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THE OFFICIAL GAZETTE 19TH MARCH, 2005 LEGAL SUPPLEMENT – B

GUYANA

No. 3 of 2005

REGULATIONS Made Under THE MINING ACT (No. 20 of 1989)

IN EXERCISE OF THE POWERS CONFERRED UPON ME BY SECTION 136
OF THE MINING ACT, I HEREBY MAKE THE FOLLOWING REGULATIONS:-

Citation.

1. These Regulations, which amend the Mining Regulations*, may be cited as the Mining (Amendment) Regulations 2005.

Interpretation.

2. Regulation 2 of the Principal Regulations is hereby amended by the insertion of the following definitions in the proper alphabetical order -

No. 11 of 1996.

"Agency" means the Environmental Protection Agency, established by section 3 of the Environmental Protection Act;

"Authorised Officer" means an officer of the Commission other than a mines officer or an officer from another agency duly designated by the Minister to perform tasks under these Regulations;

"buffer area" means land on either bank of a river or watercourse from the low watermark of the bank to 20 metres inland, and extending from the mouth of the river or navigable watercourse to its source; or any area within 30 metres of a public road; or 100 metres of approved residences, commercial or industrial development; or 1 kilometre of an approved nature reserve or park;

"closed mine" means a mine that is not exploiting metals or minerals or quarriable materials and which has been reclaimed in accordance with an approved closure plan or approved environmental management plan;

*Subsidiary Legislation

No. 9 of 1979.

"Code of Practice" means the Environmental Code of Practice for the operation of mines that is published by the Commission and which shall be read as part of these Regulations;

"Commission" means the Guyana Geology and Mines Commission, established by section 3 of the Guyana Geology and Mines Commission Act;

"contingency and emergency response plan" means an emergency preparedness plan which addresses potential accidents as specified in the Code of Practice;

"cyanide permit" means the permit as issued by the Commission to a miner under these Regulations to control the use and storage of poisonous substances in mining and the discharge of effluent;

"effluent" means any fluid including airborne particles of matter and other substances in suspension or solution in the fluid and includes mine de-watering discharges, site runoff, discharges from a tailings basin or settling pond, discharges from a processing plant or dredging operation which is released to surface or ground water and other substances such as colloids, in solution or suspension;

"Environmental effects monitoring" means monitoring of the direct effects on the environment resulting from activities related to mining;

"gold and diamond placer mine" means a mine from which gold and diamonds and other minerals are extracted;

"large scale mine" means a mine which is the subject of a Mining Licence and from which a minimum volume in excess of 1000m³ of material, inclusive of any overburden, is excavated or processed as an aggregate in any continuous twenty-four hour period;

"large scale miner" means any person who operates a large scale mine;

"manager" means that person who is placed in charge of operations of a claim; permit area or mine, duly appointed by the claim, permit or licence holder and registered with the Commission;

"mechanised equipment" shall mean and include any dredge or other equipment as specified for registration under the Mining Act and Regulations;

"medium scale mine" means a mine which is the subject of a Mining Permit and from which a volume in excess of 200m³ but less than 1000m³ of material, inclusive of any overburden, is excavated or processed as an aggregate in any continuous twenty-four hour period;

"medium scale miner" means any person who operates a medium scale mine;

"metal mines" include surface and underground mines for the recovery of gold, silver, copper, lead, nickel, zinc, molybdenum, laterite, iron ore, manganese, uranium and other metals and metallic minerals;

"mine" includes any excavation, processing facility or related facilities for the recovery of metal, mineral or quarriable material and excludes any excavation, processing facility or related facilities that excavate or process less than 20m³ in any continuous period of twenty-four hours;

"miner" only in PART XXIV of these Regulations, means and includes any holder of a Claim Licence, Prospecting Permit, Mining Permit, Prospecting Licence or Mining Licence or Permit who utilises mechanised equipment for excavation in the mining operations;

"mine reclamation plan" means the plan for the closing and reclaiming and rehabilitation of lands disturbed by mining, in accordance with the Code of Practice as published by the Commission;

"Minister" means the Minister responsible for the Guyana Geology and Mines Commission;

"monitoring" means inspections and visits to claims, permits or licence areas by mines officers including taking of samples, examination of records and general information which is required to be provided to the Commission;

"operator" means a person licenced and authorised to conduct activities for the mining and processing of minerals;

"person" means only in these Regulations any individual or company engaged in exploration or mining activities, with the exception of the Guyana Geology and Mines Commission;

"quarriable material" shall be deemed to be a reference to -

- (i) rock, laterite, sand, loam or gravel, kaolin or other clays; or
- (ii) any other material specified by notification in the Gazette by the Commission, with the approval of the Minister, as a quarriable material;

"receiving environment" means any river, creek, race or lake, reservoir, body of stagnant water or land and receiving a contaminant;

"reclamation plan" means a plan for the reclamation and rehabilitation of mining lands as specified in the Code of Practice;

"routine parameters" include all regulated limits including limits for ammonia for all hard rock mining where ammonium nitrate is used and gold cyanidation circuits;

"settleable solids" means the volume of solids as measured in an Imhoff Cone after sixty minutes of settling or any other approved means of measuring same;

"settling ponds" means a basin designed to remove settleable solids;

"small scale mine" means a mine which is the subject of a Claim Licence and from which a volume in excess of 20m³ but less than 200m³ of material, inclusive of any overburden, is excavated or processed as an aggregate in any continuous twenty-four hour period;

"small scale miner" means any person who operates a small scale mine.

