

tification to the court by the commission or such person or persons as it may authorize, stating the reason for the removal of the elector's registration card from its active file and further certifying that he has now been duly registered and his card transferred to its active file for all intents and purposes. The petition shall be signed by the petitioner whose signature shall be compared by an election officer with the signature of the petitioner as it appears on the voter's certificate as executed by him for the purpose of identification and qualified to vote.

Section 40. Correction by Commission of Errors in Cancellation or Suspension of Registration.—Whenever the registration of an elector has been cancelled or suspended through error, such elector may petition the commission for the reinstatement of his registration not later than the tenth day preceding any primary or election, and after a hearing on said application, if error on the part of the commission is proved, the commission shall reinstate the registration of such elector.

Act effective
immediately.

Section 4. This act shall take effect immediately.

APPROVED—The 2nd day of September, A. D. 1961.

DAVID L. LAWRENCE

No. 531

AN ACT

Amending the act of May 31, 1945 (P. L. 1198), entitled "An act providing for the conservation and improvement of land affected in connection with the mining of bituminous coal by the open pit mining method; regulating such mining; and providing penalties," further regulating bituminous strip mining operations, changing provisions with respect to bonds, filing dates, reports, registration, backfilling and overburden, including certain persons within the provisions of the act, and providing for the use of funds in certain cases.

Bituminous Coal
Open Pit Mining
Conservation
Act.

Section 3, act of
May 31, 1945,
P. L. 1198,
amended May 23,
1949, P. L. 1730,
by adding two
new definitions:
"Abandoned"
and "Degree."

Definitions.

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

Section 1. Section 3, act of May 31, 1945 (P. L. 1198), known as the "Bituminous Coal Open Pit Mining Conservation Act," amended May 23, 1949 (P. L. 1730), is amended by adding, at the end thereof, two new definitions to read:

Section 3. Definitions.—The following words and phrases, unless a different meaning is plainly required by the context, shall have the following meanings:

* * * * *

“Abandoned” shall mean an operation where no coal has been produced or overburden removed for a period of one year, verified by monthly reports submitted to the department by the operator and by inspections made by mine inspectors, unless an operator within thirty (30) days after receipt of notification by the secretary terminating an operation abandoned submits sufficient evidence to the secretary that the operation is in fact not abandoned.

“Degree,” when used in this act, shall mean from the horizontal and in each case shall be subject to a tolerance of five (5) degrees.

Section 2. Sections 4, 4.1, 4.2, 4.3 and 5 of the act, added or amended May 10, 1956 (P. L. 1562), are amended to read:

Sections 4, 4.1, 4.2, 4.3 and 5 of the act, added or amended May 10, 1956, P. L. 1562, further amended.

Section 4. Before any operator shall hereafter engage in open pit mining of bituminous coal within the Commonwealth, he shall first apply for registration with the Department of Mines and Mineral Industries of this Commonwealth by filing, by registered mail or by delivery in person, on a form to be provided by the department, and giving information sufficient to identify the operator, and an estimate of the number of acres of land in each mine inspection district that the operator will affect by open pit mining during the registration year. As a part of the application for registration, the operator shall furnish, in duplicate, a map or plan on a scale of not less than four hundred feet to the inch in a manner satisfactory to the Secretary of Mines and Mineral Industries, showing the location of the tract or tracts of land to be affected by the operation or operations contemplated. If after a registration certificate issues to an operator, the operator desires to affect a tract or tracts of land not included in the certificate, the operator shall, by registered mail or in person, so notify the Secretary of Mines at least two weeks prior to the commencement of operations. The Secretary of Mines shall promptly acknowledge, by registered mail, receipt of the application for registration. When the requirements of this act are met and no claims are outstanding under this act against the operator, or in the case of any corporation against any officer or director, a registration certificate shall issue forthwith. Contemporaneously with and as a part of said registration application, the operator shall file with the Department of Mines and Mineral Industries a bond on a form to be prescribed and furnished by the department, payable to the Commonwealth and conditioned that the operator shall faithfully perform all of the requirements of this act. The bond shall be in the amount of [three hundred dollars (\$300.00)] *four hun-*

Registration for open pit mining.

