels of  
3 yield as nonmined prime farmland in the surrounding area under  
4 equivalent levels of management and can meet the soil  
5 reconstruction standards established by section seven (7)  
6 of this Act.

7 5. Within sixty days a person having an interest which  
8 is or may be adversely affected may appeal to the committee  
9 the decision of the department granting or denying a permit.

10 Sec. 10. NEW SECTION. PERFORMANCE BOND REQUIREMENT.

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

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

23 3. The amount of the bond or other security required to  
24 be filed with the department shall be equal to the estimated  
25 cost of reclamation of the site if performed by the department.  
26 The estimated cost of reclamation of each individual site  
27 shall be determined by the department on the basis of relevant  
28 factors. The department may require each applicant to furnish  
29 information necessary to estimate the cost of reclamation.  
30 The amount of the bond or other security may be increased  
31 or reduced as the permitted operation changes, or when the  
32 cost of future reclamation changes. However, the bond amount  
33 shall not be less than ten thousand dollars.

34 4. Liability under the bond shall be for the duration  
35 of the coal mining and reclamation operation and for a period

1 coincident with operator's responsibility for revegetation  
2 requirements in the rules promulgated under section seven  
3 (7) of this Act.

4 5. A bond filed by an operator pursuant to this section  
5 shall not be canceled by the surety without at least ninety  
6 day's notice to the department. If the license to do business  
7 in Iowa of a surety of a bond filed with the department is  
8 suspended or revoked, the operator, within thirty days after  
9 receiving notice from the department, shall substitute another  
10 surety. If the operator fails to make substitution, the  
11 department may suspend the operator's authorization to conduct  
12 mining on the site covered by the bond until substitution  
13 has been made. The commissioner of insurance shall notify  
14 the department whenever the license of any surety providing  
15 bond for an operator is suspended or revoked.

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

21 Sec. 12. NEW SECTION. REVISION OF PERMITS.

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

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

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

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

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

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

17 6. Fees for revision or cancellation shall be determined  
18 by the department.

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

25 Sec. 13. NEW SECTION. INSPECTIONS AND MONITORING.

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

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

1 Act.

2 2. The inspections by the department shall:

3 a. Occur on an irregular basis averaging at least one  
4 partial inspection per month and one complete inspection per  
5 calendar quarter for the mining and reclamation operation  
6 covered by each permit.

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

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

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

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

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

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

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

33 Sec. 14. NEW SECTION. ENFORCEMENT.

34 1. When on the basis of an inspection, the director  
35 determines that a condition or practice exists which creates

1 an imminent danger to the health or safety of the public or  
2 can reasonably be expected to cause significant, imminent  
3 environmental harm to land, air, or water resources, the  
4 director shall immediately order a cessation of coal mining  
5 and reclamation operations to the extent necessary until the  
6 director determines that the condition, practice, or violation  
7 has been abated, or until the order is modified, vacated,  
8 or terminated by the department pursuant to procedures set  
9 out in this section.

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

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

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

34 3. When on the basis of an inspection the director  
35 determines that a pattern of violations of the requirements

1 of this Act or any permit conditions exist, and if the director  
2 also finds that the violations are willful or caused by the  
3 unwarranted failure of the operator to comply with any  
4 requirements of this Act or any permit conditions, the director  
5 shall immediately issue an order to the operator to show cause  
6 as to why the permit should not be suspended or revoked and  
7 the bond or security forfeited, and shall provide opportunity  
8 for a hearing as a contested case pursuant to chapter seventeen  
9 A (17A) of the Code. Upon the operator's failure to show  
10 cause, the director shall immediately suspend or revoke the  
11 permit.

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

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

26 6. Notices and orders issued pursuant to this section  
27 shall set forth with reasonable specificity the nature of  
28 the violation and the remedial action required, the period  
29 of time established for abatement, and a reasonable description  
30 of the portion of the coal mining and reclamation operation  
31 to which the notice or order applies. Each notice or order  
32 issued under this section shall be given promptly to the  
33 operator or an agent and all notices and orders shall be in  
34 writing and signed. A notice or order issued pursuant to  
35 this section may be modified, vacated, or terminated by the

1 director. Any notice or order issued pursuant to this section  
2 which requires cessation of mining by the operator expires  
3 within thirty days of actual notice to the operator unless  
4 a public hearing is held at or near the site so that any  
5 viewings of the site can be conducted during the course of  
6 the hearing.

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

12 Sec. 15. NEW SECTION. PENALTIES.

13 1. If any person violates a permit condition or violates  
14 a provision of this Act, or a rule, or order issued under  
15 this Act, the attorney general shall, at the request of the  
16 committee, institute a civil action in the district court  
17 for injunctive relief to prevent a further violation of the  
18 condition, rule, or order, or for the assessment of a civil  
19 penalty as determined by the court not to exceed five thousand  
20 dollars per day for each day of the violation or both  
21 injunctive relief and fine.

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

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

35 2. A person who willfully and knowingly violates a

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

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

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

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

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

33 2. The department may release in whole or part the bonds  
34 or deposits if the department is satisfied the reclamation  
35 covered by the bonds or deposits or portions thereof has been

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

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

28 Sec. 17. NEW SECTION. CITIZEN SUITS.

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

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

1 of any rule, order or permit issued pursuant to this Act.

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

7 2. An action shall not be commenced:

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

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

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

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

28 5. This section does not restrict a right which any person  
29 or class may have under a statute or common law to seek  
30 enforcement of any of the provisions of this Act or to seek  
31 any other relief.

32 6. A person whose person or property is injured through  
33 the violation by any operator of a rule, order, or permit  
34 issued pursuant to this Act may bring an action for damages  
35 including reasonable attorney and expert witness fees only

1 in the county in which the coal mining operation complained  
2 of is located. This subsection shall not affect the rights  
3 or limits under workers' compensation as provided in chapter  
4 eighty-five (85) of the Code.

5 Sec. 18. NEW SECTION. COAL EXPLORATION PERMITS.

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

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

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

19 2. Information submitted to the department pursuant to  
20 this section as confidential concerning trade secrets or  
21 privileged commercial or financial information which relates  
22 to the competitive rights of the person intending to explore  
23 the described area shall not be available for public  
24 examination.

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

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

32 Sec. 19. NEW SECTION. SURFACE EFFECTS OF UNDERGROUND  
33 COAL MINING OPERATIONS. The provisions of this Act shall  
34 be applicable to surface operations and surface impacts  
35 incident to an underground coal mine with such modifications

1 to the permit application requirements, permit approval or  
2 denial procedures, and bond requirements as are necessary  
3 to accommodate the distinct difference between surface and  
4 underground coal mining. The department shall promulgate  
5 such modifications in its rules to allow for such distinct  
6 differences and still fulfil the purposes of this Act and  
7 be consistent with the requirements in section 516 of Pub.  
8 L. 95-87 and the permanent regulations issued pursuant to  
9 that Act.

10 Sec. 20. NEW SECTION. AUTHORITY TO ENTER INTO COOPERATIVE  
11 AGREEMENTS. The department may enter into a cooperative  
12 agreement with the secretary to provide for the department  
13 to regulate mining and reclamation operations on federal lands  
14 within the state.

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

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

20 2. Lands and water eligible for reclamation or drainage  
21 abatement expenditures under this section are those which  
22 were mined for coal or affected by such mining, waste banks,  
23 coal processing, or other coal mining processes, and abandoned  
24 or left in an inadequate reclamation status prior to August  
25 3, 1977, and for which there is no continuing reclamation  
26 responsibility under state or federal laws.

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

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

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

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

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

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

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

19 4. If the department chooses to participate in the program,  
20 the department shall submit to the secretary a state  
21 reclamation plan and annual projects to carry out the purposes  
22 of this program. The plan shall generally identify the areas  
23 to be reclaimed, the purposes for which the reclamation is  
24 proposed, the relationship of the lands to be reclaimed and  
25 the proposed reclamation to surrounding areas, the specific  
26 criteria for ranking and identifying projects to be funded,  
27 and the legal authority and programmatic capability to perform  
28 such work in conformance with the provisions of title IV of  
29 Pub. L. 95-87.

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

34 The costs for each proposed project under this program  
35 shall include actual construction costs, actual operation

1 and maintenance costs of permanent facilities, planning and  
2 engineering costs, construction and inspection costs, and  
3 other necessary administrative expenses.

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

6 Sec. 23. NEW SECTION. ACQUISITION AND RECLAMATION OF  
7 LAND.

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

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

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

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

24 b. Upon giving notice by mail to the owners if known or  
25 by posting notice upon the premises and advertising once in  
26 a local newspaper of general circulation if not known, the  
27 department may enter upon the property adversely affected  
28 by past coal mining practices and any other property to have  
29 access to the property to do all things necessary or expedient  
30 to restore, reclaim, abate, control, or prevent the adverse  
31 effects. The entry shall be construed as an exercise of the  
32 police power for the protection of public health, safety,  
33 and general welfare and not as an act of condemnation of  
34 property or trespass. The moneys expended for the work and  
35 the benefits accruing to the property shall be chargeable

1 against such property and shall mitigate or offset any claim  
2 in or any action brought by an owner of any interest in the  
3 property for any alleged damages because of the entry. This  
4 provision does not create new rights of action or eliminate  
5 existing immunities.

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

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

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

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

34 4. Title to all lands acquired pursuant to this section  
35 shall be in the name of this state. The price paid for land

1 acquired under this section shall reflect the market value  
2 of the land as adversely affected by past coal mining  
3 practices.

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

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

19 7. The department may cooperate with the secretary in  
20 acquiring land by purchase, donation, or condemnation to  
21 assist the housing of people disabled as the result of  
22 employment in the mines or incidental work, persons displaced  
23 by acquisition of land pursuant to this section, persons  
24 dislocated as the result of adverse effects of coal mining  
25 practices which constitute an emergency as determined by the  
26 secretary, or persons dislocated as the result of natural  
27 disasters or catastrophic failures from any cause. The funds  
28 provided under this section shall not be used to pay the  
29 actual construction costs of housing.