Amendment of regulation 6(1) of the Principal Regulations.

3. Regulation 6(1) of the Principal Regulations is hereby amended by the insertion immediately after the word "place" of the words ", buffer area".

Amendment of regulation 13 of the Principal Regulations.

4. Regulation 13 of the Principal Regulations is hereby amended by the insertion immediately after paragraph (2) of the following as paragraphs (3) and (4) -

"(3) The Commissioner or mines officer shall have power to order work to cease on any part of any claim or on any claim where mining is being carried out in a buffer area, and to order a withdrawal from the said buffer area. The said officer shall give at least forty-eight hours notice in such an instance.

(4) Any person who fails or neglects to comply with the order of the Commissioner or a mines officer as provided in paragraph (3) commits an offence and shall be liable on summary conviction to a fine of twenty thousand dollars for the first offence and twenty-five thousand dollars or imprisonment for one year for the second or subsequent offences."

Amendment of regulation 23 of the Principal Regulations.

5. Regulation 23 of the Principal Regulations is hereby amended by the insertion immediately after the word "claim" of the words "and not buffer areas".

Amendment of PART XIV of the Principal Regulations.

6. PART XIV of the Principal Regulations is hereby amended by the substitution thereof of the following Part as PART XIV -

**"PART XIV
USE OF POISONOUS SUBSTANCES**

Use and handling of mercury.

127. (1) No person shall use elemental mercury or any form of mercury, except in accordance with these Regulations.

- (2) (a) Notwithstanding paragraph (1), no person shall-
- (i) use mercury in the recovery of gold save and except in recovery in small and medium scale placer mining and at the final stage of processing;
 - (ii) use mercury in open systems on ores; or
 - (iii) cause the use of sluicing or other recovery systems which contain mercury from which there are discharges into the open environment.
- (b) Any person who fails to adhere to these requirements in this paragraph shall render a Cease Work Order being placed on the operations on the claim or area until clean-up is done to the satisfaction of the Commissioner.
- (3) No person shall remove from any mine or claim any mercury without first having obtained the written permission of the manager.
- (4) No person employed in any operation shall handle mercury or amalgam without first covering his hands with approved gloves and ensuring that other approved protective wear, including respirators, are worn at all times during mercury handling.
- (5) Mercury shall be stored under a head of water or in an airtight receptacle.
- (6) (a) A place on the claim or medium - scale area or close to the claim or medium - scale area shall be designated by the Commissioner or Mines Officer for use of mercury over or within a pool or a tank. Such area shall be lined with plastic and positioned to prevent any seepage or discharge to the open environment.

- (b) Where required, other areas where mercury is used shall likewise be lined with plastic. All plastic used shall be positioned to prevent any seepage or discharge of poisonous substances to the open environment.
- (7) Any clean-up of the area referred to in paragraph (2) herein shall be done by personnel approved by the Commission to undertake such activity.
- (8) Any breach of the requirements as stipulated in paragraphs (1) to (6) above shall constitute an offence and the owner of the claim, permit or licence area and the person in charge of the operations shall be liable on summary conviction to a fine of twenty-five thousand dollars. On the commission of the offence for a second time, in addition to a fine of twenty-five thousand dollars, a Cease Work order shall be placed on the operation for a period of no more than seven days to allow for clean up of the area affected. On commission of subsequent offences the equipment of the operation shall be liable to seizure and forfeiture and a Cease Work Order of three months shall be placed on the claim, permit or licence area. The owner of the equipment shall also be refused a dredge licence for a period as specified by the Commissioner.
- Vaporization of mercury. 128. (1) In any process whereby the vaporization of mercury is made possible, due care as stated in regulation 127(4), shall be exercised that no person shall be exposed to the resultant fumes; and a warning shall be given to all persons in the vicinity that such process is in operation by way of a siren or notice.
- Use of retort for burning of amalgam. (2) A retort approved by the Commission shall be used at all times when there is burning of amalgam. Such retort shall be registered with the Commission.
- Use and handling of cyanide. 129. (1) No operation in which cyanide or any preparation containing cyanide is used in the treatment of gold or other minerals may be commenced until the necessary buildings, structures, rooms, appliances and other arrangements to carry on these operations have been inspected and approved by a mines officer.

Commission to keep register on cyanide permit.

