



LAWS OF ALASKA

1990

Chapter No.

92

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HCS CSSB 544 (Res) am H

AN ACT

Relating to the reclamation of land and water; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1, LINE 9

Approved by the Governor: June 6, 1990
Actual Effective Date: Sections 2 and 3 take effect June 7, 1990; section 1 takes effect October 15, 1991

AM ACT

Relating to the reclamation of land and water; and providing for an effective date.

* Section 1. AS 27 is amended by adding a new chapter to read:

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.

1 Sec. 27.19.030. RECLAMATION PLAN. (a) Except as provided in
2 AS 27.19.050, a miner may not engage in a mining operation until the
3 commissioner has approved a reclamation plan for the mining operation.

4 (b) In reviewing a reclamation plan for state, federal, or
5 municipal land under (a) of this section, the commissioner may consid-
6 er, after consultation with the commissioners of environmental conser-
7 vation and fish and game and with the concurrence of the miner and
8 landowner, uses to which the land may be put after mining has been
9 completed, including trails, lakes, recreation sites, fish and wild-
10 life enhancement, commercial, and agriculture uses.

11 Sec. 27.19.040. RECLAMATION BONDING. (a) The commissioner
12 shall require an individual performance bond in an amount not to
13 exceed an amount reasonably necessary to ensure the faithful perfor-
14 mance of the requirements of the approved reclamation plan. The
15 commissioner shall establish the amount of the performance bond to
16 reflect the reasonable and probable costs of reclamation but the bond
17 may not exceed \$750 for each acre of mined area.

18 (b) The commissioner shall establish a statewide bonding pool
19 for mining operations as an alternative to individual performance
20 bonds. A miner participating in the bonding pool shall contribute an
21 initial deposit not to exceed 15 percent of the reclamation bond plus
22 an additional nonrefundable annual fee not to exceed five percent of
23 the reclamation bond. The commissioner shall refund the 15 percent
24 deposit upon satisfactory completion of the approved reclamation plan.
25 If requested by the miner, the commissioner may apply the deposit to a
26 new reclamation plan. The commissioner may allow the bonding pool to
27 be used to meet the requirements of AS 27.21.160.

28 (c) If the commissioner determines that a miner has violated or
29 permitted a violation of the approved reclamation plan and has failed
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to comply with a lawful order of the commissioner, the commissioner shall forfeit the performance bond and deposit the bond 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 bond 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.

(d) A miner not required to post a bond may submit a reclamation plan under AS 27.19.030(a) and participate in the bond pool.

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

Chapter 92

1 reclamation measures used to comply with AS 27.19.020. A miner does
2 not qualify for an exemption under (a) of this section for subsequent
3 operations unless the annual reclamation statement for the previous
4 operation has been filed with the commissioner.

5 (d) A miner exempted from the requirements of AS 27.19.030(a)
6 and 27.19.040 under (a) of this section that fails to reclaim a mining
7 operation to the standards of AS 27.19.020 is required for two consec-
8 utive years to conduct each subsequent mining operation, regardless of
9 size, under an approved reclamation plan and to post a performance
10 bond.

11 Sec. 27.19.060. COOPERATIVE MANAGEMENT AGREEMENTS. The commis-
12 sioner, on a determination that an agreement is in the best interest
13 of the state, may enter into a cooperative management agreement with
14 the federal government or a state agency to implement a requirement of
15 this chapter or a regulation adopted under it.

16 Sec. 27.19.070. VIOLATIONS. (a) A miner who violates or per-
17 mits a violation of an approved reclamation plan and fails to comply
18 with a lawful order of the commissioner forfeits the reclamation bond
19 or a portion of the bond and is liable to the state in a civil action
20 for the full amount of reclamation and administrative costs incurred
21 by the state related to the action. A miner exempted under AS 27.19.-
22 050(a) is subject to civil action for the full amount of reclamation
23 and administrative costs incurred by the state related to the action
24 if the commissioner determines that reclamation was not conducted
25 under AS 27.19.020.

26 (b) In addition to other remedies available under this chapter,
27 the commissioner may suspend or revoke permits or approvals of op-
28 erations not being conducted under the approved reclamation plan and
29 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 reclamation bond 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 bond liability 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. The Administrative Procedure Act (AS 44.62) applies to this chapter.

Sec. 27.19.100. DEFINITIONS. In this chapter,

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

(2) "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;

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

(4) "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

Chapter 92

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;

(5) "reclamation plan" means a plan submitted by a miner under regulations adopted by the commissioner for the reclamation of a proposed mining operation;

(6) "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.

(7) "state land" includes

(A) the land of the University of Alaska;

(B) the land of state corporations;

(8) "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).

* Sec. 2. The commissioner of natural resources shall adopt regulations implementing AS 27.19 as enacted in sec. 1 of this Act. The proposed regulations shall be forwarded on their preparation to the chairs of the resource committees of the legislature, but in any case not later than January 15, 1991. The commissioner may not adopt the regulations before

October 15, 1991.

* Sec. 3. AS 27.05.250 is repealed.

* Sec. 4. Sections 2 and 3 of this Act take effect immediately under

AS 01.10.070(c).

* Sec. 5. Section 1 of this Act takes effect October 15, 1991.