

HOUSE BILL No. 5979

June 30, 1992, Introduced by Rep. Alley and referred to the Committee on Conservation, Recreation and Environment.

A bill to amend the title and sections 1, 2, 3, 5, 6, 7, and 8 of Act No. 92 of the Public Acts of 1970, entitled as amended

"An act to provide for reclamation of lands subjected to the mining of minerals; to control possible adverse environmental effects of mining; to preserve the natural resources; to encourage the planning of future land use; and to promote the orderly development of mining, the encouragement of good mining practices, and the recognition and identification of the beneficial aspects of mining,"

being sections 425.181, 425.182, 425.183, 425.185, 425.186, 425.187, and 425.188 of the Michigan Compiled Laws; to add sections 2a, 2b, 5a, 5b, and 7a; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 1, 2, 3, 5, 6, 7, and 8
2 of Act No. 92 of the Public Acts of 1970, being sections 425.181,
3 425.182, 425.183, 425.185, 425.186, 425.187, and 425.188 of the

1 Michigan Compiled Laws, are amended and sections 2a, 2b, 5a, 5b,
2 and 7a are added to read as follows:

3 TITLE

4 An act to provide for reclamation of lands subjected to the
5 mining of minerals; to control possible adverse environmental
6 effects of mining; to ~~preserve~~ CONSERVE the natural resources;
7 to encourage the planning of future land use; ~~and~~ to promote
8 the orderly development of mining, the encouragement of good
9 mining practices, and the recognition and identification of the
10 beneficial aspects of mining; TO PROVIDE FOR CERTAIN FEES; AND TO
11 PRESCRIBE PENALTIES.

12 Sec. 1. As used in this act:

13 (A) "COMMISSION" MEANS THE COMMISSION OF NATURAL RESOURCES.

14 (B) ~~(a)~~ "Department" means the department of natural
15 resources.

16 (C) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT.

17 (D) ~~(b)~~ "Mining area" or "area subjected to mining" means
18 an area of land from which material is ~~hereafter~~ removed in
19 connection with the production or extraction of ~~minerals~~
20 MINERAL MATERIALS by UNDERGROUND OR SURFACE OR open pit mining
21 methods, the ~~lands~~ LAND on which material from ~~such~~ THE
22 mining is ~~hereafter~~ deposited, the ~~lands~~ LAND on which A ben-
23 eficiating or treatment ~~plants~~ PLANT and auxiliary ~~facilities~~
24 ~~are hereafter~~ FACILITY IS located, the ~~lands~~ LAND on which the
25 water ~~reservoirs~~ RESERVOIR used in the mining process ~~are~~
26 ~~hereafter~~ IS located, and auxiliary ~~lands which are hereafter~~
27 LAND THAT IS used.

1 (E) ~~-(e)-~~ "Operator" means an owner or lessee of mineral
2 rights OR ANY OTHER PERSON engaged in or preparing to engage in
3 UNDERGROUND OR SURFACE OR OPEN PIT mining. ~~operations with~~
4 ~~respect thereto for the production of mineral products.~~

5 (F) ~~-(d)-~~ "Person" means an individual, corporation, com-
6 pany, association, joint venture, partnership, receiver, trustee,
7 guardian, executor, administrator, personal representative, ~~or~~
8 private organization, OR A PUBLIC OR GOVERNMENTAL AGENCY.

9 (G) ~~-(e)-~~ "Stockpile" means material, including but not
10 limited to, surface overburden, rock or lean ore, which in the
11 process of mining and beneficiation or treatment has been removed
12 from the earth and stored on the surface thereof, but excluding
13 therefrom materials which are in the course of being treated in
14 the production of mineral products and the mineral product which
15 has been produced by such operation. "ROCKPILE" MEANS THAT ACCU-
16 MULATION OF WASTE ROCK OR LEAN ORE THAT IS ENCOUNTERED IN THE
17 PROCESS OF MINING.

18 (H) "RULE" MEANS A RULE PROMULGATED PURSUANT TO THE ADMINIS-
19 TRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
20 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
21 LAWS.

22 (I) ~~-(f)-~~ "Supervisor" means ~~the chief of the geological~~
23 ~~survey division of the department of natural resources~~ A PERSON
24 DESIGNATED BY THE DIRECTOR TO IMPLEMENT THIS ACT.

25 (J) ~~-(g)-~~ "Tailings basin" means land on which ~~is hereafter~~
26 ~~deposited by hydraulic means the~~ material which is separated
27 from the mineral product in the beneficiation or treatment of

1 ~~minerals including any~~ MINERAL MATERIALS, IS DEPOSITED, AND MAY
 2 INCLUDE A surrounding ~~dikes~~ DIKE constructed to contain the
 3 material.

