

State of Alaska Chapter 27.19

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. 27.19.060. 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).

Sec. 27.20.031. Correcting unsafe conditions.

If, upon examination, a mine or a portion of it is found to be in an unsafe condition as defined by regulations adopted under this chapter or if proper first aid or mine rescue measures have not been adopted, the department shall at once serve notice in writing upon the owner, lessee, agent, operator, manager, or superintendent of the mine, setting out the nature of the defects that render the mine unsafe or insecure and the place in the mine where the defects exist, and require the repairs necessary to remedy the defects to be made within a specified time. If circumstances require it, the department shall forbid the operation of the mine or portion of it that is declared unsafe or insecure, except for the purpose of making necessary repairs to make the mine safe for employees in it and for the purpose of permitting inspection and investigation of the conditions described in the notice.

Chapter 97

Mining Reclamation

Article 1

Applicability

11 AAC 97.100. Applicability

(a) This chapter applies to the approval of reclamation plans, reclamation bonding, and enforcement of reclamation requirements under [AS 27.19](#) for locatable mineral, leasable mineral, and material mining operations on state, federal, municipal, and private land. [AS 27.19](#) and this chapter do not apply to a recreational placer mining operation using no

mechanized earthmoving equipment other than a dredge with a suction hose six inches or less in diameter, powered by an engine of 18 or fewer horsepower.

(b) [AS 27.19.020](#) sets the minimum standard for conduct of mining operations in Alaska, without regard to land ownership. Although nothing in [AS 27.19](#) requires a miner to file a mining plan before beginning operations, most miners operating on public land are required to do so by other laws. Even where that is not the case, the department recommends that the miner develop a mining plan to help the miner meet the mining standard of [AS 27.19.020](#) and to make the reclamation plan or reclamation letter of intent more effective.

(c) Nothing in [AS 27.19](#) precludes a federal or state agency (including the Department of Natural Resources), a state corporation, the University of Alaska, a municipality, or a private landowner, acting under its own regulatory or proprietary authority, from establishing and enforcing additional requirements or higher standards for reclamation. Compliance with this chapter does not waive or excuse compliance with those additional requirements or higher standards.

Article 2

Reclamation Performance Standards

11 AAC 97.200. Land reclamation performance standards

(a) A miner shall reclaim areas disturbed by a mining operation so that any surface that will not have a stream flowing over it is left in a stable condition.

(1) For the purposes of [AS 27.19.100](#) (6) and this section, a stable condition that "allows for the reestablishment of renewable resources on the site within a reasonable period of time by natural processes" means a condition that can reasonably be expected to return waterborne soil erosion to pre-mining levels within one year after the reclamation is completed, and that can reasonably be expected to achieve revegetation, where feasible, within five years after the reclamation is completed, without the need for fertilization or reseeding. If rehabilitation of a mined site to this standard is not feasible because the surface materials on the mined site have low natural fertility or the site lacks a natural seed source, the department recommends that the miner fertilize and reseed or replant the site with native vegetation to protect against soil erosion; however, [AS 27.19](#) does not require the miner to do so. Rehabilitation to allow for the reestablishment of renewable resources is not required if that reestablishment would be inconsistent with an alternate post-mining land use approved under [AS 27.19.030](#) (b) on state, federal, or municipal land, or with the post-mining land use intended by the landowner on private land.

(2) If topsoil from an area disturbed by a mining operation is not promptly redistributed to an area being reclaimed, a miner shall segregate it, protect it from erosion and from

contamination by acidic or toxic materials, and preserve it in a condition suitable for later use.

(3) If the natural composition, texture, or porosity of the surface materials is not conducive to natural revegetation, a miner shall take measures to promote natural revegetation, including redistribution of topsoil, where available. If no topsoil is available, a miner shall apply fines or other suitable growing medium, if available. However, a miner may not redistribute topsoil and fines over surfaces likely to be exposed to annual flooding, unless the action is authorized in an approved reclamation plan and will not result in an unlawful point- or non-point-source discharge of pollutants.