- (2) At every mine or other place where cyanide is used an approved cyanide antidote shall be kept in a conspicuous and convenient place in a box labelled "Cyanide Antidote". Explicit directions for the use of such antidote shall be affixed inside the lid of the box and the Manager shall ensure that all persons working in any place where the cyanide is used familiarise themselves with the location of the box and the directions for use of the antidote.
- (3) The Commission shall keep registers which shall contain information related to cyanide permits issued. Information in the register shall include -
- (a) the name of the person to whom the cyanide permit is granted;
 - (b) the date that the permit was granted, expiration and renewal dates;
 - (c) the date and reason for revocation and suspension of the licence or permit and in respect of suspension the period thereof;
 - (d) the number of the licence or permit;
 - (e) the amount of cyanide purchased; and
 - (f) any relevant remarks.
- (4) Every register under paragraph (1) shall be open for inspection by the public at the office of the Commission during office hours, free of charge, and the Commission shall, on payment of the prescribed fee, cause to be made copies of any entry in any such register.

Fencing poisoned water.

130. Any area of water containing poisonous or injurious chemical solutions used in the treatment of gold or other minerals must be fenced in any effective form to prevent inadvertent access thereto, and notice boards shall be erected in suitable places warning persons from making use of such water.

- Escape of poisonous water. 131. In no case shall water containing any poisonous or injurious chemical solutions be permitted by a claim holder or his agents to knowingly escape or enter any river, creek, race, lake, reservoir, or any stagnant water without having been previously rendered innocuous.
- Register of poisons. 132. (1) The owner or manager of any claim or mine, in which cyanide or any preparation containing mercury, cyanide or any other poisonous substance is used for any purpose, shall enter or cause to be entered in a register to be kept for that purpose, in Form 18 in the First Schedule, the quantities of cyanide and other poisonous substances received and issued. The record of each poisonous substance shall be kept separately and shall show the date of receipt, the date of issue, quantities received or issued, and the balance of stock on hand, and the signature of the receiver or issuer, as the case may be.
- First Schedule (2) The owner or manager of any claim or mine shall have the said register available at all times for inspection by a mines officer.
- Carrying away of fumes. 133. All vessels or plants used for the treatment of zinc or lime with acid or for the cyanide process shall be fitted with mechanical agitators and hoods or other appliances of such a nature that the fumes generated in such vessels shall be carried directly to the external air at a distance approved by the Commissioner from time to time. All facilities shall be located downwind or in any other wind of all residences so that such residences are not unduly disturbed.
- Drinking water. 134. An adequate supply of wholesome drinking water shall be provided in each premises or place where cyanide or any preparation containing cyanide is used, and this supply shall be distinctly labelled "Drinking Water".
- Separate keeping of poisons. 135. Mercury, cyanide or other poisonous substances used in any mining or milling process shall be kept in a separate compartment specially set aside for the storage of such poisonous substances. The compartment shall be locked and shall be in the care of a person duly authorised by the manager.

Removal of poisons.

136. No person shall remove from a claim or mine any cyanide or other poisonous substances without having obtained the written permission of the manager.

137. All holders of licences and permits as granted under the Mining Act, shall adhere to the provisions of the "Code of Practice on Use and Handling of Poisonous Chemicals" as published jointly by the Commission and Agency, and updated from time to time."

Amendment of the Principal Regulations.

7. The Principal Regulations are hereby amended by the insertion immediately after regulation 215 of the following Parts as PARTS XXIV, XXV, XXVI, XXVII, XXVIII and XXIX -

**"PART XXIV
REQUIREMENTS FOR ENVIRONMENTAL MANAGEMENT FOR
LARGE AND MEDIUM SCALE MINING**

Obtaining a cyanide permit.

216. (1) Every person who proposes to use cyanide at the final stages of processing, and which entails disposal of effluent shall before commencing any action related thereto, apply either personally or in writing to the Commission for a cyanide permit and shall submit with such application, the prescribed fee and a description in summary of the activities in respect of which cyanide is to be used including information on -

(a) the site, design or process and amount of cyanide to be used; site characteristics and layout; distance to water bodies; ground water regime and mode of tailings disposal;

(b) possible effects on the environment;

(c) a simplified description of the activity; and

(d) activities for minimising the use of cyanide in the long-term.

(2) Where the Commission is satisfied with regard to an application for a cyanide permit for the use of cyanide to which paragraph (1) relates that -

(a) the proposed use does not significantly affect the environment;

No. 11 of 1996.

- (b) the requirements of these Regulations have been complied with;
- (c) the requirements of the Environmental Protection Act 1996 and the recommendations of the Agency have been complied with; and
- (d) the matters as set out in regulation 251 have been satisfactorily dealt with by the applicant,

it shall grant the permit applied for on such terms and conditions and in such form as the Commission may from time to time determine.

Terms of the cyanide permit.

217. (1) The Commission may refuse to grant a cyanide permit under this Part where it has reason to believe -

- (a) that the application is based on false or misleading information; or
- (b) after consultation with the Agency, it is satisfied that the preservation and character of the environment, including flora and fauna will be adversely affected.

(2) If the Commission, after consultation with the Agency, is satisfied that there has been material changes in the circumstances that existed at the time the cyanide permit was granted, the Commission shall convey this in writing to the permit holder and advise that a new permit must be applied for and the current permit will remain valid only up to a stipulated date.

(3) The Commission shall suspend the permit should the permit holder fail to comply with any notice given under paragraph (2)

Procedure to vary cyanide permit.

