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# **MINED LAND RECLAMATION LEGISLATION IN NEW YORK**

## **As Amended Through September 1982**

**Compiled by**

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# Mined Land Reclamation Legislation

In New York

As Amended Through August 1982

Compiled by

Kenneth V. Gardner\*

The production of minerals has played an important role in the economy of New York since colonial times. This early activity resulted in many of the nation's mineral producing firms locating their corporate headquarters in New York City. These firms, combined with the financial resources of New York, played an important role in the exploration and development of mineral deposits not only in New York, but also in other states and foreign nations.

Many people will be surprised to learn that the non-fuel minerals added about 500 million dollars to the state's economy in 1980. Among the more important minerals produced were: garnet (the state ranked second nationally); salt and ilmenite (third, nationally); talc and gypsumboard (fourth, nationally); wollastonite (the only state producing this mineral). In addition, stones, clays, sand and gravel, lead, zinc, emery, and other abrasives and cement all contribute to the importance of the industry.

Wherever mining activity occurs there is a natural concern about not only the positive contributions that it makes to the state, but also the physical, aesthetic and environmental aspects associated with mining. These latter concerns resulted in New York taking legislative action in the 1970's to assure that the public interest would be protected. A process was established whereby commercial mining operations are required to obtain permits. The process requires a prospective mine operator to demonstrate that the company has developed plans whereby the physical, aesthetic and environmental concerns are dealt with before a permit is granted. The process is administered by the Department of Environmental Conservation under authority of the Mined Land Reclamation Law and associated rules and regulations adopted by the Department of Environmental Conservation.

Farmland owners should be aware that if more than 1000 tons of minerals are sold in any 12 consecutive months, a permit is required. This includes sand and gravel which occurs in many farm areas.

This publication is to provide the reader with the current legislation that governs the mining of minerals in the state. It is intended to provide the reader an introduction to the definitions, provisions and resources available. It is not intended to be a "do-it-yourself" legal guide. Any person intending to engage himself in the business of mineral extraction would be well advised to obtain legal advice from an attorney and to discuss plans with not only local officials, but also representatives of the Department of Environmental Conservation.

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Summary of Provisions

Section 23-2703 states that..."It is the policy of this state to foster and encourage the development of an economically sound and stable mining and mineral industry, and the orderly development of domestic mineral resources and reserves necessary to assure satisfaction of economic needs compatible with sound environmental management practices. The legislature further declares it to be the policy of this state to provide for the wise and efficient use of the resources available for mining and to provide, in conjunction with such mining operations, for reclamation of affected lands; to encourage productive use including but not restricted to: the planting of forests, the planting of crops for harvest, the seeding of grass and legumes for grazing purposes, the protection and enhancement of wildlife and aquatic resources, for the conservation, development, utilization and management and appropriate use of all the natural resources of such areas for compatible multiple purposes; to prevent pollution; to protect and perpetuate the taxable value of property; to protect the health, safety and general welfare of the people, as well as the natural beauty and aesthetic values in the affected areas of the state."

To achieve this statement of policy, the Mined Land Reclamation Law, which was enacted in 1974, superseded all existing state and local laws that regulated mining in the state. Local governments are permitted to establish, by ordinances or local law, regulations that are stricter than the state Mined Land Reclamation Law.

Compliance with the statement of policy is achieved through a permit process. Permits are approved by the Department of Environmental Conservation only after an applicant has fulfilled all requirements.

The requirements for a permit being granted include, but may not be limited to the following steps:

1. Pre-plan how mining operations are to be carried out and what impacts the operation will have on the environment. Determine what permits will be required (if any) in addition to those of DEC.
2. Prepare a mining permit application with all supporting documentation. Send to the appropriate DEC Regional Office, Division of Regulatory Affairs.
3. D.E.C.'s regional office will assign a file number and review the application for completeness.

DEC will provide applicant with a "Notice of Application."

4. Applicant identifies neighboring property owners to the mining site and the chief administrative office of the municipality and provides them with a "Notice of Application" to inform them of applicant's intention to begin mining.
5. Applicant submits proof to DEC that property owners and municipal officials have been served with "Notice of Application."