(b) A miner shall reclaim an area disturbed by a mining operation so that the surface contours after reclamation is complete are conducive to natural revegetation or are consistent with an alternate post-mining land use approved under [AS 27.19.030](#) (b) on state, federal, or municipal land, or with the post-mining land use intended by the landowner on private land. Measures taken to accomplish this result may include backfilling, contouring, and grading, but a miner need not restore the site's approximate original contours. A miner shall stabilize the reclaimed site to a condition that will retain sufficient moisture for natural revegetation or for an alternate post-mining land use approved under [AS 27.19.030](#) (b) on state, federal, or municipal land, or for the post-mining land use intended by the landowner on private land.

(c) A pit wall, subsidence feature, or quarry wall is exempt from the requirements of (a) and (b) of this section if the steepness of the wall makes them impracticable or impossible to accomplish. However, a miner shall leave the wall in a condition such that it will not collapse nor allow loose rock that presents a safety hazard to fall from it.

(d) If a mining operation diverts a stream channel or modifies a flood plain to the extent that the stream channel is no longer stable, a miner shall reestablish the stream channel in a stable location. A miner may not place a settling basin in the way of the reestablished channel location unless the fines will be properly removed or protected from erosion.

11 AAC 97.220. Underground mines

A miner shall stabilize and properly seal the openings of all shafts, adits, tunnels, and air vents to underground mine workings after mine closure to ensure protection of the public, wildlife, and the environment.

Article 3 Reclamation Plan

11 AAC 97.300. Reclamation plan approval, procedure

(a) At least 45 days before the proposed start of mining activities, a miner not exempted under [AS 27.19.050](#) must submit to the department, or to the appropriate agency with which the department has entered into a cooperative management agreement, a proposed reclamation plan for approval.

(b) If a miner entitled to an exemption under [AS 27.19.050](#) mistakenly files a proposed reclamation plan, the commissioner will, within 15 days after receipt,

(1) return any bond filed,

(2) notify the miner that no plan approval is necessary,

(3) accept the plan as a letter of intent under [AS 27.19.050](#) (b), and

(4) remind the miner of the subsequent requirement to file an annual reclamation statement under [AS 27.19.050](#) (c).

(c) If the commissioner determines that a proposed reclamation plan is complete, the commissioner will begin a review that will take no longer than 30 days. If the commissioner determines that the plan is incomplete, the commissioner will notify the miner that review is suspended pending receipt of the necessary information. The miner may request an extension of time to supply the information. Failure to supply the necessary information within 30 days after notification, or within a longer period allowed by the commissioner, constitutes withdrawal of the proposed plan from consideration.

(d) The commissioner will approve, disapprove, or approve with conditions a proposed reclamation plan within 30 days after determining that the plan is complete. However, the plan approval does not take effect, and the mining operation may not begin, until the miner satisfies the bond requirement under 11 AAC [97.400](#) - 11 AAC [97.450](#).

(e) If the commissioner determines that additional time is needed because of the size or complexity of the operation, the commissioner will, with written notice to the applicant, extend the period described in (c) or (d) of this section and establish an alternative review schedule.

(f) If a state or federal agency or a municipality has entered into a cooperative management agreement with the commissioner to implement all or part of this chapter, the application review schedule will comply with that agency's or municipality's applicable review schedule. If a mining operation requires an individual project review to determine its consistency with the Alaska Coastal Management Program, the application review schedule will comply with 6 AAC [50](#).

(g) If a miner objects to the plan as approved, the miner may give the commissioner written notice of that objection within 30 days and request reconsideration or propose a modification of the plan for the commissioner's review. If, after that reconsideration or

review, the miner continues to object to the plan as approved, the miner may file a statement of issues that meets the standard of [AS 44.62.370](#) .

(h) If the approved reclamation plan is for an alternate post-mining land use under [AS 27.19.030](#) (b) that was proposed by the commissioner, the Department of Fish and Game, the Department of Environmental Conservation, or the landowner rather than by the miner, the miner shall notify the department within 30 days after approval if he or she does not concur. However, a mining locator or material purchaser on public land may not control or determine how the land will be used after a mining operation is completed. The commissioner will, in his or her discretion, modify an approved reclamation plan for a post-mining land use under [AS 27.19.030](#) (b) if the miner shows to the commissioner's satisfaction that reclamation for the proposed use would cost the miner more, in time, equipment, or material than reclamation to the basic standard required by [AS 27.19.020](#) .