30 Sec. 24. NEW SECTION. LIENS.

31 1. Before initiating a reclamation project, the department  
32 shall obtain a notarized appraisal by an independent appraiser  
33 of the value of the land before the project. Within six  
34 months after the completion of a project, the department shall  
35 itemize the money expended on the project, obtain another

1 appraisal and shall file a lien statement in the manner  
2 provided in section five hundred seventy-two point eight  
3 (572.8) of the Code, together with the notarized appraisals,  
4 in the office of the district court clerk of each county in  
5 which a portion of the property affected by the project is  
6 located. A copy of the lien statement and the appraisal shall  
7 be served upon affected property owners in the manner provided  
8 for service of an original notice. The lien shall not exceed  
9 the amount determined by the appraiser to be the increase  
10 in the market value of the land. A lien shall not be filed  
11 in accordance with this subsection against the property of  
12 a person, who owned the surface prior to May 2, 1977, and  
13 who neither consented to, participated in nor exercised control  
14 over the mining operation which necessitated the reclamation  
15 performed.

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

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

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

34 5. The department shall have the power and authority to  
35 engage in any work and to do all things necessary or expedient,

1 including promulgation of rules, to implement and administer  
2 the provisions of an abandoned mine reclamation program.

3 Sec. 25. NEW SECTION. WATER RIGHTS AND REPLACEMENT.

4 This Act shall not be construed as affecting the right of  
5 any person's interest in water resources affected by a mining  
6 operation.

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

13 Sec. 26. NEW SECTION. ADDITIONAL DUTIES AND POWERS OF  
14 THE DEPARTMENT. In addition to the duties and power conferred  
15 upon the department, it shall have the power to prescribe  
16 by rule the necessary procedures and requirements of operators  
17 to carry out the purpose and provisions of this Act.

18 Sec. 27. NEW SECTION. MINING OPERATIONS NOT SUBJECT TO  
19 THIS ACT. The provisions of this Act shall not apply to any  
20 of the following activities:

21 1. The extraction of coal by a landowner for his or her  
22 own noncommercial use from land owned or leased by him or  
23 her.

24 2. The extraction of coal for commercial purposes where  
25 the mining operation affects one-half acre or less.

26 3. The extraction of coal as an incidental part of federal,  
27 state or local government-financed highway or other  
28 construction under rules promulgated by the department.

29 Sec. 28. NEW SECTION. EXPERIMENTAL PRACTICES. In order  
30 to encourage advances in mining and reclamation practices  
31 or to allow post-mining land use for industrial, commercial,  
32 agricultural, residential, or public use including recreational  
33 facilities, the department with approval by the secretary  
34 may authorize departures in individual cases on an experimental  
35 basis from the environmental protection performance standards

1 promulgated under sections seven (7) and twenty (20) of this  
2 Act if the experimental practices are potentially as  
3 environmentally protective, during and after mining operations,  
4 as those required by promulgated standards, the mining  
5 operations approved for particular land use or other purposes  
6 are not larger or more numerous than necessary to determine  
7 the effectiveness and economic feasibility of the experimental  
8 practices, and the experimental practices do not reduce the  
9 protection afforded public health and safety below that  
10 provided by promulgated standards.

11 Sec. 29. NEW SECTION. EMPLOYEE PROTECTION.

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

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

26 Sec. 30. Section eighty-three A point two (83A.2),  
27 subsections one (1), two (2), and fifteen (15), Code 1979,  
28 are amended to read as follows:

29 1. "Overburden" means all of the earth and other materials  
30 which lie above natural deposits of ~~coal~~, gypsum, clay, stone,  
31 sand, gravel or other minerals, and includes all earth and  
32 other materials disturbed from their natural state in the  
33 process of surface mining.

34 2. "Surface mining" means the mining of ~~coal~~, gypsum,  
35 clay, stone, sand, gravel or other ores or mineral solids

1 for sale or for processing or consumption in the regular  
2 operation of a business by removing the overburden lying above  
3 the natural deposits and mining directly from the natural  
4 deposits exposed, or by mining directly from deposits lying  
5 exposed in their natural state. Removal of overburden and  
6 mining of limited amounts of any ores or mineral solids ~~ether~~  
7 ~~than-coal~~ shall not be considered surface mining when done  
8 only for the purpose and to the extent necessary to determine  
9 the location, quantity, or quality of the natural deposit,  
10 if the ores or mineral solids removed during exploratory  
11 excavation or mining are not sold, processed for sale, or  
12 consumed in the regular operation of a business.

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

16 Sec. 31. Section eighty-three A point seven (83A.7), Code  
17 1979, is amended to read as follows:

18 83A.7 MINING LICENSE. No person, firm, partnership, or  
19 corporation shall engage in surface mining or operation of  
20 an underground mine or mines, as defined by section 83A.2,  
21 without first obtaining a license from the department.  
22 Licenses shall be issued upon application submitted on a form  
23 provided by the department and shall be accompanied by a fee  
24 of fifty dollars. Each applicant shall be required to furnish  
25 on the form information necessary to identify the applicant.  
26 Licenses shall expire ~~one-year-from-date-of-issuance on~~  
27 December thirty-first of each year and shall be renewed by  
28 the department upon application submitted within thirty days  
29 prior to the expiration date and accompanied by a fee of ten  
30 dollars.

31 Sec. 32. Section eighty-three A point eight (83A.8), Code  
32 1979, is amended to read as follows:

33 83A.8 SUSPENSION OR REVOCATION OF LICENSE. The department  
34 may, with approval of the committee, commence proceedings  
35 to suspend, revoke, or refuse to renew a license of any

1 licensee for repeated or willful violation of any of the  
2 provisions of this chapter ~~or of the federal Coal-Mine-Health~~  
3 ~~and-Safety-Act-of-1969~~ or the federal Metal and Nonmetallic  
4 Mine Safety Act. The department shall by certified mail or  
5 personal service serve on the licensee notice in writing of  
6 the charges and grounds upon which the license is to be  
7 suspended, revoked, or will not be renewed. The notice shall  
8 include the time and the place at which a hearing shall be  
9 held before the committee to determine whether to suspend,  
10 revoke, or refuse to renew the license. The hearing shall  
11 be not less than fifteen nor more than thirty days after the  
12 mailing or service of the notice.

13 Sec. 33. Section eighty-three A point nine (83A.9), Code  
14 1979, is amended to read as follows:

15 83A.9 HEARING--COUNSEL. Any licensee whose license the  
16 department proposes to suspend, revoke, or refuse to renew  
17 shall have the right to counsel and may produce witnesses  
18 and present statements, documents, and other information in  
19 his behalf at the hearing. If after full investigation and  
20 hearing the licensee is found to have willfully or repeatedly  
21 violated any of the provisions of this chapter ~~or of the~~  
22 ~~federal-Coal-Mine-Health-and-Safety-Act-of-1969~~ or the federal  
23 Metal and Nonmetallic Mine Safety Act, the committee may  
24 affirm or modify the proposed suspension, revocation, or  
25 refusal to renew the license. When the committee finds that  
26 a license should be suspended or revoked or should not be  
27 renewed, the department shall so notify the licensee in writing  
28 by certified mail or by personal service.

29 Sec. 34. Section eighty-three A point thirteen (83A.13),  
30 subsection one (1), Code 1979, is amended to read as follows:

31 1. Within fifteen days ~~prior to~~ after beginning mining  
32 or removal of overburden at any surface mining site not  
33 previously registered, an operator engaging in mining in this  
34 state shall register the site with the department. Application  
35 for registration shall be made upon a form provided by the

1 department. The registration fee shall be established by  
2 the department in an amount ~~equal to~~ not exceeding the cost  
3 of administering the registration provisions of this chapter,  
4 as estimated by the department. The application shall include  
5 a description of the tract or tracts of land where the site  
6 is located and the estimated number of acres at the site to  
7 be affected by the mine. The description shall include the  
8 section, township, range, and county in which the land is  
9 located and shall otherwise describe the land with sufficient  
10 certainty to determine the location and to distinguish the  
11 land to be registered from other lands. The application shall  
12 include a statement explaining the authority of the applicant's  
13 legal right to operate a mine on the land.

14 Sec. 35. Section eighty-three A point thirteen (83A.13),  
15 subsection three (3), Code 1979, is amended by striking the  
16 subsection.

17 Sec. 36. Section eighty-three A point fourteen (83A.14),  
18 Code 1979, is amended to read as follows:

19 83A.14 BOND. The application for registration shall be  
20 accompanied by a bond or security as required under sections  
21 83A.23 or 83A.24 if overburden is removed. After ascertaining  
22 that the applicant is licensed under section 83A.7 and is  
23 not in violation of this chapter with respect to any site  
24 previously registered with the department, the department  
25 shall register the site and shall issue the applicant written  
26 authorization to conduct surface mining on the site. ~~Nothing~~  
27 ~~in this section shall require land which has been mined or~~  
28 ~~from which overburden has been removed before July 17, 1976~~  
29 ~~to meet the standards in section 83A.31. Authorization shall~~  
30 ~~not be issued to conduct surface coal mining in areas~~  
31 ~~designated unsuitable pursuant to section 83A.13.~~

32 Sec. 37. Section eighty-three A point fifteen (83A.15),  
33 Code 1979, is amended to read as follows:

34 83A.15 AMENDMENT OR CANCELLATION. An operator may at  
35 any time apply for amendment or cancellation of registration

1 of any site. The application for amendment or cancellation  
2 of registration shall be submitted by the operator on a form  
3 provided by the department and shall identify as required  
4 under section 83A.13 the tract or tracts of land to be added  
5 to or removed from registration. If the application is for  
6 an increase in the area of a registered site, the application  
7 shall be processed in the same manner as an application for  
8 original registration. If the application is to cancel  
9 registration of any or all of the unmined part of a site,  
10 the department shall after ascertaining that no overburden  
11 has been disturbed or deposited on the land order release  
12 of the bond or the security posted on the land being removed  
13 from registration and cancel or amend the operator's written  
14 authorization to conduct surface mining on the site. Fees  
15 for amendment or cancellation of registration shall be  
16 determined as provided in section ~~83A-14~~ eighty-three A point  
17 thirteen (83A.13) of the Code. No land where overburden has  
18 been disturbed or deposited shall be removed from registration  
19 or released from bond or security under this section.