4 (K) ~~(h)~~ "Mineral MATERIAL" means ~~coal, gypsum, stone,~~
 5 ~~metallic ore or material mined for its metallic content and other~~
 6 ~~similar solid material or~~ ANY substance to be excavated from
 7 natural deposits on or in the earth for commercial, industrial,
 8 or construction ~~uses. It~~ PURPOSES, INCLUDING LIMESTONE, DOLOS-
 9 TONE, SANDSTONE, SHALE, QUARTZITE, AND OTHER STONE, GYPSUM,
 10 GRAVEL, CLAY, SAND, AND IRON AND COPPER ORES OR OTHER MATERIAL
 11 MINED FOR ITS METALLIC CONTENT. MINERAL MATERIAL does not
 12 include ~~clay, gravel,~~ COAL, marl ~~,~~ OR peat or sand MINED FOR
 13 COMMERCIAL OR INDUSTRIAL PURPOSES, OR BOTH, FROM SAND DUNE AREAS
 14 REGULATED UNDER THE SAND DUNE PROTECTION AND MANAGEMENT ACT, ACT
 15 NO. 222 OF THE PUBLIC ACTS OF 1976, BEING SECTIONS 281.651 TO
 16 281.694 OF THE MICHIGAN COMPILED LAWS.

17 (L) ~~(i)~~ ~~Open~~ "SURFACE OR OPEN pit mining" means the
 18 mining of MORE THAN 10,000 TONS OF a mineral MATERIAL OR DISTURB-
 19 ING MORE THAN 1 ACRE OF LAND A YEAR in the regular operation of a
 20 business by removing the overburden lying above A natural
 21 ~~deposits thereof~~ DEPOSIT OF A MINERAL MATERIAL and mining
 22 directly from the natural ~~deposits thereby~~ DEPOSIT exposed or
 23 by mining directly from ~~deposits~~ A DEPOSIT lying exposed in
 24 ~~their~~ THE MINERAL MATERIAL'S natural state. ~~It~~ SURFACE OR
 25 OPEN PIT MINING INCLUDES ALL MINING BELOW THE WATER TABLE OR
 26 WHICH WILL UPON CESSATION OF MINING RESULT IN CREATING A BODY OF
 27 WATER OF ANY SIZE. SURFACE OR OPEN PIT MINING does not include

1 excavation or grading preliminary to a construction project.

2 ~~nor borrow operations for highway constructions.~~

3 (M) "RECLAMATION" MEANS THE ORDERLY REHABILITATION AND STA-
4 BILIZATION OF THE LAND SURFACE AND SURFACE RESOURCES SUBJECT TO
5 DISRUPTION FROM UNDERGROUND MINING OR SURFACE OR OPEN PIT
6 MINING. BOTH THE NEED FOR AND THE PRACTICABILITY OF RECLAMATION
7 SHALL CONTROL THE TYPE AND DEGREE OF RECLAMATION IN A SPECIFIC
8 INSTANCE. THE BASIC OBJECTIVE OF RECLAMATION SHALL BE TO REES-
9 TABLISH THE VEGETATIVE COVER, SOIL STABILITY, AND WATER CONDI-
10 TIONS ON A CONTINUING BASIS IN A MANNER THAT IS APPROPRIATE TO AN
11 INTENDED SUBSEQUENT USE OF THE AREA.

12 (N) "MINING AND RECLAMATION PLAN" MEANS THE OPERATOR'S WRIT-
13 TEN PROPOSAL AS APPROVED BY THE SUPERVISOR FOR MINING PROCEDURES
14 AND RECLAMATION OF THE RESULTING MINING AREAS OR ANY PORTION OF
15 THE MINING AREA INCLUDING MAPS AND OTHER SUPPORTING DOCUMENTS AS
16 REQUIRED BY THE SUPERVISOR.

17 (O) "OVERBURDEN" MEANS THE EARTH AND OTHER MATERIAL THAT
18 LIES ABOVE OR ALONGSIDE NATURAL MINERAL DEPOSITS AND INCLUDES ALL
19 EARTH, SOIL, AND OTHER MATERIAL DISTURBED FROM ITS NATURAL STATE
20 IN THE PROCESS OF MINING EXCLUSIVE OF THE MINED MINERAL
21 MATERIAL.

22 (P) "LEAN ORE" MEANS MATERIAL WHICH IS NOT RECOVERABLE UNDER
23 EXISTING ECONOMIC CONDITIONS.

24 (Q) "UNDERGROUND MINING" MEANS THE MINING OF MINERAL MATE-
25 RIAL BY THE CONSTRUCTION AND OPERATION OF UNDERGROUND SHAFTS,
26 ADITS, AND UNDERGROUND SUPPORT FACILITIES.

1 (R) "ABANDONED" OR "ABANDONMENT" MEANS TERMINATION OF MINING
2 OPERATIONS OR CESSATION OF USE OF THE MINING AREA OR ANY PORTION
3 OF THE MINING AREA, WITH THE INTENT NOT TO RESUME MINING
4 OPERATIONS.

5 Sec. 2. The supervisor ~~shall~~ MAY conduct ~~a~~ comprehen-
6 sive ~~study~~ STUDIES and ~~survey~~ SURVEYS in order to determine,
7 consistent with the intent of this act, the extent and type of
8 regulation of mining areas necessary in the public interest. The
9 supervisor shall consider the effects of mining upon ALL OF THE
10 FOLLOWING:

11 (a) THE environment. ~~—~~

12 (b) THE future use of the land upon completion of mining.