6. Neighbors and municipal officials may comment to DEC on the "Notice of Application." DEC utilizes these comments in conducting review of application.
7. DEC informs applicant of the substance of comments received.
8. Applicant provides rebuttal comment to DEC.
9. DEC reviews entire application and conducts a field inspection.
10. DEC renders a decision on the application and provides the applicant with a "Notice of Approval or Disapproval."
11. Applicant serves "Notice of Approval or Disapproval" on neighboring property owners and local officials.
12. Decision to approve or disapprove by DEC can be appealed by either neighboring property owners, local government officials, or the applicant depending upon circumstances. May request a hearing.
- 13a. DEC schedules a hearing.
  - DEC provides applicant with a "Notice of Hearing"
  - DEC conducts hearing.
  - DEC prepares hearing report.
  - DEC issues hearing order.
  - DEC notifies applicant of decision and issues a "Notice of Approval or Disapproval."
- 13b. Applicant serves "Notice of Hearing" on neighboring property owners, local government officials, the public and N.Y.S. Advisory Committee on the Extractive Mineral Industry. Submit proof that notice was served.
  - Applicant pays for the hearing related to a "Disapproved Mining Permit" application.
  - Provide neighboring property owners and local government officials with a revised "Notice of Approval or Disapproval."
14. Applicant provides reclamation bond if required.
15. Applicant provides DEC that "Notice of Approval or Disapproval" has been served.
16. DEC issues mining permit.
17. Applicant displays permit at the mining site.

A permit is required for all mines that extract more than 1000 tons of minerals in any 12 consecutive month period. It applies to new as well as existing mines.

The only exceptions to the general requirements mentioned previously are:

1. Grading or excavations conducted in connection with on-site farming or construction operation.
2. Excavations necessary for the construction of building projects.
3. Scientific sampling of mineral resources.

Mining permits are issued for terms of one or three years. Permits can be renewed with or without amendments. Permits can also be altered or amended at times other than renewal. There are instances where permits can also be transferred.

A schedule of fees has been established for the various permits. For details of the fees required, the reader is referred to the Division of Regulatory Affairs in the DEC Regional Office serving the county where the mine is located.

The amount of the reclamation bond required for mines is determined by DEC upon review of each site. No specific formula is provided, rather the determination is based upon a number of factors including:

- the type of mining operation
- the number of acres affected
- the geographic location
- the land use objectives and reclamation requirements
- the length of the term of the permit
- and the schedule of reclamation requirements

Again, specific details of these requirements can be obtained from the Department of Environmental Conservation.

#### Rural Landowners and the Mined Land Reclamation Law

Many areas of New York are blessed with an abundant supply of sand and gravel as a result of past geologic and climatic activity in the state. These deposits can provide individuals with a potential source of additional revenue from the sale of these minerals.

Farmers and other rural landowners who own mineral deposits customarily have mined and sold these materials to contractors, neighbors, and towns and villages for aggregate for construction buildings, roads, parking lots, concrete, fill, road sand, landfill cover and other uses.

Landowners who are mining sand and gravel should familiarize themselves with the provisions of New York's Mined Land Reclamation Law.

The purposes of the Mined Land Reclamation Law are:

- to promote and encourage the development of the mining industry.
- to prevent pollution resulting from mining activities.
- to assure reclamation of mined land so that such land can be used productively.

The Mined Land Reclamation Law was enacted in 1974 and became effective a year later. It says that any person mining more than 1000 tons of minerals in a 12 consecutive month period must have a state mining permit issued by the Department of Environmental Conservation. One thousand tons of sand and gravel translates into about 600 cubic yards. It doesn't take very many loads to reach the 1000 ton threshold for a permit to be required.



Some local governments have enacted ordinances or local laws which regulate some aspects of mining. Mine operators must comply with these local mining and zoning laws in addition to obtaining a state mining permit.

A schedule of fees for the state mining permit has been established by the Department of Environmental Conservation, fees vary depending upon the type of application and the term of the permit.

In addition, operators of mines are required to submit with their mining permit application a plan for the operation and reclamation of the mining site. Assurance that adequate financing for reclamation work will be available is achieved by requiring the operator to post a bond for the amount of the reclamation cost as determined by DEC when the permit application is processed.

TITLE 27--NEW YORK STATE MINED LAND RECLAMATION LAW

- Sec. 23-2701. Short title.
- Sec. 23-2703. Declaration of policy.
- Sec. 23-2705. Definitions.
- Sec. 23-2707. New York state advisory committee on the extractive mineral industry.
- Sec. 23-2709. Administration of title.
- Sec. 23-2711. Permits.
- Sec. 23-2713. Mined land-use plan.
- Sec. 23-2715. Reclamation plan.
- Sec. 23-2717. Reclamation bond.
- Sec. 23-2719. Cooperation.
- Sec. 23-2721. Rules, regulations, orders and hearings.
- Sec. 23-2723. Enforcement.
- Sec. 23-2725. Judicial review.
- Sec. 23-2727. Severability.

§ 23-2701. Short title

This title shall be known and may be cited as the "New York State Mined Land Reclamation Law."

Added L. 1974, C. 1043, Sec. 1; amended L. 1976, C. 477, Sec. 1.