20 Sec. 38. Section eighty-three A point sixteen (83A.16),  
21 Code 1979, is amended by adding the following new unnumbered  
22 paragraph:

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

32 Sec. 39. Section eighty-three A point seventeen (83A.17),  
33 unnumbered paragraph two (2), Code 1979, is amended to read  
34 as follows:

35 A bond or security posted under this chapter to assure

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

7 Sec. 40. Section eighty-three A point nineteen (83A.19),  
8 Code 1979, is amended to read as follows:

9 83A.19 REHABILITATION OF LAND. An operator of a surface  
10 mine shall rehabilitate land affected by surface mining within  
11 twelve months after the filing of a report required under  
12 section 83A.18 indicating the mining of any part of a site  
13 has been completed. Each operator, upon completion of any  
14 rehabilitation work required by section 83A.17 ~~and-section~~  
15 ~~83A-31~~, shall apply to the department in writing for approval  
16 of the work. The department shall within a reasonable time  
17 determined by departmental rule inspect the completed  
18 rehabilitation work. Upon determination by the department  
19 that the operator has satisfactorily completed all required  
20 rehabilitation work on the land included in the application,  
21 the department shall release the bond or security on the  
22 rehabilitated land, shall remove the land from registration,  
23 and shall terminate or amend as necessary the operator's  
24 authorization to conduct surface mining on the site.

25 Sec. 41. Section eighty-three A point twenty-one (83A.21),  
26 Code 1979, is amended to read as follows:

27 83A.21 POLITICAL SUBDIVISION ENGAGED IN MINING. Any  
28 political subdivision of the state of Iowa which engages or  
29 intends to engage in surface mining shall meet all requirements  
30 of sections 83A.13 to 83A.20 ~~and-section-83A-31~~ except the  
31 subdivision shall not be required to post bond or security  
32 on registered land. When a political subdivision engaging  
33 in surface mining violates any provision of this chapter or  
34 any rule adopted by the department pursuant to this chapter,  
35 the department shall notify the chief administrative officer

1 or governing body of the subdivision. If after a reasonable  
2 time determined by the department, the subdivision has not  
3 commenced corrective measures approved by the department,  
4 the violation shall be referred to the committee. The chief  
5 administrative officer or governing body of the subdivision  
6 shall be notified in writing of the referral.

7 Sec. 42. Section eighty-three A point twenty-three  
8 (83A.23), Code 1979, is amended to read as follows:

9 83A.23 FORM OF BOND. Each bond filed with the department  
10 by an operator pursuant to this chapter shall be in a form  
11 prescribed by the department, payable to the state of Iowa,  
12 and conditioned upon faithful performance by the operator  
13 of all requirements of this chapter and all rules adopted  
14 by the department pursuant to this chapter. The bond shall  
15 be signed by the operator as principal and by a corporate  
16 surety licensed to do business in Iowa as surety. In lieu  
17 of a bond, the operator may deposit cash, certificates of  
18 deposit or government securities with the department on the  
19 same conditions as prescribed by this section for filing of  
20 bonds. The amount of the bond or other security required  
21 to be filed with an application for registration of a surface  
22 mining site, or to increase the area of a site previously  
23 registered, shall be equal to the estimated cost of  
24 rehabilitating the site as required under section 83A.17 and  
25 ~~section 83A-31~~. The estimated cost of rehabilitation of each  
26 individual site shall be determined by the department on the  
27 basis of relevant factors including, but not limited to,  
28 topography of the site, mining methods being employed, depth  
29 and composition of overburden, and depth of the mineral deposit  
30 being mined. The department may require an applicant for  
31 registration or amendment of registration of a site to furnish  
32 information necessary to estimate the cost of rehabilitating  
33 the site. The penalty of the bond or the amount of cash or  
34 securities on deposit may be increased or reduced from time  
35 to time in accordance with section 83A.15.



1 or suspension of the license.

2 Section 4 requires that a mine operator have a permit for  
3 the mine site. The section provides the requirements of the  
4 application, duration of the permit, and renewal of a permit.

5 Section 5 provides the requirements for public notice of  
6 the permit applications, a hearing on the application and  
7 objections to the application.

8 Section 6 provides that the application must contain a  
9 blasting plan and authorizes the department to certify  
10 blasters.

11 Section 7 authorizes the department to promulgate rules  
12 consistent with the environmental standards in the federal  
13 law.

14 Section 8 authorizes the department to designate land as  
15 unsuitable for coal mining. The section provides the grounds  
16 and procedures for the designation. Coal mining is prohibited  
17 in certain areas.

18 Section 9 provides the basis on which the department ap-  
19 proves the permit application.

20 Section 10 requires that the operator file a performance  
21 bond equal to the cost of reclamation.

22 Section 11 makes the bill applicable to state agencies  
23 political subdivisions, and publicly-owned utilities who  
24 engage in coal mining.

25 Section 12 provides the requirements for revising a per-  
26 mit.

27 Section 13 provides for inspections by the department of  
28 coal mining and reclamation operations.

29 Section 14 provides that the department may order a cessa-  
30 tion of mining if there is an imminent danger to the health  
31 or safety of the public or if significant environmental harm  
32 is reasonably expected. The procedure for the order is  
33 outlined and appeals provided.

34 Section 15 provides the penalties, both civil and criminal,  
35 for violations of the bill or permit conditions. The criminal

1 penalty is a serious misdemeanor with a maximum fine of ten  
2 thousand dollars. The civil penalty is seven hundred fifty  
3 dollars per day.

4 Section 16 provides the conditions and procedures for re-  
5 lease of the performance bonds.

6 Section 17 provides the method for suits by citizens for  
7 the enforcement of the bill.

8 Section 18 provides for the granting of coal exploration  
9 permits.

10 Section 19 allows the department to modify its rules for  
11 underground mines.

12 Section 20 allows the department to enter into agreements  
13 with the secretary of interior to regulate mining on federal  
14 lands.

15 Section 21 provides for a state reclamation program stating  
16 which lands are eligible, the priority of expenditures, and  
17 the plans required.

18 Section 23 authorizes the department to enter upon and  
19 reclaim land adversely affected by coal mining practices.  
20 The section provides that land may be acquired for reclamation  
21 purposes.

22 Section 24 provides the department with a lien for the  
23 reclamation work done by the department on the reclaimed  
24 property.

25 Section 25 provides for the replacement of water supplies  
26 adversely affected by coal mining.

27 Section 26 authorizes the department to promulgate rules  
28 to implement the bill.

29 Section 27 provides that certain mining of coal is exempt  
30 from the bill.

31 Section 28 authorizes experimental reclamation practices.

32 Section 29 protects employees from being discriminated  
33 against for filing a proceeding under this bill.

34 Sections 30 through 37 and 39 through 44 are coordinating  
35 amendments removing the regulation of coal mining from chap-

1 ter 83A.

2 Section 38 allows the department to transfer responsibili-  
3 ty for reclamation of a noncoal mining site to a state agency  
4 or political subdivision.

5 Section 45 allows a coal operator to continue under the  
6 existing permit until a permit is granted under this bill.

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

HOUSE FILE 670

<sup>5</sup>  
H-3534

- 1 Amend H-3524 to House File 670 as follows:
- 2 1. Page 1, by striking all of line 5 and inserting
- 3 in lieu thereof the following: "quarter and at least
- 4 one partial inspection on an".

<sup>5</sup>  
H-3534 FILED  
MARCH 26, 1979

BY EVANS of Grundy

ADOPTED BY UNANIMOUS CONSENT (p. 1129)

31  
32  
33  
34  
35

LSB 1283H 68  
dsb/rh/8

HOUSE CLIP SHEET

MONDAY, MARCH 19, 1979

HOUSE FILE 670

H-3467

1 Amend House File 670 as follows:

2 1. Page 31, by inserting after line 25 the  
3 following:

4 "Sec. 30. NEW SECTION. COAL SEVERANCE TAX. There  
5 is imposed a coal severance tax on each ton of coal  
6 mined in excess of ten thousand tons mined each year  
7 by each mine located within the county. The amount  
8 of the tax shall be five cents per ton of coal. The  
9 owner of a mine subject to the severance tax shall  
10 file a monthly report of all coal extracted from each  
11 mine in the county operated by the owner with the  
12 county recorder at no cost to the owner. The reports  
13 shall be recorded alphabetically by the name of the  
14 owner.

15 The recorder shall calculate the amount of the  
16 taxes to be collected from each mine owner, and certify  
17 monthly a list of coal severance taxes to be collected  
18 to the county treasurer who shall within ten working  
19 days after receipt of the certified list from the  
20 recorder, send a tax statement to the owner. Payment  
21 of the severance tax is due within thirty days of  
22 receipt of the tax statement from the treasurer.  
23 Taxes not paid by the owner within ninety days of  
24 receipt of the tax statement from the county treasurer  
25 shall become a lien on the property from which the  
26 coal is extracted. If any severance tax is delinquent  
27 for more than one year, the property may be sold by  
28 the county under the procedures provided for tax de-  
29 linquent sales of real property.

30 The proceeds from the coal severance tax shall  
31 be deposited in the general fund of the county where  
32 the mine is located.

33 Any owner failing to comply with the conditions  
34 of the permit required by the county or to file the  
35 appropriate reports shall be guilty of a simple  
36 misdemeanor. All subsequent offenses by the same  
37 owner or owners shall be treated as a class "D"  
38 felony."

39 2. By renumbering the sections to conform with  
40 this amendment.

41 3. Amend the title, line 1, by inserting after  
42 the word "mining" the words ", imposing a severance  
43 tax".

H-3467 FILED *Ruleled not germane*  
MARCH 16, 1979 *3/26 (p. 4/29)*

BY JAY of Appanoose  
O'KANE Woodbury

HOUSE FILE 670

3521

1 Amend House File 670 as follows:

2 1. Page 13, line 6, by inserting after the word  
3 "Act." the following: "Any operator who mines coal  
3529-4 on prime farmland shall restore such mined area,  
5 within a reasonable time, to equivalent or higher  
6 levels of yield as nonmined prime farmland in the  
7 surrounding area under equivalent levels of manage-  
8 ment."

