

R850. School and Institutional Trust Lands, Administration.

R850-25. Mineral Leases and Materials Permits.

R850-25-100. Classification of Mineral and Material Substances.

Mineral leases and material permits shall be issued in accordance with the classifications described below. No mineral leases will be issued in conflict with this classification.

1. Mineral Classification.

(a) Metalliferous Minerals: shall include aluminum, antimony, arsenic, beryllium, bismuth, chromium, cadmium, cesium, columbium, cobalt, copper, fluorspar, gallium, gold, germanium, hafnium, iron, indium, lead, mercury, manganese, molybdenum, nickel, platinum, group metals, radium, silver, selenium, scandium, rare earth metals, rhenium, tantalum, tin, thorium, titanium, tungsten, thallium, tellurium, vanadium, uranium, ytterbium, zinc, and zirconium.

(b) Potash: shall include the chlorides, sulfates, carbonates, borates, silicates, and nitrates of potassium.

(c) Phosphate: shall mean any phosphate rock containing one or more phosphate minerals such as calcium phosphate and shall include all phosphatized limestones, sandstones, shales, and igneous rock.

(d) Clay Minerals: shall mean a fine grained, natural, earthy material composed primarily of hydrous aluminum silicates, plastic-like when wetted, rigid when dried en-masse, and vitrified when fired to a sufficiently high temperature, which shall include kaolin, bentonite, ball clay, fire clay, fuller earth, and clays and clay minerals or shales having unique characteristics giving the mineral deposit distinct and special value, such as carbonaceous shale, humic shale, and baked shale, where the primary value or use is other than building, construction or landscaping.

(e) Humic shale: shall refer to a dark colored shaley material containing humic acids or small particles of carbon, original organic tissue or other carbonaceous matter derived from plants and distributed throughout the whole mass. This classification does not include oil shale, bituminous-asphaltic sands, or coal.

(f) Limestone: shall include sedimentary rock having a predominant composition chiefly composed of calcium carbonate or calcium magnesium carbonate where the primary value or use is other than building, construction, or landscaping.

(g) Gemstone and Fossil: shall include precious, semi-precious or collectable mineral, and petrified material or stone having intrinsic value derived from its attractiveness or uncommon characteristics. This designation includes agate, amber, beryl, calcite, chert, coral, corundum, diamond, feldspar, garnet,

geodes, jade, jasper, olivine, opal, pearl, quartz, septarian nodules, spinel, spodumene, topaz, tourmaline, turquoise, and zircon; and coquina, petrified wood, trilobites, and other common fossilized flora and invertebrate fauna.

(h) Gypsum: a natural hydrated calcium sulfate that includes alabaster, anhydrite, gypsite, satin spar, and selenite

(i) Gilsonite: a solid asphaltum found in place, in a vein, a lode, or rock.

(j) Volcanic Material: includes volcanic pyroclastic material such as ash, blocks, bombs, and tuff; glassy volcanic glass material including obsidian, perlite, pitchstone, pumice, scoria, and vitrophyre; and other uncommon volcanic materials where the primary value or use is other than building, construction, or landscaping.

(k) Industrial Sands: includes uncommon, naturally occurring sands having properties or containing minerals having special use in industrial processes or applications as determined by the director. This designation includes abrasive sands, filler sands, foundry sands, frac sands, glass sands, lime sands, magnetic sands, and silica sands.

(l) Mineral Salts: shall include all naturally occurring salts.

2. Material Classification.

(a) Material permits may be issued for common varieties of clay or stone having a primary value or use in building, construction, or landscaping, including basalt, common clay, conglomerate, flagstone, gabbro, granite, lava aggregate, limestone, marble, onyx, quartzite, rhyolite, rip-rap, sandstone, serpentine, shale, slate, soapstone, trapstone, travertine, whether crushed, sized, dimensioned, or unprocessed, and when the director deems it consistent with agency plans and trust responsibilities.

(b) No material permits will be issued in conflict with the Mineral Lease Classification under R850-25-100(1).

3. Non-Classified Minerals or Materials.

Mineral leases or material permits may also be issued for minerals or materials not listed under Subsections R850-25-100(1) and (2) at the discretion of the director. Alternatively, the director may issue a mineral lease or material permit for a non-classified mineral or material that is closely associated with a classified mineral or material so long as the mineral or material is specified as a leased or permitted substance in the mineral lease or material permit.

