

## Chapter 19. Reclamation.

### Sec. 27.19.010. Administration; applicability.

(a) The commissioner of natural resources shall implement this chapter.

(b) This chapter applies to state, federal, municipal, and private land and water subject to mining operations.

(c) Except as provided in AS 27.19.040(b), this chapter does not apply to an activity regulated under AS 27.21.

(d) This chapter does not alter or diminish the authority of another state agency, a state corporation, the University of Alaska, or a municipality under its laws and regulations.

(e) The owner of private land may establish requirements for reclamation in excess of those established by this chapter.

(f) The commissioner may not require a miner to reclaim under this chapter that portion of a previously mined area that was a part of a mining operation activity occurring before October 15, 1991.

### Sec. 27.19.020. Reclamation standard.

A mining operation shall be conducted in a manner that prevents unnecessary and undue degradation of land and water resources, and the mining operation shall be reclaimed as contemporaneously as practicable with the mining operation to leave the site in a stable condition.

### Sec. 27.19.030. Reclamation plan.

(a) Except as provided in AS 27.19.050, a miner may not engage in a mining operation until the commissioner has approved a reclamation plan for the mining operation.

(b) In reviewing a reclamation plan for state, federal, or municipal land under (a) of this section, the commissioner may consider, after consultation with the commissioners of environmental conservation and fish and game and with the concurrence of the miner and landowner, uses to which the land may be put after mining has been completed, including trails, lakes, recreation sites, fish and wildlife enhancement, commercial, and agriculture uses.

### Sec. 27.19.040. Reclamation financial assurance.

(a) The commissioner shall require an individual financial

assurance in an amount not to exceed an amount reasonably necessary to ensure the faithful performance of the requirements of the approved reclamation plan. The commissioner shall establish the amount of the financial assurance to reflect the reasonable and probable costs of reclamation. The assurance amount may not exceed \$750 for each acre of mined area, except that the \$750 an acre limitation does not apply to the assurance amount required for a lode mine.

(b) The commissioner shall establish a statewide bonding pool for mining operations as an alternative to individual financial assurance. The commissioner may determine which mining operations are eligible to participate in the bonding pool based on the projected cost of reclamation in relation to the size of the bonding pool; however, a mining operation may not be allowed to participate in the bonding pool if the mining operation will chemically process ore or has the potential to generate acid. A miner participating in the bonding pool shall contribute an initial deposit not to exceed 15 percent of the financial assurance amount plus an additional nonrefundable annual fee not to exceed five percent of the financial assurance amount. The commissioner shall refund the 15 percent deposit upon satisfactory completion of the approved reclamation plan. If requested by the miner, the commissioner may apply the deposit to a new reclamation plan. In addition to its use for mining operations under this chapter, the commissioner shall allow the bonding pool to be used to meet the requirements of AS 27.21.160. Income and other earnings on the bonding pool shall be added to the bonding pool.

(c) If the commissioner determines that a miner has violated or permitted a violation of the approved reclamation plan and has failed to comply with a lawful order of the commissioner, the commissioner shall forfeit the financial assurance and deposit it in the statewide bonding pool. The commissioner shall use the reclamation and administrative costs recovered under AS 27.19.070(a) to supplement the forfeited financial assurance deposited in the statewide bonding pool for reclamation of the site subject to the forfeiture. If the commissioner is unable to recover the full cost of reclamation under AS 27.19.070(a), the commissioner may use the bonding pool to reclaim the site to the standards of this chapter, except that the commissioner may not use a deposit that is refundable under (b) of this section to fulfill another miner's reclamation obligation.

(d) A miner not required to post a financial assurance may submit a reclamation plan under AS 27.19.030(a) and participate

in the bonding pool.

(e) A miner may satisfy the requirement under this section for an individual financial assurance by providing, in a form acceptable to and approved by the commissioner, any of the following:

(1) a surety bond;

(2) a letter of credit;

(3) a certificate of deposit;

(4) a corporate guarantee that meets the financial tests set in regulation by the commissioner;

(5) payments and deposits into the trust fund established in AS 37.14.800; or

(6) any other form of financial assurance that meets the financial test or other conditions set in regulation by the commissioner.

**Sec. 27.19.050. Exemption for small operations.**

(a) AS 27.19.030(a) and 27.19.040 do not apply to a mining operation

(1) where less than five acres are mined at one location in any year and there is a cumulative unreclaimed mined area of less than five acres at one location; or

(2) where less than five acres and less than 50,000 cubic yards of gravel or other materials are disturbed or removed at one location in any year and there is a cumulative disturbed area of less than five acres at one location.

