

Conference Engrossed

State of Arizona
Senate
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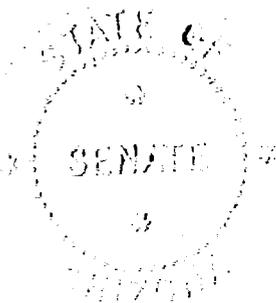
CHAPTER 322

SENATE BILL 1393

AN ACT

AMENDING TITLE 27, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 6; MAKING AN APPROPRIATION; RELATING TO AGGREGATE MINED LAND RECLAMATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 27, Arizona Revised Statutes, is amended by adding
3 chapter 6, to read:

4 CHAPTER 6

5 AGGREGATE MINED LAND RECLAMATION

6 ARTICLE 1. ADMINISTRATION

7 27-1201. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "AGGREGATE" HAS THE SAME MEANING PRESCRIBED IN SECTION 27-441.

10 2. "AGGREGATE MINING" HAS THE SAME MEANING PRESCRIBED IN SECTION
11 27-441.

12 3. "AGGREGATE MINING FACILITY" MEANS PROPERTY THAT IS OWNED, OPERATED
13 OR MANAGED BY THE SAME PERSON FOR AGGREGATE MINING. PROPERTY THAT IS NOT
14 CONTIGUOUS BUT IS WITHIN THE SAME GEOGRAPHICAL AREA AND OPERATED AS A SINGLE
15 AGGREGATE MINING COMPLEX IS CONSIDERED TO BE A SINGLE AGGREGATE MINING
16 FACILITY.

17 4. "AGGREGATE MINING UNIT" MEANS AN INDIVIDUAL PORTION OF AN AGGREGATE
18 MINING FACILITY THAT ENCOMPASSES ONE OR MORE SURFACE DISTURBANCES.

19 5. "DIVISION" MEANS THE DIVISION OF MINED LAND RECLAMATION IN THE
20 OFFICE OF THE STATE MINE INSPECTOR.

21 6. "EXISTING AGGREGATE MINING UNIT" MEANS AN AGGREGATE MINING UNIT,
22 OTHER THAN A NEW AGGREGATE MINING UNIT, THAT CONTINUED OPERATIONS AFTER APRIL
23 1, 1997.

24 7. "EXISTING EXPLORATION OPERATION" MEANS AN EXPLORATION OPERATION
25 THAT IS ONGOING AS OF THE EFFECTIVE DATE OF THE INITIAL RULES ADOPTED BY THE
26 INSPECTOR PURSUANT TO THIS CHAPTER.

27 8. "EXPLORATION OPERATIONS" MEANS ACTIVITIES THAT CREATE SURFACE
28 DISTURBANCES OUTSIDE AN AGGREGATE MINING FACILITY AND THAT ARE CONDUCTED TO
29 DETERMINE THE PRESENCE, LOCATION, EXTENT, DEPTH OR GRADE OF AGGREGATE,
30 INCLUDING CONSTRUCTING ACCESS ROADS AND DRILL PADS.

31 9. "INACTIVE AGGREGATE MINING UNIT" MEANS AN AGGREGATE MINING UNIT
32 THAT HAS NOT BEEN OPERATED AFTER APRIL 1, 1997 AND FOR WHICH THERE IS A
33 CURRENT IDENTIFIABLE OWNER OR OPERATOR OTHER THAN THE FEDERAL OR STATE
34 GOVERNMENT.

35 10. "INSPECTOR" MEANS THE STATE MINE INSPECTOR.

36 11. "MAINTENANCE" MEANS AN ACTIVITY TO PRESERVE OR REPAIR THE FUNCTION
37 OF PREVIOUSLY DISTURBED LAND, INCLUDING GRADING ROADS, REPAIRING BERMS OR
38 DAMS AND DREDGING SEDIMENTATION BASINS.

39 12. "NEW AGGREGATE MINING UNIT" MEANS AN AGGREGATE MINING UNIT AT WHICH
40 SURFACE DISTURBANCES BEGIN AFTER THE EFFECTIVE DATE OF THE INITIAL RULES
41 ADOPTED PURSUANT TO THIS CHAPTER.

42 13. "NEW EXPLORATION OPERATION" MEANS AN EXPLORATION OPERATION THAT
43 BEGINS AFTER THE EFFECTIVE DATE OF THE INITIAL RULES ADOPTED PURSUANT TO THIS
44 CHAPTER.

1 14. "RECLAMATION" MEANS MEASURES THAT ARE TAKEN ON SURFACE DISTURBANCES
2 AT EXPLORATION OPERATIONS AND AGGREGATE MINING UNITS TO ACHIEVE STABILITY AND
3 SAFETY CONSISTENT WITH POSTAGGREGATE MINING LAND USE OBJECTIVES SPECIFIED IN
4 THE RECLAMATION PLAN.

5 15. "SOIL" MEANS TOPSOIL, SUITABLE SUBSTRATA OR OTHER PLANT GROWTH
6 MEDIA THAT WILL SUSTAIN VEGETATION.

7 16. "STABILITY" MEANS THE CONDITION OF LAND WITH RESPECT TO ITS EROSION
8 POTENTIAL AND ABILITY TO WITHSTAND SEISMIC ACTIVITY.

9 17. "SURFACE DISTURBANCE" MEANS CLEARING, COVERING OR MOVING LAND BY
10 MEANS OF MECHANIZED EARTHMOVING EQUIPMENT FOR AGGREGATE MINING AND
11 EXPLORATION BUT DOES NOT INCLUDE SURVEYING, ASSESSMENT AND LOCATION WORK,
12 SEISMIC WORK, MAINTENANCE AND OTHER SUCH ACTIVITIES THAT CREATE A DE MINIMIS
13 DISTURBANCE.

14 27-1202. Coordination of programs and activities

15 A. THE STATE MINE INSPECTOR SHALL EMPLOY STAFF WHO HAVE THE NECESSARY
16 AND APPROPRIATE EXPERIENCE IN AGGREGATE MINING AND RECLAIMING AGGREGATE MINED
17 LANDS.

18 B. EXCEPT AS PROVIDED BY SUBSECTION C, THE AUTHORITY TO ADMINISTER
19 AGGREGATE MINED LAND RECLAMATION IS CONFERRED ON THE STATE MINE INSPECTOR AS
20 PROVIDED IN THIS CHAPTER.

21 C. SUBSECTION B OF THIS SECTION DOES NOT APPLY TO A CITY OR TOWN THAT
22 ADOPTED AN ORDINANCE BEFORE JANUARY 1, 2005 REQUIRING AGGREGATE MINED LAND
23 RECLAMATION. THIS SECTION DOES NOT AFFECT THE LEGAL STATUS OF NONCONFORMING
24 USES IN A CITY OR TOWN.

25 D. THE REQUIREMENTS OF A RECLAMATION PLAN UNDER THIS CHAPTER AND A
26 FLOODPLAIN USE REGULATION FOR THE SAME AGGREGATE MINING UNIT OR EXPLORATION
27 OPERATION, INCLUDING ANY FINANCIAL ASSURANCE REQUIREMENTS, SHALL NOT
28 CONTRADICT OR BE REDUNDANT OR INCONSISTENT WITH THE REQUIREMENTS OF THIS
29 CHAPTER.

30 E. THIS CHAPTER DOES NOT SUPERSEDE THE REQUIREMENTS OF A COUNTY FLOOD
31 CONTROL DISTRICT TO MAINTAIN STABILITY AND THE FLOOD CARRYING CAPACITY OF THE
32 FLOODPLAIN.

33 F. THIS CHAPTER DOES NOT SUPERSEDE THE REQUIREMENTS OF TITLE 49 OR ANY
34 OTHER APPLICABLE FEDERAL, STATE OR LOCAL LAW.

35 27-1203. Exemption for state lands; agreements for coordination
36 with other governmental agencies and landowners

37 A. THIS CHAPTER DOES NOT APPLY TO ANY ACTIVITY THAT OCCURS ON STATE
38 LAND AND THAT IS REGULATED PURSUANT TO CHAPTER 2, ARTICLE 5 OF THIS TITLE.

39 B. THE STATE MINE INSPECTOR MAY ENTER INTO AGREEMENTS PURSUANT TO
40 TITLE 11, CHAPTER 7, ARTICLE 3 WITH THE STATE LAND DEPARTMENT, THE UNITED
41 STATES BUREAU OF LAND MANAGEMENT, THE UNITED STATES FOREST SERVICE AND OTHER
42 AGENCIES THAT MANAGE PUBLIC LANDS AND TAKE OTHER APPROPRIATE MEASURES TO
43 COORDINATE THE REVIEW AND APPROVAL OF RECLAMATION PLANS, INCLUDING
44 DESIGNATING A LEAD AGENCY FOR RECLAMATION PLAN REVIEW AND ACTION. THE

1 INSPECTOR SHALL AVOID REDUNDANT, INCONSISTENT OR CONTRADICTORY RECLAMATION,
2 INSPECTION, ADMINISTRATION, ENFORCEMENT AND FINANCIAL ASSURANCE REQUIREMENTS.

3 27-1204. Rules; contributions

4 A. THE INSPECTOR SHALL ADOPT RULES CONSISTENT WITH THIS CHAPTER FOR
5 THE RECLAMATION OF SURFACE DISTURBANCES AT EXPLORATION OPERATIONS AND
6 AGGREGATE MINING UNITS AND FOR THE ADMINISTRATION OF THIS CHAPTER.

7 B. TO ACCOMPLISH THE PURPOSES OF THIS SECTION, THE INSPECTOR MAY
8 ACCEPT MONIES FOR DEPOSIT IN THE AGGREGATE MINING RECLAMATION FUND RECEIVED
9 FROM THE FEDERAL GOVERNMENT OR OTHER GOVERNMENTAL AGENCIES. THE STATE SHALL
10 SEPARATELY ACCOUNT FOR MONIES RECEIVED PURSUANT TO THIS SUBSECTION THAT ARE
11 DEPOSITED IN THE AGGREGATE MINING RECLAMATION FUND.

12 27-1205. Certificate of disclosure of violations; remedies;
13 definition

14 A. THE FOLLOWING PERSONS SHALL FILE A CERTIFICATE OF DISCLOSURE WITH
15 THE DIVISION OF MINED LAND RECLAMATION AS PRESCRIBED BY THIS SECTION:

16 1. A PERSON WHO IS ENGAGED IN AN ACTIVITY SUBJECT TO REGULATION UNDER
17 THIS CHAPTER AND WHO HAS BEEN CONVICTED OF A FELONY INVOLVING LAWS RELATED TO
18 MINED LAND RECLAMATION WITHIN THE FIVE YEAR PERIOD IMMEDIATELY PRECEDING
19 EXECUTION OF THE CERTIFICATE.

20 2. A PERSON WHO IS ENGAGED IN AN ACTIVITY SUBJECT TO REGULATION UNDER
21 THIS CHAPTER AND WHO IS OR HAS BEEN SUBJECT IN ANY CIVIL PROCEEDING TO AN
22 INJUNCTION, DECREE, JUDGMENT OR PERMANENT ORDER OF ANY STATE OR FEDERAL COURT
23 WITHIN THE FIVE YEAR PERIOD IMMEDIATELY PRECEDING THE EXECUTION OF THE
24 CERTIFICATE THAT INVOLVED A VIOLATION OF LAWS OF THAT JURISDICTION RELATING
25 TO MINED LAND RECLAMATION.

