

impacts are not caused to the water resources in the basin. A variance may also be granted from the requirements of part IV of chapter 373, or the rules adopted thereunder, when a project provides an improvement in water availability in the basin and does not cause adverse impacts to water resources in the basin.

(2) Consideration of a variance pursuant to this section shall be based on the particular facts and circumstances surrounding each individual request.

(3) The department shall publish a notice of proposed agency action in the Florida Administrative Register and in a newspaper of general circulation in the area affected, and the department shall afford an opportunity for a hearing on each application for a variance, pursuant to the provisions of chapter 120. If no request for a hearing is filed with the department within 14 days of publication of the notice, the department may proceed to final agency action without a hearing.

(4) Variances issued pursuant to this section may be for the life of the facility or for such shorter period of time as may be appropriate. Variances issued for a period of 5 years or more shall be reviewed by the secretary at least every 5 years to ensure that the factors justifying the issuance of the variance have not changed so as to make the variance unnecessary.

(5) The department may prescribe appropriate conditions, including time limits, to the granting of a variance.

History.—s. 1, ch. 86-294; ss. 323, 508, ch. 94-356; s. 6, ch. 2003-423; s. 21, ch. 2010-205; s. 37, ch. 2013-14.

PART III

RESOURCE EXTRACTION RECLAMATION

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378.401 Short title.— This part may be cited as the "Resource Extraction Reclamation Act."

History.—s. 1, ch. 86-294.

378.402 Legislative findings and intent.—

(1) The Legislature finds that Florida is endowed with varied natural resources that provide great recreational, environmental, and economic benefit to the people of the state. While the extraction of resources is an activity that contributes to the economic well-being of the state, improperly reclaimed or unreclaimed land may adversely affect the environment and may cause the temporary and, in some circumstances, permanent destruction of scenic beauty and wildlife habitats. The Legislature further finds that while it is not practicable to extract resources without disturbing the surface of the earth and producing waste materials, and that the very character of certain surface extraction operations precludes complete restoration of the land to its original contour, it is essential to require reclamation to mitigate the effects of resource extraction on the environment.

(2) The Legislature recognizes that there are wide variations in the circumstances and conditions surrounding and arising out of the extraction process and that the rehabilitation and conservation of resources will be assured only through proper planning and through consideration of the impact of resource extraction upon the environment as well as upon the land use of the surrounding areas. Reclamation actions are an integral part of the extraction process. The Legislature further recognizes that it is in the best interest of the state that the reclamation process be accomplished in a timely manner and that persons engaged in resource extraction shall be responsible for attaining required reclamation standards. Reclamation as provided in this part will allow the extraction of valuable resources while still providing for the protection of the public's health, safety, and welfare, the protection of the state's environment, and the subsequent beneficial use of the disturbed and reclaimed land.

(3) The Legislature recognizes that where possible and feasible the department should enter into memoranda of understanding to eliminate duplication and maximize the effectiveness of the regulatory process in the management and protection of our natural resources.

History.—s. 1, ch. 86-294; s. 53, ch. 91-221.

378.403 Definitions.— As used in this part, the term:

(1) "Agency" means an official, committee, department, commission, officer, division, authority, bureau, council, board, section, or unit of government within the state, including a county, municipal, or other local or regional entity or special district.

(2) "Annual report" means a detailed report, including maps and aerial photographs, submitted for each mine, which describes and delineates mining operations and reclamation or restoration activities undertaken in the previous calendar year.

(3) "Department" means the Department of Environmental Protection.

(4) "Existing mine" means any area upon which an operation is being conducted, or has been conducted, on October 1, 1986.

(5) "Extraction" or "resource extraction" means the removal of resources from their location so as to make them suitable for commercial, industrial, or construction use; but does not include excavation solely in aid of onsite farming or onsite construction, nor the process of searching, prospecting, exploring, or investigating for resources by drilling.

(6) "Fuller's earth clay" means clay possessing a high absorptive capacity consisting largely of montmorillonite or palygorskite. Fuller's earth clay includes attapulgite.

(7) "Heavy minerals" means those resources found in conjunction with sand deposits which have a specific gravity of not less than 2.8, and includes an admixture of such resources as zircon, staurolite, and titanium minerals as generally mined in this state.