(i) The commissioner may not impose an alternate post-mining land use under [AS 27.19.030](#) (b) if the land is privately owned and the state or federal government owns only the reserved minerals. If the state owns both the land estate and the mineral estate, the commissioner will not approve an alternate post-mining land use that is inconsistent with a state land use plan adopted under [AS 38.04.065](#) .

11 AAC 97.310. Reclamation plan

(a) Before a miner starts a mining operation subject to [AS 27.19.030](#) , or if an exempt miner wishes to operate under the provisions of [AS 27.19.040](#) (d), the miner must submit a proposed reclamation plan. The proposed plan must be correct and complete to the best of the miner's knowledge and be signed and dated by the miner or the miner's designee.

(b) A reclamation plan not submitted on a form provided by the commissioner must include the following:

(1) the name, address, and telephone number of the miner or other person who will serve as agent to receive any notice that is required under this chapter, and the names, addresses, and telephone numbers of all other owners, operators, or leaseholders of the mining operation;

(2) a list of all properties, mining locations, or leases on which the mining operation is to be conducted, including the state or federal casefile number, and the legal description of the land on which the mining operation will be conducted, described by legal subdivision, section, quarter-section, township, range, and meridian;

(3) a map (United States Geological Survey topographic map or the equivalent) at a scale no smaller than 1:63,360 (inch to the mile) showing the general vicinity of the mining operation and the specific property to be worked;

(4) a general description and diagram of the mining operation and the mined area that shows and states the number of acres to be mined during each year covered by the plan

and that shows the location corners or property boundaries and their relationship to the reclamation work, the tailings or spoil disposal areas, and the areas otherwise affected by the operation; the information furnished must be reasonably appropriate to the scale and complexity of the mine;

(5) the estimated number of yards or tons of overburden or waste and ore or materials to be mined during each year covered by the plan;

(6) a description of the reclamation measures that will be taken to comply with [AS 27.19.020](#) and 11 AAC [97.200](#) - 11 AAC [97.250](#), including the equipment to be used; a time schedule for the reclamation measures; and, if the miner proposes to reclaim the land to an alternate post-mining land use under [AS 27.19.030](#) (b) on state, federal, or private land or to an alternate post-mining land intended by the landowner on private land, a statement of that proposed or intended use; the description must include:

(A) measures for topsoil removal, storage, protection, and replacement;

(B) measures for reclamation of tailings impoundments, settling ponds, reservoirs, heaps, open pits and cuts, shafts, adits, tunnels, portals, overburden, waste rock storage areas, and all other affected areas;

(C) measures for stream placement and reclamation at the end of mining; and

(D) a proposal for reclamation or post-mining conversion of access roads leading to the mining operation, airstrips, and other associated facilities;

(7) if on private land, a signed and notarized statement by the landowner that the miner has the landowner's permission to operate throughout the period covered by the proposed reclamation plan; however, this statement is not required if the miner is the landowner, or if the mining operation is on a prior federal mining location and the private landowner received title subject to that location under sec. 22(c) of PL 92-203, the Alaska Native Claims Settlement Act (43 U.S.C. 1621(c)); if the private landowner believes that reclamation to the standard set out in [AS 27.19.020](#) is not feasible because the landowner intends to use the land after mining for a purpose incompatible with natural revegetation, the landowner is encouraged to provide this information as part of the statement; for the purposes of this paragraph, the landowner means the owner of the estate that includes the mineral or material to be mined.

(c) If a mining operation is a public project for which the successful bidder has not yet been determined, the agency responsible for the project, the landowner, or another third party may submit a proposed reclamation plan on behalf of the successful bidder. The proposed plan must be complete except for the miner's name, address, and telephone number. Before the plan approval takes effect, the miner must provide his or her name, address, and telephone number, sign the plan, and satisfy the bond requirement.



11 AAC 97.320. Term; conditional approval; renewal

(a) The commissioner will, in his or her discretion, approve a reclamation plan for any term not to exceed 10 years. If the plan is for more than one year, the commissioner will, in his or her discretion, require the miner to file an annual report that includes the total acreage and volume of material mined in that year, the total acreage reclaimed in that year, and a statement as to whether the reclamation plan is on schedule.

(b) If the commissioner is not satisfied that the plan complies with [AS 27.19](#) and this chapter, the commissioner will, in his or her discretion, approve the reclamation plan only after inclusion of reclamation-specific monitoring, reporting, or performance conditions.