13 ~~—, and~~

14 (c) THE wise use and protection of the natural resources,
15 including ~~but not limited to,~~ the control of erosion, the pre-
16 vention of land or rock slides AND SUBSIDENCE, and air and water
17 pollution. The supervisor also shall consider ~~(a)~~ THE future
18 and economic effect of ~~such~~ THE regulations upon mine operators
19 and landowners, the surrounding communities and this state, ~~(b)~~
20 THE effect on employment in this state, ~~(c)~~ THE effect on the
21 future mining and development of ~~metallic minerals~~ MINERAL
22 MATERIALS, and ~~(d)~~ THE practical problems of mine operators and
23 mineral owners.

24 SEC. 2A. (1) SUBJECT TO APPROVAL OF THE COMMISSION, THE
25 DIRECTOR SHALL APPOINT 7 PERSONS TO SERVE ON AN ADVISORY BOARD TO
26 BE KNOWN AS THE MINING COUNCIL. FIVE MEMBERS OF THE MINING
27 COUNCIL SHALL BE SELECTED FROM MINING OPERATORS OR THEIR MANAGING

1 AGENTS OR REPRESENTATIVES HAVING OWNERSHIP, PRODUCTION, OR
2 OPERATIONS SUBJECT TO THIS ACT WITHIN THE STATE. HOWEVER, NOT
3 MORE THAN 1 REPRESENTATIVE FROM 1 COMPANY OR ANY OF ITS SUBSIDI-
4 ARIES OR AFFILIATES SHALL BE APPOINTED TO THE MINING COUNCIL.
5 TWO MEMBERS OF THE MINING COUNCIL SHALL BE REPRESENTATIVES OF THE
6 GENERAL PUBLIC.

7 (2) THE TERM OF EACH MEMBER OF THE MINING COUNCIL IS 3
8 YEARS. HOWEVER, OF THOSE FIRST APPOINTED, 2 SHALL SERVE FOR 1
9 YEAR, 2 FOR 2 YEARS, AND 3 FOR 3 YEARS. THE DIRECTOR SHALL FILL
10 A VACANCY OCCURRING IN THE MINING COUNCIL SUBJECT TO THE APPROVAL
11 OF THE COMMISSION, AND MAY REMOVE ANY MEMBER OF THE MINING COUN-
12 CIL FOR GOOD CAUSE AFTER PUBLIC HEARING AND APPROVAL BY THE
13 COMMISSION. EACH MEMBER OF THE MINING COUNCIL, UNLESS REMOVED IN
14 THE MANNER PROVIDED IN THIS SUBSECTION, SHALL SERVE UNTIL THE
15 APPOINTMENT AND QUALIFICATION OF A SUCCESSOR.

16 (3) EACH MEMBER OF THE MINING COUNCIL SHALL QUALIFY BY
17 TAKING AND SUBSCRIBING TO THE CONSTITUTIONAL OATH OF OFFICE AND
18 BY FILING THIS OATH IN THE OFFICE OF THE SECRETARY OF STATE. THE
19 MEMBERS OF THE MINING COUNCIL, AFTER HAVING QUALIFIED, SHALL
20 IMMEDIATELY, AND ANNUALLY THEREAFTER, MEET AT THE OFFICE OF THE
21 SUPERVISOR IN LANSING AND ORGANIZE BY ELECTING A CHAIRPERSON AND
22 VICE-CHAIRPERSON. FOUR MEMBERS OF THE MINING COUNCIL CONSTITUTE
23 A QUORUM FOR THE TRANSACTION OF BUSINESS. THE MINING COUNCIL
24 SHALL HOLD AT LEAST 1 MEETING EVERY 6 MONTHS AND SUCH OTHER MEET-
25 INGS AS IT CONSIDERS NECESSARY UPON SUCH NOTICE AS THE MINING
26 COUNCIL PROVIDES, UNLESS SUCH NOTICE IS WAIVED BY EACH MEMBER.
27 MEETINGS SHALL BE HELD AT THE OFFICE OF THE SUPERVISOR AT

1 LANSING, OR AT SUCH OTHER PLACE IN THE STATE AS SCHEDULED BY THE
2 MINING COUNCIL OR THE SUPERVISOR. MEETINGS SHALL BE CALLED BY
3 THE CHAIRPERSON OR IN HIS OR HER ABSENCE BY THE VICE-CHAIRPERSON,
4 OR BY A MAJORITY OF THE MEMBERS OF THE MINING COUNCIL OR BY THE
5 SUPERVISOR.