9 2. Page 15, line 18, by inserting after the  
10 word "department" the words "but shall not exceed  
11 the cost of administering revisions or cancellations  
12 of permits as authorized under this section".

13 3. Page 18, line 24, by striking the words "if  
14 requested".

15 4. Page 23, line 20, by striking the word "as"  
16 and inserting in lieu thereof the words "and  
17 determined by the department, following consultation  
18 with the person submitting the information, to be".

19 5. Page 24, line 14, by inserting after the  
20 word "state." the following:

21 "If the department enters into a cooperative  
22 agreement with the secretary under this section,  
23 such agreement shall be conducted according to the  
24 provisions of chapter 28E of the Code."

25 6. Page 24, line 16, by striking the word  
26 "may" and inserting in lieu thereof the word "shall".

27 7. Page 25, by striking lines 19 and 20 and  
28 inserting in lieu thereof the words and figure "4.  
29 The department shall submit to the secretary a  
30 state".

31 8. Page 28, line 29, by inserting after the  
32 word "housing." the following:

33 "The department shall ensure that adequate  
34 housing and relocation payments are provided to  
35 persons displaced by acquisition of land pursuant  
36 to this section and persons dislocated as the  
37 result of adverse effects of coal mining practices  
38 which constitute an emergency as determined by the  
39 secretary."

H-3521 FILED *A. Adopted as amended* BY O'KANE of Woodbury  
MARCH 22, 1979 *by 3529 3/26 (p. 1126)* JAY of Appanoose  
*B. Adopted 3/26 (p. 1127)*  
*C. Lost* HOUSE FILE 670

H-3515

1 Amend House File 670 as follows:

2 1. Page 8, line 27, by inserting following the  
3 word "Act" the words "on or before March 1, 1979".

4 2. Page 8, line 31, by inserting following the  
5 word "mining" the words "on or before March 1, 1979".

H-3515 FILED *Adopted as amended* BY EVANS of Grundy  
MARCH 22, 1979 *by 3530 3/26 (p. 1125)* DOYLE of Woodbury  
WELDEN of Hardin  
POFFENBERGER of Dallas

HOUSE FILE 670

- 1 Amend amendment H-3521 to House File 670 as  
2 follows:  
3 1. Page 1, line 4, by striking the words  
4 "prime farmland" and inserting in lieu thereof the  
5 words "agricultural land".  
6 2. Page 1, line 6, by striking the words  
7 "prime farmland" and inserting in lieu thereof the  
8 words "agricultural land of similar quality".

H-3529 FILED *Adopted 3/26 (p. 1126)*  
MARCH 23, 1979

BY EVANS of Grundy  
POFFENBERGER of Dallas

HOUSE FILE 670

H-3530

- 1 Amend amendment H-3515 to House File 670 as  
2 follows:  
3 1. Page 1, line 3, by striking the following:  
4 "March 1", and inserting in lieu thereof the fol-  
5 lowing: "March 13".  
6 2. Page 1, line 5, by striking the following:  
7 "March 1", and inserting in lieu thereof the fol-  
8 lowing: "March 13".

H-3530 FILED *Adopted 3/26 (p. 1125)*  
MARCH 23, 1979

BY EVANS of Grundy

HOUSE FILE 670

H-3528

- 1 Amend amendment H-3522, to House File 670, as  
2 follows:  
3 1. Page 1, by striking line 2 and inserting in  
4 lieu thereof the following:  
5 "1. Page 8, line 19, by striking the word "shall"  
6 and inserting in lieu thereof the word "may"."

H-3528 FILED *Adopted 3/26 (p. 1124)*  
MARCH 23, 1979

BY POFFENBERGER of Dallas

HOUSE FILE 670

H-3527

- 1 Amend House File 670 as follows:  
2 1. Page 28, line 23, by inserting after the word  
3 "section," the word "or".  
4 2. Page 28, by striking lines 26 and 27 and  
5 inserting in lieu thereof the following: "secretary.  
6 The fund".

H-3527 FILED *Adopted 3/26 (p. 1128)*  
MARCH 23, 1979

BY EVANS of Grundy  
O'KANE of Woodbury

HOUSE FILE 670

H-3524

- 1 Amend House File 670 as follows:
- 2 1. Page 16, by striking all of lines 3
- 3 through 6 and inserting in lieu thereof the following:
- 4 "a. One complete inspection per calendar
- 3554 5 quarter and at least eight partial inspections on an
- 6 irregular basis in those months where a complete
- 7 inspection is not performed."

H-3524 FILED *Adopted 3/26 (p. 1128)* BY WELDEN of Hardin  
MARCH 22, 1979

*Reconsidered*

HOUSE FILE 670

H-3522

- 1 Amend House File 670 as follows:
- 3530-2 2 1. Page 8, by striking lines 19 through 22.

H-3522 FILED *Adopted as amended* BY WELDEN of Hardin  
MARCH 22, 1979 *by 3530 3/26 (p. 1124)*

H-3523

- 1 Amend House File 670 as follows:
- 2 1. Page 7, line 24, by striking the word
- 3 "publishing" and inserting in lieu thereof the
- 4 words "operations and shall publish".
- 5 2. Page 9, line 26, by striking the word "areas"
- 6 and inserting in lieu thereof the word "area".
- 7 3. Page 18, line 1, by striking the word "exist"
- 8 and inserting in lieu thereof the word "exists".
- 9 4. Page 19, line 8, by striking the words "at
- 10 the request of the department".
- 11 5. Page 21, line 19, by inserting after the
- 12 word "hearing" the word "is".
- 13 6. Page 23, line 25, by striking the word "a".
- 14 7. Page 27, line 2, by striking the word "in"
- 15 the first time it appears and inserting in lieu
- 16 thereof the word "on".
- 17 8. Page 30, line 14, by striking the word
- 18 "power" and inserting in lieu thereof the word
- 19 "powers".

H-3523 FILED *Adopted 3/26 (p. 1124)*  
MARCH 22, 1979

BY JAY of Appanoose  
O'KANE of Woodbury

Sen. Energy 2/29  
Do Pass 4/5 (p. 1100)

HOUSE FILE 670

BY COMMITTEE ON ENERGY

(As Amended and Passed by the House)

Passed House, Date 4-30-79 (p. 1937) Passed Senate, Date 4-25-79 (p. 1403)

Vote: Ayes 95 Nays 0 Vote: Ayes 45 Nays 2

Approved June 6, 1979

Motion to reconsider of 1940

# A BILL FOR

1 An Act relating to mining and providing penalties.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

\_\_\_\_\_ House Amendments  
\* Language Stricken

1 Section 1. NEW SECTION. POLICY.

2 1. It is the policy of this state to provide for the  
3 rehabilitation and conservation of land affected by coal  
4 mining and preserve natural resources, protect and perpetu-  
5 ate the taxable value of property, and protect and promote  
6 the health, safety and general welfare of the people of this  
7 state.

8 2. The general assembly finds and declares that because  
9 the federal Surface Mining Control and Reclamation Act of  
10 1977, Pub. L. 95-87, provides for a permit system to regulate  
11 the mining of coal and reclamation of the mining sites and  
12 provides that permits may be issued by states which are  
13 authorized to implement the provisions of that Act, it is  
14 in the interest of the people of Iowa to enact the provisions  
15 of this Act in order to authorize the state to implement the  
16 provisions of the federal Surface Mining Control and  
17 Reclamation Act of 1977 and federal regulations and guidelines  
18 issued pursuant to that Act.

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

21 1. "Committee" means the state soil conservation commit-  
22 tee.

23 2. "Department" means the department of soil conserva-  
24 tion.

25 3. "Director" means the administrative officer of the  
26 department of soil conservation or a designee.

27 4. "Fund" means the abandoned mine reclamation fund es-  
28 tablished pursuant to this Act.

29 5. "Imminent danger to the health and safety of the public"  
30 means the existence of a condition or practice, or a violation  
31 of a permit or other requirement of this Act in a coal mining  
32 and reclamation operation, which could reasonably be expected  
33 to cause substantial physical harm to persons outside the  
34 permit area before it can be abated. A reasonable expectation  
35 of death or serious injury before abatement exists if a

1 rational person, subjected to the same conditions or practices  
2 giving rise to the peril, would not expose himself or herself  
3 to the danger during the time necessary for abatement.

4 6. "Mine" means an underground mine operation or surface  
5 mine operation developed and operated for the purpose of ex-  
6 tracting coal.

7 7. "Operator" means a person engaged in coal mining who  
8 removes or intends to remove more than fifty tons of coal  
9 from the earth by coal mining within twelve consecutive calen-  
10 dar months in one location.

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

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

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

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

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

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

27 14. "Surface coal mining operations" means both:

28 a. Activities conducted on the surface of lands in con-  
29 nection with a surface coal mine or surface operations and  
30 surface impacts incident to an underground coal mine subject  
31 to the requirements of this Act. However, these activities  
32 do not include the extraction of coal incidental to the ex-  
33 traction of other minerals if coal does not exceed sixteen  
34 and two-thirds percent of the tonnage of minerals removed  
35 for purposes of commercial use or sale or include coal explora-

1 tions subject to this Act.

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

4 15. "Unwarranted failure to comply" means the failure  
5 of an operator to prevent the occurrence of or abate a viola-  
6 tion of a permit or a requirement of this Act due to indif-  
7 ference, lack of diligence, or lack of reasonable care.

8 Sec. 3. NEW SECTION. MINING LICENSE.

9 1. A person shall not engage in a surface coal mining  
3613-10 operation or an underground coal mining operation without  
11 first obtaining a license from the department. Licenses shall  
12 be issued upon application submitted on a form provided by  
13 the department and accompanied by a fee of fifty dollars.  
14 An applicant shall furnish on the form information necessary  
15 to identify the applicant. Licenses expire on December thirty-  
16 first following the date of issuance and shall be renewed  
17 by the department upon application submitted within thirty  
18 days prior to the expiration date and accompanied by a fee  
19 of ten dollars.