26 B. THE CERTIFICATE OF DISCLOSURE PRESCRIBED BY THIS SECTION SHALL
27 CONTAIN THE FOLLOWING:

28 1. IDENTIFICATION OF THE PERSON, INCLUDING PRESENT FULL NAME, ALL
29 PRIOR NAMES OR ALIASES, FULL BIRTH NAME, PRESENT HOUSE ADDRESS AND ALL PRIOR
30 ADDRESSES FOR THE IMMEDIATELY PRECEDING FIVE YEAR PERIOD, DATE AND PLACE OF
31 BIRTH AND SOCIAL SECURITY NUMBER.

32 2. THE NATURE AND DESCRIPTION OF EACH CONVICTION OR JUDICIAL ACTION,
33 THE DATE AND PLACE, THE COURT AND PUBLIC AGENCY INVOLVED AND THE FILE OR
34 CAUSE NUMBER OF THE CASE.

35 3. A WRITTEN DECLARATION THAT EACH SIGNER SWEARS TO ITS CONTENTS UNDER
36 PENALTY OF PERJURY.

37 C. THE CERTIFICATE OF DISCLOSURE SUBMITTED ON BEHALF OF A CORPORATION
38 SHALL BE EXECUTED BY ANY TWO EXECUTIVE OFFICERS OR DIRECTORS OF THE
39 CORPORATION.

40 D. INITIAL CERTIFICATES SHALL BE DELIVERED TO THE DIVISION WITHIN
41 NINETY DAYS AFTER THE PERSON FIRST BECOMES SUBJECT TO THE DISCLOSURE
42 REQUIREMENTS OF THIS SECTION. CERTIFICATES SHALL BE FILED ANNUALLY
43 THEREAFTER WITHIN NINETY DAYS AFTER THE CLOSE OF THE PERSON'S FISCAL YEAR AS
44 REPORTED ON THE INITIAL CERTIFICATE.

1 E. BY FEBRUARY 1 OF EACH YEAR, THE STATE MINE INSPECTOR SHALL PROVIDE
2 THE ATTORNEY GENERAL WITH A LIST OF ALL PERSONS WHO WERE CONVICTED OF THE
3 CRIMES OR WHO ARE THE SUBJECT OF THE JUDICIAL ACTIONS DESCRIBED IN SUBSECTION
4 A OF THIS SECTION, AS INDICATED FROM THE CERTIFICATES OF DISCLOSURE FILED
5 DURING THE PRECEDING YEAR.

6 F. INSTEAD OF THE CERTIFICATE OF DISCLOSURE PRESCRIBED BY THIS
7 SECTION, A CORPORATION MAY SUBMIT TO THE DIVISION COPIES OF ANNUAL REPORTS
8 FILED WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO SECTION 13 OR
9 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 (15 UNITED STATES CODE SECTION
10 78), COMMONLY KNOWN AS A "10-K FORM", WITHIN NINETY DAYS AFTER FILING THE
11 ANNUAL REPORT. THE INITIAL SUBMISSION SHALL INCLUDE 10-K FORMS FOR THE
12 PRECEDING FIVE YEARS.

13 G. A PERSON WHO CONTRIBUTES INFORMATION FOR A CERTIFICATE OF
14 DISCLOSURE AND WHO MAKES AN UNTRUE STATEMENT OF MATERIAL FACT CONCERNING THE
15 REQUIREMENTS OF SUBSECTION B OF THIS SECTION OR WITHHOLDS ANY MATERIAL FACT
16 CONCERNING THE REQUIREMENTS OF SUBSECTION B OF THIS SECTION OR A PERSON WHO
17 IS OBLIGATED TO FILE A CERTIFICATE OF DISCLOSURE AND WHO FAILS TO FILE THE
18 CERTIFICATE IS SUBJECT TO SECTION 27-1322, SECTION 27-1324, SUBSECTIONS B AND
19 C AND SECTION 27-1325.

20 H. FOR THE PURPOSES OF THIS SECTION, "PERSON" MEANS:

21 1. A NATURAL PERSON.

22 2. ANY PUBLIC OR PRIVATE CORPORATION, ITS OFFICERS, DIRECTORS,
23 TRUSTEES, INCORPORATORS AND PERSONS WHO CONTROL OR HOLD OVER TEN PER CENT OF
24 THE ISSUED AND OUTSTANDING COMMON SHARES OR TEN PER CENT OF ANY OTHER
25 PROPRIETARY, BENEFICIAL OR MEMBERSHIP INTEREST IN THE CORPORATION.

26 3. A PARTNERSHIP, INCLUDING ALL GENERAL PARTNERS AND LIMITED PARTNERS
27 WHO CONTROL A TEN PER CENT OR MORE BENEFICIAL INTEREST IN THE PARTNERSHIP.

28 4. AN ASSOCIATION OR SOCIETY OF PERSONS.

29 5. A LIMITED LIABILITY COMPANY INCLUDING ALL MEMBERS WHO HAVE A TEN
30 PER CENT OR MORE INTEREST IN THE LIMITED LIABILITY COMPANY.

31 6. THE FEDERAL GOVERNMENT AND ANY OF ITS DEPARTMENTS OR AGENCIES.

32 7. THIS STATE AND ANY OF ITS AGENCIES, DEPARTMENTS, POLITICAL
33 SUBDIVISIONS, COUNTIES, TOWNS OR MUNICIPAL CORPORATIONS.

34 ARTICLE 2. GENERAL REGULATORY PROVISIONS

35 27-1221. Surface disturbances created by new exploration
36 operation or aggregate mining unit

37 BEGINNING JANUARY 1, 2007, AN OWNER OR OPERATOR OF A NEW EXPLORATION
38 OPERATION OR NEW AGGREGATE MINING UNIT SHALL NOT CREATE A SURFACE DISTURBANCE
39 OF MORE THAN FIVE CONTIGUOUS ACRES UNTIL A RECLAMATION PLAN AND FINANCIAL
40 ASSURANCE MECHANISM FOR THE EXPLORATION OPERATION OR AGGREGATE MINING UNIT
41 ARE APPROVED BY THE STATE MINE INSPECTOR OR ARE OTHERWISE AUTHORIZED BY THIS
42 CHAPTER.

1 27-1222. Surface disturbances created by existing exploration
2 operation or aggregate mining unit; extension;
3 continuing operations

4 A. AN OWNER OR OPERATOR OF AN EXISTING EXPLORATION OPERATION OR
5 EXISTING AGGREGATE MINING UNIT WITH SURFACE DISTURBANCES OF MORE THAN FIVE
6 CONTIGUOUS ACRES SHALL SUBMIT A RECLAMATION PLAN TO THE STATE MINE INSPECTOR
7 ON OR BEFORE JANUARY 1, 2007.

8 B. AN OWNER OR OPERATOR MAY PETITION THE INSPECTOR FOR AN EXTENSION OF
9 TIME TO SUBMIT A RECLAMATION PLAN. THE INSPECTOR SHALL GRANT THE EXTENSION
10 ON A SHOWING OF GOOD CAUSE, INCLUDING THE NEED TO COORDINATE THE PREPARATION
11 AND SUBMISSION OF A RECLAMATION PLAN WITH OTHER PERMITS AND APPROVALS
12 REQUIRED FOR THE EXPLORATION OPERATION OR AGGREGATE MINING UNIT.

13 C. THE OWNER OR OPERATOR OF AN EXISTING EXPLORATION OPERATION OR
14 EXISTING AGGREGATE MINING UNIT MAY CONTINUE OPERATIONS, INCLUDING CREATING
15 SURFACE DISTURBANCES, UNTIL THE INSPECTOR TAKES FINAL ACTION ON THE
16 RECLAMATION PLAN AND FINANCIAL ASSURANCE MECHANISM.

17 D. THE RECLAMATION OF SURFACE DISTURBANCES CREATED IN WHOLE OR IN PART
18 BEFORE THE EFFECTIVE DATE OF THIS CHAPTER AND THE INITIAL RULES ADOPTED
19 PURSUANT TO THIS CHAPTER MAY PRESENT SPECIAL TECHNICAL AND ECONOMIC
20 CONSTRAINTS THAT ARE NOT ENCOUNTERED FOR NEW SURFACE DISTURBANCES. THE
21 INSPECTOR SHALL CONSIDER THE NATURE AND EXTENT OF THE EXISTING SURFACE
22 DISTURBANCES, RELEVANT SITE-SPECIFIC CIRCUMSTANCES AND THE TECHNICAL AND
23 ECONOMIC PRACTICABILITY OF RECLAIMING SUCH SURFACE DISTURBANCES. THE
24 INSPECTOR SHALL NOT REQUIRE THE REMOVAL OR RELOCATION OF EXISTING AGGREGATE
25 MINING UNITS TO SATISFY THE RECLAMATION REQUIREMENTS OF THIS CHAPTER.

26 27-1223. Creating surface disturbances of five acres or less

27 A. NOTHING IN THIS CHAPTER SHALL PREVENT AN OWNER OR OPERATOR OF AN
28 EXPLORATION OPERATION OR AGGREGATE MINING UNIT FROM CREATING A SURFACE
29 DISTURBANCE OF FIVE CONTIGUOUS ACRES OR LESS.

30 B. FROM AND AFTER DECEMBER 31, 2006, THE STATE MINE INSPECTOR MAY
31 REQUIRE EITHER OR BOTH OF THE FOLLOWING IN THE CASE OF A SERIES OF SURFACE
32 DISTURBANCES OF FIVE CONTIGUOUS ACRES OR LESS BY THE SAME OWNER OR OPERATOR
33 IF THE SERIES OF SURFACE DISTURBANCES IN AGGREGATE CONSTITUTE MORE THAN FIVE
34 ACRES:

- 35 1. A RECLAMATION PLAN UNDER ARTICLE 3 OR 4 OF THIS CHAPTER.
36 2. A FINANCIAL ASSURANCE MECHANISM UNDER ARTICLE 5 OF THIS CHAPTER.

37 27-1224. Inactive aggregate mining units

38 A. AT AN INACTIVE AGGREGATE MINING UNIT, THE FOLLOWING ARE NOT SUBJECT
39 TO THE REQUIREMENTS OF THIS CHAPTER:

- 40 1. VOLUNTARY RECLAMATION MEASURES THAT ARE NOT REQUIRED BY FEDERAL OR
41 STATE LAW, REGULATION OR PERMIT.
42 2. ACTIONS THAT ARE REQUIRED TO COMPLY WITH OTHER LOCAL, STATE OR
43 FEDERAL LAWS, REGULATIONS, PERMITS, ORDERS OR DECREES.
44 3. MAINTENANCE ACTIVITIES.

