

all times retain bonds in [the] AN amount sufficient to insure completion of the reclamation plan by the Department in the event of forfeiture which amount may not be less than \$10,000.

7-516.

(E) 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.

7-517.

(b) (1) In addition to any other remedies available at law or in equity, a civil penalty may be assessed for violation of any provision of this subtitle, or rule, regulation, order or permit issued under it; AND SHALL BE ASSESSED WHENEVER THE BUREAU ISSUES A CEASE AND DESIST ORDER ON IMMINENT DANGER OR SIGNIFICANT IMMINENT ENVIRONMENTAL HARM UNDER § 7-507(E) 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 (4) OF THIS SUBSECTION. Where the person charged with the violation fails to request a public hearing, a 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 [the wilfulness of the violation; the nature and extent of the damage or potential damage to land and structures including adjacent land and structures, and general welfare, safety and health; and the effect of the violation on the rate and effectiveness of reclamation of the affected area.]:

(I) THE WILLFULLNESS 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