6 (4) THE MINING COUNCIL SHALL, WHEN REQUESTED BY THE COMMIS-
7 SION AND THE SUPERVISOR, CONSULT WITH AND ADVISE THE COMMISSION
8 AND THE SUPERVISOR, AND SHALL PERFORM SUCH OTHER DUTIES AS ARE
9 DELEGATED TO IT BY THE SUPERVISOR IN THE ADMINISTRATION OF THIS
10 ACT. THE MINING COUNCIL MAY PARTICIPATE OFFICIALLY IN ALL PUBLIC
11 HEARINGS PROVIDED FOR IN THIS ACT, AND, UPON REQUEST BY THE
12 MINING COUNCIL, MAY CONSULT WITH THE SUPERVISOR WITH RESPECT TO A
13 DETERMINATION THAT IS MADE AT THE HEARING.

14 (5) THE MINING COUNCIL SHALL, AT ALL REASONABLE TIMES, HAVE
15 ACCESS TO ALL OFFICE RECORDS, DOCUMENTS, AND ORDERS OF THE SUPER-
16 VISOR EXCEPTING RECORDS THAT ARE CONFIDENTIAL. THE SUPERVISOR
17 SHALL INFORM THE MINING COUNCIL BY BULLETINS OR BY AN OTHERWISE
18 AGREED PLAN AS TO THE CONDUCT OF THE SUPERVISOR RELATIVE TO THE
19 ENFORCEMENT OF THIS ACT.

20 (6) THE SUPERVISOR AND HIS OR HER EMPLOYEES SHALL, IN ADDI-
21 TION TO THEIR SALARIES, RECEIVE THEIR REASONABLE EXPENSES WHILE
22 TRAVELING UPON BUSINESS CONNECTED WITH THEIR DUTIES. THE MEMBERS
23 OF THE MINING COUNCIL SHALL NOT RECEIVE COMPENSATION, BUT EACH
24 MEMBER IS ENTITLED TO REASONABLE EXPENSES WHILE TRAVELING IN THE
25 PERFORMANCE OF ANY OF THE DUTIES IMPOSED UNDER THIS ACT. ALL
26 SALARIES AND EXPENSES AUTHORIZED BY THIS SECTION SHALL BE PAID
27 OUT OF THE STATE TREASURY IN THE SAME MANNER AS THE SALARIES AND

1 EXPENSES OF OTHER OFFICERS AND EMPLOYEES OF THE DEPARTMENT ARE
2 PAID.

3 (7) THE DEPARTMENT OF MANAGEMENT AND BUDGET SHALL FURNISH
4 SUITABLE OFFICES FOR THE USE OF THE SUPERVISOR, HIS OR HER
5 EMPLOYEES, AND THE MINING COUNCIL.

6 SEC. 2B. (1) THERE IS ESTABLISHED AN ABANDONED MINE RECLA-
7 MATION FUND FOR THE PURPOSE OF RECLAMATION AND TREATMENT OF
8 MINING AREAS ADVERSELY AFFECTED BY PAST MINING, INCLUDING, BUT
9 NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

10 (A) RECLAMATION AND TREATMENT OF ABANDONED SURFACE MINE
11 AREAS, ABANDONED PROCESSING AREAS, ABANDONED ROCK AND OVERBURDEN
12 PILES.

13 (B) SEALING AND FILLING ABANDONED DEEP MINE ENTRIES AND
14 VOIDS.

15 (C) VEGETATION AND GRADING OF LAND ADVERSELY AFFECTED BY
16 PAST MINING TO PREVENT EROSION AND SEDIMENTATION.

17 (D) PREVENTION, ABATEMENT, TREATMENT, AND CONTROL OF WATER
18 POLLUTION CREATED BY MINE DRAINAGE

19 (E) CONTROL OF MINE SUBSIDENCE.

20 (F) FENCING OF AREAS AFFECTED BY PAST MINING THAT EXHIBITS A
21 SIGNIFICANT PUBLIC SAFETY HAZARD.

22 (2) THE SUPERVISOR SHALL CONSULT WITH THE MINING COUNCIL AS
23 TO ABANDONED MINE RECLAMATION FUND EXPENDITURES AND SHALL RECEIVE
24 APPROVAL FROM THE COMMISSION BEFORE FUNDS ARE EXPENDED.

25 Sec. 3. (1) ~~On completion of the study and survey, the~~
26 THE supervisor ACTING DIRECTLY OR THROUGH AN AUTHORIZED
27 REPRESENTATIVE may ~~promulgate rules pertaining to mining~~

~~1 operations conducted subsequent to their effective date and~~
~~2 subject to the provisions of any rights existing pursuant to any~~
~~3 permit, license, lease or other valid existing authorization~~
~~4 issued by a governmental entity, and subject to applicable mine~~
~~5 safety laws or rules~~ DO ALL OF THE FOLLOWING:

6 (A) PROMULGATE RULES TO IMPLEMENT AND ADMINISTER THIS ACT
7 AND ISSUE ORDERS, INCLUDING EMERGENCY ORDERS, AND INSTRUCTIONS
8 NECESSARY TO ENFORCE THE RULES.

9 (B) ISSUE EMERGENCY ORDERS WITHOUT A PUBLIC HEARING TO CARRY
10 OUT THE PROVISIONS OF THIS ACT.