Bond.

dred dollars (\$400.00) per acre based upon the number of acres of land in each mine inspection district, which the operator estimates will be affected by open pit mining during the registration year: Provided, That no bond shall be filed for less than [three thousand dollars (\$3000.00)] four thousand dollars (\$4000.00). Liability under such bond shall be for the duration of open pit mining at each operation, and for a period of five years thereafter, unless released prior thereto as hereinafter provided. Such bond shall be executed by the operator and a corporate surety licensed to do business in the Commonwealth: Provided, however, That the operator may elect to deposit cash or negotiable bonds of the United States Government or the Commonwealth of Pennsylvania, the Pennsylvania Turnpike Commission, the General State Authority, the State Public School Building Authority, or any municipality within the Commonwealth, with the department in lieu of a corporate surety. The cash deposit or market value of such securities shall be equal to the sum of the bond. The Secretary of Mines and Mineral Industries shall, upon receipt of any such deposit of cash or securities, immediately place the same with the State Treasurer, whose duty it shall be to receive and hold the same in the name of the Commonwealth, in trust, for the purposes for which such deposit is made. The State Treasurer shall at all times be responsible for the custody and safekeeping of such deposits. The operator making the deposit shall be entitled from time to time to demand and receive from the State Treasurer, on the written order of the Secretary of Mines and Mineral Industries, the whole or any portion of any securities so deposited, upon depositing with him, in lieu thereof, other negotiable securities of the classes herein specified having a market value at least equal to the sum of the bond, and also to demand, receive and recover the interest and income from said securities as the same becomes due and payable: Provided, however, That where securities, deposited as aforesaid, mature or are called, the State Treasurer, at the request of the operator, shall convert such securities into such other negotiable securities of the classes herein specified as may be designated by the operator. Contemporaneous with the filing of said registration certificate application and any renewal thereof, the operator shall pay to the department a filing fee of one hundred dollars (\$100.00). Should the area of land affected in any mine inspection district by open pit mining any time within the registration year exceed the estimate made in the registration certificate application, the operator shall, within thirty (30) days thereafter, file an additional bond. Upon receipt of such bond, the Secretary of Mines and Mineral Industries shall promptly issue an

Proviso.

Proviso.

Proviso.

amended certificate covering the additional acreage covered by such bond, but no filing fee shall be required in connection with the filing of such additional bond. If the Secretary of Mines and Mineral Industries does not approve the application for registration, he shall promptly notify the operator, by registered mail, setting forth his reasons therefor. The operator may then take such steps as are required to remove the objections. Any operator who shall be aggrieved by any action of the Secretary of Mines and Mineral Industries under this section may proceed under the provisions of section fourteen of this act. If any operator who has filed an application for registration has not received a registration certificate or a notice from the Secretary of Mines and Mineral Industries as to why such application has not been approved within thirty days after the receipt of such application, he may engage in open pit mining of bituminous coal and be deemed in compliance with all provisions of this act. The registration provisions of this section shall not apply to an operator registered under the provisions of the act of May thirty-one, one thousand nine hundred forty-five (Pamphlet Laws 1198), as amended, until the anniversary date of the operator's registration.

Section 4.1. On or before the third day of each month, every operator of a coal stripping operation shall furnish the mine inspector in whose district the operation is located, on a form provided by the Department of Mines and Mineral Industries, an accurate monthly report of coal produced, number of employes and days worked, and also a report of all fatal and nonfatal accidents for the previous month. An annual report shall be furnished to the mine inspector in whose district the operation is located on a form provided for that purpose not later than the twenty-fifth day of January each year for the preceding year.

Monthly report.

Annual report.