(c) The commissioner will, in his or her discretion, renew a plan upon written request and demonstration that the miner has complied with the approved reclamation plan and the requirements of [AS 27.19](#) and this chapter, if the commissioner determines that the plan is adequate to cover the renewal period.

11 AAC 97.330. Amendment of reclamation plan

(a) A miner shall ensure that reclamation work complies with an approved reclamation plan. If changing product prices, economics, financing, unanticipated conditions, or suspension of mining operations necessitates a change in the reclamation plan, the miner shall submit an amended reclamation plan for approval before modifying the approved reclamation work.

(b) If new or changed statutory or regulatory requirements affect reclamation under an approved reclamation plan, the miner must submit an amended reclamation plan for approval to demonstrate that reclamation occurring after the effective date of the new requirements will comply with those new requirements.

11 AAC 97.340. Record keeping and inspection; notice address

(a) Until completion of the mining operation, a miner shall keep a copy of the approved reclamation plan, including any approved amendments, at the miner's field office for onsite operations, and shall make the plan available upon request by an authorized representative of the commissioner.

(b) A miner shall allow access to the mining operation to an authorized representative of the commissioner at reasonable times for the purpose of inspecting or monitoring compliance with the reclamation plan.

(c) A miner shall keep the department informed of the miner's correct address until the reclamation is approved as complete.

11 AAC 97.350. Successor in interest

If an interest in a mining operation is transferred from one miner to another by sale, assignment, lease, or otherwise before completion of reclamation and approval by the commissioner, the plan must be amended as provided in 11 AAC [97.330](#) to reflect the transfer. The commissioner will approve the amendment and will release the predecessor in interest from the reclamation obligations, if

- (1) the operation is in compliance with the reclamation plan,
- (2) the successor assumes full responsibility and liability under the approved reclamation plan, and
- (3) the bonding requirements are met.

Article 4 Reclamation Bonding

11 AAC 97.400. Bonding required

A miner who is not exempt under [AS 27.19.050](#) (a) shall either

- (1) participate in the statewide bonding pool under 11 AAC [97.425](#);
- (2) post a performance bond with the commissioner to ensure complete compliance with [AS 27.19](#), this chapter, and the approved reclamation plan, consisting of either
 - (A) a corporate surety bond under 11 AAC [97.405](#); or
 - (B) a personal bond accompanied by a letter of credit, by a certificate of deposit, or by a deposit of cash or gold, under 11 AAC [97.410](#);
- (3) post a bond or financial guarantee with another government agency to satisfy that agency's reclamation-related bond requirements if, in a cooperative management agreement with that agency, the commissioner has determined that the agency's bond requirements are at least as effective as those of [AS 27.19](#) and that requiring another bond would be unnecessary; or
- (4) post a general performance bond that
 - (A) is written in favor of an agency of the State of Alaska;
 - (B) requires reclamation to standards no less effective than those of [AS 27.19](#) and this chapter;

(C) is in an amount no less than \$750 per acre of mined area or area to be mined;

(D) remains in effect until the mined area is reclaimed to standards no less effective than those of [AS 27.19](#) and this chapter; and

(E) requires that, if the bond is liquidated, proceeds in the amount of \$750 per acre of mined area will be paid or reserved exclusively for the purpose of reclamation until all mined areas are reclaimed to standards no less effective than those of [AS 27.19](#) and this chapter.

11 AAC 97.405. Corporate surety bond

A corporate surety bond must

(1) be executed by a corporate surety approved and authorized to do business in this state;

(2) be submitted on a form prescribed by the commissioner; and

(3) remain in effect until the reclamation of all land covered by the bond is completed to the standard of [AS 27.19](#) and this chapter, and its release is approved by the commissioner.

11 AAC 97.410. Personal bond and letter of credit, certificate of deposit, or deposit of cash or gold

(a) A personal bond must be submitted on a form prescribed by the commissioner and must be accompanied by

(1) an irrevocable letter of credit issued by a bank or other financial institution authorized to do business in the United States;

(2) a certificate of deposit in the amount of the bond issued in sole favor of the department by a bank or other financial institution authorized to do business in this state;

(3) a cash deposit maintained in a depository account as directed by the commissioner; or

(4) a deposit of gold held in escrow by a bank or other financial institution, payable to the State of Alaska if the bond is forfeited, and with a value of 25 percent more than the bond obligation, to allow for potential decreases in gold prices.

