

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1176 Session of 1983

INTRODUCED BY LETTERMAN, DORR, CESSAR, BELFANTI, SHOWERS, GEIST, MISCEVICH, DOMBROWSKI, KOWALYSHYN, HAYES, SCHEETZ, SEMMEL, PETRARCA, MORRIS, DININNI, STEIGHNER, PETERSON, JACKSON, SALOOM, MOEHLMANN, MOWERY, D. R. WRIGHT, BOWSER, BURD, CLARK, OLASZ AND COY, JUNE 7, 1983

AS REPORTED FROM COMMITTEE ON MINES AND ENERGY MANAGEMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 24, 1984

AN ACT

1 Relating to noncoal surface mining conservation and reclamation.

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8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 ~~Section 1. Short title.~~ <—

11 ~~This act shall be known and may be cited as the Noncoal  
12 Surface Mining Conservation and Reclamation Act.~~

13 ~~Section 2. Purpose of act.~~

14 ~~This act shall be deemed to be an exercise of the police  
15 powers of the Commonwealth for the general welfare of the people  
16 of this Commonwealth, to provide for the conservation and  
17 improvement of areas of land affected in the surface mining of  
18 noncoal minerals, to aid in the protection of birds and  
19 wildlife, to enhance the value of the land for taxation, to  
20 decrease soil erosion, to aid in the prevention of the pollution  
21 of rivers and streams, to prevent and eliminate hazards to  
22 health and safety and generally to improve the use and enjoyment  
23 of the lands.~~

24 ~~Section 3. Definitions.~~

25 ~~The following words and phrases when used in this act shall  
26 have the meanings given to them in this section unless the  
27 context clearly indicates otherwise:~~

28 ~~"Abandoned." An operation where no mineral has been produced  
29 or overburden removed for a period of six months, verified by  
30 monthly reports submitted to the department by the operator and~~

1 ~~by inspections made by the department, unless:~~

2 ~~(1) an operator, within 30 days after receipt of~~  
3 ~~notification by the secretary terming an operation abandoned,~~  
4 ~~submits sufficient evidence to the secretary that there is a~~  
5 ~~reasonable likelihood that additional materials will be~~  
6 ~~extracted from the permit area in the future; and~~

7 ~~(2) there is sufficient bond to provide for reclamation.~~

8 ~~"Active operation."—One in which the surface mine operator~~  
9 ~~removes a minimum of 500 tons per acre of minerals for~~  
10 ~~commercial purposes in a calendar year.~~

11 ~~"Cash."—Includes, when used in regard to bond requirements,~~  
12 ~~negotiable certificates of deposit.~~

13 ~~"Contouring."—Reclamation achieved by beginning at or beyond~~  
14 ~~the top of the highwall and sloped to the toe of the spoil bank~~  
15 ~~at a maximum angle not to exceed the approximate original~~  
16 ~~contour of the land, with no depressions to accumulate water and~~  
17 ~~with adequate provisions for drainage.~~

18 ~~"Degree."—The inclination from the horizontal in each case~~  
19 ~~subject to a tolerance of five degrees.~~

20 ~~"Department."—The Department of Environmental Resources.~~

21 ~~"Fund."—The Noncoal Surface Mining Conservation and~~  
22 ~~Reclamation Fund.~~

23 ~~"Land."—The surface of the land upon which surface mining is~~  
24 ~~conducted.~~

25 ~~"Landowner."—The person or municipality in whom the legal~~  
26 ~~title to the land is vested.~~

27 ~~"Lease."—All documents which transfer or convey title to or~~  
28 ~~rights in minerals in place, together with the right to remove~~  
29 ~~the minerals. The term includes leases, mining leases, deeds of~~  
30 ~~severance and deeds conveying title to or rights in minerals~~

1 ~~previously severed from the surface interest.~~

2 ~~"Minerals."— Any aggregate or mass of mineral matter, whether~~  
3 ~~or not coherent, which is extracted by surface mining. The term~~  
4 ~~includes, but is not limited to, limestone and dolomite, sand~~  
5 ~~and gravel, rock and stone, earth, fill, slag, iron ore, zinc~~  
6 ~~ore, vermiculite and clay; but it does not include anthracite or~~  
7 ~~bituminous coal.~~

8 ~~"Municipality."— Includes any county, city, borough, town,~~  
9 ~~township, school district, institution or any authority created~~  
10 ~~by any of the foregoing.~~

11 ~~"Operation."— The pit located upon a single tract of land or~~  
12 ~~a continuous pit embracing or extending upon two or more~~  
13 ~~contiguous tracts of land.~~

14 ~~"Operator."— A person engaged in surface mining as a~~  
15 ~~principal as distinguished from an agent or independent~~  
16 ~~contractor. Where more than one person is engaged in surface~~  
17 ~~mining activities in a single operation, they shall be deemed~~  
18 ~~jointly and severally responsible for compliance with the~~  
19 ~~provisions of this act.~~

20 ~~"Overburden."— The strata or material overlying a mineral~~  
21 ~~deposit or in between mineral deposits in its natural state~~  
22 ~~before or after its removal by surface mining.~~

23 ~~"Person."— Any natural person, partnership, association,~~  
24 ~~corporation or municipality or any agency, instrumentality or~~  
25 ~~entity of Federal or State Government.~~

26 ~~"Pit."— The place where any minerals are being mined by~~  
27 ~~surface mining.~~

28 ~~"Secretary."— The Secretary of Environmental Resources.~~

29 ~~"Spoil pile."— The overburden and reject minerals as piled or~~  
30 ~~deposited in surface mining.~~

1       ~~"Surface mining."—The extraction of minerals from the earth,~~  
2 ~~from waste or stockpiles, from pits or from banks by removing~~  
3 ~~the strata or material which overlies or is above or between~~  
4 ~~them or otherwise exposing and retrieving them from the surface.~~  
5 ~~The term includes, but is not limited to, strip and auger~~  
6 ~~mining, dredging, quarrying and leaching and activities related~~  
7 ~~thereto; but it does not include those mining operations carried~~  
8 ~~out beneath the surface by means of shafts, tunnels or other~~  
9 ~~underground mine openings. In operations where the extraction of~~  
10 ~~coal is incidental to the extraction of minerals and where the~~  
11 ~~coal extracted does not exceed 16 2/3% of the tonnage of~~  
12 ~~materials removed for purposes of commercial use or sale, such~~  
13 ~~activities shall be "surface mining" subject to this act and~~  
14 ~~shall not be subject to the act of May 31, 1945 (P.L.1198,~~  
15 ~~No.418), known as the Surface Mining Conservation and~~  
16 ~~Reclamation Act. The term does not include:~~

17           ~~(1) The extraction of minerals by a landowner for his~~  
18 ~~own noncommercial use from land owned or leased by him.~~

19           ~~(2) The extraction of sand, gravel, rock, stone, earth~~  
20 ~~or fill from borrow pits from highway construction purposes~~  
21 ~~if the work is performed under a bond, contract and~~  
22 ~~specifications which substantially provide for and require~~  
23 ~~reclamation of the area affected in the manner provided by~~  
24 ~~this act.~~

25           ~~(3) The handling, processing or storage of slag on the~~  
26 ~~premises of a manufacturer as a part of the manufacturing~~  
27 ~~process.~~

28           ~~(4) Those mining operations carried out by dredging in~~  
29 ~~navigable waters.~~

30       ~~"Terracing."—Grading where the steepest contour of the~~

1 ~~highwall is not greater than 35 degrees from the horizontal,~~  
2 ~~with the table portion of the restored area a flat terrace~~  
3 ~~without depressions to hold water and with adequate provision~~  
4 ~~for drainage, unless otherwise approved by the department.~~

5 ~~"Tract."— A single parcel of land or two or more contiguous~~  
6 ~~parcels of land with common ownership or control.~~

7 ~~Section 4.— Operator's license.~~

8 ~~(a) General rule.— No person shall conduct an active~~  
9 ~~operation within this Commonwealth as an operator without first~~  
10 ~~obtaining a surface mining operator's license from the~~  
11 ~~department. Applications for a surface mining operator's license~~  
12 ~~shall be made in writing to the department upon forms prepared~~  
13 ~~and furnished by the department and shall contain such~~  
14 ~~information as the department shall require about the applicant~~  
15 ~~and, when the applicant is a corporation, partnership or~~  
16 ~~association, about its officers, directors and principal owners.~~  
17 ~~The initial application for a license shall be accompanied by a~~  
18 ~~fee of \$50 in the case of persons mining 2,000 tons or less of~~  
19 ~~marketable minerals per year and a fee of \$500 in the case of~~  
20 ~~persons mining more than 2,000 tons of marketable minerals per~~  
21 ~~year. All persons having a surface mining operator's license~~  
22 ~~shall renew such license annually and shall pay for each license~~  
23 ~~renewal a fee of \$50 in the case of persons mining 2,000 tons or~~  
24 ~~less of marketable minerals per year and a fee of \$300 in the~~  
25 ~~case of all other persons. The application for renewal of a~~  
26 ~~surface mining operator's license shall be made annually on or~~  
27 ~~before January 1 of the next succeeding year. Any person who~~  
28 ~~conducts an active operation as an operator without having~~  
29 ~~applied for and received a license as provided in this section~~  
30 ~~or in violation of the terms of his license commits a~~

1 ~~misdemeanor and shall, upon conviction, be sentenced to pay a~~  
2 ~~fine of not less than \$5,000 or an amount not less than the~~  
3 ~~total profits derived by him as a result of his unlawful~~  
4 ~~activities, as determined by the court, together with the~~  
5 ~~estimated cost to the Commonwealth of any reclamation work which~~  
6 ~~may reasonably be required to restore the land to its condition~~  
7 ~~prior to the commencement of the offense or to undergo~~  
8 ~~imprisonment not more than one year, or both. The fine shall be~~  
9 ~~payable to the Noncoal Surface Mining Conservation and~~  
10 ~~Reclamation Fund.~~

11 ~~(b) Nonissuance, nonrenewal. The department shall not issue~~  
12 ~~any new surface mining operator's license or renew any existing~~  
13 ~~surface mining operator's license if it finds, after~~  
14 ~~investigation and an opportunity for an informal hearing, that~~  
15 ~~the applicant has failed and continues to fail to comply with~~  
16 ~~this act or any of the acts repealed or amended by this act~~  
17 ~~insofar as the acts relate to noncoal surface mining. Where the~~  
18 ~~applicant is a corporation, partnership or association, the~~  
19 ~~department shall not issue such license or renewal if, after~~  
20 ~~investigation and an opportunity for an informal hearing, it~~  
21 ~~finds any of the following:~~

22 ~~(1) Any officer, director or principal owner of the~~  
23 ~~applicant has failed and continues to fail to comply with~~  
24 ~~this act or any other acts insofar as they relate to noncoal~~  
25 ~~surface mining or that any officer, director or principal~~  
26 ~~owner of the applicant is or has been an officer, director or~~  
27 ~~principal owner of any other corporation, partnership or~~  
28 ~~association which has failed and continues to fail to comply~~  
29 ~~with this act or other acts insofar as they relate to noncoal~~  
30 ~~surface mining. However, the department shall issue such~~



1 ~~license or renewal if the applicant demonstrates that the~~  
2 ~~noncompliance is being corrected to the satisfaction of the~~  
3 ~~department.~~

4 ~~(c) Insurance. The application for license or renewal shall~~  
5 ~~be accompanied by a certificate of insurance certifying that the~~  
6 ~~applicant has in force a public liability insurance policy~~  
7 ~~issued by an insurance company authorized to do business in this~~  
8 ~~Commonwealth covering all surface mining operations of the~~  
9 ~~applicant in this Commonwealth and affording personal injury and~~  
10 ~~property damage protection, to be written for the term of the~~  
11 ~~license or renewal. The total amount of insurance shall be not~~  
12 ~~less than \$100,000. The secretary may waive this subsection upon~~  
13 ~~a finding that the applicant is possessed and will continue to~~  
14 ~~be possessed of ability to pay personal injury or property~~  
15 ~~damage claims within the requirements of this subsection.~~

16 ~~Section 5. Specifications for construction projects.~~

17 ~~It shall be the duty of architects, engineers or other~~  
18 ~~persons preparing specifications for construction projects,~~  
19 ~~which specifications include the requirement that the~~  
20 ~~construction contractor supply fill for such project, to include~~  
21 ~~within the specifications a specific reference to this act and~~  
22 ~~the regulations pertaining to this act adopted by the~~  
23 ~~department. If such a reference is omitted from the~~  
24 ~~specifications and reclamation and planting of the land from~~  
25 ~~which the fill was removed by the construction contractor is~~  
26 ~~required under this act, any contract based on such~~  
27 ~~specifications may be amended, at the option of the construction~~  
28 ~~contractor, to allow a reasonable price for the reclamation and~~  
29 ~~planting of the land affected in accordance with a plan~~  
30 ~~acceptable to the secretary.~~

1 ~~Section 6. Mining permit; reclamation plan; bond.~~

2 ~~(a) Application. Before any licensed surface mining~~  
3 ~~operator begins a surface mining operation, he shall apply to~~  
4 ~~the department on a form prepared and furnished by the~~  
5 ~~department for a permit for each separate operation, which~~  
6 ~~permit when issued shall be valid until such operation is~~  
7 ~~completed or abandoned unless sooner suspended by the secretary.~~  
8 ~~As a part of each application for a permit, the operator shall~~  
9 ~~furnish the following unless modified or waived by the~~  
10 ~~department for cause:~~

11 ~~(1) An accurately surveyed map or plan, in duplicate, on~~  
12 ~~a scale of not less than 200 feet to the inch, in a manner~~  
13 ~~satisfactory to the department, showing the location of the~~  
14 ~~tract or tracts of land to be affected by the operation~~  
15 ~~contemplated and cross sections at such intervals as the~~  
16 ~~department may prescribe. Such surveyed map or plan and cross~~  
17 ~~sections shall be certified by a registered professional~~  
18 ~~engineer and a registered professional land surveyor and~~  
19 ~~shall show the boundaries of the proposed land affected,~~  
20 ~~together with the drainage area above and below such area;~~  
21 ~~the location and names of all streams, roads, railroads and~~  
22 ~~utility lines on or immediately adjacent to the area; the~~  
23 ~~location of all buildings within 1,000 feet of the outer~~  
24 ~~perimeter of the area affected; the names and addresses of~~  
25 ~~the owners and present occupants thereof; the purpose for~~  
26 ~~which each building is used; the name of the owner of the~~  
27 ~~affected area and the names of adjacent landowners; the~~  
28 ~~municipality or township and county and, if in a township,~~  
29 ~~the nearest municipality. Such map or plan shall also show~~  
30 ~~the results of test borings which the operator has conducted~~

1 at the site of the proposed operation and shall include the  
2 nature and depth of the various strata, the thickness of any  
3 mineral seam, such analyses of the mineral or overburden as  
4 the department may require, the crop line of any minerals to  
5 be mined and the location of test boring holes. The  
6 information resulting from test borings shall be deemed  
7 confidential information and shall not be deemed a matter of  
8 public record. Aerial photographs of the tract or tracts of  
9 land to be affected by the operation shall also be provided  
10 if such photographs are required by the department.

11 (2) A complete and detailed plan for the reclamation of  
12 the land affected. Except as otherwise provided in this act  
13 or unless a variance for cause is specially allowed by the  
14 department as provided in this act, each such plan shall  
15 include the following:

16 (i) A statement of the uses of the land proposed to  
17 be mined.

18 (ii) The use which is proposed to be made of the  
19 land following reclamation.

20 (iii) Where conditions permit, the manner in which  
21 topsoil and subsoil will be conserved and restored. If  
22 conditions do not permit the conservation and restoration  
23 of all or part of the topsoil and subsoil, a full  
24 explanation of those conditions shall be given and  
25 alternate procedures proposed.

26 (iv) Where the proposed land use so requires, the  
27 manner in which compaction of the soil and fill will be  
28 accomplished.

29 (v) A complete planting program providing for the  
30 planting of trees, grasses, legumes or shrubs or a

1 combination thereof approved by the department as best  
2 calculated to permanently restore vegetation to the land  
3 affected. If conditions do not permit the planting of  
4 vegetation on all or part of the land affected and if  
5 such conditions pose an actual or potential threat of  
6 soil erosion or unavoidable siltation, alternate  
7 procedures shall be proposed to prevent the threat of  
8 soil erosion or unavoidable siltation. If such procedures  
9 do not prevent these conditions, they shall not be  
10 approved by the department.

11 (vi) A detailed timetable for the accomplishment of  
12 each major step in the reclamation plan and the  
13 operator's estimate of the cost of each such step and the  
14 total cost to the operator of the reclamation program.

15 (vii) A full explanation of the conditions which do  
16 not permit contouring if the reclamation plan does not  
17 provide for contouring. Other alternatives to contouring  
18 or terracing may be proposed, in conjunction with such  
19 proposed land uses as water impoundment, water oriented  
20 real estate development, recreational area development,  
21 industrial site development or solid waste disposal area  
22 development; and, unless such proposed alternatives or  
23 uses pose an actual or potential threat of water  
24 pollution, are deemed impractical or unreasonable,  
25 involve unreasonable delay in their implementation, or  
26 are violative of Federal, State or local law, such  
27 alternatives and uses shall be approved by the  
28 department.

29 (viii) The written consent of the landowner, upon a  
30 form prepared and furnished by the department, to entry

1           ~~upon any land to be affected by the operation by the~~  
2           ~~operator or by the Commonwealth or any of its authorized~~  
3           ~~agents within a period of five years after the operation~~  
4           ~~is completed or abandoned for the purpose of reclamation,~~  
5           ~~planting and inspection or for the construction of any~~  
6           ~~such mine drainage treatment facilities as may be deemed~~  
7           ~~necessary by the secretary for the prevention of stream~~  
8           ~~pollution from mine drainage. However, written consent of~~  
9           ~~the landowner shall not be required in the case of leases~~  
10          ~~in existence on November 30, 1971 or mineral interests~~  
11          ~~first severed from the surface interests by conveyance~~  
12          ~~prior to November 30, 1971 which do not provide for or~~  
13          ~~require such consents.~~

14           ~~(ix) The manner in which the operator plans to~~  
15          ~~control surface water drainage. No approval shall be~~  
16          ~~granted unless the plan provides for a practicable method~~  
17          ~~of avoiding acid mine drainage and preventing avoidable~~  
18          ~~siltation or other stream pollution.~~

19          ~~(b) Decision. Within 30 days after receipt of an~~  
20          ~~application for a permit, the department shall examine the~~  
21          ~~application, notify the applicant of specific deficiencies,~~  
22          ~~request any additional information the department is authorized~~  
23          ~~by law to require and, if the department objects to any part of~~  
24          ~~the proposal, notify the applicant of its objections and the~~  
25          ~~reasons therefor. Failure to correct a deficiency, to supply~~  
26          ~~additional information or to remove the objections shall not be~~  
27          ~~grounds for denial of the permit unless the department timely~~  
28          ~~notified the applicant within this 30 day period. The department~~  
29          ~~shall grant or deny the permit within 60 days after receipt of~~  
30          ~~the application or receipt of the timely requested correction of~~

1 deficiencies, additional information or removal of objections  
2 unless the applicant agrees to an extension of this 60 day  
3 period. Any application that is not approved or denied within  
4 this 60 day period shall be deemed approved and the permit shall  
5 be issued. Should any applicant be aggrieved by any action of  
6 the department under this subsection or by the failure of the  
7 department to act upon his application for a permit, he may  
8 proceed to lodge an appeal with the Environmental Hearing Board  
9 in the manner provided by statute; and the applicant may appeal  
10 from the adjudication of the board as provided by Title 2 of the  
11 Pennsylvania Consolidated Statutes (relating to administrative  
12 law and procedure).

13 (c) Additional land. The operator shall, prior to  
14 commencing operations on any additional land exceeding the  
15 estimate made in the application for a permit, file an  
16 additional application and bond. Upon receipt of such additional  
17 application and related documents and information as would have  
18 been required for the additional land had it been included in  
19 the original application for a permit and, if all the  
20 requirements of this act as were necessary to secure the permit  
21 are met, the department shall promptly issue an amended permit  
22 covering the additional acreage covered by such application and  
23 shall determine the additional bond requirement therefor.