1 B. EXPLORATION OPERATIONS AND AGGREGATE MINING AND OTHER ASSOCIATED
2 ACTIVITIES AT AN INACTIVE AGGREGATE MINING UNIT ARE SUBJECT TO THE
3 REQUIREMENTS OF THIS CHAPTER ONLY WITH RESPECT TO NEW SURFACE DISTURBANCES
4 CREATED BY THOSE OPERATIONS AND ACTIVITIES.

5 27-1225. Remedial response to governmental orders

6 A. AN OWNER OR OPERATOR IS NOT REQUIRED TO PROVIDE NOTICE OR OBTAIN
7 APPROVAL OF A RECLAMATION PLAN OR FINANCIAL ASSURANCE MECHANISM UNDER THIS
8 CHAPTER BEFORE CREATING A SURFACE DISTURBANCE PURSUANT TO A REMEDIAL ACTION
9 IN RESPONSE TO A GOVERNMENT ORDER TO PREVENT OR MITIGATE AN ACTUAL OR
10 POTENTIAL RELEASE OF POLLUTANTS INTO THE ENVIRONMENT.

11 B. THE OWNER OR OPERATOR SHALL UPDATE THE RECLAMATION PLAN AND
12 FINANCIAL ASSURANCE MECHANISM WITHIN SIX MONTHS AFTER COMPLETING THE
13 EMERGENCY OR REMEDIAL MEASURE.

14 27-1226. Initiation, extension and completion of reclamation

15 A. BEGINNING JANUARY 1, 2007, IF A SURFACE DISTURBANCE CANNOT BE
16 PRACTICABLY RECLAIMED CONCURRENTLY WITH AN EXPLORATION OPERATION OR AT AN
17 AGGREGATE MINING UNIT, RECLAMATION SHALL BE INITIATED:

18 1. WITHIN ONE YEAR AFTER COMPLETING THE EXPLORATION OPERATION OR
19 AGGREGATE MINING UNIT.

20 2. WITHIN ONE YEAR AFTER CESSATION OF AGGREGATE MINING ACTIVITY.

21 3. AS REQUIRED BY APPLICABLE FEDERAL LAW.

22 B. THE STATE MINE INSPECTOR SHALL EXTEND THE PERIOD IN WHICH TO
23 INITIATE RECLAMATION UNDER SUBSECTION A, WITH UP TO THREE SUBSEQUENT FIVE
24 YEAR EXTENSIONS, IF THE OWNER OR OPERATOR OF AN EXPLORATION OPERATION OR
25 AGGREGATE MINING UNIT DEMONSTRATES A REASONABLE LIKELIHOOD THAT THE PROJECT
26 OR OPERATION WILL RESUME, BASED ON A CONSIDERATION OF FACTORS, INCLUDING:

27 1. THE PRESENCE OF ADDITIONAL AGGREGATE BEING MINED OR OTHER
28 COMMODITIES IN COMMERCE.

29 2. HISTORICAL FLUCTUATIONS IN THE VALUE OF THE COMMODITY BEING MINED
30 OR OTHER COMMODITIES PRESENT IF THEY CAN BE MINED USING THE SAME
31 DISTURBANCES.

32 3. THE DESIGN LIFE OF ANY PROCESS COMPONENTS EXISTING AT AN AGGREGATE
33 MINING UNIT.

34 C. ONCE INITIATED, THE FINAL RECLAMATION MEASURES SHALL BE PERFORMED
35 AS STATED IN THE APPROVED RECLAMATION PLAN UNLESS THE EXPLORATION OPERATION
36 OR AGGREGATE MINING UNIT IS REACTIVATED.

37 27-1227. Substantial changes to approved reclamation plan

38 A. THE STATE MINE INSPECTOR MUST APPROVE ANY SUBSTANTIAL CHANGE TO AN
39 APPROVED RECLAMATION PLAN AS PROVIDED BY THIS SECTION BEFORE THE CHANGE IS
40 IMPLEMENTED.

41 B. THE OWNER OR OPERATOR OF THE EXPLORATION OPERATION OR AGGREGATE
42 MINING UNIT SHALL SUBMIT A NOTICE OF A PROPOSED CHANGE TO THE INSPECTOR
43 DESCRIBING THE PURPOSE AND SCOPE OF THE PROPOSED CHANGE AND WHETHER IT
44 CONSTITUTES A SUBSTANTIAL CHANGE TO THE APPROVED RECLAMATION PLAN. THE
45 INSPECTOR SHALL NOTIFY THE OWNER OR OPERATOR SUBMITTING A NOTICE OF A

1 PROPOSED CHANGE TO AN APPROVED RECLAMATION PLAN WHETHER THE PROPOSED CHANGE
2 CONSTITUTES A SUBSTANTIAL CHANGE WITHIN FIFTEEN DAYS AFTER RECEIVING THE
3 NOTICE.

4 C. IF THE INSPECTOR DETERMINES THAT THE CHANGE IS SUBSTANTIAL, THE
5 INSPECTOR SHALL REQUIRE THE OWNER OR OPERATOR TO SUBMIT AN AMENDMENT TO THE
6 PLAN FOR APPROVAL. THE INSPECTOR SHALL APPROVE OR DISAPPROVE THE AMENDED
7 PLAN WITHIN NINETY DAYS AFTER RECEIVING THE AMENDED PLAN.

8 D. THE INSPECTOR SHALL DEFINE SUBSTANTIAL CHANGE BY RULE.

9 E. BEFORE IMPLEMENTING A SUBSTANTIAL CHANGE IN AN APPROVED RECLAMATION
10 PLAN, THE OWNER OR OPERATOR SHALL SUBMIT TO THE INSPECTOR A REVISED FINANCIAL
11 ASSURANCE MECHANISM TO ACCOUNT FOR THE SUBSTANTIAL CHANGE.

12 27-1228. Transferring an approved reclamation plan

13 A. A RECLAMATION PLAN MAY BE TRANSFERRED FROM ONE PERSON TO ANOTHER,
14 BY OPERATION OF LAW OR OTHERWISE, IF THE CURRENT OWNER OR OPERATOR NOTIFIES
15 THE STATE MINE INSPECTOR IN WRITING BEFORE THE TRANSFER. THE NOTICE SHALL
16 INCLUDE:

- 17 1. THE NAME, ADDRESS, TELEPHONE NUMBER AND STATUTORY AGENT OF THE
- 18 PERSON TO WHOM THE PLAN WILL BE TRANSFERRED.
- 19 2. THE EFFECTIVE DATE OF THE PROPOSED TRANSFER.
- 20 3. A PROPOSED FINANCIAL ASSURANCE MECHANISM.
- 21 4. OTHER INFORMATION THE INSPECTOR MAY DETERMINE TO BE NECESSARY BY
- 22 RULE.

23 B. THE INSPECTOR MAY DENY A TRANSFER ON DETERMINING THAT THE PROPOSED
24 FINANCIAL ASSURANCE MECHANISM DOES NOT COMPLY WITH ARTICLE 5 OF THIS CHAPTER
25 OR THAT THE TRANSFEREE IS NOT CAPABLE OF OPERATING IN COMPLIANCE WITH THIS
26 ARTICLE, THE RULES ADOPTED PURSUANT TO THIS ARTICLE OR THE CONDITIONS
27 ESTABLISHED IN THE PLAN. THE INSPECTOR SHALL ISSUE NOTICE OF AND THE REASONS
28 FOR THE DENIAL WITHIN FIFTEEN DAYS AFTER RECEIVING THE PROPOSED TRANSFER.
29 EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, A FINAL
30 ADMINISTRATIVE DENIAL OF THE PLAN TRANSFER IS SUBJECT TO JUDICIAL REVIEW
31 PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

32 C. ON RECEIVING THE APPROVED FINANCIAL ASSURANCE MECHANISM FROM THE
33 TRANSFEREE THE INSPECTOR SHALL RELEASE THE FINANCIAL ASSURANCE MECHANISM
34 PROVIDED BY THE TRANSFEROR.

35 27-1229. Notice of plan or substantial change; new exploration
36 operations; new aggregate mining units

37 A. THE STATE MINE INSPECTOR SHALL SCHEDULE AND CONDUCT A PUBLIC
38 MEETING ON A PROPOSED RECLAMATION PLAN FOR A NEW EXPLORATION OPERATION OR NEW
39 AGGREGATE MINING UNIT OR SUBSTANTIAL CHANGE TO AN APPROVED RECLAMATION PLAN
40 WITHIN FORTY-FIVE DAYS AFTER RECEIVING A PROPOSED RECLAMATION PLAN OR A
41 SUBSTANTIAL CHANGE TO AN APPROVED RECLAMATION PLAN THAT THE INSPECTOR DEEMS
42 TO BE COMPLETE. THE INSPECTOR SHALL CONDUCT THE MEETING IN THE COUNTY IN
43 WHICH THE EXPLORATION OPERATION OR AGGREGATE MINING UNIT IS LOCATED.

44 B. THE INSPECTOR SHALL GIVE AT LEAST THIRTY DAYS' NOTICE OF THE
45 MEETING. THE NOTICE SHALL BRIEFLY DESCRIBE THE PROPOSED RECLAMATION PLAN OR

1 SUBSTANTIAL CHANGE AND SHALL DESIGNATE WHERE THE PLAN OR CHANGE MAY BE
2 ACCESSED. THE NOTICE SHALL BE:

3 1. FILED WITH THE SECRETARY OF STATE.

4 2. SENT BY FIRST CLASS MAIL TO CITIES AND COUNTIES LOCATED WITHIN FIVE
5 MILES OF THE EXPLORATION OPERATION OR AGGREGATE MINING UNIT.

6 3. SENT BY FIRST CLASS MAIL TO THE DEPARTMENT OF WATER RESOURCES,
7 DEPARTMENT OF ENVIRONMENTAL QUALITY, MULTI-COUNTY WATER CONSERVATION
8 DISTRICTS AND AGENCIES THAT OWN OR MANAGE LANDS ON WHICH THE EXPLORATION
9 OPERATION OR AGGREGATE MINING UNIT IS LOCATED.

10 4. SENT BY FIRST CLASS MAIL TO PROPERTY OWNERS WITHIN ONE MILE OF AN
11 EXPLORATION OPERATION OR AGGREGATE MINING UNIT LOCATED IN A COUNTY WITH A
12 POPULATION OF LESS THAN EIGHT HUNDRED THOUSAND PERSONS OR WITHIN ONE-HALF
13 MILE OF AN EXPLORATION OPERATION OR AGGREGATE MINING UNIT LOCATED IN ANY
14 OTHER COUNTY.

15 5. POSTED IN FIVE CONSPICUOUS PUBLIC LOCATIONS WITHIN ONE MILE OF THE
16 EXPLORATION OPERATION OR AGGREGATE MINING UNIT.

17 C. THE EXPLORATION OPERATION'S OR AGGREGATE MINING UNIT'S DESIGNATED
18 REPRESENTATIVE SHALL ATTEND THE PUBLIC MEETING AND RESPOND TO QUESTIONS THAT
19 RELATE TO INFORMATION IN THE RECLAMATION PLAN OR SUBSTANTIAL CHANGE.

