

15 AAC 65.040(b) is amended to read:

(b) An application for an extension of time for filing a return must be filed with the department no later than the date the return is due [AND MUST INCLUDE A COMPLETE STATEMENT OF THE REASONS FOR THE REQUEST FOR AN EXTENSION. A COPY OF THE APPROVED EXTENSION REQUEST MUST BE FILED WITH THE MINING LICENSE TAX RETURN].

(Eff. 8/9/86, Register 99; am __/__/____, Register ____)

Authority: AS 43.05.080 AS 43.65.020

15 AAC 65.125(e) is amended to read:

(e) A percentage depletion allowance is permitted for each property described in AS 43.65.010(e), if the allowance is not less than if it were computed on a cost basis. If computed on a percentage basis, the depletion allowance may not exceed 50 percent of the person's mining net income as computed without the allowance for depletion. Cost depletion must be used for all other mineral types not described in AS 43.65.010(e) [, INCLUDING SAND AND GRAVEL].

(Eff. 8/9/86, Register 99; am __/__/____, Register ____)

Authority: AS 43.05.080 AS 43.65.010 AS 43.65.060

15 AAC 65.200(a) is amended to read:

(a) As provided in AS 43.65.010(a), a new mining operation is exempt from the tax under AS 43.65 for three and one-half years after production begins. The department will, in its discretion, suspend passage of the exemption period if mine production ceases for other than

seasonal or ordinary shutdowns. [UNDER AS 43.65.010(a), THE TAX EXEMPTION GRANTED TO NEW MINING OPERATIONS DOES NOT APPLY TO THE MINING OF SAND AND GRAVEL.]

(Eff. 8/9/86, Register 99; am __/__/____, Register ____)

Authority: AS 43.05.080 AS 43.65.010 AS 43.65.060

15 AAC 65.990(7) is amended to read:

(7) "mining operation" means a business enterprise associated, directly or indirectly, with developing, removing, extracting, moving, or taking from the earth, water, or under water, metals, ores, minerals, asbestos, gypsum, coal, [MARKETABLE EARTH, SAND, GRAVEL,] and any other mineral deposit, including the treatment processes described in sec. 63(c)(4) of the Internal Revenue Code (26 U.S.C. 613), and such treatment processes normally applied by mine owners or operators to obtain a commercially marketable product, but not including the extraction or production of oil and natural gas, marketable earth, quarry rock, sand, gravel, or the harvesting of trees or other natural living, organic resources;

15 AAC 65.990(12) is amended to read:

(12) "sand" means separate grains [GAINS] or particles of disintegrated rock, easily distinguished by the unaided eye, which is finer than gravel and coarser than dust but not large enough to constitute pebbles;[.]

15 AAC 65.990 is amended by adding new subsections to read:

(13) "marketable earth" means peat and topsoil;

(14) "quarry rock " means sand, gravel, or other crushed rock or stone used for concrete aggregate, road building, or in the case of limestone if used in blast furnaces or chemical applications extracted from a quarry but does not include coal. (Eff. 8/9/86, Register 99; am ___/___/____, Register ___)

Authority: AS 43.05.080 AS 43.65.060

15 AAC 145.010 is repealed:

15 AAC 145.010. Collateral. Repealed. [AN APPLICANT SHALL SUBMIT TO THE DEPARTMENT AN APPRAISAL OF ASSETS TO BE PLEDGED AS COLLATERAL FOR A LOAN GUARANTEED BY THE FOREST PRODUCTS BUSINESS LOAN GUARANTEE FUND. THE PLEDGED ASSETS MUST BE APPRAISED AT THEIR FAIR MARKET VALUE.] (Eff. 2/17/85, Register 93; repealed ___/___/____, Register _____)

Authority: AS 45.94.030

15 AAC 145.020 is repealed:

15 AAC 145.020. Economic and financial feasibility analysis. Repealed. [(a) THE PERSONS PREPARING THE ECONOMIC AND FINANCIAL FEASIBILITY ANALYSIS REQUIRED BY AS 45.94.030(b) MUST BE INDEPENDENT FROM THE FOREST PRODUCTS BUSINESS.