24 (d) Bond.—

25 (1) Prior to commencing surface mining, the permittee  
26 shall file with the department a bond for the land affected  
27 by each operation on a form to be prescribed and furnished by  
28 the department, payable to the Commonwealth and conditioned  
29 that the permittee shall faithfully perform all of the  
30 requirements of this act and of the act of June 22, 1937

1 ~~(P.L.1987, No.394), known as The Clean Streams Law, the act~~  
2 ~~of January 8, 1960 (1959 P.L.2119, No.787), known as the Air~~  
3 ~~Pollution Control Act, and, where applicable, the act of~~  
4 ~~November 26, 1978 (P.L.1375, No.325), known as the Dam Safety~~  
5 ~~and Encroachments Act, and the act of July 7, 1980 (P.L.380,~~  
6 ~~No.97), known as the Solid Waste Management Act.~~

7 ~~(2) An operator posting a bond sufficient to comply with~~  
8 ~~this section shall not be required to post a separate bond~~  
9 ~~for the permitted area under each of the acts hereinabove~~  
10 ~~enumerated. This paragraph shall not prohibit the department~~  
11 ~~from requiring additional bond amounts for the permitted area~~  
12 ~~should such an increase be determined by the department to be~~  
13 ~~necessary to meet the requirements of this act.~~

14 ~~(3) The amount of the bond required shall be in an~~  
15 ~~amount determined by the department based upon the total~~  
16 ~~estimated cost of the Commonwealth of completing the approved~~  
17 ~~reclamation plan or in such other amount and form as may be~~  
18 ~~established by the department under regulations for an~~  
19 ~~alternate bonding program which shall achieve the objectives~~  
20 ~~and purposes of the bonding program. The estimate shall be~~  
21 ~~based upon the permittee's statement of his estimated cost of~~  
22 ~~fulfilling the plan during the course of his operation,~~  
23 ~~inspection of the application and other documents submitted,~~  
24 ~~inspection of the land area and such other criteria as may be~~  
25 ~~relevant, including but not limited to the probable~~  
26 ~~difficulty of reclamation giving consideration to such~~  
27 ~~factors as topography, geology of the site, hydrology, the~~  
28 ~~proposed land use, and the additional cost to the~~  
29 ~~Commonwealth which may be entailed by being required to bring~~  
30 ~~personnel and equipment to the site after abandonment by the~~

1 ~~permittee in excess of the cost to the permittee of~~  
2 ~~performing the necessary work during the course of his~~  
3 ~~surface mining operations. When the plan involves the~~  
4 ~~reconstruction or relocation of any public road or highway,~~  
5 ~~the amount of the bond shall include an amount sufficient to~~  
6 ~~fully build or restore the road or highway to a condition~~  
7 ~~approved by the Department of Transportation. No bond shall~~  
8 ~~be filed for less than \$10,000 for the entire permit area.~~  
9 ~~Liability under such bond shall be for the duration of the~~  
10 ~~surface mining at each operation and for a period of five~~  
11 ~~years after the last year of augmented seeding and~~  
12 ~~fertilizing and any other work to complete reclamation to~~  
13 ~~meet the requirements of law and protect the environment,~~  
14 ~~unless released in part prior thereto as provided in this~~  
15 ~~act.~~

16 ~~(4) The bond shall be executed by the operator and a~~  
17 ~~corporate surety licensed to do business in this Commonwealth~~  
18 ~~and approved by the secretary. The permittee may elect to~~  
19 ~~deposit with the department, in lieu of a corporate surety,~~  
20 ~~cash, automatically renewable irrevocable bank letters of~~  
21 ~~credit, which may be terminated by the bank at the end of a~~  
22 ~~term only upon the bank giving 90 days prior written notice~~  
23 ~~to the permittee and the department, or negotiable bonds of~~  
24 ~~the United States Government or of the Commonwealth, the~~  
25 ~~Pennsylvania Turnpike Commission, The General State~~  
26 ~~Authority, the State Public School Building Authority or any~~  
27 ~~municipality within this Commonwealth. The cash deposit~~  
28 ~~amount of such irrevocable letter of credit or market value~~  
29 ~~of such securities shall be equal at least to the sum of the~~  
30 ~~bond. The secretary shall, upon receipt of any such deposit~~



1 ~~of cash, letters of credit or negotiable bonds, immediately~~  
2 ~~place the same with the State Treasurer, whose duty it shall~~  
3 ~~be to receive and hold the deposit in the name of the~~  
4 ~~Commonwealth, in trust, for the purposes for which the~~  
5 ~~deposit is made. The State Treasurer shall at all times be~~  
6 ~~responsible for the custody and safekeeping of such deposits.~~  
7 ~~The permittee making the deposit shall be entitled from time~~  
8 ~~to time to demand and receive from the State Treasurer, on~~  
9 ~~the written order of the secretary, the whole or any portion~~  
10 ~~of any collateral so deposited upon depositing with the State~~  
11 ~~Treasurer, in lieu thereof, other collateral of the classes~~  
12 ~~specified in this paragraph having a market value at least~~  
13 ~~equal to the sum of the bond or to substitute a bond for such~~  
14 ~~cash, automatically renewable irrevocable bank letters of~~  
15 ~~credit or negotiable bonds and also to demand, receive and~~  
16 ~~recover the interest and income from the negotiable bonds as~~  
17 ~~it becomes due and payable. Where negotiable bonds,~~  
18 ~~deposited, mature or are called, the State Treasurer, at the~~  
19 ~~request of the permittee, shall convert the negotiable bonds~~  
20 ~~into such other negotiable bonds of the classes specified in~~  
21 ~~this paragraph as may be designated by the permittee. Where~~  
22 ~~notice of intent to terminate a letter of credit is given,~~  
23 ~~the department shall give the permittee 30 days' written~~  
24 ~~notice to replace the letter of credit with other acceptable~~  
25 ~~bond guarantees as provided in this paragraph and, if the~~  
26 ~~permittee fails to replace the letter of credit within the~~  
27 ~~30 day notification period, the department shall draw upon~~  
28 ~~and convert such letter of credit into cash and hold it as a~~  
29 ~~collateral bond guarantee or may accept a self bond from the~~  
30 ~~permittee, without separate surety if the permittee~~

1 demonstrates to the satisfaction of the department a history  
2 of financial solvency, continuous business operation and  
3 continuous efforts to achieve compliance with all Federal and  
4 Pennsylvania environmental statutes, pledges such real or  
5 personal property as the department may require to secure the  
6 self bond and complies with such other requirements as the  
7 department may reasonably require.

8 (c) Excessive mining. Notwithstanding subsection (d), in  
9 the case of applications for the mining of minerals where the  
10 department determines that the mineral to be extracted exceeds  
11 the amount of overburden by a ratio of at least four to one or  
12 the minerals are to be removed by underground mining methods and  
13 where the mining operations are reasonably anticipated to  
14 continue for a period of at least ten years from the date of  
15 application, the term of the bond shall be for the duration of  
16 the mining and reclamation operations and for five years  
17 thereafter. The operator, in the case of mining and reclamation  
18 operations mentioned in this subsection, may elect to deposit  
19 collateral and file a collateral bond as provided in subsection  
20 (d) according to the following phased deposit schedule. The  
21 operator shall, prior to commencing mining operations, deposit  
22 \$10,000 or 25% of the amount of the bond determined under  
23 subsection (d), whichever is greater. The operator shall,  
24 thereafter, annually deposit 10% of the remaining bond amount  
25 for a period of ten years. Interest accumulated by such  
26 collateral shall become a part of the bond until such time as  
27 the collateral, plus accumulated interest, equal the amount of  
28 the required bond. The department may require additional bonding  
29 at any time to meet the intent of subsection (d). The collateral  
30 shall be deposited, in trust, with the State Treasurer as

1 ~~provided in subsection (d) or with a bank selected by the~~  
2 ~~department which shall act as trustee for the benefit of the~~  
3 ~~Commonwealth, according to the regulations promulgated under~~  
4 ~~this act, to guarantee the operator's compliance with this act~~  
5 ~~and the statutes enumerated in subsection (d)(1). The operator~~  
6 ~~shall be required to pay all costs of the trust. The collateral~~  
7 ~~deposit or part thereof shall be released of liability and~~  
8 ~~returned to the operator, together with a proportional share of~~  
9 ~~accumulated interest, upon the conditions of and under the~~  
10 ~~schedule and criteria for release provided in subsection (g).~~

11 ~~(f) Progress report. Within 90 days after commencement of~~  
12 ~~surface mining operations and each 365 days thereafter unless~~  
13 ~~modified or waived by the department for cause, the operator~~  
14 ~~shall file in triplicate an operations and progress report with~~  
15 ~~the department on a form prescribed and furnished by the~~  
16 ~~department, setting forth:~~

17 ~~(1) The name or number of the operation.~~

18 ~~(2) The location of the operation as to county and~~  
19 ~~township and with reference to the nearest public road.~~

20 ~~(3) A description of the tract or tracts.~~

21 ~~(4) The name and address of the landowner or his duly~~  
22 ~~authorized representative.~~

23 ~~(5) An annual report of the mineral produced, number of~~  
24 ~~employees and days worked.~~

25 ~~(6) A report of all fatal and nonfatal accidents for the~~  
26 ~~previous year.~~

27 ~~(7) The current status of the reclamation work performed~~  
28 ~~in pursuance of the approved reclamation plan.~~

29 ~~(8) Such other or further information as the department~~  
30 ~~may reasonably require.~~

1       ~~(g) Release of liability. As the operator completes each~~  
2 ~~separate step of the approved reclamation plan, the operator may~~  
3 ~~report the completion to the department and request the release~~  
4 ~~of that portion of the bond and collateral which relates to the~~  
5 ~~completed portion of the reclamation plan. Upon the receipt of~~  
6 ~~such notification and request, the department shall inspect the~~  
7 ~~premises; and, if it finds that the work has been performed in a~~  
8 ~~proper and workmanlike manner and is in compliance with the~~  
9 ~~approved reclamation plan and with law, it shall release that~~  
10 ~~portion of the bond and collateral which relates to the~~  
11 ~~completed portion of the reclamation plan. The department may~~  
12 ~~withhold an amount equivalent to 5% of the amount for a period~~  
13 ~~of five years from the completion date of the work, as a~~  
14 ~~contingency allowance for the reimbursement of the Commonwealth~~  
15 ~~of any cost encountered due to after discovered faulty or~~  
16 ~~negligent work on the part of the operator. Upon release of all~~  
17 ~~or part of the bond and collateral as provided in this~~  
18 ~~subsection, the State Treasurer shall immediately return to the~~  
19 ~~operator the amount of cash or securities specified therein.~~

20       ~~(h) Forfeiture. If the operator fails or refuses to comply~~  
21 ~~with the requirements of this act in any respect for which~~  
22 ~~liability has been charged on the bond, the department shall~~  
23 ~~declare such portion of the bond forfeited and shall certify~~  
24 ~~this to the Office of the Attorney General, which shall proceed~~  
25 ~~to enforce and collect the amount of liability forfeited~~  
26 ~~thereon; and where the operator has deposited cash or securities~~  
27 ~~as collateral in lieu of a corporate surety, the department~~  
28 ~~shall declare the portion of the collateral forfeited and shall~~  
29 ~~direct the State Treasurer to pay the funds into the Noncoal~~  
30 ~~Surface Mining Conservation and Reclamation Fund or to proceed~~

1 ~~to sell said securities to the extent forfeited and pay the~~  
2 ~~proceeds thereof into the Noncoal Surface Mining Conservation~~  
3 ~~and Reclamation Fund. Should any corporate surety fail to~~  
4 ~~promptly pay in full a forfeited bond, it shall be disqualified~~  
5 ~~from writing any further surety bonds under this act. Any~~  
6 ~~operator aggrieved by reason of forfeiting the bond or~~  
7 ~~converting collateral, as provided in this subsection, shall~~  
8 ~~have a right to contest such action and appeal therefrom as~~  
9 ~~provided in subsection (i).~~

10 ~~(i) Appeal. Should any operator be aggrieved by any~~  
11 ~~decision or action of the secretary with respect to the amount~~  
12 ~~of any bond, the terms, conditions or release thereof or any~~  
13 ~~other matter related thereto, he may proceed to lodge an appeal~~  
14 ~~with the Environmental Hearing Board in the manner provided by~~  
15 ~~law; and from the adjudication of the board the operator may~~  
16 ~~further appeal as provided by Title 2 of the Pennsylvania~~  
17 ~~Consolidated Statutes (relating to administrative law and~~  
18 ~~procedure).~~

19 ~~(j) Minimal impact. Notwithstanding the provisions of~~  
20 ~~subsections (d) and (e) and section 4(c), in the case of~~  
21 ~~applications for the surface mining permits and licenses, where~~  
22 ~~the department determines that the amount of marketable minerals~~  
23 ~~to be extracted does not exceed 2,000 tons, no certificate of~~  
24 ~~insurance nor bond shall be required.~~

25 ~~Section 7. Public health and safety.~~

26 ~~(a) Jurisdiction. Except as otherwise provided in this act,~~  
27 ~~all surface mining operations coming within the provisions of~~  
28 ~~this act shall be under the exclusive jurisdiction of the~~  
29 ~~department and shall be conducted in compliance with such~~  
30 ~~reasonable rules and regulations as may be deemed necessary by~~

1 ~~the secretary for the protection of the general public. Separate~~  
2 ~~rules and regulations shall be promulgated for each mineral. The~~  
3 ~~secretary, through the mine conservation inspectors, shall have~~  
4 ~~the authority and power to enforce this act and the rules and~~  
5 ~~regulations promulgated hereunder. In addition, should the~~  
6 ~~secretary determine that a condition caused by or related to~~  
7 ~~surface mining constitutes a hazard to public health or safety,~~  
8 ~~the secretary shall take such measures to abate and remove the~~  
9 ~~same as are provided by section 1917 A of the act of April 9,~~  
10 ~~1929 (P.L.177, No.175), known as The Administrative Code of~~  
11 ~~1929, and as otherwise provided by law for the abatement of~~  
12 ~~nuisances. For the purposes of this section, any condition which~~  
13 ~~creates a risk of fire, landslide, subsidence, cave in or other~~  
14 ~~unsafe, dangerous or hazardous condition including, but not~~  
15 ~~limited to, any unguarded and unfenced open pit area, highwall,~~  
16 ~~water pool, spoil bank, abandoned structure, equipment,~~  
17 ~~machinery, tools and other property used in or resulting from~~  
18 ~~surface mining operations or other serious hazards to public~~  
19 ~~health or safety, are hereby declared to be a nuisance within~~  
20 ~~the meaning of section 1917 A of The Administrative Code of~~  
21 ~~1929.~~

22 ~~(b) Explosives. The use of explosives for the purpose of~~  
23 ~~blasting in connection with surface mining shall be done in~~  
24 ~~accordance with regulations promulgated by and under the~~  
25 ~~supervision of the secretary. It shall be unlawful for any~~  
26 ~~blaster to leave a working place after a task completion without~~  
27 ~~first filing a blaster's report with the mine operator. Such~~  
28 ~~report shall indicate the nature of the blasting operation,~~  
29 ~~including, but not limited to, the type and amount of explosives~~  
30 ~~used.~~

1       ~~(c) Distance limitations. No operator shall open any pit~~  
2 ~~for surface mining operations, other than borrow pits for~~  
3 ~~highway construction purposes within 100 feet of the outside~~  
4 ~~line of the right of way of any public highway; within 300 feet~~  
5 ~~of any occupied dwelling house, unless released by the owner~~  
6 ~~thereof; within 300 feet of any public building, school, public~~  
7 ~~park or community or institutional building or within 100 feet~~  
8 ~~of any cemetery. The secretary may grant operators variances to~~  
9 ~~the distance requirements established in this subsection where~~  
10 ~~he is satisfied that special circumstances warrant such~~  
11 ~~exceptions and that the interest of the public and landowners~~  
12 ~~affected thereby will be adequately protected. Prior to granting~~  
13 ~~any such variances, the operator shall be required to give~~  
14 ~~public notice of his application therefor in two newspapers of~~  
15 ~~general circulation in the area once a week for two successive~~  
16 ~~weeks. Should any person file an exception to the proposed~~  
17 ~~variance within 20 days of the last publication thereof, the~~  
18 ~~department shall conduct a public hearing with respect thereto.~~

19       ~~(d) Cleanup. Upon the completion of any surface mining~~  
20 ~~operation and prior to the release by the secretary of all or~~  
21 ~~any portion of the bond or collateral pertinent thereto, the~~  
22 ~~operator shall remove and clean up all temporary or unused~~  
23 ~~structures, facilities, equipment, machines, tools, parts or~~  
24 ~~other materials, property, debris or junk which were used in or~~  
25 ~~resulted from the surface mining operations.~~

26       ~~(e) Relocation of public roads. Nothing contained in this~~  
27 ~~act shall be construed to prohibit the relocation of any public~~  
28 ~~road in the manner provided by law.~~

29       ~~(f) Water restoration. Any surface mining operator who~~  
30 ~~affects a public or private water supply by contamination or~~

1 ~~diminution shall restore or replace the affected supply with an~~  
2 ~~alternate source of water adequate in quantity and quality for~~  
3 ~~the purposes served by the supply. If any operator fails to~~  
4 ~~comply with this subsection, the secretary may issue such orders~~  
5 ~~to the operator as are necessary to assure compliance.~~

6 ~~(g) Appeal. Any operator aggrieved by the secretary's order~~  
7 ~~issued under subsection (f) shall have the right within 30 days~~  
8 ~~of receipt of such order to appeal to the Environmental Hearing~~  
9 ~~Board. Hearings under this subsection and any subsequent appeal~~  
10 ~~shall be in accordance with section 1921 A of The Administrative~~  
11 ~~Code of 1929 and Title 2 of the Pennsylvania Consolidated~~  
12 ~~Statutes (relating to administrative law and procedure).~~

13 ~~(h) Cost of water restoration. If the secretary finds that~~  
14 ~~immediate replacement of an affected water supply used for~~  
15 ~~potable or domestic needs is required to protect health and~~  
16 ~~safety and that the operator has appealed or failed to comply~~  
17 ~~with an order issued under subsection (f), the secretary may, in~~  
18 ~~his discretion, restore or replace the affected water supply~~  
19 ~~with an alternate source of water utilizing moneys from the~~  
20 ~~Noneoal Surface Mining Conservation and Reclamation Fund. Should~~  
21 ~~the secretary's decision be upheld on appeal, the secretary~~  
22 ~~shall proceed to recover the costs of restoration or~~  
23 ~~replacement, including costs incurred for design and~~  
24 ~~construction of facilities, from the responsible operator or~~  
25 ~~operators. Any such costs recovered shall be deposited in the~~  
26 ~~fund.~~

27 ~~Section 8. Violation notices; suspension of license; cease and~~  
28 ~~desist orders.~~

29 ~~Any mine conservation inspector shall have the right to enter~~  
30 ~~upon and inspect all surface mining operations for the purpose~~



1 ~~of determining conditions of public health and safety and~~  
2 ~~compliance with this act and all rules and regulations~~  
3 ~~promulgated under this act. Should an operator fail to comply~~  
4 ~~with this act or any rules or regulations promulgated under this~~  
5 ~~act, the mine conservation inspector shall report the matter to~~  
6 ~~the secretary who shall immediately notify the operator by~~  
7 ~~registered mail of such failure. Unless the operator complies~~  
8 ~~with that act and the rules and regulations within 30 days from~~  
9 ~~the receipt of such notice, the secretary may, after hearing and~~  
10 ~~final determination, suspend the surface mining operator's~~  
11 ~~license of the operator and issue a cease and desist order~~  
12 ~~requiring the operator to immediately cease surface mining~~  
13 ~~within this Commonwealth until such time as it is determined by~~  
14 ~~the secretary that the operator is in compliance. A mine~~  
15 ~~conservation inspector shall have the authority to order the~~  
16 ~~immediate stopping of any operation that is started by an~~  
17 ~~unlicensed operator, that is started without the operator hereof~~  
18 ~~having first obtained a permit as required by this act, or in~~  
19 ~~any case where the public health or safety calls for the~~  
20 ~~immediate halt of the operation, until corrective steps have~~  
21 ~~been started by the operator to the satisfaction of the mine~~  
22 ~~conservation inspector. Any operator who believes he is~~  
23 ~~aggrieved by the action of the mine conservation inspector may~~  
24 ~~immediately appeal to the secretary, setting forth reasons why~~  
25 ~~his operation should not be halted. The secretary shall~~  
26 ~~determine when the operation shall continue.~~

27 ~~Section 9. Mine conservation inspectors.~~

28 ~~Mine conservation inspectors shall be appointed in accordance~~  
29 ~~with 4 Pa. Code Part IV (relating to Civil Service Commission).~~  
30 ~~It shall be the duty of the secretary to assign the inspectors~~

1 ~~to their respective areas of jurisdiction.~~

2 ~~Section 10.—Local ordinances.~~

3 ~~The Commonwealth by this enactment hereby preempts the~~  
4 ~~regulation of surface mining as herein defined. Except with~~  
5 ~~respect to regulating uses of land, water courses and other~~  
6 ~~bodies of water pursuant to section 603(1) of the act of July~~  
7 ~~31, 1968 (P.L.805, No.247), known as the Pennsylvania~~  
8 ~~Municipalities Planning Code, all local ordinances and~~  
9 ~~enactments purporting to regulate surface mining are hereby~~  
10 ~~superseded.~~

11 ~~Section 11.—Noncoal Surface Mining Conservation and Reclamation~~  
12 ~~Fund.~~

13 ~~(a) Creation of fund.—All funds received by the secretary~~  
14 ~~from license fees, permit fees, forfeiture of bonds, cash~~  
15 ~~deposits and securities, and costs recovered under the act of~~  
16 ~~June 22, 1937 (P.L.1987, No.394), known as The Clean Streams~~  
17 ~~Law, shall be held by the State Treasurer in a special fund,~~  
18 ~~separate and apart from all other moneys in the State Treasury,~~  
19 ~~to be known as the Noncoal Surface Mining Conservation and~~  
20 ~~Reclamation Fund, and shall be used by the secretary for the~~  
21 ~~purpose of the revegetation or reclaiming of land affected by~~  
22 ~~surface mining of any minerals, for restoration or replacement~~  
23 ~~of water supplies affected by surface mining operations, or for~~  
24 ~~any other conservation purposes provided by this act and for~~  
25 ~~such purposes are specifically appropriated to the department by~~  
26 ~~this act.~~