11 (C) DO WHATEVER MAY BE NECESSARY WITH RESPECT TO THE SUBJECT
12 MATTER STATED IN THIS ACT TO CARRY OUT THE PURPOSES OF THIS ACT.

13 (2) AN EMERGENCY ORDER ISSUED UNDER THIS ACT SHALL NOT
14 REMAIN IN FORCE AND EFFECT FOR MORE THAN 60 DAYS.

15 (3) THE RULES PROMULGATED UNDER THIS ACT SHALL INCLUDE
16 PROVISIONS for the following purposes:

17 (a) The sloping, terracing, PLANTING WITH VEGETATION, or
18 other ~~practical~~ treatment of ~~stockpiles~~ ROCKPILES, OVERBURDEN
19 PILES, and tailings basins where erosion is occurring or is
20 likely to occur which results or may result in injury or damage
21 to fish and wildlife, the pollution of public waters, or which
22 ~~is causing or might cause~~ CAUSES OR MAY CAUSE injury to the
23 property or person of others.

24 (b) The PLANTING OF vegetation or other ~~practical~~ treat-
25 ment of ROCKPILES, OVERBURDEN PILES, AND tailings basins ~~and~~
26 ~~stockpiles~~ upon ~~becoming permanently inactive where~~
27 ABANDONMENT IF substantial natural vegetation is not expected

1 within 5 years and ~~where~~ IF research reveals that THE PLANTING
2 OF vegetation can reasonably be accomplished. ~~within practical~~
3 ~~limitations.~~ HOWEVER, A PROGRESSIVE ONGOING VEGETATIVE COVER
4 PLAN APPROVED BY THE SUPERVISOR SHALL BE REQUIRED FOR SAND OR
5 GRAVEL MINING OPERATIONS.

6 (c) The stabilization AND TERRACING of the surface overbur-
7 den banks of open pits in rock and the entire bank of open pits
8 in unconsolidated materials upon their abandonment.

9 (d) The cleanup of A plantsite and mining ~~areas~~ AREA and
10 the removal of debris ~~therefrom on termination of the mining~~
11 ~~operation~~ FROM THE PLANTSITE AND MINING AREA UPON ABANDONMENT.

12 (E) POSTING AND FENCING OF A BODY OF WATER OF ANY SIZE,
13 PRODUCT STOCKPILES HAVING A SLOPE OF 30 DEGREES OR GREATER AND
14 PIT WALLS OF GREATER THAN 30 DEGREES ALL OF WHICH DIRECTLY RESULT
15 FROM MINING. IN ANY CASE FENCING SHALL BE CHAIN LINK VARIETY AND
16 NOT LESS THAN 8 FEET IN HEIGHT.

17 (F) THE ADMINISTRATION OF THE ABANDONED MINE RECLAMATION
18 FUND.

19 (4) THE SUPERVISOR, UPON APPLICATION BY THE LANDOWNER OR
20 OPERATOR AND AFTER HOLDING A PUBLIC HEARING, MAY MODIFY OR PERMIT
21 VARIANCE FROM THE RULES PROMULGATED UNDER THIS ACT IF HE OR SHE
22 DETERMINES THAT THE MODIFICATION OR VARIANCE IS NOT CONTRARY TO
23 THE PUBLIC INTEREST OR SAFETY.

24 Sec. 5. (1) The supervisor OR THE SUPERVISOR'S AUTHORIZED
25 REPRESENTATIVE shall administer and enforce this act and the
26 rules promulgated ~~pursuant hereto. He may (a) consult~~ UNDER
27 THIS ACT.

1 (2) THE SUPERVISOR OR THE SUPERVISOR'S AUTHORIZED
2 REPRESENTATIVE MAY DO THE FOLLOWING:

3 (A) CONSULT with and obtain the assistance of ~~the other~~
4 ~~divisions~~ A DIVISION of the department. ~~, (b) enter on the~~

5 (B) ENTER mining areas WITHOUT PRIOR NOTICE in connection
6 with ~~any~~ AN investigation and inspection without liability to
7 the operator or landowner. ~~if reasonable prior notice of his~~
8 ~~intention to do so has been given the operator or landowner, and~~
9 ~~(c) conduct such~~

10 (C) CONDUCT OR AUTHORIZE research, INVESTIGATIONS, EXPERI-
11 MENTS, OR DEMONSTRATIONS or enter into contracts AND ACCEPT
12 GRANTS related to mining areas and the reclamation ~~thereof~~ OF
13 MINING AREAS as may be necessary to carry out ~~the provisions of~~
14 ~~section 2 to section 5~~ THIS ACT.

15 (D) COLLECT AND DISSEMINATE INFORMATION RELATING TO MINING
16 AND THE RECLAMATION OF MINED LAND.

