

Original sponsor(s): Resources Committee

1 IN THE SENATE BY THE RESOURCES COMMITTEE  
2 HOUSE CS FOR CS FOR SENATE BILL NO. 544 (Resources)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to the reclamation of land and  
7 water; and providing for an effective date."

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

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

10 CHAPTER 19. RECLAMATION.

11 Sec. 27.19.010. ADMINISTRATION; APPLICABILITY. (a) The commis-  
12 sioner of natural resources shall implement this chapter.

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

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

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

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

22 Sec. 27.19.020. RECLAMATION STANDARD. A mining operation shall  
23 be conducted in a manner that prevents unnecessary and undue degrada-  
24 tion of land and water resources and the mining operation shall be  
25 reclaimed as contemporaneously as practicable with the mining opera-  
26 tion to leave the site in a stable condition.

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

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

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

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

25 (c) If the commissioner determines that a miner has violated or  
26 permitted a violation of the approved reclamation plan and has failed  
27 to comply with a lawful order of the commissioner, the commissioner  
28 shall forfeit the performance bond and deposit the bond in the state-  
29 wide bonding pool. The commissioner shall use the reclamation and

1 administrative costs recovered under AS 27.19.070(a) to supplement the  
2 forfeited bond deposited in the statewide bonding pool for reclamation  
3 of the site subject to the forfeiture. If the commissioner is unable  
4 to recover the full cost of reclamation under AS 27.19.070(a), the  
5 commissioner may use the bonding pool to reclaim the site to the  
6 standards of this chapter.

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

9 Sec. 27.19.050. EXEMPTION FOR SMALL OPERATIONS. (a) AS 27.19.-  
10 030(a) and 27.19.040 do not apply to a mining operation

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

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

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

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

21 (2) total acreage to be reclaimed; and

22 (3) reclamation measures to be used.

23 (c) A miner exempt under (a) of this section shall file an  
24 annual reclamation statement with the commissioner disclosing the  
25 total acreage and volume of material mined by the operation in the  
26 current year, the total acreage reclaimed, and the specific reclama-  
27 tion measures used to comply with AS 27.19.020. A miner does not  
28 qualify for an exemption under (a) of this section for subsequent  
29 operations unless the annual reclamation statement for the previous

1 operation has been filed with the commissioner.

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

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

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

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

29 (c) A miner who has forfeited a reclamation bond or has been

1 held liable in a civil action under (a) of this section may conduct  
2 future mining operations only after posting a reclamation risk assess-  
3 ment fee equal to five times the bond liability for the proposed  
4 mining operation. The reclamation assessment fee shall be refunded  
5 after two consecutive years of operation consistent with this chapter.

6 Sec. 27.19.080. ADMINISTRATIVE PROCEDURE ACT. The Administra-  
7 tive Procedure Act (AS 44.62) applies to this chapter.

8 Sec. 27.19.100. DEFINITIONS. In this chapter,

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

12 (2) "mined area"

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

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

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

21 (4) "mining operation"

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

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

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

28 (iii) each use reasonably incident to the develop-  
29 ment, extraction, and processing of a locatable or leasable

1 mineral deposit or materials;

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

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

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

11 (7) "state land" includes

12 (A) the land of the University of Alaska;

13 (B) the land of state corporations;

14 (8) "unnecessary and undue degradation"

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

19 (B) includes the failure to initiate and complete  
20 reasonable reclamation under the reclamation standard of AS 27.-  
21 19.020 or an approved reclamation plan under AS 27.19.030(a).

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

28 \* Sec. 3. AS 27.05.250 is repealed.

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

1 AS 01.10.070(c).

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