§ 23-2703. Declaration of policy

1. The legislature hereby declares that it is the policy of this state to foster and encourage the development of an economically sound and stable mining and minerals industry, and the orderly development of domestic mineral resources and reserves necessary to assure satisfaction of economic needs compatible with sound environmental management practices. The legislature further declares it to be the policy of this state to provide for the wise and efficient use of the resources available for mining and to provide, in conjunction with such mining operations, for reclamation of affected lands; to encourage productive use including but not restricted to: the planting of forests, the planting of crops for harvest, the seeding of grass and legumes for grazing purposes, the protection and enhancement of wildlife and aquatic resources, the establishment of recreational, home, commercial, and industrial sites; to provide for the conservation, development, utilization, management and appropriate use of all the natural resources of such areas for compatible multiple purposes; to prevent pollution; to protect and perpetuate the taxable value of property; to protect the health, safety and general welfare of the people, as well as the natural beauty and aesthetic values in the affected areas of the state.

2. For the purposes stated herein, this title shall supersede all other state and local laws relating to the extractive mining industry; provided, however, that nothing in this title shall be construed to prevent any local government from enacting local zoning ordinances or other local laws which impose stricter mined land reclamation standards or requirements than those found herein.

Added L. 1974, C. 1043, Sec. 1; amended L. 1976, C. 477, Sec. 1.

§ 23-2705. Definitions

As used in this title, unless the context otherwise requires:

1. "Affected land" means the area of land from which overburden is to be or has been removed or upon which a spoil bank is to be or has been deposited; or lands disturbed by the construction or improvement of haulageways to or from a mine, or lands disturbed by storage areas, repair areas, shipping areas and areas in which equipment, machinery, tools or other personal property is situated.

2. "Applicant" means that person making application to the department for a permit to mine and who is responsible for fulfilling the requirements of the reclamation plan as stipulated in the law and all rules, regulations and orders promulgated thereunder.

3. "Debris" means rock fragments, sand, silt, earth, or organic matter in a heterogeneous mass; or the silt, sand and gravel generally associated with hydraulic mining commonly referred to as tailings, slums or slickens; or any loose material caused by a shot, fall, smash or explosion; or any accumulation of rubble resulting from a mining activity.

4. "Haulageway" means any road within the permitted area which receives substantial use and which has been constructed or improved by the operator or permittee. Trails or paths between parts of a mine shall not be considered haulageways.

5. "Mine" means any pits or underground workings from which any mineral is produced for sale, exchange, commercial or municipal use and all shafts, slopes, drifts or inclines leading thereto, and includes all equipment above, on or below the surface of the ground used in connection with such mines.

6. "Mined land-use plan" means the applicant's written proposal for accomplishing land-use objectives on the affected land including maps or other documents as required to describe the areas to be mined as well as a description of the ground surface. The mined land-use plan shall also include mining plans, reclamation plans, physiographic features and illustrative land-use maps.

7. "Mineral" means aggregate, cement rock, clay, coal, curbing, dimension stone, dolostone, emery, flagstone, garnet, gem stones, gravel, gypsum, iron, lead, limestone, marble, marl, metallic ore, paving blocks, peat, riprap, roadstone, salt, sand, sandstone, shale, silver, slate, stone, talc, titanium, trap rock, wollastonite, zinc or any other solid material or substance of commercial value found in natural deposits in or on the earth.

8. "Mining" means the extraction or removal of minerals from the ground or the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, including any activities or processes or parts thereof for extraction or removal of minerals from their original location and the preparation, washing, cleaning or other processing of minerals at the mine location so as to make them suitable for commercial, industrial or construction use; but shall not include excavation or grading when conducted solely in aid of on-site farming or construction. Removal of limited amounts of overburden and mining of limited amounts of any minerals shall not be considered as mining when done only for the purpose of extracting samples or specimens for scientific purposes, or only for the purpose and to the extent necessary to determine the location, quantity or quality of any mineral deposit so long as no minerals removed during exploratory excavation are sold, processed for sale or consumed in the regular operation of a business.

9. "Operator" means any owner, lessee, or other person who operates, controls or supervises a mining operation. The operator may or may not be the applicant for a mining permit or the permittee.

10. "Overburden" means all of the earth and other materials which lie above or alongside natural mineral deposits and includes all earth, soil and other materials disturbed from their natural state in the process of mining exclusive of the mined minerals.

11. "Owner" means the person who has title to the mineral deposits on any given tract of land and who has the right to extract minerals for sale and to appropriate the minerals he extracts therefrom either for himself or others or for himself and others.

12. "Permittee" means any person who has been issued and who currently holds a valid permit to mine from the department.

13. "Person" means any individual, public or private corporation, political subdivision, government agency, department or bureau of the state, municipality, industry, partnership, association, firm, trust, estate or any other legal entity whatsoever.

14. "Reclamation" means the conditioning of areas affected by mining to make them suitable for any uses or purposes consistent with those stated in section 23-2703 of this title.

15. "Reclamation plan" means the applicant's written proposal for reclamation of the affected areas including land-use objectives, maps or other documents as required to describe reclamation; and where relevant grading specifications and manner and type of revegetation.