17 SEC. 5A. ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION
18 AN OPERATOR SHALL NOT ENGAGE IN UNDERGROUND OR SURFACE OR OPEN
19 PIT MINING WITHOUT OBTAINING A MINING AND RECLAMATION PLAN
20 APPROVAL FROM THE SUPERVISOR. A SEPARATE MINING AND RECLAMATION
21 PLAN SHALL BE REQUIRED FOR EACH SEPARATE MINING OPERATION.
22 BEFORE RECEIVING A MINING AND RECLAMATION PLAN APPROVAL FROM THE
23 SUPERVISOR, AN OPERATOR SHALL SUBMIT AN APPLICATION ON A FORM
24 PROVIDED BY THE SUPERVISOR, WHICH SHALL CONTAIN PLANS OF OPERA-
25 TION AND RECLAMATION WITHIN THE AREA SUBJECTED TO MINING, AND ANY
26 OTHER PERTINENT DATA THAT IS REQUIRED BY THE SUPERVISOR.

1 SEC. 5B. (1) WITHIN 120 DAYS OF THE RECEIPT OF THE
2 APPLICATION BY THE SUPERVISOR UNDER SECTION 5A AND RECEIPT OF THE
3 FILING FEE UNDER SECTION 6, THE SUPERVISOR MAY EITHER APPROVE THE
4 APPLICANT'S PLAN OR RETURN AN INCOMPLETE OR INADEQUATE APPLICA-
5 TION TO THE APPLICANT ALONG WITH A DESCRIPTION OF THE
6 DEFICIENCIES. THE SUPERVISOR SHALL NOT APPROVE A MINING AND REC-
7 LAMATION PLAN IF THE SUPERVISOR CONSIDERS THAT RECLAMATION AS
8 REQUIRED BY THIS ACT OR RULES PROMULGATED UNDER THIS ACT CANNOT
9 BE ACCOMPLISHED; THAT THERE MAY BE IRREPARABLE OFF SITE IMPACTS
10 TO THE HYDROLOGIC BALANCE; OR THAT THE PLAN WILL CAUSE DAMAGE TO
11 ADJACENT OWNERS' PROPERTY.

12 (2) IF A MINING AND RECLAMATION PLAN IS NOT APPROVED BY THE
13 SUPERVISOR WITHIN 120 DAYS AFTER RECEIPT OF THE APPLICATION UNDER
14 SUBSECTION (1), THE SUPERVISOR MAY GRANT PROVISIONAL AUTHORITY TO
15 OPERATE AND SET THE AMOUNT OF THE PERFORMANCE BOND OR OTHER
16 SECURITY REQUIRED. A PROVISIONAL AUTHORITY TO MINE SHALL BE PUR-
17 SUANT TO CONDITIONS PRESCRIBED BY THE SUPERVISOR UNTIL A MINING
18 AND RECLAMATION PLAN IS APPROVED AND SHALL REMAIN IN EFFECT ONLY
19 IF THE OPERATOR COMPLIES WITH THE REQUIREMENTS ESTABLISHED BY THE
20 SUPERVISOR.

21 (3) IF THE SUPERVISOR REFUSES TO APPROVE A MINING AND RECLA-
22 MATION PLAN IN THE FORM SUBMITTED BY THE OPERATOR, THE SUPERVISOR
23 SHALL NOTIFY THE OPERATOR, IN WRITING, STATING THE REASONS FOR
24 THE REFUSAL AND LISTING THE CHANGES OR ADDITIONAL REQUIREMENTS TO
25 THE OPERATOR'S PLAN THAT ARE NECESSARY FOR THE APPROVAL OF THE
26 PLAN BY THE SUPERVISOR. WITHIN 60 DAYS, THE OPERATOR SHALL
27 EITHER ACCEPT THE CHANGES OR ADDITIONAL REQUIREMENTS AS PART OF

1 THE RECLAMATION PLAN OR FILE A REQUEST FOR HEARING. IF A REQUEST
2 FOR HEARING IS FILED BY THE OPERATOR, A PROVISIONAL AUTHORITY TO
3 MINE MAY BE GRANTED AS SPECIFIED IN THIS SECTION.

4 (4) THE MINING AND RECLAMATION PLAN MAY BE MODIFIED, AFTER
5 TIMELY NOTICE AND OPPORTUNITY FOR HEARING, AT ANY TIME FOR ANY OF
6 THE FOLLOWING REASONS:

7 (A) TO MODIFY THE REQUIREMENTS SO THAT THE REQUIREMENTS WILL
8 NOT CONFLICT WITH EXISTING LAW.

9 (B) IF THE SUPERVISOR DETERMINES THAT THE APPROVED MINING
10 AND RECLAMATION PLAN IS CLEARLY IMPOSSIBLE OR IMPRACTICABLE TO
11 IMPLEMENT AND MAINTAIN.

12 (C) IF THE SUPERVISOR DETERMINES THAT THE APPROVED MINING
13 AND RECLAMATION PLAN IS NOT ACCOMPLISHING THE INTENT OF THIS ACT
14 AND THE RULES PROMULGATED UNDER THIS ACT.

15 (D) IF THE OPERATOR AND THE SUPERVISOR MUTUALLY AGREE TO
16 CHANGE THE MINING AND RECLAMATION PLAN.