20 2. The department may, after notification to the commit-  
21 tee, commence proceedings to suspend, revoke, or refuse to  
22 renew a license of a licensee for repeated or willful viola-  
23 tion of any of the provisions of this Act or of the federal  
24 Coal Mine Health and Safety Act of 1969.

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

33 4. Suspension or revocation of a license shall become  
34 effective thirty days after the mailing or service of the  
35 decision to the licensee. If the committee finds the license

1 should not be renewed, the renewal fee shall be refunded and  
2 the license shall expire on the expiration date or thirty  
3 days after mailing or service of the decision to the licensee,  
4 whichever is later.

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

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

13 The application shall include, but not be limited to:

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

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

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

20 d. A determination by an appropriate state or federal  
21 agency of the probable hydrologic consequences of the mining  
22 and reclamation operations, both on and off the mine site,  
23 with respect to the hydrologic regime, quantity, and quality  
24 of water in surface and ground water systems including the  
25 dissolved and suspended solids under seasonal flow conditions  
26 and the collection of sufficient data for the mine site and  
27 surrounding areas so that an assessment can be made by the  
28 department of the probable cumulative impacts of all antic-  
29 ipated mining in the area upon the hydrology of the area and  
30 particularly upon water availability. If the department finds  
31 that the probable total annual production at all locations  
32 of coal mining operation will not exceed one hundred thousand  
33 tons, the determination of probable hydrologic consequences  
34 and a statement of the result of test borings on core samplings  
35 which the department may require shall upon the written request

3613

1 of the operator be performed by a qualified public or private  
2 laboratory designated by the department and the cost of the  
3 preparation of the determination and statement shall be as-  
4 sumed by the department.

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

18 3. A permit terminates if the permittee has not commenced  
19 the coal mining operations covered by the permit within three  
20 years of its issuance. However, the department may grant  
21 reasonable extensions of time upon a showing that the exten-  
22 sions are necessary because of litigation precluding the  
23 commencement or threatening substantial economic loss to the  
24 permittee or because of conditions beyond the control and  
25 without the fault or negligence of the permittee. If a coal  
26 lease is issued under the federal Mineral Leasing Act, as  
27 amended, extensions of time may not extend beyond the period  
28 allowed for diligent development in accordance with section  
29 7 of that Act. If coal is to be mined for use in a synthetic  
30 fuel facility or specific major electric generating facility,  
31 the permittee is deemed to have commenced mining operations  
32 when the construction of the synthetic fuel or generating  
33 facility is initiated.

34 4. A valid permit carries the right of successive re-  
35 newal upon expiration within the boundaries of the existing

1 permit. On application for renewal the burden shall be on  
2 the opponents of approval. Upon application the renewal shall  
3 be issued unless the department establishes any of the follow-  
4 ing:

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

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

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

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

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

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

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

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

25 1. An applicant for a coal mining and reclamation per-  
26 mit or its renewal shall file a copy of the application for  
27 public inspection with the county recorder of each county  
28 where the mining is proposed to occur.

29 2. An applicant for a coal mining and reclamation permit  
30 or its renewal shall submit to the department a copy of his  
31 or her advertisement of the ownership, precise location, and  
32 boundaries of the land to be affected. At the time of submis-  
33 sion the advertisement shall be placed by the applicant in  
34 a local newspaper of general circulation in the locality of  
35 the proposed mine weekly for four consecutive weeks. The

1 department shall notify various local governmental bodies,  
2 planning agencies, sewage and water treatment authorities,  
3 and water companies where the proposed mining will take place,  
4 informing them of the operator's intention to mine a  
5 particularly described tract of land, indicating the  
6 application number and where a copy of the proposed mining  
7 and reclamation plan may be inspected. They may submit written  
8 comments within a reasonable period established by the  
9 department on the effect of the proposed operation on the  
10 environment within their area of responsibility. The comments  
11 shall immediately be transmitted to the applicant and shall  
12 be made available to the public at the same locations as the  
13 mining permit application.

14 3. A person having an interest which is or may be adverse-  
15 ly affected or a federal, state, or local governmental agency  
16 may file written objections to the proposed initial or revised  
17 application for a permit for coal mining and reclamation  
18 operation with the department within sixty days after the  
19 last publication of the advertisement. The objections shall  
20 immediately be transmitted to the applicant and shall be made  
21 available to the public. If objections are filed and an in-  
22 formal conference requested within a reasonable time, the  
23 department shall hold an informal conference in the locality  
24 of the proposed mining operations and shall publish the date,  
25 time and location in a newspaper of general circulation in  
26 the locality at least two weeks prior to the scheduled  
27 conference date. Upon request by an interested party, the  
28 department may arrange with the applicant access to the  
29 proposed mining area for the purpose of gathering information  
30 relevant to the proceeding. An electronic or stenographic  
31 record shall be made of the conference proceeding, unless  
32 waived by all parties. The record shall be maintained and  
33 shall be accessible to the parties until final release of  
34 the applicant's performance bond. If all parties requesting  
35 the informal conference stipulate agreement prior to the

1 conference and withdraw their request, the conference need  
2 not be held.

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

16 Sec. 6. NEW SECTION. BLASTING PLAN REQUIRED.

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

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

24 Sec. 7. NEW SECTION. ENVIRONMENTAL PROTECTION PERFORMANCE  
25 STANDARDS. The department shall promulgate rules consistent  
26 with but not more restrictive than all of the environmental  
27 performance standards of Pub. L. 95-87 and the permanent  
28 regulations issued pursuant to that Act on or before March  
29 13, 1979. All coal mining operations and coal exploration  
30 operations in the state shall comply with applicable  
31 performance standards of Pub. L. 95-87, the permanent  
32 regulations issued by the federal office of surface mining  
33 on or before March 13, 1979, this Act, and all rules issued  
34 pursuant to this Act.

35 Sec. 8. NEW SECTION. DETERMINING IF LAND IS UNSUITABLE

1 FOR MINING.

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

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

10 b. Affect fragile or historic lands in which the opera-  
11 tions could result in significant damage to important historic,  
12 cultural, scientific, or esthetic values or natural systems.

13 c. Affect renewable resource lands in which such opera-  
14 tions could result in a substantial loss or reduction of long  
15 range productivity of water supply or of food or fiber  
16 products, and such lands to include aquifers and aquifer  
17 recharge areas.

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

22 2. The requirements of this section do not apply to lands  
23 on which coal mining operations are being conducted on the  
24 date of enactment of this Act or under a permit issued pur-  
25 suant to this Act, or where substantial legal and financial  
26 commitments in an operation were in existence prior to January  
27 4, 1977.

28 3. Prior to designating a land area as unsuitable for  
29 coal mining operations, the department shall prepare a de-  
30 tailed statement on the potential coal resources of the area,  
31 the demand for coal resources, and the impact of the designa-  
32 tion on the environment, the economy, and the supply of coal.

33 4. A person having an interest which is or may be ad-  
34 versely affected may petition the department to have an area  
35 designated or to have the designation terminated. The peti-

1 tion shall contain allegations of facts with supporting evi-  
2 dence tending to establish the allegations. Within ten months  
3 after receipt of the petition the department shall hold a  
4 public hearing in the locality of the affected area, after  
5 appropriate notice and publication of the date, time, and  
6 location of the hearing. After a person has filed a petition  
7 and before the hearing, any person may intervene by filing  
8 allegations. Within sixty days after the hearing, the  
9 department shall issue and furnish to the petitioner and any  
10 other party to the hearing a written decision regarding the  
11 petition and the reasons. If all the petitioners stipulate  
12 agreement prior to the hearing and withdraw their request,  
13 the hearing need not be held.

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

17 a. Lands within the boundaries of units of the national  
18 park systems, the national system of trails, the national  
3613-19 wilderness preservation system, the wild and scenic rivers  
20 system, including study rivers designated under section 5(a)  
21 of the Wild and Scenic Rivers Act and national recreation  
22 areas designated by act of congress.

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

28 c. Within one hundred feet of the outside right-of-way  
29 line of a public road, except where mine access roads or  
30 haulage roads join the right-of-way line and except that the  
3613-31 department may permit such roads to be relocated on the area  
32 affected to lie within one hundred feet of such road, if af-  
33 ter public notice and opportunity for public hearing in the  
34 locality a written finding is made that the interests of the  
35 public and the landowners affected thereby will be protected.

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

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

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

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

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

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

28 c. The department has assessed the probable cumulative  
29 impact of all anticipated mining in the area on the hydrologic  
30 balance and the proposed operation has been designed to pre-  
31 vent material damage to hydrologic balance outside permit  
32 area.

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

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

4 (1) The written consent of the surface owner to the ex-  
5 traction of coal.

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

8 (3) If the conveyance does not expressly grant the right  
9 to extract coal by surface mining methods, the surface-  
10 subsurface legal relationship as determined in accordance  
11 with state law. This Act does not authorize the department  
12 to adjudicate property rights disputes.

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

32 4. If the area proposed to be mined contains prime  
33 farmland, the department shall, after consultation with the  
34 United States secretary of agriculture, and pursuant to  
35 regulations issued by the secretary with the concurrence of

1 the secretary of agriculture, grant a permit to mine on prime  
2 farmland if the department finds in writing that the operator  
3 has the technological capability to restore such mined area,  
4 within a reasonable time, to equivalent or higher levels of  
5 yield as nonmined prime farmland in the surrounding area under  
6 equivalent levels of management and can meet the soil  
7 reconstruction standards established by section seven (7)  
8 of this Act. Any operator who mines coal on agricultural  
9 land shall restore such mined area, within a reasonable time,  
10 to equivalent or higher levels of yield as nonmined  
11 agricultural land of similar quality in the surrounding area  
12 under equivalent levels of management.

13 5. Within sixty days a person having an interest which  
14 is or may be adversely affected may appeal to the committee  
3613 -15 the decision of the department granting or denying a permit.

16 Sec. 10. NEW SECTION. PERFORMANCE BOND REQUIREMENT.

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

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

29 3. The amount of the bond or other security required to  
30 be filed with the department shall be equal to the estimated  
31 cost of reclamation of the site if performed by the department.  
32 The estimated cost of reclamation of each individual site  
33 shall be determined by the department on the basis of relevant  
34 factors. The department may require each applicant to furnish  
35 information necessary to estimate the cost of reclamation.