16. "Refuse" means that material which is considered worthless or useless and has been or is to be rejected or discarded.

17. "Spoil" means any waste material removed from its natural place in the process of mining and all waste material directly connected with the cleaning and preparation of any minerals.

18. "Spoil bank" means the accumulation of spoil or underground refuse piled outside of the underground workings, or the place on the surface where spoil is piled, or the material commonly known as soil heap.

19. "Strip mining" means the extraction of mineral deposits lying near the surface of the earth by means of removing the overburden above the deposits in rows or strips, such process normally being moved from place to place and not involving the extraction of minerals at the same location over a substantial period of time.

20. "Surface mining" means the extraction of minerals by means other than strip mining, but excluding the extraction from beneath the surface of the earth of minerals to which access is gained by wells, shafts, slopes, drifts or inclines penetrating or connected with excavations penetrating mineral seams or strata.

21. "Tailings" means the parts, or a part, of any incoherent solid or fluid material separated as refuse, or separately treated as inferior in quality or value, such as remainders, leavings, or dregs; or the gangue and other refuse material resulting from the washing, concentration, or treatment of ground ore; or those portions of washed ore that are too poor to be treated further, used especially for the debris from ore dressing machinery, as distinguished from material to be smelted; or the inferior leavings or residue of any product, foots, or bottoms; or the residuum after most of the valuable ore has been extracted.

22. "Underground mining" means any operation which removes minerals by means of shafts, slopes, drifts, or inclined planes and transports the mined material to one or more points outside of the excavation.

23. "Waste" means the barren rock or gangue in a mine; or that part of the ore deposit that is too low in grade to be of commercial value under existing economic and technological conditions; or any part of a mined material which is of no further utility to the particular process involved.

Added L. 1974, C. 1043, Sec. 1; amended L. 1976, C. 477, Sec. 1.

§ 23-2707. New York state advisory committee on the extractive mineral industry

1. The commissioner shall appoint a New York state advisory committee on the extractive mineral industry of not to exceed nine members to serve at the pleasure of the commissioner. Such committee shall include representatives from the strip, surface and underground mining industries. The state geologist shall be an ex officio member of the committee. The commissioner or his designee shall convene all regular meetings of the committee. The members of the committee shall receive no compensation or reimbursement for expenses.

2. The committee shall be advised and notified of all hearings to be held pursuant to this title as soon as practicable after a decision to hold such a hearing has been reached.

Added L. 1974, C. 1043, Sec. 1; amended L. 1976, C. 477, Sec. 1.

§ 23-2709. Administration of title

1. The department shall have and be entitled to exercise the following powers and duties:

(a) to administer and enforce the provisions of this title and all rules, regulations and orders promulgated thereunder;

(b) to conduct or obtain investigations with respect to research experiments and demonstrations, and to collect and disseminate information regarding mining operations and reclamation of affected lands and control of pollution of the environment affected by mining, provided that the department shall guarantee the confidentiality of such information when requested to do so by the applicant or permittee;

(c) to examine and pass upon applications for permits, bonds, and mined land-use plans including mining and reclamation plans;

(d) to establish criteria for the operation of mining such that reasonable care is taken to prevent pollution;

(e) to establish criteria for acceptable reclamation of affected lands, such criteria to be reasonably adopted to reduce soil erosion to a minimum and to lessen the visual impact of discontinued or partially discontinued mining operations;

(f) to order, pursuant to section 71-0301 of the environmental conservation law, an immediate suspension of mining or reclamation operations or operations incidental or appurtenant thereto whenever such operations are being carried on in violation of this title or of rules, regulations and orders adopted pursuant thereto; and

(g) to accept grants or federal funds for purposes of research into the fields of mining and land reclamation.

2. This title shall not apply to the commissioner of general services acting with respect to lands under water pursuant to the public lands law.

3. The state geological survey shall continue to collect mineral production information for the state in association with the United States bureau of mines and the state geological survey shall make this data available to the department as requested. The state geological survey shall also continue to be the state agency conducting mineral resource investigations and inventories. The state geological survey shall have access to any records of the department collected during the administration of this title and shall guarantee confidentiality where required.

Added L. 1974, C. 1043, Sec. 1; amended L. 1974, C. 1044, Sec. 1; L. 1976, C. 477, Sec. 1.

§ 23-2711. Permits

1. It shall be unlawful after April first, nineteen hundred seventy-five for any operator who mines more than one thousand tons of minerals from the earth within twelve successive calendar months to engage in such mining unless a permit for such mining operation has first been obtained from the department as provided in this section.

2. The rules and regulations adopted by the department to implement this title and the provisions of article 70 and rules and regulations adopted thereunder shall govern permit applications, renewals, modifications, suspensions and revocations under this title.