20 D. IF AN INTERESTED PARTY CANNOT ATTEND THE PUBLIC MEETING, THAT PARTY
21 MAY SUBMIT WRITTEN COMMENTS TO THE INSPECTOR BEFORE THE MEETING REGARDING THE
22 RECLAMATION PLAN OR SUBSTANTIAL CHANGE, AND THE INSPECTOR SHALL CONSIDER THE
23 WRITTEN COMMENTS.

24 E. THE INSPECTOR SHALL ADOPT RULES TO IMPLEMENT THE PROVISIONS OF THIS
25 SECTION.

26 27-1229.01. Notice of plan for existing exploration operations
27 and existing aggregate mining units

28 A. THE INSPECTOR SHALL GIVE NOTICE OF A PROPOSED RECLAMATION PLAN FOR
29 AN EXISTING EXPLORATION OPERATION OR AN EXISTING AGGREGATE MINING UNIT. THE
30 NOTICE SHALL BE:

31 1. FILED WITH THE SECRETARY OF STATE.

32 2. SENT BY FIRST CLASS MAIL TO CITIES AND COUNTIES LOCATED WITHIN FIVE
33 MILES OF THE EXISTING EXPLORATION OPERATION OR THE EXISTING AGGREGATE MINING
34 UNIT.

35 3. SENT BY FIRST CLASS MAIL TO THE DEPARTMENT OF WATER RESOURCES,
36 DEPARTMENT OF ENVIRONMENTAL QUALITY, MULTI-COUNTY WATER CONSERVATION
37 DISTRICTS AND AGENCIES THAT OWN OR MANAGE LANDS ON WHICH THE EXPLORATION
38 OPERATION OR AGGREGATE MINING UNIT IS LOCATED.

39 4. SENT BY FIRST CLASS MAIL TO PROPERTY OWNERS WITH PROPERTY ADJOINING
40 THE EXPLORATION OPERATION OR AGGREGATE MINING UNIT.

41 5. PUBLISHED ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS IN A NEWSPAPER
42 OF GENERAL CIRCULATION IN THE COUNTY OR COUNTIES IN WHICH THE EXPLORATION
43 OPERATION OR AGGREGATE MINING UNIT IS LOCATED. IF THERE IS NO SUCH
44 NEWSPAPER, THE INSPECTOR SHALL GIVE NOTICE IN A NEWSPAPER OF GENERAL
45 CIRCULATION THAT IS PUBLISHED IN AN ADJOINING COUNTY.

1 6. POSTED IN FIVE CONSPICUOUS PUBLIC LOCATIONS WITHIN ONE MILE OF THE
2 EXPLORATION OPERATION OR AGGREGATE MINING UNIT.

3 B. THE NOTICE SHALL BRIEFLY DESCRIBE THE PROPOSED RECLAMATION PLAN AND
4 SHALL DESIGNATE WHERE THE PLAN MAY BE ACCESSED. THE NOTICE SHALL STATE THAT
5 ANY PERSON WHO MAY BE ADVERSELY AFFECTED BY THE PLAN MAY FILE WRITTEN
6 COMMENTS ON THE PLAN WITHIN FIFTEEN DAYS AFTER THE LAST PUBLICATION AND
7 REQUEST A PUBLIC MEETING. IF THERE IS SUFFICIENT PUBLIC INTEREST BY PERSONS
8 WHO MAY BE ADVERSELY AFFECTED BY THE PLAN, THE INSPECTOR SHALL HOLD A PUBLIC
9 MEETING IN THE COUNTY IN WHICH THE EXPLORATION OPERATION OR AGGREGATE MINING
10 UNIT IS LOCATED.

11 C. THE EXPLORATION OPERATION OR MINING UNIT'S DESIGNATED
12 REPRESENTATIVE SHALL ATTEND THE PUBLIC MEETING AND RESPOND TO QUESTIONS THAT
13 RELATE TO INFORMATION IN THE RECLAMATION PLAN.

14 D. IF AN INTERESTED PARTY CANNOT ATTEND THE PUBLIC MEETING, THAT PARTY
15 MAY SUBMIT WRITTEN COMMENTS TO THE INSPECTOR BEFORE THE MEETING REGARDING THE
16 RECLAMATION PLAN, AND THE INSPECTOR SHALL CONSIDER THE WRITTEN COMMENTS.

17 E. THE INSPECTOR SHALL ADOPT RULES TO IMPLEMENT THE PROVISIONS OF THIS
18 SECTION.

19 27-1230. Public disclosure of information; definition

20 A. THE STATE MINE INSPECTOR SHALL MAKE AVAILABLE TO THE PUBLIC ANY
21 RECORDS, REPORTS OR INFORMATION OBTAINED OR PREPARED BY THE INSPECTOR, UNLESS
22 A NOTICE ACCOMPANYING THE INFORMATION OR ANY PART OF THE INFORMATION STATES
23 THAT THE INFORMATION IS A TRADE SECRET OR IS OTHERWISE CONFIDENTIAL TO THE
24 PARTY'S COMPETITIVE POSITION.

25 B. IF THE INSPECTOR, ON THE INSPECTOR'S INITIATIVE OR FOLLOWING A
26 REQUEST FOR DISCLOSURE, DISAGREES WITH THE TRADE SECRET OR CONFIDENTIAL
27 NOTICE, THE INSPECTOR MAY REQUEST THE ATTORNEY GENERAL TO SEEK A COURT ORDER
28 AUTHORIZING DISCLOSURE. IF A COURT ORDER IS SOUGHT, THE PARTY SHALL BE
29 SERVED WITH A COPY OF THE COURT FILING AND HAS TWENTY BUSINESS DAYS FROM THE
30 DATE OF SERVICE TO REQUEST A HEARING ON WHETHER A COURT ORDER SHOULD BE
31 ISSUED. THE HEARING SHALL BE CONDUCTED IN CAMERA, AND ANY ORDER RESULTING
32 FROM THE HEARING IS APPEALABLE AS PROVIDED BY LAW. THE INSPECTOR MAY NOT
33 DISCLOSE THE CONFIDENTIAL INFORMATION UNTIL A COURT ORDER AUTHORIZING
34 DISCLOSURE HAS BEEN OBTAINED AND BECOMES FINAL. THE COURT MAY AWARD COSTS OF
35 LITIGATION, INCLUDING REASONABLE ATTORNEY AND EXPERT WITNESS FEES, TO THE
36 PREVAILING PARTY.

37 C. THE INSPECTOR SHALL MAKE AVAILABLE TO THE PUBLIC THE FOLLOWING
38 INFORMATION OBTAINED FROM ANY PERSON PURSUANT TO THIS CHAPTER:

- 39 1. THE NAME AND ADDRESS OF ANY PLAN APPLICANT.
- 40 2. THE PROPOSED POSTAGGREGATE MINING LAND USE OR USES.
- 41 3. A GENERAL DESCRIPTION OF THE PROPOSED RECLAMATION MEASURES.

42 D. THE INSPECTOR MAY DISCLOSE, WITH AN ACCOMPANYING CONFIDENTIALITY
43 NOTICE, ANY RECORDS, REPORTS OR INFORMATION OBTAINED BY THE INSPECTOR OR
44 EMPLOYEES OF THE DIVISION OF MINED LAND RECLAMATION TO:

1 1. OTHER STATE EMPLOYEES CONCERNED WITH ADMINISTERING THIS CHAPTER OR
2 IF THE RECORDS, REPORTS OR INFORMATION IS RELEVANT TO ANY ADMINISTRATIVE OR
3 JUDICIAL PROCEEDING UNDER THIS CHAPTER.

4 2. EMPLOYEES OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY IF
5 THE INFORMATION IS NECESSARY OR REQUIRED TO ADMINISTER AND IMPLEMENT OR
6 COMPLY WITH FEDERAL STATUTES OR REGULATIONS.

7 E. FOR THE PURPOSES OF THIS SECTION, "TRADE SECRET" MEANS INFORMATION
8 TO WHICH ALL OF THE FOLLOWING APPLY:

9 1. A PERSON HAS TAKEN REASONABLE MEASURES TO PROTECT THE INFORMATION
10 FROM DISCLOSURE AND THE PERSON INTENDS TO CONTINUE TO TAKE THOSE MEASURES.

11 2. THE INFORMATION IS NOT AND HAS NOT BEEN REASONABLY OBTAINABLE BY
12 LEGITIMATE MEANS BY OTHER PERSONS WITHOUT THE PERSON'S CONSENT, OTHER THAN BY
13 GOVERNMENTAL ENTITIES AND OTHER THAN IN DISCOVERY BASED ON A SHOWING OF
14 SPECIAL NEED IN A JUDICIAL OR QUASIJUDICIAL PROCEEDING.

15 3. A STATUTE DOES NOT SPECIFICALLY REQUIRE DISCLOSURE OF THE
16 INFORMATION TO THE PUBLIC.

17 4. THE PERSON HAS SATISFACTORILY SHOWN THAT DISCLOSURE OF THE
18 INFORMATION IS LIKELY TO CAUSE SUBSTANTIAL HARM TO THE PERSON'S COMPETITIVE
19 POSITION.

20 27-1231. Coordination with other governmental agencies

21 A. THE STATE MINE INSPECTOR SHALL COORDINATE THE REVIEW AND APPROVAL
22 OF RECLAMATION PLANS WITH THE STATE LAND DEPARTMENT, THE UNITED STATES BUREAU
23 OF LAND MANAGEMENT, THE UNITED STATES FOREST SERVICE AND OTHER AGENCIES THAT
24 OWN AND MANAGE PUBLIC LANDS ON WHICH EXPLORATION OPERATIONS OR AGGREGATE
25 MINING FACILITIES ARE LOCATED, WITHIN THE RESPECTIVE JURISDICTIONS, THROUGH
26 MEMORANDA OF AGREEMENT OR COOPERATIVE AGREEMENTS THAT DESIGNATE A LEAD AGENCY
27 FOR RECLAMATION PLAN REVIEW AND ACTION. THIS COORDINATION IS INTENDED TO
28 AVOID DUPLICATION OF EFFORTS TO INSPECT EXPLORATION OPERATIONS AND AGGREGATE
29 MINING FACILITIES AND REVIEW AND ENFORCE RECLAMATION PLANS. THE MEMORANDA OF
30 AGREEMENT SHALL ALSO PROVIDE THAT NO FINANCIAL ASSURANCE MAY BE REQUIRED
31 UNDER THIS ARTICLE THAT WILL DUPLICATE FINANCIAL ASSURANCES REQUIRED UNDER
32 ANY OTHER LAW OR AGREEMENT.

33 B. IF AN EXPLORATION OPERATION OR AN AGGREGATE MINING UNIT IS LOCATED
34 ON LAND ADMINISTERED BY A FEDERAL AGENCY, AN APPROVED FEDERAL RECLAMATION
35 PLAN AND A FINANCIAL ASSURANCE MECHANISM FOR THE FEDERAL LAND THAT ARE
36 CONSISTENT WITH THE REQUIREMENTS OF THIS CHAPTER SUPERSEDE THE REQUIREMENTS
37 FOR A RECLAMATION PLAN AND FINANCIAL ASSURANCE MECHANISM OTHERWISE REQUIRED
38 BY THIS CHAPTER.