Section 4.2. All coal stripping operations coming within the provisions of this act shall be under the exclusive jurisdiction of the Department of Mines and Mineral Industries and shall be conducted in compliance with such reasonable rules and regulations as may be deemed necessary by the Secretary of Mines and Mineral Industries for the health and safety of those persons engaged in the work. The Secretary of Mines and Mineral Industries through the mine inspectors shall have the authority and power to enforce the provisions of this act and the rules and regulations promulgated thereunder by him.

Jurisdiction of coal stripping operations: rules and regulations: enforcement.

Section 4.3. Any mine inspector directed by the Department of Mines and Mineral Industries shall have

Right to inspect and authority of inspector.

Action in cases
of failure of
compliance.

the right to enter upon and inspect all stripping operations for the purpose of determining conditions of safety and for compliance with the terms of the registration certificate. A mine inspector shall have the authority to order the halting of mine operations in any case where safety regulations are being violated. Should an operator fail to comply with the requirements of the act, the mine inspector shall report the matter to the secretary who shall immediately notify the operator by registered mail of such failure. Unless the operator complies with the act within thirty (30) days from the receipt of such notice, the secretary may, after hearing and final determination, issue a cease and desist order requiring the operator to immediately cease mining at the operation in the mine inspection district where the violation was reported. *A mine inspector shall have the authority to order the stopping of any operation that is started without first having been registered as required by this act.*

Authority to
order stoppage.

Section 5. Operation Report and Backfilling.—Within thirty (30) days after starting the removal of overburden at each operation for the removal of coal by open pit mining, the operator shall file an operation report with the Department of Mines and Mineral Industries on a form to be prescribed and furnished by the secretary, giving the following information: (a) Name or number of the operation; (b) Location of the operation as to county and township and with reference to the nearest public road; (c) A description of the tract or tracts; and (d) The name and address of the landowner or his duly authorized representative. As part of the operations report, the operator shall file a map or plan on a scale of not less than four hundred (400) feet to the inch in a manner satisfactory to the Secretary of Mines and Mineral Industries, showing the location of the new tract or tracts of land to be affected by the operation or operations and not covered by the original registration application or reregistration application.

The operator shall backfill the operation made by the open pit mining operation to a distance of [seventy-five] *one hundred* feet beyond the boundary line of the right of way of any public highway and to a distance of two hundred *twenty-five* feet from any occupied dwelling, house, unless released by owner thereof, public building, school, church and community or institutional building. [The backfilling under this section shall be done in such a manner as to insure lateral support and to provide a slope having an angle not exceeding forty (40) degrees. The Department of Mines may specify the time within which it shall be completed in order to protect the public safety.]

Nothing contained in this section shall be construed to prohibit the relocation of any public road in the manner provided by law.

Section 3. Sections 6 and 7 of the act, amended May 23, 1949 (P. L. 1730), are amended to read:

Section 6. Within six (6) months after the operation is [finished] *completed* or abandoned, the operator shall file with the Department of Mines and Mineral Industries, a completion report, on a form to be prescribed and furnished by the secretary, identifying the operation, stating the area of land affected by open pit mining, stating whether the operator or other person intends to carry on drift mining upon the premises and the provisions made therefor. The operator shall attach to the completion report a map of the operation prepared in a manner satisfactory to the secretary, showing the boundary lines of the tract or tracts, the access to the operation from the nearest public highway, the area of land affected by open pit mining, the locations preserved for drift mining, and the proposed plans in connection therewith, the area of land affected by open pit mining and the work done or proposed to be done in accordance with section ten (10) of this act.

Sections 6 and 7 of the act, amended May 23, 1949, P. L. 1730, further amended.

Completion or abandoned report within 6 months after operations finished or abandoned.

Section 7. If an operation is not completed or abandoned within one year following the date of filing the registration certificate, the operator shall, within [sixty (60)] *thirty (30)* days after the end of said year, file with the Department of Mines and Mineral Industries an annual report, on a form to be prescribed and furnished by the secretary, identifying each [uncompleted] operation *which has not been completed or abandoned* and stating the area of land affected by open pit mining at the respective operation during the said year.

Annual report.