218. (1) A person to whom a cyanide permit has been granted pursuant to this Part may apply to the Commission to vary or modify the cyanide permit stating clearly the reasons therefor.

(2) In considering an application under paragraph (1), the Commission shall have regard to the matters specified in regulation 216.

Suspension of cyanide permit.

219. (1) The Commission may issue a written warning to the cyanide permit holder and manager of the operation for any breach of provisions of these Regulations or any term and condition subject to which the permit is granted.
- (2) The Commission may however, suspend a cyanide permit for a breach of any provision of these Regulations or for any term or condition subject to which the permit is granted.
- (3) The Commission shall, on suspending a cyanide permit, notify the holder thereof in writing -
- (a) stating the breach that gave rise to the suspension;
 - (b) requiring the holder of the cyanide permit to remedy the breach;
 - (c) stating the time within which the breach is to be remedied; and
 - (d) stating whether the cyanide permit is to be returned within a specific time to the Commission.
- (4) The Commission shall endorse the time and date of receipt of the permit when it is returned in accordance with paragraph (3)(d).
- (5) *The holder of the cyanide permit, upon remedying the breach, shall so inform the Commission and the Commission shall, if it is satisfied that the breach is remedied, forthwith return the permit to the holder thereof.*

Grounds for cancellation of cyanide permit.

220. (1) Without prejudice to paragraph (2), the Commission may cancel a cyanide permit granted under these Regulations -
- (a) upon breach of a condition subject to which the permit was granted;

- (b) where the holder of the permit contravenes any provision of the Regulations, or any other written law concerning prospecting, mining of minerals or environmental protection;
- (c) where the Minister is satisfied that information which was submitted to the Commission in support of the permit and on the basis of which the permit was granted was misleading, false or deceptive; or
- (d) for any other reason relating to serious environmental effects where the Commission thinks it proper to do so.
- (2) Where the Commission cancels a cyanide permit, the Commission shall as soon as practicable thereafter notify in writing the person to whom the permit or certificate was granted of the cancellation and the notice shall state the reason for the cancellation, and such cancellation shall take effect on receipt of the notice by the addressee.
- Appeal. 221. (1) Any person who is aggrieved by a decision of the Commission shall within twenty-eight days of the decision, appeal in writing against such decision to the Minister.
- (2) The Minister, after examining all relevant information on the matter appealed, shall issue an appropriate order.
- Transferability of cyanide permit. 222. (1) A cyanide permit shall not be transferable except with the permission of the Commissioner.
- (2) Where the Commissioner authorises the transfer of such a permit, he may vary the conditions already imposed on the cyanide permit or he may impose such other conditions as he may consider appropriate.
- Training in use and handling of poisonous substances. 223. The Commission, the Agency, the mining associations and educational training institutions shall in accordance with the curricula approved by the Commission jointly or singularly provide training and certification courses for miners on the proper use of mercury and cyanide, and environmental hazards associated with such use in mining activities.

- (b) where the holder of the permit contravenes any provision of the Regulations, or any other written law concerning prospecting, mining of minerals or environmental protection;
 - (c) where the Minister is satisfied that information which was submitted to the Commission in support of the permit and on the basis of which the permit was granted was misleading, false or deceptive; or
 - (d) for any other reason relating to serious environmental effects where the Commission thinks it proper to do so.
- (2) Where the Commission cancels a cyanide permit, the Commission shall as soon as practicable thereafter notify in writing the person to whom the permit or certificate was granted of the cancellation and the notice shall state the reason for the cancellation, and such cancellation shall take effect on receipt of the notice by the addressee.
- Appeal. 221. (1) Any person who is aggrieved by a decision of the Commission shall within twenty-eight days of the decision, appeal in writing against such decision to the Minister.
- (2) The Minister, after examining all relevant information on the matter appealed, shall issue an appropriate order.
- Transferability of cyanide permit. 222. (1) A cyanide permit shall not be transferable except with the permission of the Commissioner.
- (2) Where the Commissioner authorises the transfer of such a permit, he may vary the conditions already imposed on the cyanide permit or he may impose such other conditions as he may consider appropriate.
- Training in use and handling of poisonous substances. 223. The Commission, the Agency, the mining associations and educational training institutions shall in accordance with the curricula approved by the Commission jointly or singularly provide training and certification courses for miners on the proper use of mercury and cyanide, and environmental hazards associated with such use in mining activities.

