[redacted]

PETITION FOR SPECIAL EXCEPTION

81-75-X
24

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for underground excavations, controlled, involving the use of explosives

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:	Legal Owner(s):
THE FLINTKOTE COMPANY (Type or Print Name)	BALTIMORE GAS AND ELECTRIC COMPANY (Type or Print Name)
Signature J. A. West, Agent and Attorney in fact	Vernon R. Evans Signature Vernon R. Evans, Vice President
Executive Plaza IV Address	THE FLINTKOTE COMPANY (Type or Print Name)
11350 McCormick Road Hunt Valley, Maryland 21031 City and State	J. A. West, Agent and Attorney in fact (address opposite)
Attorney for Petitioner:	BALTIMORE GAS AND ELECTRIC COMPANY P. O. Box 1475 Address
Richard A. Reid (Type or Print Name)	Baltimore, Maryland 21203 City and State
Signature	Name and telephone number of legal owner, contract purchaser or representative to be contacted
102 W. Pennsylvania Avenue Address	Mr. Roland E. Manger (Flintkote) Name
Towson, Maryland 21204 City and State	628-4161 Telephone No.
Attorney's Telephone No.: 823-1800	

ORDERED By The Zoning Commissioner of Baltimore County, this 29th day of July, 19 80, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 9th day of October, 19 80, at 9:45 o'clock A. M.

Zoning Commissioner of Baltimore County.

Z.C.O.—No. 1 (over)

ORDER RECEIVED FOR FILING
DATE October 29 1980
BY Stella Lewinski

10/9/80
9:45 A.M.

BALTIMORE COUNTY

ZONING PLANS

ADVISORY COMMITTEE

PETITION AND SITE PLAN

EVALUATION COMMENTS

81-75-X
24

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

September 25, 1980

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

cdo

Nicholas B. Commodari
Chairman

MEMBERS

Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

Richard A. Reid, Esquire
102 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Item No. 24
Petitioner - Baltimore Gas & Electric Co., et al
Special Exception Petition

Dear Mr. Reid:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

The subject property, consisting of approximately 15.73 acres zoned M.L. - I.M., is located at the northeast intersection of Padonia Road and the Baltimore Harrisburg Expressway in the 8th Election District. It is presently improved with the facilities of a Baltimore Gas and Electric substation and is proposed to be utilized, in addition, for underground excavation, involving the use of explosives by the Flintkote Company. This parcel was not included with the previous Special Exception (Case No. 72-275-X) for the existing operation by said company, which exists to the north and west of this site.

As indicated in my previous conversation with Mr. Roland Manger of the Flintkote Company, one of the restrictions in the aforementioned Special Exception case stated that every ten years from June 8, 1973, it will be the responsibility of the owner and/or the operator of the quarry to petition the Zoning Commissioner for a Special Hearing in order to assure that the operation has been conducted in accordance with the other restrictions as set forth in this order. I bring this to your attention in order to remind you of this requirement.

Enclosed are all comments submitted to this office from the committee members at this time. The remaining members felt that no comment was warranted. This petition was accepted for filing on the date of the enclosed certificate and a hearing scheduled accordingly.

Very truly yours,

NICHOLAS B. COMMODARI, Chairman
Zoning Plans Advisory Committee

NBC:bsc
Enclosures
cc: Gorhold, Cross & Etzel, 412 Delaware Ave., Towson, Md. 21204

BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

HARRY J. PISTEL, P. E.
DIRECTOR

September 18, 1980

Mr. William E. Hammond
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Item #24 (1980-1981)
Property Owner: Baltimore Gas & Electric Company
(The Flintkote Company)
N/S Padonia Rd. 357.46' W. of Deereco Drive
Acres: 15.73 Acres District: 8th

Dear Mr. Hammond:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

Comments supplied in connection with Item 136 (1971-1972), not Item 135 as indicated, (Case 72-275-X) for quarrying and mining the adjacent 600-700± acres property, and also the comments transmitted January 24, 1974 to Harry T. Campbell Sons' Company by the Baltimore County Bureau of Public Services are referred to for your consideration.

This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this Item 24 (1980-1981).

Very truly yours,

ELLSWORTH N. DIVER, P.E.
Chief, Bureau of Engineering

END:EAM:FWR:ss

S-NE Key Sheet
58 & 59 NW 5 & 6 Pos. Sheets
NW 15 B Topo
51 Tax Map

Attachments

Baltimore County Department Of Public Works
COUNTY OFFICE BUILDING
TOWSON, MARYLAND 21204

Bureau of Public Services
GEORGE A. REIER, P.E.
CHIEF

January 24, 1974

RECEIVED
JAN 25 1974
DEVELOPMENT DESIGN APPROVAL SECTION
BUREAU OF ENGINEERING

Harry T. Campbell Sons' Company
100 W. Pennsylvania Avenue
Towson, Maryland 21204

Re: Texas Quarry
District 8

Gentlemen:

The attached comments are provided by the Bureau of Engineering as general information relative to the recently submitted sediment control plan.

Very truly yours,

GEORGE A. REIER, CHIEF
Bureau of Public Services

GAR:JAW:hwl
Enc.

cc: Edward A. McDonough
File

BALTIMORE COUNTY, MARYLAND

SUBJECT: SUBDIVISION REVIEW COMMENTS DATE: January 18, 1974

FROM: Ellsworth N. Diver, P.E.
Chief, Bureau of Engineering

PROJECT NAME:	Texas Quarry	PRELIMINARY PLAN	X
PROJECT NUMBER:		TENTATIVE PLAN	
LOCATION:	E/S Padonia Road @ Baltimore Harrisburg Expressway	DEVELOPMENT PLAN	
DISTRICT:	8C3	FINAL PLAT	

The Quarrying and Mining Plans for the subject site, dated October 1973, have been reviewed by the Developers Design Approval Section of the Bureau of Engineering and the following comments are furnished:

HIGHWAY COMMENTS:

The Baltimore-Harrisburg Expressway is a State Road; therefore, all improvements, intersections, entrances and drainage requirements as they affect the road come under the jurisdiction of the Maryland Highway Administration. Any utility construction within the State Road right-of-way will be subject to the standards, specifications and approval of the State in addition to those of Baltimore County.

Proposed Beaver Dam Road Extended passes through this property from Padonia Road northerly. The road is being designed as a concrete curb and gutter and 50-foot bituminous paving section on a 70-foot right-of-way.

Relocated Padonia Road is fully improved along the frontage of this property.

Old Padonia Road will be terminated at the railroad and abandoned through the subject property.

Prior to construction of Beaver Dam Road, the Developer must provide a qualified report regarding the structural adequacy of the earth over the mined area beneath or in the vicinity of proposed Beaver Dam Road.

Texas Quarry
Page 2
January 18, 1974

STORM DRAIN COMMENTS:

Drainage plans are not included with this transmittal. The plans indicate that separate plans will be filed.

In accordance with the drainage policy, the Developer is responsible for the total actual cost of drainage facilities required to carry the storm water run-off through the property to be developed to a suitable outfall. The Developer's cost responsibilities include the acquiring of easements and rights-of-way - both onsite and offsite - including the dedicating in fee to the County of the rights-of-way. Preparation of all construction, rights-of-way and easement drawings including engineering and surveys, and payment of all actual construction costs including the County overhead both within and outside the development, are also the responsibilities of the Developer.

Drainage improvements in the major streams require approval from the Maryland State Department of Natural Resources in addition to Baltimore County. All open stream drainage must provide for 100-year design frequency.

SEDIMENT CONTROL COMMENTS:

Sediment control plans have been submitted and reviewed with this transmittal. The sediment basins are adequate for the areas draining to them. It is in order to present eight (8) prints for approval.

WATER COMMENTS:

Public water is currently supplied to this site. Additional service may be provided by making application to the Department of Permits and Licenses. The Developer is entirely responsible for construction and maintenance of his onsite system.

SANITARY SEWER COMMENTS:

Public sanitary sewer can be made available to serve this property by construction of public extensions from the existing sanitary sewer in the area.

It is anticipated that public sanitary sewers to serve as interceptors to offsite areas will be required through this property along the natural drainage courses in the future. The Developer shall provide easements and temporary construction strips when they are needed at no cost to Baltimore County.

ELLSWORTH N. DIVER, P.E.
Chief, Bureau of Engineering

END:EAM:CLM:ss

cc: File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO S. Eric DiNenna Date March 20, 1972
ATTN: Oliver L. Myers
FROM Ellsworth N. Diver, P.E.

SUBJECT Item 136 (1971-1972)
Property Owner: Harry T. Campbell Sons Company
N/E Quadrant of Baltimore-Harrisburg Expressway and Padonia Road
Present Zoning: M.L. & M.H.
Proposed Zoning: Special Exception for controlled above and underground excavation

District: 8th
No. Acres: 615.55 Acres

The following comments are furnished in regard to the plats submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

General:

The magnitude of this property is considerable, comprising approximately 750 acres, of which an area of approximately 6.6 acres is the subject of this Petition for a Special Exception.

Sufficient information or detail in regard to future or ultimate development specifics cannot be provided at this time. The protection of all public utilities and highway improvements and any damage sustained as a result of the Petitioner's quarrying or underground mining operations would be the full responsibility of the Petitioner. Therefore, the need and requirements for all public and/or private roads and utilities, including rights-of-way, easements, reservations, horizontal and vertical alignment, etc. can only be determined at such time as the specific development proposals for the site, or portions thereof, are reviewed by the Joint Subdivision Planning Committee. With this understanding, the following comments are supplied in regard to the submitted plans.

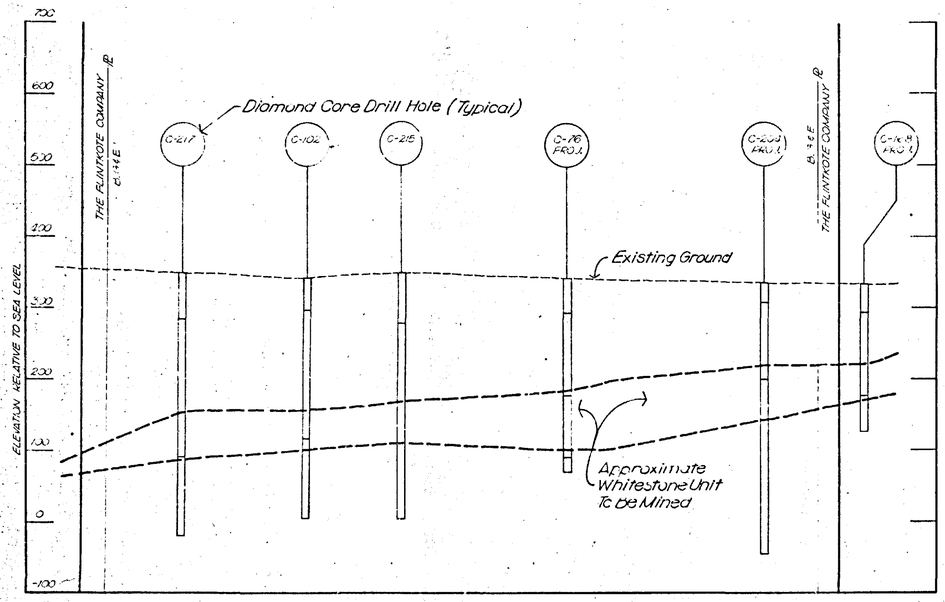
Highways:

The Baltimore-Harrisburg Expressway (I-83) is a State Road, and as the future extension of the Jones Falls Expressway in this area is a proposed State Highway Administration project, all improvements, intersections and entrances on these roads will be subject to State Highway Administration requirements.

The relocated Padonia Road is a recently constructed dual lane County Road on a right-of-way of varying width. No further highway improvements are required at this time.

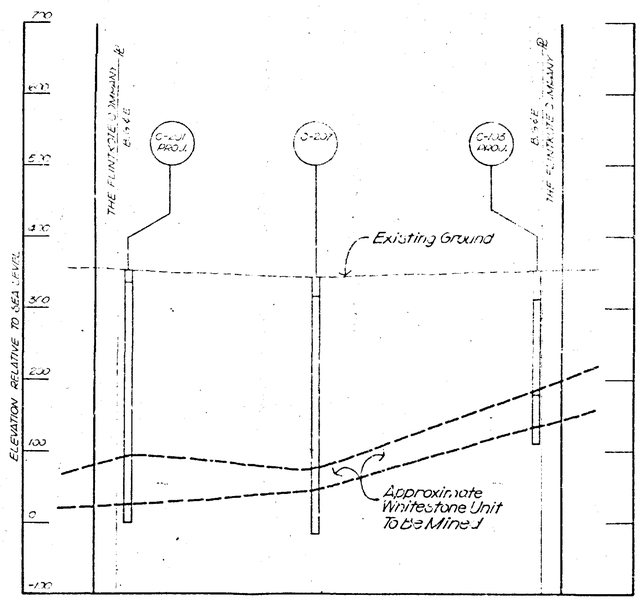
(Old) Padonia Road east of the proposed Beaver Dam Road is proposed to be improved in the future as a 40-foot closed-type roadway cross-section on a 60-foot right-of-way. That portion of Old Padonia Road remaining within the Campbell property west of the proposed Beaver Dam Road is proposed to ultimately be abandoned as a public road.

HARRISBURG
BALTIMORE
CHURCH



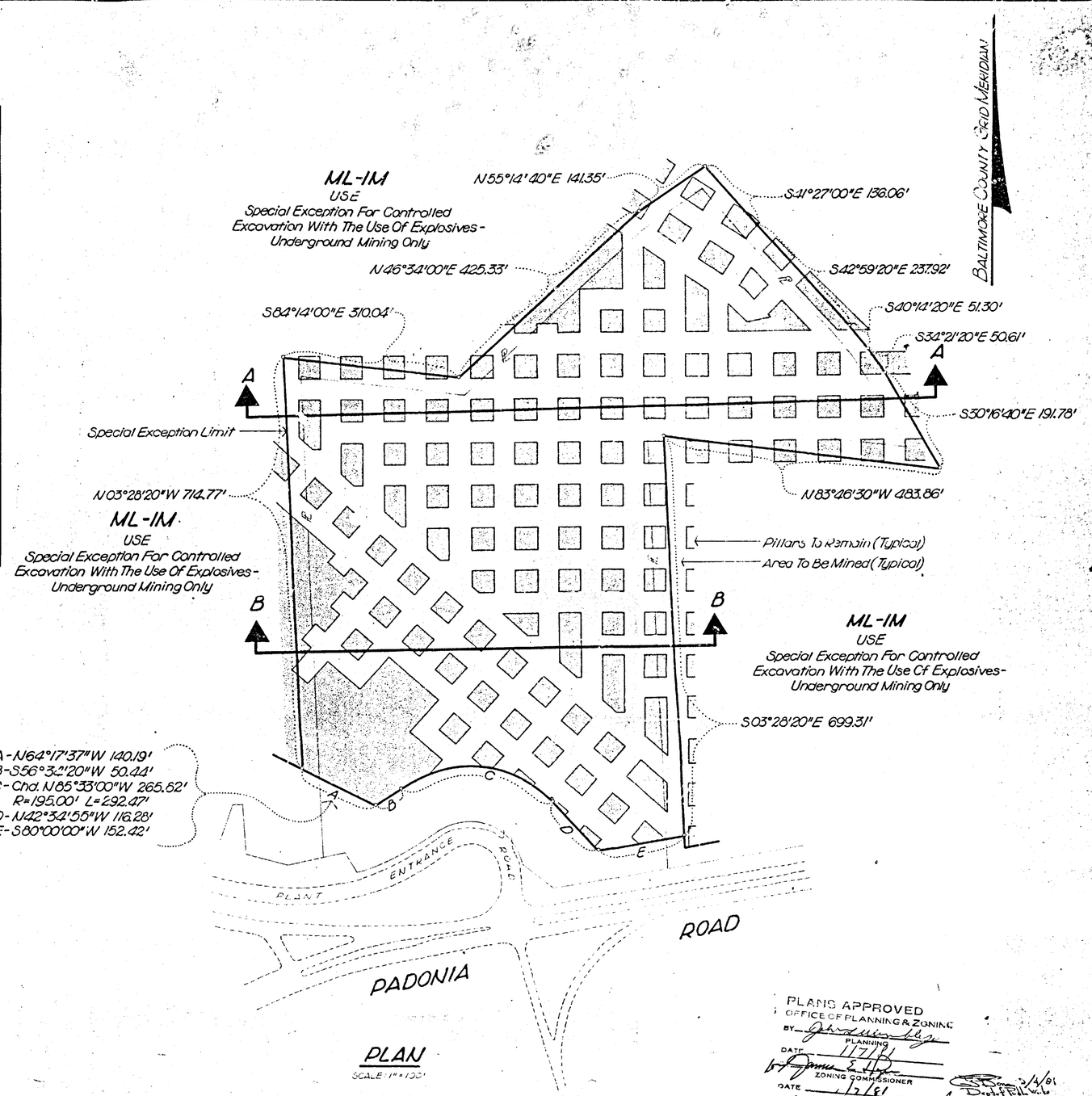
SECTION A-A

SCALE 1"=100'



SECTION B-B

SCALE 1"=100'



PLAN

SCALE 1"=100'

RESTRICTIONS:

1. This special exception shall be reviewed at the same time and in the same manner as the special hearing required by the granting of Case №72-275-X; the first such hearing shall be set by petition on or before the tenth anniversary of the Baltimore County Board of Appeals' Order dated June 8, 1973.

2. Compliance with all pertinent requirements of the Maryland Department of Natural Resources, Bureau of Mines, both the Baltimore County and State of Maryland Departments of Health, and the Baltimore County Building Code.

3. Approval of a site plan by the Maryland Department of Transportation, the Department of Public Works, and the Office of Planning and Zoning.

PLANS APPROVED
OFFICE OF PLANNING & ZONING
BY [signature] PLANNING
DATE 1/7/81
[signature] ZONING COMMISSIONER
DATE 1/7/81
Case # 81-75-X
[signature] 1/6/81
[signature] 1-20-81

SITE PLAN SHOWING PROPOSED UNDERGROUND MINING PLAN & CROSS SECTIONS

PROPERTY OF
BALTIMORE GAS & ELECTRIC CO. &
THE FLINTKOTE COMPANY

SCALE: As Shown
ELECTION DISTRICT № 8

DATE: July 3, 1980
Rev. December 15, 1980

MICROFILMED

3/3

PETITION №81-75-X ITEM №24

Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that by reason of the requirements of Section 502.1 of the Baltimore County Zoning Regulations having been met and the health, safety, and general welfare of the community not being adversely affected, the special exception should be granted.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 30th day of October, 1980, that the herein Petition for Special Exception for controlled underground excavations involving the use of explosives, in accordance with the site plan prepared by Gerhold, Cross & Etzel, dated July 3, 1980, and marked Petitioners' Exhibit 2, should be and the same is GRANTED, from and after the date of this Order, subject, however, to the following restrictions:

1. This special exception shall be reviewed at the same time and in the same manner as the special hearing required by the granting of Case No. 72-275-X; the first such hearing shall be set by petition on or before the tenth anniversary of the Baltimore County Board of Appeals' Order dated June 8, 1973.
2. Compliance with all pertinent requirements of the Maryland Department of Natural Resources, Bureau of Mines, both the Baltimore County and State of Maryland Departments of Health, and the Baltimore County Building Code.
3. Approval of a site plan by the Maryland Department of Transportation, the Department of Public Works, and the Office of Planning and Zoning.

Jean M. H. Jung
Deputy Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING
DATE Oct. 30, 1980
BY Arthur J. Dewberry
ADMINISTRATIVE ASSISTANT

Item 136 (1971-1972)
Property Owner: Harry T. Campbell Sons Company
Page 2
March 20, 1972

Highways: (Cont'd)

Beaver Dam Road is proposed to be relocated as indicated on the submitted plans and constructed in the Capital Improvement Program in 1976-1977 as a 50-foot closed-type roadway cross-section on a 70-foot right-of-way.

Church Lane (Texas Road) is proposed to be improved in the future as a 40-foot closed-type roadway cross-section generally on a 60-foot right-of-way, but varying to a 50-foot right-of-way as a minimum. That portion of Church Lane, west of the Railroad is considered a private road.

Industry Lane is proposed to be improved in the future as a 42-foot (40-foot minimum) closed-type roadway cross-section on a 60-foot right-of-way and will be extended to the proposed Beaver Dam Road as relocated.

The possibility of extending Warren Road westerly to Beaver Dam Road is under consideration as a 50-foot closed-type roadway cross-section on a 70-foot right-of-way.

Sediment Control:

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Drainage studies and sediment control drawings will be necessary to be reviewed and approved prior to the recording of any record plat or the issuance of any grading or building permits.

Storm Drains:

Provisions for accommodating storm water or drainage have not been indicated on the submitted plans.

In accordance with the drainage policy for this type development, the Petitioner is responsible for the total actual cost of drainage facilities required to carry the storm water run-off through the property to be developed to a suitable outfall.

The Baltimore-Harrisburg Expressway (I-83) is a State Road and the future Jones Falls Expressway extension is a proposed State Highway Administration project. Therefore, drainage requirements as they affect these roads come under the jurisdiction of the State Highway Administration.

Open stream drainage generally requires a drainage reservation or easement of sufficient width to cover the flood plain of a 50-year design storm, with a minimum width of 50 feet required. However, in regard to this property, its projected use and considering the proximity of Goodwin Run, and any relocation of the Run to the quarry-mine operations, it is recommended that the channel and flood plain should be established on the basis of a 100-year design storm.

Item 136 (1971-1972)
Property Owner: Harry T. Campbell Sons Company
Page 3
March 20, 1972

Storm Drains: (Cont'd)

Rechanneling and/or relocation of Goodwin Run or its tributaries is subject to the requirements and approval of the Maryland Department of Natural Resources.

Drainage and utility easements will be required through this property to serve offsite properties.

Drainage flows which traverse this property are tributary to Loch Raven Reservoir via the Baisman Run, Goodwin Run and Beaver Dam Run. The natural drainage courses for these flows must be provided for so as to accommodate drainage from offsite properties.

Water:

Public water supply is available and serving this property. Additional water service can be provided by construction of private water main extensions from the existing public water mains. Pressure differentials may require installation of pressure reducing valves on water service connections at various lower ground elevations within the site.

Sanitary Sewer:

Public sanitary sewerage can be made available to serve this property by construction of public sanitary sewer extension/extensions from the existing public sanitary sewerage in the area.

Public sanitary outfall/interceptor sewers together with lateral sewerage may be required to be constructed through this property in the future. Utility easements and temporary construction strips will be required in connection with such sewerage construction, generally following the alignment of the existing natural drainage courses.

Ellsworth N. Diver
ELLSWORTH N. DIVER, P.E.
Chief, Bureau of Engineering

END:EAM:FWR:ss

S-NE & W-SE Key Sheets
NW 15, 16 & 17 B & NW 16 & 17 C
51 Tax Map

cc: John Trenner
Dorwin Grice
Samuel Bellistri
John Loos

---

baltimore county
department of traffic engineering
TOWSON, MARYLAND 21204
(301) 494-3550

STEPHEN E. COLLINS
DIRECTOR

August 20, 1980

Mr. William Hammond
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Item No.	24	- ZAC - July 29, 1980
Property Owner:		Balto. Gas & Electric Co. (The Flintkote Company)
Location:		N/S Padonia Rd. 357.46' W of Deereco Dr.
Existing Zoning:		ML-IM
Proposed Zoning:		Speical Exception for underground excavations, controlled, involving the use of explosives.
Acres:		15.73
District:		8th

Dear Mr. Hammond:

No traffic problems are anticipated by the requested Special Exception for underground excavations and use of explosives.

Very truly yours,
Michael S. Flanigan
Engineer Associate II

MSF/hmd

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3211

NORMAN E. GERBER
DIRECTOR

September 16, 1980

Mr. William Hammond, Zoning Commissioner
Zoning Advisory Committee
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item #24, Zoning Advisory Committee Meeting, July 29, 1980, are as follows:

Property Owner: Baltimore Gas and Electric Company (The Flintkote Company)
Location: N/S Padonia Road 357.46' W. of Deereco Drive
Acres: 15.73 acres
District: 8th

This office has reviewed the subject petition and offers the following comments. These comments are not intended to indicate the appropriateness of the zoning in question, but are to assure that all parties are made aware of plans or problems with regard to development plans that may have a bearing on this petition.

All proposed roads must be shown.

Very truly yours,
John L. Wimbley
John L. Wimbley
Planner III
Current Planning & Development

BALTIMORE COUNTY
DEPARTMENT OF HEALTH
TOWSON, MARYLAND 21204

DONALD J. ROOP, M.D., M.P.H.
DEPUTY STATE & COUNTY HEALTH OFFICER

September 10, 1980

Mr. William R. Hammond, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item #24, Zoning Advisory Committee meeting of July 29, 1980, are as follows:

Property Owner:	Baltimore Gas & Electric Company (The Flintkote Company)
Location:	N/S Padonia Rd. 357.46' W. of Deereco Dr.
Existing Zoning:	ML-IM
Proposed Zoning:	Special Exception for underground excavations, controlled, involving the use of explosives.
Acres:	15.73 Acres
District:	8th

No health hazards are anticipated.

Very truly yours,
Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

IJF/mw

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204
325-7310

PAUL H. REINCKE
CHIEF

September 3, 1980

Mr. William Hammond
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

Re: Property Owner: Baltimore Gas & Electric Company (The Flintkote Company)
Location: N/S Padonia Road 357.46' W. of Deereco Drive
Item No.: 24 *Zoning Agenda:* Meeting of 7/29/80

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below, marked with an "X", are applicable and required to be corrected or incorporated into the final plans for the property.

( ) 1. *Fire hydrants for the referenced property are required and shall be located at intervals or _____ feet along an approved road in accordance with Baltimore County Standards, as published by the Department of Public Works.*

( ) 2. *A second means of vehicle access is required for the site.*

( ) 3. *The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.*

( ) 4. *The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operations.*

(XX) 5. *The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy.* Section 16-4.2.2. and Section 5-1.

( ) 6. *Site plans are approved as drawn.*

( ) 7. *The Fire Prevention Bureau has no comments, at this time.*

REVIEWER: Capt. Jerry Kelly 9-4-80 *Noted and Approved:* George M. Kegerreis
PLANNING GROUP *FIRE PREVENTION BUREAU*
SPECIAL INSPECTION DIVISION

/mb

BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3610

TED ZALESKI, JR.
DIRECTOR

August 13, 1980

Mr. William E. Hammond, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item #24 Zoning Advisory Committee Meeting, July 29, 1980 are as follows:

Property Owner:	Baltimore Gas and Electric Company (The Flintkote Company)
Location:	N/S Padonia Road 357.46' W. of Deereco Drive
Existing Zoning:	ML-IM
Proposed Zoning:	Special Exception for underground excavations, controlled, involving the use of explosives.
Acres:	15.73
District:	8th

The items checked below are applicable:

X A. All structures shall conform to the Baltimore County Building Code 1978, the State of Maryland Code for the Handicapped and Aged; and other applicable Codes.

X B. A building/ _____ permit shall be required before beginning construction.

C. Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/is not required.

D. Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.

E. Wood frame construction an exterior wall erected within 6' 0 of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3'-0 of lot line. A minimum 8" masonry firewall is required if construction is on the lot line.

F. Requested variance conflicts with the Baltimore County Building Code, Section/s _____.

G. A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.

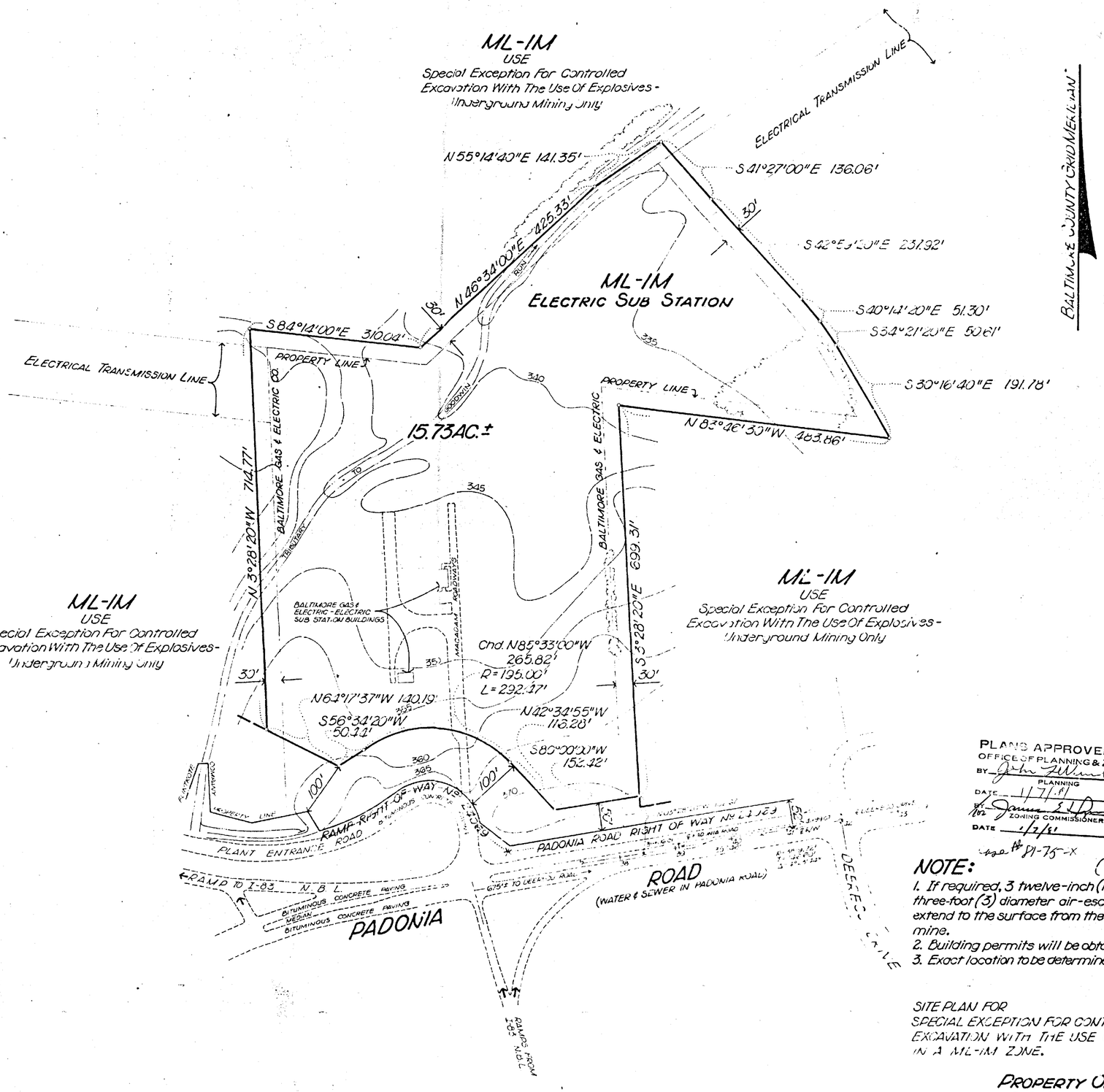
H. Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland Architect or Engineer certify to this office, that the structure for which a proposed change in use is proposed can comply with the height/area requirements of Table 305 and the required construction classification of Table 214.