3. Permits pursuant to this title may be obtained for a one or a three year period. An application for a one year mining permit shall be accompanied by a fee of one hundred dollars, provided that an applicant may secure a three year permit and an application for a three year mining permit shall be accompanied by a fee of two hundred dollars. Applications shall contain the following information:

(a) the common or commercial name and the geological description, where applicable, of the minerals to be extracted;

(b) an estimate of the number of surface acres of land that will be affected by mining;

(c) except with respect to underground mining operations, the name and address of the surface landowner;

(d) the name and address of the owner of the mineral to be mined;

(e) the permanent and temporary addresses of the applicant;

(f) the identification number of any mining permit now held by the applicant;

(g) if the applicant is a corporation, the name and address of the chief executive officer thereof;

(h) specification of such circumstances if the applicant has ever had a mining permit issued under the laws of this state revoked, or has ever had a reclamation bond or security deposited in lieu of bond forfeited;

(i) a mined land-use plan, specifications, and maps as provided in section 23-2713 of this title and any rules, regulations, or orders adopted pursuant thereto; and

(j) such additional information as the department may require.

4. Upon approval of the application by the department and receipt of the reclamation bond or an appropriate substitute as provided in section 23-2717 of this title, a permit shall be issued by the department. The department may include in permits such conditions as may be required to fulfill the purposes of this title.

5. A permit issued pursuant to this title or a certified copy thereof, must be publicly displayed by the permittee at the mine and must at all times be visible, legible, and protected from the elements.

6. Upon the written approval of the department and subject to the provisions of subdivision eight of section 23-2717 of this title a permit issued pursuant to this section is transferable.

7. A permittee may make written request to the department for the modification of an existing permit pursuant to article 70 and rules and regulations thereunder. The request shall be accompanied by a fee of fifty dollars and a bond or appropriate substitute as required under the provisions of this title.

8. A permittee may make written request to the department to renew a mining permit. A request for a one year renewal shall be accompanied by a fee of fifty dollars, and a request for a three year renewal shall be accompanied by a fee of one hundred dollars.

9. The department may suspend or revoke a permit to mine for repeated or willful violation of any of the terms of the permit or provisions of this title or for repeated or willful deviation from those descriptions contained in the mined land-use plan as set forth in subdivision three of section 23-2713 of this title. The department may refuse to renew a permit upon a finding that the permittee is in repeated or willful violation of any of the terms of the permit, this title or any rule, regulation, standard, or condition promulgated thereto.

10. Nothing in this title shall be construed as exempting any person from the provisions of any other law or regulation requiring a permit.

11. Notwithstanding any other provision of law, counties, cities, towns and villages shall be exempted from the fees for the permit, application, amendment and renewal required by this article.

Added L. 1974, C. 1043, Sec. 1; amended L. 1976, C. 477, Sec. 1; L. 1976, C. 774, Sec. 1; L. 1979, C. 233, Sec. 23.

§ 23-2713. Mined land use plan

1. Every applicant for a permit pursuant to the provisions of this title shall submit a mined land-use plan. The mined land-use plan shall consist of a mining and reclamation plan to include both graphic and written descriptions illustrating the following items as they affect the surface:

- (a) the land affected as it presently exists;
- (b) an outline of the area of the minerals to be removed;
- (c) the mining method to be used; and
- (d) the proposed method of reclaiming the affected land as described

in section 23-2715 of this title.

2. The descriptions required in clauses (a) and (b) of subdivision one of this section above shall be presented on a United States geological survey map or the equivalent as may be approved by the department on such scale as the department shall require. If such equivalent map is utilized, it shall be prepared by an engineer, geologist or licensed land surveyor. Such equivalent map shall show contours, existing streams, rivers, lakes, roads, or other relevant geographical or cultural features, be scaled to measurements in feet, be prepared in a neat, legible manner and contain a title block or legend in such form as the department may prescribe.

3. The description required in clause (c) of subdivision one of this section above shall indicate any area of existing and proposed excavation, area of existing and proposed settling pond and washing plant facility, area of existing and proposed treatment facilities, area of proposed mineral storage area, area of existing or proposed spoil banks, and area proposed for stock piling overburden or topsoil. Such description of the mining method to be used shall also indicate:

(a) the proposed screening of all storage areas within the boundaries of the permitted area so as to confine dust and flying particles to the permitted area;

(b) the sequence of cuts or excavations to be made in the surface when they affect the reclamation plan;

(c) the location of haulageways to and from the operation to minimize intrusions into residential areas and shall include specifics regarding the treatment of such haulageways to minimize dust;

(d) planned drainage and water control for all affected areas so as to reduce to a minimum soil erosion damage to adjacent lands.

4. After approval of the mined land-use plan or any amendment thereof by the department, the permittee shall not deviate or depart therefrom without the department's written approval.

Added L. 1974, C. 1043, Sec. 1; amended L. 1976, C. 477, Sec. 1.