(8) "Limestone" means any extracted material composed principally of calcium or magnesium carbonate.

(9) "Local government" means any county or municipality.

(10) "Mine" means an area of land upon which mining operations have been conducted, are being conducted, or are planned to be conducted, as the term is commonly used in the trade.

(11) "New mine" means any mine that is not an existing mine.

(12) "Operation" means any activity, other than prospecting, necessary for site preparation, extraction, waste disposal, storage, or reclamation.

(13) "Operator" means any person engaged in an operation.

(14) “Overburden” means soil and rock removed to gain access to the resource in the process of extraction and means such soil or rock before or after its removal.

(15) “Peat” means a naturally occurring substance derived primarily from plant materials in a range of decomposing conditions and formed in a water-saturated environment.

(16) “Reclamation” means the reasonable rehabilitation of land where resource extraction has occurred.

(17) “Resource” means soil, clay, peat, stone, gravel, sand, limerock, metallic ore, or any other solid substance of commercial value found in natural deposits on or in the earth, except phosphate, which is regulated by part III.

(18) “Secretary” means the Secretary of Environmental Protection.

(19) “Wetlands” means any area as defined in s. 373.019, as delineated using the methodology adopted by rule and ratified pursuant to s. 373.421(1). For areas included in an approved conceptual reclamation plan or modification application submitted prior to July 1, 1994, wetlands means any area having dominant vegetation as defined and listed in rule 62-301.200, Florida Administrative Code, regardless of whether the area is within the department’s jurisdiction or whether the water bodies are connected.

History.—s. 1, ch. 86-294; s. 324, ch. 94-356; s. 4, ch. 95-215; s. 5, ch. 2007-191; s. 39, ch. 2009-21.

378.404 Department of Environmental Protection; powers and duties.— The department shall have the following powers and duties:

(1) To adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this part.

(2) To prescribe the form, content, and necessary supporting documentation for notices of intent to mine.

(3) To receive notices of intent to mine and operators’ conceptual reclamation plans in order to determine the completeness and sufficiency thereof.

(4) To prescribe rules to receive and approve annual reports, when specifically authorized, for the detailed evaluation of reclamation units within conceptual mine plans.

(5) To prescribe the means for inspecting reclamation operations.

(6) To issue orders requiring an operator to take such actions as are necessary to comply with this part and rules adopted hereunder, and to issue orders modifying prior orders.

(7) To enter on and inspect the mine site at reasonable times and intervals pursuant to s. 378.407.

(8) To ensure that reclamation will be consistent with the provisions of this part and the performance standards and criteria provided by this part, and will be consistent with other statutes and local ordinances pertaining to reclamation.

(9) To grant variances from the provisions of this part to accommodate reclamation that provides for water supply development or water resource development not inconsistent with the applicable regional water supply plan approved pursuant to s. 373.709, appropriate stormwater management, improved wildlife habitat, recreation, or a mixture thereof, provided adverse impacts are not caused to the water resources in the basin and public health and safety are not adversely affected.

History.—s. 1, ch. 86-294; ss. 325, 509, ch. 94-356; s. 91, ch. 98-200; s. 7, ch. 2003-423; s. 22, ch. 2010-205.

378.405 Reclamation review procedure.—

(1) All agency reviews conducted under this part are subject to this section. Within 30 days after receipt of an operator’s conceptual reclamation plan, the department, the secretary, or the affected agency shall review the plan and shall request submittal of all additional information the agency is permitted by law to require. If the applicant believes any agency request for additional information is not authorized by law or agency rule, the applicant may request a hearing under ss. 120.569 and 120.57. Within 30 days after receipt of such additional information, the agency must review it and may request only such further information as is needed to clarify the additional information.

(2) If the applicant believes the request of the agency for such additional information is not authorized by law or agency rule, the agency, at the applicant’s request, shall proceed to process the plan. A plan must be approved or denied within 90 days after receipt of the original plan, the last item of timely requested additional information, or the applicant’s written request to begin processing the plan.

History.—s. 1, ch. 86-294; ss. 326, 510, ch. 94-356; s. 111, ch. 96-410.