27 ~~(b) Earmarked funds.—Funds received from the forfeiture of~~  
28 ~~bonds, both surety and collateral, shall be expended by the~~  
29 ~~secretary for reclaiming and planting the area of land affected~~  
30 ~~by the operation upon which liability was charged on the bond if~~

1 ~~the secretary determines such expenditure to be reasonable,~~  
2 ~~necessary and physically possible. Any funds received from such~~  
3 ~~forfeited bonds in excess of the amount which is required to~~  
4 ~~reclaim and plant the area of land affected by the operation~~  
5 ~~upon which liability was charged and funds received from bond~~  
6 ~~forfeitures where reclamation and planting is determined to be~~  
7 ~~unreasonable, unnecessary or physically impossible may be used~~  
8 ~~by the secretary for any of the purposes provided in subsection~~  
9 ~~(a).~~

10 ~~Section 12. Release of operator on transfer of operation.~~

11 ~~Where one operator succeeds another at any uncompleted~~  
12 ~~operation, by sale, assignment, lease or otherwise, the~~  
13 ~~secretary may release the first operator from all liability~~  
14 ~~under this act as to that particular operation if both operators~~  
15 ~~have registered and have otherwise complied with the~~  
16 ~~requirements of this act and the successor operator assumes as~~  
17 ~~part of his obligation under this act all liability for grading,~~  
18 ~~planting and reclamation on the land affected by the former~~  
19 ~~operator.~~

20 ~~Section 13. Injunctive relief.~~

21 ~~In addition to any other remedy at law or in equity or under~~  
22 ~~this act, the Attorney General may apply for relief by~~  
23 ~~injunction, to enforce compliance with or to restrain violations~~  
24 ~~of this act, or any rule, regulation, permit condition or order~~  
25 ~~made under this act. The remedy prescribed in this section shall~~  
26 ~~be deemed concurrent or contemporaneous with any other remedy~~  
27 ~~and the existence or exercise of any one remedy shall not~~  
28 ~~prevent the exercise of any other remedy.~~

29 ~~Section 14. Remedies of citizens.~~

30 ~~Any citizen of this Commonwealth having knowledge that any of~~

1 ~~the provisions of this act are willfully and deliberately not~~  
2 ~~being enforced by any public officer or employee whose duty it~~  
3 ~~is to enforce this act shall bring such failure to enforce the~~  
4 ~~law to the attention of the public officer or employee. To~~  
5 ~~provide against unreasonable and irresponsible demands being~~  
6 ~~made, all demands to enforce the law must be in writing, under~~  
7 ~~oath, with facts set forth specifically stating the nature of~~  
8 ~~the failure to enforce the law. The stating of false facts and~~  
9 ~~charges in such affidavit shall constitute perjury and shall~~  
10 ~~subject the affiant to penalties prescribed under the law for~~  
11 ~~perjury. If the public officer or employee neglects or refuses~~  
12 ~~for an unreasonable time after demand to enforce such provision,~~  
13 ~~the citizen shall have the right to bring an action of mandamus~~  
14 ~~in the court of common pleas of the county in which the~~  
15 ~~operation which relates to the alleged lack of enforcement is~~  
16 ~~being conducted. The court, if satisfied that any provision of~~  
17 ~~this act is not being enforced, may make an appropriate order~~  
18 ~~compelling the public officer or employee whose duty it is to~~  
19 ~~enforce such provision to perform his duties and, upon failure~~  
20 ~~to do so, the public officer or employee shall be held in~~  
21 ~~contempt of court and shall be subject to the penalties provided~~  
22 ~~by the laws of the Commonwealth in such cases.~~

23 ~~Section 15.— Existing licenses and permits.~~

24 ~~Any surface mining operator's license or surface mining~~  
25 ~~permit existing on the effective date of this act shall remain~~  
26 ~~in effect until the license or permit expires under its terms or~~  
27 ~~is otherwise terminated under the provisions of this act.~~

28 ~~Section 16.— Repeals.~~

29 ~~All acts and parts of acts are repealed insofar as they are~~  
30 ~~inconsistent with this act.~~

1 ~~Section 17. Effective date.~~

2 ~~This act shall take effect in 60 days.~~

3 SECTION 1. SHORT TITLE. ←

4 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE NONCOAL  
5 SURFACE MINING CONSERVATION AND RECLAMATION ACT.

6 SECTION 2. PURPOSE OF ACT.

7 THIS ACT SHALL BE DEEMED TO BE AN EXERCISE OF THE POLICE  
8 POWERS OF THE COMMONWEALTH FOR THE GENERAL WELFARE OF THE PEOPLE  
9 OF THIS COMMONWEALTH, TO PROVIDE FOR THE CONSERVATION AND  
10 IMPROVEMENT OF AREAS OF LAND AFFECTED IN THE SURFACE MINING OF  
11 NONCOAL MINERALS, TO AID IN THE PROTECTION OF BIRDS AND  
12 WILDLIFE, TO ENHANCE THE VALUE OF THE LAND FOR TAXATION, TO  
13 DECREASE SOIL EROSION, TO AID IN THE PREVENTION OF THE POLLUTION  
14 OF RIVERS AND STREAMS, TO PROTECT AND MAINTAIN WATER SUPPLY, TO  
15 PROTECT LAND, TO ENHANCE LAND USE MANAGEMENT AND PLANNING, TO  
16 PREVENT AND ELIMINATE HAZARDS TO HEALTH AND SAFETY AND GENERALLY  
17 TO IMPROVE THE USE AND ENJOYMENT OF THE LANDS.

18 SECTION 3. DEFINITIONS.

19 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL  
20 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
21 CONTEXT CLEARLY INDICATES OTHERWISE:

22 "ACTIVE OPERATION." AN OPERATION WHERE A MINIMUM OF 500 TONS  
23 OF MINERALS FOR COMMERCIAL PURPOSES HAVE BEEN REMOVED IN THE  
24 PRECEDING CALENDAR YEAR.

25 "APPROXIMATE ORIGINAL CONTOUR." CONTOURING AS DEFINED IN  
26 THIS ACT.

27 "CASH." INCLUDES, WHEN USED IN REGARD TO BOND REQUIREMENTS,  
28 NEGOTIABLE CERTIFICATES OF DEPOSIT.

29 "CONSERVATION DISTRICT." ANY COUNTY IN THE COMMONWEALTH  
30 WHOSE COUNTY GOVERNING BODY HAS, BY RESOLUTION, DECLARED THE

1 COUNTY TO BE A CONSERVATION DISTRICT UNDER THE ACT OF MAY 15,  
2 1945 (P.L.547, NO.217), KNOWN AS THE SOIL CONSERVATION LAW.

3 "CONTOURING." RECLAMATION OF THE LAND AFFECTED TO  
4 APPROXIMATE ORIGINAL CONTOUR SO THAT IT CLOSELY RESEMBLES THE  
5 GENERAL SURFACE CONFIGURATION OF THE LAND PRIOR TO MINING AND  
6 BLENDS INTO AND COMPLEMENTS THE DRAINAGE PATTERN OF THE  
7 SURROUNDING TERRAIN WITH NO HIGHWALL, SPOIL PILES OR DEPRESSIONS  
8 TO ACCUMULATE WATER AND WITH ADEQUATE PROVISIONS FOR DRAINAGE.

9 "DEGREE." THE INCLINATION FROM THE HORIZONTAL.

10 "DEPARTMENT." THE DEPARTMENT OF ENVIRONMENTAL RESOURCES.

11 "FUND." THE NONCOAL SURFACE MINING CONSERVATION AND  
12 RECLAMATION FUND.

13 "LAND." THE SURFACE OF THE LAND UPON WHICH SURFACE MINING IS  
14 CONDUCTED.

15 "LANDOWNER." THE PERSON OR MUNICIPALITY IN WHOM LEGAL TITLE  
16 TO THE LAND IS VESTED.

17 "LEASE." A DOCUMENT THAT TRANSFERS OR CONVEYS TITLE TO OR  
18 RIGHTS IN MINERALS IN PLACE, TOGETHER WITH THE RIGHT TO REMOVE  
19 THE MINERALS. THE TERM INCLUDES LEASES, MINING LEASES, DEEDS OF  
20 SEVERANCE AND DEEDS CONVEYING TITLE TO OR RIGHTS IN MINERALS  
21 PREVIOUSLY SEVERED FROM THE SURFACE INTEREST.

22 "MINERALS." ANY AGGREGATE OR MASS OF MINERAL MATTER, WHETHER  
23 OR NOT COHERENT, THAT IS EXTRACTED BY SURFACE MINING. THE TERM  
24 INCLUDES, BUT IS NOT LIMITED TO, LIMESTONE AND DOLOMITE, SAND  
25 AND GRAVEL, ROCK AND STONE, EARTH, FILL, SLAG, IRON ORE, ZINC  
26 ORE, VERMICULITE AND CLAY; BUT IT DOES NOT INCLUDE ANTHRACITE OR  
27 BITUMINOUS COAL OR COAL REFUSE, EXCEPT AS PROVIDED IN SECTION 4,  
28 OR PEAT.

29 "MUNICIPALITY." ANY COUNTY, CITY, BOROUGH, INCORPORATED  
30 TOWN, TOWNSHIP, SCHOOL DISTRICT, INSTITUTION OR ANY AUTHORITY

1 CREATED BY ANY ONE OR MORE OF THE FOREGOING.

2 "OPERATION." THE PIT LOCATED UPON A SINGLE TRACT OF LAND OR  
3 A CONTINUOUS PIT EMBRACING OR EXTENDING UPON TWO OR MORE  
4 CONTIGUOUS TRACTS OF LAND.

5 "OPERATOR." A PERSON OR MUNICIPALITY ENGAGED IN SURFACE  
6 MINING AS A PRINCIPAL, AS DISTINGUISHED FROM AN AGENT OR  
7 INDEPENDENT CONTRACTOR. WHERE MORE THAN ONE PERSON IS ENGAGED IN  
8 SURFACE MINING ACTIVITIES IN A SINGLE OPERATION, THEY SHALL BE  
9 DEEMED JOINTLY AND SEVERALLY RESPONSIBLE FOR COMPLIANCE WITH THE  
10 PROVISIONS OF THIS ACT.

11 "OVERBURDEN." THE STRATA OR MATERIAL OVERLYING A MINERAL  
12 DEPOSIT OR IN BETWEEN MINERAL DEPOSITS IN ITS NATURAL STATE  
13 BEFORE OR AFTER ITS REMOVAL BY SURFACE MINING.

14 "PERSON." ANY NATURAL PERSON, PARTNERSHIP, ASSOCIATION,  
15 CORPORATION OR MUNICIPALITY OR ANY AGENCY, INSTRUMENTALITY OR  
16 ENTITY OF FEDERAL OR STATE GOVERNMENT.

17 "PIT." THE PLACE WHERE ANY MINERALS ARE BEING MINED BY  
18 SURFACE MINING.

19 "SECRETARY." THE SECRETARY OF ENVIRONMENTAL RESOURCES.

20 "SPOIL PILE." THE OVERBURDEN AND REJECT MINERALS AS PILED OR  
21 DEPOSITED IN SURFACE MINING.

22 "SURFACE MINING." THE EXTRACTION OF MINERALS FROM THE EARTH,  
23 FROM WASTE OR STOCKPILES OR FROM PITS OR FROM BANKS BY REMOVING  
24 THE STRATA OR MATERIAL THAT OVERLIES OR IS ABOVE OR BETWEEN THEM  
25 OR OTHERWISE EXPOSING AND RETRIEVING THEM FROM THE SURFACE,  
26 INCLUDING, BUT NOT LIMITED TO, STRIP, AUGER MINING, DREDGING,  
27 QUARRYING AND LEACHING AND ALL SURFACE ACTIVITY CONNECTED WITH  
28 SURFACE OR UNDERGROUND MINING, INCLUDING, BUT NOT LIMITED TO,  
29 EXPLORATION, SITE PREPARATION, ENTRY, TUNNEL, DRIFT, SLOPE,  
30 SHAFT AND BOREHOLE DRILLING AND CONSTRUCTION AND ACTIVITIES

1 RELATED THERETO; BUT IT DOES NOT INCLUDE THOSE MINING OPERATIONS  
2 CARRIED OUT BENEATH THE SURFACE BY MEANS OF SHAFTS, TUNNELS OR  
3 OTHER UNDERGROUND MINE OPENINGS. THE TERM DOES NOT INCLUDE ANY  
4 OF THE FOLLOWING:

5 (1) THE EXTRACTION OF MINERALS BY A LANDOWNER FOR HIS  
6 OWN NONCOMMERCIAL USE FROM LAND OWNED OR LEASED BY HIM.

7 (2) THE EXTRACTION OF SAND, GRAVEL, ROCK, STONE, EARTH  
8 OR FILL FROM BORROW PITS FOR HIGHWAY CONSTRUCTION PURPOSES OR  
9 THE EXTRACTION OF MINERALS PURSUANT TO CONSTRUCTION CONTRACTS  
10 WITH THE COMMONWEALTH OR ANY AGENCY THEREOF IF THE WORK IS  
11 PERFORMED UNDER A BOND, CONTRACT AND SPECIFICATIONS THAT  
12 SUBSTANTIALLY PROVIDE FOR AND REQUIRE RECLAMATION OF THE AREA  
13 AFFECTED IN THE MANNER PROVIDED BY THIS ACT.

14 (3) THE HANDLING, PROCESSING OR STORAGE OF SLAG ON THE  
15 PREMISES OF A MANUFACTURER AS A PART OF THE MANUFACTURING  
16 PROCESS.

17 (4) THOSE DREDGING OPERATIONS THAT ARE CARRIED OUT IN  
18 THE RIVERS AND STREAMS OF THE COMMONWEALTH AND IN LAKE ERIE.

19 "TERRACING." GRADING WHERE THE STEEPEST CONTOUR OF THE  
20 HIGHWALL IS NOT GREATER THAN 35 DEGREES FROM THE HORIZONTAL,  
21 WITH THE TABLE PORTION OF THE RESTORED AREA A FLAT TERRACE  
22 WITHOUT DEPRESSIONS TO HOLD WATER AND WITH ADEQUATE PROVISION  
23 FOR DRAINAGE, UNLESS OTHERWISE APPROVED BY THE DEPARTMENT.

24 "TRACT." A SINGLE PARCEL OF LAND OR TWO OR MORE CONTIGUOUS  
25 PARCELS OF LAND WITH COMMON OWNERSHIP OR CONTROL.

26 SECTION 4. RELATIONSHIP TO COAL MINING.

27 (A) GENERAL RULE.--EXCEPT AS PROVIDED IN SUBSECTION (B), ALL  
28 SURFACE MINING OPERATIONS WHERE THE EXTRACTION OF COAL IS  
29 INCIDENTAL TO THE EXTRACTION OF MINERALS AND WHERE THE COAL  
30 EXTRACTED DOES NOT EXCEED 16 2/3% OF THE TONNAGE OF MATERIALS



1 REMOVED FOR PURPOSES OF COMMERCIAL USE OR SALE SHALL BE SUBJECT  
2 TO THIS ACT AND SHALL NOT BE SUBJECT TO THE ACT OF MAY 31, 1945  
3 (P.L.1198, NO.418), KNOWN AS THE SURFACE MINING CONSERVATION AND  
4 RECLAMATION ACT. FOR PURPOSES OF THIS SECTION, COAL EXTRACTION  
5 SHALL BE INCIDENTAL WHEN THE COAL IS GEOLOGICALLY LOCATED ABOVE  
6 THE MINERAL TO BE MINED AND IS EXTRACTED IN ORDER TO MINE THAT  
7 MINERAL.

8 (B) CERTAIN PROVISIONS OF SURFACE MINING CONSERVATION AND  
9 RECLAMATION ACT APPLICABLE.--ALL SURFACE MINING OPERATIONS WHERE  
10 THE EXTRACTION OF COAL IS INCIDENTAL TO THE EXTRACTION OF  
11 MINERALS AND WHERE THE COAL EXTRACTED DOES NOT EXCEED 16 2/3% OF  
12 THE TONNAGE OF MATERIALS REMOVED FOR PURPOSES OF COMMERCIAL USE  
13 OR SALE SHALL BE SUBJECT TO SECTION 4.5(A) TO (G), INCLUSIVE, OF  
14 THE SURFACE MINING CONSERVATION AND RECLAMATION ACT.

15 SECTION 5. OPERATOR'S LICENSE.

16 (A) GENERAL RULE.--NO PERSON SHALL CONDUCT A SURFACE MINING  
17 OPERATION UNLESS THE PERSON HAS FIRST APPLIED FOR AND OBTAINED A  
18 LICENSE FROM THE DEPARTMENT. THE DEPARTMENT MAY REQUIRE THE  
19 INFORMATION IN THE LICENSE APPLICATION AS IT DEEMS NECESSARY TO  
20 CARRY OUT THE PURPOSES OF THIS ACT. THE APPLICATION FOR RENEWAL  
21 OF A LICENSE SHALL BE MADE ANNUALLY AT LEAST 60 DAYS BEFORE THE  
22 CURRENT LICENSE EXPIRES. THE TERM OF THE LICENSE SHALL BE  
23 SPECIFIED IN THE LICENSE AND SHALL NOT EXCEED ONE YEAR.

24 (B) FEES.--THE INITIAL APPLICATION FOR A LICENSE SHALL BE  
25 ACCOMPANIED BY A FEE OF \$50 IN THE CASE OF PERSONS MINING 2,000  
26 TONS OR LESS OF MARKETABLE MINERALS PER YEAR AND A FEE OF \$500  
27 IN THE CASE OF PERSONS MINING MORE THAN 2,000 TONS OF MARKETABLE  
28 MINERALS PER YEAR. ALL PERSONS HAVING A SURFACE MINING  
29 OPERATOR'S LICENSE SHALL RENEW THE LICENSE ANNUALLY AND SHALL  
30 PAY FOR EACH LICENSE RENEWAL A FEE OF \$50 IN THE CASE OF PERSONS

1 MINING 2,000 TONS OR LESS OF MARKETABLE MINERALS PER YEAR AND A  
2 FEE OF \$300 IN THE CASE OF ALL OTHER PERSONS.

3 (C) NONISSUANCE, NONRENEWAL OR AMENDMENT.--THE DEPARTMENT  
4 SHALL NOT ISSUE ANY SURFACE MINING OPERATOR'S LICENSE OR RENEW  
5 OR AMEND ANY LICENSE IF IT FINDS, AFTER INVESTIGATION AND AN  
6 OPPORTUNITY FOR INFORMAL HEARING, THAT A PERSON, PARTNER,  
7 ASSOCIATE, OFFICER, PARENT CORPORATION OR SUBSIDIARY CORPORATION  
8 HAS BEEN SUBJECT TO A BOND FORFEITURE UNDER THIS ACT OR ANY OF  
9 THE STATUTES ENUMERATED IN SECTION 7(C)(9) OR HAS FAILED TO  
10 COMPLY WITH AN ADJUDICATED PROCEEDING, ORDER, CONSENT ORDER AND  
11 AGREEMENT OR DECREE UNDER THIS ACT OR ANY OF THE STATUTES  
12 ENUMERATED IN SECTION 7(C)(9). IN ADDITION, THE DEPARTMENT SHALL  
13 NOT RENEW ANY LICENSE FOR ANY OPERATOR WHO USES THE PROVISIONS  
14 OF SECTION 9(G), UNLESS THE OPERATOR SUBMITS HIS ANNUAL PAYMENT  
15 UNDER SECTION 9(G) WITH HIS LICENSE RENEWAL APPLICATION.

16 (D) NOTIFICATION OF INTENT NOT TO RENEW.--IF THE DEPARTMENT  
17 INTENDS NOT TO RENEW A LICENSE, IT SHALL NOTIFY THE LICENSEE OF  
18 THAT FACT AT LEAST 60 DAYS PRIOR TO THE EXPIRATION OF THE  
19 LICENSE. PRIOR TO THE EXPIRATION, THE LICENSEE SHALL BE PROVIDED  
20 AN OPPORTUNITY FOR AN INFORMAL HEARING. ANY PERSON WHO OPPOSES  
21 THE DEPARTMENT'S DECISION ON ISSUANCE OR RENEWAL OF A LICENSE  
22 SHALL HAVE THE BURDEN OF PROOF.