17 (5) A MINING AND RECLAMATION PLAN FILING FEE SHALL NOT BE
18 CHARGED FOR A PUBLIC OR GOVERNMENTAL AGENCY IF THE PUBLIC OR GOV-
19 ERNMENTAL AGENCY IS THE OPERATOR.

20 (6) THE PROCEEDS OF THE MINING AND RECLAMATION PLAN FILING
21 FEE SHALL BE CREDITED TO THE GENERAL FUND AND SHALL BE AVAILABLE
22 FOR APPROPRIATION BY THE LEGISLATURE FOR THE COST OF MONITORING,
23 SURVEILLANCE, ENFORCEMENT, AND ADMINISTRATION OF THIS ACT.

24 Sec. 6. (1) For the purpose of information and to assist
25 the supervisor in proper enforcement of ~~such~~ THIS ACT AND THE
26 rules PROMULGATED UNDER THIS ACT an operator ~~, within 120 days~~

1 ~~after the effective date of the act,~~ shall ANNUALLY ON OR BEFORE
2 MARCH 15 file ALL OF THE FOLLOWING with the supervisor: ~~a-~~

3 (A) A plan map in the form determined by the supervisor
4 showing all ~~existing~~ mining areas or areas subjected to mining
5 by the operator ~~. Annually thereafter, on or before March 15,~~
6 ~~the operator shall file a plan map in similar form~~ AND showing
7 any changes made during the preceding calendar year and SHOWING
8 the mining area which ~~he~~ THE OPERATOR anticipates will be sub-
9 jected to mining during the current calendar year. ~~The supervi-~~
10 ~~sor periodically shall ascertain the long range land environment~~
11 ~~plans of the operator.~~

12 (B) A REPORT SHOWING THE MARKET VALUE OF THE MINERAL MATERI-
13 ALS MINED AND PROCESSED AT THE MINING AREA AND THE PROGRESS OF
14 RECLAMATION ACTIVITIES OF THE OPERATOR FOR THE PRECEDING YEAR.

15 (2) THE ANNUAL FILING FEES REQUIRED UNDER THIS ACT ARE AS
16 FOLLOWS:

17 (A) THE BASIC MINING AND RECLAMATION FILING FEE FOR CLAY,
18 SAND, OR GRAVEL SURFACE OR OPEN PIT MINING OPERATIONS IS \$50.00
19 PER YEAR PLUS \$10.00 FOR EACH ACRE OF THE MINING AREA WHICH WAS
20 NEWLY AFFECTED DURING THE PREVIOUS CALENDAR YEAR. THIS FEE SHALL
21 BE SUBMITTED WITH THE PERMIT APPLICATION AND EACH YEAR THEREAFTER
22 WITH SUBMISSION OF THE REPORT AND MAPS REQUIRED UNDER SUBSECTION
23 (1).

24 (B) THE BASIC MINING AND RECLAMATION FILING FEE FOR A COM-
25 BINED SAND OR GRAVEL PERMIT WITHIN A COUNTY IS \$50.00 PER YEAR
26 FOR 1 MINING AREA AND \$10.00 A YEAR FOR EACH ADDITIONAL MINING
27 AREA WITHIN THAT COUNTY, PLUS \$10.00 FOR EACH ACRE OF THE MINING

1 AREA THAT WAS NEWLY AFFECTED DURING THE PREVIOUS CALENDAR YEAR.
2 THIS FEE SHALL BE SUBMITTED WITH THE PERMIT APPLICATION AND EACH
3 YEAR THEREAFTER WITH SUBMISSION OF THE REPORT AND MAPS REQUIRED
4 UNDER SUBSECTION (1).

5 (C) THE BASIC MINING AND RECLAMATION PLAN FILING FEE FOR
6 UNDERGROUND, SURFACE, OR OPEN PIT MINING OPERATIONS OTHER THAN
7 CLAY, SAND, OR GRAVEL IS \$150.00 PER YEAR PLUS \$10.00 FOR EACH
8 ACRE OF THE MINING AREA WHICH WAS NEWLY AFFECTED DURING THE PRE-
9 VIOUS CALENDAR YEAR. THIS FEE SHALL BE SUBMITTED WITH THE APPLI-
10 CATION AND EACH YEAR THEREAFTER WITH SUBMISSION OF THE REPORT AND
11 MAPS REQUIRED UNDER SUBSECTION (1).

12 (3) FOR THE PURPOSES OF SURVEILLANCE, MONITORING, ADMINIS-
13 TRATION, AND ENFORCEMENT OF THIS ACT, AND IN ADDITION TO THE
14 MINING AND RECLAMATION PLAN FILING FEE, THE SUPERVISOR SHALL
15 ASSESS A FEE TO EACH OPERATOR BASED ON A FRACTION OF THE MARKET
16 VALUE OF THE MINERAL MATERIALS MINED WITHIN A MINING AREA FOR THE
17 CALENDAR YEAR AS DESCRIBED IN SECTION 6(1)(B) OF THIS ACT.
18 SEVENTY-FIVE PERCENT OF THE FUNDS COLLECTED BY THE ASSESSMENT
19 SHALL NOT EXCEED THE ACTUAL COSTS TO THE DEPARTMENT IN IMPLEMENT-
20 ING THIS ACT. THE REMAINING 25% OF THE FUNDS COLLECTED SHALL BE
21 DEPOSITED IN THE ABANDONED MINE RECLAMATION FUND.