Section 4. Sections 8, 9 and 10 of the act, amended May 10, 1956 (P. L. 1562), are amended to read:

Sections 8, 9 and 10 of the act, amended May 10, 1956, P. L. 1562, further amended.

Section 8. Upon receipt of said completion report or annual report, the Secretary of Mines and Mineral Industries shall charge the land affected in each mine inspection district by open pit mining against the bond filed by the operator at the time of registration at the rate of [three hundred dollars (\$300.00)] *four hundred dollars (\$400.00)* per acre. Should the land actually affected in any mine inspection district by open pit mining within the year exceed the estimate made at the time of registration or any amendment thereof, the operator shall [within thirty (30) days] thereafter file an additional bond *with the annual report or completion report*. Upon receipt of such bond, the Secretary of Mines and Mineral Industries shall promptly issue an

Annual charges against bond.

amended certificate covering the additional acreage covered by such bond. If the land actually affected in any mine inspection district by open pit mining during the registration year is less than the estimate made by the operator in the registration certificate application, the secretary shall, at the end of the registration year, release the surplus of the bond and collateral upon which liability has not been charged as aforesaid: Provided, That, *except as provided in section 10*, no bond or collateral shall be released below [three thousand dollars (\$3000.00)] *four thousand dollars (\$4000.00)* in the absence of complete compliance with the requirements of this act, and should there be a failure of complete compliance with the requirements of this act not less than the minimum bond in the amount of [three thousand dollars (\$3000.00)] *four thousand dollars (\$4000.00)* shall be forfeited.

Proviso.

Section 9. If the operator continues to engage in open pit mining of bituminous coal beyond the period for which a certificate has been issued, the operator shall reregister with the Department of Mines and Mineral Industries, as hereinbefore provided in the case of the original registration: Provided, however, That the operator may apply any amount of surplus bond filed for the preceding year upon bond requirement for the year for which he is reregistering, in lieu of a release of the surplus.

Section 10. Within one year after the operation is completed *or abandoned*, the operator shall place sufficient overburden or earth not containing reject coal or combustible material in the open cut to cover the exposed face of the unmined coal, which shall begin at least [three] *five* feet above the top of the coal and shall extend to the bottom of the pit at an angle not to exceed forty-five (45) degrees: [except] *Provided, That where the land upon which said operation is located was plowed, tilled and cultivated for the growing of farm field crops at the time the operation was started or within five (5) years next prior thereto, or where the operation is within seven hundred fifty (750) feet from any group of five (5) dwelling units, any public building, school, church, community or institutional building, cemetery or public recreational area, said backfill shall begin at the top of the high wall and be sloped to the bottom of the pit at an angle not to exceed forty-five (45) degrees: And provided further, That where open pit mining cuts into active worked out or abandoned deep mine workings, the angle shall not exceed forty-five (45) degrees from the top of the high wall to the bottom thereof, and the peaks and ridges of spoil-banks shall be leveled and rounded off to such an extent as will permit the planting*

Proviso.

Proviso.

of trees, grasses or shrubs; [for] *the exposed portion of the high wall of the last cut in any operation which is more than seven hundred fifty (750) feet from any group of five (5) dwelling units, any public building, school, church, community or institutional building, cemetery or public recreational area, after backfilling in accordance with the terms of this act, shall not exceed an angle of seventy (70) degrees* for the purpose of this section only and for no other provisions of this act, high-wall mechanical mining shall be considered as open pit mining: Provided, however, That if the operator or other person desires to conduct drift mining upon the premises or use the openings for haulageways or other lawful purposes, the operator may designate locations to be used for such purposes at which places it will not be necessary to so place overburden [over the face of the coal] *as herein provided for until such drift mining or other use is completed, during which time that portion of the bond on file at the rate of [three hundred dollars (\$300.00)] four hundred dollars (\$400.00) per acre, or fraction thereof, applicable to the area designated, shall not be released. Such locations shall be described in the completion report and designated on the map attached thereto. When the backfilling and leveling have been completed and reports filed by the inspector certifying that it has been done in the manner prescribed by law, the secretary shall release the bond at the rate of three hundred forty dollars (\$340.00) per acre in proportion to the area backfilled and leveled. The remaining sixty dollars (\$60.00) per acre shall be retained by the secretary until such time as the planting is completed and certified by the forester as being done in a workmanlike manner, at which time the secretary shall release the bond in the remaining amount of sixty dollars (\$60.00) per acre.*

Proviso.