- Code of practice. 224. The Commission shall prepare a Code of Practice that will provide further guidance on practices involving mercury use, cyanide use and disposal of effluent which shall form part of these Regulations.
- Environmental bond to be lodged. 225. (1) Subject to 27A(3) every holder of a Mining Licence, Prospecting Permit or Mining Permit shall lodge an Environmental Bond in Form 19 in the First Schedule thereof in favour of the Commission, for an amount to be determined by the Commissioner.
- First Schedule (2) The Environmental Bond or part thereof, shall be used by the Commission to restore the environment where restoration of the said area was not done to the satisfaction of the Commissioner.
- PROVIDED THAT the Commission shall retain no third party to carry out such restoration before the miner has been given three months from the date restoration becomes due to restore the area.
- Submission of environmental management plan. 226. (1) Within one year after the commencement of these Regulations every operator of a mine including a new operator, shall submit to the Commission an Environmental Management Plan for a period of three to five years. This plan may be subject to update on an annual basis or from time to time as requested by the Commission and shall include matters stipulated in regulation 248(1)(a) to (e).
- (2) The Plan shall be prepared in accordance with the Code of Practice referred to in regulation 248.
- Requirement for reclamation and closure plan. 227. (1) Before any new prospecting or mining licence, prospecting or mining permit (medium scale) is issued by the Commission, a closure plan must be outlined by the operator and approved by the Commission.
- (2) Before a new prospecting or mining licence, mining or prospecting permit (medium scale) is issued by the Commission to an operator, the mining guidelines should be seen to have been adhered to in the previous mining operation the applicant may have had.

- (3) All holders of existing prospecting and mining licences, mining or prospecting permits (medium scale) over areas currently being mined shall prepare and submit a reclamation and closure plan for approval by the Commission within three months after the coming into effect of these Regulations.
- (4) Every operator of a large or medium scale mine, shall before commencing any activity related thereto, submit a reclamation and closure plan for approval by the Commission. A form shall be provided at the Commission which shall be filled out by the operator to satisfy this requirement.
- (5) The reclamation and closure plan shall include measures for -
 - (a) the backfilling of placer mine pits, where applicable;
 - (b) the sealing or capping of shafts at closed mines in accordance with the Code of Practice or the directions of an appropriate authority at the Commission, as appropriate;
 - (c) the stripping and stockpiling of topsoil for use in reclamation;
 - (d) the replacement of topsoil and vegetation of disturbed lands; and
 - (e) the restoration of water courses, where appropriate.

Preparation and submission of contingency and emergency response plans.

228.

- (1) All holders of Prospecting and Mining Licences and medium scale permits shall prepare a contingency and response plan in accordance with the Code of Practice.
- (2) Within two years after the commencement of this Part every existing operator shall submit a contingency and response plan to the Commissioner for approval.

- (3) The contingency and emergency response plan or plans shall set out provisions for hazards in mining operations including practical mechanisms for responding to cyanide and fuel spills and spills of other poisonous or hazardous substances and breaches of tailings ponds.
- Offence. (4) Any person who contravenes this regulation commits an offence.
- Communication of contingency and emergency response plans. 229. All holders of prospecting and mining licences and medium scale permits shall ensure that all relevant information of the contingency and emergency response plan is communicated to employees and independent contractors, and shall include information on -
- (i) first person response;
 - (ii) notification procedures;
 - (iii) location of clean-up equipment;
 - (iv) an analysis of potential accidents and responses; and
 - (v) materials safety data sheets for all materials which could be spilled.

PART XXV
REQUIREMENTS FOR ENVIRONMENTAL MANAGEMENT
FOR SMALL SCALE MINING

- Obtaining a cyanide permit. 230. (1) Every person who proposes to use cyanide at the final stages of processing, that entails disposal of effluent shall before commencing any action related thereto, apply to the Commission for a cyanide permit and shall submit with such application, the prescribed fee and a description in summary of the activities in respect of which the cyanide is to be used including information on -
- (a) the site, design or process and amount of cyanide and amount of water to be used; site characteristics and layout; distance to water bodies; ground water regime and mode of tailings disposal;

- (b) the possible effects on the environment; and
- (c) a simplified description of the activities in a checklist form as provided for by the Commission.

(2) Where the Commission is satisfied with regard to an application for a cyanide permit for the use of cyanide to which this regulation relates that -

- (a) the proposed use does not significantly affect the environment;
- (b) the requirements of these Regulations have been complied with;
- (c) the requirements of the Environmental Protection Act, and the recommendations of the Agency have been complied with; and
- (d) matters as set out in regulation 251 have been satisfactorily dealt with by the applicant,

it shall grant the permit applied for on such terms and conditions and in such form as the Commission may from time to time determine.

No. 11 of 1996.

Terms of the cyanide permit.

231. (1) The Commission may refuse to grant a cyanide permit under this Part where it has reason to believe -

- (a) that the application is based on false or misleading information; or
- (b) after consultation with the Agency, it is satisfied that the preservation and character of the environment, including animals and plants will be adversely affected.

(2) If the Commission, after consultation with the Agency, is satisfied that there has been material changes in the circumstances that existed at the time the cyanide permit was granted, the Commission shall convey this in writing to the permit holder and advise that a new permit must be applied for and the current permit will remain valid only up to a stipulated date.