378.406 Confidentiality of records; availability of information.—

(1)(a) Any information relating to prospecting, rock grades, or secret processes or methods of operation which may be required, ascertained, or discovered by inspection or investigation shall be exempt from the provisions of s. 119.07(1), shall not be disclosed in public hearings, and shall be kept confidential by any member, officer, or employee of the department, if the applicant requests the department to keep such information confidential and informs the department of the basis for such confidentiality. Should the secretary determine that such information requested to be kept confidential shall not be kept confidential, the secretary shall provide the operator with not less than 30 days' notice of his or her intent to release the information. When making his or her determination, the secretary shall consider the public purposes specified in ¹s. 119.14(4)(b).

(b) Nothing in this section shall be construed to prevent the use of such records in judicial proceedings when ordered to be produced by appropriate subpoena or by order of the court. No such subpoena or order of the court shall abridge or alter the rights or remedies of persons affected in the protection of trade secrets or secret processes in the manner provided by law, and such person affected may take any and all steps available by law to protect such trade secrets or processes. This section shall not prevent the department from providing such information to other agencies if the information is necessary to prepare the reports and studies required by this part. Agencies receiving such information shall be subject to the provisions of this section.

(2)(a) Except as provided in subsection (1), the department shall make available for public inspection and copying, during regular office hours, any information filed or submitted pursuant to this part.

(b) The secretary may charge a fee to cover the actual cost of duplicating the information filed or submitted pursuant to this part. "Actual cost of duplicating" means the cost of material and supplies used to duplicate the record, but it does not include the labor cost or overhead cost associated with such duplication.

(c) The fees charged for duplication of public records shall be deposited and accounted for in the manner prescribed for other operating funds of the agency.

History.—s. 1, ch. 86-294; s. 14, ch. 89-117; s. 3, ch. 91-114; s. 327, ch. 94-356; s. 1024, ch. 95-148; s. 183, ch. 96-406.

¹**Note.**— Repealed by s. 1, ch. 95-217.

378.407 Inspection.—

(1)(a) Any duly authorized representative of the department may at any reasonable time enter and inspect, for the purpose of ascertaining the state of compliance with the law or rules of the department, any property, premises, or place, except a building which is used exclusively for a private residence, on which a reclamation operation is or will be conducted or where records required by this part or rule are kept.

(b) Any duly authorized representative of the department may, during normal business hours, have access to and copy any records required under this part and may obtain any other information and samples necessary to determine compliance with the requirements of this part or rules.

(c) The duly authorized representative of the department shall comply with all federal, state, and local safety standards.

(2) The owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.

(3)(a) Upon completion of reclamation of an area, the operator shall notify the secretary. The secretary may make an inspection of the area, and if he or she finds that reclamation has been properly completed, the secretary shall notify the operator in writing and release him or her from further obligations regarding that land.

(b) If upon the receipt of the notification the secretary determines that an inspection will not be conducted within an operating year, the operator shall be released from the reclamation requirements upon the completion of the second operating year.

History.—s. 1, ch. 86-294; s. 328, ch. 94-356; s. 1025, ch. 95-148.

378.408 Injunctive relief.— The secretary may institute civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with the requirements of this part.

History.—s. 1, ch. 86-294; s. 329, ch. 94-356.

378.409 Civil liability.—

(1) Any operator who begins resource extraction without meeting the requirements of this part is liable to the state for any damages caused to the water or property, including animal, plant, or aquatic life, of the state, and is liable for reasonable costs and expenses of the state in restoring the waters and property, including animal, plant, and aquatic life, of the state to their former condition.

(2) In assessing damages for animal, plant, or aquatic life, the value shall be determined in accordance with the tables of values established by the Fish and Wildlife Conservation Commission and the department.

(3) Nothing in this section gives the department the right to bring an action on behalf of any private person.

History.—s. 1, ch. 86-294; s. 330, ch. 94-356; s. 199, ch. 99-245.

378.411 Certification to receive notices of intent to mine, to review, and to inspect for compliance.—

(1) By petition to the secretary, a local government may request certification to receive notices of intent to mine, to review, and to conduct compliance inspections.

(2) In deciding whether to grant certification to a local government, the secretary shall determine whether the following criteria are being met:

(a) The petitioning local government has adopted and effectively implemented a local government comprehensive plan.

(b) The local government has adequate review procedures and the financial and staffing resources necessary to assume responsibility for adequate review and inspection.