23 (E) INSURANCE.--THE APPLICATION FOR LICENSE OR RENEWAL FOR  
24 OPERATORS WHO EXTRACTED MORE THAN 2,000 TONS OF MARKETABLE  
25 MINERALS IN THE PREVIOUS YEAR OR WHO PLAN TO EXTRACT MORE THAN  
26 2,000 TONS OF MARKETABLE MINERALS IN THE CURRENT YEAR SHALL BE  
27 ACCOMPANIED BY A CERTIFICATE OF INSURANCE. THE CERTIFICATE SHALL  
28 CERTIFY THAT THE APPLICANT HAS IN FORCE A PUBLIC LIABILITY  
29 INSURANCE POLICY, ISSUED BY AN INSURANCE COMPANY AUTHORIZED TO  
30 DO BUSINESS IN THIS COMMONWEALTH, COVERING ALL SURFACE MINING

1 OPERATIONS OF THE APPLICANT IN THIS COMMONWEALTH AND AFFORDING  
2 PERSONAL INJURY AND PROPERTY DAMAGE PROTECTION, TO BE WRITTEN  
3 FOR THE TERM OF THE LICENSE OR RENEWAL. THE TOTAL AMOUNT OF  
4 INSURANCE SHALL BE IN AN AMOUNT ADEQUATE TO COMPENSATE ANY  
5 PERSONS DAMAGED AS A RESULT OF SURFACE MINING OPERATIONS,  
6 INCLUDING, BUT NOT LIMITED TO, USE OF EXPLOSIVES, AND ENTITLED  
7 TO COMPENSATION UNDER THE APPLICABLE PROVISIONS OF STATE LAW.  
8 THE TOTAL AMOUNT SHALL BE PRESCRIBED BY REGULATION. THE OPERATOR  
9 SHALL PROVIDE LIABILITY INSURANCE OR BOND GUARANTEES FOR  
10 REPLACEMENT OR RESTORATION OF WATER SUPPLIES AS REQUIRED UNDER  
11 SECTION 11(G) WITH THE LICENSE APPLICATION UNDER THIS SECTION OR  
12 AS PART OF EACH SURFACE MINING PERMIT APPLICATION UNDER SECTION  
13 7 WHERE THE DEPARTMENT DETERMINES THAT THE OPERATION MAY  
14 CONTAMINATE, DIMINISH OR INTERRUPT ONE OR MORE WATER SUPPLIES.

15 (F) OPPORTUNITY FOR HEARING BEFORE REVOCATION OR  
16 SUSPENSION.--IF THE DEPARTMENT INTENDS TO REVOKE OR SUSPEND A  
17 LICENSE, IT SHALL PROVIDE AN OPPORTUNITY FOR AN INFORMAL HEARING  
18 BEFORE SUSPENDING OR REVOKING THE LICENSE. FIFTEEN DAYS NOTICE  
19 OF THE INFORMAL HEARING SHALL BE GIVEN UNLESS THE DEPARTMENT  
20 DETERMINES THAT A SHORTER PERIOD IS IN THE PUBLIC INTEREST.

21 SECTION 6. SPECIFICATIONS FOR CONSTRUCTION PROJECTS.

22 IT SHALL BE THE DUTY OF THE ARCHITECTS, ENGINEERS OR OTHER  
23 PERSONS PREPARING SPECIFICATIONS FOR CONSTRUCTION PROJECTS,  
24 WHICH SPECIFICATIONS INCLUDE THE REQUIREMENT THAT THE  
25 CONSTRUCTION CONTRACTOR SUPPLY FILL FOR THE PROJECT, TO INCLUDE  
26 WITHIN THE SPECIFICATIONS A SPECIFIC REFERENCE TO THIS ACT AND  
27 THE REGULATIONS PERTAINING TO THIS ACT ADOPTED BY THE  
28 DEPARTMENT. IF SUCH A REFERENCE IS OMITTED FROM THE  
29 SPECIFICATIONS, AND RECLAMATION AND PLANTING OF THE LAND FROM  
30 WHICH THE FILL WAS REMOVED BY THE CONSTRUCTION CONTRACTOR IS

1 REQUIRED UNDER THIS ACT, ANY CONTRACT BASED ON THE  
2 SPECIFICATIONS MAY BE AMENDED, AT THE OPTION OF THE CONSTRUCTION  
3 CONTRACTOR, TO ALLOW A REASONABLE PRICE FOR THE RECLAMATION AND  
4 PLANTING OF THE LAND AFFECTED IN ACCORDANCE WITH A PLAN  
5 ACCEPTABLE TO THE SECRETARY.

6 SECTION 7. MINING PERMIT; RECLAMATION PLAN.

7 (A) PERMIT REQUIRED.--EXCEPT AS PROVIDED IN SECTION 24, NO  
8 PERSON SHALL OPERATE A SURFACE MINE OR ALLOW A DISCHARGE FROM A  
9 SURFACE MINE UNLESS THE PERSON HAS FIRST OBTAINED A PERMIT FROM  
10 THE DEPARTMENT IN ACCORDANCE WITH THIS ACT AND UNLESS THE PERSON  
11 IS OPERATING IN ACCORDANCE WITH THE CONDITIONS PROVIDED IN THE  
12 PERMIT AS WELL AS THE APPLICABLE STATUTES AND REGULATIONS. THE  
13 DEPARTMENT MAY IMPOSE THE PERMIT CONDITIONS AS ARE NECESSARY TO  
14 CARRY OUT THE PURPOSES OF THIS ACT. THE DEPARTMENT IS AUTHORIZED  
15 TO CHARGE AND COLLECT FROM PERSONS A REASONABLE FILING FEE,  
16 WHICH SHALL NOT EXCEED THE COST OF REVIEWING, ADMINISTERING AND  
17 ENFORCING THE PERMIT.

18 (B) MAP OR PLAN REQUIRED.--AS A PART OF EACH APPLICATION FOR  
19 A PERMIT, THE OPERATOR SHALL FURNISH AN ACCURATELY SURVEYED MAP  
20 OR PLAN, IN QUADRUPLICATE, ON A SCALE SATISFACTORY TO THE  
21 DEPARTMENT, BUT IN NO EVENT LESS THAN 1:25,000, SHOWING THE  
22 LOCATION OF THE TRACT OR TRACTS OF LAND TO BE AFFECTED BY THE  
23 OPERATION CONTEMPLATED AND CROSS SECTIONS AT INTERVALS AS THE  
24 DEPARTMENT MAY PRESCRIBE. THE SURVEYED MAP OR PLAN AND CROSS  
25 SECTIONS SHALL BE CERTIFIED BY A REGISTERED PROFESSIONAL  
26 ENGINEER OR A REGISTERED PROFESSIONAL LAND SURVEYOR WITH  
27 ASSISTANCE FROM EXPERTS IN RELATED FIELDS AND SHALL INCLUDE THE  
28 FOLLOWING:

29 (1) THE BOUNDARIES OF THE PROPOSED LAND AFFECTED,  
30 TOGETHER WITH THE DRAINAGE AREA ABOVE AND BELOW THE AREA.

1 (2) THE LOCATION AND NAMES OF ALL STREAMS, ROADS,  
2 RAILROADS AND UTILITY LINES ON OR IMMEDIATELY ADJACENT TO THE  
3 AREA.

4 (3) THE LOCATION OF ALL BUILDINGS WITHIN 1,000 FEET OF  
5 THE OUTER PERIMETER OF THE AREA AFFECTED AND THE NAMES AND  
6 ADDRESSES OF THE OWNERS AND PRESENT OCCUPANTS.

7 (4) THE PURPOSE FOR WHICH EACH BUILDING IS USED.

8 (5) THE NAME OF THE OWNER OF THE AFFECTED AREA AND THE  
9 NAMES OF ADJACENT LANDOWNERS, THE MUNICIPALITY AND THE  
10 COUNTY.

11 THE MAP OR PLAN SHALL ALSO SHOW THE RESULTS OF TEST BORINGS  
12 WHICH THE OPERATOR HAS CONDUCTED OR WILL CONDUCT AT THE SITE OF  
13 THE PROPOSED OPERATION AND SHALL INCLUDE THE NATURE AND DEPTH OF  
14 THE VARIOUS STRATA, THE THICKNESS OF ANY MINERAL SEAM, THE CROP  
15 LINE OF ANY MINERALS TO BE MINED, THE LOCATION OF TEST BORING  
16 HOLES AND, IF REQUIRED BY THE DEPARTMENT, A COMPLETE ANALYSIS OF  
17 THE MINERAL SEAM OR MINERAL TO BE MINED AND AN OVERBURDEN  
18 ANALYSIS. AERIAL PHOTOGRAPHS OF THE TRACT OR TRACTS OF LAND TO  
19 BE AFFECTED BY THE OPERATION SHALL ALSO BE PROVIDED IF  
20 PHOTOGRAPHS ARE REQUIRED BY THE DEPARTMENT.

21 (C) RECLAMATION PLAN.--THE APPLICANT SHALL ALSO SUBMIT A  
22 COMPLETE AND DETAILED PLAN FOR THE RECLAMATION OF THE LAND  
23 AFFECTED. EACH PLAN SHALL INCLUDE THE FOLLOWING:

24 (1) A STATEMENT OF THE USES AND PRODUCTIVITY OF THE LAND  
25 PROPOSED TO BE MINED.

26 (2) A STATEMENT OF THE LAND USE PROPOSED FOR THE  
27 AFFECTED AREA AFTER SURFACE MINING AND RECLAMATION ARE  
28 COMPLETED, INCLUDING A PLAN FOR RESTORING THE AREA TO  
29 APPROXIMATE ORIGINAL CONTOUR OR AN ALTERNATIVE TO APPROXIMATE  
30 ORIGINAL CONTOUR SUCH AS TERRACING. THE STATEMENT SHALL

1 INCLUDE ONE OF THE FOLLOWING:

2 (I) A DESCRIPTION OF THE OPERATOR'S PLAN TO RESTORE  
3 THE AREA TO BE AFFECTED BY SURFACE MINING TO APPROXIMATE  
4 ORIGINAL CONTOUR. THE STATEMENT MUST DEMONSTRATE THAT THE  
5 OPERATION WILL RESTORE THE LAND AFFECTED TO A CONDITION  
6 CAPABLE OF SUPPORTING THE USES IT WAS CAPABLE OF  
7 SUPPORTING PRIOR TO ANY MINING OR ANY HIGHER OR BETTER  
8 USES.

9 (II) A DEMONSTRATION THAT THE PROPOSED OPERATION  
10 WILL BE CARRIED OUT OVER A SUBSTANTIAL PERIOD OF TIME,  
11 THAT THE THICKNESS OF THE MINERAL DEPOSIT PROPOSED TO BE  
12 MINED, RELATIVE TO THE VOLUME OF OVERBURDEN, IS VERY  
13 LARGE, AND THAT THE OVERBURDEN AND OTHER SPOIL MATERIALS  
14 AT THE PERMIT AREA ARE INSUFFICIENT TO RESTORE THE AREA  
15 TO APPROXIMATE ORIGINAL CONTOUR. WHERE THE APPLICANT  
16 MAKES THAT DEMONSTRATION, HE SHALL ALSO INCLUDE A  
17 DESCRIPTION OF HIS ALTERNATIVE TO CONTOURING, IN  
18 CONJUNCTION WITH SUCH PROPOSED LAND USES AS WATER  
19 IMPOUNDMENT, WATER-ORIENTED REAL ESTATE DEVELOPMENT,  
20 RECREATIONAL DEVELOPMENT, INDUSTRIAL SITE DEVELOPMENT OR  
21 SOLID WASTE DISPOSAL AREA DEVELOPMENT. THE APPLICANT MUST  
22 SHOW THAT THE ALTERNATIVE TO CONTOURING IS LIKELY TO BE  
23 ACHIEVED, POSES NO ACTUAL OR POTENTIAL THREAT TO PUBLIC  
24 HEALTH OR SAFETY, OR OF WATER DIMINUTION, CONTAMINATION,  
25 INTERRUPTION OR POLLUTION AND IS CONSISTENT WITH  
26 APPLICABLE LAND USE POLICIES, PLANS AND PROGRAMS AS WELL  
27 AS FEDERAL, STATE OR LOCAL LAW. IN ADDITION, THE  
28 APPLICANT MUST DEMONSTRATE THAT THE LAND AFFECTED WILL,  
29 AFTER MINING AND RECLAMATION HAS BEEN COMPLETED, BE  
30 CAPABLE OF SUPPORTING THE HIGHEST OR BEST USE IT CAN

1 REASONABLY SUPPORT.

2 (III) WHERE THE APPLICANT DOES NOT MEET THE  
3 REQUIREMENTS OF SUBPARAGRAPH (II), BUT SEEKS AN  
4 ALTERNATIVE TO CONTOURING, A DESCRIPTION OF THE  
5 OPERATOR'S ALTERNATIVE TO CONTOURING, INCLUDING A  
6 DEMONSTRATION THAT THE OPERATION WILL RESTORE THE LAND  
7 AFFECTED TO A CONDITION CAPABLE OF SUPPORTING THE USES IT  
8 WAS CAPABLE OF SUPPORTING PRIOR TO ANY MINING OR TO ANY  
9 HIGHER OR BETTER USE. THE APPLICATION MUST ALSO  
10 DEMONSTRATE THAT THE ALTERNATIVE IS ACCEPTABLE TO THE  
11 LANDOWNER, THAT NO HIGHWALLS WILL REMAIN AFTER MINING,  
12 THAT THE WATERSHED OF THE AREA WILL BE IMPROVED, AND THAT  
13 THE PROPOSED USE HAS BEEN DESIGNED AND CERTIFIED BY A  
14 REGISTERED PROFESSIONAL ENGINEER TO ASSURE THE STABILITY,  
15 DRAINAGE AND CONFIGURATION NECESSARY FOR THE INTENDED USE  
16 OF THE SITE. THE DESCRIPTION OF THE ALTERNATIVE TO  
17 CONTOURING SHALL INCLUDE SUCH PROPOSED LAND USES AS WATER  
18 IMPOUNDMENT, WATER-ORIENTED REAL ESTATE DEVELOPMENT,  
19 RECREATIONAL DEVELOPMENT, INDUSTRIAL SITE DEVELOPMENT OR  
20 SOLID WASTE DISPOSAL AREA DEVELOPMENT. THE APPLICANT MUST  
21 ALSO DEMONSTRATE THAT THE ALTERNATIVE TO CONTOURING IS  
22 LIKELY TO BE ACHIEVED; POSES NO ACTUAL OR POTENTIAL  
23 THREAT TO PUBLIC HEALTH OR SAFETY; OR OF WATER  
24 DIMINUTION, INTERRUPTION, CONTAMINATION OR POLLUTION.

25 (3) A DESCRIPTION OF THE MANNER IN WHICH THE OPERATION  
26 WILL SEGREGATE AND CONSERVE TOPSOIL AND, IF NECESSARY,  
27 SUITABLE SUBSOIL OR AN EXPLANATION THAT THE AREA LACKS  
28 TOPSOIL AND SUBSOIL THAT CAN BE SEGREGATED AND CONSERVED.  
29 WHERE THE PROPOSED POSTMINING LAND USE DOES NOT INVOLVE  
30 REVEGETATION, THE OPERATOR SHALL ALSO STATE THE MANNER IN

1 WHICH HE PLANS TO USE OR SELL THE TOPSOIL OR SUBSOIL TO  
2 INSURE ITS CONTINUING PRODUCTIVITY.

3 (4) WHERE THE PROPOSED LAND USE SO REQUIRES, A  
4 DESCRIPTION OF THE MANNER IN WHICH REPLACEMENT AND COMPACTION  
5 OF THE OVERBURDEN AND SOIL WILL BE ACCOMPLISHED.

6 (5) A DETAILED TIMETABLE FOR THE ACCOMPLISHMENT OF EACH  
7 MAJOR STEP IN THE RECLAMATION PLAN AND THE OPERATOR'S  
8 ESTIMATE OF THE COST OF EACH STEP AND THE TOTAL COST TO THE  
9 OPERATOR OF THE RECLAMATION PROGRAM.

10 (6) A PLAN FOR ESTABLISHING A DIVERSE, EFFECTIVE AND  
11 PERMANENT VEGETATIVE COVER OF THE SAME SEASONAL VARIETY  
12 NATIVE TO THE AREA TO BE AFFECTED AND CAPABLE OF SELF-  
13 REGENERATION AND PLANT SUCCESSION AT LEAST EQUAL IN EXTENT OF  
14 COVER TO THE NATURAL VEGETATION OF THE AREA. HOWEVER,  
15 INTRODUCED SPECIES MAY BE USED IN THE REVEGETATION PROCESS  
16 WHERE DESIRABLE AND NECESSARY TO ACHIEVE THE APPROVED  
17 POSTMINING LAND USE PLAN. WHERE THE PROPOSED POSTMINING LAND  
18 USE IS A LONG-TERM, INTENSIVE, AGRICULTURAL USE, THE  
19 DEPARTMENT MAY WAIVE THE REQUIREMENTS OF THIS PARAGRAPH, IF  
20 THE APPLICANT DEMONSTRATES THAT THE AREA WILL BE RESTORED TO  
21 A CONDITION CAPABLE OF SUPPORTING THAT USE. WHERE THE  
22 PROPOSED POSTMINING LAND USE DOES NOT INVOLVE ANY VEGETATION,  
23 THE APPLICANT SHALL DEMONSTRATE THAT THE AREA WILL BE  
24 STABILIZED TO PREVENT AND CONTROL EROSION AND SILTATION.

25 (7) IF THE PERMIT APPLICATION IS BASED UPON LEASES NOT  
26 IN EXISTENCE ON JANUARY 1, 1972, THE APPLICATION SHALL  
27 INCLUDE, UPON A FORM PREPARED BY THE DEPARTMENT, THE WRITTEN  
28 CONSENT OF THE LANDOWNER TO ENTRY UPON ANY LAND TO BE  
29 AFFECTED BY THE OPERATION AND BY THE COMMONWEALTH AND ANY OF  
30 ITS AUTHORIZED AGENTS PRIOR TO THE INITIATION OF SURFACE



1 MINING OPERATIONS, DURING SURFACE MINING OPERATIONS AND FOR A  
2 PERIOD OF FIVE YEARS AFTER THE OPERATION IS COMPLETED OR  
3 ABANDONED FOR THE PURPOSE OF RECLAMATION, PLANTING AND  
4 INSPECTION OR FOR THE CONSTRUCTION OF ANY POLLUTION ABATEMENT  
5 FACILITIES AS MAY BE DEEMED NECESSARY BY THE DEPARTMENT FOR  
6 THE PURPOSE OF THIS ACT. IF THE PERMIT APPLICATION IS BASED  
7 UPON LEASES IN EXISTENCE ON OR BEFORE JANUARY 1, 1972, THE  
8 APPLICATION FOR PERMIT SHALL INCLUDE, UPON A FORM PRESCRIBED  
9 AND FURNISHED BY THE DEPARTMENT, A NOTICE OF THE EXISTENCE OF  
10 THE LEASE AND A DESCRIPTION OF THE CHAIN OF TITLE.

11 (8) THE MANNER IN WHICH THE OPERATOR PLANS TO CONTROL  
12 SURFACE WATER DRAINAGE, INCLUDING A PRACTICABLE METHOD OF  
13 PREVENTING OR AVOIDING SURFACE AND GROUNDWATER POLLUTION.

14 (9) THE MANNER IN WHICH THE OPERATOR PLANS TO COMPLY  
15 WITH THE REQUIREMENTS OF THE ACT OF JANUARY 8, 1960 (1959  
16 P.L.2119, NO.787), KNOWN AS THE AIR POLLUTION CONTROL ACT;  
17 THE ACT OF JUNE 22, 1937 (P.L.1987, NO.394), KNOWN AS THE  
18 CLEAN STREAMS LAW; AND, WHERE APPLICABLE, THE ACT OF  
19 SEPTEMBER 24, 1968 (P.L.1040, NO.318), KNOWN AS THE COAL  
20 REFUSE DISPOSAL CONTROL ACT; THE ACT OF JULY 31, 1968  
21 (P.L.788, NO.241), KNOWN AS THE PENNSYLVANIA SOLID WASTE  
22 MANAGEMENT ACT, OR THE ACT OF JULY 7, 1980 (P.L.380, NO.97),  
23 KNOWN AS THE SOLID WASTE MANAGEMENT ACT; THE ACT OF NOVEMBER  
24 26, 1978 (P.L.1375, NO.325), KNOWN AS THE DAM SAFETY AND  
25 ENCROACHMENTS ACT; AND THE ACT OF MAY 31, 1945 (P.L.1198,  
26 NO.418), KNOWN AS THE SURFACE MINING CONSERVATION AND  
27 RECLAMATION ACT.

28 (10) SUCH OTHER INFORMATION AS THE DEPARTMENT MAY  
29 REQUIRE.

30 SECTION 8. PERMIT APPROVAL OR DENIAL.

1 (A) GENERAL RULE.--NO PERMIT SHALL BE ISSUED UNDER THIS ACT  
2 UNLESS THE APPLICANT AFFIRMATIVELY DEMONSTRATES THAT:

3 (1) THE PERMIT APPLICATION IS ACCURATE AND COMPLETE AND  
4 THAT ALL REQUIREMENTS OF THIS ACT AND THE REGULATIONS  
5 PROMULGATED HEREUNDER HAVE BEEN COMPLIED WITH.

6 (2) THE OPERATION AND RECLAMATION PLAN CONTAINED IN THE  
7 APPLICATION CAN BE ACCOMPLISHED AS REQUIRED BY THIS ACT AND  
8 REGULATIONS.

9 (3) THE OPERATION WILL NOT CAUSE POLLUTION TO THE WATERS  
10 OF THIS COMMONWEALTH.