1 The amount of the bond or other security may be increased  
2 or reduced as the permitted operation changes, or when the  
3 cost of future reclamation changes. However, the bond amount  
4 shall not be less than ten thousand dollars.

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

10 5. A bond filed by an operator pursuant to this section  
11 shall not be canceled by the surety without at least ninety  
12 day's notice to the department. If the license to do business  
13 in Iowa of a surety of a bond filed with the department is  
14 suspended or revoked, the operator, within thirty days after  
15 receiving notice from the department, shall substitute another  
16 surety. If the operator fails to make substitution, the  
17 department may suspend the operator's authorization to conduct  
18 mining on the site covered by the bond until substitution  
19 has been made. The commissioner of insurance shall notify  
20 the department whenever the license of any surety providing  
21 bond for an operator is suspended or revoked.

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

27 Sec. 12. NEW SECTION. REVISION OF PERMITS.

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

32 The department shall establish rules for determining the  
33 scale or extent of a revision request to which all permit  
34 application information requirements and procedures including  
35 notice and hearings, shall apply. Revisions which propose

1 significant alterations in the reclamation plan shall be  
2 subject to notice and hearing requirements.

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

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

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

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

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

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

33 Sec. 13. NEW SECTION. INSPECTIONS AND MONITORING.

34 1. The department shall make inspections of any mining  
35 and reclamation operations as are necessary to evaluate the

1 administration of this Act and authorized representatives  
2 of the department shall have a right to entry at any mining  
3 and reclamation operation. If the operator refuses to consent  
4 to the inspection, the department shall request the attorney  
5 general to immediately obtain a warrant for the inspection.

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

10 2. The inspections by the department shall:

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

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

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

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

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

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

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

1 are conveniently available to residents in the areas of mining.  
2 7. An employee of the department performing any function  
3 or duty under this Act shall not have a direct or indirect  
4 financial interest in any mining operation.

5 Sec. 14. NEW SECTION. ENFORCEMENT.

6 1. When on the basis of an inspection, the director  
7 determines that a condition or practice exists which creates  
8 an imminent danger to the health or safety of the public or  
9 can reasonably be expected to cause significant, imminent  
10 environmental harm to land, air, or water resources, the  
11 director shall immediately order a cessation of coal mining  
12 and reclamation operations to the extent necessary until the  
13 director determines that the condition, practice, or violation  
14 has been abated, or until the order is modified, vacated,  
15 or terminated by the department pursuant to procedures set  
16 out in this section.

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

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

32 If upon expiration of the time as fixed the director finds  
33 in writing that the violation has not been abated, the director  
34 shall immediately order a cessation of coal mining and  
35 reclamation operations relating to the violation until the

3613

1 order if modified, vacated, or terminated by the director  
2 pursuant to procedures outlined in this section. In the order  
3 of cessation issued by the director under this subsection,  
4 the director shall include the steps necessary to abate the  
5 violation in the most expeditious manner possible.

3613

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

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

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

33 6. Notices and orders issued pursuant to this section  
34 shall set forth with reasonable specificity the nature of  
35 the violation and the remedial action required, the period

1 of time established for abatement, and a reasonable description  
2 of the portion of the coal mining and reclamation operation  
3 to which the notice or order applies. Each notice or order  
4 issued under this section shall be given promptly to the  
5 operator or an agent and all notices and orders shall be in  
6 writing and signed. A notice or order issued pursuant to  
7 this section may be modified, vacated, or terminated by the  
8 director. Any notice or order issued pursuant to this section  
9 which requires cessation of mining by the operator expires  
10 within thirty days of actual notice to the operator unless  
11 a public hearing is held at or near the site so that any  
12 viewings of the site can be conducted during the course of  
13 the hearing.

36

14 7. At the request of the department, the attorney general  
\* 15 shall institute any legal proceedings, including an action  
16 for an injunction or a temporary injunction necessary to  
17 enforce the penalty provisions of this Act or to obtain  
18 compliance with this Act.

19 Sec. 15. NEW SECTION. PENALTIES.

20 1. If any person violates a permit condition or violates  
21 a provision of this Act, or a rule, or order issued under  
22 this Act, the attorney general shall, at the request of the  
23 committee, institute a civil action in the district court  
24 for injunctive relief to prevent a further violation of the  
25 condition, rule, or order, or for the assessment of a civil  
26 penalty as determined by the court not to exceed five thousand  
27 dollars per day for each day of the violation or both  
28 injunctive relief and fine.

2613-

29 In determining the amount of the penalty, the court shall  
30 give consideration to the operator's history of previous  
31 violations at the particular mining operation, the seriousness  
32 of the violation, including any irreparable harm to the  
33 environment and any hazard to the health or safety of the  
34 public, whether the operator was negligent, and the  
35 demonstrated good faith of the operator charged in attempting

1 to achieve rapid compliance after notification of the  
2 violation.

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

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

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

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

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

34 1. Each operator upon completion of any reclamation work  
35 required by this Act shall apply to the department in writing

1 for approval of the work. The department shall promulgate  
2 rules consistent with Pub. L. 95-87, section 519, regarding  
3 procedures and requirements to release performance bonds or  
4 deposits.

5 2. The department may release in whole or part the bonds  
6 or deposits if the department is satisfied the reclamation  
7 covered by the bonds or deposits or portions thereof has been  
8 accomplished as required by this Act according to stages  
9 determined by the department by rule. When the operator has  
10 completed successfully all surface coal mining and reclamation  
11 activities, the remaining portion of the bond shall be released  
12 upon the expiration of the period specified for operator  
13 responsibility in the rules promulgated pursuant to section  
14 seven (7) of this Act. A bond shall not be fully released  
15 until all reclamation requirements of this Act are fully met.

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

35 Sec. 17. NEW SECTION. CITIZEN SUITS.

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

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

9 b. Against the department where there is alleged a failure  
10 of the department to perform any act or duty required under  
11 this Act. The suit shall be filed in the county where the  
12 mining operation is or, if against the department, in the  
3613-13 district court for Polk county.

14 2. An action shall not be commenced:

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

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

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

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

35 5. This section does not restrict a right which any person

1 or class may have under a statute or common law to seek  
2 enforcement of any of the provisions of this Act or to seek  
3 any other relief.

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

12 Sec. 18. NEW SECTION. COAL EXPLORATION PERMITS.

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

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

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

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

\* 33 3. A person who conducts coal exploration activities which  
34 substantially disturb the natural land surface in violation  
35 of this section shall be subject to the provisions of section

1 fifteen (15) of this Act.

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

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

3612  
18 Sec. 20. NEW SECTION. AUTHORITY TO ENTER INTO COOPERATIVE  
19 AGREEMENTS. The department may enter into a cooperative  
20 agreement with the secretary to provide for the department  
21 to regulate mining and reclamation operations on federal lands  
22 within the state. If the department enters into a cooperative  
23 agreement with the secretary under this section, such agreement  
24 shall be conducted according to the provisions of chapter  
25 28E of the Code.

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

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

31 2. Lands and water eligible for reclamation or drainage  
32 abatement expenditures under this section are those which  
33 were mined for coal or affected by such mining, waste banks,  
34 coal processing, or other coal mining processes, and abandoned  
35 or left in an inadequate reclamation status prior to August

1 3, 1977, and for which there is no continuing reclamation  
2 responsibility under state or federal laws.

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

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

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

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

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

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

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

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

1 criteria for ranking and identifying projects to be funded,  
2 and the legal authority and programmatic capability to perform  
3 such work in conformance with the provisions of title IV of  
4 Pub. L. 95-87.

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

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

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

16 <sup>2613</sup> Sec. 22. NEW SECTION. ACQUISITION AND RECLAMATION OF  
17 LAND.

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

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

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

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

34 b. Upon giving notice by mail to the owners if known or  
35 by posting notice upon the premises and advertising once in

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

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

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

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

1 constructed on the land for the restoration, reclamation,  
2 abatement, control, or prevention of the adverse effects of  
3 past coal mining practices; or

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

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

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

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

29 7. The department may cooperate with the secretary in  
30 acquiring land by purchase, donation, or condemnation to  
31 assist the housing of people disabled as the result of  
32 employment in the mines or incidental work, persons displaced  
33 by acquisition of land pursuant to this section, or persons  
34 dislocated as the result of adverse effects of coal mining  
35 practices which constitute an emergency as determined by the

1 secretary. The fund provided under this section shall not  
2 be used to pay the actual construction costs of housing.

3 Sec. 23. NEW SECTION. LIENS.

4 1. Before initiating a reclamation project, the department  
5 shall obtain a notarized appraisal by an independent appraiser  
6 of the value of the land before the project. Within six  
7 months after the completion of a project, the department shall  
8 itemize the money expended on the project, obtain another  
9 appraisal and shall file a lien statement in the manner  
10 provided in section five hundred seventy-two point eight  
11 (572.8) of the Code, together with the notarized appraisals,  
12 in the office of the district court clerk of each county in  
13 which a portion of the property affected by the project is  
14 located. A copy of the lien statement and the appraisal shall  
15 be served upon affected property owners in the manner provided  
16 for service of an original notice. The lien shall not exceed  
17 the amount determined by the appraiser to be the increase  
18 in the market value of the land. A lien shall not be filed  
19 in accordance with this subsection against the property of  
20 a person, who owned the surface prior to May 2, 1977, and  
21 who neither consented to, participated in nor exercised control  
22 over the mining operation which necessitated the reclamation  
23 performed.

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

35 3. The lien provided in this section has priority over

1 all other liens or security interests which have attached  
2 to the property, whenever those liens may have arisen, except  
3 liens of real estate taxes imposed upon the property.

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

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

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

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

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

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

29 1. The extraction of coal by a landowner for his or her  
30 own noncommercial use from land owned or leased by him or  
31 her.

32 2. The extraction of coal for commercial purposes where  
33 the mining operation affects one-half acre or less.

34 3. The extraction of coal as an incidental part of federal,  
35 state or local government-financed highway or other

1 construction under rules promulgated by the department.