X I. Comments: This office has no comment on underground mining and the use of explosives is controlled by the State Fire Marshall thru Baltimore County Fire Prevention.

NOTE: These comments reflect only on the information provided by the drawing submitted to the office of Planning and Zoning and are not intended to be construed as the full extent of any permit. If desired additional information may be obtained by visiting Room #122 (Plans Review) at 111 West Chesapeake Ave., Towson.

Very truly yours,
Charles E. Burnham
Charles E. Burnham, Chief
Plans Review

CEB:rrj



PLANS APPROVED
OFFICE OF PLANNING & ZONING
BY John W. Hessler
PLANNING
DATE 1/7/81
BY James E. Dyer
ZONING COMMISSIONER
DATE 1/7/81
Case # 81-75-X

NOTE:

1. If required, 3 twelve-inch (12) diameter & 1 three-foot (3) diameter air-escapeways may extend to the surface from the underground mine.
2. Building permits will be obtained if required.
3. Exact location to be determined at a later date.

SITE PLAN FOR
SPECIAL EXCEPTION FOR CONTROLLED EXCAVATION WITH THE USE OF EXPLOSIVES IN A ML-IM ZONE.

PROPERTY OF
BALTIMORE GAS & ELECTRIC CO. &
THE FLINTKOTE COMPANY

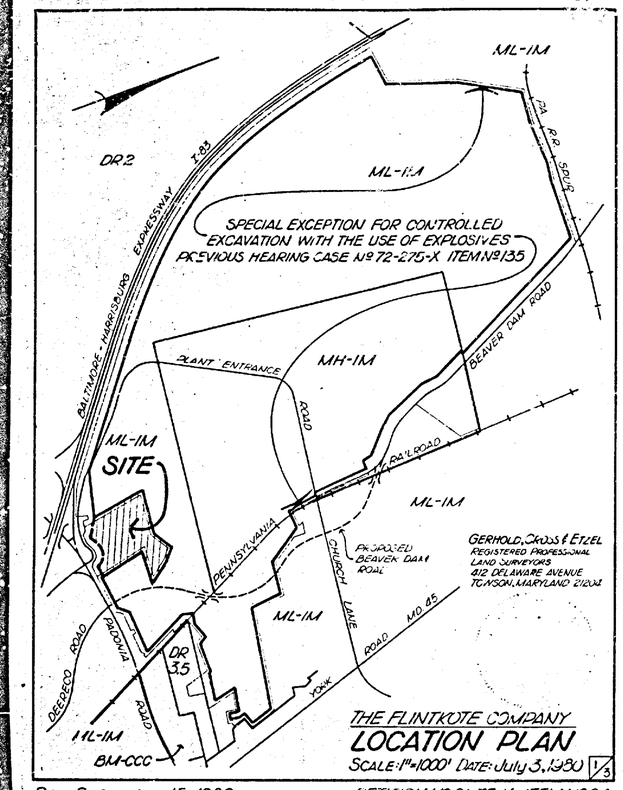
SCALE: 1" = 100' DATE: July 3, 1980
ELECTION DISTRICT Nº 8 Rev. December 15, 1980

EXISTING ZONING • ML-IM
• SPECIAL EXCEPTION FOR CONTROLLED EXCAVATION WITH THE USE OF EXPLOSIVES (UNDERGROUND) 253.2A3
ADJACENT PROPERTY WAS SUBJECT OF PREVIOUS HEARING CASE Nº 72-275-X ITEM Nº 135

MICROFILMED

3/3

PETITION Nº 81-75-X ITEM Nº 24



Rev. December 15, 1980 PETITION Nº 81-75-X ITEM Nº 24

28

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert Y. Dubel, Superintendent — Towson, Maryland – 21204

Date: July 28, 1980

Mr. William E. Hammond
Zoning Commissioner
Baltimore County Office Building
1111 West Chesapeake Avenue
Towson, Maryland 21204

Z.A.C. Meeting of: July 29, 1980

RE: Item No: 19, 20, 21, 22, 23, 24, 25, 26
Property Owner:
Location:
Present Zoning:
Proposed Zoning:

District:
No. Acres:

Dear Mr. Hammond:

All of the above have no bearing on student population.

Very truly yours,

Wm. Nick Petrovich, Assistant
Department of Planning

WNP/bp

RE: PETITION FOR SPECIAL EXCEPTION
N/S of Padonia Rd., 357.46'
W of Deereco Rd., 8th District

THE BALTIMORE GAS & ELECTRIC COMPANY and THE FLINTKOTE COMPANY, Petitioners

: BEFORE THE ZONING COMMISSIONER
: OF BALTIMORE COUNTY
: Case No. 81-75-X

:::::::

ORDER TO ENTER APPEARANCE

Mr. Commissioner:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefore, and of the passage of any preliminary or final Order in connection therewith.

Peter Max Zimmerman
Deputy People's Counsel

John W. Hessian, III
People's Counsel for Baltimore County
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 12th day of September, 1980, a copy of the aforegoing Order was mailed to Richard A. Reid, Esquire, 102 W. Pennsylvania Avenue, Towson, Maryland 21204, Attorney for Petitioners; and J. A. West, Agent & Attorney in Fact, Flintkote Company, Executive Plaza IV, 11350 McCormick Road, Hunt Valley, Maryland 21031.

John W. Hessian, III

MEMORANDUM IN SUPPORT OF PETITION FOR SPECIAL EXCEPTION

The petition for special exception herein is for permission to conduct underground mining operations on 15.73 acres of land located approximately in the northeast quadrant of I-83 and Padonia Road. 13.41 acres is owned by the Baltimore Gas & Electric Company which has conveyed the underground mining rights thereto to The Flintkote Company. Baltimore Gas & Electric Company currently operates an electric substation on the property which it will expand and continue to operate during the mining operation sought herein. A 30' strip of land consisting of 2.32 acres owned by Flintkote surrounds the Baltimore Gas & Electric Company's property on three sides. That strip was created by setback requirements when Flintkote obtained a special exception to conduct open pit and underground mining on its property which borders the subject property. (Case No. 72-275-X, Item No. 135).

The Flintkote Company is currently conducting underground mining operations on property adjacent to the subject property so that the request for special exception is, in effect, an extension of an existing mining operation. The proposed method of underground mining is identical to the method now being used on the adjacent property and which has been used by Flintkote in the vicinity for 15 years. It consists of blasting whitestone (calcite) loose from the deposit, loading the rock by front end loaders into trucks and hauling it to a primary crusher located north of the subject property in the existing Flintkote processing complex.

As mining progresses, pillars are left standing at regular intervals to support the surface as is shown in Sheet 3 of 3 of Exhibit 4.1/ Mining will extend no closer than 100' from the

1/ While it is recognized that Section 403 requires four sets of detailed plans showing grading plans after excavation as well as the proposed use of land during excavation, it is submitted that the former requirement is not applicable to the instant petition since all of the mining will be underground and the surface of the land will not be disturbed or, as pointed out in this memorandum, affected by the special exception.

Exh 6

ROYSTON, MUELLER, McLEAN & REID
SUITE 600
102 W. PENNA. AVE.
TOWSON, MD. 21204
823-1800

---

surface so that the pillars remaining after the excavation will support a rock shelf of a minimum thickness of 50'. Consequently, the subjacent support for the surface land will not be affected by the mining operation. The average height of excavation will be approximately 50'.

Blasting in the subject property will be by the same method currently being used in the adjacent mine. Such blasting utilizes millisecond delay caps in order to minimize ground vibrations and is monitored periodically by Vibra Tech Engineers, expert consultants in the field to insure that it meets acceptable standards. Blasting is expected to produce ground vibrations well within the suggested guidelines laid down by the U.S. Bureau of Mines of 2" per second, particle velocity. The entire operation will be subject to the standards and requirements of the following regulatory agencies: U. S. Mine, Safety and Health Administration; Department of Natural Resources of the State of Maryland; and Maryland State Department of Health.

If granted, the special exception will not result in a significant increase in the underground mining activity of Flintkote at Texas, but will be a continuation of that mining activity in an adjacent area so that production will remain approximately the same. Accordingly, the granting of the special exception will not significantly increase the traffic flowing from the Texas plant and therefore will not tend to create congestion roads, streets or alleys adjacent to the plant. The granting of the special exception will not be detrimental to the health, safety and general welfare of the locality involved; cannot create a potential hazard for fire, panic or other dangers; and cannot, by definition, overcrowd land and cause undue concentration of population, interfere with adequate light or air, interfere with adequate provisions for schools, transportation, water, or other public requirements conveniences or improvements.

ROYSTON, MUELLER, McLEAN & REID
SUITE 600
102 W. PENNA. AVE.
TOWSON, MD. 21204
823-1800

Since a special exception is a permitted use of land and, as pointed out above, the granting of this special exception will have no adverse effects on the neighborhood, it should be granted.

Respectfully submitted,

Richard A. Reid
Suite 600
102 W. Pennsylvania Avenue
Towson, Maryland 21204
823-1800

Attorney for Petitioners

ROYSTON, MUELLER, McLEAN & REID
SUITE 600
102 W. PENNA. AVE.
TOWSON, MD. 21204
823-1800

PETITION FOR SPECIAL EXCEPTION

8th District

ZONING: Petition for Special Exception

LOCATION: North side of Padonia Road, 357.46 feet West of Deereco Road

DATE & TIME: Thursday, October 9, 1980 at 9:45 A.M.

PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Special Exception for underground excavations, controlled, involving the use of explosives

All that parcel of land in the Eighth District of Baltimore County

Being the property of The Baltimore Gas and Electric Company and The Flintkote Company, as shown on plat plan filed with the Zoning Department

Hearing Date: Thursday, October 9, 1980 at 9:45 A.M.
Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

BY ORDER OF
WILLIAM E. HAMMOND
ZONING COMMISSIONER
OF BALTIMORE COUNTY

CARL L. GERHOLD
PHILIP K. CROSS
JOHN F. ETZEL
WILLIAM G. ULRICH
GORDON T. LANGDON

GERHOLD, CROSS & ETZEL
Registered Professional Land Surveyors
412 DELAWARE AVENUE
TOWSON, MARYLAND 212.4
823-4470

EMERITUS
PAUL G. DOLLENBERG
FRED H. DOLLENBERG

March 11, 1980

Zoning Description

All that piece or parcel of land situate, lying and being in the Eighth Election District of Baltimore County, State of Maryland and described as follows to wit:

Beginning for the same at a point distant North 3 degrees 28 minutes 20 seconds West 102.67 feet from a point in the centerline of Padonia Road, said point in the centerline of Padonia Road being located 357.46 feet westerly measured along the centerline of Padonia Road from the intersection of the centerline of Padonia Road with the center of Deereco Road and running thence from said point of beginning parallel with and distant 50 feet northerly measured at right angles from the north right of way line of Padonia Road, South 80 degrees 00 minutes 00 seconds West 152.42 feet, thence North 42 degrees 34 minutes 55 seconds West 116.28 feet, thence running parallel with and distant 100 feet northerly measured radially and at right angles from the right of way lines of the ramp leading to the north bound land of Interstate Route No. 83, the two following lines viz: Westerly by a line curving toward the left having a radius of 195.00 feet for a distance of 292.47 feet (the chord of said arc bearing North 85 degrees 33 minutes 00 seconds West 265.82 feet) and South 56 degrees 34 minutes 20 seconds West 50.44 feet and thence running North 64 degrees 17 minutes 37 seconds West 140.19 feet, thence running through the property of the Flintkote Company and parallel with and distant 30 feet from the outlines of the property of the Baltimore Gas and Electric Company's property, the eleven following courses and distances viz: North 3 degrees 28 minutes 20 seconds West 714.77 feet, South 84 degrees 14 minutes 00 seconds East 310.04 feet, North 46 degrees 34 minutes 00 seconds East 425.33 feet, North 55 degrees 14 minutes 40 seconds East 141.35 feet, South 41 degrees 27 minutes 00 seconds East 136.06 feet, South 42 degrees 59 minutes 20 seconds East 237.92 feet, South 40 degrees 14 minutes 20 seconds East 51.30 feet, South 34 degrees 21 minutes 20 seconds East 50.61 feet, South 30 degrees 16 minutes 40 seconds East 191.78 feet, North 83 degrees 46 minutes 30 seconds West 483.86 feet and South 3 degrees 28 minutes 20 seconds East 699.31 feet to the place of beginning.

Containing 15.73 Acres of land more or less.

STATE OF MARYLAND — JOHN EDWARD GERHOLD — No. 5189 — REGISTERED PROFESSIONAL LAND SURVEYOR

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

WILLIAM E. HAMMOND
ZONING COMMISSIONER

September 23, 1980

Richard A. Reid, Esquire
102 W. Pennsylvania Avenue
Towson, Maryland 21204

RE: Petition for Special Exception
N/S Padonia Rd., 357.46' W of
Deereco Road - Balto. Gas & Elec.
Co. and The Flintkote Company
Case No. 81-75-X

Dear Mr. Reid:

This is to advise you that $85.75 is due for advertising and posting of the above-property.

Please make check payable to Baltimore County, Maryland and remit to Sondra Jones, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Very truly yours,

WILLIAM E. HAMMOND
Zoning Commissioner

WEH:sj

September 10, 1980

Richard A. Reid, Esquire
102 W. Pennsylvania Avenue
Towson, Maryland 21204

NOTICE OF HEARING

RE: Petition for Special Exception, N/S Padonia Road, 357.46' W of Deereco Road - The Balto. Gas & Electric Co. & Flintkote Company - Case No. 81-75-X

TIME: 9:45 A.M.

DATE: Thursday, October 9, 1980

PLACE: ROOM 106 COUNTY OFFICE BUILDING, 111 W. CHESAPEAKE AVENUE, TOWSON, MARYLAND

ZONING COMMISSIONER OF
BALTIMORE COUNTY

cc: The Flintkote Company
c/o J.A. West, Esquire
11350 McCormick Road
Hunt Valley, Maryland 21031

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. W. E. Hammond, Zoning Commissioner — Date: September 17, 1980

FROM: Norman E. Gerber, Director, Office of Planning and Zoning

SUBJECT: Petition No. 81-75-X Item 24

Petition for Special Exception
North side of Padonia Road, 357.46 feet West of Deereco Road
Petitioner- Baltimore Gas and Electric Company and the Flintkote Company

Eighth District

HEARING: Thursday, October 9, 1980 (9:45 A.M.)

Assuming compliance with all applicable regulations, this office offers no comment on the subject petition.

Norman E. Gerber, Director
Office of Planning and Zoning

NEG:JGH:ab

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Nicholas B. Commodari, Zoning Advisory Committee — Date: July 31, 1980

FROM: Sharon M. Caplan, Economic Development Commission

SUBJECT: Item #24 -- Property Owner: Baltimore Gas & Electric Co. (The Flintkote Co.)
Location: N/S Padonia Road 357.46' W. of Deereco Drive
Existing Zoning: ML-IM
Proposed Zoning: Special Exception for underground excavations, controlled, involving the use of explosives.

Item #25 -- Property Owner: The Baltimore & Ohio Railroad Company
Location: W/S Halethorpe Farm Road 285' N. of centerline of Hollins Ferry Road
Existing Zoning: M.H.
Proposed Zoning: Special Exception for erection of one 12 X 25 illuminated advertising structure and Variance to permit a setback of 25 ft. from the street right-of-way in lieu of the required 42.5 ft.

In recognition of Baltimore County's desire to foster a healthy economic growth, we request the zoning officer to evaluate the above requests in the best interest of industrial expansion.

SHARON M. CAPLAN

SMC:jet

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

WILLIAM E. HAMMOND
ZONING COMMISSIONER

October 30, 1980

Richard A. Reid, Esquire
102 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Petition for Special Exception
N/S of Padonia Rd., 357.46' W of Deereco Rd. - 8th Election District
The Baltimore Gas & Electric Co., et al - Petitioners
NO. 81-75-X (Item No. 24)

Dear Mr. Reid:

I have this date passed my Order in the above captioned matter in accordance with the attached.

Very truly yours,

JEAN M. H. JUNG
Deputy Zoning Commissioner

JMHJ/mc

Attachments

cc: Mr. Roland E. Manger
Flintkote Stone Products Company
Executive Plaza IV
Hunt Valley, Maryland 21031

John W. Hessian, III, Esquire
People's Counsel

Rec'd 10/9/80 3:09 p.m.

80-2218 file

ROYSTON, MUELLER, McLEAN & REID
ATTORNEYS AT LAW
SUITE 600
102 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204

AREA CODE 301
823-1800

CARROLL W. ROYSTON
H. ANTHONY MUELLER
R. TAYLOR McLEAN
RICHARD A. REID
E. HARRISON STONE
MILTON R. SMITH, JR.
C. S. KLINGELHOFER, III
THOMAS F. McDONOUGH

October 9, 1980

Jean M. H. Jung, Deputy Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Re: Petition No. 81-75-X Item 24
Petitioner: The Baltimore Gas and Electric Company and The Flintkote Company
North Side of Padonia Road, 357.46 feet West of Deereco Road

Dear Deputy Commissioner Jung:

Pursuant to your request, I enclose a copy of Title 7 of the Natural Resources Article of the Annotated Code of Maryland, entitled "Mines and Mining." Upon review, I do not think any of these relate directly to the mining which is the subject of the petition for special exception since the word "mine" without qualification refers exclusively to coal mining (Section 7-101(j)). Mining of other minerals by surface mining is covered by Section 7-6A-01. Although this section covers the open pit quarry at Texas, it apparently does not yet extend to underground mining of the mineral involved in the subject petition. Section 7-6A-01(u)(2) provides:

"(2) 'Surface mining' does not mean any of the following:

(i) Those aspects of deep mining which do not have a significant effect on the surface, if the affected land does not exceed three acres in area;* * *"

The legislative intent contained in Section 7-6A-02 cited by me today at the hearing would, nevertheless, seem to apply to the subject petition.

ROYSTON, MUELLER, McLEAN & REID -2- October 9, 1980

The appropriation, use and discharge of ground water in the underground mine is regulated by the Department of Natural Resources pursuant to Section 8-802 of the Natural Resources Article of the Maryland Code (a copy of which is also enclosed), as well as by the Maryland State Department of Health and Mental Hygiene as Mr. Manger and Mr. Ellis testified at the hearing.

If there is anything additional you require, please give me a call.

Very truly yours,

Richard A. Reid

RAR/keg
Enclosures

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§ 7-101 NATURAL RESOURCES

TITLE 7.

MINES AND MINING.

Subtitle 1. Definitions.

§ 7-101. Enumeration.

(a) *Generally.* — In this title, the following words have the meanings indicated.

(b) *"Bureau"* means Bureau of Mines.

(c) *"Department"* means Department of Natural Resources.

(d) *"Director"* or *"director of the bureau"* means Director of the Bureau of Mines.

(e) *"Drift"* means a horizontal passageway, level, or gangway, driven from the surface outcrop into the coal bed.

(f) *"Entry"* means a passageway in a coal bed which is approximately level and is used for haulage, traveling way, or ventilation. In a dipping bed, entries on the strike are known as "levels" or "gangways" and to the dip are known as "slopes."

(g) *"Excavations and workings"* includes any excavated portion of a mine, whether abandoned or being worked. The term also includes any underground workings, shafts, tunnels, and other ways and openings including those being sunk or driven, together with roads, appliances, machinery, and material connected with them below the surface.

(h) *"Face"* means the advancing breast of a mine working place, either of an entry or room.

(i) *"Gassy mine"* means a mine or portion of a mine in which methane is found by an approved or permissible flame safety lamp, detector, or device, or by air analysis in an amount of 0.25 percent or more. Once a mine is determined to be a gassy mine, it is always so considered. In this title, the words "gassy" and "gaseous" are synonymous.

(j) *"Mine"* includes a shaft, slope, drift, or inclined plane connected with an excavation penetrating coal stratum, which excavation is ventilated by one general air current, and any appliance and equipment for hoisting and extracting coal. It includes any part of the mining property and plant on the surface or underground, which contributes directly or indirectly to the mining or handling of coal and is connected by one general system of mine railroads, over which coal may be delivered to one or more points outside the mine. The word also includes a portion of a mine or opening whether or not the mine or opening employs a system of railroads, when the sense so requires.

(k) *"Operator"* means any firm, corporation, association, or individual operating in whole or part any coal mine, either as an owner, lessee, or otherwise. The term also includes the representative of the operator.

(l) *"Panel"* means a unit area in a system of mining by which the mine is divided into large rectangles or panels isolated or surrounded by solid pillars of coal into which pairs of entries are driven for the development of rooms and the extraction of pillars.

(m) *"Secretary"* means Secretary of Natural Resources.

(n) *"Shaft"* means an opening, the axis of which is approximately vertical, extending downwards from the surface. It includes an underground shaft driven between two levels.

(o) *"Slope"* means an inclined opening in a dipping coal or fireclay bed, and an inclined tunnel to a coal or fireclay bed.

(p) *"Superintendent"* means the person who, on behalf of the operator, has immediate supervision of a mine.

(q) *"Working place"* means a room, breast, entry crosscut, or pillar where coal is being mined or extracted and where at least one miner per working shift of the mine regularly is employed until the place is finished or stopped. (An. Code 1957, art. 66C, § 486; 1973, 1st Sp. Sess., ch. 4, § 1; 1974, ch. 864, § 3; 1980, ch. 418, § 1.)

Effect of amendments. — The 1980 amendment, effective July 1, 1980, repealed former subsections (b), (c), (e), (f), (j), (k), (l), (p), (r), (s), (t), (v), (y), (z), (ee), (ff) and (gg) and redesignated the remaining subsections accordingly. The 1974 amendment had made changes in former subsections (t) and (gg).

Subtitle 2. Powers, Authority, and Organization of Units Pertaining to Mines and Mining — In General.

§ 7-201. Bureau of Mines established; location of main office of Bureau.

(a) *Established.* — There is a Bureau of Mines, established as part of the Department.

(1977, ch. 770; ch. 784, § 5.)

Effect of amendments. — Chapter 784, Acts 1977, effective July 1, 1977, rewrote subsection (a).

Chapter 770, Acts 1977, effective July 1, 1977, substituted "Department" for "survey" at the end of subsection (a).

Neither amendment gave effect to the other, but both have been given effect in the subsection as set forth above.

As subsection (b) was not affected by the amendments, it is not set forth above.

§ 7-202. Director of Bureau.

The Secretary shall appoint the Director of the Bureau of Mines who shall serve at the Secretary's pleasure. The Director shall have executive ability and either a degree in mining engineering from an accredited institution of higher education or comparable knowledge in the principles and practices of mining, planning, design, conservation, and research, and experience in reclamation, abandoned mine restoration, drainage abatement, and administration. He shall devote full time to the duties of his office, and may not directly or indirectly have a financial interest in any way in any coal mine, mining operation, or mining investment in this or any contiguous state. The director is responsible for the exercise of every power and duty conferred on the Department by the provisions of this title and delegated to him by the Secretary. (An. Code 1957, art. 66C, §§ 488-490; 1973, 1st Sp. Sess., ch. 4, § 1; 1976, ch. 467; 1977, ch. 437.)

Effect of amendments. — The 1977 amendment, effective July 1, 1977, rewrote the section, which formerly consisted of subsections (a), (b) and (c). The 1976 amendment had provided for the appointment of the director by the Secretary instead of the Governor.

§ 7-203. Duties of Bureau and director generally.

(a) *Enforcement of laws; adoption of rules and regulations.* — The Bureau shall supervise the execution and enforcement of any law enacted for the health and safety of persons and protection and conservation of property within, about, or related to bituminous coal mines in the State. To this end, it shall adopt and enforce necessary rules and regulations after giving due notice.

(b) *Publication and distribution of mining laws, rules, and regulations.* — The Bureau shall compile, publish, and distribute to interested persons, the mining laws and rules and regulations. The publication shall be made at reasonable times to keep the laws and rules and regulations current. The Bureau shall keep a record of any inspection or investigation and a copy of any official communication or record of work to be done. It shall preserve any report, statistics, and information received relating to the development of coal or other mining, or the enforcement of the provisions of this title.

(c) *Improving mining conditions.* — The Bureau shall encourage and assist reasonable efforts to improve mining methods and conditions to discover better ways to protect life and health, extend the serviceable use of instrumentalities, and promote the prosperity of the industry by reducing waste of natural resources and fostering economy in mining. It shall compile, statistically analyze, and compare available data regarding coal or other mining processes and operations, and advise any person engaged in that industry.

(d) *Instituting proceedings.* — The Director may institute proceedings in the name of the State by an action at law, suit in equity, or prosecution to enforce any provision of this title or any rule or regulation. This power does not exclude any right of an interested person to invoke the usual and ordinary process of a court against a violator of the mining laws.

(e) *Investigating mines; correction of unsafe condition.; authority to close mines.* — The Bureau may enter and inspect any mine in order to determine its safety condition. If the inspected mine is found unsafe or is operated in an unsafe manner, the Bureau shall order the immediate correction of the unsafe condition. If the unsafe condition is not corrected in the time prescribed, the Bureau shall order the mine closed until the owner or operator makes the necessary correction.

(f) *Collection of information on mineral production.* — The Bureau shall collect information in regard to mineral production and mine output.

(g) *Information on major watersheds in Allegany and Garrett counties to be included in Secretary's annual report.* — The annual report required by § 1-104 of this article shall include the following information for each major watershed in Allegany and Garrett counties, on a cumulative and annual basis:

(1) The total number of acres for which new or amended permits have been issued;

(2) The total number of acres which have been stripped;

(3) The total number of acres which have been planted; and

(4) The total number of acres for which the Bureau has released the revegetation bond. (An. Code 1957, art. 66C, §§ 486, 492-496, 653; 1973, 1st Sp. Sess., ch. 4, § 1; 1976, ch. 869; 1980, ch. 418, § 1.)

Effect of amendments. — The 1976 amendment, effective July 1, 1976, added present subsection (g).

The 1980 amendment, effective July 1, 1980, deleted "or stripping" following "coal mines" in the first sentence in subsection (a), eliminated the former last sentence in subsection (b), eliminated former subsections (c) and (e), redesignated former subsection (d) to be present subsection (c), redesignated former subsections (f) to (i) to be present subsections (d) to (g), substituted "The Bureau" for "The Director or any mine inspector" at the beginning of present subsection (e), substituted "the Bureau" for "the Director or the mine inspector" in the second sentence in that subsection, substituted "Bureau" for "Director" in the third sentence therein and eliminated "Notwithstanding the provisions of Article 89, § 2 of the Code" at the beginning of present subsection (f).

§ 7-204. Maryland Commission on Mining Laws.

Repealed by Acts 1977, ch. 20, effective July 1, 1977.

Editor's note. — Chapter 784, Acts 1977, made a change in the first sentence in subsection (a).

§ 7-205. Land Reclamation Committee.

(a) *Composition; chairman; per diem; reimbursement for expenses; meetings; quorum; majority vote required.* — (1) There is a Land Reclamation Committee. It consists of the following 13 members:

(i) Four members of the Department, including a chairman of the Committee appointed by the Secretary;

(ii) A representative of the soil conservation district of Allegany County;

(iii) A representative of the soil conservation district of Garrett County;

(iv) Two members appointed by the Governor with the advice and consent of the Senate for 3-year terms to represent the mining industry;

(v) One member who is a resident of that part of subdistrict 1A of legislative district 1 that is in Allegany County and does not have any interest in any mining operation to be appointed by the Governor with the advice and consent of the Senate to represent the local government for a 3-year term;

(vi) One member who is a resident of Garrett County and does not have any interest in any mining operation to be appointed by the Governor with the advice and consent of the House of Delegates to represent local government for a 3-year term;

(vii) Two members from the community who do not have any interests in any mining operation, one to be a resident of Garrett County and one to be a resident of Allegany County, appointed by the Secretary for 3-year terms; and

(viii) One member of the Department of Health and Mental Hygiene appointed by the Secretary of Health and Mental Hygiene.

(2) Committee members representing the community shall receive the per diem set by the Secretary for each day they meet with the Committee or are called on by the chairman to transact other business of the Committee. Funds for per diem allowances shall be provided for in the budget of the Department.

(3) The Committee shall meet at the chairman's request and at least twice a year. A quorum consists of at least seven members. A majority vote of the full Committee is necessary to approve any action.

(c) *Reports on watersheds in Garrett and Allegany counties.* — The Committee shall prepare a report which shall include the following information for each major watershed in Garrett and Allegany counties, on a cumulative and annual basis:

(1) The number of acres for which the Committee has approved mining and reclamation plans;

(2) The number of acres for which the Committee has approved mining and reclamation final report under the provisions of § 7-510.

(1974, ch. 672; 1976, chs. 180, 354; 1979, ch. 581; 1980, ch. 2[illegible])

Effect of amendments. — Chapter 180, Acts 1976, effective July 1, 1976, rewrote subsection (a) and a detailed explanation of changes made by the 1974 amendment is no longer practical. Among other things, that amendment substituted "11" for "nine" in the introductory paragraph and substituted "six" for "five" in the next to the last sentence in the subsection.

Chapter 354, Acts 1976, effective July 1, 1976, added subsection (c).