11 (B) GROUNDS FOR REFUSAL TO ISSUE, RENEW OR AMEND PERMIT.--

12 (1) THE DEPARTMENT SHALL NOT ISSUE ANY SURFACE MINING  
13 PERMIT OR RENEW OR AMEND ANY PERMIT IF IT FINDS, AFTER  
14 INVESTIGATION AND AN OPPORTUNITY FOR AN INFORMAL HEARING,  
15 THAT:

16 (I) THE APPLICANT HAS FAILED AND CONTINUES TO FAIL  
17 TO COMPLY WITH ANY OF THE PROVISIONS OF THIS ACT OR THE  
18 ACT OF MAY 31, 1945 (P.L.1198, NO.418), KNOWN AS THE  
19 SURFACE MINING CONSERVATION AND RECLAMATION ACT; OR

20 (II) THE APPLICANT HAS SHOWN A LACK OF ABILITY OR  
21 INTENTION TO COMPLY WITH ANY PROVISION OF THIS ACT OR THE  
22 SURFACE MINING CONSERVATION AND RECLAMATION ACT, AS  
23 INDICATED BY PAST OR CONTINUING VIOLATIONS.

24 ANY PERSON, PARTNERSHIP, ASSOCIATION OR CORPORATION THAT HAS  
25 ENGAGED IN UNLAWFUL CONDUCT, AS DEFINED IN SECTION 23, OR  
26 THAT HAS A PARTNER, ASSOCIATE, OFFICER, PARENT CORPORATION,  
27 SUBSIDIARY CORPORATION, CONTRACTOR OR SUBCONTRACTOR THAT HAS  
28 ENGAGED IN SUCH UNLAWFUL CONDUCT SHALL BE DENIED ANY PERMIT  
29 REQUIRED BY THIS ACT UNLESS THE PERMIT APPLICATION  
30 DEMONSTRATES THAT THE UNLAWFUL CONDUCT IS BEING CORRECTED TO

1 THE SATISFACTION OF THE DEPARTMENT.

2 (2) PERSONS OTHER THAN THE APPLICANT, INCLUDING  
3 INDEPENDENT SUBCONTRACTORS, WHO ARE PROPOSED TO OPERATE UNDER  
4 THE PERMIT SHALL BE LISTED IN THE APPLICATION AND THOSE  
5 PERSONS SHALL BE SUBJECT TO APPROVAL BY THE DEPARTMENT PRIOR  
6 TO THEIR ENGAGING IN SURFACE MINING OPERATIONS. THE PERSONS  
7 SHALL BE JOINTLY AND SEVERALLY LIABLE WITH THE PERMITTEE FOR  
8 THE VIOLATIONS OF THIS ACT AS THE PERMITTEE IS CHARGED AND IN  
9 WHICH THE PERSONS PARTICIPATE.

10 SECTION 9. BONDING.

11 (A) GENERAL RULE.--AFTER A SURFACE MINING PERMIT HAS BEEN  
12 APPROVED, BUT BEFORE THE PERMIT IS ISSUED, THE APPLICANT SHALL  
13 FILE WITH THE DEPARTMENT A BOND FOR THE LAND AFFECTED BY EACH  
14 OPERATION ON A FORM TO BE PRESCRIBED AND FURNISHED BY THE  
15 DEPARTMENT, PAYABLE TO THE COMMONWEALTH AND CONDITIONED THAT THE  
16 PERMITTEE SHALL FAITHFULLY PERFORM ALL OF THE REQUIREMENTS OF  
17 THIS ACT AND OF THE ACT OF JUNE 22, 1937 (P.L.1987, NO.394),  
18 KNOWN AS THE CLEAN STREAMS LAW; THE ACT OF JANUARY 8, 1960 (1959  
19 P.L.2119, NO.787), KNOWN AS THE AIR POLLUTION CONTROL ACT; AND,  
20 WHERE APPLICABLE, THE ACT OF SEPTEMBER 24, 1968 (P.L.1040,  
21 NO.318), KNOWN AS THE COAL REFUSE DISPOSAL CONTROL ACT; THE ACT  
22 OF NOVEMBER 26, 1978 (P.L.1375, NO.325), KNOWN AS THE DAM SAFETY  
23 AND ENCROACHMENTS ACT; THE ACT OF JULY 31, 1968 (P.L.788,  
24 NO.241), KNOWN AS THE PENNSYLVANIA SOLID WASTE MANAGEMENT ACT,  
25 OR THE ACT OF JULY 7, 1980 (P.L.380, NO.97), KNOWN AS THE SOLID  
26 WASTE MANAGEMENT ACT; AND THE ACT OF MAY 31, 1945 (P.L.1198,  
27 NO.418), KNOWN AS THE SURFACE MINING CONSERVATION AND  
28 RECLAMATION ACT.

29 (B) SEPARATE BONDS NOT REQUIRED.--AN OPERATOR POSTING A BOND  
30 SUFFICIENT TO COMPLY WITH THIS SECTION SHALL NOT BE REQUIRED TO

1 POST A SEPARATE BOND FOR THE PERMITTED AREA UNDER EACH OF THE  
2 ACTS ENUMERATED IN SUBSECTION (A). THIS SUBSECTION SHALL NOT  
3 PROHIBIT THE DEPARTMENT FROM REQUIRING ADDITIONAL BOND AMOUNTS  
4 FOR THE PERMITTED AREA SHOULD SUCH AN INCREASE BE DETERMINED BY  
5 THE DEPARTMENT TO BE NECESSARY TO MEET THE REQUIREMENTS OF THIS  
6 ACT.

7 (C) AMOUNT OF BOND.--THE AMOUNT OF THE BOND REQUIRED SHALL  
8 BE IN AN AMOUNT DETERMINED BY THE DEPARTMENT BASED UPON THE  
9 TOTAL ESTIMATED COST TO THE COMMONWEALTH OF COMPLETING THE  
10 APPROVED RECLAMATION PLAN OR IN SUCH OTHER AMOUNT AND FORM AS  
11 MAY BE ESTABLISHED BY THE DEPARTMENT UNDER REGULATIONS FOR AN  
12 ALTERNATE BONDING PROGRAM THAT SHALL ACHIEVE THE OBJECTIVES AND  
13 PURPOSES OF THE BONDING PROGRAM. THE ESTIMATE SHALL BE BASED  
14 UPON THE PERMITTEE'S STATEMENT OF HIS ESTIMATED COST OF  
15 FULFILLING THE PLAN DURING THE COURSE OF HIS OPERATION,  
16 INSPECTION OF THE APPLICATION AND OTHER DOCUMENTS SUBMITTED,  
17 INSPECTION OF THE LAND AREA AND SUCH OTHER CRITERIA AS MAY BE  
18 RELEVANT, INCLUDING, BUT NOT LIMITED TO, THE PROBABLE DIFFICULTY  
19 OF RECLAMATION, GIVING CONSIDERATION TO SUCH FACTORS AS  
20 TOPOGRAPHY, GEOLOGY OF THE SITE, HYDROLOGY, THE PROPOSED LAND  
21 USE AND THE ADDITIONAL COST TO THE COMMONWEALTH WHICH MAY BE  
22 ENTAILED BY BEING REQUIRED TO BRING PERSONNEL AND EQUIPMENT TO  
23 THE SITE AFTER ABANDONMENT BY THE PERMITTEE IN EXCESS OF THE  
24 COST TO THE PERMITTEE OF PERFORMING THE NECESSARY WORK DURING  
25 THE COURSE OF HIS SURFACE MINING OPERATIONS. NO BOND SHALL BE  
26 FILED FOR LESS THAN \$10,000 FOR THE ENTIRE PERMIT AREA. WHEN THE  
27 PLAN INVOLVES THE RECONSTRUCTION OR RELOCATION OF ANY PUBLIC  
28 ROAD OR HIGHWAY AND WHEN THE DEPARTMENT OF TRANSPORTATION HAS  
29 REQUIRED A BOND SUFFICIENT TO FULLY BUILD OR RESTORE THE ROAD OR  
30 HIGHWAY TO A CONDITION APPROVED BY THAT DEPARTMENT, NO

1 ADDITIONAL BOND FOR BUILDING OR RESTORING THE ROAD OR HIGHWAY  
2 SHALL BE REQUIRED UNDER THIS ACT.

3 (D) DURATION OF LIABILITY UNDER BOND.--LIABILITY UNDER THE  
4 BOND SHALL BE FOR THE DURATION OF THE SURFACE MINING AT EACH  
5 OPERATION AND FOR A PERIOD OF FIVE YEARS AFTER THE LAST YEAR OF  
6 AUGMENTED SEEDING AND FERTILIZING AND ANY OTHER WORK TO COMPLETE  
7 RECLAMATION TO MEET THE REQUIREMENTS OF LAW AND PROTECT THE  
8 ENVIRONMENT, UNLESS RELEASED IN WHOLE OR IN PART PRIOR THERETO  
9 AS PROVIDED IN THIS ACT.

10 (E) BOND REQUIREMENTS; ALTERNATIVES.--THE BOND SHALL BE  
11 EXECUTED BY THE OPERATOR AND A CORPORATE SURETY LICENSED TO DO  
12 BUSINESS IN THIS COMMONWEALTH AND APPROVED BY THE SECRETARY. THE  
13 PERMITTEE MAY ELECT TO DEPOSIT WITH THE DEPARTMENT, IN LIEU OF A  
14 CORPORATE SURETY, CASH, AUTOMATICALLY RENEWABLE IRREVOCABLE BANK  
15 LETTERS OF CREDIT, WHICH MAY BE TERMINATED BY THE BANK AT THE  
16 END OF A TERM ONLY UPON THE BANK GIVING 90 DAYS PRIOR WRITTEN  
17 NOTICE TO THE PERMITTEE AND THE DEPARTMENT OR NEGOTIABLE BONDS  
18 OF THE FEDERAL GOVERNMENT OR OF THE COMMONWEALTH, THE  
19 PENNSYLVANIA TURNPIKE COMMISSION, THE GENERAL STATE AUTHORITY,  
20 THE STATE PUBLIC SCHOOL BUILDING AUTHORITY OR ANY MUNICIPALITY  
21 WITHIN THIS COMMONWEALTH. THE CASH DEPOSIT AMOUNT OF THE  
22 IRREVOCABLE LETTER OF CREDIT OR MARKET VALUE OF THE SECURITIES  
23 SHALL BE EQUAL AT LEAST TO THE SUM OF THE BOND. UPON RECEIPT OF  
24 ANY SUCH DEPOSIT OF CASH, LETTERS OF CREDIT OR NEGOTIABLE BONDS,  
25 THE SECRETARY SHALL IMMEDIATELY PLACE THE SAME WITH THE STATE  
26 TREASURER, WHOSE DUTY SHALL BE TO RECEIVE AND HOLD THE DEPOSIT  
27 IN THE NAME OF THE COMMONWEALTH, IN TRUST, FOR THE PURPOSES FOR  
28 WHICH THE DEPOSIT IS MADE. THE STATE TREASURER SHALL AT ALL  
29 TIMES BE RESPONSIBLE FOR THE CUSTODY AND SAFEKEEPING OF THE  
30 DEPOSITS.

1 (F) SUBSTITUTION FOR BOND OR OTHER COLLATERAL.--THE  
2 PERMITTEE MAKING THE DEPOSIT SHALL BE ENTITLED, FROM TIME TO  
3 TIME, TO DEMAND AND RECEIVE FROM THE STATE TREASURER, ON THE  
4 WRITTEN ORDER OF THE SECRETARY, THE WHOLE OR ANY PORTION OF ANY  
5 COLLATERAL SO DEPOSITED, UPON DEPOSITING WITH THE STATE  
6 TREASURER, IN LIEU THEREOF, OTHER COLLATERAL OF THE CLASSES  
7 SPECIFIED IN THIS SECTION HAVING A MARKET VALUE AT LEAST EQUAL  
8 TO THE SUM OF THE BOND OR, TO SUBSTITUTE A BOND FOR THE CASH,  
9 AUTOMATICALLY RENEWABLE IRREVOCABLE BANK LETTERS OF CREDIT OR  
10 NEGOTIABLE BONDS AND ALSO TO DEMAND, RECEIVE AND RECOVER THE  
11 INTEREST AND INCOME FROM THE NEGOTIABLE BONDS AS IT BECOMES DUE  
12 AND PAYABLE. WHERE NEGOTIABLE BONDS, DEPOSITED AS PROVIDED IN  
13 THIS SECTION, MATURE OR ARE CALLED, THE STATE TREASURER, AT THE  
14 REQUEST OF THE PERMITTEE, SHALL CONVERT THE NEGOTIABLE BONDS  
15 INTO OTHER NEGOTIABLE BONDS OF THE CLASSES SPECIFIED IN THIS  
16 SECTION AS MAY BE DESIGNATED BY THE PERMITTEE. WHERE NOTICE OF  
17 INTENT TO TERMINATE A LETTER OF CREDIT IS GIVEN, THE DEPARTMENT  
18 SHALL GIVE THE PERMITTEE 30 DAYS' WRITTEN NOTICE TO REPLACE THE  
19 LETTER OF CREDIT WITH OTHER ACCEPTABLE BOND GUARANTEES AS  
20 PROVIDED IN THIS SECTION AND, IF THE PERMITTEE FAILS TO REPLACE  
21 THE LETTER OF CREDIT WITHIN THE 30-DAY NOTIFICATION PERIOD, THE  
22 DEPARTMENT SHALL DRAW UPON AND CONVERT THE LETTER OF CREDIT INTO  
23 CASH AND HOLD IT AS A COLLATERAL BOND GUARANTEE.

24 (G) SELF-BOND MAY BE ACCEPTED.--THE DEPARTMENT MAY ACCEPT A  
25 SELF-BOND FROM THE PERMITTEE, WITHOUT SEPARATE SURETY, IF THE  
26 PERMITTEE DEMONSTRATES, TO THE SATISFACTION OF THE INSURANCE  
27 DEPARTMENT, A HISTORY OF FINANCIAL SOLVENCY, CONTINUOUS BUSINESS  
28 OPERATION AND CONTINUOUS EFFORTS TO ACHIEVE COMPLIANCE WITH ALL  
29 FEDERAL AND PENNSYLVANIA ENVIRONMENTAL LAWS AND PENNSYLVANIA  
30 INSURANCE LAWS, COMPLIES WITH OTHER REQUIREMENTS AS THE

1 INSURANCE DEPARTMENT MAY REASONABLY REQUIRE BY REGULATION, AND  
2 MEETS ALL OF THE FOLLOWING REQUIREMENTS:

3 (1) THE PERMITTEE SHALL BE INCORPORATED OR AUTHORIZED TO  
4 DO BUSINESS IN PENNSYLVANIA AND SHALL DESIGNATE AN AGENT IN  
5 PENNSYLVANIA TO RECEIVE SERVICE OF SUITS, CLAIMS, DEMANDS OR  
6 OTHER LEGAL PROCESS.

7 (2) THE PERMITTEE OR, IF THE PERMITTEE DOES NOT ISSUE  
8 SEPARATE AUDITED FINANCIAL STATEMENTS, ITS PARENT SHALL  
9 PROVIDE AUDITED FINANCIAL STATEMENTS, FOR AT LEAST ITS MOST  
10 RECENT THREE FISCAL YEARS, PREPARED BY A CERTIFIED PUBLIC  
11 ACCOUNTANT IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING  
12 PRINCIPLES. UPON REQUEST OF THE PERMITTEE, THE DEPARTMENT  
13 SHALL MAINTAIN THE CONFIDENTIALITY OF THE FINANCIAL  
14 STATEMENTS IF THE SAME ARE NOT OTHERWISE DISCLOSED TO OTHER  
15 GOVERNMENT AGENCIES OR THE PUBLIC.

16 (3) DURING THE LAST 36 CALENDAR MONTHS, THE APPLICANT  
17 HAS NOT DEFAULTED IN THE PAYMENT OF ANY DIVIDEND OR SINKING  
18 FUND INSTALLMENT OR PREFERRED STOCK OR INSTALLMENT ON ANY  
19 INDEBTEDNESS FOR BORROWED MONEY OR PAYMENT OF RENTALS UNDER  
20 LONG-TERM LEASES OR ANY RECLAMATION FEES PAYMENT CURRENTLY  
21 DUE UNDER SECTION 402 OF THE SURFACE MINING CONTROL AND  
22 RECLAMATION ACT OF 1977 (PUBLIC LAW 95-87, 30 U.S.C. § 1232),  
23 FOR EACH TON OF COAL PRODUCED IN THE COMMONWEALTH.

24 (4) THE PERMITTEE SHALL HAVE BEEN IN BUSINESS AND  
25 OPERATING NO LESS THAN TEN YEARS PRIOR TO FILING OF  
26 APPLICATION UNLESS THE PERMITTEE'S EXISTENCE RESULTS FROM A  
27 REORGANIZATION, CONSOLIDATION OR MERGER INVOLVING A COMPANY  
28 WITH SUCH LONGEVITY. HOWEVER, THE PERMITTEE SHALL BE DEEMED  
29 TO HAVE MET THIS REQUIREMENT IF IT IS A MAJORITY-OWNED  
30 SUBSIDIARY OF A CORPORATION THAT HAS SUCH A TEN-YEAR BUSINESS

1 HISTORY.

2 (5) THE PERMITTEE SHALL HAVE A NET WORTH OF AT LEAST SIX  
3 TIMES THE AGGREGATE AMOUNT OF ALL BONDS APPLIED FOR BY THE  
4 OPERATOR UNDER THIS SECTION.

5 (6) THE PERMITTEE SHALL GIVE IMMEDIATE NOTICE TO THE  
6 DEPARTMENT OF ANY SIGNIFICANT CHANGE IN MANAGING CONTROL OF  
7 THE COMPANY.

8 (7) A CORPORATE OFFICER OF THE PERMITTEE SHALL CERTIFY  
9 TO THE DEPARTMENT THAT FORFEITURE OF THE AGGREGATE AMOUNTS OF  
10 SELF-BONDS FURNISHED FOR ALL OPERATIONS HEREUNDER WOULD NOT  
11 MATERIALLY AFFECT THE PERMITTEE'S ABILITY TO REMAIN IN  
12 BUSINESS OR ENDANGER ITS CASH FLOW TO THE EXTENT IT COULD NOT  
13 MEET ITS CURRENT OBLIGATIONS.

14 (8) THE PERMITTEE MAY BE REQUIRED BY THE DEPARTMENT TO  
15 PLEDGE REAL AND PERSONAL PROPERTY TO GUARANTEE THE  
16 PERMITTEE'S SELF-BOND. THE DEPARTMENT IS AUTHORIZED TO  
17 ACQUIRE AND DISPOSE OF SUCH PROPERTY IN THE EVENT OF A  
18 DEFAULT TO THE BOND OBLIGATION AND MAY USE THE MONEYS IN THE  
19 FUND TO ADMINISTER THIS PROVISION.

20 (9) THE PERMITTEE MAY BE REQUIRED TO PROVIDE THIRD PARTY  
21 GUARANTEES OR INDEMNIFICATIONS OF ITS SELF-BOND OBLIGATIONS.

22 (10) THE PERMITTEE SHALL PROVIDE OTHER INFORMATION  
23 REGARDING ITS FINANCIAL SOLVENCY, CONTINUOUS BUSINESS  
24 OPERATION AND COMPLIANCE WITH ENVIRONMENTAL LAWS AS THE  
25 DEPARTMENT OR THE INSURANCE DEPARTMENT SHALL REQUIRE.

26 (11) THE PERMITTEE SHALL CERTIFY ITS PRESENT INTENTION  
27 TO MAINTAIN ITS PRESENT CORPORATE STATUS FOR A PERIOD IN  
28 EXCESS OF FIVE YEARS.

29 (12) A PERMITTEE SHALL ANNUALLY UPDATE THE  
30 CERTIFICATIONS REQUIRED HEREUNDER AND PROVIDE AUDITED



1 FINANCIAL STATEMENTS FOR EACH FISCAL YEAR DURING WHICH IT  
2 FURNISHES SELF-BONDS.

3 (13) THE PERMITTEE SHALL PAY AN ANNUAL FEE, IN THE  
4 AMOUNT DETERMINED BY THE INSURANCE DEPARTMENT, OF THE COST TO  
5 REVIEW AND VERIFY THE PERMITTEE'S APPLICATION FOR SELF-  
6 BONDING AND ANNUAL SUBMISSIONS THEREAFTER.

7 (H) TERM OF BOND IN CERTAIN CASES.--

8 (1) NOTWITHSTANDING SUBSECTION (D), IN THE CASE OF  
9 APPLICATIONS FOR THE MINING OF MINERALS WHERE THE DEPARTMENT  
10 DETERMINES THAT THE MINERAL TO BE EXTRACTED EXCEEDS THE  
11 AMOUNT OF OVERBURDEN BY A RATIO OF AT LEAST FOUR TO ONE OR  
12 THAT THE MINERALS ARE TO BE REMOVED BY UNDERGROUND MINING  
13 METHODS AND WHERE THE MINING OPERATIONS ARE REASONABLY  
14 ANTICIPATED TO CONTINUE FOR A PERIOD OF AT LEAST TEN YEARS  
15 FROM THE DATE OF THE APPLICATION, THE TERM OF THE BOND SHALL  
16 BE FOR THE DURATION OF THE MINING AND RECLAMATION OPERATIONS  
17 FOR FIVE YEARS THEREAFTER. THE OPERATOR, IN THE CASE OF  
18 MINING AND RECLAMATION OPERATIONS MENTIONED IN THIS  
19 SUBSECTION, MAY ELECT TO DEPOSIT COLLATERAL AND FILE A  
20 COLLATERAL BOND AS PROVIDED IN SUBSECTIONS (E) AND (F),  
21 ACCORDING TO THE PHASED DEPOSIT SCHEDULE SET FORTH IN  
22 PARAGRAPH (2).