22 (4) THE FEE DESCRIBED IN SUBSECTION (3) IS DUE NOT MORE THAN
23 30 DAYS AFTER THE DEPARTMENT SENDS WRITTEN NOTICE TO THE OPERATOR
24 OF THE AMOUNT DUE.

25 (5) THE DEPARTMENT SHALL ASSESS AGAINST THE OPERATOR A PEN-
26 ALTY EQUAL TO 10% OF THE AMOUNT DUE, OR \$10,000.00, WHICHEVER IS
27 GREATER, FOR A FEE NOT PAID WHEN DUE. AN UNPAID FEE AND PENALTY

1 ARE A DEBT AND MAY BECOME THE BASIS OF A JUDGMENT AGAINST THE
2 OPERATOR. PENALTIES PAID PURSUANT TO THIS SECTION SHALL BE USED
3 FOR THE IMPLEMENTATION, ADMINISTRATION, AND ENFORCEMENT OF THIS
4 ACT.

5 Sec. 7. The supervisor ~~, if he has reasonable doubts as to~~
6 ~~an operator's financial ability to comply with the rules as to~~
7 ~~actions to be taken after completion of mining operations or any~~
8 ~~phase thereof,~~ may require an operator to furnish a performance
9 bond, ~~or other~~ security, or assurance satisfactory to the
10 supervisor ~~. The~~ TO ASSURE COMPLIANCE WITH THIS ACT, THE RULES
11 PROMULGATED UNDER THIS ACT, AND THE APPROVED MINING AND RECLAMA-
12 TION PLAN. IN DETERMINING THE AMOUNT OF THE BOND, SECURITY, OR
13 ASSURANCE, THE SUPERVISOR SHALL CONSIDER THE CHARACTER AND NATURE
14 OF THE MINING AREA, FUTURE SUITABLE USE OF THE LAND INVOLVED, AND
15 THE COST OF RECLAMATION THAT IS LIKELY TO BE REQUIRED. THE
16 SUPERVISOR MAY REQUIRE AN OPERATOR TO FURNISH INFORMATION NECES-
17 SARY TO ESTIMATE THE COST OF RECLAIMING THE MINING AREA. IN
18 APPLYING THIS SECTION, THE supervisor may postpone furnishing of
19 the REQUIRED bond, security, or assurance depending upon the life
20 of the mining operation INVOLVED.

21 SEC. 7A. A PERSON WHO IS AGGRIEVED BY AN ACTION OR INACTION
22 OF THE SUPERVISOR MAY REQUEST A CONTESTED CASE HEARING ON THE
23 MATTER INVOLVED. THE HEARING SHALL BE CONDUCTED PURSUANT TO THE
24 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE
25 PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE
26 MICHIGAN COMPILED LAWS. A DETERMINATION, ACTION, OR INACTION BY

1 THE SUPERVISOR FOLLOWING THE HEARING IS SUBJECT TO REVIEW AS SET
2 FORTH IN ACT NO. 306 OF THE PUBLIC ACTS OF 1969.

3 Sec. 8. (1) IF THE SUPERVISOR OR AN AUTHORIZED AGENT OF THE
4 SUPERVISOR FINDS THAT AN OPERATOR IS NOT IN COMPLIANCE WITH THIS
5 ACT, AN ORDER ISSUED UNDER THIS ACT, A RULE PROMULGATED UNDER
6 THIS ACT, OR THE APPROVED MINING AND RECLAMATION PLAN, THE SUPER-
7 VISOR MAY SUSPEND THE ACTIVITIES ON THE MINING AREA OR ANY POR-
8 TION OF THE MINING AREA FOR NOT LONGER THAN 30 DAYS.

9 (2) At the request of the supervisor, the attorney general
10 may institute an action in a circuit court ~~of the county in~~
11 ~~which the mining operation affected is conducted~~ for a restrain-
12 ing order, ~~or~~ injunction, or other appropriate remedy to pre-
13 vent ~~or preclude~~ a violation ~~of the terms and conditions~~ of
14 THIS ACT, any rule promulgated ~~hereunder~~ UNDER THIS ACT, OR THE
15 APPROVED MINING AND RECLAMATION PLAN.

16 (3) A PERSON WHO VIOLATES THIS ACT, RULES PROMULGATED UNDER
17 THIS ACT, OR AN APPROVED MINING AND RECLAMATION PLAN IS GUILTY OF
18 A MISDEMEANOR, PUNISHABLE BY A FINE OF NOT MORE THAN \$5,000.00.
19 EACH DAY THAT THE VIOLATION CONTINUES CONSTITUTES A SEPARATE
20 OFFENSE.

21 Section 2. Section 4 of Act No. 92 of the Public Acts of
22 1970, being section 425.184 of the Michigan Compiled Laws, is
23 repealed.