4. Close Association Minerals or Materials.

A mineral lease or material permit may include other minerals or materials found in close association with the expressly leased

mineral or permitted material, when the substance cannot reasonably be mined separately or mined and separated.

5. Multiple Classified Minerals.

Mineral leases may also be issued to include a combination of classified minerals.

R850-25-200. Mineral Lease Issuance.

1. The director may issue mineral leases competitively, non-competitively or enter into joint ventures or other business arrangements for the disposition of mineral deposits in accordance with the Act.

2. A mineral lease shall not be issued for a parcel less than a quarter-quarter section or surveyed lot unless approved by the director.

3. Mineral leases shall be limited to no more than 2,560 acres or four sections unless approved by the director.

4. A mineral lease may be terminated by the director in whole or part for lessee's failure to comply with any term or condition of the lease or applicable laws and rules.

R850-25-300. Mineral Lease Provisions.

1. Rentals and Rental Credits.

(a) The director shall establish the rental rate for the primary lease term at the time the mineral lease is offered. The rental shall not be less than \$1 per acre per year.

(b) Rental payments shall be paid in advance each year on or before the mineral lease anniversary date, unless otherwise stated in the mineral lease.

(c) The minimum annual rental on any mineral lease shall not be less than \$500.

(d) The rental payment for a mineral lease year may be credited against production royalties only as they accrue for that lease year, unless otherwise provided for in the mineral lease.

(e) Any overpayment of rental occurring from the mineral lease applicant's incorrect listing of acreage of lands described in the application may, at the option of the director, be credited toward the applicant's rental account.

(f) The director shall accept rental payments made by any party, but the acceptance of rental shall not be deemed to be recognition of any interest of the payee in the lease.

2. Royalty and Minimum Royalty.

(a) The director shall establish the production royalty rate(s) at the time the mineral lease is offered.

(b) The director shall establish the annual minimum royalty rate(s) at the time the mineral lease is offered.

3. Primary Mineral Lease Term.

(a) The director shall establish the mineral lease primary term at the time the lease is offered.

(b) The primary lease term for any mineral lease shall not exceed ten (10) years unless approved as part of an OBA.

4. Continuance of Mineral Lease After Expiration of Primary Term.

A mineral lease shall be continued after the primary term has expired so long as:

(a) the leased substance is being produced in paying quantities from the mineral lease or an approved mining unit; or

(b) the director determines that the lessee:

(i) is engaged in diligent operations, exploration, or development which is reasonably calculated to advance development or production of the leased substance; or

(ii) has made substantial financial investments for the direct purpose of advancing development or production of the leased substance; and

(iii) pays the annual minimum royalty set forth in the mineral lease.

5. Readjustment of Mineral Lease.

All mineral leases shall contain a provision setting forth the agency's right to readjust the terms and provisions of the mineral lease on a periodic basis, and such readjustment shall be made in accordance with R850-24-1000.

6. Other Lease Provisions.

The agency may require, in addition to the lease provisions required by these rules, any other provisions to be included in the mineral lease as it deems necessary.

R850-25-400. Material Permit Issuance.

1. The agency may issue material permits competitively, non-competitively, or enter into joint ventures or other business arrangements for the disposition of material deposits. In the event that a material permit is offered competitively and there are competing applications submitted, the agency will award the material permit based on the following criteria:

(a) amount of bonus bid;

(b) amount and rate of proposed materials extraction; and

(c) other criteria and assurances of performance as the agency shall require prior to bidding.

2. The agency may issue material permits "over-the-counter" in areas that have been designated by the director as open for such sales.

3. A material permit shall not be issued for a parcel less than one quarter-quarter section, or surveyed lot unless approved by the director.

4. Any material permit may be terminated by the agency in whole or part for permittee's failure to comply with any term or condition of the permit or applicable laws or rules.

R850-25-500. Material Permit Provisions.

1. Rentals.

(a) The director shall establish the rental rate for a material permit, which shall not be less than \$10 per acre, or fractional part thereof, per annum.

(b) The minimum annual rental on material permits shall be determined periodically by the agency.

2. Royalty and Minimum Royalty.

(a) The director shall establish the royalty rate based upon the agency's analysis of the local market for the commodity.