(c) The local government has a record of effectively reviewing, inspecting, and enforcing compliance with local ordinances and state laws.

(3) In making his or her determination, the secretary shall consult with the Department of Economic Opportunity, the appropriate regional planning council, and the appropriate water management district.

(4) The secretary shall evaluate the performance of a local government on a regular basis to ensure compliance with this section. All or part of the certification may be rescinded if the secretary determines that the certification is not being carried out pursuant to the requirements of this part.

(5) The department shall establish the certification procedure by rule.

History.—s. 1, ch. 86-294; s. 331, ch. 94-356; s. 1026, ch. 95-148; s. 117, ch. 99-385; s. 255, ch. 2011-142.

378.4115 County certification for limerock mining in the Miami-Dade County Lake Belt.—The department and Miami-Dade County shall cooperate to establish and fulfill reasonable requirements for the departmental certification of the Miami-Dade County Department of Environmental Resource Management to implement the reclamation program under ss. 378.401-378.503 for limerock mining activities within the geographic area of the Miami-Dade County Lake Belt which was recommended for mining in the report submitted to the Legislature in February 1997 under s. 373.4149. The delegation of implementing authority must be consistent with s. 378.411 and chapter 62C-36, Florida Administrative Code. Further, the reclamation program shall maximize the efficient mining of limestone, and the littoral area surrounding the lake excavations shall not be required to be greater than 100 feet average in width.

History.—s. 4, ch. 97-222; s. 4, ch. 99-298; s. 5, ch. 2001-172.

378.412 Relationship with other laws.—It is the intent of the Legislature that ss. 378.202-378.804 supplement other laws regarding resource extraction. Nothing contained in such sections shall be construed to limit, abridge, or alter any agency's duties, authority, and responsibilities granted pursuant to another statute. Nothing in ss. 378.202-378.804 shall be deemed to preempt local ordinances that impose stricter reclamation standards.

History.—s. 1, ch. 86-294.

378.501 Limestone; notice of intent to mine required.—

(1) No operator may begin the process of limestone resource extraction at a new mine without notifying the secretary of the intention to mine.

(2) The operator's notice of intent to mine shall include, but not be limited to:

(a) The operator's conceptual mining plan which is comprised of such maps and other supporting documents as may be reasonably required by the department, the operator's time schedule that assures that the reclamation process is achieved in a timely manner, and the operator's estimated life of the mine.

(b) The operator's signed acknowledgment of the limestone reclamation performance standards provided by s. 378.503.

(3) The department shall develop by rule the required data, forms, and other information for the notice of intent to mine. The rule shall clearly state what data, forms, and other information are required and the reasons why such data, forms, and other information are required.

(4) The secretary shall notify the operator as to the sufficiency of the notice of intent to mine. The review of such notice shall be accomplished in accordance with the provisions of s. 378.405.

History.—s. 1, ch. 86-294; s. 332, ch. 94-356.

378.502 Existing mines.— After January 1, 1989, all operators of existing mines for limestone resource extraction shall meet the reclamation performance standards provided by s. 378.503 for any new surface area disturbed at such mines. The operator shall provide the department with a documented list of all existing mines subject to the provisions of this section.

History.—s. 1, ch. 86-294; s. 333, ch. 94-356.

378.503 Limestone reclamation performance standards.—

(1) All reclamation activities shall be initiated at the earliest practicable time.

(2) Reclamation activities shall be consistent with all applicable local government ordinances at least as stringent as the criteria and standards contained in this section.

(3) Reclamation shall achieve the stormwater, drainage, wetlands, and other surface and ground water management requirements of the Department of Environmental Protection and the appropriate water management district.

(4) Provisions for safety to persons, wildlife, and adjoining property must be provided.

(5) The operator shall use best management practices to minimize erosion.

(6) Reclamation shall include revegetation, with species native to the area, of littoral zones and upland areas, except that revegetation shall not be required in those areas where revegetation is impractical or not in accordance with good land management practices.

(7) Resource extraction which results in a water body shall provide one of the following shoreline treatments:

(a) A littoral shelf not less than 18 feet in width with a berm on the waterward side.

(b) A straight slope not steeper than 1 vertical to 3 horizontal, and extending downward from average water level to 6 feet below the average water level.