The 1979 amendment, effective July 1, 1979, substituted "13" for "11" in the introductory paragraph in paragraph (1) of subsection (a), substituted "3-year" for "three-year" in subparagraph (iv), added present subparagraph (v) and (vi), renumbered former subparagraph (v) to be subparagraph (vii), substituted "3-year terms" for "three-year terms" at the end of that subparagraph and substituted "seven" for "[illegible]" in the second sentence in paragraph (3) of the subsection.

The 1980 amendment substituted "Four" for "Five" at the beginning of subparagraph (i) in paragraph (1) of subsection (a) and added subparagraph (viii) [illegible].

As subsection (b) [illegible] affected by the amendments, it is not [illegible] here.

Editor's note. — Chapter [illegible], Acts 1980, was Executive Order No. [illegible] and was presented to the Senate Jan. 17, 1980. Section 8 of ch. 27 provides that "unless specifically disapproved, within fifty days after submission, by a resolution of disapproval concurred in by a majority vote of all members of either House of the General Assembly, this Executive Order shall take effect July 1, 1980." There was no resolution of disapproval within fifty days after Jan. 17, 1980.

§ 7-206. Examining Board.

Repealed by Acts 1980, ch. 561, effective July 1, 1980.

Cross reference. — For present provisions as to functions formerly performed by the Examining Board, see § 7-302 of this article.

Editor's note. — The repealed section had been amended by ch. 713, Acts 1975, and ch. 441, Acts 1977.

§ 7-207. Inspector of Weights and Mine Scales.

Repealed by Acts 1977, ch. 21, effective July 1, 1977.

§ 7-208. District mine inspectors.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§ 7-209. Termination of § 7-206.

Repealed by Acts 1980, ch. 561, effective July 1, 1980.

Editor's note. — The repealed section dated from ch. 868, Acts 1978.

Subtitle 3. Examination, Licensing, Inspection, and Supervision of Mining Activity.

§ 7-301. Definitions.

(b) *"Examining authority"* means the Director of the Bureau or his designee when referring to the procedure for grant or suspension of a permit of competence or grant or suspension of a first-class mine foreman certificate of competence or a fire-boss certificate of competence.
(1980, ch. 561.)

Effect of amendment. — The 1980 amendment, effective July 1, 1980, deleted "either" following "means" and "the Examining Board, provided for in § 7-206, when referring to the procedure for" preceding "grant" and inserted "a" preceding both "first-class" and "fire-boss" in subsection (b).

As the rest of the section was not affected by the amendment, it is not set forth above.

§ 7-302. Examining authority to test applicants for different types of certificates and permits.

The examining authority shall inquire into the background and qualifications of each applicant for any certificate or permit of competence. It shall prepare, correct, and grade the individual examinations for the various certificates of competency. (1973, 1st Sp. Sess., ch. 4, § 1; 1980, ch. 561.)

Effect of amendment. — The 1980 amendment, effective July 1, 1980, deleted "Subject to the provisions of § 7-206 and this subtitle" from the beginning of the first sentence and inserted "correct" in the second sentence.

§ 7-303. Particular qualifications for different kinds of certificates and permits.

(c) *Fire-boss certificate of competence.* — An applicant for a fire-boss certificate of competence shall produce evidence satisfactory to the examining authority that he is a resident of the State, and at least 18 years of age. He shall furnish a verified history of his experience in mining employment, showing in

detail the several mines in which he has worked, their location, the particular employment followed during a period of at least 3 years, and, in particular, his knowledge of and extent of experience with gaseous mines. Each applicant shall pay an examination fee of $3 to the State.
(1980, ch. 418, § 1.)

Effect of amendment. — The 1980 amendment, effective July 1, 1980, substituted "3 years" for "one year" near the end of the second sentence in subsection (c).

As the other subsections were not affected by the amendment, they are not set forth above.

§ 7-304. Bureau may instruct applicants for certificates and permits.

The Bureau may establish a place within the mining area of the State to give instruction to an applicant for "first-class mine foreman's certificate," "fire-boss certificate," "permit of competence," and other instruction required under this subtitle, or any rule and regulation made under it. The Bureau may conduct courses in order to qualify properly any person who makes application for the various type of certificates. (An. Code 1957, art. 66C, § 497; 1973, 1st Sp. Sess., ch. 4, § 1; 1980, ch. 418, § 1.)

Effect of amendment. — The 1980 amendment, effective July 1, 1980, substituted "The Bureau may conduct courses" for "The Bureau shall conduct courses as often as feasible" at the beginning of the second sentence and eliminated the former third, fourth and fifth sentences in the section.

§ 7-311. Dangerous conditions.

(a) *Change of dangerous condition.* — If any matter, thing, or practice in, about, or connected with any mine may become dangerous or defective and endangers the bodily safety of any person, the Bureau may give written notice to the mine operator by way of a special order. The order shall state in detail the matter, thing, or practice which may become dangerous or defective, and require its correction, suggesting changes as conditions may require. If the matter, thing, or practice involves the safety of a mine or a considerable portion of a mine, and the mine operator after receipt of this order neglects or refuses to take immediate steps to remedy the matter, thing, or practice, the Bureau may institute proceedings before the circuit court for the county in which the affected mine is located, to restrain the operator from operating the mine until he complies with the safety order. The court shall proceed immediately to hear and determine fully the case, and may make any order confirming, modifying, enforcing, or vacating the safety order as is just and proper. The cost may be awarded as the court directs.

(b) *Notification of imminent danger by Bureau.* — If the Bureau discovers or learns there is an imminent danger existing in all or part of a mine, it shall order immediately the person then in charge of the mine to remove at once every person from where the danger exists. If the person in charge of the mine fails to comply with the order, the Bureau shall take whatever steps it deems

necessary to remove or have removed every person from the place where the danger exists. Every person shall remain out of all or that portion of the mine until the danger is ended.

(c) *Additional power to determine safety conditions of mine; authority to order correction or close mine.* — In addition to any other authority conferred in this title, the Bureau may enter and inspect any mine to determine the conditions of safety in that mine. If the Bureau finds the mine unsafe or operated in an unsafe manner, it shall order the unsafe condition corrected immediately. If the mine owner or operator fails to correct the unsafe condition, the mine shall be closed until the condition is corrected. (An. Code 1957, art. 66C, §§ 486, 503-505; 1973, 1st Sp. Sess., ch. 4, § 1; 1980, ch. 418, § 1.)

Effect of amendment. — The 1980 amendment, effective July 1, 1980, eliminated former subsections (a), (b) and (c), redesignated former subsections (d), (e) and (f) to be present subsections (a), (b) and (c), so changed present subsection (a) that a detailed comparison is not here practical, substituted "Bureau" for "inspector" and "it" for "he" in the first sentence in present subsection (b), rewrote the second sentence therein, eliminated "a mine inspector or the Director of" preceding "the Bureau" near the beginning of present subsection (c), eliminated "either the mine inspector or the Director of" preceding "the Bureau" in the second sentence in that subsection and substituted "it" for "he" in that sentence.

§ 7-312. Continuing education.

All first-class mine foremen and fire-boss certificate holders shall be subject to continuing education every 3 years. The continuing education shall emphasize mine health and safety legislation and regulations, advances in mining technology, and advances in first aid that have occurred since the certificate holder's most recent examination. All first-class mine foremen and fire-boss certificates issued prior to July 1, 1980 shall expire no later than July 1, 1983 unless reissued in accordance with this section. (1980, ch. 561.)

Editor's note. — Section 2, ch. 561, Acts 1980, provides that the act shall take effect July 1, 1980.

Bill review letter. — Chapter 561, Acts 1980 (Senate Bill 466), was not approved for constitutionality and legal sufficiency as to this section, because it was determined that the accompanying amendments to the title of the bill did not accurately describe the legal effect of the section (Letter of Attorney General dated May 5, 1980).

Subtitle 4. Rules and Regulations Governing Mining Activity.

§ 7-401. Duties of mine operators.

(a) *Notice to Bureau of certain conditions.* — Each operator shall notify the Bureau immediately in the manner the bureau prescribes if

(1) Any change occurs in the name of the operator of a mine, an executive official concerned with its operation, or in the designation of the mine;

(2) A mine has been abandoned or work discontinued;

(3) Work has commenced for the purpose of opening a new mine. The notice shall include sketch maps outlining the plans intended to be pursued in the opening;

(4) The working of a mine is resumed after an abandonment or discontinuance for a period exceeding two months; or

(5) A squeeze, crush, or fire occurs, or a dangerous body of water, explosive, or noxious gas is found.

(b) *Obtaining and keeping laws, rules, regulations, etc.* — Each operator shall obtain from the Bureau and keep accessible at the mine a supply of the printed laws, rules, regulations, notices, forms, and record books required by law. He shall see that this material is delivered to every worker.

(c) *Superintendent to examine and countersign reports and comply with subtitle; visiting working place.* — At least once a week, each operator shall require the superintendent or managing official in charge of the mine to examine, read, and countersign in ink any report the mine foreman enters in the mine record book. If the person finds on examination or otherwise that the law is being violated, he shall stop any violation immediately. Each operator shall require the superintendent or other managing official in charge of the mine, and any other official in whatever capacity, to comply with the provisions of this subtitle, and especially not to obstruct the mine foreman or any other official in the execution of his duties. The operator, or a representative other than the mine foreman, shall visit every working place in each mine once every 60 days in order to note the condition of each place.

(d) *Assisting Bureau.* — Each operator shall assist the Bureau and its officers in making any proper inspection. He shall execute promptly every proper order made under the provisions of this subtitle. An operator may not willfully neglect or refuse to obey any order, or interfere with the Bureau or any agent in the proper discharge of its or his duties. (An. Code 1957, art. 66C, §§ 524-530; 1973, 1st Sp. Sess., ch. 4, § 1; 1980, ch. 418, §§ 1, 2.)

Effect of amendment. — The 1980 amendment, effective July 1, 1980, added present subsections (a), (b), (c), and (d), which were formerly subsections (c), (e), (f), and (g) of § 7-402, renumbered former subsection (a) to be subsection (b) of § 7-5A-05, repealed former subsections (b) and (c), renumbered former subsection (d) to be subsection (e) of § 7-5A-12, repealed former subsections (e), (f) and (g) and renumbered former subsection (h) to be subsection (d) of § 7-5A-12.

§ 7-402. Mine foremen and assistants.

(a) *Foreman — Mine in which eight or more employed.* — In order to secure efficient management and proper ventilation of the mine, promote the health and safety of the persons employed, and protect and preserve the property connected with it, the operator of any coal mine in the State shall employ a competent and practical mine foreman in every mine where eight or more persons are employed. Except in a nongassy mine, the mine foreman shall possess a first-class mine foreman's certificate of competence. He shall have charge of the mine under the supervision and control of the operator.

(b) Same — Mine in which seven or less employed. — In a mine in which seven or less persons are employed, the mine operator himself shall hold or shall employ a person who holds a permit of competence issued by the mining authority as provided for in Subtitle 3. The mine foreman need not possess a first-class mine foreman's certificate of competence.

(c) *Employment of assistants.* — If the mine workings become so extensive that the mine foreman is personally unable to discharge his duties, the operator shall employ a sufficient number of competent persons or assistants who have the same qualifications as the mine foreman. However, if any emergency arises making it impossible for any operator to secure the immediate services of a certified or qualified person, he may employ any qualified and experienced person as mine foreman or assistant mine foreman for a period not exceeding 30 days, subject to the Bureau's approval.

(d) *Duties of foremen generally.* — The mine foreman shall devote his entire time to his duties when the mine is in operation. Subject to the supervision and control of the operator, he has charge of the inside workings of the mine and any person employed there. He shall see that any applicable provision of this title, and rules and regulations made pursuant to it are strictly obeyed. For this purpose, the mine foreman, personally or by an assistant shall:

(1) Visit each working place each day while the employees are at work, to see that it is properly timbered, drained, secured, and reasonably safe and that a sufficient supply of timber and other facilities is on hand ready for use;

(2) See that any loose coal or other dangerous material is taken down or secured, especially upon traveling ways and airways, standing water is drained from passageways and working places, explosive and noxious gases and dangerous accumulations of dust are removed, and rock dusting is properly done so that in general the ventilation, stoppings, doors, timbering, drainage, equipment, electrical installations, traveling and airways, trackage, and other mine works and ways are in good working order and reasonably safe condition;

(3) Instruct every employee in safety measures, including the placing of timber to prevent falls and other accidents and the safeguarding of moving parts of machinery which may injure persons passing nearby so that at all times, as required by this subtitle, every person and property is protected against any mining risk;

(4) Promptly attend to the removal of any dangerous conditions coming to his knowledge and, in case it is not feasible, immediately to remove the danger and order every person whose safety is menaced to leave and remain away from the vicinity of the danger until notified that it has been removed;

(5) Post danger signals of uniform type across the entrance to any mine, portion of the mine, or other conspicuous point in case of danger, and see that the signals are kept there until the danger has been removed; and

(6) Report immediately to the operator of the mine if the ventilation or other machinery fails to discharge its functions adequately, or upon discovery of accumulations of gas, water, or any other unusually dangerous condition.

(e) *Assistants to aid foremen and act in their absence.* — If assistant mine foremen are employed, they shall assist the mine foreman in complying with the provisions of this subtitle. In the absence of the mine foreman, the superintendent shall designate an assistant to perform the duties of the mine foreman. The assistant is subject to the same penalties as the mine foreman for any violation of this subtitle or rules or regulations made under it.

(f) *Superintendent or foreman considered agent of operator.* — The superintendent or mine foreman in direct charge of the operation of any mine

is the agent of the operator. He is jointly responsible with the operator for any failure to comply with the provisions of this subtitle or rules or regulations made under it which govern operators or agents.

(g) *Daily report of condition of mine.* — The mine foreman, or his assistant, on each day the mine works, shall enter plainly and sign in ink, in a book provided for the purpose, a report of the condition of the mine and of his examination of it made on that day and he shall include the following facts:

(1) Any danger or dangerous condition observed or reported, and what steps have been taken to remedy the condition;

(2) If there is a proper supply of material on hand for the safe working of the mine;

(3) If the requirements of this subtitle are complied with; and

(4) If the mine is gassy, a report of all air measurements within the mine as elsewhere required to be taken.

(h) *Weekly report on nongassy mine.* — If the mine is not gassy, a weekly report of all air measurements in the mine are to be taken as required elsewhere. Each report shall be kept in the foreman's office for examination by the district mine inspector and any person employed at the mine.

(i) *Review of reports.* — The mine foreman each day carefully shall read and countersign with red ink any report entered on the record book of the fire boss.

(j) *Report of violations to inspector.* — The mine foreman, on behalf of the operator, shall report immediately to the district mine inspector any violation of this subtitle. The foreman shall make an immediate report to the inspector and mine operator upon the occurrence of any serious or fatal accident on the form the Bureau prescribes.

(k) *Investigation of violations by examining authority.* — If the mine foreman or assistant mine foreman violates any provision of this subtitle, or by neglect or for any other cause becomes incapable of properly discharging his duties, the district mine inspector, after investigation, shall prefer charges before the examining authority and take any additional steps the nature of the situation requires.

(l) *Receiving consideration for procuring employment or promotion prohibited.* — A mine official, worker, or other person may not solicit or receive any money or other consideration from any person to procure or continue employment for any person, or procure any favor, promotion, advantage, or facility in employment in or about the mine. (An. Code 1957, art. 66C, §§ 531-537; 1973, 1st Sp. Sess., ch. 4, § 1; 1980, ch. 418, § 2.)

Editor's note. — This section was formerly § 7-403 of this article. It was renumbered by ch. 418, Acts 1980, effective July 1, 1980, which also repealed subsections (a) and (b) of former § 7-402, renumbered former subsection (c) therein to be subsection (a) of § 7-402 repealed former subsection (d) and renumbered former subsections (e), (f), and (g) to be subsections (b), (c), and (d) of § 7-402.

§ 7-403. Fire bosses.

(a) *Employment.* — The operator of every gassy mine shall employ a sufficient number of fire bosses. Each fire boss shall satisfy the operator of his competence, and shall have first obtained a certificate of competence from the examining authority as prescribed in this title.

(b) *When mine foreman may act as fire boss; when fire boss may act as temporary assistant mine foreman.* — Any mine foreman holding a first-class certificate of competency may act as fire boss. In an emergency, any fire boss, properly certified, may act as assistant mine foreman until a regularly qualified person is employed.

(c) *Stations for fire bosses; persons permitted to enter or remain in dangerous places.* — The operator shall provide a permanent station at or near the principal entrance of the mine, indicated plainly by legible signs, where the fire boss shall give information regarding the state of the mine to each worker before he goes on his shift. When the working portion of any mine is 1 mile or more from the entrance to the mine or from the bottom of the shaft or slope, a station, with the approval of the district mine inspector, may be located near the workings. No one, except the mine foreman, fire boss, or someone expressly authorized in an emergency, may pass beyond the station until every part of the mine has been examined and reported safe. The fire boss may not permit any unauthorized person to enter into or remain in any portion of a mine through which a dangerous accumulation of gas is being passed into the ventilating current from any portion of the mine. He shall report any violation of this provision to the mine foreman. When the station of the fire boss is located at a distance within the mine convenient to portions being worked, the operator shall wall off any abandoned workings, whether finished or not, from the main intake and manway heading or passageway of the mine by a stopping of masonry or concrete, sufficiently heavy to keep explosive or noxious gas from entering the intake air at any point between the fire bosses' station and the entrance to the mine.

(d) *Records and reports.* — Suitable duplicate record books shall be kept at the mine office on the surface and at the fire bosses' permanent station. They shall be accessible to the district mine inspector and any worker at the mine. The fire boss shall enter and sign in ink a full daily report of each day's examination stating clearly the approximate amount and location of explosive or noxious gas in the mine. The report also shall state clearly the nature and location of any danger discovered in any place in the mine, and whether it has been reported immediately to the mine foreman. The mine foreman shall read and countersign the report each day.

(e) *Prohibited conduct.* — A fire boss may not neglect to make any examination required, fail to report any danger discovered, knowingly report falsely on any condition within the mine, or fail or neglect to make the reports required. (An. Code 1957, art. 66C, §§ 605-609; 1973, 1st Sp. Sess., ch. 4, § 1; 1974, ch. 864, § 3; 1980, ch. 418, § 2.)

Effect of amendment. — The 1974 amendment, effective July 1, 1974, substituted "1" for "one" in the second sentence of subsection (c).

Editor's note. — This section was formerly § 7-404 of this article. It was renumbered by ch. 418, Acts 1980, effective July 1, 1980, which also renumbered former § 7-403 to be present § 7-402.

§ 7-404. Protection and safety of mine employees; employee's duties to other employees.

(a) *Must not endanger lives of fellow employees.* — A person may not work in any mine until he has satisfied the operator that he can do the work allotted to him without endangering the lives of his fellow workers, unless the person works with an experienced miner or other qualified person who instructs the person how to perform his duties safely and properly.

(b) *Examination of working place; prepping roof.* — Each miner shall examine his working place before commencing work. After any stoppage of work during the shift he shall repeat this examination. If any part of the roof needs prepping, he shall prep it and may not commence or resume work until it is made safe. Each miner shall be very careful to keep his working place in a safe condition at all times.

(c) *Leaving place when work becomes dangerous.* — Each miner immediately shall cease work if he finds his place has become dangerous from any cause or condition beyond his power to remedy. Upon leaving the place, he shall install a plain danger signal at the entrance to warn other persons from entering. He shall immediately notify the mine foreman, and may not return until notified by the mine foreman that the danger has been removed.

(d) *Notice of unsafe places.* — Each worker at any mine shall notify the mine foreman or other official of any unsafe condition, including unsafe conditions of any working place, haulage road, or traveling way, or of damage to doors, brattices, or of obstructions to any air passage or failure in the ventilation which may become known to him.

(e) *Causing conditions endangering lives of others.* — A person intentionally or carelessly may not damage any safety lamp, instrument, air course, or brattice, or without authority handle, remove, or damage any fencing, means of signalling, apparatus, or machinery, or obstruct or throw open airways, or enter a place in or about any mine against caution, or carry fire, open lights, matches, pipes, or other smokers' articles in a gassy mine, or open any door the opening of which is forbidden, or disobey any order given in carrying out the provisions of this subtitle or rule or regulation pursuant to it, or do any other act whereby the lives or health of persons employed or the security of the mine property is endangered.

(f) *Regulations of Bureau.* — Each employee shall observe in and about the mine any special duty relating to the security of life or property as the Bureau, by classes of employment, defines and requires by rule or regulation.

(g) *Calling employee's attention to rules, exits, and escapeways.* — The mine operator shall direct the attention of each worker to the general and special rules or regulations and to any exit and escapeway of the mine in which he works. (An. Code 1957, art. 66C, §§ 538-544; 1973, 1st Sp. Sess., ch. 4, § 1; 1980, ch. 418, § 2.)

Editor's note. — This section was formerly § 7-405 of this article. It was renumbered by ch. 418, Acts 1980, effective July 1, 1980, which also renumbered former § 7-404 to be present § 7-403.

§ 7-405. Mine disasters.

(a) *Notice; availability of facilities for recovery operations.* — If a mine disaster occurs, the proper state and federal inspection authorities shall be notified promptly. All facilities of the mine shall be made available for recovery operations.

(b) *Inspection; resumption of operations.* — After a disaster, when the mine has been placed in condition to operate, an inspection of the entire mine shall be made by state and federal coal mine inspectors. If the inspection discloses any dangerous condition, the mine may not resume operation until the condition is corrected. (An. Code 1957, art. 66C, § 616; 1973, 1st Sp. Sess., ch. 4, § 1; 1980, ch. 418, § 2.)

Editor's note. — This section was formerly § 7-419 of this article. It was renumbered by ch. 418, Acts 1980, effective July 1, 1980, which also renumbered former § 7-405 to be present § 7-404.

§ 7-406. Reports of mine accidents.

(a) *Duty of operator.* — The operator of each coal mine shall report monthly to the district mine inspector, on forms the Bureau provides, all required information regarding any fatal and serious accident that has occurred in and about the mine.

(b) *Duty of district mine inspector.* — If any district mine inspector receives notice that a fatal accident has occurred at any mine, he shall go immediately to the mine to investigate the cause of the accident and report in writing to the bureau. A copy of the report shall be sent to the operator of the mine. The district mine inspector may require the attendance of witnesses, and administer oaths and affirmations to them. If any person neglects or refuses to obey the summons of the inspector, or to testify, except when his refusal is privileged, the inspector shall certify the person for neglect or refusal to the circuit court for the county in which the investigation is held. The court may punish the neglect or refusal as a contempt. The costs of any investigation shall be paid by the county in which the accident may occur, on the warrant of the director of the Bureau. (An. Code 1957, art. 66C, §§ 611-647; 1973, 1st Sp. Sess., ch. 4, § 1; 1980, ch. 418, § 2.)

Editor's note. — Former §§ 7-406 to 7-418 were repealed by ch. 418, Acts 1980, effective July 1, 1980, which also renumbered former subsections (e) and (f) of § 7-450 to be subsections (a) and (b) in present § 7-406.

§§ 7-407 to 7-409. Mine openings and escapeways; timbering system; fencing entrances of abandoned mines.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§ 7-410. Security as miners advance in excavations.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§§ 7-411 to 7-413. Sinking shafts; doors; boilers.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§§ 7-414 to 7-416. Hoisting rock or coal; riding on loaded cars; disobedience of orders of gateman as to cage; manner of hoisting.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§ 7-417. Haulage roads.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§ 7-418. Clearance requirements; cross-over bridges; shelter holes.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§ 7-419. Equipment giving off noxious fumes prohibited.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§§ 7-420, 7-421. Mine vehicles.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§ 7-422. Transportation of workers; waiting stations; belt lines.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§§ 7-423, 7-424. Persons traveling on foot; traveling on foot while cars in motion; placing of mine cars.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§§ 7-425, 7-426. Ventilation and mine gases; dangerous gas.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§§ 7-427 to 7-429. Communications; telephone, etc., systems; surface transmission lines.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§§ 7-430 to 7-433. Transformer stations; electric system map; mine electrician; warning of high voltage.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§§ 7-434 to 7-437. Substations and switchboards; power circuits; grounding circuit breakers and switches.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§ 7-438. Signal systems.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§§ 7-439 to 7-442. Electric face equipment trailing cable; underground illumination; mine operators to report on electrical equipment and wiring.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§§ 7-443 to 7-445. Materials and supplies; coal and rock dust; boreholes.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§§ 7-446 to 7-448. Surface fire prevention; fire prevention and control generally; storage of oil and grease underground.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§ 7-449.

Renumbered by Acts 1980, ch. 418, § 2, effective July 1, 1980.

Editor's note. — Chapter 418, Acts 1980, effective July 1, 1980, renumbered this section to be § 7-407 of this article.

§ 7-450. Mine accidents.

(a) *Keeping equipment for care of injured employees.* — Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

(b) *Medical attention.* — Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

(c) *Resuscitating and rescue outfits.* — Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

(d) *Training crews for rescue work.* — Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

(e) *Reports.* — Renumbered by Acts 1980, ch. 418, § 2, effective July 1, 1980.

(f) *Duty of district mine inspector.* — Renumbered by Acts 1980, ch. 418, § 2, effective July 1, 1980.

(g) *Directing rescue work by district mine inspector.* — Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

Editor's note. — Chapter 418, Acts 1980, effective July 1, 1980, repealed former subsections (a), (b), (c), (d), and (g) and renumbered former subsections (e) and (f) to be subsections (a) and (b) of § 7-406.

§§ 7-451 to 7-454. Cap lamps; arcs, sparks, and flames; welding and cutting; liquor, matches, smoking, and tobacco.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§ 7-455. Using or being under influence of intoxicants or controlled dangerous substances.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§§ 7-456, 7-457. Explosives and blasting; weights and measures.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§§ 7-458, 7-459. Pay of workers.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§§ 7-460, 7-461. Unauthorized person not to enter mine; authorized persons to be accompanied by guide; workers to check in and out of mine.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§ 7-462. Mine sanitary washrooms.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§ 7-463. Application of subtitle to fireclay mines.

Repealed by Acts 1980, ch. 418, § 1, effective July 1, 1980.

§ 7-464. Pozzolan.

(a) *Definition.* — In this section "pozzolan" means the finely divided residue which results from combustion of ground or powdered coal and is released by combustion gases, as defined by the test methods published by the American Society for Testing Methods.

(b) *Restrictions on permit issuance.* — (1) Any person who uses pozzolan for a landfill shall dispose in a manner which complies with sound engineering practices and permits subsequent recovery of the pozzolan.

(2) Any person who uses pozzolan for landfill, structural building, soil improvement, agriculture, soil conditioning, or land reclamation shall minimize dust and wind erosion and shall comply with all silt control regulations. (1975, ch. 532, § 2.)

REVISOR'S NOTE

This section is new language derived without substantive change from former Subtitle 7A of this article.

Since Subtitle 7A was inappropriately placed and because of its short length, its provisions were consolidated as a single section and reallocated to this section.

Editor's note. — Section 3, ch. 532, Acts 1975, provides that the act shall take effect July 1, 1975.

Subtitle 5. Strip Mining.

§ 7-501. Definitions.

(a) *Generally.* — In this subtitle the following words have the meanings indicated.

(b) *"Abandoned"* means an operation where no coal has been produced or overburden removed for a period of six months.

(c) *"Auger mining"* means the mechanical removal of coal from the subsurface by augering from the outcrop. It is an integral part of open pit mining.

(d) *"Committee"* means Land Reclamation Committee.

(e) *"Deep mining"* means any method of extracting coal from the subsurface, except open pit mining and auger mining, and includes methods such as drift mining, shaft mining, and inclined slope mining.

(f) *"Degree"* means the angle of slope from the horizontal.

(g) *"Department"* means the Department of Natural Resources.

(h) *"Federal approval of the State program"* means approval by the federal government pursuant to the federal Surface Mining and Reclamation Act of 1977 (P.L. 95-87).

(i) *"Imminent danger to the health and safety of the public"* means the existence of a condition which is reasonably expected to cause substantial physical harm to persons outside the permit area. A reasonable expectation of harm exists if a rational person would not subject himself to the danger.

(j) *"Land"* means the surface of the land on which open-pit mining is conducted.

(k) *"Land affected"* means land from which the overburden is removed, land occupied by spoil or haul roads, or land associated with or affected by strip mining.

(l) *"Landowner"* means person in whom the legal title to the land is vested.

(m) *"Net project construction cost"* means the part of the project construction cost paid from the revolving account equal to the project construction cost less the cash contribution of the owner of the benefited property on completion of construction.

(n) *"Open-pit mining" or "strip mining"* means the mining or recovery of bituminous coal by removing the strata or material which overlies or is above the coal deposit or seam in its natural condition. It includes methods such as contour, auger, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, loading of coal at or near the mine site.

(o) *"Operator"* means a person engaged in open-pit mining as a principal as distinguished from an agent or independent contractor.

(p) *"Orphaned land"* means land on which open-pit mining was conducted before June 1, 1967 and which has not been reclaimed.

(q) *"Orphaned land reclamation project" or "project"* means a competently designed reclamation project, which may include backfilling and revegetation, to restore orphaned lands.

(r) *"Overburden"* means the strata or material overlying a bituminous coal deposit in its natural state.

(s) *"Owner's cash contribution"* means the sum that an owner of property benefited by an orphaned land reclamation project agrees to pay in a lump sum on approval of the project.

(t) *"Permit"* means a permit to conduct open-pit mining pursuant to this subtitle.

(u) *"Person"* includes the federal government, the State, any county, municipal corporation, or other political subdivision of the State, or any of their units, or any individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, associations, public or private corporation, or any other entity.

(v) *"Principal owner"* means an owner or beneficial owner of at least 10 percent of a corporation, firm, partnership, or association.

(w) *"Project construction cost"* means total cost to construct an orphaned land reclamation project, exclusive of design, supervision, inspection and maintenance costs.

(x) *"Prospect"* means the removal of soil or rock material overlying bituminous coal to determine the location or value of the coal resource of the area, but not to sell, exchange, or transfer.

(y) *"Revolving account"* or *"account"* means an account established within the Bituminous Coal Open-Pit Mining Reclamation Fund from the State contribution to the Fund for purposes of making loans to owners of orphaned land.

(z) *"Secretary"* means the Secretary of the Department of Natural Resources.