(b) To obtain an exemption under (a) of this section, a miner shall file a letter of intent notifying the commissioner of the

(1) total acreage and volume of material to be mined;

(2) total acreage to be reclaimed; and

(3) reclamation measures to be used.

(c) A miner exempt under (a) of this section shall file an annual reclamation statement with the commissioner disclosing the total acreage and volume of material mined by the operation in the current year, the total acreage reclaimed, and the specific reclamation measures used to comply with AS 27.19.020.

A miner does not qualify for an exemption under (a) of this section for subsequent operations unless the annual reclamation statement for the previous operation has been filed with the commissioner.

(d) A miner exempted from the requirements of AS 27.19.030(a) and 27.19.040 under (a) of this section that fails to reclaim a mining operation to the standards of AS 27.19.020 is required for two consecutive years to conduct each subsequent mining operation, regardless of size, under an approved reclamation plan and to provide an individual financial assurance.

**Sec. 27.19.060. Cooperative management agreements.**

The commissioner, on a determination that an agreement is in the best interest of the state, may enter into a cooperative management agreement with the federal government or a state agency to implement a requirement of this chapter or a regulation adopted under it.

**Sec. 27.19.070. Violations.**

(a) A miner who violates or permits a violation of an approved reclamation plan and fails to comply with a lawful order of the commissioner forfeits the financial assurance or a portion of the assurance and is liable to the state in a civil action for the full amount of reclamation and administrative costs incurred by the state related to the action. A miner exempted under AS 27.19.050(a) is subject to civil action for the full amount of reclamation and administrative costs incurred by the state related to the action if the commissioner determines that reclamation was not conducted under AS 27.19.020.

(b) In addition to other remedies available under this chapter, the commissioner may suspend or revoke permits or approvals of operations not being conducted under the approved reclamation plan and deny future mining permits and approvals under this title and AS 38 related to the mining operation for failure to reclaim the mining operation to the standards of this chapter.

(c) A miner who has forfeited a financial assurance or has been held liable in a civil action under (a) of this section may conduct future mining operations only after posting a reclamation risk assessment fee equal to five times the amount of financial assurance established under AS 27.19.040(a) for the proposed mining operation. The reclamation assessment fee shall be refunded after two consecutive years of operation consistent with this chapter.

**Sec. 27.19.080. Administrative Procedure Act; regulations.**

(a) Except as provided in AS 44.37.011, AS 44.62 (Administrative Procedure Act) applies to this chapter.

(b) The commissioner may adopt regulations to carry out the purposes of this chapter.

**Sec. 27.19.100. Definitions.**

In this chapter,

(1) "lode mine" means a mining operation that removes the minerals from consolidated rock rather than from a placer deposit;

(2) "materials" means sand, gravel, riprap, rock, limestone, slate, peat, and other substances from the ground that are not locatable or leasable under state law;

(3) "mined area"

(A) means an active site of physical extraction, stockpiling, or the disposal of ore, overburden, tailings, or processed materials, stream diversions, bypasses, and settling ponds;

(B) does not include reclaimed areas approved by the commissioner;

(4) "miner" means the owner, operator, or leaseholder of a mining operation;

(5) "mining operation"

(A) means each function, work, facility, and activity in connection with the development, extraction, and processing of

(i) a locatable or leasable mineral deposit except oil, gas, or coal;

(ii) other materials or of a sand and gravel deposit; and

(iii) each use reasonably incident to the development, extraction, and processing of a locatable or leasable mineral deposit or materials;

(B) includes the construction of facilities, roads, transmission lines, pipelines, and other support facilities;

(6) "reclamation plan" means a plan submitted by a miner

under regulations adopted by the commissioner for the reclamation of a proposed mining operation;

(7) "stable condition" means the rehabilitation, where feasible, of the physical environment of the site to a condition that allows for the reestablishment of renewable resources on the site within a reasonable period of time by natural processes;

(8) "state land" includes

(A) the land of the University of Alaska;

(B) the land of state corporations;

(9) "unnecessary and undue degradation"

(A) means surface disturbance greater than would normally result when an activity is being accomplished by a prudent operator in usual, customary, and proficient operations of similar character and considering site specific conditions;

(B) includes the failure to initiate and complete reasonable reclamation under the reclamation standard of AS 27.19.020 or an approved reclamation plan under AS 27.19.030(a).