23 (2) THE OPERATOR SHALL, PRIOR TO COMMENCING MINING  
24 OPERATIONS, DEPOSIT \$10,000 OR 25% OF THE AMOUNT OF THE BOND  
25 DETERMINED UNDER SUBSECTION (C), WHICHEVER IS GREATER. THE  
26 OPERATOR SHALL, THEREAFTER, ANNUALLY DEPOSIT 10% OF THE  
27 REMAINING BOND AMOUNT FOR A PERIOD OF TEN YEARS. INTEREST  
28 ACCUMULATED BY THE COLLATERAL SHALL BECOME A PART OF THE BOND  
29 UNTIL SUCH TIME AS THE COLLATERAL, PLUS ACCUMULATED INTEREST,  
30 EQUALS THE AMOUNT OF THE REQUIRED BOND. THE DEPARTMENT MAY

1 REQUIRE ADDITIONAL BONDING AT ANY TIME TO MEET THE INTENT OF  
2 SUBSECTION (A). THE COLLATERAL SHALL BE DEPOSITED, IN TRUST,  
3 WITH THE STATE TREASURER AS PROVIDED IN SUBSECTION (E) OR  
4 WITH A BANK SELECTED BY THE DEPARTMENT WHICH SHALL ACT AS  
5 TRUSTEE FOR THE BENEFIT OF THE COMMONWEALTH, ACCORDING TO THE  
6 REGULATIONS PROMULGATED UNDER THIS ACT, TO GUARANTEE THE  
7 OPERATOR'S COMPLIANCE WITH THIS ACT AND THE STATUTES  
8 ENUMERATED IN SUBSECTION (A). THE OPERATOR SHALL BE REQUIRED  
9 TO PAY ALL COSTS OF THE TRUST.

10 (3) THE COLLATERAL DEPOSIT OR PART THEREOF SHALL BE  
11 RELEASED OF LIABILITY AND RETURNED TO THE OPERATOR, TOGETHER  
12 WITH A PROPORTIONAL SHARE OF ACCUMULATED INTEREST, UPON THE  
13 CONDITIONS OF AND UNDER THE SCHEDULE AND CRITERIA FOR RELEASE  
14 PROVIDED IN SUBSECTION (J).

15 (I) PAYMENT IN LIEU OF BOND.--

16 (1) IN LIEU OF THE BOND OTHERWISE REQUIRED BY THIS  
17 SECTION, THE OPERATOR MAY ELECT TO PAY TO THE DEPARTMENT, FOR  
18 DEPOSIT IN THE FUND ESTABLISHED BY SECTION 17, AN AMOUNT  
19 EQUAL TO THE AVERAGE SURETY BOND PREMIUM CHARGED BY BONDING  
20 COMPANIES, AS DETERMINED BY THE INSURANCE COMMISSIONER, WHICH  
21 THE OPERATOR WOULD OTHERWISE BE REQUIRED TO PAY IN ORDER TO  
22 OBTAIN A SURETY BOND UNDER THIS ACT; EXCEPT THAT THE ANNUAL  
23 PAYMENT SHALL BE A PRO RATA AMOUNT OF THE PREMIUMS IF THE  
24 AVERAGE PREMIUM, AS DETERMINED BY THE INSURANCE COMMISSIONER,  
25 IS FOR A PERIOD LONGER THAN ONE YEAR. THE DEPARTMENT MAY  
26 ANNUALLY ADJUST THE AMOUNT TO INSURE THAT THERE ARE  
27 SUFFICIENT FUNDS IN THIS ACCOUNT TO RECLAIM SITES FOR WHICH  
28 BONDS POSTED UNDER THIS SUBSECTION WERE FORFEITED.

29 (2) THE INITIAL PAYMENT FOR ANY BONDED AREA SHALL BE  
30 MADE TO THE DEPARTMENT AT THE TIME OR TIMES THE OPERATOR

1        WOULD HAVE BEEN REQUIRED TO POST A SURETY BOND UNDER THIS ACT  
2        AND SHALL THEREAFTER BE MADE AT THE SAME TIME THAT THE  
3        OPERATOR APPLIES FOR A LICENSE RENEWAL UNDER SECTION 5. THESE  
4        PAYMENTS SHALL BE RETAINED BY THE COMMONWEALTH AND SHALL NOT  
5        BE REFUNDABLE TO THE OPERATOR.

6            (3) PAYMENTS UNDER THIS SUBSECTION SHALL EXCUSE THE  
7        OPERATOR FROM THE REQUIREMENT TO POST A BOND UNDER THIS ACT  
8        WITH RESPECT TO THE OPERATION FOR WHICH PAYMENT IS MADE. NO  
9        PERSON MAY MAKE PAYMENTS UNDER THIS SUBSECTION, UNLESS THAT  
10       PERSON DEMONSTRATES TO THE DEPARTMENT THAT HE IS UNABLE TO  
11       POST THE BOND OTHERWISE REQUIRED BY THIS SECTION.

12           (J) RELEASE.--SUBJECT TO THE PUBLIC NOTICE REQUIREMENTS IN  
13        SECTION 10, IF THE DEPARTMENT IS SATISFIED THAT THE RECLAMATION  
14        RECOVERED BY THE BOND PORTION THEREOF HAS BEEN ACCOMPLISHED AS  
15        REQUIRED BY THIS ACT, IT MAY, UPON REQUEST BY THE PERMITTEE,  
16        RELEASE, IN WHOLE OR IN PART, THE BOND ACCORDING TO THE  
17        RECLAMATION SCHEDULE AND CRITERIA FOR RELEASE OF BONDS SET FORTH  
18        IN REGULATIONS PROMULGATED HEREUNDER. NO BOND SHALL BE FULLY  
19        RELEASED UNTIL ALL REQUIREMENTS OF THIS ACT ARE FULLY MET. UPON  
20        RELEASE OF ALL OR PART OF THE BOND AND COLLATERAL AS HEREIN  
21        PROVIDED, THE STATE TREASURER SHALL IMMEDIATELY RETURN TO THE  
22        OPERATOR THE AMOUNT OF CASH OR SECURITIES SPECIFIED THEREIN.

23           (K) FORFEITURE.--

24            (1) IF THE OPERATOR FAILS OR REFUSES TO COMPLY WITH ANY  
25        REQUIREMENT OF THIS ACT FOR WHICH LIABILITY HAS BEEN CHARGED  
26        ON THE BOND, THE DEPARTMENT SHALL DECLARE THE BOND FORFEITED.

27            (2) UPON CERTIFICATION OF SURETY BOND FORFEITURE BY THE  
28        DEPARTMENT, THE OFFICE OF ATTORNEY GENERAL SHALL PROMPTLY  
29        COLLECT THE BOND AND PAY THE PROCEEDS INTO THE FUND. WHERE  
30        THE OPERATOR DEPOSITED CASH OR SECURITIES AS COLLATERAL, THE

1 DEPARTMENT SHALL SELL THE COLLATERAL AND PAY THE PROCEEDS  
2 INTO THE FUND OR DIRECT THE STATE TREASURER TO PAY THE  
3 PROCEEDS INTO THAT FUND.

4 (3) THE DEPARTMENT SHALL NOT ACCEPT ANY SURETY BOND  
5 WRITTEN BY A CORPORATE SURETY THAT FAILED TO PROMPTLY AND  
6 FULLY PAY A FORFEITED BOND UNDER THIS ACT OR ANY OF THE  
7 STATUTES ENUMERATED IN SECTION 7(C)(9).

8 SECTION 10. PUBLIC NOTICE; INFORMAL CONFERENCES; AND PUBLIC  
9 INFORMATION.

10 (A) GENERAL RULE.--THE APPLICANT SHALL GIVE PUBLIC NOTICE OF  
11 EVERY APPLICATION FOR A PERMIT AND EVERY APPLICATION FOR FINAL  
12 BOND RELEASE UNDER THIS ACT IN A NEWSPAPER OF GENERAL  
13 CIRCULATION, PUBLISHED IN THE LOCALITY WHERE THE PERMIT IS  
14 APPLIED FOR, ONCE A WEEK FOR FOUR CONSECUTIVE WEEKS. THE  
15 DEPARTMENT SHALL PRESCRIBE REQUIREMENTS REGARDING PUBLIC NOTICE  
16 AND PUBLIC HEARINGS ON PERMIT APPLICATIONS AND FINAL BOND  
17 RELEASES AS IT DEEMS APPROPRIATE. HOWEVER, INCREMENTS WITHIN THE  
18 ORIGINAL PERMIT AREA UPON WHICH OPERATIONS ARE INITIATED SHALL  
19 NOT BE TREATED AS ORIGINAL PERMIT APPLICATIONS WITH REGARD TO  
20 THE REQUIREMENTS OF THIS SUBSECTION SO LONG AS THE ORIGINAL  
21 PERMIT IS IN FULL FORCE AND EFFECT AT THE TIME THE OPERATIONS  
22 ARE INITIATED. FOR THE PURPOSE OF THESE PUBLIC HEARINGS, THE  
23 DEPARTMENT SHALL HAVE THE AUTHORITY TO TAKE EVIDENCE, INCLUDING,  
24 BUT NOT LIMITED TO, INSPECTIONS OF THE LAND PROPOSED TO BE  
25 AFFECTED AND OTHER OPERATIONS CARRIED ON BY THE APPLICANT IN THE  
26 GENERAL VICINITY.

27 (B) RIGHT TO FILE OBJECTIONS.--ANY PERSON HAVING AN INTEREST  
28 THAT IS OR MAY BE ADVERSELY AFFECTED SHALL HAVE THE RIGHT TO  
29 FILE WRITTEN OBJECTIONS TO THE PROPOSED PERMIT APPLICATION OR  
30 FINAL BOND RELEASE WITHIN 30 DAYS AFTER THE LAST PUBLICATION OF

1 THE ABOVE NOTICE, WHICH SHALL CONCLUDE THE PUBLIC COMMENT  
2 PERIOD. THE OBJECTIONS SHALL IMMEDIATELY BE TRANSMITTED TO THE  
3 APPLICANT BY THE DEPARTMENT. IF WRITTEN OBJECTIONS ARE FILED AND  
4 AN INFORMAL CONFERENCE OR A PUBLIC HEARING IS REQUESTED DURING  
5 THE PUBLIC COMMENT PERIOD, THE DEPARTMENT SHALL THEN HOLD AN  
6 INFORMAL CONFERENCE OR A PUBLIC HEARING IN THE LOCALITY OF THE  
7 SURFACE MINING OPERATION WITHIN 30 DAYS OF THE REQUEST FOR  
8 CONFERENCE OR HEARING FOR BOND RELEASE OR WITHIN 60 DAYS OF THE  
9 LAST PUBLICATION OF THE NOTICE FOR A PERMIT APPLICATION.

10 (C) DATE OF HEARING OR CONFERENCE ON FINAL BOND RELEASE  
11 APPLICATION.--IN THE CASE OF FINAL BOND RELEASE APPLICATIONS,  
12 THE HEARING OR CONFERENCE SHALL BE HELD WITHIN 30 DAYS FROM THE  
13 DATE OF REQUEST FOR THE HEARING OR CONFERENCE. HOWEVER, ALL  
14 REQUESTS FOR THE HEARINGS OR CONFERENCES THAT ARE FILED PRIOR TO  
15 THE TENTH DAY FOLLOWING THE FINAL DATE OF PUBLICATION SHALL HAVE  
16 A CONSTRUCTIVE DATE OF FILING AS OF THE TENTH DAY FOLLOWING THE  
17 FINAL DATE OF PUBLICATION OF THE NOTICE. THE DEPARTMENT SHALL  
18 NOTIFY THE APPLICANT OF ITS DECISION WITH 30 DAYS OF THE HEARING  
19 OR CONFERENCE. IF THERE HAS BEEN NO CONFERENCE OR HEARING, THE  
20 DEPARTMENT SHALL NOTIFY THE APPLICANT FOR A FINAL BOND RELEASE  
21 OF ITS DECISION WITHIN 60 DAYS OF THE DATE OF THE FILING OF THE  
22 APPLICATION. IN THE CASE OF PERMIT APPLICATIONS, THE HEARINGS OR  
23 CONFERENCES SHALL BE CONDUCTED WITHIN 60 DAYS OF THE CLOSE OF  
24 THE PUBLIC COMMENT PERIOD. THE DEPARTMENT, WITHIN 60 DAYS OF THE  
25 HEARING OR CONFERENCE, SHALL NOTIFY THE APPLICANT OF ITS  
26 DECISION TO APPROVE OR DISAPPROVE OR OF ITS INTENT TO DISAPPROVE  
27 UNLESS THE APPLICANT SUBMITS ADDITIONAL INFORMATION, WITHIN A  
28 STATED TIME, TO RESOLVE DEFICIENCIES. IF THERE HAS BEEN NO  
29 INFORMAL CONFERENCE OR HEARING, THE DEPARTMENT SHALL NOTIFY THE  
30 APPLICANT FOR A PERMIT, WITHIN A REASONABLE TIME NOT TO EXCEED

1 60 DAYS OF THE CLOSE OF THE PUBLIC COMMENT PERIOD, OF THE  
2 DEFICIENCIES IN THE APPLICATION OR WHETHER THE APPLICATION HAS  
3 BEEN APPROVED OR DISAPPROVED.

4 (D) COPY OF APPLICATION TO BE FILED.--SUBJECT TO THE  
5 CONFIDENTIALITY PROVISIONS OF SUBSECTION (E), EACH APPLICANT FOR  
6 A PERMIT UNDER THIS ACT SHALL FILE A COPY OF HIS APPLICATION FOR  
7 PUBLIC INSPECTION WITH THE RECORDER OF DEEDS AT THE COURTHOUSE  
8 OF THE COUNTY OR AN APPROPRIATE PUBLIC OFFICE APPROVED BY THE  
9 DEPARTMENT WHERE THE MINING IS PROPOSED TO OCCUR.

10 (E) PUBLIC RECORDS.--ALL PAPERS, RECORDS AND DOCUMENTS OF  
11 THE DEPARTMENT AND APPLICATIONS FOR PERMITS PENDING BEFORE THE  
12 DEPARTMENT SHALL BE PUBLIC RECORDS OPEN TO INSPECTION DURING  
13 BUSINESS HOURS. HOWEVER, INFORMATION WHICH PERTAINS ONLY TO THE  
14 ANALYSIS OF THE CHEMICAL AND PHYSICAL PROPERTIES OF THE MINERAL  
15 (EXCEPTING INFORMATION REGARDING THE MINERAL OR ELEMENTAL  
16 CONTENT THAT IS POTENTIALLY TOXIC TO THE ENVIRONMENT) SHALL BE  
17 KEPT CONFIDENTIAL AND SHALL NOT BE MADE A MATTER OF PUBLIC  
18 RECORDS.

19 SECTION 11. RULEMAKING; ORDERS; PUBLIC HEALTH AND SAFETY; AND  
20 RELATED MATTERS.

21 (A) REGULATIONS.--THE ENVIRONMENTAL QUALITY BOARD MAY  
22 PROMULGATE REGULATIONS, AS IT DEEMS NECESSARY, TO CARRY OUT THE  
23 PROVISIONS AND PURPOSES OF THIS ACT AND FOR THE HEALTH AND  
24 SAFETY OF THOSE PERSONS EMPLOYED AT SURFACE MINING OPERATIONS.

25 (B) ORDERS.--THE DEPARTMENT MAY ISSUE ORDERS AS ARE  
26 NECESSARY TO AID IN THE ENFORCEMENT OF THE PROVISIONS OF THIS  
27 ACT. THE ORDERS SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO,  
28 ORDERS MODIFYING, SUSPENDING OR REVOKING PERMITS OR LICENSES AND  
29 ORDERS REQUIRING PERSONS TO CEASE OPERATIONS IMMEDIATELY. THE  
30 RIGHT OF THE DEPARTMENT TO ISSUE AN ORDER UNDER THIS ACT IS IN

1 ADDITION TO ANY PENALTY OR REQUIREMENT THAT MAY BE IMPOSED UNDER  
2 THIS ACT. THE AUTHORITY TO ISSUE ORDERS INCLUDES, BUT IS NOT  
3 LIMITED TO, ORDERS REQUIRING THE ABATEMENT AND REMOVAL OF  
4 NUISANCES. FOR PURPOSES OF THIS SECTION, ANY CONDITION THAT  
5 CREATES A RISK OF FIRE, LANDSLIDE, SUBSIDENCE, CAVE-IN OR OTHER  
6 UNSAFE, DANGEROUS OR HAZARDOUS CONDITION INCLUDING, BUT NOT  
7 LIMITED TO, ANY UNGUARDED AND UNFENCED OPEN PIT AREA, HIGHWALL,  
8 WATER POOL, SPOIL BANK, ABANDONED STRUCTURE, EQUIPMENT,  
9 MACHINERY, TOOLS AND OTHER PROPERTY USED IN OR RESULTING FROM  
10 SURFACE MINING OR OTHER HAZARD TO PUBLIC HEALTH OR SAFETY IS  
11 HEREBY DECLARED TO BE A NUISANCE.

12 (C) DISTANCE LIMITATIONS.--

13 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), NO PERSON SHALL  
14 CONDUCT SURFACE MINING OPERATIONS, OTHER THAN BORROW PITS FOR  
15 HIGHWAY CONSTRUCTION PURPOSES, WITHIN 100 FEET OF THE OUTSIDE  
16 LINE OF RIGHT-OF-WAY OF ANY PUBLIC HIGHWAY; WITHIN 300 FEET  
17 OF ANY OCCUPIED DWELLING HOUSE OR COMMERCIAL OR INDUSTRIAL  
18 BUILDING, UNLESS RELEASED BY THE OWNER THEREOF; WITHIN 300  
19 FEET OF ANY PUBLIC BUILDING, SCHOOL OR COMMUNITY OR  
20 INSTITUTIONAL BUILDING; WITHIN 300 FEET OF A PUBLIC PARK; OR  
21 WITHIN 100 FEET OF ANY CEMETERY OR THE BANK OF ANY STREAM.

22 (2) THE DEPARTMENT MAY ALLOW OPERATORS TO MINE WITHIN  
23 THE DISTANCES WHERE MINING IS PROHIBITED BY PARAGRAPH (1)  
24 WHERE THE OPERATOR DEMONSTRATES:

25 (I) FOR OPENING OR EXPANSION OF PITS, THAT SPECIAL  
26 CIRCUMSTANCES WARRANT A LESSER DISTANCE, THAT THE  
27 ENVIRONMENT AND THE INTERESTS OF THE PUBLIC AND  
28 LANDOWNERS AFFECTED THEREBY WILL BE ADEQUATELY PROTECTED  
29 AND THAT THERE ARE NO FEASIBLE OR PRUDENT ALTERNATIVES TO  
30 OPENING THE PIT WITHIN A GREATER DISTANCE. PRIOR TO

1 ALLOWING A LESSER DISTANCE, THE OPERATOR SHALL GIVE  
2 PUBLIC NOTICE OF HIS APPLICATION THEREFOR IN TWO  
3 NEWSPAPERS OF GENERAL CIRCULATION IN THE AREA ONCE A WEEK  
4 FOR TWO SUCCESSIVE WEEKS AND SHALL GIVE NOTICE BY MAIL TO  
5 THE MUNICIPALITY IN WHICH THE OPERATION IS LOCATED.  
6 SHOULD ANY PERSON FILE AN OBJECTION WITH THE DEPARTMENT  
7 WITHIN 20 DAYS OF THE LAST PUBLICATION THEREOF, THE  
8 DEPARTMENT SHALL CONDUCT A PUBLIC HEARING.

9 (II) FOR PARTS OF SURFACE MINING OPERATIONS OTHER  
10 THAN OPENING OR EXPANSION OF PITS, THAT SPECIAL  
11 CIRCUMSTANCES WARRANT A LESSER DISTANCE, THAT THE PUBLIC  
12 HEALTH AND SAFETY WILL NOT BE ENDANGERED, THAT THE  
13 ENVIRONMENT AND THE INTERESTS OF THE PUBLIC AND THE  
14 LANDOWNERS AFFECTED THEREBY WILL BE ADEQUATELY PROTECTED  
15 AND THAT THERE ARE NO FEASIBLE OR PRUDENT ALTERNATIVES TO  
16 CONDUCTING THOSE ASPECTS OF THE OPERATION WITHIN A LESSER  
17 DISTANCE.

