CHAPTER 9

Minerals and Mineral Interests in Public Lands

ARTICLE 1

General Provisions

**SECTION 10‑9‑10.** Leases of gas, oil, and certain other minerals.

The Public Service Authority may, through its board of directors, make and execute leases of gas, oil, and other minerals and mineral rights, excluding phosphate and lime and phosphatic deposits, over and upon the lands and properties owned by said authority; and the Department of Health and Environmental Control and the forfeited land commissions of the counties of this State may, with the approval of the Attorney General, make and execute such leases over and upon the lands and waters of the State and of the counties under the ownership, management, or control of the department and commissions respectively.

HISTORY: 1962 Code Section 1‑361; 1952 Code Section 1‑361; 1944 (43) 1428; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, substituted "Department of Health and Environmental Control" for "State Budget and Control Board", substituted "the department" for "such board", and made other nonsubstantive changes.

**SECTION 10‑9‑20.** Minimum royalty.

No such lease shall provide for a royalty of less than twelve and one‑half per cent of production of oil and gas from the lease.

HISTORY: 1962 Code Section 1‑362; 1952 Code Section 1‑362; 1944 (43) 1428; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, reenacted the section with no apparent change.

**SECTION 10‑9‑30.** Leases subject to conservation laws; lease of rights upon offshore and other state lands.

Nothing contained in this article shall estop the State from enacting proper laws for the conservation of the oil, gas and other mineral resources of the State and all leases and contracts made under authority of this article shall be subject to such laws; provided, that the Department of Health and Environmental Control may negotiate for leases of oil, gas, and other mineral rights upon all of the lands and waters of the State, including offshore marginal and submerged lands.

HISTORY: 1962 Code Section 1‑363; 1952 Code Section 1‑363; 1944 (43) 1428; 1958 (50) 1553; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, substituted "Department of Health and Environmental Control" for "State Budget and Control Board", and made other nonsubstantive changes.

**SECTION 10‑9‑35.** Disposition of revenues received from offshore oil leases.

In the event that the State of South Carolina is the recipient of revenues derived from offshore oil leases within the jurisdictional limits of the State such revenues shall be deposited with the State Treasurer in a special fund and shall be expended only by authorization of the General Assembly.

Funds so accumulated shall be expended only for the following purposes:

(1) to retire the bonded indebtedness incurred by South Carolina;

(2) for capital improvement expenditures.

HISTORY: 1977 Act No. 249, Part II, Section 6; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, reenacted the section with no apparent change.

**SECTION 10‑9‑40.** Authority conferred by article is cumulative.

The authority conferred upon the Public Service Authority, the Department of Health and Environmental Control, and the forfeited land commissions by this article shall be cumulative and in addition to the rights and powers heretofore vested by law in such authority, the Department of Health and Environmental Control, and such commissions, respectively.

HISTORY: 1962 Code Section 1‑363.1; 1952 Code Section 1‑363.1; 1944 (43) 1428; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, twice substituted "Department of Health and Environmental Control" for "State Budget and Control Board".

ARTICLE 3

Phosphate

**SECTION 10‑9‑110.** Department of Health and Environmental Control has exclusive control of the state's phosphate interest.

The Department of Health and Environmental Control shall be charged with the exclusive control and protection of the rights and interest of the State in the phosphate rocks and phosphatic deposits in the navigable streams and in the marshes thereof.

HISTORY: 1962 Code Section 1‑364; 1952 Code Section 1‑364; 1942 Code Section 2210; 1932 Code Section 2210; Civ. C. '22 Section 147; Civ. C. '12 Section 140; Civ. C. '02 Section 132; R. S. 89; 1890 (20) 691; 1950 (46) 3605; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, substituted "Department of Health and Environmental Control" for "State Budget and Control Board".

**SECTION 10‑9‑120.** Protection of the state's interest against adverse claimants.

The department may inquire into and protect the interests of the State in and to any phosphatic deposits or mines, whether in the navigable waters of the State or in land marshes or other territory owned or claimed by other parties, and in the proceeds of any such mines and may take such action for, or in behalf of, the State in regard thereto as it may find necessary or deem proper.

HISTORY: 1962 Code Section 1‑365; 1952 Code Section 1‑365; 1942 Code Section 2212; 1932 Code Section 2212; Civ. C. '22 Section 149; Civ. C. '12 Section 142; Civ. C. '02 Section 134; R. S. 91; 1890 (20) 694; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, substituted "department" for "board".