(b) THE FEASIBILITY ANALYSIS MUST INCLUDE

(1) PRO FORMA CASH FLOW STATEMENTS COVERING THE ENTIRE TERM OF THE LOAN;

(2) AN ANALYSIS OF MARKETS AND OF MAJOR CUSTOMERS;

- (3) SALES AND SUPPLIER CONTRACTS AND STATEMENTS OF CUSTOMERS' AND SUPPLIERS' BUSINESS INTENTIONS AFTER THE SALE OF THE FOREST PRODUCTS BUSINESS; AND
- (4) AUDITED FINANCIAL STATEMENTS FOR THE PRECEDING THREE YEARS FOR THE FOREST PRODUCTS BUSINESS TO BE PURCHASED; THE STATEMENT MUST BE SEPARATE AND APART FROM FINANCIAL STATEMENTS FOR ANY OTHER BUSINESS, OPERATIONS, AFFILIATIONS, OR FACILITIES, FOREST PRODUCTS OR OTHERWISE, OF THE SELLER; IF THE FOREST PRODUCTS BUSINESS INCLUDES MULTIPLE SUBSIDIARIES, AFFILIATES, PLANTS, FACILITIES, OR PRODUCTS LINES, CONSOLIDATING STATEMENTS MUST BE SUBMITTED.] (Eff. 2/17/85, Register 93; repealed ____ / ____ / _____, Register _____)

Authority: AS 45.94.030

15 AAC 145.030 is repealed:

15 AAC 145.030. Loan guarantee conditions. Repealed. [(a) THE DEPARTMENT WILL, IN ITS DISCRETION, GUARANTEE A LOAN UNDER AS 45.94.010 - 45.94.060 AND THIS CHAPTER IF

- (1) THE LOAN AMOUNT DOES NOT EXCEED 90 PERCENT OF THE APPRAISED VALUE OF REAL ESTATE PLEDGED AS COLLATERAL, AND 75

PERCENT OF THE APPRAISED VALUE OF ALL OTHER TYPES OF ASSETS PLEDGED AS COLLATERAL;

(2) THE LENDER IS AT RISK FOR AT LEAST 10 PERCENT OF THE LOAN AMOUNT; IF THERE IS MORE THAN ONE LENDER, ANY SINGLE LENDER MAY BE AT RISK FOR LESS THAN 10 PERCENT OF THE TOTAL LOAN AMOUNT AS LONG AS THE LENDERS HAVE, IN COMBINATION, AT LEAST 10 PERCENT AT RISK;

(3) THE LOAN DOES NOT HAVE A PREPAYMENT PENALTY;

(4) THE LOAN DOES NOT REQUIRE ANY COMPENSATING BALANCES, PURCHASES BY THE BORROWER OR STOCK IN A LENDER'S FIRM, OR OTHER MONEY PAID TO A LENDER FOR LOAN ORIGINATION OTHER THAN IN ACCORDANCE WITH THE LENDER'S ESTABLISHED SCHEDULE FOR LOAN AND ORIGINATION FEES;

(5) THE DEPARTMENT IS A SECURED PARTY UNDER THE TERMS OF ANY SECURITY INSTRUMENTS, WITH THE SAME RIGHTS AS THE LENDER IN THE EVENT OF DEFAULT;

(6) THE LOAN IS TO

(A) ONE OR MORE CORPORATIONS OR OTHER BUSINESS ASSOCIATIONS OR ENTITIES THAT MEET THE FOLLOWING CONDITIONS:

(i) THE CORPORATION, ASSOCIATION, OR ENTITY IS OWNED ENTIRELY BY EMPLOYEES OF THE FOREST PRODUCTS BUSINESS TO BE PURCHASED;