§ 23-2715. Reclamation plan

1. A reclamation plan required by section 23-2713 of this title shall consist of two parts. Part one thereof shall be a reclamation map prepared on the same basis as the mined land-use plan map described in section 23-2713 showing the proposed final stage of reclamation. Part two thereof shall be a written description of the planned reclamation method indicating whether lands are proposed for development for farming, pasture, forestry, recreation, industrial, commercial, residential or solid waste disposal purposes or other uses acceptable to the commissioner.

2. The reclamation plan shall indicate specifics covering revegetation, disposal of debris, refuse, tailings, waste, or spoil; planned water impoundments and grading plans conforming to the rules, regulations, and orders adopted pursuant to this title.

3. The reclamation plan where possible, shall provide for orderly, continuing reclamation concurrent with mining operations and all of the reclamation work shall be completed in accordance with the schedule accepted or designated by the department. The permittee shall file periodic reports within such times as the department shall require showing the areas for which reclamation has been completed. The department shall inspect such areas and notify the permittee whether the reclamation is accepted as being in accordance with the approved plan or whether there are deficiencies which must be corrected. Unless the department specifies otherwise, the permittee shall file an annual report in the manner prescribed by the department indicating the degree of reclamation.

4. In lieu of the department inspection required in subdivision three of this section, the department may contract with the soil and water conservation district in the county where the mine operation is located for the purpose of inspecting the mining operation and the reclamation work.

Added L. 1974, C. 1043, Sec. 1; amended L. 1976, C. 476, Sec. 1; L. 1976, C. 477, Sec. 1.



§ 23-2717. Reclamation bond

1. As a condition precedent to the issuance of any permit, the applicant, where required shall furnish a bond or appropriate substitute as hereinafter provided acceptable to the department conditioned upon the performance of the applicant's reclamation responsibilities with respect to the mine and naming the state as beneficiary.

2. The amount of the bond required shall be determined by the department based on the information contained in the permit application and upon such information as an investigation by the department may disclose.

3. The form and terms of the bond shall be as prescribed by the department. It shall be signed by the applicant as principal and by a good and sufficient corporate surety licensed to do business as such in the state of New York.

4. If the bond shall for any reason be cancelled by the surety, within thirty days after receiving notice thereof, the permittee shall provide a valid replacement under the same conditions as hereinabove described. Failure to provide a replacement bond within such period may, at the discretion of the commissioner, result in the immediate suspension of the mining permit by the department.

5. If, after notice and hearing relative thereto, the department determines that the permittee is in violation of the reclamation requirements relative to the mine, it may suspend the permit and if the permittee does not commence corrective measures within fifteen days after notice of determination, the department shall revoke the permit. In such event, the department may thereupon call upon the surety to complete the reclamation as provided for in the bond. In case of default of such completion by the surety, the department may, at its option, proceed to complete the work, either by day work or contract. In the latter event, the cost of completing the unfinished work shall be the personal liability of the permittee and the bond or substitute and the materials, machinery, implements and the tools of every description which may be found at the mine or other assets of the permittee shall be subject to a lien of the department for the amount expended for such work and shall not be removed without the written consent of the department. Such lien may be foreclosed by the attorney general in the same manner as a mechanic's lien.

6. Whenever an<sup>1</sup> permittee shall have completed all requirements under the provisions of his permit as to any affected land, he shall notify the department thereof. If the department determines that the permittee has satisfied the requirements of the reclamation plan, the department shall release the permittee from further obligations regarding such affected land. The release of liability under the surety bond shall be based upon faithful compliance by the permittee of all requirements relating to the reclamation of land affected by mining. A two-year period shall be allowed after completion of mining operations to complete the reclamation of an area affected by mining, unless the department shall deem it in the best interests of the people of the state to allow a longer reclamation period. At the discretion of the department the permittee shall be able to secure a release of a portion of the bond for acreage which he has reclaimed or a release of the full amount of the bond less the amount necessary to complete reclamation for acreage partially reclaimed.

7. Upon the approval of the department, in lieu of such bond, the applicant may deposit cash or negotiable bonds of the United States government of like amount in an escrow account conditioned upon the performance of said applicant's reclamation responsibilities with respect to said mine or furnish security of equal value acceptable to the commissioner. Any interest accruing as a result of the aforementioned escrow deposit or acceptable security shall be the exclusive property of the permittee.

<sup>1</sup>So in original.

8. The aforementioned bonding requirements shall remain the obligation of the original permittee regardless of changes in permittees unless a subsequent permittee has furnished the appropriate bond or substitute as herein provided acceptable to the department and there has been an approval for the transfer of the reclamation obligation to the subsequent permittee by the department.

9. Political subdivisions or municipalities of the state are exempted from the bonding requirements of this section.

Added L. 1974, C. 1043, Sec. 1; amended L. 1974, C. 1044, Sec. 2; L. 1976, C. 477, Sec. 1.