39 27-1232. Plan submission fee; accounting and appropriation of
40 revenues; fund

41 A. THE STATE MINE INSPECTOR MAY ESTABLISH BY RULE A FEE FROM THE OWNER
42 OR OPERATOR OF EACH EXPLORATION OPERATION AND AGGREGATE MINING UNIT AT THE
43 TIME THE OWNER OR OPERATOR SUBMITS A PLAN UNDER ARTICLE 3 OR 4 OF THIS
44 CHAPTER.

1 B. THE AGGREGATE MINING RECLAMATION FUND IS ESTABLISHED CONSISTING OF
2 FEES COLLECTED PURSUANT TO SUBSECTION A OF THIS SECTION. THE INSPECTOR SHALL
3 ADMINISTER THE FUND. MONIES IN THE FUND ARE SUBJECT TO LEGISLATIVE
4 APPROPRIATION AND SHALL BE USED BY THE INSPECTOR TO ADMINISTER AND ENFORCE
5 THIS CHAPTER. ON NOTICE FROM THE INSPECTOR, THE STATE TREASURER SHALL INVEST
6 AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313 AND MONIES EARNED
7 FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

8 27-1233. Plan review and evaluation by private consultants:
9 reporting expenditures

10 A. SUBJECT TO SECTION 38-503 AND OTHER APPLICABLE STATUTES AND RULES,
11 THE STATE MINE INSPECTOR MAY CONTRACT WITH A PRIVATE CONSULTANT FOR THE
12 PURPOSE OF ASSISTING THE INSPECTOR IN REVIEWING RECLAMATION PLANS THAT ARE
13 SUBMITTED UNDER THIS CHAPTER TO DETERMINE WHETHER THE PLANS MEET THE CRITERIA
14 AND REQUIREMENTS OF THIS CHAPTER AND THE RULES ADOPTED BY THE INSPECTOR.

15 B. THE INSPECTOR SHALL PAY THE CONSULTANT FOR THE SERVICES RENDERED
16 FROM THE INSPECTOR'S APPROPRIATION UNDER SECTION 27-1232. THE INSPECTOR
17 SHALL REPORT TO THE STAFF DIRECTOR OF THE JOINT LEGISLATIVE BUDGET COMMITTEE:

- 18 1. EXPENDITURES OF MONEY FOR PURPOSES OF THIS SECTION.
- 19 2. THE NAME AND ADDRESS OF EACH CONSULTANT.
- 20 3. THE PLAN SUBMITTALS THAT CAUSE THE EXPENDITURE OF THE MONIES.

21 27-1234. Appeals

22 A PERSON MAY APPEAL A STATE MINE INSPECTOR ACTION TAKEN PURSUANT TO
23 THIS CHAPTER AS PROVIDED IN TITLE 41, CHAPTER 6, ARTICLE 10.

24 27-1235. Licensing time frames

25 TITLE 41, CHAPTER 6, ARTICLE 7.1 APPLIES TO THIS CHAPTER.

26 ARTICLE 3. EXPLORATION OPERATIONS RECLAMATION PLAN

27 27-1251. Submission and contents of reclamation plan

28 A. BEGINNING JANUARY 1, 2007, A PERSON WHO CONDUCTS EXPLORATION
29 OPERATIONS THAT WILL CREATE MORE THAN FIVE CONTIGUOUS ACRES OF SURFACE
30 DISTURBANCE SHALL SUBMIT A RECLAMATION PLAN TO THE STATE MINE INSPECTOR. THE
31 RECLAMATION PLAN SHALL:

- 32 1. IDENTIFY THE COUNTY OR COUNTIES IN WHICH EXPLORATION OPERATIONS
33 WILL BE CONDUCTED.
- 34 2. STATE THE RECLAMATION MEASURES THAT WILL BE TAKEN TO RECLAIM ACCESS
35 ROADS, DRILL PADS, DRILL HOLES, TRENCHES AND OTHER EXPLORATION WORKINGS WHERE
36 THE OPERATOR CONDUCTS EXPLORATION OPERATIONS IN THIS STATE.

37 B. AN OPERATOR MAY SUBMIT A SINGLE RECLAMATION PLAN COVERING ALL NEW
38 AND EXISTING EXPLORATION OPERATIONS IN THIS STATE.

39 27-1252. Notice of complete, incomplete or denied plan

40 A. THE STATE MINE INSPECTOR SHALL NOTIFY THE OPERATOR THAT A
41 RECLAMATION PLAN IS ADMINISTRATIVELY COMPLETE OR INCOMPLETE WITHIN THIRTY
42 DAYS AFTER RECEIVING THE PLAN.

43 B. IF THE INSPECTOR NOTIFIES THE OPERATOR THAT A PLAN IS INCOMPLETE OR
44 DENIED, THE INSPECTOR SHALL INCLUDE A WRITTEN EXPLANATION STATING THE REASONS
45 FOR DENIAL INCLUDING RECOMMENDATIONS FOR CORRECTING INCOMPLETE OR

1 UNACCEPTABLE PARTS OF THE PLAN CONSISTENT WITH THE REQUIREMENTS OF THIS
2 CHAPTER. THE OPERATOR MUST REFILE THE CORRECTED PLAN WITHIN NINETY DAYS
3 AFTER NOTIFICATION THAT THE PREVIOUS PLAN WAS INCOMPLETE OR DENIED OR WITHIN
4 A TIME FRAME MUTUALLY AGREED ON BETWEEN THE OPERATOR AND THE STATE MINE
5 INSPECTOR THAT WOULD NOT MATERIALLY AFFECT THE SAFETY OF EMPLOYEES OR CAUSE
6 UNDUE HARDSHIP ON AN OPERATOR.

7 27-1253. Approval; criteria

8 THE STATE MINE INSPECTOR SHALL APPROVE A RECLAMATION PLAN FOR
9 EXPLORATION OPERATIONS WITHIN SIXTY DAYS AFTER RECEIVING A COMPLETE PLAN IF
10 THE PLAN PROVIDES FOR THE RECLAMATION OF SURFACE DISTURBANCES AT THE
11 EXPLORATION OPERATIONS ACCORDING TO THE FOLLOWING REQUIREMENTS, AS
12 APPLICABLE:

13 1. EXPLORATION ACCESS ROADS THAT THE OPERATOR CONSTRUCTS AND THAT WILL
14 NOT BE PART OF A POSTEXPLORATION USE SHALL BE RECLAIMED IN A TIMELY MANNER
15 AFTER THE EXPLORATION IS COMPLETED. IF A GOVERNMENTAL UNIT OR AGENCY WILL
16 ACCEPT DEDICATION OR CONVEYANCE OF AN ACCESS ROAD, RECLAMATION IS NOT
17 REQUIRED. RECLAMATION SHALL INCLUDE REMOVING CULVERTS, RESTORING DRAINAGE TO
18 ITS GENERAL PREDISTURBANCE CONFIGURATION, RIPPING THE ROAD SURFACE TO REDUCE
19 COMPACTION AND AID REVEGETATION AND CONTROLLING ACCESS OF MOTORIZED VEHICLES
20 TO THE RECLAIMED AREA.

21 2. HOLES THAT ARE DRILLED FOR AGGREGATE EXPLORATION PURPOSES, UNLESS
22 COMPLETED FOR WATER MONITORING, WITHDRAWAL OR OTHER USE, SHALL BE PLUGGED,
23 SEALED OR CAPPED PROMPTLY AFTER THEIR USE IS COMPLETED AS PRESCRIBED BY RULE
24 BY THE DEPARTMENT OF WATER RESOURCES AND AS NECESSARY TO ENSURE THE SAFETY OF
25 PERSONS, DOMESTIC ANIMALS, LIVESTOCK AND MACHINERY IN THE AREA.

26 3. DRILL PADS SHALL BE RESHAPED PROMPTLY AFTER COMPLETION OF DRILLING
27 TO PREVENT EROSION AND TO ESTABLISH CONTOURS THAT ARE GENERALLY COMPATIBLE
28 WITH THE ADJACENT AREAS OR SHALL BE RIPPED TO REDUCE COMPACTION AND AID
29 REVEGETATION AND, IF APPROPRIATE, SEEDED TO MINIMIZE EROSION.

30 4. MUD PITS THAT ARE USED FOR DRILLING FLUIDS AND PRODUCED WATERS
31 SHALL BE RECLAIMED AFTER HAZARDOUS SUBSTANCES ARE REMOVED AND DISPOSED OF, IF
32 NECESSARY, AND AFTER THEY ARE SUFFICIENTLY DRY BY RESHAPING TO CONTOURS THAT
33 ARE GENERALLY COMPATIBLE WITH THE ADJACENT AREAS. IF IT IS APPROPRIATE TO
34 THE AREA, SUITABLE GROWTH MEDIA SHALL BE SPREAD AND SEEDED OVER THE PIT AREA.

35 5. EXPLORATION TRENCHES AND PITS SHALL BE BACKFILLED AND RECLAIMED AS
36 SOON AS PRACTICABLE AS PRESCRIBED IN THE RECLAMATION PLAN. IF THE TRENCH OR
37 PIT WILL REMAIN OPEN, MEASURES SHALL BE TAKEN TO STABILIZE THE SIDES TO
38 ADDRESS EROSION CONTROL AND TO RESTRICT ACCESS. TRENCH AND PIT RECLAMATION
39 SHALL INCLUDE BACKFILLING, RESHAPING TO CONTOURS GENERALLY COMPATIBLE WITH
40 THE ADJACENT AREAS AND, IF APPROPRIATE FOR THE AREA, SEEDING TO REESTABLISH
41 VEGETATION.

42 6. AREAS THAT HAVE BEEN CLEARED BY BLADING WITH MECHANIZED EQUIPMENT
43 DURING EXPLORATION OPERATIONS SHALL BE RESHAPED AFTER EXPLORATION IS
44 COMPLETED, UNLESS USED FOR A POSTEXPLORATION USE, TO BE GENERALLY COMPATIBLE
45 WITH THE ADJACENT AREA. COMPACTED AREAS SHALL BE RIPPED TO AID REVEGETATION.

1 27-1254. Beginning new exploration operations

2 NEW EXPLORATION OPERATIONS MAY BEGIN WHEN BOTH OF THE FOLLOWING OCCUR:

3 1. THE STATE MINE INSPECTOR APPROVES THE RECLAMATION PLAN FOR THE
4 EXPLORATION OPERATIONS.

5 2. FINANCIAL ASSURANCE HAS BEEN SUBMITTED TO THE INSPECTOR AS REQUIRED
6 BY ARTICLE 5 OF THIS CHAPTER.

7 27-1255. Annual renewal

8 A RECLAMATION PLAN FOR EXPLORATION OPERATIONS IS RENEWABLE ANNUALLY ON:

9 1. MODIFICATION OF THE PLAN TO ADDRESS TYPES OF SURFACE DISTURBANCES
10 THAT WILL BE CONDUCTED DURING EXPLORATION OPERATIONS BUT THAT HAVE NOT BEEN
11 PREVIOUSLY ADDRESSED IN THE RECLAMATION PLAN.