(b) The director will establish annual minimum royalty rates for material permits based on the type of material being removed. The agency may adjust the rates at any time in accordance with the terms of the permit.

3. Material Permit Term.

(a) Material permits issued under these rules shall be for a term as specified in the terms and conditions of the material permit.

(b) All material permits shall expire at the end of five years, unless otherwise specified in the permit. Upon request of the permittee, the director may reissue the permit on the same terms or on readjusted terms. In no event shall a material permit continue for a period longer than five years without review and a determination by the director that reissuance on the same or readjusted terms is in the best interest of the beneficiaries.

4. Other Permit Provisions.

The director may require, in addition to the above permit provisions, other provisions to be included in the material permit as it deems necessary.

R850-25-600. Existing Mineral Lease and Material Permit Conversion.

Existing mineral leases and material permits issued prior to the effective date of these rules and in good standing on such date shall continue for the term specified in the lease or permit and shall be subject to the terms and provisions contained in the lease or permit. The agency may however, allow such lessees/permittees to convert such existing leases or permits to the new lease or permit, providing such conversion will not conflict with the valid existing rights of any other mineral lessee or material permittee or owner upon the same lands.

R850-25-700. Mineral Lease and Material Permit Application Process.

1. Applications for mineral leases or material permits, except in the case of competitive filing, are received for filing in the office of the agency during office hours. Except as provided, all the applications received by personal delivery over the counter, shall be immediately stamped with the exact date and time of filing. All applications presented for filing at the opening of the office for business on any business day shall be stamped received as of 8 a.m. on that day. All applications received in the first delivery of the U.S. Mail of each business day shall be stamped received as of 8 a.m. on that day. The time indicated on the time stamp is deemed the time of filing unless the agency determines that the application is materially deficient in any particular or particulars. If an application is determined to be deficient, it will be returned to the applicant.

2. Except in cases of competitive filing, if two or more applications for the same mineral lease or material permit contain identical bids and bear a time stamp showing the applications were filed at the same time, the agency will award the mineral lease or material permit by public drawing or oral auction.

3. Competitive Filing.

(a) The minimum acceptable bid for competitive filing of applications for a mineral lease or material permit shall be at least equal to the rental rate for the first year of the lease.

(b) Notices of the offering of lands for competitive filing will run for a period of not less than fifteen (15) consecutive days after the notice is posted in the agency's office.

(c) Where applicants wish to submit applications for competitive filing, such applications shall be submitted in separately sealed envelopes and marked for competitive filing.

4. Rejection.

If an application, or any part thereof, is rejected, any money tendered for rental on the rejected portion shall be refunded or credited.

5. Application Withdrawal.

(a) Should an applicant desire to withdraw his/her application, the applicant must submit a written request to the agency. If the request is received prior to the time the agency approves the application, all money tendered by the applicant, except the filing fee, shall be refunded. If the request is received after approval of the application, then, unless the applicant accepts the offered mineral lease or material permit, all money tendered is forfeited to the agency, unless otherwise approved by the director for good cause shown.

(b) Applicants desiring to withdraw an application which has

been filed under the competitive filing rules above, must submit a written request to the agency. If the request is received before sealed bids for rental have been opened, all money tendered by the applicant, except the filing fee, shall be refunded. If the request is received after sealed bids for rental have been opened, and if the applicant is awarded the bid, then unless the applicant accepts the offered mineral lease or material permit, all money tendered shall be forfeited to the agency, unless otherwise approved by the director for good cause shown.

R850-25-800. Operations Notification and Plan.

1. At least 60 days prior to the commencement of any surface disturbance, drilling, mining or other operations, the lessee/permittee shall submit a plan of operations to the agency in accordance with the terms and conditions established by the agency, as set forth in R850-24-700. Under no circumstance shall the lessee/permittee commence operations without a plan of operation approved by the agency.

2. The agency shall require the lessee/permittee to meet agency reclamation requirements as set forth in R850-24-700.

KEY: mineral classification, lease provisions, administrative procedures, permit terms

Date of Enactment or Last Substantive Amendment: April 1, 2005

Notice of Continuation: April 1, 2010

Authorizing, and Implemented or Interpreted Law: 53C-1-302(1)(a) (ii); 53C-2-201(1)(a); 53C-2-402(1)