(ii) THE OWNERS OF THE CORPORATION, ASSOCIATION, OR ENTITY INCLUDE AT LEAST 75 PERCENT OF THE EMPLOYEES OF THE FOREST PRODUCTS BUSINESS TO BE PURCHASED;

(iii) AT LEAST 51 PERCENT OF THE OWNERS OF THE CORPORATION, ASSOCIATION, OR ENTITY ARE ALASKA STATE RESIDENTS AT THE TIME THE LOAN IS MADE; AND

(iv) NO SINGLE OWNER OF THE CORPORATION, ASSOCIATION, OR ENTITY RECEIVES AN INTEREST GREATER THAN TWO PERCENT IN THE CORPORATION, ASSOCIATION, OR ENTITY; OR

(B) AN EMPLOYEE STOCK OWNERSHIP TRUST, QUALIFYING UNDER 28 U.S.C., SECS. 401 - 405 (INTERNAL REVENUE CODE), AT LEAST 51 PERCENT OF THE BENEFICIARIES OF WHICH ARE ALASKA STATE RESIDENTS AT THE TIME THE LOAN IS MADE;

(7) ALL RELEASES, LICENSES, AND PERMITS REQUIRED BY LOCAL, STATE, AND FEDERAL GOVERNMENTAL AGENCIES HAVE BEEN SECURED; AND

(8) EACH LENDER CERTIFIES THAT THE SAME DEGREE OF PRUDENCE HAS BEEN APPLIED IN APPROVING, MAKING, AND CLOSING THE LOAN AS THAT WHICH THE LENDER APPLIES IN APPROVING, MAKING, AND CLOSING OTHER COMMERCIAL LOANS.

(b) THE DEPARTMENT MUST APPROVE ANY CHANGES OR AMENDMENTS IN ANY LOAN DOCUMENTS INCLUDING CHANGES TO SECURITY INSTRUMENTS, PROMISSORY NOTES, INSURANCE AS REQUIRED BY THE DEPARTMENT, AND

LOAN GUARANTEE AGREEMENTS.] (Eff. 2/17/85, Register 93; repealed ____/____/____, Register _____)

Authority: AS 45.94.020 AS 45.94.030 AS 45.94.050

15 AAC 145.040 is repealed:

15 AAC 145.040. Guarantees by others. Repealed. [IF THERE IS MORE THAN ONE GUARANTOR TO THE LOAN, UPON DEFAULT EACH GUARANTOR WILL BE LIABLE FOR AN AMOUNT EQUAL TO THE AMOUNT IN DEFAULT MULTIPLIED BY THAT GUARANTOR'S RESPECTIVE PERCENTAGE OF THE LOAN GUARANTEED.] (Eff. 2/17/85, Register 93; repealed ____/____/____, Register _____)

Authority: AS 45.94.030 AS 45.94.050

15 AAC 145.50 is repealed:

15 AAC 145.050. Amounts in satisfaction of default. Repealed. [AFTER DEFAULT BY THE BORROWER, AND PAYMENT BY THE DEPARTMENT OR ANY OTHER GUARANTORS OF AMOUNTS DUE THE LENDER UNDER A LOAN GUARANTEE, AMOUNTS RECEIVED BY THE LENDER OR THE DEPARTMENT TOWARDS SATISFACTION OF A DEFAULT MUST BE PAID AS FOLLOWS:

(1) FIRST, TO THE LENDER, THE DEPARTMENT, AND OTHER GUARANTORS, FOR ALL REASONABLE OUT-OF-POCKET COSTS AND EXPENSES INCURRED IN ACTIVITIES NECESSITATED BY THE DEFAULT; AND

(2) SECOND, TO THE LENDER, THE DEPARTMENT, AND OTHER GUARANTORS, ACCORDING TO THE PERCENTAGES OF THE LOAN AT RISK AND

GUARANTEED, RESPECTIVELY.] (Eff. 2/17/85, Register 93; repealed ____/____/____, Register _____)