(aa) *"Spoil pile"* means the overburden and refuse coal as it is piled or deposited in open-pit mining. (An. Code 1957, art. 66C, § 658; 1973, 1st Sp. Sess., ch. 4, § 1; 1976, ch. 766, § 1; 1977, ch. 4, 5, §§ 1, 2; 1979, ch. 391, § 1; 1980, ch. 712, § 2; ch. 740.)

Effect of amendments. — The 1976 amendment, effective July 1, 1976, eliminated a comma in subsection (a), added subsections designated (e), (l), (p), (q), (s), (x), and (aa), redesignated all the other subsections except (a), (b), (c), and (d), substituted "except" for "excepting" in subsection (f), rewrote the subsection (j) which was formerly subsection (h), and rewrote the subsection (t) which was formerly subsection (p).

The 1977 amendment, effective July 1, 1977, added a subsection designated (y) and redesignated the former subsections (y) to (bb) to be subsections (z) to (ee), respectively.

The 1979 amendment deleted former subsections (e), (h), (m), (u), (v), (z) and (ee), redesignated other subsections accordingly, substituted "designed reclamation project" for "designed work project" in present subsection (q), eliminated the former second sentence in subsection (r), added "an orphaned land" in subsection (s) and rewrote present subsection (u).

Chapter 712, Acts 1980, effective July 1, 1980, inserted a comma between "firm" and "associations" near the end of subsection (u).

Chapter 740, Acts 1980, substituted all the language following "include:" in the second sentence of subsection (r) for "anger mining."

§ 7-502. Declaration of policy.

This subtitle is an exercise of the police powers of the State for the general welfare of the people, by providing for the protection and conservation of the natural resources of the State and the improvement of areas of land and communities affected in the mining of bituminous coal by the open-pit, strip mining, or auger mining method. Its purpose is to aid in the protection of wildlife and restore these lands to productive purposes while decreasing soil erosion; to aid in preventing pollution of rivers and streams; prevent combustion of unmined coal; provide for reclamation of the stripped areas; generally improve the use and enjoyment of these lands and generally improve the health, welfare, and living conditions in the communities and counties in which coal mining is an important industry. (An. Code 1957, art. 66C, § 657; 1973, 1st Sp. Sess., ch. 4, § 1; 1978, ch. 855.)

Effect of amendment. — The 1978 amendment, effective July 1, 1978, added "and communities" in the first sentence and added "and generally improve the health, welfare, and living conditions in the communities and counties in which coal mining is an important industry" at the end of the section.

§ 7-503. Rules and regulations generally.

(c) *Administration of surface mining control program.* — The Department is authorized to administer a surface mining control program consistent with the requirements of the federal Surface Mining Control and Reclamation Act, any amendments to that Act, and rules and regulations promulgated pursuant thereto.
(1979, ch. 391, § 1.)

Effect of amendment. — The 1979 amendment added subsection (c).

As the other subsections were not affected by the amendment, they are not set forth above.

§ 7-504. Open-pit mining operator's license.

(a) *Required; application; fee; renewal.* — A person may not mine coal by the open-pit mining method as an operator within the State without first obtaining a license from the Department. Each application for a license as an open-pit mining operator shall be made in writing to the Department, on a form the Department furnishes and accompanied by a $200 fee. The application shall contain information concerning the applicant as required by the Department. In the case of an application submitted by a corporation, partnership, or association, the application shall contain information concerning officers, directors, and principal owners, as the Department requires. Every person licensed as an open pit mining operator shall renew his license annually and pay a $10 renewal fee. The application for renewal of a license as an open-pit mining operator shall be made on or before January 1 of the next succeeding year.
(1976, ch. 906, § 1.)

Effect of amendment. — The 1976 amendment, effective July 1, 1976, substituted "Department" for "bureau" throughout subsection (a), increased the fee in the second sentence from $100 to $200 and eliminated a comma in the fifth sentence.

As subsection (b) was not affected by the amendment, it is not set forth above.

§ 7-505. Open-pit mining permit generally.

(a) *Required; compliance with subtitle and regulations; term; renewal or amendment; transfer or assignment.* — Before any person proceeds to mine coal by the open-pit method, he shall obtain a permit on a form furnished by the Department for each separate operation. All permits shall require the operator to comply with all amendments to this subtitle and rules and regulations adopted pursuant thereto. A permit may not be issued if the Department determines that reclamation cannot be accomplished in accordance with the requirements of this subtitle or rules and regulations adopted pursuant thereto. The permit is valid for a term not to exceed 5 years, unless the Department suspends or cancels it prior to that time. If an applicant demonstrates that a specified longer term is necessary to obtain financing for equipment and opening the operation, the Department may grant a permit for such longer term. A permit may be renewed or amended following a hearing

as provided in subsection (d) if the permit meets the requirements of this subtitle and rules and regulations adopted pursuant thereto, except that a hearing is not necessary for the approval of incidental boundary revisions. A permit may not be transferred or assigned without written approval from the Department. After 8 months from the date of federal approval of the State program, a person may not conduct open-pit mining without obtaining a permit issued pursuant to the approved State program, except that a person may continue to mine under a prior permit if an application for a permit is filed within 2 months following federal approval even if the permit has not been issued.

(b) *Department prohibited to issue, extend or renew permit for State-owned land; exceptions; permit prohibited in certain specified areas.* — (1) The Department may not issue, extend or renew any permit to mine coal by the open-pit or strip method on any land the State owns whether or not the ownership includes mineral rights incident to the land, except when the Secretary, with the recommendation of the Land Reclamation Committee and the approval of the Board of Public Works, determines that an abandoned mine on State land will be reclaimed in conjunction with the proposed mining or except when the Secretary, with the recommendation of the Land Reclamation Committee and the approval of the Board of Public Works, determines that the mining could occur in conjunction with public construction activities that will disturb the vegetation and topsoil of State land. If the Department's failure to issue, extend or renew a permit involves taking a property right without just compensation in violation of the Constitution of the United States or the Constitution of Maryland and the General Assembly has not appropriated sufficient funds to pay the compensation, the State may use available funds under Program Open Space to purchase or otherwise pay for the property rights.

(2) Subject to valid existing rights, as that term is used in the federal Surface Mining Control and Reclamation Act of 1977, the Department may not issue, extend or renew any permit:

(i) Which would adversely affect any publicly owned park or place recorded in the National Register of Historic Sites, unless approved by the federal, State or local agency with jurisdiction over the park or historic site;

(ii) Within the Youghiogheny River scenic corridor, unless the Department, with the approval of the Land Reclamation Committee, determines that an abandoned mine will be reclaimed in conjunction with the proposed operation;

(iii) Within 100 feet of the outside right-of-way line of any public road (except where mine access roads or haul roads join the right-of-way line), unless the Department, after a public hearing in the locality, determines that the interests of the public and the affected landowners will be protected;

(iv) Within 300 feet from any occupied dwelling, unless waived by the owner thereof;

(v) Within 300 feet of any public building, school, public park, church, community or institutional building, unless approved by the owner or the appropriate jurisdictional agency, and the Department; or

(vi) Within 100 feet of a cemetery, unless approved by the owner or the appropriate jurisdictional agency, and the Department.

(c) *Material and information to be furnished with application; permit fee.* — The permit application shall be submitted in a manner satisfactory to the Department and shall contain at a minimum:

(1) A copy of the applicant's advertisement to be published in a newspaper of general circulation in the county of the proposed mining site at least once a week for 4 successive weeks, and which includes the ownership of the land affected, a description of the location and boundaries of the proposed site sufficient so that the proposed operation is easily locatable by local residents, the location of where the application is available for public inspection, and notice that public comment will be received by the Department for at least 30 days after the last newspaper publication;

(2) A U. S. Geological Survey quadrangle sheet, 7½ minute series enlarged to a scale satisfactory to the Department showing the location of the land affected by the contemplated operation. The map shall be prepared and certified by a registered engineer or registered surveyor approved by the Department. It shall show the boundaries of the area of land which will be affected, the drainage area above and below the area, the location and names of all streams, roads, railroads, buildings, and utility lines on or immediately adjacent to the area, the name of the owner of the area, the boundaries and names of the owners of all surface areas abutting the permit area, and the nearest municipality;

(3) The results of test borings which the operator has conducted at the site of the proposed operation. The application shall include data such as the nature and depth of the overburden, the thickness of the coal seam, a complete analysis of the coal seam and soil samples, the crop line and strike and dip of the coal seam, and the location of the test boring holes;

(4) A determination of the probable hydrologic consequences of the mining and reclamation operations upon surface and ground waters both on and off the permit area. To the extent that federal funds are available, the cost of analysis of test borings or core samplings and the determination of probable hydrologic consequences shall be assumed by the Department upon the request of an operator if the Department determines that the projected total annual production by the operator at all permits is less than 100,000 tons. Information pertaining to the coal seam, test borings, core samples and soil samples shall be available to the public except that information as to the chemical and physical properties of the coal seam other than its potential toxicity shall be confidential.

(5) A certificate stating that the applicant has a liability insurance policy for the operation for which the permit is sought in such amount as the Department determines to be necessary to compensate any person injured or damaged by the operation.

(6) A permit fee of $10.

(7) A detailed mining and reclamation plan showing at a minimum, the method for construction of all haul roads, the method for removing and stockpiling topsoil material, the method of mining, a plan for blasting, a plan

for control of drainage from the site, a plan for and method of backfilling and regrading, and a plan for revegetation of the area affected.

(d) *Procedures for review of application.* — Procedures for review of an application shall be as follows:

(1) The Department and the Committee shall hold a joint public hearing on the application. A record of the hearing shall be made and shall be available to the public.

(2) The joint hearing shall be at least 30 but not more than 60 days after the Department provides public notice of the hearing. Notice shall appear in a newspaper of general circulation in the jurisdiction affected. Members of the public shall be provided an opportunity to comment on the application either orally or in writing until at least 30 days after public notice of the hearing and copies of the application shall be available for public inspection at the Department 30 days before the hearing.

(3) After the hearing, the Committee shall approve, reject, or modify the proposed plan. If the plan is rejected or modified, the operator shall be notified in writing of the reason for rejection or the suggested modification. The operator may resubmit the plan to Department with the Committee's requested corrections or modifications. If the changes are made and the permit application fully complies with all provisions of this subtitle and rules and regulations issued pursuant thereto, the Department may issue the permit. If the Committee rejects the plan, the Department may not approve the permit.

(4) The Department shall review all other aspects of the application, including information pertaining to any other permit required from the Department for the proposed strip mining operation.

(5) The Department shall immediately notify the operator, local governments, and all participants to the joint hearing of the decisions by the Committee and the Department. Within 30 days of notification, any person adversely affected by the decision may request an adjudicatory hearing. The Department shall hold a hearing in accordance with Article 41 within 30 days of the request and render a decision within 30 days thereafter.

(e) *Special reclamation fees.* — In addition to any fee required in this subtitle, each applicant for a permit to mine coal by open pit or strip method shall pay to the Department, before the permit is issued, a special reclamation fee of $40 for each acre of land affected. The State shall contribute an equal amount. This fee shall be deposited in the bituminous coal open-pit mining reclamation fund. The payment shall be based on the same number of acres as that for which a bond is required. Each year, the Governor shall place an item in the State budget to provide for the matching money required by this subsection. The matching funds may be provided by the State in the current budget at the time the permit is issued or in the next succeeding State budget.

(h) *Permit prohibited where law violated; exception.* — The Department may not issue a permit to an applicant if any strip mining operation owned or controlled by the applicant is currently in violation of the federal Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87), any other law pertaining to air or water environmental protection, or any provisions of this subtitle or any rule, regulation, notice, order or permit issued under this

subtitle unless the applicant submits proof that the violation is in the process of being corrected to the satisfaction of the appropriate jurisdictional agency.

(i) *Issuance; requirements for additional permits.* — (1) If the requirements of this subtitle are met and no claim is outstanding under this subtitle against the operator, or any officer or director of a corporation, a permit shall be issued. Any additional permit is subject to each requirement for the original permit.

(2) However, the Bureau may not issue a strip mining permit on slopes of 20 degrees or more from the horizontal. Slope measurements shall be made every 200 feet along the contour of the original premining natural slope beginning with the proposed initial point of mining and including the proposed terminal point of mining. If any 200 foot section has a slope of 20 degrees or more a strip mining permit may not be issued for that 200 foot section, except that a permit may be issued in the case of a previously orphaned mining operation on slopes more than 20 degrees from the horizontal, when in the opinion of the land reclamation committee the land could be restored to its original contour.
(1975, ch. 386; 1976, chs. 173, 589, 592; ch. 900, § 1; 1977, ch. 60; 1979, ch. 391, § 1; 1980, ch. 740.)

Effect of amendments. — The 1975 amendment, effective July 1, 1975, in subsection (i), designated the provisions of the former subsection as paragraph (1) and added paragraph (2).

Chapter 589, Acts 1976, effective July 1, 1976, added the first exception in the first sentence in subsection (h) and ch. 592, Acts 1976, also effective July 1, 1976, added the second. Neither 1976 amendment gave effect to the other, but both exceptions have been included in the subsection in this Supplement.

Chapter 173, Acts 1976, effective July 1, 1976, substituted "subsection (e) of this section" for "subsection (f)" near the beginning of subsection (b), eliminated "and approve" following "review" in the second sentence in the subsection, substituted two new sentences for the former third sentence, eliminated "either" preceding "approve" in the present eighth sentence, made a change in the former sixth sentence, substituted "made" for "corrected" in the present eleventh sentence in the subsection.

Chapter 900, Acts 1976, effective July 1, 1976, substituted "each" for "every" in the first sentence in subsection (e), substituted "mine coal by open pit or strip method" for "surface mine coal" therein, substituted "to the Department" for "the Bureau" in the second sentence, and increased the fee therein from $30 to $40.

The 1977 amendment, effective July 1, 1977, added "or" preceding the second exception in the first sentence in subsection (h) and substituted "Notice shall" for "Notice shall" at the beginning of the present sixth sentence in subsection (d).

The 1979 amendment rewrote subsection (a), substituted "Department" for "Bureau" in the first and second sentences in subsection (b), added the third sentence in that subsection, rewrote subsections (c) and (d), substituted "Department" for "Bureau" in subsection (h), substituted "land" for "or" following "folds of" in that subsection and added "or any rule, regulation, notice, order or permit issued pursuant thereto" at the end of subsection (h).

The 1980 amendment designated all but the last sentence in subsection (b) as paragraph (1) of that subsection, added paragraph (2) in that subsection, including the former last sentence of subsection (b), inserted "of the land affected" in paragraph (1) of subsection (c), relocated the former first sentence of subsection (d) to be present paragraph (2) of subsection (c) and deleted "In addition to the provisions of subsection (c) of this section, each application for a permit shall be accompanied by" from the beginning of that paragraph, rewrote the remaining provisions in subsection (d) and rewrote subsection (h).

As the other subsections were not affected by the amendments, they are not set forth above.

Legislative intent. — The legislature intended to prohibit strip mining on State owned land after July 1, 1975 by forbidding issuance, renewal or reissuance of permits for that date. Bureau of Mines v. George's Creek Coal & Land Co., 272 Md. 143, 321 A.2d 748 (1974).

The legislature intended no substantive change in Chapter 355, Acts of 1972 when it adopted this section. Bureau of Mines v. George's Creek Coal & Land Co., 272 Md. 143, 321 A.2d 748 (1974).

Prohibitory effect of section constitutes reasonable regulation under State's police power. — The statutory prohibition of the open-pit or strip method of mining coal in this section constitutes reasonable regulation under the State's police power calculated to protect the environment and to preserve state owned land for public use for present and future generations of citizens. Bureau of Mines v. George's Creek Coal & Land Co., 272 Md. 143, 321 A.2d 748 (1974).

Owners of mineral rights have burden of showing that prohibition imposed by subsection (b) of this section is so oppressive as to constitute a taking of property. Bureau of Mines v. George's Creek Coal & Land Co., 272 Md. 143, 321 A.2d 748 (1974).

Requirements of burden. — Burden of showing that prohibition imposed by subsection (b) of this section is such as to constitute a taking of property must show more than economic hardship, substantial diminution in property value or deprivation of most beneficial use. Bureau of Mines v. George's Creek Coal & Land Co., 272 Md. 143, 321 A.2d 748 (1974).

Owner of mineral rights must show that regulation under subsection (b) of this section would render his property rights useless for all reasonable purposes or would require the owner to destroy, reduce or remove his own property at his expense. Bureau of Mines v. George's Creek Coal & Land Co., 272 Md. 143, 321 A.2d 748 (1974).

§ 7-505.1. Designation of areas as unsuitable for strip mining.

(a) *Determination of land areas unsuitable for surface mining.* — The Department shall establish a process to determine which, if any, land areas are unsuitable for all or certain types of surface coal mining operations. A surface area may be designated unsuitable for certain types of surface coal mining operations if such operations will:

(1) Be incompatible with existing State or local land use plans or programs; or

(2) Affect fragile or historic lands in which such operations could result in significant damage of important historic, cultural, scientific, and esthetic values and natural systems; or

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

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

(b) *Areas where reclamation not feasible.* — The Department shall designate an area as unsuitable for all or certain types of coal surface mining operations if the Department determines that reclamation as required by this subtitle is not technologically and economically feasible.

(c) *Petition for designation as unsuitable or to terminate designation.* — Any person having an interest which is or may be adversely affected shall have the right to petition the Department to have an area designated unsuitable for surface coal mining operations or to have such a designation terminated. A petition shall describe the petitioner's interest, contain allegations of fact and other supporting data. Within 10 months after receipt of the petition the Department shall hold a public hearing in the county in which the area is located, after publication of the time and place of such a hearing. Prior to the hearing any person may intervene by filing allegations of facts with supporting evidence. Within 60 days after such hearing, the Department shall issue a written decision regarding the petition, and the reasons therefor.

(d) *Statement prior to designation.* — Prior to designating any land areas as unsuitable for surface coal mining operations, the Department shall prepare a detailed statement on (1) the potential coal resources of the area, (2) the demand for coal resources, and (3) the impact of such designation on the environment, the economy, and the supply of coal.

(e) *Conditions in permits; effect of prior designation of unsuitability; issuance of permit stayed.* — The Department shall condition all permits in order to protect lands identified or under study pursuant to this section. Once an area has been designated unsuitable for certain types of surface coal mining, the Department may not issue a permit to conduct such operations on that area. The Department shall determine the point in time at which the filing of a petition under this section shall act to stay issuance of a permit applied for under § 505 [§ 7-505] of this subtitle. (1979, ch. 391, § 1; 1980, ch. 712, § 2; ch. 740.)

Effect of amendments. — Chapter 712, Acts 1980, effective July 1, 1980, substituted "therefor" for "therefore" at the end of subsection (e).

Chapter 740, Acts 1980, inserted "or under study" in the first sentence and added the second and third sentences in subsection (e).

§ 7-506. Bonds.

(a) *Revegetation bond generally.* — The Committee shall establish a revegetation bond for each open-pit mining operation at the time of approval of the reclamation plan. The amount of the bond shall be based on the estimated cost of revegetation for the area permitted. The amount of the bond may not be less than $500 per acre. The bond shall be deposited with the Department prior to issuance of the permit. The liability under the bond shall be for a period coincidental with the operator's responsibility for revegetation under § 7-511. The bond may not be released until the Committee inspects and approves the revegetation of the area for which liability under the bond exists.

(b) *Reclamation bond generally.* — After receiving notification from the Department that the application for a permit has been approved, but before the permit is issued, the operator shall file, a bond for the operation payable to the State and conditioned that the operator will perform faithfully every requirement of this subtitle, rules and regulations issued pursuant to this subtitle and permit conditions. The amount of the bond shall be determined by the Department and may not be less than $500 per acre based on the number of acres of land permitted. The liability of the operator under the bond shall be for the duration of open-pit mining operation and for a period coincidental with the operator's responsibility under § 7-511.

(c) *Form of bond; surety or deposit.* — All bonds required by this section shall be on a form provided by the Department, shall be payable to the State of Maryland and shall be executed by the operator and a corporate surety licensed to do business in the State. Instead of a corporate surety, either of the following is acceptable:

(1) A deposit of cash or negotiable bonds of the United States government. The cash deposit or market value of the securities shall be at least equal to the

required sum of the bond. On receipt of a deposit of cash or securities, the Department immediately shall place it with the State Treasurer, who shall receive and hold the deposit in trust, in the name of the State for the purposes for which it is made. The State Treasurer is responsible for the custody and safekeeping of the deposit. The operator, making the deposit, may demand and receive from the State Treasurer all or any portion of any deposited securities, if he replaces them with other negotiable securities of the class specified as having a market value at least equal to the sum of the bond; or

(2) A certificate of deposit in an amount equivalent to the required bond, issued by a bank in the State, and accompanied by written agreement of the bank to pay on demand to the State in the event of forfeiture.

(d) *Amount of bond.* — The amount of the bonds required by this section shall be sufficient to assure completion of the reclamation plan by the Department in the event of forfeiture and in no case may the bonds required for any permit be less than $10,000.

(e) *Additional bond; amended permit.* — The operator shall post an additional bond prior to commencing operations on any additional acreage exceeding that covered by the original permit provided the additional acreage is covered in an application previously submitted and approved in accordance with this subtitle. On receipt of the additional bond the Department shall issue an amended permit for the acreage covered by the additional bond.

(f) *Effect of prior forfeiture of bond.* — An operator may not engage in open-pit mining if he has forfeited any prior bond posted under this section.

(g) *Adjustment of bond upon submission of progress report.* — When an operator submits the mining and reclamation progress report required under § 7-507 (b) of this subtitle, the Department, on advice of the Committee, may adjust the amount of surety required from the operator to assure completion of reclamation and revegetation.

(h) *Release of bond.* — Prior to the release of any bond required by this subtitle, the Department shall publish an advertisement of the release at least once a week for 4 consecutive weeks in a newspaper of general circulation in the jurisdiction affected. The operator shall notify adjoining property owners, local governmental bodies, sewage authorities and water companies by certified mail. The Department shall afford interested persons an opportunity to submit written comments and to request a hearing on the proposed bond release. Upon receipt of an application for release of bonds, the Department shall conduct an evaluation of the reclamation work involved. The Department shall notify the operator in writing of its approval or disapproval. No bond may be fully released until all requirements of this subtitle, rules and regulations adopted pursuant to this subtitle, and permit conditions have been met. (An. Code 1957, art. 66C, § 663; 1973, 1st Sp. Sess., ch. 4, § 1; 1976, ch. 181; 1979, ch. 391, § 1.)

Effect of amendments. — The 1976 amendment, effective July 1, 1976, made changes in former subsection (a) and added what is now subsection (g).

The 1979 amendment, so changed the section that a detailed comparison is not here practical.

§ 7-507. Monthly report; annual report; mining and reclamation progress report; inspections and enforcement generally; cease and desist orders; review.

(a) *Monthly and annual reports.* — The Bureau may require an operator to establish and maintain such records, make such reports, and provide such information as may reasonably be required to enable the Bureau to determine whether the operator has acted or is acting in compliance with this subtitle and rules and regulations promulgated pursuant to it. By the 25th day of each month, every operator of a strip mining operation shall furnish the Bureau, on a form the Bureau furnishes, a monthly report of coal produced, number of employees and days worked, and every accident for the previous month. The Bureau shall require an annual report not later than February 25 of each year covering facts regarding the production and condition of the operation during the calendar year preceding.

(c) *Inspections; effect of noncompliance.* — The Department and its agents may enter on and inspect any open pit mining operation to determine conditions of safety and assure compliance with the provisions of this subtitle, any rules and regulations promulgated under it and permit conditions, and shall have access to and the right to copy any records, reports, or other information required by the Bureau under this subtitle. If an operator fails to comply with requirements of this subtitle, any rule or regulation or permit condition, the Department immediately shall notify the operator by certified mail or personal delivery of the failure and require compliance within a specified time. This time may not exceed 30 days unless the Department determines in writing that a longer period is necessary. Copies of all records, reports, inspection materials and information shall be available to the public. If the operator does not comply within the time specified, the Department shall issue a cease and desist order requiring the operator immediately to cease all or a portion of the open-pit mining operation in question until the Department determines that the operator is in full compliance. If the operator persistently or repeatedly fails to comply with a notice or order, the Department, after a hearing and final determination that the operator has failed to show cause, shall suspend or cancel the permit on this operation. The Department also may order the immediate stopping of any operation conducted by an operator who lacks the license or permit required by this subtitle. In addition, Committee members may enter on any open-pit operation to determine land reclamation conditions and progress. Any deficiency noted shall be reported to the Department. The Committee may order the Department to suspend the permit until corrective action is taken.

(d) *Submission of map.* — If the Department determines that a probable permit acreage or boundary violation exists, it may order an operator to submit a map showing the status of the operation as of the date of the order.

(e) *Cease and desist order.* — If, on the basis of an inspection, the Department determines that any condition or practice exists, which condition or practice creates an imminent danger to the health or safety of the public, or

is causing or may reasonably be expected to cause significant imminent environmental harm, the Department or its agent shall immediately issue a cease and desist order requiring the operator immediately to cease open-pit mining on all or part of the operation in question until the Department determines that the operator is in full compliance. If cessation of open pit mining is not sufficient to abate the imminent danger or harm, the Department shall also impose such affirmative obligations upon the operator as are necessary to abate the danger or harm.

(f) *Request for adjudicatory hearing; temporary relief.* — Within 30 days from the date of a notice or order under this section, or from the date of a proposed civil penalty assessment under § 7-517 (b) of this subtitle, whichever is later, any person adversely affected may request an adjudicatory hearing pursuant to Article 41 of the Annotated Code of Maryland. If a civil penalty assessment is made, any adjudicatory hearing on the penalty amount shall be combined with the hearing on the violation, and the assessment must be paid into escrow in accordance with § 7-517 (b) (4) of this subtitle. The Department shall conduct an investigation and provide the operator and other interested persons written notice of the time and place of the hearing at least 5 days prior to the hearing. Within 30 days of the hearing the Department shall issue a written decision. Prior to the decision, the Department may grant temporary relief from a notice or order if an applicant can show a substantial likelihood of success on the merits, a public hearing on the temporary relief is held, and the relief will not adversely affect the health or safety of the public or cause significant imminent environmental harm to land, air, or water resources.

(g) *Reimbursement for expenses of review.* — A person seeking administrative or judicial review of a notice or order may request the Department or court to assess an opposing party for all expenses, including attorneys' fees, reasonably incurred by the person in connection with the proceedings. The Department or court may order reimbursement as deemed proper.

(h) *Request for inspection.* — Any person may request an inspection by providing the Bureau with a signed written statement that gives reason to believe that an operation may be in violation of this subtitle or the Bureau's rules and regulations. If an inspection is made the person who requested the inspection shall have a right to accompany the inspector, provided that, he or she voluntarily remains under the control and direction of the inspector at all times, and assumes all risk of injury. In any case, the person shall be provided with a written report from the Bureau that indicates the results of an inspection, or the reason why no action was taken on the request.

(1979, ch. 391, § 1; 1980, ch. 712, § 2; ch. 740.)

Effect of amendments. — The 1979 amendment substituted "The Department and its agents" for "The Director of the Bureau or his agent" at the beginning of subsection (c), added "mining" in the first sentence in the subsection, deleted "and" following "this subtitle" therein, added "and permit conditions" at the end of that sentence, added "or permit condition" in the second sentence, substituted "Department" for "Director" and "certified mail" for "registered mail" therein, added the third sentence, substituted "Department shall" for "Director may" in the present fourth sentence in the subsection, added "all or a portion of the" preceding "open-pit" in that sentence, eliminated "on the"

preceding "operation" therein, substituted "Department" for "Director" near the end of that sentence, rewrote the present fifth sentence, substituted "The Department" for "He" at the beginning of the present sixth sentence, substituted "Committee members" for "the Committee" in the seventh sentence, substituted "Department" for "Director" in the eighth and last sentences in the subsection and added subsections (d), (e), (f) and (g).

Chapter 712, Acts 1980, effective July 1, 1980, inserted a comma following "subtitle" in the first sentence in subsection (c).

Chapter 740, Acts 1980, in subsection (a), added the first sentence, substituted "strip mining" for "coal stripping" in the second sentence, added "The Bureau shall require" at the beginning of the third sentence and deleted "shall be furnished to the Bureau" following "report", "for the preceding year" preceding "covering", and "the Bureau may require" preceding "regarding" in that sentence, added "and shall have access to and the right to copy any records, reports, or other information required by the Bureau under this subtitle" at the end of the first sentence and inserted the third sentence in subsection (c), substituted the present first two sentences for the former first sentence in subsection (f), substituted "30" for "15" in the third sentence and added the last sentence in that subsection, and added subsection (h).

Neither 1979 nor 1980 amendment to subsection (c) gave effect to the other, but both have been given effect in the subsection as set forth above.

Subsections (a) and (b) were not affected by the amendment, they are not set forth above.

§ 7-507.1. Mine reclamation surcharge.

On the basis of the approved annual and monthly progress reports, the Department shall assess a 15-cent mine reclamation surcharge for each ton of coal removed by the open-pit or strip method. Nine cents of the amounts collected from each ton of coal removed shall be deposited to the credit of the Bituminous Coal Open-Pit Mining Reclamation Fund, and 6 cents shall be remitted directly to the county in which the coal was removed. (1976, ch. 900, § 2; 1978, ch. 853.)

Effect of amendment. — The 1978 amendment, effective July 1, 1978, rewrote the second sentence, which formerly provided that "The amounts collected shall be deposited to the credit of the Bituminous Coal Open-Pit Mining Reclamation Fund."

Editor's note. — Section 3, ch. 900, Acts 1976, provides that it shall take effect July 1, 1976.

§ 7-508. Grading; sealing off openings; impounding water; backfilling and planting generally; alternative plans for reclamation; interference with operator.

(a) *Compliance with section.* — Each operator shall comply with the requirements of this section.

(b) *Regrading.* — The operator shall regrade in a manner the Department establishes by rule and regulation and in accordance with the approved reclamation plan. Any regrading shall include, but is not limited to, backfilling, compacting (where necessary to insure stability or prevent leaching of toxic materials), and regrading to restore to the approximate original contour of the affected area with all highwalls, spoil piles, and depressions eliminated, unless depressions are approved by the Department to prevent erosion and retain moisture to assist revegetation.