(b) A personal bond and letter of credit, certificate of deposit, or deposit of cash or gold must remain in effect until the reclamation of all land covered by the bond is completed to the standard of [AS 27.19](#) and this chapter, and their release is approved by the commissioner.

11 AAC 97.415. Acreage to be bonded

(a) Acreage that must be bonded before a mining operation begins in any calendar year is limited to any area to be mined during that calendar year, plus any mined area (as that term is defined in 11 AAC [97.990](#)) mined in a previous year for which reclamation must be completed under this chapter; it is not necessarily the same as the entire acreage of the mining operation. For an underground mine, only the surface acreage disturbed by the operation constitutes "mined area" for purposes of the bond requirement.

(b) After a multi-year reclamation plan goes into effect, the miner shall ensure that the bond amount is sufficient at all times to cover any area to be mined during the current calendar year, plus any area mined in a previous year that has not yet been reclaimed.

(c) Any previously reclaimed area that is to be mined again is subject to the bond requirement in the year that mining resumes and until it is reclaimed.

(d) In calculating the number of acres that must be bonded, a miner must round up to the next whole number.

11 AAC 97.420. Amount of bond

(a) The amount of the performance bond required by 11 AAC [97.400](#) is \$750 per acre, or the reduced per-acre amount determined by the commissioner under (b) of this section, multiplied by the acreage total determined under 11 AAC [97.415](#).

(b) If a miner shows to the commissioner's satisfaction that the reasonable and probable costs of reclamation under an approved reclamation plan are less than \$750 per acre, the commissioner will reduce the bond to those costs. The miner's showing must be submitted along with the proposed reclamation plan and must include an estimate of the labor and equipment costs that would be incurred to hire a third-party contractor to perform the reclamation in accordance with the plan. In evaluating a miner's proposal for reduction of the bond amount, the commissioner will consider the nature of the surface, its uses, improvements in the vicinity of the land, the degree of risk involved in the mining operation, and all other relevant factors. The commissioner will make a determination on this request of bond reduction in the time schedules set out in 11 AAC [97.300](#).

(c) A miner may provide a bond for more than the amount required by (a) and (b) of this section.

11 AAC 97.425. Bonding pool

(a) A statewide bonding pool has been established by the department for mining operations subject to AS 27.19. Instead of posting an individual performance bond, a miner may participate in the bonding pool.

(b) To participate in the bonding pool each year, the miner shall pay into the pool a deposit of 15 percent of the miner's total bond amount determined under 11 AAC

97.420(a) for that year, plus an annual nonrefundable fee of five percent of the total bond amount for that year. These percentages are the same for all operations.

(c) Except for an operation whose bond amount is reduced below \$750 per acre under 11 AAC 97.420(b), the percentages set by (b) of this section result in a bonding pool deposit of \$112.50 per acre and an annual nonrefundable fee of \$37.50 per acre.

(d) No reclamation plan approval goes into effect until the bonding pool deposit and annual nonrefundable fee are paid. The annual nonrefundable fee for the first year of a reclamation plan may not be prorated or reduced. Subsequent annual nonrefundable fees for any unreclaimed acreage are due by April 1 of each year that the reclamation is not completed or before the mining operation begins in each calendar year, whichever is earlier. If the amount of acreage requiring reclamation varies from year to year under the plan, the miner is responsible for making the appropriate payment, including an increased deposit when required, each year. If the acreage decreases, the miner may apply, under 11 AAC 97.435, for a refund of the excess deposit. The miner must pay the annual nonrefundable fee, and the increased deposit when required by the reclamation plan, without billing from the department. A late payment automatically suspends approval of the reclamation plan until full payment, including the late-payment fee set out in 11 AAC 05.010, is received, at which time the reclamation plan is automatically reinstated. During such a suspension, the miner may not engage in a mining operation.

(e) If the commissioner, in his or her discretion, allows a miner who is subject to the bonding requirement of AS 27.21.160 to participate in the bonding pool, the bonding pool is not obligated for an amount exceeding \$750 per acre. Any additional bond amount required under AS 27.21.160 must be provided under one of the mechanisms allowed under AS 27.21.160 and 11 AAC 90.