- (3) Suspension of the permit shall ensue should the permit holder fail to comply with any notice given under regulation 217(2).
- (4) A person to whom a cyanide permit has been granted pursuant to this Part may apply to the Commission to vary or modify the cyanide permit stating clearly the reasons therefor.
- (5) In considering an application under paragraph (4), the Commission shall have regard to the matters specified in regulation 216.
- Suspension of cyanide permit. 232. (1) The Commission may issue a written warning to the cyanide permit holder and manager of the operation for a breach of any provisions of these Regulations or any term and condition subject to which the permit is granted.
- (2) The Commission may however, suspend a cyanide permit for a breach of any provisions of these Regulations or for any term or condition subject to which the permit is granted.
- (3) The Commission shall, on suspending a cyanide permit, notify the holder thereof in writing -
- (a) stating the breach that gave rise to the suspension;
 - (b) requiring the holder of the cyanide permit to remedy the breach;
 - (c) stating the time within which the breach is to be remedied;
 - (d) stating whether the cyanide permit is to be returned within a specific time to the Commission; and
 - (e) the Commission shall endorse the time and date of receipt of the permit when it is returned in accordance with paragraph (d) hereof.

- (4) The holder of the cyanide permit, upon remedying the breach, shall so inform the Commission and the Commission shall, if it is satisfied that the breach is remedied, forthwith return the permit to the holder thereof.
- Grounds for cancellation of cyanide permit. 233. (1) Without prejudice to paragraph (2), the Minister may cancel a cyanide permit granted under these Regulations -
- (a) upon breach of a condition subject to which the permit was granted;
 - (b) where the holder of the permit contravenes any provision of the Regulations, or any other written law concerning prospecting, mining of minerals or environmental protection;
 - (c) where the Commission is satisfied that information which was submitted to the Commission in support of the permit and on the basis of which the permit was granted was misleading, false or deceptive; or
 - (d) for any other reason relating to serious environmental effects where the Commission thinks it proper to do so.
- (2) Where the Commission cancels a cyanide permit, it shall as soon as practicable thereafter notify in writing the person to whom the permit or certificate was granted and such notice shall state the reason for the cancellation, and such cancellation shall take effect on receipt of the notice by the addressee.
- Appeal. 234. (1) Any person who is aggrieved by a decision of the Commission shall within twenty-eight days of the decision, appeal in writing against such decision to the Minister.
- (2) The Minister, after examining all relevant information on the matter appealed, shall issue any appropriate order.

- Transferability of cyanide permit.** 235. (1) A cyanide permit shall not be transferable except with the permission of the Commissioner.
- (2) Where the Commissioner authorises the transfer of such a permit, he may vary the conditions already imposed on the cyanide permit or impose such other conditions as he may consider appropriate.
- Training in use and handling of poisonous substances.** 236. The Commission, the Agency, the Mining Associations and Educational Training Institutions shall in accordance with curricula approved by the Commission together or individually provide training and certification courses for miners on the proper use of mercury and cyanide, and environmental hazards associated with such use in mining activities.
- Code of practice.** 237. The Commission shall prepare a Code of Practice that will provide further guidance on practices involving mercury use, cyanide use and disposal of effluent which shall form part of these Regulations.
- Reclamation fee for small scale.** 238. (1) (a) Every operator of a small scale mine shall pay a reclamation bond for a claim disturbed by the mining.
- (b) The bond in respect of such reclamation shall be twenty-five thousand dollars.
- (2) Upon the satisfactory restoration of the area the miner shall be issued a formal discharge by the Commissioner of obligations to restore.
- Requirement of clean-up plan by small scale miner.** 239. (1) Every small scale miner shall submit a plan showing the location of all materials stored and a notification and clean-up plan for each proposed site of operation in the event of a spill. The clean-up plan shall take the form of a check list provided by the Commission to the small scale miner.
- (2) It shall be an offence to drain oil of large quantities from dredge engines or other equipment onto the ground.

**PART XXVI
GENERAL REQUIREMENTS**

Discharges into the river or creek.

240. (1) (a) The Commissioner shall determine the number of dredges or mining operations which shall be permitted to dredge or mine in any area which may already be or likely to be affected by tailings discharge.
- (b) In this regard, the Commissioner may also direct the method of mining permissible in the areas affected or likely to be affected by tailings discharge.

For the avoidance of doubt, the Commissioner shall make a determination made in this context on the basis of -

- (i) the percentage of clay content found in the overburden or deposit; or
- (ii) the total load of clay which may be released in the tailings.

A determination shall be made from results of sampling and tests done by officers of the Commission.

In the alternative, the Commissioner may request an operator to provide samples to the Commission from which a determination will be made.

- (2) (a) The Nephelometric Turbidity Units (NTU) value at the affected area shall be as stipulated by the Commissioner from time to time.
- (b) (i) Operators of land operations shall discharge tailings into a tailings pond or into a river, creek or stream where the critical turbidity has not exceeded 30 NTU.

- (ii) Operators of river operations shall discharge tailings into a tailings pond on land or to a river, creek or stream where the critical turbidity has not exceeded 30 NTU or in any other manner as approved by the Commissioner.

Critical turbidity shall be established by grab samples taken at a specified point within the mixing distances.

- (3) (a) Operators shall ensure that a discharge from a tailings pond or a dredge into any river or creek shall not exceed the limits stipulated in paragraph (b).
- (b) (i) The stipulated limits are the maximum authorised concentration in a grab sample which shall not exceed either 100 mg/l of total suspended solids (TSS) or 50 Nephelometric Turbidity Units (NTU).
- (ii) The Commissioner shall stipulate the limits for chemical contamination from time to time.
- (c) Discharges from tailings ponds and river dredge shall be released under water through a conduit at a minimum depth specified by the Commissioner.
- (d) Where any operation exceeds either of the stipulated limits the operator shall be cited for such breach and be given twenty-four hours within which to rectify same.
- (e) Failure to rectify within this period shall result in the placement of a Cease Work Order by the Mines Officer.