(c) Where a sheer wall results, then in lieu of a shoreline treatment, access shall be controlled by the use of berms, fences, or other restrictive methods, all of which shall be used in conjunction with a transition shelf of at least 10 feet in width.

(d) Slope requirements of the United States Army Corps of Engineers or the department under part IV of chapter 373.

(e) The secretary may allow other shoreline treatments to achieve appropriate safety and environmental considerations.

(8) Where a dry sheer wall results, access shall be controlled by the use of berms, fences, or other restrictive methods, all of which shall be used in conjunction with a transition shelf of at least 10 feet in width.

History.—s. 1, ch. 86-294; s. 334, ch. 94-356; s. 6, ch. 2007-191.

378.601 Heavy minerals.—

(1)(a) Each operator who intends to mine or extract heavy minerals at a new mine shall receive approval of the department of a conceptual reclamation plan prior to undertaking mining or extraction.

(b) New mine, for the purposes of this section, shall mean a mine where the operator begins the clearing of land for mining after July 1, 1987.

(c) The term “conceptual reclamation,” for the purposes of this section, means a graphic and written description of general activities to be undertaken across the whole mine to comply with the reclamation standards applicable to this part.

(2) Each operator of an existing mine, which has not submitted a conceptual reclamation plan pursuant to the requirements of s. 211.32, shall submit to the department for approval a conceptual reclamation plan no later than July 1, 1987.

(3) The department may also require that each operator submit an annual report.

(4) Reclamation standards applicable to this section shall be adopted by rule by the department. The intent shall be that these regulations shall be no more stringent than those standards currently in place for the heavy mineral mining. The department shall consider the following criteria in its regulations:

(a) The reclamation standards shall reflect the circumstances unique to each mineral commodity and must reasonably address the practicality for reclamation for each commodity and the future use of the land. All reclamation activities shall, to the extent feasible, be coordinated with resource extraction and shall be initiated at the earliest practicable time.

(b) Reclamation activities shall be conducted in a manner which has minimal long-term adverse impacts on surface and groundwater resources, wildlife, and adjacent lands.

(c) The department shall by rule adopt adequate reclamation sloping requirements.

(d) The operator shall use best management practices to minimize erosion.

(e) Drainage systems, wetlands, and other surface waters shall function in manners which are not significantly different from those which existed prior to resource extraction.

(f) Reclamation shall provide for revegetation. Plans for revegetation shall incorporate measures to minimize wildlife habitat lost as a result of resource extraction.

(g) Reclamation shall result in landforms which are capable of supporting diverse and beneficial land uses.

(h) Exceptions to the criteria contained in this section may be granted by the secretary for experimental or innovative techniques.

(i) Reclamation of the land, including a complete growing season for revegetation, shall be completed within 3 years of the completion of the mining operation associated with the resource extraction.

(5) Any heavy mineral mining operation which annually mines less than 500 acres and whose proposed consumption of water is 3 million gallons per day or less may not be subject to s. 380.06, provided permits and plan approvals pursuant to either this section and part IV of chapter 373, or s. 378.901, are issued.

History.—s. 1, ch. 86-294; s. 335, ch. 94-356; s. 5, ch. 95-215; s. 1, ch. 97-222; s. 99, ch. 99-251; s. 2, ch. 2001-134; s. 17, ch. 2018-158.

378.701 Fuller’s earth clay; notice of intent to mine required.—

(1) No fuller’s earth clay operator may begin the process of resource extraction at a new mine without notifying the secretary of the intention to mine.

(2) The operator’s notice of intent to mine shall include, but not be limited to:

(a) Such maps and other supporting documents as may be reasonably required by the department.

(b) The operator’s time schedule that assures that the reclamation process is achieved in a timely manner.

(c) The operator’s estimated life of the mine.

(d) The operator’s conceptual reclamation plan.

(3) The department shall develop by rule the required data, forms, and other information for the notice of intent to mine. The rule shall clearly state what data, forms, and other information are required and the reasons why such data, forms, and other information are required.

(4) The secretary shall notify the operator as to the sufficiency of the notice of intent to mine. The review of such notice shall be accomplished in accordance with the provisions of s. 378.405.

(5) The secretary shall approve, modify, or reject the operator’s conceptual reclamation plan.