(c) *Sealing off openings.* — The operator shall seal off with a material approved by the Department each opening from an underground mining

operation at the base of the final cut. The seal shall be constructed in a way to avoid creating danger from impoundment of any large quantity of water.

(d) *Impounding water.* — If the operator proposes to impound water to provide a lake for wildlife, recreation, or other water supply purposes, he shall file a plan with the Department and receive approval before the pond or lake is created.

(e) *Alternative plans for reclamation.* — An operator, with the written approval of the landowner, may propose an alternative plan for reclamation if the land can be used for suitable purposes. The alternative plan shall be submitted to the Department as part of the mining and reclamation plan.

(f) *Completion of reclamation.* — Unless the operator obtains the prior written approval of the Department, all backfilling and other approved reclamation plan shall be completed before bond filing or equipment is moved from the operation.

(g) *Interference with operator.* — An owner of either surface rights or mineral rights may not interfere with an operator in the discharge of any duties imposed by this subtitle. (An. Code 1957, art. 66C, § 665; 1973, 1st Sp. Sess., ch. 4, § 1; 1978, chs. 226, 372; 1979, ch. 391, § 1.)

Effect of amendments. — Chapter 372, Acts 1978, effective July 1, 1978, added "Unless the operator obtains the prior written approval of the Bureau" at the beginning of present subsection (f).

Chapter 226, Act 1978, effective July 1, 1978, added present subsection (g).

The 1979 amendment rewrote subsection (b), eliminated former subsection (e), redesignated the succeeding subsections, substituted "material approved by the Department" for "fill" in the first sentence in present subsection (c), substituted "The seal shall be constructed" for "It shall be done" at the beginning of the second sentence in that subsection, eliminated "except where a lake is in existence on June 1, 1967, did not provide or permit" following "landowner" in the first sentence in present subsection (e) and substituted "Department" for "Director of the Bureau" in the second sentence in that subsection and for "Bureau" in present subsection (f).

§ 7-509. Completion report; reservation for deep mining or other use; limitation on initiation of deep mining.

(a) *Filing, form and contents of completion report.* — Within 30 days after completion of all coal removal, backfilling, regrading, and planting on the permit, the operator shall file with the Department a completion report on a form the Department furnishes, which identifies the operation and states the area of land affected by open-pit mining, and stating whether the operator intends to carry on deep mining on the premises. The operator shall attach to the completion report a map of the operation certified by a registered engineer or registered land surveyor showing the boundary lines of the tract, the access to the operation from the nearest public highway, the area of land affected by open-pit mining, the location of measures installed on the area for sediment and erosion control, and any location reserved for deep mining. The Committee shall review the report. If the report is not approved, the Department shall notify the operator in writing of the basis for disapproval. The operator may request a hearing within ten days after notification of the disapproval, after which the Committee shall hold a hearing within 30 days. If, after the hearing,

the Committee still disapproves the report, the Department shall suspend the open pit mining permit of the operator concerned until the operator corrects the reasons for the disapproval and the Committee approves the report.

(b) *Reservation for deep mining or other use.* — If the operator or any other person desires to conduct deep mining on the premises or use a portion of the permit area for haulageways or any other lawful purpose, the operator may designate a location, subject to the Department's approval, to be used for one or more of these purposes. At a designated and approved location it is not necessary to backfill as required by this subtitle until the deep mining or other use is completed. During this time the bond on file for that portion of the operation may not be released unless a bond as required by Subtitle 5A of this title is filed with the Department. The area of each reserved opening and its location shall be described in the completion report and designated on the attached map. Before commencing operation of a deep mine, a permit must be obtained and a bond filed as required by Subtitle 5A of this title.

(1979, ch. 391, § 1.)

Effect of amendment. — The 1979 amendment, [illegible] substituted "Department" for "Director" in the present [illegible] added "The plan for [illegible] in the first sentence in subsection (b), substituted "Department" for "Bureau" twice in that sentence, added "registered engineer or registered land" in the second sentence, added "the location of two measured tie points for a [illegible] control" near the end of that sentence, eliminated the former third sentence in the subsection, substituted "The Department" for "The Bureau" in the present fourth sentence, substituted "90 days" for "20 days" at the end of the present fifth sentence, substituted "Department" for "Director" in the present sixth sentence, added "The plan for [illegible]" in the second sentence in subsection (a), substituted "Department" for "Bureau" twice in that

§ 7-5A-01. Definitions.

(a) *In general.* — In this subtitle the following words have the meanings indicated.

(b) *Abandoned.* — "Abandoned" means an operation from which coal has not been removed for a six-month period.

(c) *Affected area.* — "Affected area" means: (i) the land within the permit area from which coal is removed and which is occupied by pillars; (ii) all land adjacent to the mine openings utilized by the operator; and (iii) off-site disposal areas.

(d) *Completed.* — "Completed" means an operation where backfilling, sealing, revegetation, and other requirements of the permit have been accomplished.

(e) *Deep mining.* — "Deep mining" means the extraction of coal through underground mining methods, including gaining access to the coal deposits by means of vertical or inclined shafts, by drift mining from the coal outcrop, or by other means that do not involve the stripping away of overburden to expose the deposit.

(f) *Mine opening sealing.* — "Mine opening sealing" means adequate sealing of a mine so that discharge from the mine is not or will not become injurious to animal or aquatic life or to use of water for domestic or industrial consumption or recreation or does not or will not violate water quality or effluent standards.

(g) *Opening.* — "Opening" means a passage into a coal bed that is used for haulage, traveling ways, ventilation, or removal or introduction of water.

(h) *Operator.* — "Operator" means a person engaged in deep mining as a principal as distinguished from an agent or independent contractor.

(i) *Subsidence.* — "Subsidence" means the sinking or settling of a land surface area from beneath which coal has been extracted. (1976, ch. 899.)

Editor's note. — Section 2, ch. 899, Acts 1976, provides that the act shall take effect July 1, 1976.

§ 7-5A-02. Legislative intent.

In this subtitle the General Assembly intends to provide for the reclamation of the land affected by deep mining operations; provide for the protection of the waters of the State that otherwise might be affected adversely by pollution from deep mines; and provide for the improvement of the health, welfare and living conditions in the communities and counties in which coal mining is an important industry. (1976, ch. 899; 1978, ch. 853.)

Effect of amendment. — The 1978 amendment, effective July 1, 1978, substituted "; provide" for "and" preceding "for the protection" and added the language which now follows the second semicolon in the section.

§ 7-5A-03. Powers and duties of Secretary generally.

(a) *Rules and regulations.* — The Secretary shall adopt rules and regulations for prevention of water pollution or damage to the land surface resulting from deep mining operations. The rules and regulations shall include standards and procedures for insuring reclamation or sealing of mined areas after operations cease.

(b) *Approval of procedures.* — The Secretary may study and recommend and shall approve all procedures for reclamation, conservation, and revegetation of affected areas, including mine opening sealing, prevention or reclamation of subsidence damage, underground fires, disposition of spoil, restoration of plant cover, prevention of erosion, prevention of the creation of acid water, and any other actions that will ensure conservation and beneficial utilization of the natural resources of the State.

(c) *Review of plans and reports.* — The Secretary shall review all mining and reclamation plans, progress reports, inspection reports, and completion reports.

(d) *Inspections.* — The Secretary may enter to inspect any deep mine operation to determine reclamation progress, conservation, and water quality conditions and investigate for violations of this subtitle. (1976, ch. 899.)

(e) *Suspension of deep mining.* — In order to protect the stability of land, the Secretary shall suspend deep mining under urbanized areas, cities, towns and communities and adjacent to industrial or commercial buildings, major impoundments or permanent streams if he finds imminent danger to inhabitants of the urbanized areas, cities, towns and communities.

(f) *Application of Subtitle 5.* — The surface effects of deep mining shall be subject to the applicable provisions of Subtitle 5 of Title 7 and any rules or regulations adopted pursuant thereto. (1976, ch. 899; 1979, ch. 391, § 1.)

Effect of amendment. — The 1979 amendment added subsection (e) and (f).

§ 7-5A-04. Disposition of fees.

All funds received by the Secretary from permit fees and surcharges shall be deposited to the credit of the Deep Mining Fund to be used only for the administration and implementation of this subtitle, including mine opening sealing and reclamation of subsidence damage. (1976, ch. 899.)

§ 7-5A-04.1. License.

(a) *Required.* — A person may not continue or commence operation of any deep mine as an operator within the State without first obtaining a license from the Department.

(b) *Application; fee; renewal.* — The application for a license shall be made in writing on a form the Department furnishes and accompanied by a $200 fee. The application shall contain the information concerning the applicant that the Department requires. If a corporation, partnership, or association submits the application, it shall contain the information concerning officers, directors,

and principal owners that the Department requires. Subject to subsection (e) of this section, a license is renewable annually on application made on or before January 1 of the next succeeding year and payment of a $10 renewal fee.

(c) *Investigation; grounds for refusal to issue or renew; authority to adopt rules and regulations not expanded.* — (1) The Secretary shall investigate each application for a license or renewal.

(2) The Secretary may not issue a license to or renew the license of an applicant if the Secretary finds that the applicant:

(i) Failed to correct a violation of any rule or regulation adopted under this subtitle;

(ii) Failed to comply with any provision of this subtitle; or

(iii) Forfeited any bond posted in connection with deep mining activities in any state.

(3) With respect to an application of a corporation, partnership, or association, the Secretary may not issue a license to or renew the license of the applicant, if the Secretary finds that any of its officers, directors, or principal owners:

(i) Failed and continues to fail to comply with any provision of this subtitle;

(ii) Is or has been an officer, or principal owner of any other corporation, partnership, or association that previously failed and continues to fail to comply with any provision of this subtitle; or

(iii) Forfeited any bond posted in connection with deep mining activity in any state.

(4) The provisions of this subsection are not intended to expand the authority of the Secretary to adopt rules and regulations as otherwise provided by law. (1977, ch. 177.)

Editor's note. — Section 2, ch. 177, Acts 1977, provides that the act shall take effect July 1, 1977.

§ 7-5A-05. Permit generally.

(a) *Required.* — A person may not continue or commence operation of any deep mine as an operator after January 1, 1977 without first obtaining a permit from the Secretary.

(b) *Application; fee.* — The application for a permit shall be on a form prescribed by the Secretary and shall be accompanied by a $200 fee. As part of the application, the operator shall include: (1) two copies of an accurate map or plan as required by subsection (h) of this section; (2) a detailed mine opening sealing plan and general reclamation plan for the affected area; (3) any other information required by the Secretary; and (4) an application for each other permit required for the operation by the Natural Resources Article.

(c) *Hearing.* — Within 60 days after submission of the completed applications required by subsection (b) of this section, the Secretary shall conduct a hearing with the operator. The hearing shall be conducted in a manner that fulfills the requirements of all other permit provisions of the Natural Resources Article. Prior to the hearing, the Secretary shall seek the

recommendations of the Land Reclamation Committee concerning the general reclamation plan for the affected area.

(d) *Approval, rejection, or modification of plan.* — After the hearing, the Secretary shall approve, reject, or modify the proposed deep mining plans. If the Secretary modifies or rejects a deep mining plan, the operator shall be notified in writing of the reasons for rejection or the modifications required. The operator may resubmit the plan with the requested corrections or modifications to the Secretary.

(e) *Period of validity.* — A permit issued under this subtitle is valid for a period of up to five years from its issuance or until the operation is completed or abandoned, unless the Department suspends or revokes the permit or unless the permittee requests a change in operations.

(f) *Renewal.* — A permit is renewable on application and payment of a $200 fee.

(g) *Permit to mine abandoned mine.* — A permit may not be issued to any operator for the purpose of mining any abandoned mine or part of it that has been sealed in compliance with this subtitle, unless a detailed projected mining plan in the form of a cost-benefit analysis is submitted to and approved by the Secretary. The Secretary may not approve a plan unless the plan shows that a continuation of mining would not affect adversely the current environmental balance of the area and would be advantageous for the more complete recovery and utilization of the natural resources.

(h) *Map of mine.* — The operator of any coal mine in the State shall make, or cause to be made by a competent mining engineer or surveyor, an accurate map of the mine for each seam of coal worked, on a scale of not less than 200 feet to the inch, which shows:

(1) The boundary lines of the property, the location of all buildings, railway tracks, wagon or other roads, rivers, streams, lakes and ponds, with the depth indicated, other important landmarks on the surface of the property; connecting lines of contiguous properties; and any lines with relation to contiguous mines or coal properties.

(2) The openings, excavations, shafts, slopes, drifts, tunnels, planes, entries, rooms, crosscuts, and the name and location number of each coal mine, if so identified.

(3) The elevation datum at top and bottom of each shaft, slope, and any drifts, tunnels, planes, at the faces of entries, as found at each semiannual survey; and in rooms and entries adjacent to boundary lines between the mine and any adjoining mine at points not more than 300 feet apart; the date of entry of each datum; and the location and elevation of any body of water dammed within or held back in any portion of the mine, giving as nearly as ascertainable, the true area of the body of water.

(4) The direction of the air currents in the mine, indicated by arrows. (1976, ch. 899; 1980, ch. 418, §§ 1, 2.)

Effect of amendment. — The 1980 amendment, effective July 1, 1980, substituted "subsection (b) of this section" for "§ 7-401 (a) of this title" in the second sentence in subsection (b) and added present subsection (h), which was formerly subsection (a) in § 7-401 of this article.

§ 7-5A-06. Transfer of permit.

(a) *Authorized.* — When, by sale, lease, assignment, or otherwise, one operator succeeds to the interest of another in any uncompleted mining operation, the Department may release the first operator from all liabilities imposed on him by this subtitle with reference to the operation and transfer the permit to the successor operator, if both operators have complied with the requirements of this subtitle and the successor operator assumes the duties and responsibilities of the first operator with reference to reclamation of the land according to the authorized mining and reclamation plan and posts suitable bond or other security required by § 7-5A-09 of this subtitle.

(b) *Fee.* — The successor operator shall pay a $20 fee on filing a transfer of permit. (1976, ch. 899.)

§ 7-5A-07. Activities not meeting requirements of subtitle.

(a) *Notice to operator.* — If the Department determines that the activities under the existing and reclamation plan and other terms and conditions of the permit fail substantially to achieve the purposes and requirements of this subtitle, the Department shall give the operator written notice of:

(1) The Department's determination;

(2) The Department's intention to modify the mining and reclamation plan and other terms and conditions of the permit in a stated manner; and

(3) The operator's right to a hearing on the proposed modification at a stated time and place.

(b) *Hearing; modification of permit.* — The hearing shall be held within 60 days after written notice is provided to the operator. After the hearing, the Department may modify the mining and reclamation plan and other terms and conditions of the permit in the manner stated in the notice or in another manner it considers reasonably appropriate in view of the evidence submitted at the hearing. Refusal of the operator to comply with the conditions set forth in the permit so modified by the Department shall result in the revocation of the permit.

(c) *Fee for modification.* — A fee may not be charged to the operator for a departmental modification of the permit. (1976, ch. 899.)

§ 7-5A-08. Violations.

(a) *Notice to operator; suspension of permit.* — If the Department has reason to believe that a violation of this subtitle, any rules or regulations adopted under it, or the terms and conditions of a permit, including the approved mining and reclamation plan, has occurred, the Department shall serve written notice of a violation on the operator, specifying the facts constituting the apparent violation and inform the operator of his right to a hearing at a stated time and place. Subsequent to or concurrent with service of the written notice, the Department may suspend the permit or issue an order until the violation is corrected.

(b) *Hearing.* — The hearing shall be held within 15 days after the notice is forwarded to the operator. The operator may appear at the hearing, either personally or through counsel, and present evidence on his behalf. The Department shall render a decision regarding the violation within 30 days after the hearing.

(c) *Revocation of permit.* — The Department may revoke the permit if the violation is not corrected.

(d) *New permit or renewal.* — Any operator whose permit is suspended or revoked shall be denied a new permit or a renewal of the old permit to engage in mining until he has complied fully with the provisions of this subtitle, the rules and regulations adopted under it, and the terms and conditions of his permit, including any modifications and the approved mining and reclamation plan, and shall have satisfactorily corrected all previous violations. (1976, ch. 899.)

§ 7-5A-09. Bond.

(a) *Required.* — (1) After receiving notification that an application for a permit has been approved, but before commencing deep mining operations, the operator shall file a bond with the Department.

(2) Before commencing operations on an additional opening not included in the original bond made in the application for a permit, the operator shall post an additional bond or deposit. The operator also shall submit additional information that would have been required to be included with the original application for a permit. On receipt of the additional bond or deposit and the additional material, the Secretary may issue an amended permit covering any additional opening covered by the additional bond.

(b) *Form.* — The bond shall be on a form prescribed and furnished by the Department, payable to the State of Maryland, and conditioned on faithful performance of the requirements of this subtitle by the operator.

(c) *Amount; period of liability.* — The amount of the bond shall be equal to the amount the Secretary determines to be the cost of reclamation of the affected area. Liability under the bond shall be for the duration of the mining operation, and for a period of five years after the mine has been sealed or operations completed, unless previously released by the Secretary.

(d) *Surety.* — The bond shall be executed by the operator and by a corporate surety approved by the Department.

(e) *Deposit in lieu of bond.* — (1) The operator may elect to deposit cash, a certificate of deposit from a Maryland bank, or negotiable bonds of the United States government with the Department in lieu of a corporate surety. The cash deposit or market value of the securities may not be less than the required sum of the bond.

(2) On receipt of any deposit of cash or securities, the Secretary immediately shall forward it to the State Treasurer, who shall receive and hold it in the name of the State in trust for the purpose for which the deposit is made.

(3) The operator making the deposit may demand and receive from the State Treasurer the whole or any portion of any securities so deposited, or depositing with the State Treasurer other negotiable securities of the classes specified in

this section having a market value at least equal to the required sum of the bond.

(f) *Adjustment of amount upon submission of progress report.* — On submission of the annual progress report required by § 7-5A-12 of this subtitle, the Secretary may adjust the amount of the bond or security required from the operator to insure completion of reclamation work. (1976, ch. 899; 1977, ch. 60.)

Effect of amendment. — The 1977 amendment, effective July 1, 1977, substituted "or" for "of" preceding "market value" in the second sentence in subsection (e) of subsection (e) and substituted "or" for "of" preceding "deposit" at the end of the first sentence in subsection (e) of subsection (e).

§ 7-5A-10. Forfeiture of bond or deposit.

(a) *Grounds; notice to operator.* — The performance bond or cash deposit in lieu of a bond shall be forfeited on failure of the operator to perform in the manner set forth in the authorized mining and reclamation plan and to reclaim the land as provided for in the permit or on revocation of the permit. The Department shall notify the operator by registered mail of its intention to forfeit the bond or deposit. The operator has 30 days to show cause why the bond or cash deposit should not be forfeited.

(b) *Time to restore in compliance with permit.* — If the operator shows cause, the Department shall provide a reasonable time, but not less than six months, for the operator to restore the land to comply with the permit.

(c) *Forfeiture nisi.* — If the operator fails to show cause, the bond or cash deposit shall be forfeited nisi, and the Department shall give notice of the forfeiture to the operator, to the legal owner of the land if different from the operator, and to the surety. If a showing of intention to restore in compliance with the permit is not submitted to the Department within 30 days after the forfeiture nisi, the bond or cash deposit shall be forfeited absolute.

(d) *Disposition of proceeds.* — On an absolute forfeiture, the Department shall use the funds made available by the forfeiture to reclaim the affected land as promptly and completely as possible. Any amount remaining from the bond, cash or security proceeds after the affected land is reclaimed shall be deposited to the credit of the Abandoned Mine Drainage Fund. (1976, ch. 899.)

§ 7-5A-11. Operation after forfeiture.

An operator may not conduct deep mining within the State if he previously has forfeited any bond posted pursuant to deep mining activities, unless, on application, the operator proves to the Department that the cost of reclamation, if the Department has reclaimed the land with interest at the current rate for the time elapsed, less the amount of the forfeited bond, if the bond is still unreclaimed, the operator shall reclaim the land covered by the forfeited bond at his own expense, including any additional reclamation, restitution, or pollution damage resulting from the lack of proper reclamation during the interim. (1976, ch. 899.)

§ 7-5A-12. Monthly progress report; annual report; updating map information; surcharge; inaccurate maps.

(a) By the twenty-fifth day of each month, a deep mine operator shall file a monthly progress report with the Secretary on a form furnished by the Secretary. In the report, the operator shall indicate the total area affected, number of mine openings, tonnage of coal removed, and changes in this information over previous months. An annual report shall be furnished to the Secretary not later than February 25 of each year for the preceding year covering facts the Secretary may require regarding the production and conditions of the mine during the calendar year. The operator also shall bring to the information the maps previously required with the permit application.

(b) On the basis of the approved annual and monthly progress or production reports the Secretary shall assess a 15 cent surcharge for each ton of coal removed during the past year. Nine cents of the amounts collected from each ton of coal removed shall be retained by the Secretary and 6 cents shall be remitted directly to the county in which the coal was removed.

(c) *Extension of mines and workings.* — Every six months the operator of each mine shall correct to be accurately shown on the map and on the copies any extension of any portion of the mine, which was made during the intervening period, and any portion of the mine and mine workings, discontinued or abandoned.

(d) *Inaccurate or imperfect maps.* — If the district mine inspector reasonably believes that any map of any mine or copy furnished to him under the provisions of this section is inaccurate, he may order a survey of what he believes has been mapped incorrectly. The cost of the survey is recoverable from the operator as other debts are recoverable by law. However, if the map claimed to be inaccurate is found to be sufficiently accurate for its intended purpose, the reasonable cost of the survey is payable by the State. (1976, ch. 899; 1978, ch. 853; 1980, ch. 418, § 2.)

Effect of amendments. — The 1978 amendment, effective July 1, 1978, substituted "By the twenty-fifth day of each month" for "At the end of each year of operation" at the beginning of subsection (a), substituted "a monthly" for "an annual" in the first sentence in the subsection, added "In the report" at the beginning of the second sentence, added the third sentence in the subsection, added "and monthly" in the first sentence in subsection (b) and added the second sentence in that subsection.

The 1980 amendment, effective July 1, 1980, added subsection (a) and (d), which were formerly the last sentence and the last clause of the first sentence in subsection (a) in § 7-401 of this article.

§ 7-5A-13. Completion report.

(a) *Time of filing.* — Within 30 days after an operation is abandoned or completed, the operator shall file with the Department a completion report on a form prescribed and furnished by the Secretary.

(b) *Map of operation.* — The operator shall attach to the completion report

first sentence in present subsection (b) and in the second sentence, substituted "done in accordance with the approved reclamation plan" for "done in a workmanlike manner in accordance with the prescribed plan or procedure" at the end of the second sentence and substituted the present third, fourth and fifth sentences in the subsection for the former third and fourth sentences.

The 1980 amendment, in subsection (a), substituted "the period of the" for "this" in the second sentence, inserted "of this subtitle" and substituted "§ 7-506 (b) of this subtitle" for "§ 7-506 (c)" in the third sentence and substituted "on" for "the" in the [illegible] sentence.

§ 7-512. Disapproval of planting report.

If the Department does not approve the planting report, it shall notify the operator in writing, setting forth the reasons. The operator shall take the steps required to remove any objection. (An. Code 1957, art. 66C, § 669; 1973, 1st Sp. Sess., ch. 4, § 1; 1979, ch. 391, § 1.)

Effect of amendment. — The 1979 amendment rewrote the first sentence.

§ 7-513. Forfeiture of bond or deposit.

(a) If the operator fails or refuses to comply with the requirements of this subtitle in any respect for which liability has been charged on the bond, the director shall declare the bond forfeited, and certify the case to the Attorney General. The Attorney General shall file suit to collect the forfeited liability. If the operator has deposited cash or securities instead of a bond, the director shall declare that portion of the deposit forfeited. Additional the State Treasurer to pay the funds into the Bituminous Coal Open-Pit Mining Reclamation Fund or proceed to sell the securities to the extent forfeited and pay the proceeds into the fund.

(b) If an operator abandons an operation, the Department shall declare the bond forfeited unless the operator shows cause why the bond should not be forfeited. (An. Code 1957, art. 66C, § 670; 1973, 1st Sp. Sess., ch. 4, § 1; 1979, ch. 391, § 1.)

Effect of amendment. — The 1979 amendment designed the former [illegible] as subsection (a) and added subsection (b).

§ 7-514. Disposition of funds; assumption of liability by successor operator.

(a) *Bituminous Coal Open-Pit Mining Reclamation Fund; generally.* — Any funds that the Department receives and retains from license and special reclamation fees, mine reclamation surcharge, forfeiture of bonds, cash deposits, or securities shall be deposited to the credit of the State Treasurer in a bank he designates. The funds shall be maintained as a special fund on the books of the Comptroller of the Treasury in an account known as the "Bituminous Coal Open-Pit Mining Reclamation Fund." The Secretary shall use the funds to implement this subtitle and to backfill, grade, and plant areas affected by open pit mining. However, funds received from the reclamation

surcharge under § 7-507.1 of this article, except for those funds to be remitted directly to the county in which the coal was removed, shall only be used by the Secretary for reclamation of land affected by open pit or strip method mining in the county in which the surcharge is assessed and collected. However, funds received from forfeiture on bonds, cash, or securities shall be used to backfill, grade, and plant the area of land affected by the operation on which the liability was charged on the bond. Funds received on a forfeiture in excess of the amount required for reclamation may be used to reclaim any other land affected by open pit mining of bituminous coal.

(b) *Administration of fund; coordinating preparation of budget.* — The Secretary shall administer the fund subject to the provisions for financial management and budgeting established by the Department of Budget and Fiscal Planning. The Secretary annually shall coordinate the preparation of a budget required to implement this subtitle, including reclamation of lands affected by bituminous coal open-pit mining.

(c) *Operator succeeding another at uncompleted operation.* — If one operator succeeds another at any uncompleted operation, either by sale, assignment, lease, or otherwise, the Secretary may release the first operator from all liability under this subtitle as to that particular operation if both operators have registered and otherwise complied with the requirements of this subtitle, and the successor operator assumes as part of this obligation all liability for backfilling, grading, planting, and reclamation on the land affected by the former operator. (An. Code 1957, art. 66C, § 673; 1973, 1st Sp. Sess., ch. 4, § 1; 1976, ch. 900, § 1; 1978, ch. 853.)

Effect of amendments. — The 1976 amendment, effective July 1, 1976, rewrote subsection (a), added present subsection (b) and redesignated former subsection (b) as subsection (c).

The 1978 amendment, effective July 1, 1978, added "and retains" in the first sentence in subsection (a), added the exception in the fourth sentence and eliminated the former seventh and eighth sentences in the subsection, providing for reimbursement of counties

§ 7-514.1. Orphaned land reclamation projects — Revolving account within Bituminous Coal Open-Pit Mining Reclamation Fund.

(a) *Secretary to establish account; purpose.* — The Secretary shall establish within the Bituminous Coal Open-Pit Mining Reclamation Fund, from that portion of the fund which represents State contributions, a revolving account to provide assistance to landowners for the reclamation of orphaned lands.

(b) *Department to administer account to provide loans for orphaned land reclamation; maintenance.* — The Department shall administer the revolving account solely to provide interest-free loans to persons for the construction of orphaned land reclamation projects. The account shall be maintained by:

(1) Repayments of principal on loans made from the account; and

(2) Annual transfer of funds from the Bituminous Coal Open Pit Mining Reclamation Fund to restore the account to a level sufficient to carry out an effective orphaned mine reclamation loan program during the succeeding year.

(c) *Monthly estimate to Department of Budget and Fiscal Planning.* — During the first month of each fiscal year, the Department shall submit to the Department of Budget and Fiscal Planning an estimate of the amount of revenues that the account expects to receive from repayment of outstanding loans and the amount of funds from the Bituminous Coal Open-Pit Mining Reclamation Fund required to reestablish an adequate balance in the account to make loans during the next fiscal year. (1976, ch. 766, § 2.)

Editor's note. — Section 3, of ch. 766, Acts 1976, provides that the act shall take effect July 1, 1976.

§ 7-514.2. Same — Eligibility for loan; maximum amounts; lien.

(a) If a project is approved, the property owner is eligible to receive an interest-free loan covering 100 percent of the first $20,000 of project construction cost, 50 percent of the next $10,000 of project construction cost, 25 percent of the next $10,000 of project construction cost, and 10 percent of the part of construction cost exceeding $40,000. However, if two or more property owners are included within a project and project construction costs exceed $40,000, the land of each property owner is considered a separate project for the purpose of computing net project construction cost under this formula.

(b) Each loan shall constitute a lien on the benefited property for repayment to the State of net project construction cost. (1976, ch. 766, § 2.)

§ 7-514.3. Same — Assistance in design and construction; agreement with owner; maintenance.

(a) *Application for assistance in design and construction of project.* — The owner of any orphaned lands may file with the Department a written application requesting assistance in design and construction of an orphaned land reclamation project. The application shall be in a form and contain the information that the Department specifies. Each application form shall contain an express warning that the applicant is responsible for maintenance of any project after it is constructed.

(b) *Agreement for construction of project.* — (1) On approval of an application, the Department shall enter into an agreement with the owner of the benefited property for construction of the project. Each agreement shall specify that the net project construction cost is to be repaid in full over a period not exceeding 25 years.

(2) Each agreement shall be placed in the land records of the political subdivision within which the benefited property is located and shall constitute notice of the lien on the property.

(c) *Owner responsible for maintenance of project.* — Costs to maintain orphaned land reclamation projects are the sole responsibility of the benefited property owner. The Department shall periodically inspect these projects and recommend to the property owner any measures required to maintain the project. (1976, ch. 766, § 2.)

§ 7-514.4. Same — Priority; payment of costs.

(a) *Schedule of priorities.* — The Department shall establish a schedule of priorities for reclamation projects based on the rate of erosion, the nature and amount of public benefits provided by the project, and any other factors set forth in rules and regulations that the Department adopts.

(b) *Assignment of priority list number.* — When the Department enters into an agreement for construction of a project, the Department shall assign to the project a priority list number.

(c) *Construction in accordance with priority schedule.* — The Department shall proceed with construction of projects in accordance with the priority schedule. However, if at any time the cost of a project at the top of the priority list exceeds the unobligated balance of the account, the Department may proceed with construction of a lower priority project.