12 2. SUBMISSION OF ANY ADDITIONAL FINANCIAL ASSURANCE, IF NECESSARY.

13 ARTICLE 4. AGGREGATE MINING UNIT RECLAMATION PLAN

14 27-1271. Submission and contents of reclamation plan

15 A. BEGINNING JANUARY 1, 2006, AN OWNER OR OPERATOR MAY SUBMIT A SINGLE
16 RECLAMATION PLAN THAT COVERS MULTIPLE AGGREGATE MINING UNITS OF AN AGGREGATE
17 MINING FACILITY.

18 B. THE PROPOSED RECLAMATION PLAN SHALL INCLUDE:

19 1. THE NAMES AND ADDRESSES OF THE OWNER OR OPERATOR AND AN INDIVIDUAL
20 WHO WILL BE THE REGULATORY CONTACT.

21 2. A STATEMENT THAT THE OWNER OR OPERATOR ASSUMES RESPONSIBILITY FOR
22 THE RECLAMATION OF SURFACE DISTURBANCES THAT ARE ATTRIBUTABLE TO THE
23 AGGREGATE MINING UNIT CONSISTENT WITH THIS CHAPTER AND THE RULES ADOPTED
24 PURSUANT TO THIS CHAPTER.

25 3. THE CURRENT OWNERSHIP AND USE OF THE LAND INCLUDED IN THE AGGREGATE
26 MINING UNIT.

27 4. THE PROPOSED POSTAGGREGATE MINING USE OF THE LAND.

28 5. A DESCRIPTION OF THE AGGREGATE MINING UNIT AND THE PROPOSED SURFACE
29 DISTURBANCES THAT WILL BE CREATED.

30 6. THE EXISTING AND PROPOSED FINAL TOPOGRAPHY, INCLUDING THE FINAL
31 SLOPES OR CONFIGURATION OF OVERBURDEN OR WASTE ROCK STOCKPILES AND FINE
32 AREAS.

33 7. A NARRATIVE DESCRIPTION OF ROADS THAT ARE PROPOSED FOR THE
34 AGGREGATE MINING UNIT.

35 8. THE ACREAGE AFFECTED BY EACH TYPE OF SURFACE DISTURBANCE AND A MAP
36 OF THE AGGREGATE MINING UNIT AREA SHOWING EACH SURFACE DISTURBANCE. FOR
37 PREVIOUSLY UNDISTURBED AREAS, THE MAP SHALL IDENTIFY ANY TYPES OF FISH AND
38 WILDLIFE HABITATS THAT WILL BE DISTURBED.

39 9. THE PROPOSED RECLAMATION MEASURES THAT ARE NECESSARY TO ACHIEVE THE
40 POSTAGGREGATE MINING LAND USE, INCLUDING INFORMATION CONCERNING:

41 (a) THE MEASURES THAT WILL BE TAKEN TO RESTRICT PUBLIC ACCESS TO PITS
42 AND OTHER SURFACE FEATURES THAT MAY BE A HAZARD TO PUBLIC SAFETY.

43 (b) THE MEASURES THAT WILL BE TAKEN TO ADDRESS EROSION CONTROL AND
44 STABILITY.

1 (c) THE MEASURES THAT WILL BE TAKEN TO ADDRESS REVEGETATION,
2 CONSERVATION AND THE CARE AND MONITORING OF REVEGETATED AREAS AS PROVIDED IN
3 THIS CHAPTER.

4 (d) FOR SURFACE DISTURBANCES FOR WHICH THE PROPOSED POSTAGGREGATE
5 MINING LAND USE OBJECTIVE IS DESIGNATED AS GRAZING, FISH OR WILDLIFE HABITAT,
6 FORESTRY OR RECREATION, THE TYPE OF WILDLIFE OR FISH HABITAT TO BE
7 ENCOURAGED, INCLUDING MEASURES THAT WILL BE TAKEN TO ENCOURAGE THAT TYPE OF
8 WILDLIFE OR FISH HABITAT, AND THAT THOSE MEASURES WILL NOT BE INCOMPATIBLE
9 WITH THE FISH OR WILDLIFE HABITAT ON ADJACENT LANDS.

10 10. A PROPOSED TENTATIVE SCHEDULE FOR BEGINNING SURFACE DISTURBANCES
11 AND BEGINNING AND COMPLETING THE RECLAMATION MEASURES.

12 11. THE ESTIMATED COSTS TO PERFORM EACH OF THE PROPOSED RECLAMATION
13 MEASURES FOR PURPOSES OF DETERMINING FINANCIAL ASSURANCE REQUIREMENTS UNDER
14 ARTICLE 5 OF THIS CHAPTER.

15 27-1272. Notice of complete, incomplete or denied plan

16 A. THE STATE MINE INSPECTOR SHALL NOTIFY THE OWNER OR OPERATOR THAT
17 THE PLAN IS COMPLETE OR INCOMPLETE WITHIN THIRTY DAYS AFTER RECEIVING THE
18 PLAN.

19 B. THE INSPECTOR SHALL APPROVE OR DISAPPROVE A PLAN FOR NEW AGGREGATE
20 MINING UNITS WITHIN ONE HUNDRED TWENTY DAYS AFTER RECEIVING A COMPLETE PLAN.

21 C. IF THE INSPECTOR NOTIFIES THE OWNER OR OPERATOR THAT A PLAN IS
22 INCOMPLETE OR DENIED, THE INSPECTOR SHALL INCLUDE A WRITTEN EXPLANATION
23 STATING THE REASONS FOR DENIAL, INCLUDING RECOMMENDATIONS FOR CORRECTING
24 INCOMPLETE OR UNACCEPTABLE PARTS OF THE PLAN CONSISTENT WITH THE REQUIREMENTS
25 OF THIS CHAPTER. THE OWNER OR OPERATOR MUST REFILE THE CORRECTED PLAN WITHIN
26 NINETY DAYS AFTER NOTIFICATION THAT THE PREVIOUS PLAN WAS INCOMPLETE OR
27 DENIED OR WITHIN A TIME FRAME MUTUALLY AGREED ON BETWEEN THE OWNER OR
28 OPERATOR AND THE STATE MINE INSPECTOR THAT WOULD NOT MATERIALLY AFFECT THE
29 SAFETY OF EMPLOYEES OR CAUSE UNDUE HARDSHIP ON AN OWNER OR OPERATOR.

30 27-1273. Approval; criteria

31 A. THE STATE MINE INSPECTOR SHALL APPROVE A RECLAMATION PLAN FOR
32 AGGREGATE MINING UNITS IF THE PLAN PROVIDES FOR RECLAMATION MEASURES FOR
33 SURFACE DISTURBANCES THAT ARE:

34 1. NECESSARY TO ACHIEVE A SAFE AND STABLE CONDITION SUITABLE FOR THE
35 POSTAGGREGATE MINING LAND USE OBJECTIVES STATED IN THE RECLAMATION PLAN.

36 2. COMPATIBLE WITH GOOD ENGINEERING PRACTICES REGARDING EROSION
37 CONTROL AND SEISMIC ACTIVITY FOR THE APPLICABLE SEISMIC ZONE.

38 B. IN EVALUATING THE RECLAMATION PLAN, THE INSPECTOR SHALL CONSIDER
39 THE TECHNICAL AND ECONOMIC PRACTICABILITY OF THE PROPOSED RECLAMATION
40 MEASURES, TAKING INTO ACCOUNT THE SITE-SPECIFIC CIRCUMSTANCES AT THE
41 AGGREGATE MINING UNIT AND THE PROPOSED POSTAGGREGATE MINING LAND USE
42 OBJECTIVES AS STATED IN THE RECLAMATION PLAN, INCLUDING:

43 1. GRAZING AND OTHER AGRICULTURAL LAND USE OBJECTIVES.

44 2. DEVELOPED WATER RESOURCES, WATER MANAGEMENT PROJECTS AND PLANNED
45 AND EXISTING UNDERGROUND WATER STORAGE FACILITIES.

- 1 3. FISH OR WILDLIFE HABITAT.
- 2 4. FORESTRY.
- 3 5. HISTORIC PRESERVATION.
- 4 6. INDUSTRIAL OR COMMERCIAL USES, INCLUDING TOURISM.
- 5 7. RECREATIONAL USES.
- 6 8. RESIDENTIAL USES.
- 7 9. SCIENTIFIC OR EDUCATIONAL USES.
- 8 10. AGGREGATE MINING OR REMINING, EXCEPT THAT THE PROPOSED
- 9 POSTAGGREGATE MINING USE OF AGGREGATE MINING OR REMINING DOES NOT RELIEVE AN
- 10 OWNER OR OPERATOR FROM COMPLYING WITH OR IMPLEMENTING THE RECLAMATION PLAN
- 11 REQUIREMENTS UNDER THIS CHAPTER.
- 12 11. WATER COURSE CHANNELIZATION.
- 13 12. OTHER APPROPRIATE POSTAGGREGATE MINING LAND USE OBJECTIVES.

14 C. THE POSTAGGREGATE MINING LAND USE OBJECTIVE STATED IN THE
15 RECLAMATION PLAN NEED NOT BE THE SAME USE OF THE LAND THAT EXISTED BEFORE THE
16 AGGREGATE MINING FACILITY WAS LOCATED ON THE SITE.

17 27-1274. Preservation and conservation of soil; exceptions

18 BEFORE CREATING A SURFACE DISTURBANCE THAT IS STATED TO BE RECLAIMED BY
19 REVEGETATION PURSUANT TO A NEW AGGREGATE MINING UNIT RECLAMATION PLAN, THE
20 OWNER OR OPERATOR SHALL CONSERVE THE SOIL AS REASONABLY AVAILABLE FROM THE
21 AREA OF DISTURBANCE TO SUPPORT THE STATED REVEGETATION ON THAT SPECIFIC
22 DISTURBANCE AS NECESSARY TO ACHIEVE THE POSTAGGREGATE MINING LAND USE
23 OBJECTIVES STATED IN THE RECLAMATION PLAN, UNLESS THE OWNER OR OPERATOR
24 DEMONSTRATES ONE OR MORE OF THE FOLLOWING FACTORS:

- 25 1. THERE IS INSUFFICIENT SOIL TO MAKE RECOVERY PRACTICABLE.
- 26 2. RECOVERY OF THE SOIL IS NOT PRACTICABLE DUE TO LIMITATIONS OF
- 27 TOPOGRAPHY, THICKNESS OF SOIL OR OTHER PHYSICAL, CLIMATIC OR BIOLOGICAL
- 28 CONSTRAINTS.
- 29 3. DIRECT REVEGETATION OF THE DISTURBANCE, WITH OR WITHOUT SOIL
- 30 AMENDMENTS, IS REASONABLY EXPECTED TO BE SUCCESSFUL.