18 (D) CLEANUP.--UPON THE COMPLETION OF ANY SURFACE MINING  
19 OPERATION AND PRIOR TO THE RELEASE BY THE SECRETARY OF ALL OR  
20 ANY PORTION OF THE BOND OR COLLATERAL PERTINENT THERETO, THE  
21 OPERATOR SHALL REMOVE AND CLEAN UP ALL TEMPORARY OR UNUSED  
22 STRUCTURES, FACILITIES, EQUIPMENT, MACHINES, TOOLS, PARTS OR  
23 OTHER MATERIALS, PROPERTY, DEBRIS OR JUNK THAT WERE USED IN OR  
24 RESULTED FROM THE SURFACE MINING OPERATIONS.

25 (E) EXPLOSIVES.--

26 (1) THE USE OF EXPLOSIVES FOR THE PURPOSE OF BLASTING IN  
27 CONNECTION WITH SURFACE MINING SHALL BE DONE IN ACCORDANCE  
28 WITH REGULATIONS PROMULGATED BY AND UNDER THE SUPERVISION OF  
29 THE SECRETARY. THESE REGULATIONS SHALL INCLUDE, BUT NOT BE  
30 LIMITED TO, PROVISIONS RELATING TO PUBLIC NOTICE, BLASTING



1 SCHEDULES, MONITORING AND RECORDKEEPING, PREVENTION OF  
2 INJURY, PREVENTION OF DAMAGE TO PROPERTY OUTSIDE THE PERMIT  
3 AREA, PREVENTION OF ADVERSE IMPACTS UPON ANY UNDERGROUND  
4 MINE, PREVENTION OF ANY CHANGE IN THE COURSE, CHANNEL OR  
5 AVAILABILITY OF GROUND OR SURFACE WATER OUTSIDE THE PERMIT  
6 AREA, PREBLAST SURVEYS AND CERTIFICATION OF BLASTING  
7 PERSONNEL.

8 (2) PRECAUTIONS SHALL BE TAKEN WHEN BLASTING IN CLOSE  
9 PROXIMITY TO ANY UNDERGROUND MINE. BLASTING SHALL BE  
10 CONDUCTED IN A MANNER AS TO PROTECT THE HEALTH AND SAFETY OF  
11 PERSONS WORKING UNDERGROUND OR TO PREVENT ANY ADVERSE IMPACT  
12 UPON AN ACTIVE, INACTIVE OR ABANDONED UNDERGROUND MINE.

13 (3) IT SHALL BE UNLAWFUL FOR ANY BLASTER TO LEAVE A  
14 WORKING PLACE AFTER A TASK COMPLETION WITHOUT FIRST FILING A  
15 REPORT, KNOWN AS A BLASTER'S REPORT, WITH THE MINE OPERATOR.  
16 THE REPORT SHALL INCLUDE THE NATURE OF THE BLASTING  
17 OPERATION, INCLUDING, BUT NOT LIMITED TO, THE TYPE AND AMOUNT  
18 OF EXPLOSIVES USED.

19 (F) RELOCATION OF PUBLIC ROADS.--NOTHING CONTAINED IN THIS  
20 ACT SHALL BE CONSTRUED TO PROHIBIT THE RELOCATION OF ANY PUBLIC  
21 ROAD IN THE MANNER PROVIDED BY LAW.

22 (G) WATER RESTORATION.--ANY SURFACE MINING OPERATOR WHO  
23 AFFECTS A PUBLIC OR PRIVATE WATER SUPPLY BY CONTAMINATION,  
24 INTERRUPTION OR DIMINUTION SHALL RESTORE OR REPLACE THE AFFECTED  
25 SUPPLY WITH AN ALTERNATE SOURCE OF WATER ADEQUATE IN QUANTITY  
26 AND QUALITY FOR THE PURPOSES SERVED BY THE SUPPLY. IF ANY  
27 OPERATOR FAILS TO COMPLY WITH THIS SUBSECTION, THE SECRETARY MAY  
28 ISSUE ORDERS TO THE OPERATOR AS ARE NECESSARY TO ASSURE  
29 COMPLIANCE.

30 SECTION 12. PROGRESS REPORT.

1           WITHIN 90 DAYS AFTER COMMENCEMENT OF SURFACE MINING  
2 OPERATIONS AND EACH YEAR THEREAFTER, UNLESS MODIFIED OR WAIVED  
3 BY THE DEPARTMENT FOR CAUSE, THE OPERATOR SHALL FILE, IN  
4 TRIPLICATE, AN OPERATIONS AND PROGRESS REPORT WITH THE  
5 DEPARTMENT ON A FORM PRESCRIBED AND FURNISHED BY THE DEPARTMENT,  
6 SETTING FORTH ALL OF THE FOLLOWING:

7           (1) THE NAME OR NUMBER OF THE OPERATION.

8           (2) THE LOCATION OF THE OPERATION AS TO COUNTY AND  
9 TOWNSHIP AND WITH REFERENCE TO THE NEAREST PUBLIC ROAD.

10          (3) A DESCRIPTION OF THE TRACT OR TRACTS.

11          (4) THE NAME AND ADDRESS OF THE LANDOWNER OR HIS DULY  
12 AUTHORIZED REPRESENTATIVE.

13          (5) AN ANNUAL REPORT OF THE TYPE AND QUANTITY OF MINERAL  
14 PRODUCED, NUMBER OF EMPLOYEES AND DAYS WORKED.

15          (6) A REPORT OF ALL FATAL AND NONFATAL ACCIDENTS FOR THE  
16 PREVIOUS YEAR.

17          (7) THE CURRENT STATUS OF THE RECLAMATION WORK PERFORMED  
18 IN PURSUANCE OF THE APPROVED RECLAMATION PLAN.

19          (8) SUCH OTHER OR FURTHER INFORMATION AS THE DEPARTMENT  
20 MAY REASONABLY REQUIRE.

21 SECTION 13. TEMPORARY CESSATION.

22          (A) GENERAL RULE.--EXCEPT WITH THE EXPRESS WRITTEN APPROVAL  
23 OF THE DEPARTMENT AS PROVIDED IN SUBSECTION (B), THE OPERATOR  
24 SHALL MAINTAIN MINING AND RECLAMATION EQUIPMENT ON THE SITE AT  
25 ALL TIMES, SHALL CONDUCT AN ACTIVE OPERATION AND SHALL CONDUCT  
26 SURFACE MINING OPERATIONS ON THE SITE ON A REGULAR AND  
27 CONTINUOUS BASIS.

28          (B) APPLICATION FOR TEMPORARY CESSATION.--BEFORE TEMPORARY  
29 CESSATION OF OPERATIONS, THE OPERATOR SHALL SUBMIT A WRITTEN  
30 APPLICATION TO THE DEPARTMENT, INCLUDING A STATEMENT OF THE

1 NUMBER OF ACRES THAT HAVE BEEN AFFECTED, THE REASON FOR  
2 CESSATION, THE DATE ON WHICH TEMPORARY CESSATION IS ANTICIPATED  
3 AND THE DATE ON WHICH THE OPERATOR ANTICIPATES THAT OPERATIONS  
4 WILL RESUME. EXCEPT AS PROVIDED IN SUBSECTION (C), THE  
5 DEPARTMENT MAY NOT APPROVE THE TEMPORARY CESSATION OF AN  
6 OPERATION FOR A PERIOD EXCEEDING 90 DAYS UNLESS THE CESSATION IS  
7 DUE TO SEASONAL SHUTDOWN OR LABOR STRIKES.

8 (C) OPERATIONS PRODUCING HIGHWAY OR CONSTRUCTION  
9 AGGREGATES.--FOR OPERATIONS PRODUCING HIGHWAY OR CONSTRUCTION  
10 AGGREGATES, WHERE THE TEMPORARY CESSATION IS DUE TO THE ABSENCE  
11 OF A CURRENT REGIONAL MARKET FOR THE MINERAL BEING MINED,  
12 TEMPORARY CESSATION MAY NOT EXCEED FIVE YEARS.

13 (D) CESSATION NOT A RELEASE OF OBLIGATIONS.--TEMPORARY  
14 CESSATION SHALL NOT RELIEVE THE OPERATOR OF HIS OBLIGATION TO  
15 COMPLY WITH THE PROVISIONS OF THIS ACT, THE REGULATIONS  
16 PROMULGATED HEREUNDER AND THE CONDITIONS OF HIS PERMIT,  
17 INCLUDING, BUT NOT LIMITED TO, COMPLIANCE WITH ALL APPLICABLE  
18 ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS.

19 SECTION 14. RIGHT TO ENTER AND INSPECT.

20 THE DEPARTMENT SHALL HAVE THE RIGHT TO ENTER AND INSPECT ALL  
21 SURFACE MINING OPERATIONS FOR THE PURPOSE OF DETERMINING  
22 CONDITIONS OF HEALTH OR SAFETY AND FOR COMPLIANCE WITH THE  
23 PROVISIONS OF THIS ACT AND ALL RULES AND REGULATIONS PROMULGATED  
24 PURSUANT THERETO.

25 SECTION 15. DEPARTMENT INSPECTORS.

26 DEPARTMENT INSPECTORS SHALL BE APPOINTED IN ACCORDANCE WITH 4  
27 PA. CODE, PART IV (RELATING TO CIVIL SERVICE COMMISSION). IT  
28 SHALL BE THE DUTY OF THE SECRETARY TO ASSIGN THE INSPECTORS TO  
29 THEIR RESPECTIVE AREAS OF JURISDICTION.

30 SECTION 16. LOCAL ORDINANCES.

1 THE COMMONWEALTH BY THIS ENACTMENT HEREBY PREEMPTS THE  
2 REGULATION OF SURFACE MINING AS HEREIN DEFINED. EXCEPT WITH  
3 RESPECT TO REGULATING USES OF LAND, WATER COURSES AND OTHER  
4 BODIES OF WATER PURSUANT TO SECTION 603(A)(1) OF THE ACT OF JULY  
5 31, 1968 (P.L.805, NO.247), KNOWN AS THE PENNSYLVANIA  
6 MUNICIPALITIES PLANNING CODE, ALL LOCAL ORDINANCES AND  
7 ENACTMENTS PURPORTING TO REGULATE SURFACE MINING ARE HEREBY  
8 SUPERSEDED.

9 SECTION 17. NONCOAL SURFACE MINING CONSERVATION AND RECLAMATION  
10 FUND.

11 (A) CREATION OF FUND.--ALL FUNDS RECEIVED BY THE SECRETARY  
12 UNDER THIS ACT FROM LICENSE FEES, CIVIL OR CRIMINAL PENALTIES,  
13 PERMIT FEES, FORFEITURE OF BONDS, CASH DEPOSITS AND SECURITIES,  
14 AS WELL AS COSTS RECOVERED UNDER THE ACT OF JUNE 22, 1937  
15 (P.L.1987, NO.394), KNOWN AS THE CLEAN STREAMS LAW, SHALL BE  
16 HELD BY THE STATE TREASURER IN A SPECIAL FUND, SEPARATE AND  
17 APART FROM ALL OTHER MONEYS IN THE STATE TREASURY, TO BE KNOWN  
18 AS THE NONCOAL SURFACE MINING CONSERVATION AND RECLAMATION FUND;  
19 SHALL BE USED BY THE SECRETARY FOR THE PURPOSE OF THE  
20 REVEGETATION OR RECLAIMING OF LAND AFFECTED BY SURFACE MINING OF  
21 ANY MINERALS, FOR RESTORATION OR REPLACEMENT OF WATER SUPPLIES  
22 AFFECTED BY SURFACE MINING OPERATIONS OR FOR ANY OTHER  
23 CONSERVATION PURPOSES PROVIDED BY THIS ACT; AND, FOR SUCH  
24 PURPOSES, ARE SPECIFICALLY APPROPRIATED TO THE DEPARTMENT BY  
25 THIS ACT.

26 (B) EARMARKED FUNDS.--FUNDS RECEIVED FROM THE FORFEITURE OF  
27 BONDS, BOTH SURETY AND COLLATERAL, SHALL BE EXPENDED BY THE  
28 SECRETARY FOR RECLAIMING AND PLANTING THE AREA OF LAND AFFECTED  
29 BY THE OPERATION UPON WHICH LIABILITY WAS CHARGED ON THE BOND IF  
30 THE SECRETARY DETERMINES THE EXPENDITURE TO BE REASONABLE,

1 NECESSARY AND PHYSICALLY POSSIBLE. ANY FUNDS RECEIVED FROM THE  
2 FORFEITED BONDS IN EXCESS OF THE AMOUNT THAT IS REQUIRED TO  
3 RECLAIM AND PLANT THE AREA OF LAND AFFECTED BY THE OPERATION  
4 UPON WHICH LIABILITY WAS CHARGED, AND FUNDS RECEIVED FROM BOND  
5 FORFEITURES WHERE RECLAMATION AND PLANTING IS DETERMINED TO BE  
6 UNREASONABLE, UNNECESSARY OR PHYSICALLY IMPOSSIBLE, MAY BE USED  
7 BY THE SECRETARY FOR ANY OF THE PURPOSES PROVIDED IN SUBSECTION  
8 (A).

9 (C) TRANSFER OF EXISTING MONEYS.--MONEYS COLLECTED FROM BOND  
10 FORFEITURES FOR MINERALS AS DEFINED IN THIS ACT AND MONEYS  
11 COLLECTED PURSUANT TO SECTION 18 OF THE ACT OF MAY 31, 1945  
12 (P.L.1198, NO.418), KNOWN AS THE SURFACE MINING CONSERVATION AND  
13 RECLAMATION ACT, FOR MINERALS DEFINED IN THIS ACT, WHICH MONEYS  
14 ARE PRESENTLY IN THE SURFACE MINING CONSERVATION AND RECLAMATION  
15 FUND, SHALL BE TRANSFERRED TO THIS FUND.

16 SECTION 18. RELEASE OF OPERATOR ON TRANSFER OF OPERATION.

17 WHERE ONE OPERATOR SUCCEEDS ANOTHER AT ANY UNCOMPLETED  
18 OPERATION, BY SALE, ASSIGNMENT, LEASE OR OTHERWISE, THE  
19 SECRETARY MAY RELEASE THE FIRST OPERATOR FROM ALL LIABILITY  
20 UNDER THIS ACT AS TO THAT PARTICULAR OPERATION IF BOTH OPERATORS  
21 HAVE COMPLIED WITH THE REQUIREMENTS OF THIS ACT AND THE  
22 REGULATIONS PROMULGATED PURSUANT HERETO AND THE SUCCESSOR  
23 OPERATOR ASSUMES AS PART OF HIS OBLIGATION UNDER THIS ACT ALL  
24 LIABILITY FOR GRADING, PLANTING AND RECLAMATION ON THE LAND  
25 AFFECTED BY THE FORMER OPERATOR.

26 SECTION 19. INJUNCTIVE RELIEF.

27 IN ADDITION TO ANY OTHER REMEDY AT LAW OR IN EQUITY OR UNDER  
28 THIS ACT, THE DEPARTMENT OR THE ATTORNEY GENERAL MAY APPLY FOR  
29 RELIEF BY INJUNCTION TO ENFORCE COMPLIANCE WITH OR TO RESTRAIN  
30 VIOLATIONS OF THIS ACT OR ANY RULE, REGULATION, PERMIT CONDITION

1 OR ORDER MADE UNDER THIS ACT. THE REMEDY PRESCRIBED IN THIS  
2 SECTION SHALL BE DEEMED CONCURRENT OR CONTEMPORANEOUS WITH ANY  
3 OTHER REMEDY AND THE EXISTENCE OR EXERCISE OF ANY ONE REMEDY  
4 SHALL NOT PREVENT THE EXERCISE OF ANY OTHER REMEDY.

5 SECTION 20. REMEDIES OF CITIZENS.

6 (A) COMMENCEMENT OF CIVIL ACTION.--EXCEPT AS PROVIDED IN  
7 SUBSECTION (C), ANY PERSON HAVING AN INTEREST THAT IS OR MAY BE  
8 ADVERSELY AFFECTED MAY COMMENCE A CIVIL ACTION ON HIS OWN BEHALF  
9 TO COMPEL COMPLIANCE WITH THIS ACT OR ANY RULE, REGULATION,  
10 ORDER OR PERMIT ISSUED PURSUANT TO THIS ACT AGAINST THE  
11 DEPARTMENT WHERE THERE IS ALLEGED A FAILURE OF THE DEPARTMENT TO  
12 PERFORM ANY ACT THAT IS NOT DISCRETIONARY WITH THE DEPARTMENT OR  
13 AGAINST ANY OTHER PERSON WHO IS ALLEGED TO BE IN VIOLATION OF  
14 ANY PROVISION OF THIS ACT OR ANY RULE, REGULATION, ORDER OR  
15 PERMIT ISSUED PURSUANT TO THIS ACT. ANY OTHER PROVISION OF LAW  
16 TO THE CONTRARY NOTWITHSTANDING, THE COURTS OF COMMON PLEAS  
17 SHALL HAVE JURISDICTION OF SUCH ACTIONS AND VENUE IN SUCH  
18 ACTIONS SHALL BE AS SET FORTH IN THE RULES OF CIVIL PROCEDURE  
19 CONCERNING ACTIONS IN ASSUMPSIT.

20 (B) INSPECTION UPON INFORMATION OF VIOLATION.--WHENEVER ANY  
21 PERSON PRESENTS INFORMATION TO THE DEPARTMENT THAT GIVES THE  
22 DEPARTMENT REASON TO BELIEVE THAT ANY PERSON IS IN VIOLATION OF  
23 ANY REQUIREMENT OF THIS ACT OR ANY CONDITION OF ANY PERMIT  
24 ISSUED HEREUNDER OR OF THE STATUTES ENUMERATED IN SECTION  
25 7(C)(9) OR ANY CONDITION OR ANY PERMIT ISSUED THEREUNDER, THE  
26 DEPARTMENT SHALL IMMEDIATELY ORDER INSPECTION OF THE OPERATION  
27 AT WHICH THE ALLEGED VIOLATION IS OCCURRING.

28 (C) LIMITATIONS ON COMMENCEMENT OF ACTION.--NO ACTION  
29 PURSUANT TO THIS SECTION MAY BE COMMENCED PRIOR TO 60 DAYS AFTER  
30 THE PLAINTIFF HAS GIVEN NOTICE IN WRITING OF THE VIOLATION TO

1 THE DEPARTMENT AND TO ANY ALLEGED VIOLATOR. IN ADDITION, NO SUCH  
2 ACTION MAY BE COMMENCED IF THE DEPARTMENT HAS COMMENCED AND IS  
3 DILIGENTLY PROSECUTING A CIVIL ACTION IN A COURT OF THE UNITED  
4 STATES OR OF THE COMMONWEALTH, HAS ISSUED AN ORDER OR HAS  
5 ENTERED A CONSENT ORDER AND AGREEMENT OR DECREE TO REQUIRE  
6 COMPLIANCE WITH THIS ACT OR ANY RULE, REGULATION, ORDER OR  
7 PERMIT ISSUED UNDER THIS ACT, BUT, IN ANY SUCH ACTION IN A COURT  
8 OF THE UNITED STATES OR OF THE COMMONWEALTH, ANY PERSON MAY  
9 INTERVENE AS A MATTER OF RIGHT.

10 (D) IMMINENT THREATS TO HEALTH AND SAFETY.--THE PROVISIONS  
11 IN SUBSECTION (C) REQUIRING 60 DAYS' WRITTEN NOTICE TO THE  
12 CONTRARY NOTWITHSTANDING, ANY ACTION UNDER THIS SECTION MAY BE  
13 INITIATED IMMEDIATELY UPON WRITTEN NOTIFICATION TO THE  
14 DEPARTMENT WHERE THE VIOLATION CONSTITUTES AN IMMINENT THREAT TO  
15 THE HEALTH OR SAFETY OF THE PLAINTIFF OR WOULD IMMEDIATELY  
16 AFFECT A LEGAL INTEREST OF THE PLAINTIFF.

17 SECTION 21. CIVIL PENALTIES.

18 (A) AUTHORIZATION.--

19 (1) IN ADDITION TO PROCEEDING UNDER ANY OTHER REMEDY  
20 AVAILABLE AT LAW OR IN EQUITY FOR A VIOLATION OF A PROVISION  
21 OF THIS ACT OR ANY RULE, REGULATION, ORDER OF THE DEPARTMENT  
22 OR A CONDITION OF ANY PERMIT ISSUED UNDER THIS ACT, THE  
23 DEPARTMENT MAY ASSESS A CIVIL PENALTY UPON A PERSON FOR THE  
24 VIOLATION. THE PENALTY MAY BE ASSESSED WHETHER OR NOT THE  
25 VIOLATION WAS WILLFUL. THE CIVIL PENALTY SO ASSESSED SHALL  
26 NOT EXCEED \$5,000 PER DAY FOR EACH VIOLATION THAT LEADS TO  
27 THE ISSUANCE OF A CESSATION ORDER. FOR ALL OTHER VIOLATIONS,  
28 THE CIVIL PENALTY SO ASSESSED SHALL NOT EXCEED \$1,000 PER DAY  
29 FOR EACH VIOLATION. A PENALTY MAY NOT BE ASSESSED FOR  
30 VIOLATIONS THAT DO NOT LEAD TO THE ISSUANCE OF A CESSATION

1 ORDER WHERE THE OPERATOR DEMONSTRATES THAT THE VIOLATIONS  
2 RESULT IN NO ENVIRONMENTAL DAMAGE, NO INJURY TO PERSON OR  
3 PROPERTY AND ARE CORRECTED WITHIN THE REQUIRED TIME.