§ 23-2719. Cooperation

The department may use any of its powers for the purpose of cooperating with any other state or jurisdiction in regulating or otherwise affecting mining at any location where such mining may have a physical effect on mining in such other state or jurisdiction.

Added L. 1974, C. 1043, Sec. 1; amended L. 1976, C. 477, Sec. 1.

§ 23-2721. Rules, regulations, orders and hearings

1. The department shall have power to make rules and regulations necessary and appropriate to carry out the purposes of this title.

2. No rule or regulation or amendment thereof, shall be made by the department without a public hearing upon at least thirty days notice published in a newspaper or newspapers circulated in the area to be affected by such rule, regulation or amendment, exclusive of the date of service. The public hearing shall be held at such time and place as may be prescribed by the department and any interested person shall be entitled to be heard.

3. Any notice required by this section shall be given in the name of the department by the commissioner or a designee of the commissioner. Any such notice may be given by any one or more of the following methods:

(a) personal service;

(b) publication in one or more issues of a newspaper of general circulation in the county where the affected land or some part thereof is situated;

(c) registered or certified mail addressed, postage prepaid, to the last known mailing address of the person or persons affected. The date of service shall be the date on which service was made in the case of personal service, the date of first publication in the case of notice by publication, and the date of mailing in the case of notice by mail. The notice shall specify the time and place of the hearing, and shall briefly state the purpose of the proceeding. Should the department elect to give notice by personal service, such service may be made in the same manner as is provided by law for the service of process in civil actions in the courts of the state.

Added L. 1974, C. 1043, Sec. 1; amended L. 1976, C. 477, Sec. 1.

§ 23-2723. Enforcement

The provisions of this title and any rules and regulation promulgated thereunder shall be enforced pursuant to title thirteen, article seventy-one of the environmental conservation law.

Added L. 1974, C. 1043, Sec. 1; amended L. 1976, C. 477, Sec. 1.

§ 23-2725. Judicial review

Any act, omission, determination or order of the department or of any officer or employee thereof, pursuant to or within the scope of this title, may be reviewed in accordance with article seventy-eight of the civil practice law and rules.

Added L. 1974, C. 1043, Sec. 1; amended L. 1976, C. 477, Sec. 1.

§ 23-2727. Severability

The provisions of this title shall be severable and if any phrase, clause, sentence or provision of this title, or the applicability thereof to any person or circumstance shall be held invalid, the remainder of this title and the application thereof shall not be affected thereby.

Added L. 1974, C. 1043, Sec. 1; amended L. 1976, C. 477, Sec. 1.

Additional Sources of Information

New York State Department of Environmental Conservation  
50 Wolf Road  
Albany, New York 12201  
(See listing on back cover)

Your County Cooperative Extension Agent  
(See listing on inside back cover)

Department of Agricultural Economics  
N.Y.S. College of Agriculture and Life Sciences  
Cornell University  
Ithaca, New York 14853

N.Y.S. Advisory Committee on the Extractive Mineral Industry  
50 Wolf Road  
Albany, New York 12201