Release of bond.

Section 5. Sections 11, 12, 13 and 14 of the act, amended August 19, 1953 (P. L. 1115), are amended to read:

Sections 11, 12, 13 and 14 of the act, amended August 19, 1953, P. L. 1115, further amended.

Section 11. Within three years after the operation is completed or abandoned, the operator shall plant trees, shrubs or grasses upon the land affected by open pit mining: Provided, however, That the operator shall be relieved from the obligation to plant trees, shrubs or grasses required by this section if the Secretary of Mines and Mineral Industries shall find as a fact that such planting is not reasonable, practicable or likely to succeed, or if the Secretary of Mines and Mineral Industries, upon application by the land owner, approves the use of the land for a purpose other than the growing of trees, shrubs or grasses, or if the operator, in lieu of planting trees, shrubs or grasses, shall pay to the Secre-

Planting of trees, shrubs or grasses.

Proviso.

tary of Mines and Mineral Industries sixty dollars (\$60.00) per acre of land affected by open pit mining. Funds received by the secretary in lieu of such planting shall be paid by him into the Bituminous Coal Open Pit Mining Reclamation Fund and used by him as herein-after prescribed for the use of funds derived from the forfeiture of bonds. When deemed necessary, the Secretary of Mines and Mineral Industries may extend the period for planting trees, shrubs or grasses beyond the limitations of the period of time provided in this act. Such planting shall be done in accordance with a plan or procedure prescribed by the Secretary of Mines and Mineral Industries. The trees, shrubs or grasses shall become the property of the landowner, unless the operator and the landowner agree otherwise. The operator shall plant only seeds, plants or seedlings, secured from a source approved by the Secretary of Mines and Mineral Industries.

Filing of plant report.

Section 12. When the planting is completed the operator shall file a planting report with the Secretary of Mines and Mineral Industries, on a form to be prescribed and furnished by the secretary, giving the following information: (a) Identification of the operation; (b) The type of planting; (c) The date of planting; and (d) The area of land planted; and (e) Such other relevant information as the secretary may require. The Secretary of Mines and Mineral Industries shall inspect the premises, either in person or by his duly authorized representative, within one (1) year after the planting report is filed. If the secretary finds that the planting has been done in a workmanlike manner and that the area reported has been planted in accordance with the prescribed plan or procedure, or if the operator has been relieved from the obligation to plant trees, shrubs or grasses as hereinabove provided, the Secretary of Mines and Mineral Industries shall release the bond and collateral in proportion to the area planted or relieved from planting. Upon such release the State Treasurer shall immediately return to the operator the amount of cash or securities specified therein.

Contents of report.

Planting similar area in lieu of land covered by bond.

Section 13. The operator may for reasonable cause and with the consent and approval of the Secretary of Mines and Mineral Industries, backfill, level or plant a similar area of land previously affected by open pit mining by himself or any other operator in lieu of backfilling, leveling or planting the particular land covered by the bond, and thereby be released from liability under the bond accordingly.

Objections to planting.

Section 14. If, upon inspection, the Secretary of Mines and Mineral Industries does not approve the plant-