31 27-1275. Features excluded from reclamation plan or allowed to
32 remain following reclamation; public protection
33 measures

34 A. A RECLAMATION PLAN MAY EXCLUDE ANY PROVISION FOR RECLAIMING OPEN
35 PITS, ROCK FACES OR SUBSIDENCE AREAS THROUGH BACKFILLING OR RETURNING
36 MATERIAL TO THE OPEN PIT, ROCK FACE OR SUBSIDENCE AREA FROM WHICH IT WAS
37 EXTRACTED IF IT IS IMPRACTICABLE AND IF PUBLIC ACCESS TO THE OPEN PIT, ROCK
38 FACE OR SUBSIDENCE AREA, INCLUDING ANY SURROUNDING UNSTABLE AREAS OR WALLS,
39 IS RESTRICTED BY FENCING OR OTHER INSTITUTIONAL CONTROLS.

40 B. THE FOLLOWING FACTORS SHALL BE CONSIDERED IN DETERMINING WHETHER
41 THE RECLAMATION OF OPEN PITS, ROCK FACES OR SUBSIDENCE AREAS IS
42 IMPRACTICABLE:

- 43 1. COST TO PERFORM THE RECLAMATION.
- 44 2. TOPOGRAPHY OF THE SITE.
- 45 3. GEOLOGY AND STABILITY OF THE SITE.

- 1 4. TIME REQUIRED TO PERFORM THE RECLAMATION.
- 2 5. CONSUMPTION OF RESOURCES REQUIRED TO PERFORM THE RECLAMATION.
- 3 6. FUTURE ACCESS TO AGGREGATE RESOURCES.
- 4 7. REGIONAL OR LOCAL HYDROGEOLOGY.
- 5 C. BUILDINGS AND OTHER STRUCTURES MAY REMAIN AFTER RECLAMATION IF
- 6 ADEQUATE MEASURES ARE TAKEN TO PROTECT PUBLIC SAFETY.

7 27-1276. Beginning new aggregate mining units
8 BEGINNING JANUARY 1, 2007, NEW AGGREGATE MINING UNITS MAY BEGIN WHEN
9 BOTH OF THE FOLLOWING OCCUR:

- 10 1. THE STATE MINE INSPECTOR APPROVES THE RECLAMATION PLAN FOR THE
- 11 AGGREGATE MINING UNIT.
- 12 2. FINANCIAL ASSURANCE HAS BEEN SUBMITTED TO THE INSPECTOR AS REQUIRED
- 13 BY ARTICLE 5 OF THIS CHAPTER.

14 ARTICLE 5. FINANCIAL ASSURANCE

15 27-1291. Financial assurance requirements; form

16 A. ON OR BEFORE JANUARY 1, 2007, AS REQUIRED BY THIS CHAPTER, OWNERS
17 AND OPERATORS OF EXPLORATION OPERATIONS AND AGGREGATE MINING UNITS WHO CREATE
18 SURFACE DISTURBANCES SHALL PROVIDE FINANCIAL ASSURANCE MECHANISMS TO THE
19 INSPECTOR AS PROVIDED BY THIS ARTICLE.

20 B. ALLOWABLE FINANCIAL ASSURANCE MECHANISMS FOR PURPOSES OF THIS
21 ARTICLE INCLUDE ANY OR A COMBINATION OF THE FOLLOWING:

- 22 1. SURETY BOND.
- 23 2. CERTIFICATE OF DEPOSIT.
- 24 3. TRUST FUND WITH PAY-IN PERIOD.
- 25 4. LETTER OF CREDIT.
- 26 5. INSURANCE POLICY.
- 27 6. CERTIFICATE OF SELF-INSURANCE.
- 28 7. CASH DEPOSIT WITH THE STATE TREASURER.
- 29 8. EVIDENCE OF ABILITY TO MEET A CORPORATE FINANCIAL TEST OR CORPORATE
- 30 GUARANTEES AS PROVIDED BY 40 CODE OF FEDERAL REGULATIONS SECTION 264.143(f).
- 31 9. ANNUITIES.
- 32 10. BONDING POOLS.
- 33 11. ADDITIONAL FINANCIAL ASSURANCE MECHANISMS THAT ARE ACCEPTABLE TO
- 34 THE INSPECTOR.

35 27-1292. Aggregate mining unit or existing exploration
36 operation

37 A. THE OWNER OR OPERATOR OF AN EXISTING EXPLORATION OPERATION OR A NEW
38 OR EXISTING AGGREGATE MINING UNIT SHALL TRANSMIT A FINANCIAL ASSURANCE
39 MECHANISM TO THE STATE MINE INSPECTOR WITHIN SIXTY DAYS AFTER A RECLAMATION
40 PLAN IS APPROVED. THE INSPECTOR SHALL TAKE FINAL ACTION ON THE FINANCIAL
41 ASSURANCE MECHANISM WITHIN THIRTY DAYS AFTER IT IS RECEIVED.

42 B. IN DETERMINING THE AMOUNT OF FINANCIAL ASSURANCE TO BE PROVIDED FOR
43 AN EXISTING EXPLORATION OPERATION OR A NEW OR EXISTING AGGREGATE MINING UNIT,
44 THE INSPECTOR SHALL CONSIDER THE COSTS OF APPROVED RECLAMATION MEASURES
45 STATED IN THE RECLAMATION PLAN. IN COMPUTING RECLAMATION COSTS, THE

1 INSPECTOR SHALL ASSUME THAT THIRD PARTIES WILL PERFORM THE RECLAMATION
2 MEASURES. THE INSPECTOR SHALL REDUCE THE AMOUNT OF THE REQUIRED FINANCIAL
3 ASSURANCE TO THE COSTS OF THE OWNER OR OPERATOR PERFORMING THE RECLAMATION
4 MEASURES IF THE OWNER OR OPERATOR CAN DEMONSTRATE SUFFICIENT FINANCIAL
5 ABILITY TO PERFORM THE NECESSARY RECLAMATION OR IF THE OWNER OR OPERATOR
6 MEETS THE FINANCIAL ASSURANCE REDUCTION CRITERIA ESTABLISHED BY RULE.
7 FINANCIAL ABILITY SHALL BE ESTABLISHED BY ONE OR MORE OF THE FINANCIAL
8 MECHANISMS DESCRIBED IN 40 CODE OF FEDERAL REGULATIONS SECTION 264.143(f).

9 C. EACH FINANCIAL ASSURANCE MECHANISM FOR AN EXISTING EXPLORATION OR
10 NEW OR EXISTING AGGREGATE MINING UNIT SUBMITTED TO THE INSPECTOR SHALL
11 PROVIDE THE AMOUNT IN CURRENT DOLLARS EQUAL TO THE COST TO:

12 1. PERFORM THE APPROVED RECLAMATION MEASURES STATED IN THE RECLAMATION
13 PLAN ON THE AREA OF SURFACE DISTURBANCE.

14 2. PROVIDE CONTINUED CARE AND MONITORING OF THE AREAS STATED IN THE
15 RECLAMATION PLAN FOR REVEGETATION FOR NO MORE THAN THREE GROWING SEASONS
16 WITHOUT ADDITIONAL SUPPLEMENTAL IRRIGATION OR OTHER MAN-INDUCED INPUTS AFTER
17 PERFORMING THE RECLAMATION MEASURES UNLESS THE SUPPLEMENTAL INPUTS ARE PART
18 OF THE POSTAGGREGATE MINING LAND USE. NOTWITHSTANDING THIS PARAGRAPH,
19 REVEGETATION EFFORTS THAT ARE NECESSARY TO ACHIEVE THE POSTAGGREGATE MINING
20 LAND USE OBJECTIVE ARE CONSIDERED ADEQUATE AND COMPLETE IF THE OWNER OR
21 OPERATOR HAS TAKEN REASONABLE MEASURES TO ACHIEVE VEGETATIVE SUCCESS.
22 TECHNICAL AND ECONOMIC PRACTICABILITY AS IT RELATES TO SITE-SPECIFIC
23 CONDITIONS AND THE PROPOSED POSTAGGREGATE MINING LAND USE SHALL BE TAKEN INTO
24 ACCOUNT IN MAKING THAT DETERMINATION.

25 D. THE INSPECTOR SHALL ADJUST THE AMOUNT OF FINANCIAL ASSURANCE EVERY
26 FIVE YEARS OR MORE OFTEN AS NECESSARY TO ADJUST FOR NEW AREAS OF PLANNED
27 SURFACE DISTURBANCES OR INFLATION OR TO REFLECT CHANGED COSTS RESULTING FROM
28 SUBSTANTIAL MODIFICATIONS OF THE RECLAMATION PLAN.

29 27-1293. New exploration operation

30 A. BEGINNING JANUARY 1, 2007, THE OWNER OR OPERATOR OF A NEW
31 EXPLORATION OPERATION SHALL FURNISH A FINANCIAL ASSURANCE MECHANISM TO THE
32 STATE MINE INSPECTOR IN AN AMOUNT EQUIVALENT TO TWO THOUSAND DOLLARS PER ACRE
33 OF NEW SURFACE DISTURBANCE, UNLESS THE INSPECTOR APPROVES A COST ESTIMATE FOR
34 AN AMOUNT LESS THAN TWO THOUSAND DOLLARS PER ACRE.

35 B. AN OWNER OR OPERATOR MAY PROVIDE A SINGLE FINANCIAL ASSURANCE
36 MECHANISM FOR ALL OF ITS EXPLORATION OPERATIONS CONDUCTED IN THIS STATE.

37 27-1294. Duplication of financial assurance not required

38 FINANCIAL ASSURANCE IS NOT REQUIRED UNDER THIS ARTICLE THAT DUPLICATES
39 FINANCIAL ASSURANCE THAT IS REQUIRED UNDER OTHER LOCAL, STATE OR FEDERAL
40 LAWS. EVIDENCE OF FINANCIAL ASSURANCE UNDER THIS ARTICLE THAT WOULD BE
41 DUPLICATED MUST BE FILED WITH THE STATE MINE INSPECTOR.

42 27-1295. Incremental financial assurance

43 AN OWNER OR OPERATOR MAY PROVIDE FINANCIAL ASSURANCE UNDER THIS ARTICLE
44 ON AN INCREMENTAL BASIS FOR PLANNED SURFACE DISTURBANCES DESCRIBED IN THE
45 RECLAMATION PLAN.

1 27-1296. Release of financial assurance

2 A. AN OWNER OR OPERATOR MAY APPLY TO THE STATE MINE INSPECTOR TO
3 RELEASE ALL OR PART OF THE FINANCIAL ASSURANCE PROVIDED UNDER THIS ARTICLE.
4 THE APPLICATION SHALL:

5 1. DESCRIBE THE RECLAMATION MEASURES THAT HAVE BEEN PERFORMED.

6 2. DESCRIBE ANY SURFACE DISTURBANCES PROPOSED IN THE RECLAMATION PLAN
7 THAT HAVE NOT BEEN DISTURBED.

8 3. CONTAIN AN ESTIMATE OF THE COSTS OF RECLAMATION MEASURES THAT HAVE
9 NOT BEEN PERFORMED.