County Cooperative Extension Offices

ALBANY 518-765-2331 Martin Rd. Voorheesville 12186	HAMILTON 518-548-6191 P.O. Box 112 Lake Pleasant 12108	ROCKLAND 914-425-5500 87 Maple Ave. New City 10956
ALLEGANY 716-268-7644 Court St. Belmont 14813	HERKIMER 315-866-7920 P.O. Box 271 Herkimer 13350	ST. LAWRENCE 315-379-2311 Univ. Shopping Center Canton 13617
BROOME 607-772-8953 840 Front St. Binghamton 13905	JEFFERSON 315-788-8450 1240 Coffeen St. Watertown 13601	SARATOGA 518-885-8995 50 W. High St. Ballston Spa 12020
CATTARAUGUS 716-699-2377 Parkside Dr. Ellicottville 14731	LEWIS 315-376-6551 P.O. Box 72 Lowville 13367	SCHENECTADY 518-384-0500 150A Glenridge Rd. Scotia 12302
CAYUGA 315-255-1183 248 Grant Ave. Auburn 13021	LIVINGSTON 716-658-4110 158 S. Main St. Mount Morris 14510	SCHOHARIE 518-234-4303 41 S. Grand St. Cobleskill 12043
CHAUTAUQUA 716-664-9502 R.D. 2, Turner Rd. Jamestown 14701	MADISON 315-684-3001 Farm & Home Center Morrisville 13408	SCHUYLER 607-535-7161 208 Broadway Montour Falls 14865
CHEMUNG 607-739-0347 225 N. Chemung Rd. Breesport 14816	MONROE 716-461-1000 249 Highland Ave. Rochester 14620	SENECA 315-539-9252 Mill & Williams Sts. Waterloo 13165
CHENANGO 607-334-9971 99 N. Broad St. Norwich 13815	MONTGOMERY 518-853-3471 Old Court House Fonda 12068	STEBEN 607-776-7666 119 E. Steuben St. Bath 14810
CLINTON 518-561-7450 Court House Plattsburgh 12901	NASSAU 516-454-0900 1425 Old Country Rd. Plainview 11803	SUFFOLK 516-727-7850 246 Griffing Ave. Riverhead 11901
COLUMBIA 518-828-3346 Rt. 66, R.D. 1 Hudson 12534	NIAGARA 716-433-8839 4487 Lake Ave. Lockport 14094	SULLIVAN 914-292-6180 59 N. Main St. Liberty 12754
CORTLAND 607-753-5077 County Office Bldg. Cortland 13045	ONEIDA 315-724-7131 1 Oxford Rd. New Hartford 13413	TIOGA 607-687-4020 56 Main St. Owego 13827
DELAWARE 607-865-6531 P.O. Box 184 Hamden 13782	ONONDAGA 315-424-9485 1050 W. Genesee St. Syracuse 13204	TOMPKINS 607-272-2292 225 S. Fulton St. Ithaca 14850
DUTCHESS 914-677-5006 Rt. 44 Millbrook 12545	ONTARIO 716-394-4110 480 N. Main St. Canandaigua 14424	ULSTER 914-331-1680 74 John St. Kingston 12401
ERIE 716-652-5400 21 S. Grove St. East Aurora 14052	ORANGE 914-343-1105 239 Wisner Ave. Middletown 10940	WARREN 518-623-3291 17 Hudson S. Warrensburg 12885
ESSEX 518-962-8291 Agricultural Center Westport 12993	ORLEANS 716-589-5561 P.O. Box 150 Albion 14411	WASHINGTON 518-747-2861 Co. Office Bldg. Annex Hudson Falls 12839
FRANKLIN 518-483-6767 11 Brewster St. Malone 12953	OSWEGO 315-963-7286 Main St. Mexico 13114	WAYNE 315-483-6918 P.O. Box 217 Alton 14413
FULTON 518-725-6441 P.O. Box 911 Gloversville 12078	OTSEGO 607-547-2536 123 Lake St. Cooperstown 13326	WESTCHESTER 914-682-3370 216 Central Ave. White Plains 10606
GENESEE 716-343-3040 420 E. Main St. Batavia 14020	PUTNAM 914-628-0454 179 East Lake Blvd. Mahopac 10541	WYOMING 716-786-2251 401 N. Main St. Warsaw 14569
GREENE 518-622-9820 Extension Center Cairo 12413	RENSELAER 518-270-5376 Court House Troy 12180	YATES 315-536-3381 110 Court St. Penn Yan 14527

NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

Central Office

Bureau of Mineral Resources  
50 Wolf Road  
Albany, New York 12233-0001  
(518) 457-7480

Regional Offices

Region 1  
Building 40  
State University of New York  
Stony Brook, N. Y. 11790  
(516) 751-7900  
(Nassau, Suffolk)

Region 4  
2176 Guilderland Avenue  
Schenectady, N. Y. 12306  
(518) 382-0680  
(Albany, Columbia, Delaware,  
Greene, Montgomery, Otsego,  
Rensselaer, Schenectady,  
Schoharie)

Region 7  
7481 Henry Clay Boulevard  
Liverpool, N. Y. 13080  
(315) 428-4497  
(Broome, Cayuga, Chenango,  
Cortland, Madison, Onondaga,  
Oswego, Tioga, Tompkins)

Region 2  
2 World Trade Center  
New York, N. Y. 10047  
(212) 488-2755  
(New York City)

Region 5  
Route 86  
Ray Brook, N. Y. 12977  
(518) 891-1370  
(Clinton, Essex, Franklin,  
Fulton, Hamilton, Saratoga,  
Warren, Washington)

Region 8  
P.O. Box 57, Route 20  
East Avon-Lima Road  
Avon, N. Y. 14414  
(716) 226-2466  
(Chemung, Genesee,  
Livingston, Monroe, Ontario,  
Orleans, Schuyler, Seneca,  
Steuben, Wayne, Yates)

Region 3  
21 So. Putt-Corners Road  
New Paltz, N. Y. 12561  
(914) 255-5453  
(Dutchess, Orange, Putnam,  
Rockland, Sullivan, Ulster,  
Westchester)

Region 6  
Watertown State Office Bldg.  
317 Washington Street  
Watertown, N. Y. 13601  
(315) 782-0100  
(Herkimer, Jefferson, Lewis,  
Oneida, St. Lawrence)

Region 9  
584 Delaware Avenue  
Buffalo, N. Y. 14202  
(716) 842-5828  
(Allegany, Cattaraugus,  
Chautauqua, Erie, Niagara,  
Wyoming)