History.—s. 1, ch. 86-294; s. 336, ch. 94-356.

378.702 Existing mines.— On October 1, 1986, all operators of existing mines for fuller's earth clay resource extraction shall meet the performance standards provided by s. 378.703 on all mines that increase the diameter of an existing mine.

History.—s. 1, ch. 86-294.

378.703 Fuller's earth clay reclamation performance standards.—

(1) All reclamation activities shall, to the extent feasible, be coordinated with resource extraction and in any event shall be initiated at the earliest practicable time.

(2) Reclamation activities shall be consistent with all applicable local government ordinances at least as stringent as the criteria and standards contained in this section.

(3) Reclamation activities shall be conducted in a manner which has no long-term adverse impact on surface and groundwater resources, wildlife, and adjacent lands.

(4) Drainage systems, wetlands, and other surface waters shall function in manners which are not significantly different from those which existed prior to resource extraction.

(5) Reclamation shall achieve the stormwater requirements of the appropriate water management district.

(6) The department shall establish by rule the reclamation sloping requirements.

(7) The operator shall use best management practices to minimize erosion, including revegetation.

(8) The plans for revegetation shall incorporate measures to offset wildlife habitat lost as a result of resource extraction.

(9) Reclamation shall provide for the establishment of flora and fauna which are consistent with intended land use.

(10) Reclamation and restoration shall result in landforms which are capable of supporting diverse and beneficial land uses.

(11) Exceptions to the criteria and standards contained in this section may be granted by the secretary for experimental or innovative techniques.

(12) Reclamation of the land, including a complete growing season for revegetation, shall be completed within 3 years of the completion of the mining operations associated with the resource extraction.

History.—s. 1, ch. 86-294; s. 337, ch. 94-356.

378.801 Other resources; notice of intent to mine required.—

(1) No operator may begin the process of extracting clay, peat, gravel, sand, or any other solid substance of commercial value found in natural deposits or in the earth, except fuller's earth clay, heavy minerals, limestone, or phosphate, which are regulated elsewhere in this chapter, at a new mine without notifying the secretary of the intention to mine.

(2) The operator's notice of intent to mine shall consist of the operator's estimated life of the mine and the operator's signed acknowledgment of the performance standards provided by s. 378.803.

History.—s. 1, ch. 86-294; s. 338, ch. 94-356.

378.802 Existing mines.— After January 1, 1989, all operators of existing mines for the extraction of resources as described in s. 378.801 shall meet the performance standards provided by s. 378.803 for any new surface area disturbed at such mines.

History.—s. 1, ch. 86-294; s. 1, ch. 89-88.

378.803 Other resources reclamation performance standards.—

(1) Reclamation shall achieve the stormwater, drainage, wetlands, and other surface and groundwater requirements of the Department of Environmental Protection and the appropriate water management district.

(2) The final slopes shall be at such an angle as to minimize the possibility of slides and shall not exceed the natural angle of repose of the material being mined.

(3) Provisions for safety to persons, wildlife, and adjoining property must be provided.

(4) Any overburden and spoil shall be left in a configuration which is in accordance with accepted soil conservation practices and which is suitable for the proposed future use of the land.

(5) Reclamation shall be designed to avoid the collection of water in pools which are, or are likely to become, noxious, odious, or foul.

(6) All reclamation activities shall, to the extent possible, be coordinated with resource extraction and in any event shall be initiated at the earliest practicable time.

(7) Reclamation activities shall be consistent with all applicable local government ordinances at least as stringent as the criteria and standards contained in this section.

History.—s. 1, ch. 86-294; s. 339, ch. 94-356.

378.804 Exemption.— Any operator who extracts resources from any one site, not to exceed 20 acres over the life of the mine, or who extracts peat for agricultural purposes is exempt from the provisions of s. 378.801.

History.—s. 1, ch. 86-294; s. 7, ch. 2007-191.

378.901 Life-of-the-mine permit.—

(1) As used in this section, the term:

(a) “Bureau” means the Bureau of Mine Reclamation of the Division of Water Resource Management of the Department of Environmental Protection.

(b) “Life-of-the-mine permit” means a permit authorizing activities regulated under part IV of chapter 373 and part IV of this chapter.