Authority: AS 45.94.030 AS 45.94.050

15 AAC 145.060 is repealed:

15 AAC 145.060. Loan guarantee not an inducement. Repealed. [A LOAN GUARANTEED BY THE DEPARTMENT MAY NOT BE CONDITIONED BY ANY LENDER ON ANY OTHER LOAN, SALE OF ASSETS OR SERVICES, OR ANY BANKING SERVICES FROM THE LENDER.] (Eff. 2/17/85, Register 93; repealed ____/____/____, Register _____)

Authority: AS 45.94.030

15 AAC 145.070 is repealed:

15 AAC 145.070. Loan servicing. Repealed. [(a) THE LENDER IS RESPONSIBLE FOR SERVICING A LOAN GUARANTEED UNDER THE LOAN FUND. IF THERE IS MORE THAN ONE LENDER, THE LENDERS SHALL CHOOSE ONE OF THEIR NUMBER TO SERVICE THE LOAN.

(b) THE LENDER SHALL COMPLETE AND FORWARD TO THE DEPARTMENT A WRITTEN QUARTERLY STATUS REPORT WITHIN 20 DAYS AFTER THE END OF THE REPORTING PERIOD COVERED BY THE REPORT. THE REPORT MUST CERTIFY THAT THE LENDER HAS APPLIED STANDARDS OF LOAN SERVICING THAT ARE EMPLOYED BY PRUDENT LENDERS GENERALLY AND THAT THE LENDER HAS

USED THE SAME DEGREE OF CARE AND PROFESSIONALISM IN SERVICING AND PAYMENT COLLECTION AS IT DOES WITH OTHER COMMERCIAL LOANS.

(c) IN THE CASE OF A LOAN TO AN EMPLOYEE STOCK OWNERSHIP TRUST QUALIFYING UNDER 28 U.S.C. SECS. 401 - 415 (INTERNAL REVENUE CODE), THE LENDER MUST CERTIFY INITIAL QUALIFICATION UNDER THE INTERNAL REVENUE CODE AND CERTIFY CONTINUING QUALIFICATION IN EACH QUARTERLY STATUS REPORT. AN INTERRUPTION IN QUALIFICATION CONSTITUTES A BREACH OF THE COVENANTS OF THE LOAN GUARANTEE AND VOIDS THE LOAN GUARANTEE.] (Eff. 2/17/85, Register 93; repealed ____/____/____, Register ____)

Authority: AS 45.94.030

15 AAC 145.080 is repealed:

15 AAC 145.080. Repealed. [RESERVED.] (Eff. 2/17/85, Register 93; repealed ____/____/____, Register ____)

15 AAC 145.090 is repealed:

15 AAC 145.090. Definitions. Repealed. [(a) IN THIS CHAPTER

(1) "AT RISK" MEANS THE LENDER IS WITHOUT A THIRD-PARTY OBLIGATION OR GUARANTEE OF REPAYMENT IN THE EVENT OF DEFAULT, UNLESS THE DEPARTMENT IS ALSO GIVEN THE SAME THIRD-PARTY OBLIGATION OR GUARANTEE OF REPAYMENT;

(2) "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE;

(3) "INDEPENDENT" MEANS NOT

(A) A BUSINESS AFFILIATE AS DEFINED IN 28 U.S.C. 1504(a)

(INTERNAL REVENUE CODE);

(B) ON RETAINER OR IN THE EMPLOY OF THE SELLER; OR

(C) A SUPPLIER OR A CUSTOMER OF THE SELLER.

(b) IN THIS CHAPTER AND IN AS 45.94, "FOREST PRODUCTS BUSINESS" MEANS A FOREST PRODUCTS BUSINESS AS DEFINED IN AS 45.94.060(3) FORMED FOR THE PURPOSE OF HARVESTING OR PROCESSING TIMBER OR OTHER WOODY PLANT MATERIAL, WHOSE PROPERTY, PLANT, AND EQUIPMENT ARE LOCATED WITHIN THE STATE.] (Eff. 2/17/85, Register 93; repealed ____/____/____, Register ____)

Authority: AS 45.94.030