- (4) (a) The operator shall keep a daily record of the readings of the total suspended solids or Nephelometric Turbidity Units (NTU) readings in the grab sample of the discharge:

PROVIDED THAT such readings of the daily record shall be approximately twenty - four hours after the previous reading.

- (b) Samples should be taken to reflect the normal actual output of the operation.
- (c) The record shall also reflect the volume of the slurry being discharged.
- (d) Where the operation exceeds the limit as stipulated in paragraph (3) above, the operator shall cease operations and rectify the anomaly. A third party shall also be entitled to request the operator to examine the daily record and make an extract of same. Such third party shall also be entitled to be present when tests are made pursuant to a complaint filed by him.
- (5) (a) Where an operator is found to be in violation of the stipulated limits on more than three different occasions, the mines officer shall immediately issue a Cease Work Order on the operation for a period of not less than fourteen days during which time the owner of the operation shall engage the services of a duly qualified person to rectify the resulting damage;
- (b) Prior to the expiry date of the said Cease Work Order, the person engaged shall through the operator provide a report to the Commission which confirms that the clean up has been completed;
- (c) Should the Commission not receive such a report the said Cease Work order shall be extended for a further period;

- (d) A breach of this regulation shall constitute an offence for which an operator shall be liable on summary conviction to a fine of not less than twenty-five thousand dollars or imprisonment for one month.
- Settling ponds.** 241. (1) Where a settling pond is used as a part of the mine drainage system, channels discharging into the river must be culverted, and where necessary, the slopes protected from erosion.
- (2) Approved devices, chemical procedures or ponds shall be used to remove settleable solids from tailings discharges from on-land mines.
- (3) Every settling pond shall have a minimum water residence time equivalent to the aggregate volume of slurry processed or water used in each sluice box or mine processing device in any continuous two hour period. Any discharge shall be in accordance with effluent limits set out in regulation 240.
- Disposal of petroleum products and poisonous substances.** 242. (1) Any person who disposes of petroleum products or any matter containing tars, oil, grease or any poisonous substances directly on the surface of the land or in a river or creek, commits an offence.
- (2) All hazardous waste earmarked for disposal whether recovered from prior workings or from the current operation shall be sealed in barrels which are made of or lined with plastic, marked and sealed and conveyed to any area set aside or facility set up for the disposal of hazardous waste. This accumulated waste shall be brought to the Commissioner's attention by way of notice by the operator and the Commissioner shall issue such directions for treatment as appropriate.
- (3) Where facilities for disposal are not available, a miner shall burn all waste products including batteries using fuel such as kerosene or similar substances of high flash point, in any area set aside for such purposes or, where appropriate shall use the said waste products to

Inspection of environmentally damaged areas.

243. (1) Prior to the commencement of mining in any area, a miner shall, if the miner considers that the area has been environmentally damaged, request in writing an inspection of such areas by the Commissioner or an officer appointed, in writing by the Commissioner.

(2) The cost of the above determination shall be met by the applicant and the Commission equally.

Responsibility of miner for environmental damage.

244. (1) Subject to regulation 243 above, every miner shall be responsible for all damage to the environment resulting from normal mining activities carried on in the area where his operation is legally permitted.

(2) A miner shall not be absolved from the above obligation without formally being discharged in writing by the Commission.

Disposal of effluent and tailings dam.

245. (1) Information in relation to the disposal of effluent shall be provided by the applicant to the Commission on the following -

(a) the site of the disposal;

(b) the amount of the disposal; and

(c) the possible effects on the environment:

PROVIDED THAT in the case of small scale miners there shall be the option of applying for a cyanide permit as a syndicate or individually. In such cases, the requirements shall be provided by the small scale miner by completion of a questionnaire provided by the Commission.

(2) Tailings dam or water retaining dams higher than 16 feet or six metres shall be inspected annually by a qualified civil, mining or geo-technical engineer, registered with the Commission and approved by a recognised engineering body.

(3) The report of such inspection shall be kept on file and be available for review by inspectors of the Commission.

- Emergency spillways. 246. Every tailings pond shall be equipped with emergency spillways that pass the flows from the probable maximum flood so as to prevent the overtopping of dams under extreme rainfall or runoff rainfall.
- Compensation for cancellation of Permits. 247. Compensation shall not be paid to a holder of a permit where the decision to cancel the permit was necessary for the purposes of protecting and conserving the environment, any animal or plant or by reason of an unforeseeable change in circumstances on the basis of which the permit was granted.
- Code of practice. 248. (1) The Commission shall, within eighteen months after the commencement of these Regulations, publish or approve a Code of Practice for Environmental Mining which shall specify the requirements for the operation of mining activities on private and public lands including provisions for -
- (a) a waste management and disposal system;
 - (b) mechanisms for the management of sediment losses, effluent and contaminated drainage from waste management facilities;
 - (c) contingency and response plans;
 - (d) mine reclamation and closure plan;
 - (e) an environmental effects monitoring programme;
 - (f) sand and loam mining;
 - (g) quarrying; and
 - (h) control flows from lower dams which are less than 6 metres in height and small dams not contemplated by regulation 245 herein.
- (2) Without prejudice to paragraph (1), the Code of Practice shall specify requirements that are applicable according to the size of the mining operation, that is, for small, medium and large scale mines.