(d) *Payment of construction costs.* — On satisfactory completion of construction, any property owner's cash contribution shall be endorsed to the credit of the contractor. The account shall pay the balance of the payment due the contractor. Within 30 days after the payment, the Department shall certify to the Board of Public Works payment of the construction costs and transmit a copy of the agreement specifying how the State will be reimbursed for the net project construction cost. (1976, ch. 766, § 2.)

§ 7-514.5. Same — Costs of engineering, technical, and administrative services.

Engineering, technical, and administrative services required to implement this subtitle, including review and evaluation or requests for assistance, design of orphaned land reclamation projects, supervision over construction of approved projects, and inspection of completed projects to insure adequate maintenance, shall be funded as provided in the State budget. Costs of services enumerated in this section are not project costs and shall be borne solely by the State. (1976, ch. 766, § 2.)

Cross reference. — See Editor's note to § 7-514.1 of this article.

§ 7-514.6. Prospecting for coal.

(a) A person may not prospect unless the person first:

(1) Submits to the Bureau the written consent of the landowner or the owner of the mining rights;

(2) Obtains the written approval of the Bureau; and

(3) Files with the Bureau a bond payable to the State, conditioned on faithful performance of the requirements of this section, and in the amount that the Secretary determines necessary to assure completion of reclamation and revegetation.

(b) Each person who prospects an area shall reclaim it, including backfilling and revegetation in accordance with the standards that the Bureau adopts for open pit mining operations. (1977, ch. 425, § 2.)

Editor's note. — Section 4, ch. 425, Acts 1977, provides that the act shall take effect July 1, 1977.

§ 7-515. Application of prior law.

Repealed by Acts 1979, ch. 391, § 2.

§ 7-516. Penalties under subtitle.

(b) *Open pit mining without permit.* — Any person who mines coal by the open pit mining method without having received a permit, as provided in this subtitle, who mines coal by the open pit mining method without securing an amended permit, who mines coal by the open pit mining method without furnishing the proper bond required by this subtitle, who knowingly or intentionally submits false information to the Department, or who does not fully comply with every provision and requirement of this subtitle or any rule, regulation, permit, notice or order issued pursuant thereto, is guilty of a misdemeanor, and upon conviction, is subject to a fine of not more than $10,000 or by imprisonment for not more than 1 year or both.

(d) *Imposition of fines.* — Any fine imposed under this subtitle by the District Court shall be paid to the State. A fine imposed by the circuit court for any county or the Criminal Court of Baltimore shall be paid to the Bituminous Coal Open-Pit Mining Reclamation Fund. A fine imposed under this section and paid into the fund shall be used for the sole purpose of forefilling or reclaiming land affected by open pit mining of bituminous coal.

(e) *Interference with Secretary.* — Any person who shall willfully resist, prevent, impede, or interfere with the Secretary or any of his agents in the performance of duties under this subtitle shall be guilty of a misdemeanor, and on conviction, is subject to a fine of not more than $5,000 or by imprisonment for not more than 1 year or both.

(f) *Prospectors exempted from penalty.* — Repealed by Acts 1977, ch. 425, § 3, effective July 1, 1977.

(g) *Failure to backfill prospected area.* — Repealed by Acts 1977, ch. 425, § 3, effective July 1, 1977.
(1977, ch. 425, § 3; 1979, ch. 391, § 1; 1980, ch. 740.)

Effect of amendments. — The 1977 amendment, effective July 1, 1977, repealed subsections (f) and (g).

The 1979 amendment substituted "Any person" for "Any operator" at the beginning of subsection (b), substituted "knowingly or intentionally submits false information to the Department" for "knowingly submits false information in the application for a permit" therein, substituted "this subtitle or any rule, regulation, permit, notice or order issued pursuant thereto" for "the permit" and

§ 7-517. Civil penalties.

(a) Any person who violates any provision of this subtitle, or any rule, regulation, order, or permit issued pursuant thereto, shall be liable for a penalty not exceeding $10,000 in the Aggregate, at [illegible] a civil action, and the person may be enjoined from continuing the violation, as provided by this subtitle. Each day upon which the violation occurs constitutes a separate offense.

(b) (1) In addition to any other remedies as will best lay or impose a civil penalty may be [illegible] [illegible] of this subtitle, or any rule, [illegible] Secretary [illegible] Department [illegible] a civil penalty not exceeding $10,000 for each day of violation, if the violation causes significant environmental harm under § 7-507 (c) of this subtitle. The penalty may be assessed by the Secretary of Natural Resources or a hearing officer designated by the Secretary, only after the person charged with the violation has been given an opportunity for a public hearing in accordance with paragraph (1) of this subtitle. Where the person charged with the violation fails to request a public hearing [illegible] civil penalty shall be assessed only after the Department determines that a violation did occur and the amount of the penalty which is warranted and has issued an order requiring the penalty be paid. The civil penalty assessed may not exceed $5,000 for each day of violation.

(2) In determining whether or not to seek assessment of a civil penalty, the Department shall consider:

(i) The willfulness of the violation and whether any negligence was involved;

(ii) The seriousness of the violation, in terms of potential or actual damage to land and structures, irreparable harm to the environment, or hazard to the health or safety of the public;

(iii) The history of violations at the particular mine site;

(iv) Any demonstrated good faith by the operator in attempting rapid compliance after notification of the violation; and

(v) The effect of the violation on reclamation of the affected area.

(3) The civil penalty is payable to the State and collectible in any manner provided at law for the collection of debts. If any person liable to pay the penalty neglects or refuses to pay it after demand, the amount, together with interest and any costs that may accrue, shall be a lien in favor of the State upon the property, both real and personal, of the person and shall be recorded in the clerk of court's office for the political subdivision in which the property is located. The money shall be credited to the Bituminous Coal Open Pit Mining Reclamation Fund.

(4) Within 30 days from the date of an assessment order by the Department, the person charged with the violation may request an adjudicatory hearing in accordance with Article 41 of the Annotated Code of Maryland, provided that, at the time of the request the full amount of the penalty must be paid over to the Secretary for placement in an escrow account pending completion of administrative and judicial review of the assessment. Failure to forward the full amount to the Secretary within 30 days of an assessment order shall result

in a waiver of all legal rights to contest the amount of the penalty or the underlying violation. If it is eventually determined that no violation occurred, or the amount of the penalty is reduced, the Secretary shall remit within 30 days the appropriate amount to the person, with interest at the rate of 6 percent.

(c) If an operator fails to correct a violation within the time for compliance specified by a notice or order issued under § 7-507 (c) or (e) of this subtitle, the Secretary shall assess a civil penalty of not less than $750 for each subsequent day up to 30 days thereafter during which the violation continues, and may assess the penalty beyond that time. (1977, ch. 300; 1979, ch. 391, § 1; 1980, ch. 740.)

Effect of amendments. — The 1979 amendment in subsection (b) [illegible] paragraph (1) of subsection (b), [illegible] Secretary [illegible] Department of Natural Resources [illegible] Department [illegible] Department [illegible] Department

(1) A map of the operation certified by a surveyor or engineer that shows the boundary lines of the tract and the access to the operation from the nearest public highway;

(2) The area of land affected by the deep mining operation; and

(3) Details of the completed reclamation work.

(c) *Reclamation inspections.* — The Secretary shall conduct at least annual reclamation inspections of the completed or abandoned mine site to determine the adequacy of reclamation work, especially with respect to the effectiveness of mine opening seals and lack of severe subsidence. If an inspection reveals inadequate reclamation, the operator shall be notified in writing and given an opportunity to correct the situation.

(d) *Refunding or forfeiting bond.* — No later than five years from the filing day of the completion report, the Secretary shall refund or forfeit bond in accordance with this subtitle. (1976, ch. 899.)

§ 7-5A-14. Injunctions.

On application of the Department, verified by oath, the circuit court of the county or city where the mining operation is located may enjoin compliance with or violation of any order, notice, rule, or regulation of the Department made in accordance with this subtitle. (1976, ch. 899.)

§ 7-5A-15. Penalty.

Any operator who mines coal by the deep mining method without having a permit or amended permit or without providing bond as provided in this subtitle, who knowingly or intentionally includes false information in the application for a permit, or who does not fully comply with the permit or adopted rules and regulations is guilty of a misdemeanor and on conviction is subject to a fine not exceeding $5,000. (1976, ch. 899.)

Cross reference. — See Editor's note to § 7-5A-01 of this article.

Subtitle 6. Abandoned Mine Drainage Control Act.

§ 7-604. Use of proceeds of Mine Reclamation and Water Quality Restoration Loan of 1970; acquisition, sale, transfer, gift of land; Abandoned Mine Drainage Capital Fund.

(a) Proceeds from the Mine Reclamation and Water Quality Restoration Loan of 1970 shall be credited on the books of the State Comptroller to be expended exclusively to finance the costs of acquisition, improvements, or rehabilitation of land and acquisition, construction, reconstruction, extension, and improvement of facilities in connection with the prevention, control, and abatement of pollution of the waters of this State from abandoned deep or strip mines, including the prevention of drainage. The proceeds of the loan may be

expended for: (1) improvement or rehabilitation, including drainage prevention, of land owned by the State or a political subdivision and occupied or degraded by an abandoned strip mine or deep mine, or (2) acquisition, improvement, or rehabilitation, including drainage prevention, of private land occupied or degraded by abandoned mines. However, the proceeds may not be used to improve, rehabilitate, or prevent drainage from any land that the State or a political subdivision does not own, unless the owner of the land contributes to the cost an amount at least equal to the increase in the value of the land resulting from improvement or rehabilitation. This amount or the manner of determining this amount and the manner of payment shall be determined by the Secretary. The owner of the land need not pay the increase in the value of the land resulting from the improvement or rehabilitation until such time as the land use is changed from agriculture or other open space use.

(b) Land acquired under the provisions of this subtitle may be sold to a private person, retained by the State, or transferred to a political subdivision after the land has been rehabilitated and water pollution from the land has been controlled. Every purchase, sale, and/or transfer of land is by action of the Board who may promulgate rules and regulations governing the transactions. The Board may accept gifts of land from any private citizen, group, quasi-public organization, or political subdivision in order to accomplish the purposes of this subtitle. Land acquired by the State by gift, after rehabilitation and control of water pollution, either may be sold or retained by the State or transferred to a political subdivision as directed by the Board. Any money received from the sale of land acquired under this section shall be deposited in the treasury and constitutes a permanent special fund known as the "Abandoned Mine Drainage Capital Fund." The money in the Fund may be utilized only for the same purposes as the proceeds of the loan authorized by this subtitle. (An. Code 1957, art. 66C, § 6741; 1973, 1st Sp. Sess., ch. 4, § 1; 1976, ch. 901.)

Effect of amendment. — The 1976 amendment, effective July 1, 1976, designated the former provisions of the section as subsection (b) and added subsection (a).

Subtitle 6A. Surface Mining.

§ 7-6A-01. Definitions.

(a) *In general.* — In this subtitle the following words have the meanings indicated.

(b) *"Active operation"* means one from which a minimum of 500 tons per acre of pits being mined, excluding coal, has been extracted for commercial purposes in the preceding year.

(c) *"Affected land"* means the land from which the mineral is removed by surface mining, and all other land area in which the natural land surface has been disturbed as a result of or incidental to the surface mining activities of the operator, including private ways and roads appurtenant to the area, land excavations, workings, refuse piles, spoil piles, and tailings.

(d) *"Borrow pit"* means an area from which soil or other unconsolidated materials are removed to be used, without further processing, as fill for activities such as landscaping, building construction, or highway construction and maintenance.

(e) *"Contiguous"* means in actual contact, sharing a common property boundary, or separated only by a stream or the right-of-way of a road or highway.

(f) *"Department"* means the Department of Natural Resources.

(g) *"Land"* means the surface of the land upon which surface mining is conducted.

(h) *"Landowner"* means a person who possesses legal title to the land.

(i) *"Minerals"* means any solid material, aggregate, or substance of commercial value, whether consolidated or loose, found in natural deposits on or in the earth, including clay, diatomaceous earth, gravel, marl, metallic ores, sand, shell, soil, and stone. The term does not include coal.

(j) *"Mining and reclamation plan"* means the operator's written proposal as required and approved by the Department for the conduct of mining and the reclamation of the affected land.

(k) *"Neighboring"* means in close proximity or in the immediate vicinity, but not in actual contact.

(l) *"Operation"* means the pit located upon a single tract of land or a continuous pit embracing or extending upon two or more contiguous tracts of land.

(m) *"Operator"* means a person engaged in surface mining as a principal, as an employee of a person or independent contractor who owns the minerals as a result of the mining.

(n) *"Overburden"* means the strata or material overlying a mineral deposit, or in between mineral deposits in its natural state, and before its removal by surface mining.

(o) *"Person"* means an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.

(p) *"Pit"* means the place where minerals are being mined by the surface mining method.

(q) *"Prior surface mine"* means a mined surface mine which was mined prior to issuance of a permit under this subtitle.

(r) *"Reclamation"* means the reasonable rehabilitation of the affected land for useful purposes and the protection of the natural resources of the surrounding area including ponds.

(s) *"Refuse"* means all waste soil, rock, mineral, scrap, tailings, slurries, and other materials directly connected with the mining, cleaning, and preparation of substances mined and includes all waste materials deposited on or in the permit area from other sources.

(t) *"Spoil pile"* means the overburden and reject materials as piled or deposited in surface mining.

(u) (1) *"Surface mining"* means all of the following:

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

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

(2) *"Surface mining"* does not mean any of the following:

(i) Those aspects of deep mining which do not have a significant effect on the surface, if the affected land does not exceed three acres in area;

(ii) Operations engaged in processing minerals;

(iii) Excavation or grading conducted solely in aid of on-site farming or on-site construction for purposes other than mining;

(iv) Removal of overburden and mining of limited amounts of any mineral when done only for the purpose of prospecting and to the extent necessary to determine the location, quantity, or quality of any natural deposit, if no minerals are sold, processed for sale, or consumed in the regular operation of a business;

(v) The handling, processing, or storage of slag and stone on the premises of a manufacturer as a part of the manufacturing process which requires stone as a raw material or produces slag as a by product;

(vi) The extraction of minerals, by a landowner for his own noncommercial use from land owned or leased by him;

(vii) Mining operations if the affected land does not exceed one acre in area;

(viii) The extraction of sand, gravel, rock, stone, earth, or fill from borrow pits for highway construction purposes or other public facilities, if the work is performed under a bond, contract, and specifications of the Department which provide for and require reclamation of the area affected in the manner provided by this subtitle; or

(ix) Dredging from submerged public or private lands in the State if this activity is conducted under a license from the State Board of Public Works or by permit from the Department, as provided for in Title 9 of this article.

(v) *"Tract"* means a single parcel of land or two or more contiguous parcels of land with common ownership. (1975, ch. 581; 1976, chs. 452, 624; 1978, ch. 361.)

Effect of amendments. — Chapter 452, Acts 1976, effective July 1, 1976, added "and" preceding "tailings" at the end of subsection (r).

Chapter 624, Acts 1976, effective July 1, 1976, also added "and" preceding "tailings" in subsection (r), added present subsection (t), redesignated former subsections (t) to (u) as present subsections (g) to (v) and added "of the Department" in paragraph (viii) of subsection (2) in present subsection (u).

The 1978 amendment, effective July 1, 1978, added "or other public facilities" in paragraph (viii) in subsection (2) of subsection (u).

Editor's note. — Section 2, ch. 581, Acts 1975 provides that the act shall take effect July 1, 1975.

§ 7-6A-02. Legislative intent.

(a) *Findings.* — The General Assembly finds and declares that the extraction of minerals by mining is a basic and essential activity making an important contribution to the economic well-being of the State and the nation. Furthermore, it is not practical to extract minerals required by our society without disturbing the surface of the earth and producing waste materials, and

the very character of certain surface mining operations precludes complete restoration of the land to its original condition. However, it is possible to conduct mining in a way to minimize its effects on the surrounding environment. Furthermore, proper reclamation of mined land is necessary to prevent undesirable land and water conditions that would be detrimental to the general welfare, health, safety, beauty, and property rights of the citizens of the State. In addition, there are certain circumstances when surface mining is not desirable, such as when the operation will have an unduly adverse effect on wildlife or fresh water, estuarine or marine fisheries. The General Assembly finds that the conduct of mining and reclamation of mined lands as provided by this subtitle will allow the mining of valuable minerals and provide for the protection of the State's environment and the subsequent beneficial use of the mined and reclaimed land.

(b) *Purpose of subtitle.* — This subtitle is an exercise of the police powers of the State for the general welfare of the people of the State, by providing for the protection and conservation of the natural resources of the State and the reclamation of areas of land affected by the surface mining of metallic and nonmetallic minerals other than coal, to aid in the protection of birds and wildlife, to lessen soil erosion, to protect pollution of rivers, streams, and lakes, to prevent loss or waste of valuable mineral resources, to prevent and eliminate hazards to health and safety, to provide for reclamation of mined areas so as to assure the use of these lands for productive purposes, and generally to provide for the continued use and enjoyment of these lands. (1975, ch. 581.)

§ 7-6A-03. Rules and regulations.

The Department may adopt rules and regulations reasonably necessary for the administration of this subtitle. Rules and regulations shall be adopted in accordance with the provisions of the Administrative Procedures Act. (1975, ch. 581.)

§ 7-6A-04. Surface Mined Land Reclamation Fund.

(a) All funds received by the Department from license fees, permit fees, the forfeiture of bonds, and fines and penalties, and fines collected upon conviction of an operator under §§ 7-6A-06 (c) and 7-6A-07 (e), shall be deposited to the credit of the State Treasurer in a bank he designates, and shall be maintained as a special fund on the books of the Comptroller of the Treasury in an account, to be known as the "Surface Mined Land Reclamation Fund." This Fund shall be used by the Department for the administration and implementation of this subtitle, including rehabilitating the area of land affected by the operation upon which liability was charged on the bond.

(b) For the reclamation of surface mined lands other than coal abandoned and inactive as of July 1975, the Department may use funds received from the following sources:

(1) A forfeiture in excess of the amount required for rehabilitating the area of land affected by the operation on which the liability was charged;

(2) A forfeiture relating to land which the Department determines to be physically impossible to reclaim; and

(3) Licensing fees, permitting fees, fines, funds received from the special reclamation fees established by § 7-6A-07 (e), or any other source. (1975, ch. 581; 1977, ch. 129.)

Effect of amendment. — The 1977 amendment, approved Apr. 19, 1977, and effective from date of passage, added "the" in the introductory clause in subsection (a), added "including" in the last sentence in subsection (a), added subsection (b) and added subsection (a).

§ 7-6A-05. Surface mine inspectors.

The Department shall employ such surface mine inspectors as are deemed necessary by the Department to carry out the provisions of this subtitle and any rules and regulations of the Department. The Department shall establish standards of qualification for surface mine inspectors, particularly as regards the disciplines of mining engineering, civil engineering, water quality, geology, hydrology, agronomy, forestry, biology, health, safety, and any other field deemed necessary for qualification. (1975, ch. 581.)

§ 7-6A-06. Operator's license.

(a) *Required.* — After January 1, 1977, no person may conduct an active operation to extract minerals by the surface mining method as an operator or within the State without first obtaining a surface mining operator's license.

(b) *Application.* — An application for a license shall be in writing and on a form prepared and furnished by the Department. If the application is made by a corporation, partnership, or association, it shall contain information concerning its officers, directors, and principal owners, as the Department reasonably requires.

(c) *Fee and license renewal.* — The application shall be accompanied by a $100 fee. The license shall be renewable annually, and the renewal fee is $50. The application for renewal shall be made annually by January 1.

(d) *Department not to issue or renew under certain circumstances.* — The Department may not issue any new surface mining operator's license or renew any existing surface mining operator's license to any person if it finds, after investigation, that the applicant has failed and continues to fail to comply with any of the provisions of this subtitle.

(e) *Penalty.* — Any person who violates the provisions of this section is guilty of a misdemeanor and, on conviction, is subject to a fine of not more than $10,000. The fine shall be paid to the Surface Mined Land Reclamation Fund. (1975, ch. 581.)

§ 7-6A-07. Surface mining permit generally.

(a) *Permit required.* — After January 1, 1977, no licensed operator may engage in surface mining within the State without first obtaining a surface mining permit which covers the affected land.

(b) *Application.* — The application shall be in writing and on a form prepared and furnished by the Department and shall fully state the information called for. In addition, the applicant may be required to furnish other information the Department reasonably deems necessary in order to enforce this subtitle.

(c) *Permit for more than one tract.* — A permit may cover more than one tract of land, if the tracts are contiguous and are described in the application.

(d) *Additional documents.* — (1) Right of entry. — Except as waived by the provisions of paragraph (3) of this subsection, the application shall be accompanied by an agreement, in a form specified by the Department, signed by the applicant and the landowner, if he is a different person from the operator, stating that:

(i) The Department may enter the land, after making a reasonable effort to notify the operator or owner, at any reasonable time during the term of the permit and for an additional period of five years following the expiration of the permit to inspect the condition of the land, and while on the property, Department personnel shall comply with all government regulations; and

(ii) If a land forfeiture is ordered, the Department, its representatives, and employees may enter the land and take actions necessary to carry out the action which the operator has failed to perform.

(2) Mining and reclamation plan. — The application shall be accompanied by a mining and reclamation plan and map which meets the requirements of § 7-6A-19 of this subtitle. No permit may be issued until the plan is approved by the Department.

(3) Waiver. — The Department may waive the requirements of paragraph (1) of this subsection if a contract between the applicant and the landowner, if he is a different person from the operator, was entered into before July 1, 1974.

(e) *Fees.* — Each application for a permit shall be accompanied by a $200 filing fee. An additional fee shall be charged for a modification or renewal of a permit or issuance of a new permit following cancellation of an existing permit.

(f) *Special reclamation fee.* — In addition, before a surface mining permit is issued every applicant shall pay a special reclamation fee of $20 for each acre of land affected. The payment shall be based on the same number of acres as that for which bond is required.

(g) *Every special reclamation fee shall be matched equally by the State.* — The Governor each year shall place an item in the budget to provide for the matching moneys required by this subsection. These matching funds may be provided by the State in the current budget at the time the permit is issued or in the next succeeding State budget. When all pre-law surface mined lands have been reclaimed, this fee shall cease to be collected.

(h) *Penalty.* — Any operator who violates the provisions of this section or who knowingly or intentionally has filed false information in the application for a permit, or who has not fully complied with all provisions and requirements of the permit, is guilty of a misdemeanor, and, on conviction, is subject to a fine of not less than $25,000. The fine shall be paid into the Surface Mined Land Reclamation Fund. (1975, ch. 581; 1976, ch. 624.)

Effect of amendment. — The 1976 amendment, effective July 1, 1976, added "Except as waived by the provisions of subsection (d)" in the first sentence of subsection (d).

§ 7-6A-08. Review of application and accompanying documents.

On receipt of an application and accompanying documents, the Department shall review it and make further inquiries, inspections, or examinations as necessary or desirable for proper evaluation. If the Department objects to any part of the application or accompanying documents, it shall notify promptly the operator by registered mail of such objections, stating fully its reasons, and shall allow the operator a reasonable time, not exceeding 60 days, to make any changes or take other action to satisfy the Department of the objections. The Department shall send a copy of the application and accompanying documents to the Department of State Planning for review with respect to matters that are the responsibility of that Department. (1975, ch. 581; 1976, ch. 452.)

Effect of amendment. — The 1976 amendment, effective July 1, 1976, added the last sentence.

§ 7-6A-09. Approval or denial of permit.

(a) The Department shall approve and grant or deny the permit requested as expeditiously as possible, but not later than 60 days after the application forms or any supplemental information required are filed with the Department.

(b) The Department may deny the permit on finding that:

(1) Any requirement of this subtitle or any rule or regulation adopted under it will be violated by the proposed operation;

(2) The operation will have an unduly adverse effect on wildlife or fresh water, estuarine, or marine fisheries;

(3) The operator has failed to provide applicable permits covering the operation from all State and local regulatory agencies responsible for air and water pollution and sediment control;

(4) The operation will constitute a substantial physical hazard to a neighboring dwelling house, school, church, hospital, commercial or industrial building, public road, or other public or private property in existence at the time of application for the permit;

(5) The operation will have a significantly adverse effect on the uses of a publicly owned park, forest, or recreation area in existence at the time of application for the permit;

(6) The operator does not possess a valid surface mine operator's license from the State; or

(7) The operator has not corrected all violations which he may have committed under any prior permit and which resulted in (i) revocation of his permit, (ii) termination of the operation by order of the Department, (iii) forfeiture of part or all of his bond or other security, or (iv) conviction of a misdemeanor under §§ 7-6A-06 (c), 7-6A-07, thereof, or (v) any other court order issued against the operator as a result of departmental action.

(8) Previous experience with similar operations indicates a substantial probability that the operation will result in substantial deposits of sediment in stream beds or lakes, landslides, or other water pollution.

(c) In the absence of any of these findings, a permit shall be granted. However, no permit becomes effective until the operator has deposited with the Department an acceptable performance bond or other security pursuant to § 7-6A-20 of this subtitle. If at any time the bond or other security, or any part of it, lapses for any reason other than a release by the Department, and the lapsed bond or security is not replaced by the operator within 30 days after notice of the lapse, the permit to which it pertains automatically becomes void and has no further effect and the operation shall be declared terminated by order of the Department.

(d) If the Department denies an application for a permit, it shall notify the operator in writing, stating the reasons for its denial and any modifications in the application which would make it acceptable. The operator may modify his application or file an appeal as provided in Title 1. The appeal shall be taken within 60 days after notice of disapproval has been mailed to the operator at the address shown on his application. (1975, ch. 581.)

§ 7-6A-10. Conditions for a permit.

(a) *Conditions.* — Any permit issued shall be expressly conditioned upon compliance with all requirements of the approved mining and reclamation plan for the operation and with further reasonable and appropriate requirements and safeguards deemed necessary by the Department to assure that the operation will comply fully with the requirements and objectives of this subtitle. The conditions may include a requirement of visual screening, vegetative or otherwise, to screen the view of the operation from public highways, public parks, or residential areas existing at the time of the original application, if the Department finds screening to be feasible and desirable.

(b) *Violations.* — Violation of these conditions shall be treated as a violation of this subtitle and constitutes a basis for suspension or revocation of the permit. (1975, ch. 581.)

§ 7-6A-11. Length of term of permit.

(a) A surface mining permit shall be granted for such period as requested and deemed reasonable, but not exceeding 25 years. If the mining operation has been completed and the reclamation required under the approved mining and reclamation plan is completed prior to the expiration of the permit, the permit may terminate. Termination of a permit does not relieve the operator of any obligations which he has incurred under his approved mining and reclamation plan or otherwise. If the operator wishes to continue operation of his preparation plant, his permit may remain valid but shall be modified.

(b) A permit shall be void if surface mining has not commenced within two years of its issuance. (1975, ch. 581.)

§ 7-6A-12. Permit modification.

(a) Any operator engaged in surface mining under a surface mining permit may apply at any time for modification of the permit. The application shall be in writing on forms furnished by the Department and fully state the information called for. In addition, the applicant may be required to furnish other information the Department reasonably deems necessary to enforce this subtitle. However, it is not necessary to resubmit information which has not changed since the original application, if the applicant so states in writing.

(b) A modification under this section may affect the land then covered by the permit, the approved mining and reclamation plan coupled with the permit, or other terms and conditions of the permit. A permit may be modified to include land contiguous to the existing affected land, but not other lands. The mining and reclamation plan may be modified in any manner, if the Department determines that the modified plan fully meets the standards set forth in § 7-6A-19 and that the modifications would be generally consistent with the bases for the issuance of the original permit. Other terms and conditions may be modified only if the Department determines that the permit as modified would meet the requirements of §§ 7-6A-07 and 7-6A-09. No modification may extend the expiration date of any permit issued under this subtitle.

(c) A $100 fee shall be charged for a permit modification. (1975, ch. 581.)

§ 7-6A-13. Permit renewal.

(a) The procedure to be followed and standards to be applied in renewing a permit shall be the same as those for the initial application for a permit, except that it is not necessary to resubmit information which has not changed since the time of the original application, if the applicant so states in writing. However, the applicant may be required to furnish other information the Department deems necessary to enforce this subtitle. In the absence of any changes in legal requirements for the issuance of a permit since the date on which the original permit was issued, the only basis for the denial of a renewal permit shall be (1) an uncorrected violation of the type listed in paragraph 7 of § 7-6A-09(b), (2) failure to submit an adequate mining and reclamation plan in light of conditions existing at the time of renewal, or (3) failure or refusal to pay the renewal fee.

(b) Application for a renewal of a permit cannot be made any earlier than two years prior to the expiration date of the original permit.

(c) The fee to be charged for a permit renewal shall be the same as that charged for an initial permit. (1975, ch. 581.)

7-6A-14. Effective date of modification or renewal.

No modification or renewal of a permit becomes effective until any required changes have been made in the performance bond or other security posted under the provisions of § 7-6A-20, so as to assure the performance of obligations assumed by the operator under the permit and the mining and reclamation plan. (1975, ch. 581.)

§ 7-6A-15. New permit in lieu of modification or renewal.

In lieu of a modification or renewal, an operator may apply for a new permit in the manner prescribed by §§ 7-6A-07 and 7-6A-19. (1975, ch. 581.)

§ 7-6A-16. Transfer of permit.

(a) When one operator succeeds to the interest of another in any uncompleted mining operation by virtue of a sale, lease, assignment, or otherwise, the Department may release the first operator from all liabilities imposed upon him by this subtitle with reference to the operation and transfer the permit to the successor operator, if both operators have complied with the requirements of this subtitle and the successor operator assumes the duties and responsibilities of the first operator with reference to reclamation of the land according to the authorized mining and reclamation plan and posts suitable bond or other security required by § 7-6A-20.

(b) The successor operator shall pay a $100 fee on filing a transfer of permit. (1975, ch. 581.)

§ 7-6A-17. Departmental modification of permit or of mining and reclamation plan.

(a) If the Department determines from the inspections of the affected land required by § 7-6A-25 that the activities under the mining and reclamation plan and other terms and conditions of the permit fail substantially to achieve the purposes and requirements of this subtitle, the Department shall give the operator written notice of:

(1) The Department's determination,

(2) The Department's intention to modify the mining and reclamation plan and other terms and conditions of the permit in a stated manner, and

(3) The operator's right to a hearing on the proposed modification at a stated time and place.