10 B. WITHIN SIXTY DAYS AFTER RECEIVING A COMPLETE APPLICATION, THE
11 INSPECTOR SHALL RELEASE ALL OR PART OF THE FINANCIAL ASSURANCE EXCEPT FOR ANY
12 AMOUNT THAT IS NECESSARY TO PERFORM THE RECLAMATION MEASURES IDENTIFIED IN
13 THE RECLAMATION PLAN. AFTER THE RECLAMATION MEASURES HAVE BEEN PERFORMED,
14 THE REMAINING FINANCIAL ASSURANCE SHALL BE RELEASED, EXCEPT THAT TEN PER CENT
15 SHALL BE RETAINED FOR THE COSTS OF CARE, MONITORING AND ONE RESEEDING, IF
16 NECESSARY, FOR AREAS THAT HAVE BEEN REVEGETATED. THE INSPECTOR SHALL RELEASE
17 THE RETAINED MONIES AFTER A PERIOD OF NOT MORE THAN THREE GROWING SEASONS
18 AFTER THE SUPPLEMENTAL MANAGEMENT OR OTHER MAN-INDUCED INPUTS HAVE BEEN
19 FINALLY REMOVED OR AS OTHERWISE PROVIDED IN SECTION 27-1292, SUBSECTION B.

20 27-1297. Rules; release, forfeiture or exercise of financial
21 assurance

22 A. THE STATE MINE INSPECTOR SHALL ADOPT RULES FOR:

23 1. REVIEWING AND ACTING ON APPLICATIONS TO RELEASE ALL OR PART OF THE
24 FINANCIAL ASSURANCE UNDER THIS ARTICLE.

25 2. ENSURING THE IMPLEMENTATION OF THE RECLAMATION PLAN THROUGH
26 FORFEITURE OR EXERCISE OF THE FINANCIAL ASSURANCE ON FAILURE TO IMPLEMENT THE
27 RECLAMATION PLAN AS REQUIRED BY THIS ARTICLE.

28 B. THE RULES SHALL PROVIDE FOR WRITTEN NOTICE TO ALL PRINCIPALS AND
29 SURETIES ON THE FINANCIAL ASSURANCE AND AN OPPORTUNITY FOR A HEARING.

30 ARTICLE 6. ENFORCEMENT

31 27-1321. Inspections

32 BEGINNING JANUARY 1, 2007, THE STATE MINE INSPECTOR MAY ENTER AND
33 INSPECT, DURING NORMAL BUSINESS HOURS, ANY EXPLORATION OPERATION OR AGGREGATE
34 MINING FACILITY THAT IS SUBJECT TO THIS CHAPTER TO DETERMINE COMPLIANCE WITH
35 THIS CHAPTER. THE INSPECTOR SHALL GIVE THE OWNER OR OPERATOR THE OPPORTUNITY
36 TO HAVE ITS REPRESENTATIVE ACCOMPANY THE INSPECTOR. WITHIN THIRTY DAYS AFTER
37 THE DATE OF THE INSPECTION, THE DIVISION SHALL PROVIDE TO THE OWNER OR
38 OPERATOR A COPY OF ANY INSPECTION REPORT PRODUCED AS A RESULT OF ANY
39 INSPECTION OF THE EXPLORATION OPERATION OR AGGREGATE MINING FACILITY.

40 27-1322. Compliance orders

41 A. BEGINNING JANUARY 1, 2007, IF THE STATE MINE INSPECTOR DETERMINES
42 THAT A PERSON IS VIOLATING THIS CHAPTER, A RULE ADOPTED PURSUANT TO THIS
43 CHAPTER OR ANY CONDITION OF A RECLAMATION PLAN APPROVED PURSUANT TO THIS
44 CHAPTER OR IS CAUSING AN IMMINENT AND SUBSTANTIAL DANGER TO THE PUBLIC

1 SAFETY, THE INSPECTOR MAY ISSUE AN ORDER REQUIRING COMPLIANCE EITHER
2 IMMEDIATELY OR WITHIN A STATED PERIOD OF TIME.

3 B. A COMPLIANCE ORDER SHALL STATE WITH REASONABLE SPECIFICITY THE
4 NATURE OF THE VIOLATION, A TIME FOR COMPLIANCE, IF APPLICABLE, AND THE RIGHT
5 TO A HEARING.

6 C. THE INSPECTOR SHALL TRANSMIT THE COMPLIANCE ORDER TO THE ALLEGED
7 VIOLATOR EITHER BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR BY HAND
8 DELIVERY.

9 D. AT THE INSPECTOR'S REQUEST, THE ATTORNEY GENERAL MAY FILE AN ACTION
10 IN SUPERIOR COURT TO ENFORCE ORDERS ISSUED UNDER THIS SECTION AFTER THE ORDER
11 BECOMES FINAL. THE ACTION SHALL BE FILED IN SUPERIOR COURT IN THE COUNTY IN
12 WHICH THE ALLEGED VIOLATION OCCURRED OR IN WHICH THE INSPECTOR MAINTAINS AN
13 OFFICE.

14 27-1323. Enforcement action on reclamation plan approval

15 A. THE STATE MINE INSPECTOR MAY SUSPEND, WITHDRAW OR REVOKE A
16 RECLAMATION PLAN APPROVAL IF THE INSPECTOR DETERMINES THAT THE FACILITY IS IN
17 VIOLATION OF ANY RULE ADOPTED PURSUANT TO THIS CHAPTER.

18 B. ANY ACTION TAKEN UNDER THIS SECTION SHALL COMPLY WITH THE
19 REQUIREMENTS OF TITLE 41, CHAPTER 6, ARTICLE 10.

20 27-1324. Injunctive relief; civil penalties

21 A. BEGINNING JANUARY 1, 2007, IF THE STATE MINE INSPECTOR HAS REASON
22 TO BELIEVE THAT A PERSON IS VIOLATING THIS CHAPTER OR A RULE ADOPTED PURSUANT
23 TO THIS CHAPTER OR THAT A PERSON IS CAUSING AN IMMINENT AND SUBSTANTIAL
24 DANGER TO THE PUBLIC SAFETY, THE INSPECTOR, THROUGH THE ATTORNEY GENERAL, MAY
25 REQUEST A TEMPORARY RESTRAINING ORDER, A PRELIMINARY INJUNCTION, A PERMANENT
26 INJUNCTION OR ANY OTHER RELIEF NECESSARY TO PROTECT THE PUBLIC SAFETY,
27 WITHOUT REGARD TO WHETHER THE PERSON HAS REQUESTED A HEARING.

28 B. A PERSON WHO VIOLATES THIS CHAPTER OR A RULE, ORDER OR RECLAMATION
29 PLAN APPROVAL ADOPTED OR ISSUED PURSUANT TO THIS CHAPTER IS SUBJECT TO A
30 CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS FOR EACH DAY OF
31 VIOLATION, NOT TO EXCEED FIFTEEN THOUSAND DOLLARS FOR EACH VIOLATION. AT THE
32 INSPECTOR'S REQUEST, THE ATTORNEY GENERAL SHALL FILE AN ACTION IN SUPERIOR
33 COURT TO RECOVER CIVIL PENALTIES AS PRESCRIBED BY THIS SECTION.

34 C. AN ACTION FILED UNDER THIS SECTION SHALL BE BROUGHT IN SUPERIOR
35 COURT IN THE COUNTY IN WHICH THE ALLEGED VIOLATION OCCURRED OR IN WHICH THE
36 INSPECTOR MAINTAINS AN OFFICE.

37 27-1325. Agency order; appeal

38 A. AN ORDER ISSUED BY THE STATE MINE INSPECTOR PURSUANT TO THIS
39 ARTICLE IS FINAL UNLESS THE DEFENDANT REQUESTS A HEARING PURSUANT TO TITLE
40 41, CHAPTER 6, ARTICLE 10 WITHIN THIRTY DAYS AFTER RECEIVING THE ORDER.

41 B. EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, A FINAL
42 AGENCY ORDER IS SUBJECT TO JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7,
43 ARTICLE 6.

1 27-1326. Violation; classification

2 A. BEGINNING JANUARY 1, 2007, AN OWNER OR OPERATOR OF AN EXPLORATION
3 OPERATION OR AGGREGATE MINING UNIT SHALL NOT:

4 1. CAUSE A SURFACE DISTURBANCE AT AN EXPLORATION OPERATION OR
5 AGGREGATE MINING UNIT IN VIOLATION OF THIS CHAPTER.

6 2. FAIL OR REFUSE TO CONDUCT RECLAMATION ACCORDING TO THE TERMS OF A
7 RECLAMATION PLAN AUTHORIZED BY THIS CHAPTER.

8 B. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 2
9 MISDEMEANOR.

10 27-1327. Procurement; aggregate materials; eligibility

11 BEGINNING JANUARY 1, 2008, A PERSON IS NOT ELIGIBLE FOR CONSIDERATION
12 FOR AWARD OF CONTRACTS FOR THE SALE OF AGGREGATE PURSUANT TO TITLE 41,
13 CHAPTER 23 UNTIL THAT PERSON HAS AN APPROVED RECLAMATION PLAN PURSUANT TO
14 THIS CHAPTER.

15 Sec. 2. Plan submission fees; appropriation

16 Notwithstanding the provisions of section 27-1232, subsection B,
17 Arizona Revised Statutes, as added by this act, monies collected by the state
18 mine inspector for submission of reclamation plans between January 1, 2006
19 and July 1, 2006 are appropriated to the state mine inspector for the
20 purposes of plan review and evaluation.

APPROVED BY THE GOVERNOR MAY 20, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2005.

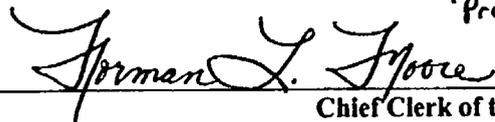


Passed the House April 28, 2005,

by the following vote: 38 Ayes,

18 Nays, 4 Not Voting



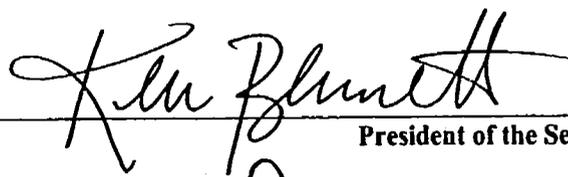
Speaker of the House
Pro Tempore


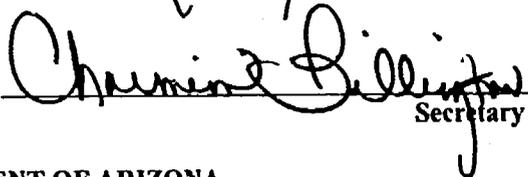
Forman L. Moore
Chief Clerk of the House

Passed the Senate March 23, 2005,

by the following vote: 21 Ayes,

6 Nays, 3 Not Voting



President of the Senate


Charmine Billington
Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

~~Approved this _____ day of~~

~~_____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Governor of Arizona~~

S.B. 1393

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 13, 20 05,
by the following vote: 45 Ayes,

8 Nays, 7 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May, 20 05,
by the following vote: 16 Ayes,

8 Nays, 6 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 13th day of May, 20 05

at 8:38 o'clock a. M.

[Signature]
Secretary of the Governor

Approved this 20 day of

May, 20 05,

at 9:45 o'clock A. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20 day of May, 20 05

at 3:03 o'clock P. M.

[Signature]
Secretary of State

S.B. 1393