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

19     Sec. 28. NEW SECTION.   EMPLOYEE PROTECTION.

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

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

34     Sec. 29. Section eighty-three A point two (83A.2),  
35 subsections one (1), two (2), and fifteen (15), Code 1979,

1 are amended to read as follows:

2 1. "Overburden" means all of the earth and other materials  
3 which lie above natural deposits of ~~coal~~, gypsum, clay, stone,  
4 sand, gravel or other minerals, and includes all earth and  
5 other materials disturbed from their natural state in the  
6 process of surface mining.

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

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

24 Sec. 30. Section eighty-three A point seven (83A.7), Code  
25 1979, is amended to read as follows:

26 83A.7 MINING LICENSE. No person, firm, partnership, or  
27 corporation shall engage in surface mining or operation of  
28 an underground mine or mines, as defined by section 83A.2,  
29 without first obtaining a license from the department.  
30 Licenses shall be issued upon application submitted on a form  
31 provided by the department and shall be accompanied by a fee  
32 of fifty dollars. Each applicant shall be required to furnish  
33 on the form information necessary to identify the applicant.  
34 Licenses shall expire ~~one-year-from-date-of-issuance~~ on  
35 December thirty-first of each year and shall be renewed by

1 the department upon application submitted within thirty days  
2 prior to the expiration date and accompanied by a fee of ten  
3 dollars.

4 Sec. 31. Section eighty-three A point eight (83A.8), Code  
5 1979, is amended to read as follows:

6 83A.8 SUSPENSION OR REVOCATION OF LICENSE. The department  
7 may, with approval of the committee, commence proceedings  
8 to suspend, revoke, or refuse to renew a license of any  
9 licensee for repeated or willful violation of any of the  
10 provisions of this chapter ~~or of the federal Coal-Mine-Health~~  
11 ~~and-Safety-Act-of-1969~~ or the federal Metal and Nonmetallic  
12 Mine Safety Act. The department shall by certified mail or  
13 personal service serve on the licensee notice in writing of  
14 the charges and grounds upon which the license is to be  
15 suspended, revoked, or will not be renewed. The notice shall  
16 include the time and the place at which a hearing shall be  
17 held before the committee to determine whether to suspend,  
18 revoke, or refuse to renew the license. The hearing shall  
19 be not less than fifteen nor more than thirty days after the  
20 mailing or service of the notice.

21 Sec. 32. Section eighty-three A point nine (83A.9), Code  
22 1979, is amended to read as follows:

23 83A.9 HEARING--COUNSEL. Any licensee whose license the  
24 department proposes to suspend, revoke, or refuse to renew  
25 shall have the right to counsel and may produce witnesses  
26 and present statements, documents, and other information in  
27 his behalf at the hearing. If after full investigation and  
28 hearing the licensee is found to have willfully or repeatedly  
29 violated any of the provisions of this chapter ~~or of the~~  
30 ~~federal-Coal-Mine-Health-and-Safety-Act-of-1969~~ or the federal  
31 Metal and Nonmetallic Mine Safety Act, the committee may  
32 affirm or modify the proposed suspension, revocation, or  
33 refusal to renew the license. When the committee finds that  
34 a license should be suspended or revoked or should not be  
35 renewed, the department shall so notify the licensee in writing

1 by certified mail or by personal service.

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

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

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

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

27 83A.14 BOND. The application for registration shall be  
28 accompanied by a bond or security as required under sections  
29 83A.23 or 83A.24 if overburden is removed. After ascertaining  
30 that the applicant is licensed under section 83A.7 and is  
31 not in violation of this chapter with respect to any site  
32 previously registered with the department, the department  
33 shall register the site and shall issue the applicant written  
34 authorization to conduct surface mining on the site. ~~Nothing~~  
35 ~~in-this-section-shall-require-land-which-has-been-mined-or~~

~~1 from-which-overburden-has-been-removed-before-July-17-1976  
2 to-meet-the-standards-in-section-83A.31---Authorization-shall  
3 not-be-issued-to-conduct-surface-coal-mining-in-areas  
4 designated-unsuitable-pursuant-to-section-83A.13.~~

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

7 83A.15 AMENDMENT OR CANCELLATION. An operator may at  
8 any time apply for amendment or cancellation of registration  
9 of any site. The application for amendment or cancellation  
10 of registration shall be submitted by the operator on a form  
11 provided by the department and shall identify as required  
12 under section 83A.13 the tract or tracts of land to be added  
13 to or removed from registration. If the application is for  
14 an increase in the area of a registered site, the application  
15 shall be processed in the same manner as an application for  
16 original registration. If the application is to cancel  
17 registration of any or all of the unmined part of a site,  
18 the department shall after ascertaining that no overburden  
19 has been disturbed or deposited on the land order release  
20 of the bond or the security posted on the land being removed  
21 from registration and cancel or amend the operator's written  
22 authorization to conduct surface mining on the site. Fees  
23 for amendment or cancellation of registration shall be  
24 determined as provided in section ~~83A.14~~ eighty-three A point  
25 thirteen (83A.13) of the Code. No land where overburden has  
26 been disturbed or deposited shall be removed from registration  
27 or released from bond or security under this section.

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

31 NEW UNNUMBERED PARAGRAPH. The department may establish  
32 procedures for transferring the responsibility for reclamation  
33 of a mine site to a state agency or political subdivision  
34 which intends to use the site for other purposes. The depart-  
35 ment, with agreement from the receiving agency or subdivision

1 to complete adequate reclamation, may approve the transfer  
2 of responsibility, release the bond or security, and terminate  
3 or amend the operator's authorization to conduct surface  
4 mining on the site.

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

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

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

17 83A.19 REHABILITATION OF LAND. An operator of a surface  
18 mine shall rehabilitate land affected by surface mining within  
19 twelve months after the filing of a report required under  
20 section 83A.18 indicating the mining of any part of a site  
21 has been completed. Each operator, upon completion of any  
22 rehabilitation work required by section 83A.17 ~~and section~~  
23 ~~83A.31~~, shall apply to the department in writing for approval  
24 of the work. The department shall within a reasonable time  
25 determined by departmental rule inspect the completed  
26 rehabilitation work. Upon determination by the department  
27 that the operator has satisfactorily completed all required  
28 rehabilitation work on the land included in the application,  
29 the department shall release the bond or security on the  
30 rehabilitated land, shall remove the land from registration,  
31 and shall terminate or amend as necessary the operator's  
32 authorization to conduct surface mining on the site.

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

35 83A.21 POLITICAL SUBDIVISION ENGAGED IN MINING. Any

1 political subdivision of the state of Iowa which engages or  
2 intends to engage in surface mining shall meet all requirements  
3 of sections 83A.13 to 83A.20 ~~and section 83A-31~~ except the  
4 subdivision shall not be required to post bond or security  
5 on registered land. When a political subdivision engaging  
6 in surface mining violates any provision of this chapter or  
7 any rule adopted by the department pursuant to this chapter,  
8 the department shall notify the chief administrative officer  
9 or governing body of the subdivision. If after a reasonable  
10 time determined by the department, the subdivision has not  
11 commenced corrective measures approved by the department,  
12 the violation shall be referred to the committee. The chief  
13 administrative officer or governing body of the subdivision  
14 shall be notified in writing of the referral.

15 Sec. 41. Section eighty-three A point twenty-three  
16 (83A.23), Code 1979, is amended to read as follows:

17 83A.23 FORM OF BOND. Each bond filed with the department  
18 by an operator pursuant to this chapter shall be in a form  
19 prescribed by the department, payable to the state of Iowa,  
20 and conditioned upon faithful performance by the operator  
21 of all requirements of this chapter and all rules adopted  
22 by the department pursuant to this chapter. The bond shall  
23 be signed by the operator as principal and by a corporate  
24 surety licensed to do business in Iowa as surety. In lieu  
25 of a bond, the operator may deposit cash, certificates of  
26 deposit or government securities with the department on the  
27 same conditions as prescribed by this section for filing of  
28 bonds. The amount of the bond or other security required  
29 to be filed with an application for registration of a surface  
30 mining site, or to increase the area of a site previously  
31 registered, shall be equal to the estimated cost of  
32 rehabilitating the site as required under section 83A.17 ~~and~~  
33 ~~section 83A-31~~. The estimated cost of rehabilitation of each  
34 individual site shall be determined by the department on the  
35 basis of relevant factors including, but not limited to,

1 topography of the site, mining methods being employed, depth  
2 and composition of overburden, and depth of the mineral deposit  
3 being mined. The department may require an applicant for  
4 registration or amendment of registration of a site to furnish  
5 information necessary to estimate the cost of rehabilitating  
6 the site. The penalty of the bond or the amount of cash or  
7 securities on deposit may be increased or reduced from time  
8 to time in accordance with section 83A.15.

9 Sec. 42. Section eighty-three A point twenty-eight  
10 (83A.28), Code 1979, is amended to read as follows:

11 83A.28 FORFEITURE OF BOND. The attorney general, upon  
12 request of the committee, shall institute proceedings for  
13 forfeiture of the bond posted by an operator to guarantee  
14 rehabilitation of a site where the operator is in violation  
15 of any of the provisions of this chapter or any rule adopted  
16 by the department pursuant to this chapter. Forfeiture of  
17 the operator's bond shall fully satisfy all obligations of  
18 the operator to rehabilitate affected land covered by the  
19 bond. The department shall have the power to rehabilitate  
20 as required by section 83A.17 ~~and section 83A.31~~ any surface  
21 mined land with respect to which a bond has been forfeited,  
22 using the proceeds of the forfeiture to pay for the necessary  
23 rehabilitation work.

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

26 Sec. 44. An operator who has a permit for mining under  
27 section eighty-three A point twelve (83A.12), Code 1979, may  
28 continue to operate under the terms of that permit until the  
29 department takes final action on the operator's application  
30 for a permit under this Act if the operator applies for a  
31 permit under this Act within two months of the approval of  
32 this state's program by the United States secretary of the  
33 interior.