4 (2) IN DETERMINING THE AMOUNT OF THE CIVIL PENALTY, THE  
5 DEPARTMENT SHALL CONSIDER THE WILLFULNESS OF THE VIOLATION,  
6 DAMAGE OR INJURY TO THE LANDS OR TO THE WATERS OF THIS  
7 COMMONWEALTH OR THEIR USES, COST OF RESTORATION AND OTHER  
8 RELEVANT FACTORS.

9 (3) IF THE VIOLATION LEADS TO THE ISSUANCE OF A  
10 CESSATION ORDER, A CIVIL PENALTY SHALL BE ASSESSED. IF THE  
11 VIOLATION INVOLVES THE FAILURE TO CORRECT, WITHIN THE PERIOD  
12 PRESCRIBED FOR ITS CORRECTION, A VIOLATION FOR WHICH A  
13 CESSATION ORDER OR OTHER ABATEMENT ORDER HAS BEEN ISSUED, A  
14 CIVIL PENALTY OF NOT LESS THAN \$750 SHALL BE ASSESSED FOR  
15 EACH DAY THE VIOLATION CONTINUES BEYOND THE PERIOD PRESCRIBED  
16 FOR ITS CORRECTION. IF THE VIOLATION INVOLVES THE FAILURE TO  
17 CORRECT, WITHIN THE PERIOD PRESCRIBED FOR ITS CORRECTION, A  
18 VIOLATION FOR WHICH A CESSATION ORDER OR OTHER ABATEMENT  
19 ORDER WAS NOT ISSUED, A CIVIL PENALTY OF NOT LESS THAN \$250  
20 SHALL BE ASSESSED FOR EACH DAY THE VIOLATION CONTINUES BEYOND  
21 THE PERIOD PRESCRIBED FOR ITS CORRECTION.

22 (B) ESCROW OF PENALTY; JUDGMENTS.--

23 (1) WHEN THE DEPARTMENT PROPOSES TO ASSESS A CIVIL  
24 PENALTY, THE SECRETARY SHALL INFORM THE PERSON, WITHIN A  
25 PERIOD OF TIME TO BE PRESCRIBED BY RULE AND REGULATION, OF  
26 THE PROPOSED AMOUNT OF THE PENALTY. THE PERSON CHARGED WITH  
27 THE PENALTY SHALL THEN HAVE 30 DAYS TO PAY THE PROPOSED  
28 PENALTY IN FULL OR, IF THE PERSON WISHES TO CONTEST EITHER  
29 THE AMOUNT OF THE PENALTY OR THE FACT OF THE VIOLATION,  
30 FORWARD THE PROPOSED AMOUNT TO THE SECRETARY FOR PLACEMENT IN



1 AN ESCROW ACCOUNT WITH THE STATE TREASURER OR ANY  
2 PENNSYLVANIA BANK, OR POST AN APPEAL BOND IN THE AMOUNT OF  
3 THE PROPOSED PENALTY. THE BOND SHALL BE EXECUTED BY A SURETY  
4 LICENSED TO DO BUSINESS IN THIS COMMONWEALTH AND BE  
5 SATISFACTORY TO THE DEPARTMENT. IF, THROUGH ADMINISTRATIVE OR  
6 JUDICIAL REVIEW OF THE PROPOSED PENALTY, IT IS DETERMINED  
7 THAT NO VIOLATION OCCURRED OR THAT THE AMOUNT OF THE PENALTY  
8 SHALL BE REDUCED, THE SECRETARY SHALL, WITHIN 30 DAYS, REMIT  
9 THE APPROPRIATE AMOUNT TO THE PERSON, WITH ANY INTEREST  
10 ACCUMULATED BY THE ESCROW DEPOSIT. FAILURE TO FORWARD THE  
11 MONEY OR THE APPEAL BOND TO THE SECRETARY WITHIN 30 DAYS  
12 SHALL RESULT IN A WAIVER OF ALL LEGAL RIGHTS TO CONTEST THE  
13 VIOLATION OR THE AMOUNT OF THE PENALTY.

14 (2) THE AMOUNT ASSESSED AFTER ADMINISTRATIVE HEARING, OR  
15 AFTER WAIVER OF ADMINISTRATIVE HEARING, SHALL BE PAYABLE TO  
16 THE COMMONWEALTH AND SHALL BE COLLECTIBLE IN ANY MANNER  
17 PROVIDED UNDER LAW FOR THE COLLECTION OF DEBTS. IF ANY PERSON  
18 LIABLE TO PAY ANY SUCH PENALTY NEGLECTS OR REFUSES TO PAY THE  
19 SAME AFTER DEMAND, THE AMOUNT, TOGETHER WITH INTEREST AND ANY  
20 COSTS THAT MAY ACCRUE, SHALL CONSTITUTE A JUDGMENT IN FAVOR  
21 OF THE COMMONWEALTH UPON THE PROPERTY OF THE PERSON FROM THE  
22 DATE IT HAS BEEN ENTERED AND DOCKETED OF RECORD BY THE  
23 PROTHONOTARY OF THE COUNTY WHERE THE PROPERTY IS SITUATED.  
24 THE DEPARTMENT MAY, AT ANY TIME, TRANSMIT TO THE  
25 PROTHONOTARIES OF THE RESPECTIVE COUNTIES CERTIFIED COPIES OF  
26 ALL SUCH JUDGMENTS, AND IT SHALL BE THE DUTY OF EACH  
27 PROTHONOTARY TO ENTER AND DOCKET THE SAME OF RECORD IN HIS  
28 OFFICE AND TO INDEX IT AS JUDGMENTS ARE INDEXED, WITHOUT  
29 REQUIRING THE PAYMENT OF COSTS AS A CONDITION PRECEDENT TO  
30 THE ENTRY THEREOF.

1           (3) ANY OTHER PROVISION OF LAW TO THE CONTRARY  
2       NOTWITHSTANDING, THERE SHALL BE A STATUTE OF LIMITATIONS OF  
3       FIVE YEARS UPON ACTIONS BROUGHT BY THE COMMONWEALTH UNDER  
4       THIS SECTION.

5   SECTION 22. CRIMINAL PENALTIES.

6       (A) MINING WITHOUT A LICENSE OR PERMIT OR IN VIOLATION OF  
7       TERMS OF LICENSE.--ANY PERSON WHO PROCEEDS TO MINE MINERALS BY  
8       THE SURFACE MINING METHOD AS AN OPERATOR, WITHOUT HAVING APPLIED  
9       FOR AND RECEIVED A LICENSE OR A PERMIT AS PROVIDED IN THIS ACT  
10      OR IN VIOLATION OF THE TERMS OF HIS LICENSE, COMMITS A  
11      MISDEMEANOR OF THE THIRD DEGREE AND, UPON CONVICTION, SHALL BE  
12      SENTENCED TO PAY A FINE OF NOT LESS THAN \$10,000 OR AN AMOUNT  
13      NOT LESS THAN THE TOTAL PROFITS DERIVED BY HIM AS A RESULT OF  
14      HIS UNLAWFUL ACTIVITIES, AS DETERMINED BY THE COURT, TOGETHER  
15      WITH THE ESTIMATED COST TO THE COMMONWEALTH OF ANY RECLAMATION  
16      WORK THAT MAY REASONABLY BE REQUIRED IN ORDER TO RESTORE THE  
17      LAND TO ITS CONDITION PRIOR TO THE COMMENCEMENT OF UNLAWFUL  
18      ACTIVITIES OR TO IMPRISONMENT FOR A PERIOD OF NOT MORE THAN ONE  
19      YEAR, OR BOTH.

20      (B) VIOLATIONS GENERALLY.--ANY PERSON WHO VIOLATES ANY  
21      PROVISION OF THIS ACT, ANY RULE OR REGULATION OF THE DEPARTMENT,  
22      ANY ORDER OF THE DEPARTMENT OR ANY CONDITION OF ANY PERMIT  
23      ISSUED UNDER THIS ACT COMMITS A SUMMARY OFFENSE AND, UPON  
24      CONVICTION, SHALL BE SUBJECT TO A FINE OF NOT LESS THAN \$100 NOR  
25      MORE THAN \$10,000 FOR EACH SEPARATE OFFENSE AND, IN THE DEFAULT  
26      OF THE PAYMENT OF THE FINE, A PERSON SHALL BE IMPRISONED FOR A  
27      PERIOD OF 90 DAYS.

28      (C) WILLFUL AND KNOWING VIOLATIONS.--ANY PERSON WHO  
29      WILLFULLY AND KNOWINGLY VIOLATES ANY PROVISION OF THIS ACT, ANY  
30      RULE OR REGULATION OF THE DEPARTMENT, ANY ORDER OF THE

1 DEPARTMENT OR ANY CONDITION OF ANY PERMIT ISSUED UNDER THIS ACT  
2 COMMITS A MISDEMEANOR OF THE THIRD DEGREE AND, UPON CONVICTION,  
3 SHALL BE SUBJECT TO A FINE OF NOT LESS THAN \$2,500 NOR MORE THAN  
4 \$25,000 FOR EACH SEPARATE OFFENSE OR TO IMPRISONMENT FOR A  
5 PERIOD OF NOT MORE THAN ONE YEAR, OR BOTH.

6 (D) REPEAT WILLFUL AND KNOWING VIOLATIONS.--ANY PERSON WHO,  
7 AFTER A CONVICTION OF A MISDEMEANOR FOR ANY VIOLATION WITHIN TWO  
8 YEARS AS ABOVE PROVIDED, WILLFULLY AND KNOWINGLY VIOLATES ANY  
9 PROVISION OF THIS ACT, ANY RULE OR REGULATION OF THE DEPARTMENT,  
10 ANY ORDER OF THE DEPARTMENT OR ANY CONDITION OF ANY PERMIT  
11 ISSUED UNDER THIS ACT COMMITS A MISDEMEANOR OF THE SECOND DEGREE  
12 AND, UPON CONVICTION, SHALL BE SUBJECT TO A FINE OF NOT LESS  
13 THAN \$2,500 NOR MORE THAN \$50,000 FOR EACH SEPARATE OFFENSE, OR  
14 TO IMPRISONMENT FOR A PERIOD OF NOT MORE THAN TWO YEARS, OR  
15 BOTH.

16 (E) SEPARATE OFFENSES.--EACH DAY OF CONTINUED VIOLATION OF  
17 ANY PROVISION OF THIS ACT, ANY RULE OR REGULATION OF THE  
18 DEPARTMENT, ANY PERMIT CONDITION OR ORDER OF THE DEPARTMENT  
19 ISSUED UNDER THIS ACT SHALL CONSTITUTE A SEPARATE OFFENSE FOR  
20 PURPOSES OF SUBSECTIONS (B) THROUGH (D).

21 (F) JURISDICTION; APPEALS.--ALL SUMMARY PROCEEDINGS UNDER  
22 THIS ACT MAY BE BROUGHT BEFORE ANY DISTRICT JUSTICE OF THE  
23 COUNTY WHERE THE OFFENSE OCCURRED OR ANY UNLAWFUL DISCHARGE OF  
24 INDUSTRIAL WASTE OR POLLUTION WAS MAINTAINED OR IN THE COUNTY  
25 WHERE THE PUBLIC IS AFFECTED, AND, TO THAT END, JURISDICTION IS  
26 HEREBY CONFERRED UPON THE DISTRICT JUSTICES, SUBJECT TO APPEAL  
27 BY EITHER PARTY IN THE MANNER PROVIDED BY LAW. IN THE CASE OF  
28 ANY APPEAL FROM ANY SUCH CONVICTION IN THE MANNER PROVIDED BY  
29 LAW FOR APPEALS FROM SUMMARY CONVICTIONS, IT SHALL BE THE DUTY  
30 OF THE DISTRICT ATTORNEY OF THE COUNTY TO REPRESENT THE

1 INTERESTS OF THE COMMONWEALTH.

2 SECTION 23. UNLAWFUL CONDUCT.

3 (A) GENERAL RULE.--IT SHALL BE UNLAWFUL TO DO ANY OF THE  
4 FOLLOWING:

5 (1) VIOLATE THE PROVISIONS OF THIS ACT OR THE  
6 REGULATIONS ADOPTED HEREUNDER.

7 (2) FAIL TO COMPLY WITH ANY ORDER, PERMIT, OR LICENSE  
8 ISSUED UNDER THIS ACT.

9 (3) CAUSE AIR OR WATER POLLUTION IN CONNECTION WITH  
10 MINING AND NOT OTHERWISE PRESCRIBED BY THIS ACT.

11 (4) HINDER, OBSTRUCT, PREVENT OR INTERFERE WITH THE  
12 DEPARTMENT OR ITS PERSONNEL IN THE PERFORMANCE OF ANY DUTY  
13 HEREUNDER.

14 (5) VIOLATE THE PROVISIONS OF 18 PA.C.S. § 4903  
15 (RELATING TO FALSE SWEARING) OR 4904 (RELATING TO UNSWORN  
16 FALSIFICATION TO AUTHORITIES).

17 (B) FAILURE TO COMPLY WITH OTHER STATUTES.--FAILURE TO  
18 COMPLY WITH THE STATUTES ENUMERATED IN SECTION 7(C)(9) DURING  
19 MINING OR THEREAFTER SHALL RENDER THE OPERATOR LIABLE TO THE  
20 SANCTIONS AND PENALTIES PROVIDED IN THIS ACT FOR VIOLATIONS OF  
21 THIS ACT AND TO THE SANCTIONS AND PENALTIES PROVIDED IN THE  
22 STATUTES ENUMERATED IN SECTION 7(C)(9) FOR VIOLATIONS OF THE  
23 STATUTES. FAILURE TO COMPLY SHALL BE CAUSE FOR SUSPENSION OR  
24 REVOCATION OF ANY APPROVAL OR PERMIT ISSUED BY THE DEPARTMENT TO  
25 THE OPERATOR FOR THE SITE ON WHICH THE SURFACE MINING OPERATION  
26 IS LOCATED. HOWEVER, A VIOLATION OF THE STATUTES IN SECTION  
27 7(C)(9) SHALL NOT BE DEEMED A VIOLATION OF THIS ACT UNLESS THIS  
28 ACT'S PROVISIONS ARE VIOLATED BUT SHALL ONLY BE CAUSE FOR  
29 SUSPENSION OR REVOCATION OF THE OPERATOR'S PERMIT FOR THE SITE  
30 ON WHICH THE SURFACE MINING OPERATION IS LOCATED. COMPLIANCE

1 WITH THE PROVISIONS OF THIS ACT AND THE STATUTES ENUMERATED IN  
2 SECTION 7(C)(9) SHALL NOT RELIEVE THE OPERATOR OF THE  
3 RESPONSIBILITY FOR COMPLYING WITH THE PROVISIONS OF ALL OTHER  
4 APPLICABLE STATUTES. NOTHING IN THIS SUBSECTION SHALL BE  
5 CONSTRUED TO LIMIT THE DEPARTMENT'S AUTHORITY TO REGULATE  
6 ACTIVITIES IN A COORDINATED MANNER.

7 (C) PROVISIONS VIOLATORS ARE SUBJECT TO.--ANY PERSON  
8 ENGAGING IN CONDUCT PROHIBITED BY SUBSECTION (A) SHALL BE  
9 SUBJECT TO THE PROVISIONS OF SECTIONS 21, 22 AND THIS SECTION.

10 (D) COURT PROCEEDINGS AUTHORIZED.--THE DEPARTMENT MAY  
11 INSTITUTE, IN A COURT OF COMPETENT JURISDICTION, PROCEEDINGS  
12 AGAINST ANY PERSON WHO FAILS TO COMPLY WITH THE PROVISIONS OF  
13 THIS ACT, ANY RULE OR REGULATION ISSUED HEREUNDER, ANY ORDER OF  
14 THE DEPARTMENT OR THE TERMS AND CONDITIONS OF ANY LICENSE OR  
15 PERMIT.

16 SECTION 24. EXISTING LICENSES AND PERMITS.

17 ALL ORDERS, PERMITS, LICENSES, DECISIONS AND ACTIONS OF THE  
18 DEPARTMENT AND REGULATIONS OF THE ENVIRONMENTAL QUALITY BOARD  
19 PERTAINING TO OPERATIONS REGULATED UNDER THIS ACT SHALL REMAIN  
20 IN FULL FORCE AND EFFECT UNLESS AND UNTIL MODIFIED, REPEALED,  
21 SUSPENDED, SUPERSEDED OR OTHERWISE CHANGED UNDER THE TERMS OF  
22 THIS ACT AND THE REGULATIONS PROMULGATED UNDER THIS ACT.

23 SECTION 25. SOIL CONSERVATION DISTRICTS.

24 (A) DELEGATION OF FUNCTIONS.--IN ACCORDANCE WITH REGULATIONS  
25 PROMULGATED BY THE ENVIRONMENTAL QUALITY BOARD, THE DEPARTMENT  
26 MAY, BY AGREEMENT, DELEGATE TO A CONSERVATION DISTRICT ONE OR  
27 MORE OF ITS REGULATORY FUNCTIONS UNDER THIS ACT FOR SURFACE  
28 MINING OPERATORS LICENSED TO MINE LESS THAN 2,000 TONS OF  
29 MARKETABLE MINERALS PER YEAR. ANY CONSERVATION DISTRICT ACTING  
30 PURSUANT TO A DELEGATION AGREEMENT SHALL HAVE THE SAME POWERS

1 AND DUTIES OTHERWISE VESTED IN THE DEPARTMENT TO IMPLEMENT THIS  
2 ACT TO THE EXTENT DELEGATED BY AGREEMENT.

3 (B) ACTIVITIES TO BE MONITORED AND SUPERVISED.--THE  
4 DEPARTMENT SHALL MONITOR AND SUPERVISE THE ACTIVITIES OF EACH  
5 CONSERVATION DISTRICT CONDUCTED PURSUANT TO A DELEGATION  
6 AGREEMENT.

7 (C) APPEALS.--ANY PERSON AGGRIEVED BY AN ACTION OF A  
8 DISTRICT UNDER A DELEGATION AGREEMENT MAY APPEAL THE ACTION AS  
9 PROVIDED BY TITLE 2 OF THE PENNSYLVANIA CONSOLIDATED STATUTES  
10 (RELATING TO ADMINISTRATIVE LAW AND PROCEDURE) WITHIN 30 DAYS  
11 FOLLOWING NOTICE OF THE ACTION.

12 SECTION 26. WAIVER OF PERMIT REQUIREMENTS; GENERAL PERMITS.

13 (A) WAIVER OF PERMIT REQUIREMENTS.--THE ENVIRONMENTAL  
14 QUALITY BOARD MAY, BY REGULATION, WAIVE THE PERMIT REQUIREMENTS  
15 FOR ANY CATEGORY OF SURFACE MINING OPERATION UNDER THIS ACT  
16 WHICH IT DETERMINES HAS AN INSIGNIFICANT EFFECT UPON THE SAFETY  
17 AND PROTECTION OF LIFE, HEALTH, PROPERTY AND THE ENVIRONMENT.

18 (B) ISSUANCE OF GENERAL PERMITS.--THE DEPARTMENT MAY, IN  
19 ACCORDANCE WITH RULES ADOPTED BY THE ENVIRONMENTAL QUALITY  
20 BOARD, ISSUE GENERAL PERMITS ON A REGIONAL OR STATEWIDE BASIS  
21 FOR ANY CATEGORY OF SURFACE MINING OPERATION UNDER THIS ACT IF  
22 THE DEPARTMENT DETERMINES THAT THE OPERATIONS IN THE CATEGORY  
23 ARE SIMILAR IN NATURE AND CAN BE ADEQUATELY REGULATED UTILIZING  
24 STANDARDIZED SPECIFICATIONS AND CONDITIONS. GENERAL PERMITS  
25 SHALL SPECIFY THE DESIGN, OPERATING AND MONITORING CONDITIONS AS  
26 ARE NECESSARY TO ADEQUATELY PROTECT LIFE, HEALTH, PROPERTY AND  
27 THE ENVIRONMENT, UNDER WHICH THE OPERATIONS MAY BE CONDUCTED  
28 WITHOUT APPLYING FOR AND OBTAINING INDIVIDUAL PERMITS. THE  
29 DEPARTMENT MAY REQUIRE THE REGISTRATION OF ANY OPERATION  
30 CONSTRUCTED PURSUANT TO A GENERAL PERMIT. ALL GENERAL PERMITS

1 SHALL BE PUBLISHED IN THE PENNSYLVANIA BULLETIN AT LEAST 30 DAYS  
2 PRIOR TO THE EFFECTIVE DATE OF THE PERMIT.

3 SECTION 27. REPEALS.

4 EXCEPT AS PROVIDED IN SECTION 4, THE ACT OF MAY 31, 1945  
5 (P.L.1198, NO.418), KNOWN AS THE SURFACE MINING CONSERVATION AND  
6 RECLAMATION ACT, IS REPEALED TO THE EXTENT THAT IT APPLIES TO  
7 THE SURFACE MINING OF MINERALS OTHER THAN BITUMINOUS AND  
8 ANTHRACITE COAL.

9 SECTION 28. EFFECTIVE DATE.

10 THIS ACT SHALL TAKE EFFECT IN 60 DAYS.