(2) As an alternative to, and in lieu of, separate applications for permits required under part IV of chapter 373 and part IV of this chapter, any operator who mines or extracts or proposes to mine or extract heavy minerals, limestone, or fuller’s earth clay may apply to the bureau for a life-of-the-mine permit. This subsection does not limit the authority of a local government to approve, approve with conditions, deny, or impose a permit duration that is different from the duration issued pursuant to this section.

(3) The bureau may also issue life-of-the-mine permits to operators of sand mines as part of the consideration for conveyance to the Board of Trustees of the Internal Improvement Trust Fund of environmentally sensitive lands in an amount equal to or greater than the acreage included in the life-of-the-mine permit and provided such environmentally sensitive lands are contiguous to or within reasonable proximity to the lands included in the life-of-the-mine permit.

(4) Notwithstanding the provisions of s. 378.405, an application for a life-of-the-mine permit must be reviewed as follows:

(a) Within 30 days after receipt of an application for a permit under this section, the bureau shall review the application and shall request submittal of any additional information that the bureau requires. If the operator believes that the bureau is not authorized by law or rule to require any of the requested additional information, the operator may request a hearing pursuant to ss. 120.569 and 120.57. Within 30 days after receipt of the additional information, the bureau shall review it and may further request only that information needed to clarify the additional information or to answer new questions raised by or directly related to the additional information.

(b) If the operator believes that any further request of the bureau for information is not authorized by law or agency rule, the bureau, at the operator’s request, shall proceed to process the permit application.

(c) A life-of-the-mine permit must be approved or denied by the bureau within 135 days after receipt of the original completed application, receipt of the timely requested additional information, or correction of errors or omissions. The 135-day period must be tolled in accordance with s. 120.60.

(5)(a) In determining whether to issue a life-of-the-mine permit or to approve an application for a modification to an existing life-of-the-mine permit, the bureau shall apply, and its authority shall be limited by, the relevant criteria in, and rules adopted under, part IV of chapter 373 and part IV of this chapter. The issuance of a life-of-the-mine permit relieves the operator from the requirement to obtain separate construction and operation permits. To the extent that a life-of-the-mine permit authorizes discharges regulated pursuant to s. 1 of Pub. L. No. 92-500, the permit may constitute State of Florida certification thereunder.

(b) Wetlands reclamation activities under this part shall mitigate impacts to wetlands so long as the activities comply with s. 373.414(6).

(6) The department may adopt only those rules that are necessary to describe the procedural requirements for the submittal and review of an application for a life-of-the-mine permit. The department may not adopt rules that separately set forth new substantive criteria for a life-of-the-mine permit except rules necessary to eliminate conflicting or duplicative provisions.

(7) A life-of-the-mine permit is valid for the period designated in the application as the estimated life-of-the-mine. Notwithstanding the issuance of a life-of-the-mine permit, the department may release lands pursuant to s. 378.407 prior to the expiration of the life-of-the-mine permit.

(8) The fee for a life-of-the-mine permit application shall equal the aggregate of the application fees for separate permits that authorize the activities covered by the life-of-the-mine permit, except that the application fee for a life-of-the-mine permit which exceeds 25 years shall be the fee for a permit which equals 25 years plus an additional amount for each year over 25 years equal to the pro rata share of a 25-year permit fee.

(9) Each operator of a mine that has received construction approval in accordance with s. 403.087, s. 403.088, former part VIII of chapter 403, or part IV of chapter 373 in response to an application which was submitted prior to July 1, 1995, may elect either to seek renewal of that permit or to seek a life-of-the-mine permit for all new or existing activities that require a permit. Life-of-the-mine permit applications for existing fuller's earth mining activities must be reviewed as set forth in s. 373.414(15).

(10) At the election and request of the applicant, the department shall coordinate and integrate the processing of industrial wastewater discharge permit applications and federally delegated National Pollutant Discharge and Elimination System permit applications with the life-of-the-mine permit application. The bureau shall initiate and oversee coordination of such applications with the goal of conducting a comprehensive and concurrent evaluation of the mine.

History.—s. 1, ch. 95-215; s. 112, ch. 96-410; s. 7, ch. 97-222; s. 184, ch. 99-13; s. 3, ch. 99-353; s. 31, ch. 2010-205.

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