34  
35

HOUSE FILE 670

S-3613

- 1 Amend House File 670 as amended, passed and
- 2 reprinted by the House as follows:
- 3 1. Page 2, line 24, by inserting after the word
- 4 "surface" the word "coal".
- 5 2. Page 3, line 10, by striking the words "or
- 6 an underground coal mining operation".
- 7 3. Page 4, line 32, by striking the words "coal
- 8 mining operation" and inserting in lieu thereof the
- 9 words "a coal mining operator".
- 10 4. Page 9, by striking lines 22 through 27 and
- 11 inserting in lieu thereof the following:
- 12 "2. The requirements of this section do not apply
- 13 to lands on which coal mining operations are being
- 14 conducted as of August 3, 1977, or under a permit
- 15 issued pursuant to this Act or pursuant to section
- 16 eighty-three A point twelve (83A.12) of the 1979 Code
- 17 or where substantial legal and financial commitments
- 18 in an operation were in existence prior to January
- 19 4, 1977."
- 20 5. Page 10, line 19, by inserting after the word
- 21 "system," the words "the national wildlife refuge
- 22 systems,".
- 23 6. Page 10, line 31, by striking the word "on"
- 24 and inserting in lieu thereof the word "or".
- 25 7. Page 12, line 28, by inserting after the word
- 26 "department" the words "after an opportunity for a
- 27 hearing".
- 28 8. Page 13, line 15, by inserting after the word
- 29 "permit" the words "as a contested case under chapter
- 30 seventeen A (17A) of the Code".
- 31 9. Page 14, by striking lines 10 through 12 and
- 32 inserting in lieu thereof the following:
- 33 "5. If the license to do business".
- 34 10. Page 16, line 27, by striking the word
- 35 "operations" and inserting in lieu thereof the word
- 36 "operation".
- 37 11. Page 18, line 1, by striking the word "if"
- 38 and inserting in lieu thereof the word "is".
- 39 12. Page 18, line 8, by inserting after the word
- 40 "exists" the words "or has existed".
- 41 13. Page 19, by inserting after line 13 the
- 42 following:
- 43 "7. A permittee issued a notice or order under
- 44 this section or any person having an interest which
- 45 is or may be adversely affected by the notice or order
- 46 or by its modification, vacation or termination may
- 47 apply to the committee for review within thirty days
- 48 of receipt of the notice or order or within thirty
- 49 days of its modification, vacation or termination.
- 50 The review shall be treated as a contested case under

S-3613  
PAGE 2

1 chapter seventeen A (17A) of the Code. Pending  
2 completion of any investigation or hearings required  
3 by this section, the applicant may file with the  
4 department a written request that the director grant  
5 temporary relief from any notice or order issued under  
6 this section together with a detailed statement giving  
7 reasons for granting such relief. The director shall  
8 issue an order or decision granting or denying the  
9 request for relief within five days of its receipt.  
10 The director may grant such relief under such  
11 conditions as the director may prescribe if all of  
12 the following occur:

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

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

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

24 14. Page 19, by striking line 28 and inserting  
25 in lieu thereof the following: "injunctive relief  
26 and fine. If any violations result in the issuance  
27 of a cessation order under section fourteen (14) of  
28 this Act, the committee shall request the attorney  
29 general to institute a civil action in the district  
30 court for the assessment of a civil penalty as  
31 determined by the court not to exceed five thousand  
32 dollars per day for each day of the violation."

33 15. Page 20, by inserting after line 31 the  
34 following:

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

42 16. Page 22, line 13, by inserting after the word  
43 "county" the words "or the county of the petitioner's  
44 residence".

45 17. Page 23, line 3, by inserting after the word  
46 "relief." the following: "The availability of judicial  
47 review of the actions of the department shall not  
48 restrict any rights established by this section."

49 18. Page 24, by inserting after line 17 the  
50 following:

S-3613  
PAGE 3

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

8 19. Page 26, by inserting after line 15 the  
9 following:

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

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

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

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

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

34 20. By renumbering the sections and subsections  
35 and relettering the paragraphs to conform with this  
36 amendment.

S-3613 FILED *Adopted 4/25*  
APRIL 24, 1979 (*A.1402*)

BY DAVID M. READINGER  
JOE BROWN

FISCAL NOTE  
HOUSE FILE 670  
Requested by Representative Evans  
March 8, 1979

In compliance with a written request, there is hereby submitted a Fiscal Note for House File 670 pursuant to Joint Rule 16.

House File 670, An Act relating to mining and providing penalties.

This bill amends Iowa's statutes on mining in response to the federal Surface Mining Control and Reclamation Act of 1977. It provides for a state program to regulate coal surface mining and establishes a reclamation fund and program.

There is no expected budgetary change for the Department's Mines and Minerals Division as a result of House File 670. The legislation will allow the Department to adopt rules which will provide for the development of a permanent state regulatory program. Upon approval of the state program by the Federal Office of Surface Mining (OSM), Iowa will be eligible to apply for annual grants, which could cover up to fifty percent of the agreed upon costs for administration and enforcement of the permanent state program. The State's fifty percent would not exceed the present costs for administration and enforcement under the present law.

The budget for the Mines and Minerals Division for FY'79 is \$60,656. The Department recently has requested \$67,400 in FY'80 and \$68,137 for FY'81. These increases are the normal cost of living and salary step increases.

It is not anticipated that federal dollars will be utilized to justify new positions. The Division's staff of director, reclamation officer, and secretary will continue to oversee the activities of the 268 licensed miners and 1,111 registered sites. Of these sites, eight are coal mines.

Source: Iowa Department of Soil Conservation

FILED  
MARCH 19, 1979

GERRY D. RANKIN  
Legislative Fiscal Bureau

SENATE AMENDMENT TO  
HOUSE FILE 670

-4149

- 1 Amend House File 670 as amended, passed and  
2 reprinted by the House as follows:
- 3 1. Page 2, line 24, by inserting after the word  
4 "surface" the word "coal".
- 5 2. Page 3, line 10, by striking the words "or  
6 an underground coal mining operation".
- 7 3. Page 4, line 32, by striking the words "coal  
8 mining operation" and inserting in lieu thereof the  
9 words "a coal mining operator".
- 10 4. Page 9, by striking lines 22 through 27 and  
11 inserting in lieu thereof the following:  
12 "2. The requirements of this section do not apply  
13 to lands on which coal mining operations are being  
14 conducted as of August 3, 1977, or under a permit  
15 issued pursuant to this Act or pursuant to section  
16 eighty-three A point twelve (83A.12) of the 1979 Code  
17 or where substantial legal and financial commitments  
18 in an operation were in existence prior to January  
19 4, 1977."
- 20 5. Page 10, line 19, by inserting after the word  
21 "system," the words "the national wildlife refuge  
22 systems,".
- 23 6. Page 10, line 31, by striking the word "on"  
24 and inserting in lieu thereof the word "or".
- 25 7. Page 12, line 28, by inserting after the word  
26 "department" the words "after an opportunity for a  
27 hearing".
- 28 8. Page 13, line 15, by inserting after the word  
29 "permit" the words "as a contested case under chapter  
30 seventeen A (17A) of the Code".
- 31 9. Page 14, by striking lines 10 through 12 and  
32 inserting in lieu thereof the following:  
33 "5. If the license to do business".
- 34 10. Page 16, line 27, by striking the word  
35 "operations" and inserting in lieu thereof the word  
36 "operation".
- 37 11. Page 18, line 1, by striking the word "if"  
38 and inserting in lieu thereof the word "is".
- 39 12. Page 18, line 8, by inserting after the word  
40 "exists" the words "or has existed".
- 41 13. Page 19, by inserting after line 13 the  
42 following:  
43 "7. A permittee issued a notice or order under  
44 this section or any person having an interest which  
45 is or may be adversely affected by the notice or order  
46 or by its modification, vacation or termination may  
47 apply to the committee for review within thirty days  
48 of receipt of the notice or order or within thirty  
49 days of its modification, vacation or termination.  
50 The review shall be treated as a contested case under

Page Two  
H-4149

1 chapter seventeen A (17A) of the Code. Pending  
2 completion of any investigation or hearings required  
3 by this section, the applicant may file with the  
4 department a written request that the director grant  
5 temporary relief from any notice or order issued under  
6 this section together with a detailed statement giving  
7 reasons for granting such relief. The director shall  
8 issue an order or decision granting or denying the  
9 request for relief within five days of its receipt.  
10 The director may grant such relief under such  
11 conditions as the director may prescribe if all of  
12 the following occur:

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

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

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

24 14. Page 19, by striking line 28 and inserting  
25 in lieu thereof the following: "injunctive relief  
26 and fine. If any violations result in the issuance  
27 of a cessation order under section fourteen (14) of  
28 this Act, the committee shall request the attorney  
29 general to institute a civil action in the district  
30 court for the assessment of a civil penalty as  
31 determined by the court not to exceed five thousand  
32 dollars per day for each day of the violation."

33 15. Page 20, by inserting after line 31 the  
34 following:

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

42 16. Page 22, line 13, by inserting after the word  
43 "county" the words "or the county of the petitioner's  
44 residence".

45 17. Page 23, line 3, by inserting after the word  
46 "relief." the following: "The availability of judicial  
47 review of the actions of the department shall not  
48 restrict any rights established by this section."

49 18. Page 24, by inserting after line 17 the  
50 following:

Page Three  
H-4149

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

8 19. Page 26, by inserting after line 15 the  
9 following:

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

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

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

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

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

34 20. By renumbering the sections and subsections  
35 and relettering the paragraphs to conform with this  
36 amendment.

H-4149 FILED  
APRIL 27, 1979

*Motion to reconsider (p. 1740)*  
*" W/Drawn (p. 1993) 5/2*

RECEIVED FROM THE SENATE

*Have concurred 4/20*  
*(p. 1937)*

HOUSE FILE 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 antic-

ipated 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 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-Aet-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 ~~or-of-the-federal-Coal-Mine-Health-and-Safety-Aet-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.

---

FLOYD H. MILLEN  
Speaker of the House

---

TERRY E. BRANSTAD  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 670, Sixty-eighth General Assembly.

---

DAVID L. WRAY  
Chief Clerk of the House

Approved June 6, 1979

---

ROBERT D. RAY  
Governor