ing he shall notify the operator in writing, setting forth his reasons therefor. The operator may then take such steps as are required to remove the objections. Any operator or landowner who shall be aggrieved by any administrative regulation, directive or order of the Secretary of Mines and Mineral Industries or any other administrative agency making application of the provisions of this act, may file a petition in the court of common pleas of the county where the land is located, alleging therein the action complained of and praying for remedy thereof, and the said court shall proceed therein by rule or rules upon the proper administrative officer, body or authority to show cause why the petitioner should not have the remedy prayed for by his, her, or its petition. The court in such proceedings shall make such procedural orders as may be necessary for facilitating and expediting hearings and disposition of the matters complained of. From the decision of the said court of common pleas an appeal may be taken by either party to the Superior or Supreme Court of Pennsylvania as in other causes. Every such petition shall specify the petitioner's objection to the action of the administrative officer, body or authority, and such officer, body or authority, on or before the return day of the rule, shall make answer thereto and certify to the said court of common pleas, the record of the proceedings to which the petition refers. Such record shall include the testimony taken therein, the findings of fact, if any, of the officer, body or authority based upon such testimony, and a copy of all decisions and orders made by the said officer in the proceedings. The case shall be heard upon the record certified to the court as aforesaid. No additional testimony shall be taken before the court, but the court may, in proper cases, remit the record to the respondent for the taking of further testimony and from the record, the court may review, modify or affirm or make new findings of fact as well as decide the law applicable.

Rights of
operator or
landowner.

Court
proceedings.

Section 6. Section 15 of the act, amended May 23, 1949 (P. L. 1730), is amended to read:

Section 15 of
the act, amended
May 23, 1949,
P. L. 1730,
further amended.

Section 15. If the operator fails or refuses to comply with the requirements of the act in any respect for which liability has been charged on the bond, the Secretary of Mines and Mineral Industries shall declare such portion of the bond forfeited, and shall certify the same to the Department of Justice, which shall proceed to enforce and collect the amount of *liability forfeited thereon, and where the operator has deposited cash or securities as collateral in lieu of a corporate surety, the Secretary

Failure to
comply with act.

* "liability" in original.

of Mines and Mineral Industries shall declare such portion of said collateral forfeited, and shall direct the State Treasurer to pay said funds into the Bituminous Coal Open Pit Mining Reclamation Fund, or to proceed to sell said securities to the extent forfeited and pay the proceeds thereof into the Bituminous Coal Open Pit Mining Reclamation Fund. Any operator aggrieved by reason of forfeiting the bond or converting collateral, as herein provided, shall have a right to contest such action and appeal as provided in section fourteen of this act.

Section 17 of act repealed.

Section 7. Section 17 of the act is repealed.

Section 18 of act, amended August 19, 1953, P. L. 1115, further amended.

Section 8. Section 18 of the act, amended August 19, 1953 (P. L. 1115), is amended to read:

"Bituminous Coal Open Pit Mining Reclamation Fund."

Section 18. All funds received by the Secretary of Mines and Mineral Industries from registration fees, and from forfeiture of bonds, and of cash deposits and securities, shall be held by the State Treasurer in a special fund, separate and apart from all other moneys in the State Treasury, to be known as the "Bituminous Coal Open Pit Mining Reclamation Fund," and shall be used by the Secretary of Mines and Mineral Industries for the sole purpose of foresting or reclaiming land affected by open pit mining of bituminous coal, and for such purposes are hereby specifically appropriated to the Department of Mines and Mineral Industries. Funds received from the forfeiture of bonds and collateral shall be expended by the Secretary of Mines and Mineral Industries upon lands situated in the county in which the operation upon which liability was charged on the bond is located for backfilling or planting.

Section 18.1 of the act, added May 23, 1949, P. L. 1730, amended.

Section 9. Section 18.1 of the act, added May 23, 1949 (P. L. 1730), is amended to read:

Release of one operator when succeeded by another.

Section 18.1. Where one operator succeeds another at any uncompleted operation, either by sale, assignment, lease, or otherwise, the Secretary of Mines and Mineral Industries may release the first operator from all liability under this act as to that particular operation: Provided, however, That both operators have registered and have otherwise complied with the requirements of this act and the successor operator assumes as part of his obligation under this act all liability for grading, planting and covering the face of unmined coal on the land affected by the former operator.

Proviso.

Effective date.

Section 10. This act shall take effect on January 1, 1962, or ninety (90) days after final enactment, whichever is later.

APPROVED—The 2nd day of September, A. D. 1961.

DAVID L. LAWRENCE