Confidentiality of Information.

- (3) The reclamation and closure plan submitted shall follow guidelines as set out in the Code of Practice.

249. Information obtained in pursuance of these Regulations shall not be disclosed by the Commissioner or any other officer of the Commission or Agency except -

- (a) with the written consent of the licence or permit holder or operator;
- (b) for the purpose of criminal or civil proceedings; or
- (c) for the purpose of enabling the competent authorities to fulfil their functions where there is:
 - (i) a significant risk of pollution posed by a mining activity; or
 - (ii) a significant threat to the ecosystem; or
 - (iii) a threat to human health and safety.

Compliance with Mining Act and Regulations.

250. Nothing in these Regulations shall authorise the conduct of mining activities except in accordance with the provisions of the Mining Act and Regulations made thereunder.

PART XXVII PROTECTED AREAS

Restrictions on mining and quarrying activities.

251. (1) No person shall conduct mining and quarrying activities in the following areas -
- (a) within 20 metres of the low water mark of a river bank except for access of dredges from the river;
 - (b) in specified nature reserves and parks where resource extraction is prohibited;
 - (c) in buffer areas without the express approval of the Commission and the notification of parties likely to be affected by the activity.

Offence

- (2) A person who contravenes paragraph (1) commits an offence.
- (3) No dry mining or excavation shall be conducted in any ore or water shed without prior permission from the Commissioner.

PART XXVIII POLLUTION CONTROL

Environmental effects monitoring.

252. (1) Three years after the commencement of these Regulations, save and except for small scale mines, environmental effects monitoring shall be conducted for every mine including new mines.
- (2) Two years after the commencement of these Regulations, each environmental effects monitoring programme shall be required to be submitted to the Commission for approval as part of the Environmental Management Plan referred to in regulation 248.

PART XXIX OFFENCES AND PENALTIES

Penalty for breach of terms and conditions of licence or permit.

253. Any holder of a licence or permit granted under PARTS XIV and XXIV who contravenes the terms and conditions attached to his licence or permit, commits an offence and shall be liable on summary conviction to a fine of twenty-five thousand dollars.

Penalty for failing to provide information.

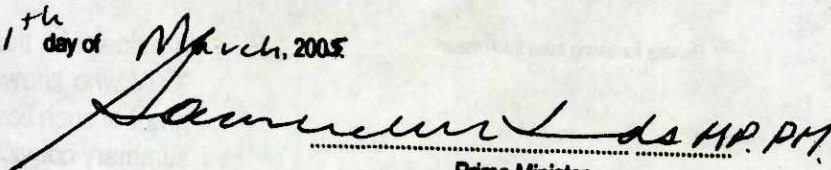
254. Any holder of a licence or permit granted under PARTS XIV and XXIV who fails to provide such information requested by the Commission in relation to the licence or permit granted commits an offence and shall be liable on summary conviction to a fine of twenty-five thousand dollars.

Penalty for giving false information.

255. A holder of a licence or permit granted under PARTS XIV and XXIV who knowingly provides false information relating to the grant of such licence or permit commits an offence and shall on summary conviction, be liable -
- (i) in the case of an individual, to a fine of twenty thousand dollars; or

- (ii) in the case of a body corporate, to a fine of twenty-five thousand dollars.
- Penalty for failing to submit any document. 256. Any person who fails to submit any document required by the Commission in accordance with these Regulations commits an offence and shall be liable on summary conviction to a fine of twenty thousand dollars.
- Penalty for disclosing information. 257. A person who discloses information in relation to matters addressed in these Regulations in contravention of these Regulations commits an offence and shall be liable on summary conviction to a fine of twenty-five thousand dollars.
- Penalty for obstructing officer. 258. A person who obstructs an authorised officer in the exercise of his powers and duties commits an offence and shall be liable on summary conviction to a fine of twenty-five thousand dollars in addition to any other penalty which may be imposed in respect of that offence.
- Penalty for second offence. 259. Any person who commits a second or subsequent offence under these Regulations not already provided for shall be liable on summary conviction to a fine of twenty-five thousand dollars or one month imprisonment in addition to any other penalty which may be imposed in respect of that offence.
- General penalty. 260. Any person who commits any act in contravention of the provisions of these Regulations in respect of which no penalty is specifically provided shall, on summary conviction, be liable -
- (i) in the case of an individual, to a fine of ten thousand dollars; or
- (ii) in the case of a body corporate, to a fine of twenty-five thousand dollars."

Made this 11th day of March, 2005



Prime Minister
and
Minister of Public Works and Communications