(b) The date for the hearing may not be less than 30 days nor more than 30 days after the date of the notice unless the Department and the operator mutually agree on another date. Following the hearing the Department may modify the mining and reclamation plan and other terms and conditions of the permit in the manner stated in the notice or in another manner it deems reasonably appropriate in view of the evidence submitted at the hearing. Refusal of the operator to comply with the conditions set forth in the permit so modified by the Department shall result in the revocation of the permit.

(c) No fee may be charged to the operator for a departmental modification of the permit. (1975, ch. 581.)

§ 7-6A-18. Suspension or revocation of a permit.

(a) The Department shall serve written notice of a violation on the operator, specifying the facts constituting the apparent violation if the Department has reason to believe that a violation of (1) this subtitle, (2) any rules or regulations adopted under it, or (3) the terms and conditions of a permit, including the

approved mining and reclamation plan has occurred. The Department also shall inform the operator of his right to a hearing at a stated time and place. Subsequent to or concurrent with service of the written notice, the Department may suspend the permit or issue an order until the violation is corrected.

(b) The Department shall inform the operator of his right to a hearing at a stated time and place. The date for the hearing may not be less than five days nor more than 15 days after the date of the notice, unless the Department and the operator mutually agree on another date. The operator may appear at the hearing, either personally or through counsel, and present evidence on his behalf. The Department shall render a decision regarding the violation within ten days from the date of the hearing.

(c) The Department may revoke the permit if the violation is not corrected.

(d) Any operator whose permit is suspended or revoked shall be denied a new permit or a renewal of the old permit to engage in mining until he has complied fully with (1) the provisions of this subtitle, (2) any rules and regulations adopted under it, and (3) the terms and conditions of his permit, including any modifications, and the approved mining and reclamation plan, and until he has satisfactorily corrected all previous violations. (1975, ch. 581.)

§ 7-6A-19. Mining and reclamation plan.

(a) The operator shall submit with his application for a surface mining permit a proposed mining and reclamation plan. The plan shall include at least the following:

(1) The purpose for which the land previously was used;

(2) The use which is proposed to be made of the land following reclamation;

(3) The manner in which the land is to be opened for mining and how the mining activity is to progress across the tract;

(4) The location of affected areas;

(5) The manner in which topsoil and subsoil are to be conserved and replaced and, if conditions do not permit the conservation and replacement of all or part of the topsoil and subsoil, a full explanation of the conditions and alternate procedures proposed;

(6) Where backfilling is required, or where the proposed subsequent land use requires fill, the manner in which the compaction of the fill will be accomplished;

(7) The manner and type of landscaping and screening of the working areas which are exposed to public view during mining;

(8) The proposed practices to protect adjacent surface resources;

(9) The specifications for surface gradient restoration to a surface suitable for the proposed subsequent use of the land after reclamation is completed, and the proposed method of accomplishment;

(10) The manner and type of revegetation or other surface treatment of the affected areas;

(11) A time schedule that meets the requirements of this section; and

(12) Maps and any other supporting documents required by the Department to illustrate the above points.

(b) The operator shall furnish with the mining and reclamation plan, in a reasonable manner satisfactory to the Department, an accurately surveyed topographic map, in duplicate, on a scale of not smaller than one inch equals 200 feet and with a contour interval of spacing appropriate for the area, showing the location of the tract of land to be affected by mining, and representative cross-sections. The surveyed topographic map and cross-sections shall be prepared and certified by a registered professional engineer or registered surveyor and show the boundaries of the proposed affected land, together with the drainage area above and below the area, the location and names of all streams, roads, railroads, and utility lines on or immediately adjacent to the area, the outcrop line of any mineral deposit to be mined, the location of all buildings within 200 feet of the outer perimeter of the area affected, the names and addresses of the owners and present occupants, the purpose for which each building is used, the name of the owner of the tract where the proposed mining is to occur, and the names of the adjacent landowners, the municipality or district and county and nearest municipality. The topographic map shall have the certificate of a licensed surveyor showing which of the areas covered are affected by the operation. The cross-sections shall include the location of the test borings or sample sites, the nature and depth of the various strata, the thickness of any mineral seam or deposit, and analysis of any mineral deposit or ore, the thickness of the overburden, and an analysis of the overburden. Aerial photographs of the tract of land to be affected by the mining also shall be provided if they are required by the Department. The information resulting from the test borings is confidential information and not a matter of public record. The Department may waive any of the requirements of this subsection if the operator extracts less than 20,000 tons per year or 20,000 cubic yards per year of minerals and the affected area is less than five acres in size.

(c) The plan shall include a summary statement covering:

(1) The method of compliance with State air and water pollution requirements;

(2) The method of prevention, elimination, or minimization of conditions that would be hazardous to animal or fish life in or adjacent to the area;

(3) The method of rehabilitation of settling ponds;

(4) The method of control of contaminates and disposal of mining refuse; and

(5) The method of restoring or establishing stream channels and stream banks to a condition minimizing erosion, siltation, and other pollution. All permits required by all State and local regulatory agencies with regard to air and water pollution and sediment control shall be a prerequisite to issuance of the permit.

(d) The plan shall provide that reclamation activities, particularly those relating to control of erosion, shall be conducted to the extent feasible size concurrently with mining operations and be initiated at the earliest feasible time after completion or termination of mining on any segment of the permit area. The plan shall provide that reclamation activities be completed promptly and not later than two years after completion of mining on each segment of the area for which a permit is required unless the Department specifically permits a longer period.

(e) The Department may approve, approve conditionally, or disapprove the proposed plan, or reject the plan which is proposed. The Department shall approve a mining and reclamation plan, as submitted or as modified, if it finds that the plan adequately provides for timely completion of the operation in accordance with the purposes and requirements of this subtitle and that the implementation of the plan will achieve minimum standards.

(f) The final slopes in all excavations in soil, sand, gravel, and other unconsolidated materials shall be at an angle to minimize the possibility of slides and be consistent with the future use of the land.

(g) Provisions for safety to persons and to adjoining property shall be provided in all excavations.

(h) In the case of mining on steep slopes, the operator shall be required to place a configuration which is in accordance with approved land use practices and suitable for the proposed subsequent use of the land.

(i) Suitable drainage ditches or conduits shall be constructed or installed or grading completed to avoid the collection or existence of small pools of water that are, or likely to become, noxious or offensive, or foul on the mined area.

(j) The type of vegetative cover and the method of its establishment shall be specified and conform to accepted and recommended agronomic and reforestation practices established by the Department. Advice and technical assistance may be obtained through the State soil and water conservation districts.

(k) If conditions do not permit the planting of vegetation on all or part of the affected land, and if these conditions pose an actual or potential threat of soil erosion and siltation, alternative procedures shall be proposed to prevent the threat of soil erosion and siltation. If the procedures do not prevent these conditions, the Department may not approve them.

(l) Lakes, ponds, and marshland shall be considered adequately reclaimed land when approved by the Department. (1975, ch. 581; 1977, ch. 123; 1978, ch. 765.)

Effect of amendments. — The 1977 amendment, approved Apr. 12, 1977, and effective from date of passage, added the last sentence in subsection (h).

The 1978 amendment, effective July 1, 1978, substituted "20,000 tons" for "10,000 tons" in the last sentence in subsection (a) and added "or 20,000 cubic yards per year" therein.

§ 7-6A-20. Performance bonds or cash deposits.

(a) After receiving notification from the Department that his application for a permit has been approved, but prior to commencing mining, the operator shall file with the Department a bond for each mining operation, on a form to be prescribed and furnished by the Department, payable to the State and conditioned that the operator will perform faithfully all the requirements of this subtitle.

(b) The amount of the bond required shall be for a maximum of $750 per acre based on the number of acres of affected land covered by the permit, but no bond may be filed for less than $7,500, provided, however, that the Department shall determine whether the total bond fee is unreasonable and excessive for

a particular tract of land and whether a lesser total amount for the bond is sufficient to cover reclamation. In making this determination, the Department shall consider the size of the operation, the amount of land to be mined, the average that is unreclaimed at any one time, the proposed method of regrading and revegetation of the site, the proposed use of the land following reclamation and any other relevant factors.

(c) Liability under the bond shall be for the duration of the mining permit and for a period of five years after its expiration, unless previously released in whole or in part as provided in § 7-6A-21.

(d) The bond shall be executed by the operator and a corporate surety licensed to do business in the State. In lieu of a corporate surety, one of the following shall be acceptable:

(1) Deposits of cash or negotiable bonds of the United States government. The cash deposit or market value of the securities shall be equal at least to the required sum of the bond. The Department, on receipt of any deposit of cash or securities, immediately shall forward it to the State Treasurer, who shall receive and hold the bond in the name of the State in trust, for the purposes for which the bond is required. The State Treasurer shall be responsible for the custody and safekeeping of the deposits. The operator making the deposit may demand and receive from the State Treasurer the whole or any portion of any securities so deposited, on depositing with the State Treasurer other negotiable securities of the classes specified in this section having a market value at least equal to the sum of the bond;

(2) A certificate of deposit if it is equivalent to the required bond, issued by a bank within the State, and accompanied by a written agreement of the bank to pay on demand to the State in event of forfeit; or

(3) An irrevocable letter of credit if it is equivalent to the required bond, issued by a bank within the State, and equally states that the total sum is guaranteed to be available, and payable directly to the State on demand for the surface mining and reclamation. (1975, ch. 581; 1978, ch. 765.)

Effect of amendment. — The 1978 amendment, effective July 1, 1978, rewrote the last sentence in subsection (b).

The 1978 amendment, effective July 1, 1978, rewrote the last sentence in subsection (d) and added "either" to the beginning of the second sentence in subsection (d) and added paragraph (3) to subsection (d).

§ 7-6A-21. Release of bond.

(a) *Full release.* — On completion of the mining operations, and after the requirements of the permit have been fully complied with, the Department shall release the bond.

(b) *Partial release.* — An amount of the bond commensurate with the proportional portion of the affected land covered by the permit, may be released upon application by the operator and inspection and approval by the Department. (1975, ch. 581.)

§ 7-6A-22. Forfeiture of bond.

(a) *Grounds for forfeiture.* — The performance bond or cash deposit in lieu of a bond shall be forfeited on failure of the operator to perform in the manner set forth in the approved mining and reclamation plan and terms, rules, and conditions as specified for in the permit or upon revocation of the permit. The Department shall notify the operator by registered mail of its intention to initiate forfeiture proceedings. The operator has 30 days to show cause why the bond or cash deposit should not be forfeited.

(b) *Showing of cause.* — On the operator's showing of cause, the Department shall grant the operator a hearing, but not less than six months for the operator to correct the violations specified in the notice.

(c) *Full or partial forfeiture.* — On forfeiture of the operator's bond or cash deposit, shall be forfeited in part and notice by the Department shall be given to the operator and legal owner of the land if different from the operator and surety of the forfeiture. If a showing of intention to restore in compliance with the permit is not submitted to the Department within 30 days from the forfeiture notice, the bond or cash deposit shall be forfeited absolute.

(d) *Reclamation upon forfeiture.* — On an absolute forfeiture, the Department shall use the funds made available by the forfeiture to reclaim the affected land as promptly and completely as possible. (1975, ch. 581; 1976, ch. 452.)

Effect of amendment. — The 1976 amendment, effective July 1, 1976, substituted "surety" in the first sentence in subsection (c) "from the operator and legal owner of the land" for "from the operator and surety" preceding "from the operator and legal owner of the land."

§ 7-6A-23. Mining after forfeiture of bond.

No operator may conduct surface mining within the State if he previously has forfeited any bond posted pursuant to surface mining activities, unless on application by the operator, he repays the Department the cost of reclamation if the Department had reclaimed the land, plus interest at the current rate for the time elapsed, less the amount of the forfeited bond. If the land is still unreclaimed, the operator shall reclaim the land covered by the forfeited bond at his own expense, including any additional erosion, sedimentation, or pollution damage resulting from the lack of proper reclamation during the interim. (1975, ch. 581.)

§ 7-6A-24. Annual mining and reclamation reports.

(a) At the end of each calendar year, following as soon after December 31 as is reasonable, the operator shall file an operations and progress report with the Department on a form prescribed and furnished by the Department, which shall:

(1) Identify the mine, the operator, and the permit number;

(2) Identify the location of the operation as to county, district, nearest municipality, and nearest public road.

(3) Report the type of mineral produced, the volume produced, and the value of production of each for the previous year. Individual company data is confidential and may be released only with the operator's written consent;

(4) State the acreage disturbed by surface mining during the previous year;

(5) State and describe the amount and type of reclamation carried out during the previous year;

(6) Estimate the acreage to be newly disturbed by mining in the next year; and

(7) Provide any additional information or maps which the Department reasonably requires.

(b) In addition, at the end of each calendar year the operator shall furnish to the Department a new surveyed map, showing the status of the operation and indicating the area affected and reclaimed during the preceding year, particularly with relation to the property lines and boundaries shown on the map and survey furnished with the original application. A registered professional engineer or professional surveyor is not required to prepare this progress report map. However, if prepared by the operator's staff, the map shall be of reasonable quality, accuracy, and legibility, and acceptable to the Department. (1975, ch. 581.)

§ 7-6A-25. Inspection and approval of reclamation.

(a) At any reasonable time which the Department elects, but at least once a year, the Department shall cause each permit area to be inspected to determine if the operator has complied with the mining and reclamation plan, the requirements of this subtitle, any rules and regulations adopted under it, the terms and conditions of the operator's permit, and if the current status of the operation conforms with the most recent annual progress report. Accredited representatives of the Department at any reasonable time may enter on the land subject to the permit to inspect and investigate it but while on the property, Department personnel shall comply with all governmental regulations.

(b) The operator shall proceed with reclamation as scheduled in the approved mining and reclamation plan. Following each inspection, the Department shall notify the operator by registered mail of any deficiencies noted. The operator shall proceed with reclamation as scheduled in the approved mining and reclamation plan. Following each inspection, the Department shall notify the operator of any deficiencies noted. Upon failure by the permittee to correct these deficiencies, the Department may take action to suspend or revoke the permit as provided in § 7-6A-18.

(c) If the Department finds that reclamation of the permit area is not proceeding in accordance with the mining and reclamation plan, or if the Department finds that reclamation has not been properly completed in conformance with the mining and reclamation plan within two years or longer if authorized by the Department, after termination of mining on any segment of the permit area, or if the permittee has not complied with corrective requirements following revocation of a permit, it shall initiate forfeiture proceedings against the bond or other security filed by the operator. (1975, ch. 581.)

§ 7-6A-26. Abandoned or halted operations.

(a) An operation is considered abandoned if no mineral has been produced or overburden removed for a period of one year, and the operator has vacated the site of the operation covered by the permit without having complied with all the requirements of the mining and reclamation plan, verified by inspection and written report made by the Department. If the operator, within 30 days after receiving notification from the Department terming the operation abandoned, does not submit sufficient evidence to the Department that the operation in fact is not abandoned and a reasonable timetable satisfactory to the Department regarding plans for the resuscitation of the operation, the Department shall declare the operation abandoned and initiate legal proceedings against the operator.

(b) An operation is considered halted if active work has ceased temporarily due to weather conditions, market conditions, or other reasonable cause explained in writing by the operator to the satisfaction of the Department, and accompanied by a statement that the operator fully intends to resume active operation when the adverse conditions have passed. All necessary pollution controls shall be properly maintained during this period. No operation may be halted for a period exceeding 24 consecutive months, after which time mining activity shall be resumed or final reclamation work shall be commenced. On failure of the operator to resume mining or initiate reclamation, the Department shall declare the operation abandoned and initiate legal proceedings against the operator. (1975, ch. 581.)

§ 7-6A-27. Final completion inspection and report.

(a) On completion of reclamation of an area of affected land, the operator immediately shall notify the Department. The Department shall make an inspection of the area, and if it finds that the operator has not completed to the Department's reasonable satisfaction all the reclamation required by the permit, the Department shall order the operator to do so at once and shall reinspect the area following completion of the work. If the Department finds that reclamation has been completed properly, it shall notify the operator in writing and release him from further obligations regarding the affected land. At the same time it shall release all or the appropriate portion of any performance bond or cash deposit which the operator has posted under § 7-6A-20.

(b) Within six months following the completion of final reclamation work the operator shall furnish a final reclamation report which includes the following:

(1) The terms of the original surface mining permit and all subsequent modifications;

(2) A summary of the original mining and reclamation plan and all subsequent modifications;

(3) A statement summarizing any departures from the mining and reclamation plan and the reasons for them;

(4) A statement summarizing any problems encountered during the progress of mining work or reclamation work, and the measures taken to correct these problems;

(5) The total acreage of land disturbed and reclaimed;

(6) The status or condition of areas progressively reclaimed since the initiation of mining work in the area; and

(7) A final map that is consistent with the original mining and reclamation map required by § 7-6A-19 (b). (1975, ch. 581; 1978, ch. 765.)

Effect of amendment. — The 1978 amendment, effective July 1, 1978, rewrote paragraph (3) in subsection (b).

§ 7-6A-28. Specifications for construction projects.

Architects, engineers, or other persons preparing specifications for construction projects, which specifications include the requirement that the construction contractor supply fill for the project, shall include within the specifications a specific reference to this subtitle and the rules and regulations pertaining to it adopted by the Department. If this reference is omitted from the specifications and reclamation and planting of the land is required under this subtitle, any contract based on the specifications may be amended, at the option of the construction contractor, to allow a reasonable price for the reclamation and planting of the land in accordance with a plan acceptable to the Department. (1975, ch. 581.)

§ 7-6A-29. Injunctions.

On application of the Department, verified by oath or affirmation, the circuit court of the county or city where the mining operation is located, sitting in equity, may enforce by injunction compliance with, or restrain the violation of any order, notice, rule, or regulation of the Department made pursuant to the provisions of this subtitle or restrain the violation or attempted violation of any of the provisions of this subtitle. (1975, ch. 581.)

§ 7-6A-30. Inapplicability of subtitle.

This subtitle including rules, regulations, or orders, does not apply to surface mining operations on land leased or owned for more than five years, but their continuance and extension for 18 months from that date, but other great operations of existing surface mines may be continued only by permit if the Department under the provisions of this subtitle. (1975, ch. 581.)

§ 7-6A-31. Exemptions.

(a) (1) The provisions of this subtitle do not apply to activities of the State Highway Administration, any county roads department in the State, any fully constituted public governing entities such as municipal corporations, or to activities of any person acting under contract with any of these public

(c) *Department.* — "Department" means Department of Natural Resources.

(d) *Land.* — "Land" means real property, including improvements, rights-of-way, water, riparian or other vested rights, easements, privileges, and any other estate or interest in real property. (1979, ch. 399.)

§ 7-902. Legislative intent; administration of abandoned mine reclamation program.

It is the intention of the General Assembly to promote the reclamation of mined areas left without adequate reclamation which continue to degrade the quality of the environment, prevent or delay the beneficial use of land or water resources, or endanger land or water resources, or endanger the health or safety of the public. To accomplish the objectives, the Department is hereby authorized to administer an abandoned mine reclamation program consistent with the requirements of the federal Surface Mining Control and Reclamation Act. (1979, ch. 399.)

§ 7-903. [illegible] Reclamation Fund.

Any funds the Department receives pursuant to Title IV of the federal Surface Mining Control and Reclamation Act of 1977 shall be deposited to the credit of the State Treasurer. These funds, together with any other funds appropriated for the purposes of this subtitle, shall be maintained in a special fund on the books of the Comptroller of the Treasury in an account known as the "Federal-State Reclamation Fund." The Department shall use the funds to accomplish the purposes of this subtitle in accordance with the provisions of this subtitle. The provisions of this subtitle shall apply only to the "Federal-State Reclamation Fund." (1979, ch. 399.)

§ 7-904. Rules and regulations; cooperative projects.

(a) The Department is authorized to promulgate and enforce any rules and regulations necessary for the administration of this subtitle.

(b) The Department may enter into cooperative projects with other states or governmental bodies in order to carry out the purposes of this subtitle. (1979, ch. 399.)

§ 7-905. Development of reclamation plan; federal approval; application for and use of funds.

(a) The Department is authorized to develop a reclamation plan in accordance with the provisions of the federal Surface Mining Control and Reclamation Act of 1977, and to submit such plan to the federal government for approval pursuant to that Act.

(b) Subsequent to federal approval of the reclamation plan, the Department may apply for and accept any and all funds made available for reclamation, and shall allocate them in accordance with the provisions of this subtitle. Such funds may be used for all activities to eliminate health and safety effects of past coal mining practices, including but not limited to, planning and engineering expenses,

costs of plans, specifications, surveys, investigations and feasibility studies, construction and inspection costs, actual operation and maintenance costs of permanent facilities, and all administrative expenses. (1979, ch. 399.)

§ 7-906. Priorities; [illegible] for [illegible] and water eligible for reclamation expenditures.

(a) The expenditure of funds available for the purposes of this subtitle shall reflect the following priorities in the order stated:

(1) The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices;

(2) The restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices;

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

(4) Research and demonstration projects relating to the development of surface mining, reclamation and water quality control program methods and techniques;

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

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

(b) Lands and water eligible for reclamation expenditure under this title are those which were mined for coal, or which were affected by such mining, washeries, coal processing, or other coal mining processes and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or federal law. (1979, ch. 399.)

§ 7-907. Order authorizing entry for purpose of reclamation; lien on land; determination of increase in land's market value.

(a) If the Department makes a finding of fact that:

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

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

(3) The owners of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices are not known, or are not readily available, or

(4) The owners will not give permission for the Department, its agents, employees, or contractors to enter upon such property to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining practices.

Then, the Department may seek an order from the circuit court for the county in which the land or water resources is located authorizing the Department, its agents, employees, or contractors to enter upon the property adversely affected by past coal mining practices and any other property to have access to the affected property and to do all things necessary or expedient to restore, reclaim, abate, control, or prevent the adverse effects. The court shall consider whether the entry is a reasonable exercise of the police power for the protection of the public health, safety, and welfare and the actions of the Department pursuant to a court order shall not be construed as an act of condemnation of property nor of trespass thereon. The moneys expended for such work and the benefits accruing to any such premises so entered upon shall be chargeable against such land and shall mitigate or offset any claim in or any action brought by any owner of any interest in such premises for any alleged damages by virtue of such entry. This provision is not intended to create new rights of action or diminish existing immunities.

(b) Within [illegible] after completion of a project, pursuant to this section, the Department shall determine the moneys expended by the Department. If the aggregate increase in property values, as determined by a qualified appraiser as to the increase in value of the land attributable to the reclamation project with the clerk of the circuit court for the county in which the affected land lies. The statement shall constitute a lien upon the land for an amount equal to the increase in the value attributable to the project; provided that, no lien shall be filed:

(1) If the owner of the surface rights acquired the property prior to May 2, 1977, and such owner consented to, nor participated in, nor exercised control over the mining operation which necessitated the reclamation project;

(2) If the primary purpose of the reclamation project is to benefit the health, safety, and environmental values of the general public;

(3) If the cost of filing the lien exceeds the increase in the fair market value of the property as a result of the reclamation project; or

(4) If the reclamation project is necessitated by an act of God or an act of war and the project does not significantly increase the fair market value of the property.

(c) The landowner may, within 60 days of the filing of the lien, petition the circuit court to determine the increase in the market value of the land as a result of the reclamation project.

(d) The lien, provided in this section shall constitute a lien, in the said land as of the date of the expenditure of the moneys and shall have priority as a lien superior only to the lien of real estate taxes imposed upon said land. All funds so collected by the State pursuant to this section shall be credited to the Federal-State Reclamation Fund. (1979, ch. 399.)

agencies or entities, on highway rights-of-way or borrow pits maintained solely in connection with the construction, repair, and maintenance of the public roads systems of the State or other public facilities.

(2) This exemption does not become effective until the public agencies or entities have adopted reclamation standards applying to the activities and the standards are approved by the Department.

(b) The provisions of this subtitle do not apply to mining on federal lands when performed under a valid permit from the appropriate federal agency having jurisdiction over the land.

(c) Any or all of the provisions of this subtitle do not apply in any county if the Secretary determines that the county laws are as restrictive as the provisions of this subtitle with respect to regulating surface mining, reclamation and revegetation procedures, abandoned areas, and bonding requirements. (1975, ch. 581; 1976, ch. 623; 1978, ch. 361.)

Cross reference. — See Editor's note under § 7-6A-01 of this article.

Effect of amendments. — The 1976 amendment, effective July 1, 1976, added "Any or all of" at the beginning of present subsection (c).

The 1978 amendment, effective July 1, 1978, designated the former first sentence in subsection (a) as subsection (a) (1), added "or other public facilities" at the end thereof, designated the former second sentence in the subsection as subsection (a) (2), designated the former third sentence as present subsection (b), and redesignated former subsection (b) as subsection (c).

Subtitle 7A. Pozzolan.

§ 7-7A-01. "Pozzolan" defined.

Repealed by Acts 1975, ch. 532, § 1, effective July 1, 1975.

Cross reference. — As to present provisions pertaining to pozzolan, see § 7-461 of this article.

Editor's note. — The repealed section derived from Acts 1974, ch. 360. Chapter 532, Acts 1975, also repealed the subtitle heading "Pozzolan."

§ 7-7A-02. Use of pozzolan.

Repealed by Acts 1975, ch. 532, § 1, effective July 1, 1975.

Cross reference. — As to present provisions pertaining to pozzolan, see § 7-461 of this article.

Editor's note. — The repealed section derived from Acts 1974, ch. 360.

Subtitle 9. Abandoned Mine Reclamation.

§ 7-901. Definitions.

(a) *Generally.* — In this subtitle, the following words have the meanings indicated.

(b) *Board.* — "Board" means Board of Public Works.

§ 7-903. Acquisition of land.

(a) *Authority to acquire.* — The Department is authorized to acquire any land, by purchase, donation, or condemnation, which is adversely affected by past coal mining practices if it is determined that acquisition of such land is necessary to accomplish reclamation and that:

(1) The acquired land, after reclamation, restoration, abatement, control, or prevention of the adverse effects of past coal mining practices, will serve recreation and historic purposes, conservation and reclamation purposes or provide open space benefits; and

(2) Permanent facilities such as a treatment plant or a relocated stream channel will be constructed on the land for the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices; or

(3) Any [illegible] will be [illegible] emergency situations [illegible] mining practices.

(b) *Price.* — The total price paid for land acquired under this section shall reflect the market value of the land as adversely affected by past coal mining practices.

(c) *Title.* — Title to all land acquired pursuant to this section shall be in the name of the State.

(d) *Reclamation sale.* — Land acquired pursuant to this section, or land already in State ownership which is determined to be in need of reclamation, may be reclaimed as follows.

(1) The Department may proceed to reclaim such land in accordance with this subtitle;

(2) The Department may sell such land to the federal government on the condition that it be reclaimed in accordance with Title IV of the federal Surface Mining Control and Reclamation Act of 1977; or

(3) If land is deemed to be suitable for industrial, commercial, residential, or recreational development, the Department may sell it by competitive bidding upon condition that its use be consistent with local and State land use plans and that all adverse effects of past coal mining practices have been or will be eliminated.

(e) *Transfer for project to construct or rehabilitate housing.* — In addition to the authority contained above, the Department may acquire land by purchase, donation or condemnation and reclaim and transfer such land to any local government, person, firm, association, corporation or other entity, if it is determined that such action is an integral and necessary element of an economically feasible plan for a project to construct or rehabilitate housing for persons:

(1) Displaced as the result of employment in the mines or work incidental thereto;

(2) Displaced by the acquisition of land pursuant to this subtitle;

(3) Dislocated as the result of adverse effects of coal mining practices which constitute an emergency situation endangering the public health, safety, or general welfare; or

(4) Dislocated as the result of natural disasters or catastrophic failures from any cause.

Land transferred pursuant to this subsection need not be at fair market value; provided that no profit shall accrue to any entity due to the difference between fair market value and the price required by the Department. No part of any moneys available under this subtitle may be used to pay actual construction costs of housing.

(f) *Board action; disposition of funds received from sale.* — Any and all purchase, sale, or transfer of land pursuant to this subtitle shall be by action of the Board. All funds received by the State from the sale of land shall be credited to the Federal-State Reclamation Fund.

(g) *Hearing before decision concerning use or disposition after restoration.* — In all cases where land is acquired pursuant to this subtitle, the Department shall hold a public hearing in the county in which the land is located, for the purpose, and at a time which will ensure that local citizens and governments may participate in the decision concerning the proper use or disposition of the land after restoration. (1979, ch. 399.)

§ 7-209. Department's right of entry.

The Department shall have the right to enter upon any property where there is no reasonable expectation of privacy for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining practices and to determine the feasibility of restoration, reclamation, abatement, control, or prevention of such adverse effects. Such entry shall be construed as an exercise of the police power for the protection of public health, safety, and general welfare and shall not be construed as an act of condemnation of property or trespass. (1979, ch. 399.)

Subtitle 2. Organization and Authority of Unit Pertaining to Water and Water Resources — In General.

§ 8-201. Water resources administration.

(a) *Created and continued within department.* — The water resources administration is created and continued within the department.

(b) *Director of administration — Appointment, qualifications, and compensation.* — The Secretary appoints the director of the administration, who serves at his pleasure. The director shall have executive ability, experience, and knowledge of the principles of water resource planning, management, conservation, and administration. The director receives the salary provided in the state budget.

(c) *State — Authority.* — The director is responsible for the exercise of every power and duty conferred on the Department by the provisions of this title and delegated to him by the Secretary.

(d) *Staff of administration.* — The administration shall be adequately staffed and organized to carry out the provisions of this title and at salaries provided in the state budget. The director appoints and removes the administration's staff in accordance with the provisions of the Merit System Law, and subject to the Secretary's authority as provided in Title 1 of this article. When the provisions of the merit system provide for disciplinary or dismissal proceedings against employees to be brought by the appointing authority, the director is the appointing authority, unless the Secretary determines by written directive that he is the appointing authority. The director supervises and controls the staff who perform duties he prescribes. (An. Code 1957, art. 96A, § 3, 1973, 1st Sp. Sess., ch. 4, § 1.)

REVISOR'S NOTE

This section presently appears as Article 96A, § 3 of the Code.

Subsection (a) is new language repetitive of § 1-102 of this Article, created here for the convenience of the Code user interested only in the subject matter of Title 8.

Subsections (b) through (d) are a reorganization of present provisions for purposes of clarity. The only other changes are in style.

§ 8-202. Department advisory commissions.

(a) *Water Resources Advisory Commission created and continued.* — The Water Resources Advisory Commission is created and continued, within the department.

(b) *Chesapeake Bay and Coastal Zone Advisory Commission created and continued.* — The Chesapeake Bay and Coastal Zone Advisory Commission is created and continued within the department.

(c) *Members of certain former commissions may continue to serve unexpired term.* — Notwithstanding any other provision of this section, a member of the Commission on Chesapeake Bay Affairs and the Water Resources Commission as of June 30, 1972 may serve the remainder of his term as a member of an

advisory commission created and continued by law. (An. Code 1957, art. 96A, § 203, 1973, 1st Sp. Sess., ch. 4, § 1.)

REVISOR'S NOTE

This section is new language based upon Article 41, § 223 of the Code, as amended by Chapter 348, Acts of 1972. Chapter 348 established the Commission on Chesapeake Bay Affairs and the Water Resources Commission and created the Chesapeake Bay and Coastal Zone Advisory Commission and the Water Resources Advisory Commission.

While the creation of these two commissions is stated in Article 41, § 223, proposed § 1-102 of Title 1 of this article is repeated here for the convenience of the Code user interested in the subject matter of Title 8.

§ 8-203. General powers, duties, and responsibilities of Department.

(a) *Jurisdiction over natural resources.* — The department has general supervisory power, regulation, and control over the natural resources of the state within the boundaries of the tidal waters.

(b) *Responsibility to supervise development of general water resources program.* — The department shall exercise to the fullest extent possible the state's responsibility for its water resources by planning and supervising multiple purpose development and conservation of the waters of the state for the state's best interests and benefit. It shall develop a general water resources program which contemplates proper conservation and development of the waters of the state, in a manner compatible with multiple purpose management on a watershed or aquifer basis, or any other appropriate geographical unit. The program shall integrate and be consistent with functions of other state units. The department shall be guided by the program in the performance of its duties.

(c) *Management and development of Chesapeake Bay and other tidal waters.* — The department shall be responsible for planning, development, management, and conservation of the Chesapeake Bay and any other tidal waters, including their shore line and bottom, and any resources associated with these waters. Also, the department may:

(1) Plan and develop public recreational facilities in or on the waters of the Chesapeake Bay and other tidal waters;

(2) Act with other state units to plan public recreational facilities for the Chesapeake Bay and other tidal waters;

(3) Cooperate with other units to carry out measures to protect tidal water fronts and waterways of the state against erosion and deposit; and

(4) Act for the state to develop further navigation aids and improvement of waterways in the Chesapeake Bay and other tidal waters of the state.

(d) *Storage, [illegible] and studies; research and reports to [illegible] or [illegible] investigation.* — The department may make or cause to be made, surveys, investigations, and studies of water resources of the state necessary to provide sufficient information to formulate a program and perform its duties. The department may contract for research or scientific investigation with the Natural Resources Institute of the University of

§ 8-202. Department advisory commissions.

(a) *Water Resources Advisory Commission established.* — There is a Water Resources Advisory Commission in the Department.

(b) *Chesapeake Bay and Coastal Zone Advisory Commission established.* — There is a Chesapeake Bay and Coastal Zone Advisory Commission in the Department.

(1977, ch. 784, § 5.)

Effect of amendment. — The 1977 amendment, effective July 1, 1977, rewrote subsections (a) and (b).

§ 8-203. General powers, duties, and responsibilities of Department.

(g) *Orders for corrective measures.* — (1) The Department may issue orders for corrective measures to any person whom it believes to be violating any provision of this title or any rule or regulation adopted under this title.

(2) The person to whom an order is issued may request, within 10 days after the order, a hearing before the Department. The Department, by rule or regulation, shall adopt procedures by which the hearings shall be held.

(3) A court action for violation of the terms of an order may not be instituted unless the violator has had opportunity for an administrative hearing. However, regardless of whether an order for corrective measures has been issued, the Department at any time may refer an alleged violation of this title or any rule or regulation adopted under this title directly to the Attorney General for appropriate court action, and this subsection does not prevent the Attorney General from taking immediate action against the violator.

(1980, ch. 461.)

Effect of amendment. — The 1980 amendment, effective July 1, 1980, added subsection (g).

Subtitle 3. Interstate Water Compacts.

§ 8-301. Potomac River Basin Compact and Potomac River Basin Compact.

Editor's note. — The Potomac River Basin Compact was established in Virginia by Acts 1959, ch. 464 (Va. Code, §§ 62.1-104 to 62.1-74).

The Potomac River Basin Compact was created by New York laws 1958, Article VI of the New York Conservation Law, as the Potomac Valley Act No. 1 of the Regular Session of 1958, and was [illegible] by Chapter 1 of the Laws of 1958 [illegible] Act No. 1 [illegible] Article VI of the New York Conservation Law.

Petition

For Special Exception
8th District
Zoning: Petition for Special Exception
Location: North side of Padonia road, 357.46 feet west of Deereco road.
Date & Time: Thursday, October 9, 1980 at 9:45 A.M.
Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Special Exception for underground excavations, controlled, involving the use of explosives.

All that parcel of land in the Eighth District of Baltimore County

Beginning for the same at a point distant North 3° 28 minutes 20 seconds West 102.67 feet from a point in the centerline of Padonia road, said point in the centerline of Padonia road being located 357.46 feet westerly measured along the centerline of Padonia road from the intersection of the centerline of Padonia road with the center of Deereco road and running thence from said point of beginning parallel with and distant 50 feet northerly measured at right angles from the north right of way line of Padonia road, South 89° 00 minutes 00 seconds West 152.42 feet, thence North 42° 34 minutes 55 seconds West 116.28 feet, thence running parallel with and distant 100 feet northerly mesured radially and at right angles from the right of way lines of the ramp leading to the north bound lane of Interstate Route No. 83, the two following lines viz: Westerly by a line curving toward the left having a radius of 195.00 feet for a distance of 292.47 feet the chord of said arc bearing North 85° 33 minutes 00 seconds West 265.82 feet) and South 56° 34 minutes 20 seconds West 50.44 feet and thence running North 64° 17 minutes 37 seconds West 140.19 feet, thence running through the property of the Flintkote Company and parallel with and distant 30 feet from the outlines of the property of the Baltimore Gas and Electric Company's property, the eleven following courses and distances viz: North 3° 28 minutes 20 seconds West 714.77 feet, South 84° 14 minutes 00 seconds East 310.04 feet, North 46° 24 minutes 00 seconds East 425.33 feet, North 55° 14 minutes 40 seconds East 141.35 feet, South 41° 27 minutes 00 seconds East 136.09 feet, South 42° 59 minutes 20 seconds East 237.92 feet, South 40° 14 minutes 20 seconds East 61.30 feet, South 34° 21 minutes 20 seconds East 50.61 feet, South 30° 16 minutes 40 seconds East 191.78 feet, North 83° 46 minutes 30 seconds West 483.86 feet and South 3° 28 minutes 20 seconds East 699.31 feet to the place of beginning.

Containing 15.73 acres of land more or less.

Being the property of the Baltimore Gas and Electric Company and the Flintkote Company, as shown on plat plan filed with the Zoning Department.

Hearing Date:
Thursday, Oct. 9, 1980
AT 9:45 A.M.

Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.

BY ORDER OF
William E. Hammond
Zoning Commissioner
of Baltimore County

PETITION FOR SPECIAL EXCEPTION
8th DISTRICT

ZONING: Petition for Special Exception
LOCATION: North side of Padonia Road, 357.46 feet West of Deereco Road
DATE & TIME: Thursday, October 9, 1980 at 9:45 A.M.
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Special Exception for underground excavations, controlled, involving the use of explosives

All that parcel of land in the Eighth District of Baltimore County

Beginning for the same at a point distant North 3 degrees 28 minutes 20 seconds West 102.67 feet from a point in the centerline of Padonia Road, said point in the centerline of Padonia Road being located 357.46 feet westerly measured along the centerline of Padonia Road from the intersection of the centerline of Padonia Road with the center of Deereco Road and running thence from said point of beginning parallel with and distant 50 feet northerly measured at right angles from the north right of way line of Padonia Road, South 89 degrees 00 minutes 00 seconds West 152.42 feet, thence North 42 degrees 34 minutes 55 seconds West 116.28 feet, thence running parallel with and distant 100 feet northerly measured radially and at right angles from the right of way lines of the ramp leading to the north bound lane of Interstate Route No. 83, the two following lines viz: Westerly by a line curving toward the left having a radius of 195.00 feet for a distance of 292.47 feet (the chord of said arc bearing North 85 degrees 33 minutes 00 seconds West 265.82 feet) and South 56 degrees 34 minutes 20 seconds West 50.44 feet and thence running North 64 degrees 17 minutes 37 seconds West 140.19 feet, thence running through the property of the Flintkote Company and parallel with and distant 30 feet from the outlines of the property of the Baltimore Gas and Electric Company's property, the eleven following courses and distances viz: North 3 degrees 28 minutes 20 seconds West 714.77 feet, South 84 degrees 14 minutes 00 seconds East 310.04 feet, North 46 degrees 24 minutes 00 seconds East 425.33 feet, North 55 degrees 14 minutes 40 seconds East 141.35 feet, South 41 degrees 27 minutes 00 seconds East 136.09 feet, South 42 degrees 59 minutes 20 seconds East 237.92 feet, South 40 degrees 14 minutes 20 seconds East 61.30 feet, South 34 degrees 21 minutes 20 seconds East 50.61 feet, South 30 degrees 16 minutes 40 seconds East 191.78 feet, North 83 degrees 46 minutes 30 seconds West 483.86 feet and South 3 degrees 28 minutes 20 seconds East 699.31 feet to the place of beginning.

Containing 15.73 Acres of land, more or less.

Being the property of The Baltimore Gas and Electric Company and The Flintkote Company, as shown on plat plan filed with the Zoning Department.

Hearing Date: Thursday, October 9, 1980 at 9:45 A.M.

Public Hearing: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.

By Order Of
WILLIAM E. HAMMOND,
Zoning Commissioner
of Baltimore County

Sept. 18.

The Essex Times

Essex, Md., Sept 18 1980

This is to Certify, That the annexed Petition

was inserted in The Essex Times, a newspaper printed and published in Baltimore County, once in each of one successive weeks before the 18th day of Sept, 1980

Publisher.

CERTIFICATE OF PUBLICATION

TOWSON, MD., September 18, 1980

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., ~~once in each of~~ one time ~~successive weeks~~ before the 9th day of October, 1980, the first publication appearing on the 18th day of September 1980.

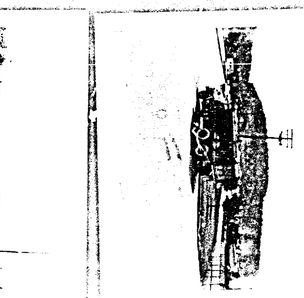
THE JEFFERSONIAN,

Manager.

Cost of Advertisement, $

ROLAND E. MANGER
Director Land Management

FLINTKOTE STONE PRODUCTS COMPANY
A FLINTKOTE COMPANY
Executive Plaza IV, Hunt Valley, Maryland 21031 (301) 628-4000



BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 091736

DATE 9/10/80 ACCOUNT 01-662
AMOUNT $50.00
RECEIVED FROM Richard A. Reid, Esquire
FOR Filing Fee for Case No. 81-75-X

VALIDATION OR SIGNATURE OF CASHIER

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 091773

DATE 9/29/80 ACCOUNT 01-662
AMOUNT $85.75
RECEIVED FROM Royston, Mueller, McLean & Reid
FOR Adv. & Posting for Case No. 81-75-X

VALIDATION OR SIGNATURE OF CASHIER

Cathold, Gross & Kisel
112 Delaware Avenue
Towson, Maryland 21204

Richard A. Reid, Esquire
102 W. Pennsylvania Avenue
Towson, Maryland 21204

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received and accepted for filing this 29th day of July, 1980.

WILLIAM E. HAMMOND
Zoning Commissioner

Petitioner Baltimore Gas & Electric Co. (The Flintkote Co.)
Petitioner's Attorney Richard A. Reid, Esquire
Reviewed by Nicholas B. Commodari
Chairman, Zoning Plans Advisory Committee

PETITION MAPPING PROGRESS SHEET

FUNCTION	Wall Map date	Wall Map by	Original date	Original by	Duplicate date	Duplicate by	Tracing date	Tracing by	200 Sheet date	200 Sheet by
Descriptions checked and outline plotted on map										
Petition number added to outline										
Denied										
Granted by ZC, BA, CC, CA										

Reviewed by: JRL
Previous case: 72-275X
Item 135

Revised Plans:
Change in outline or description ___ Yes ___ No
Map # ___

81-75-X

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 8th
Date of Posting Sept 19, 1980
Posted for: Petition for Special Exception
Petitioner: The Balto Gas & Elec. Co. & The Flintkote Co.
Location of property: N/S Padonia Rd. 357.46' W. of Deereco Road
Location of Signs: N/S Padonia Rd. approx. 50' W. of Deereco Rd.
Remarks:
Posted by Thomas A. Reloard Date of return: Sept. 26, 1980
Signature
Number of Signs: One

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received this 11th day of July, 1980*

Filing Fee $50.00 Received: ✓ Check ___ Cash ___ Other

Item 24

William E. Hammond, Zoning Commissioner

Petitioner Flintkote B G + E Submitted by Elaine White (acted as agent)

Petitioner's Attorney Richard Reid Reviewed by

*This is not to be interpreted as acceptance of the Petition for assignment of a hearing date.

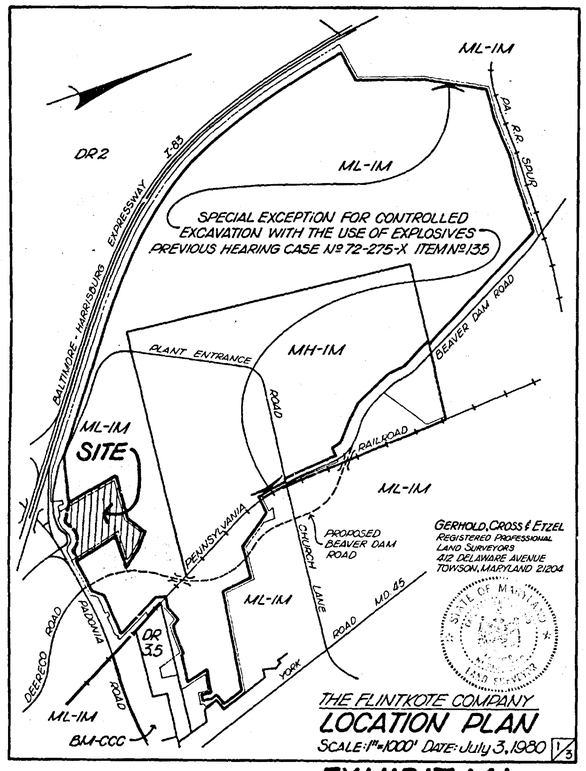


EXHIBIT '1'

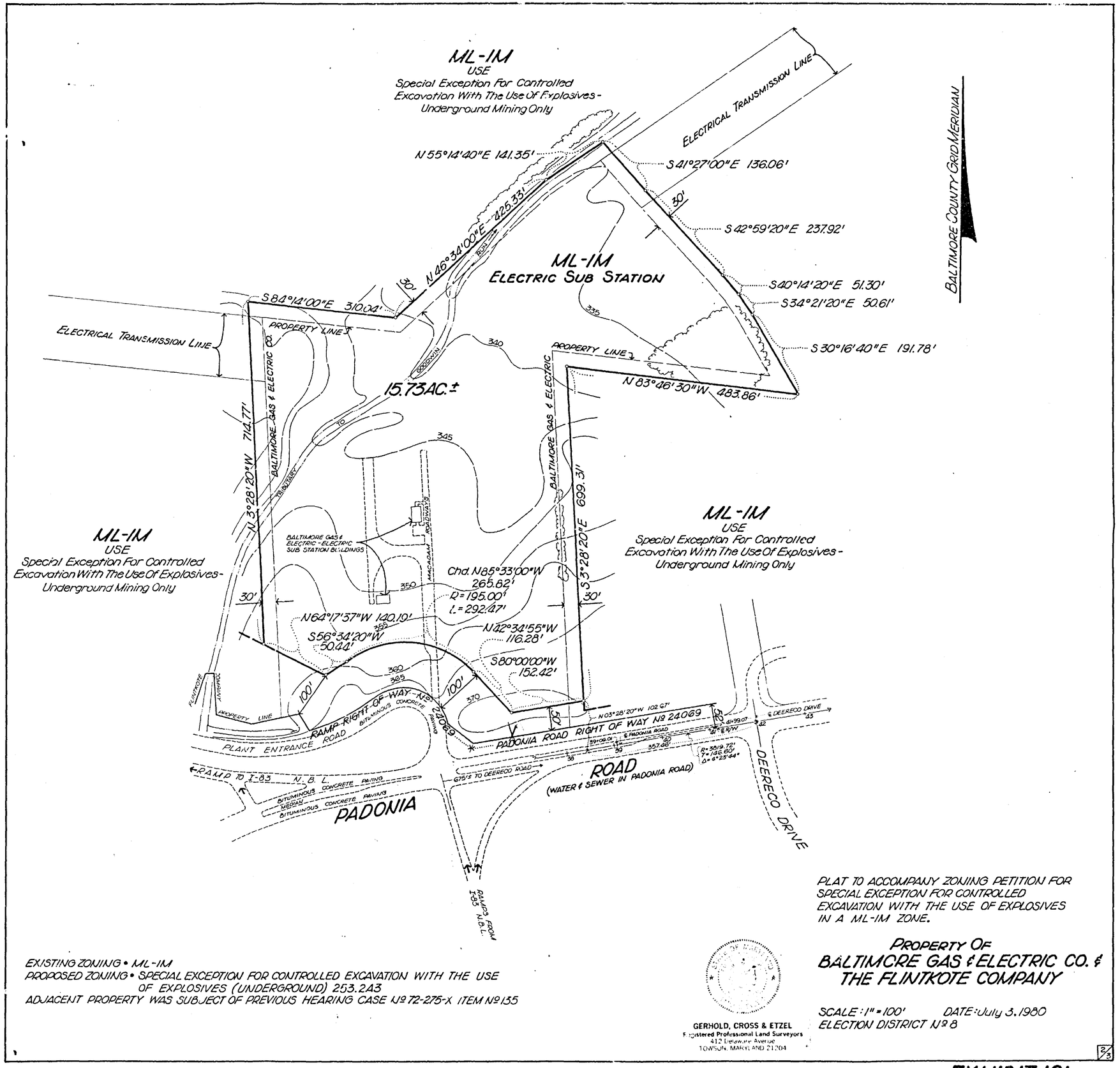
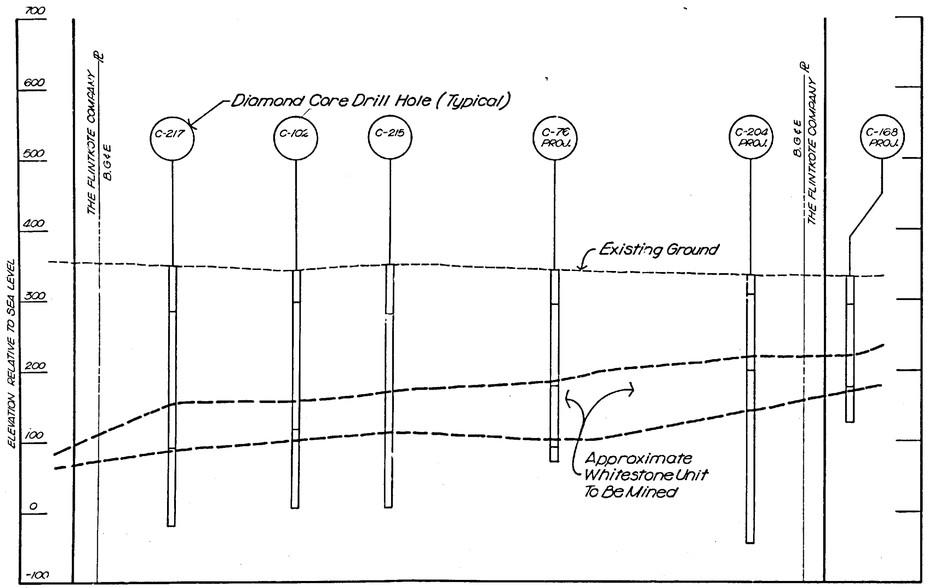
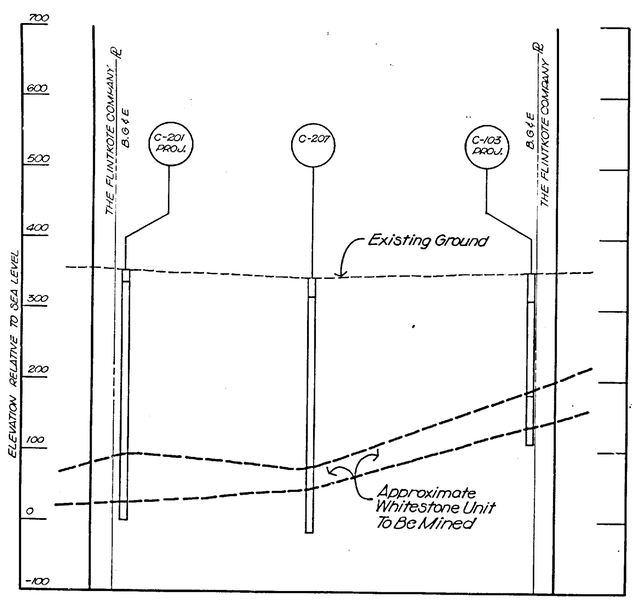


EXHIBIT '2'



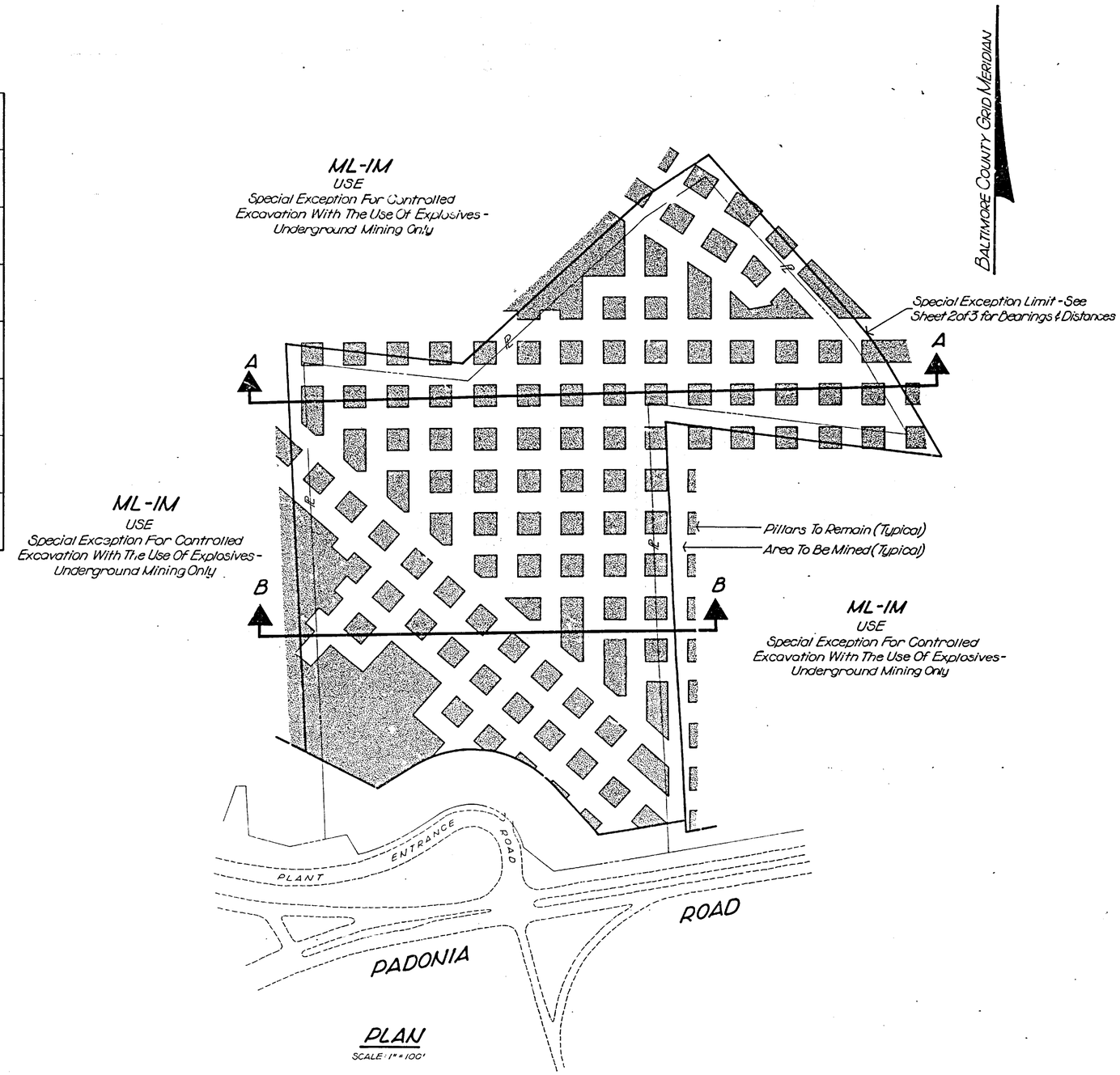
SECTION A-A

SCALE: 1"=100'



SECTION B-B

SCALE: 1"=100'



PLAN

SCALE: 1"=100'

PLAT SHOWING PROPOSED UNDERGROUND MINING PLAN & CROSS SECTIONS

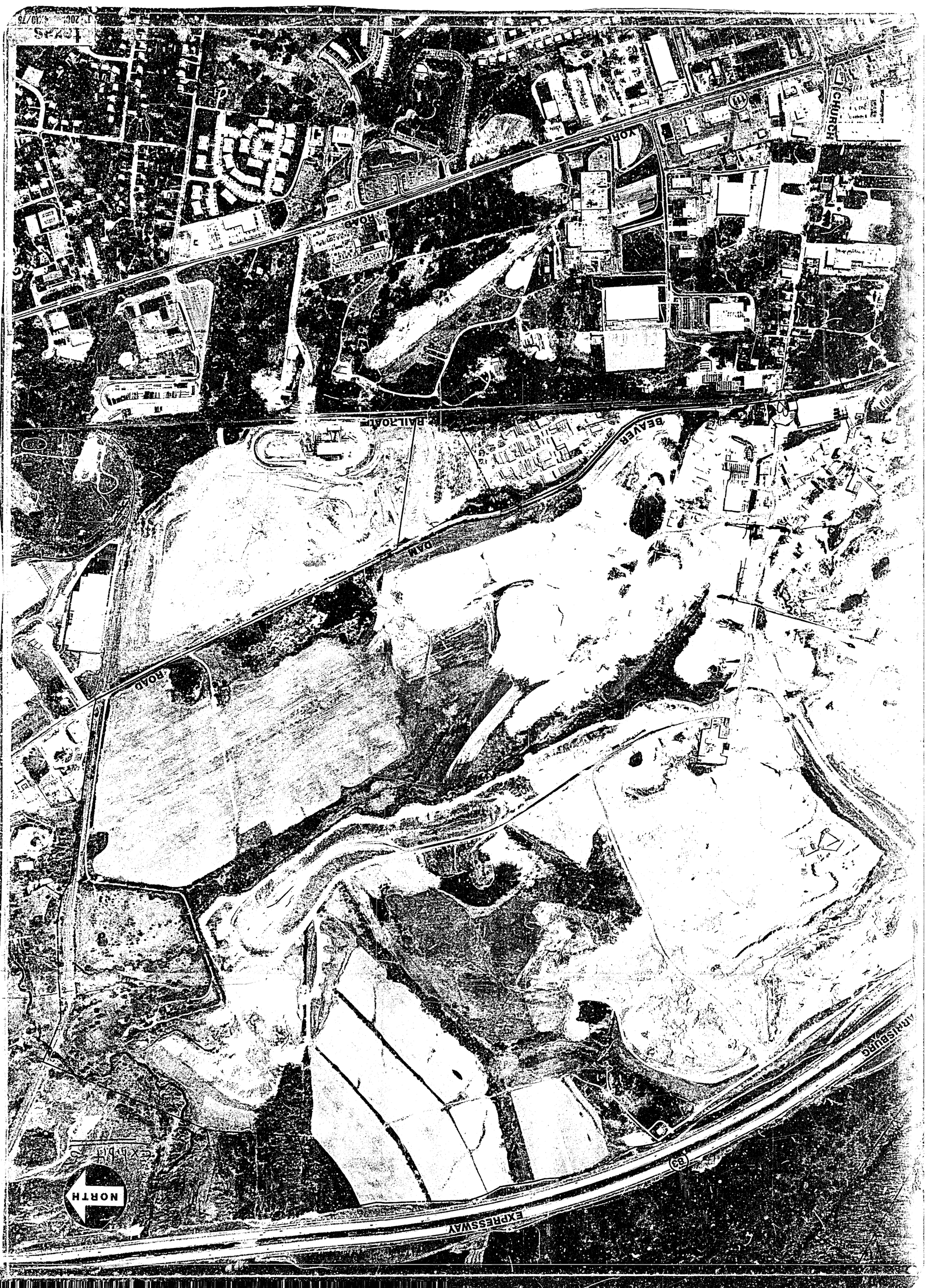
PROPERTY OF
BALTIMORE GAS & ELECTRIC CO. &
THE FLINTKOTE COMPANY

SCALE: As Shown
ELECTION DISTRICT No. 8

DATE: July 3, 1980

3/3

EXHIBIT '3'


CHURCH
YORK
RAILROAD
BEAVER
DAM
ROAD
HARRISBURG
EXPRESSWAY
83
NORTH