**SECTION 10‑9‑130.** Department may issue leases or licenses; notice of applications.

The department may issue to any person who applies for a lease or license granting a general right to dig, mine, and remove phosphate rock and phosphatic deposits from all the navigable streams, waters, and marshes belonging to the State and also from such of the creeks, not navigable, lying therein as may contain phosphate rock and deposits belonging to the State and not previously granted. Such leases or licenses may be for such terms as may be determined by the department. The annual report of the department to the General Assembly shall include a list of all effective leases and licenses. The department may make a firm contract for the royalty to be paid the State which shall not be increased during the life of the license. Provided, that prior to the grant or issuance of any lease or license, the department shall cause to be published a notice of such application in a newspaper having general circulation in the county once a week for three successive weeks prior to the grant or issuance. However, the lessee or licensee shall not take possession if there is an adverse claim and the burden of proving ownership in the State shall be placed upon the lessee or licensee.

HISTORY: 1962 Code Section 1‑367; 1952 Code Section 1‑367; 1942 Code Section 2214; 1932 Code Section 2214; Civ. C. '22 Section 151; Civ. C. '12 Section 144; Civ. C. '02 Section 137; R. S. 94; G. S. 67, 69, 70; 1878 (16) 781, 840; 1936 (39) 1386; 1937 (40) 100; 1963 (53) 204; 1965 (54) 279; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, substituted "department" for "board" throughout and made other nonsubstantive changes.

**SECTION 10‑9‑140.** Department may grant or refuse application for license.

In every case in which an application is made to the department for a license, the department may grant or refuse the license as it considers best for the interest of the State and the proper management of the interests of the State in those deposits.

HISTORY: 1962 Code Section 1‑368; 1952 Code Section 1‑368; 1942 Code Section 2215; 1932 Code Section 2215; Civ. C. '22 Section 152; Civ. C. '12 Section 145; Civ. C. '02 Section 138; R. S. 95; 1884 (18) 779; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, substituted "department" for "board" throughout, and made other nonsubstantive changes.

**SECTION 10‑9‑150.** Bond of licensee.

As a condition precedent to the right to dig, mine, and remove the rocks and deposits granted by a license, each licensee shall enter into bond, with security, in the penal sum of five thousand dollars, conditioned for the making at the end of every month of true and faithful returns to the Comptroller General of the number of tons of phosphate rock and phosphatic deposits so dug or mined and the punctual payment to the State Treasurer of the royalty provided at the end of every quarter or three months. The bond and sureties are subject to the approval required by law for the bonds of state officers.

HISTORY: 1962 Code Section 1‑369; 1952 Code Section 1‑369; 1942 Code Section 2216; 1932 Code Section 2216; Civ. C. '22 Section 153; Civ. C. '12 Section 146; Civ. C. '02 Section 139; G. S. 68; R. S. 96; 1878 (16) 781; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, made nonsubstantive changes.

**SECTION 10‑9‑160.** Additional security to bonds may be required.

Whenever the department shall have reason to doubt the solvency of any surety whose name appears upon any bond executed for the purpose of securing the payment of the phosphate royalty by any person digging, mining and removing phosphate rock or phosphatic deposits in any of the territory, the property of the State, under any grant or license, the department shall forthwith notify the person giving such bond and the sureties thereon and require that one or more sureties, as the case may be, shall be added to the bond, such surety or sureties to be approved by the department.

HISTORY: 1962 Code Section 1‑370; 1952 Code Section 1‑370; 1942 Code Section 2221; 1932 Code Section 2221; Civ. C. '22 Section 158; Civ. C. '12 Section 151; Civ. C. '02 Section 144; R. S. 100; 1883 (18) 304; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, substituted "department" for "board" throughout.

**SECTION 10‑9‑170.** Proceeding for relief of sureties; new bond and its effect.

The department, upon petition filed by any person who is surety on any such bond as aforesaid and who considers himself in danger of being injured by such suretyship, shall notify the person giving such bond to give a new bond with other sureties and upon failure of such person to do so within thirty days shall cause such person to suspend further operations until a new bond be given. In no case shall the sureties on the old bond be discharged from liability thereon until the new bond has been executed and approved, and such sureties shall not be discharged from any antecedent liability by reason of such suretyship.

HISTORY: 1962 Code Section 1‑371; 1952 Code Section 1‑371; 1942 Code Section 2222; 1932 Code Section 2222; Civ. C. '22 Section 159; Civ. C. '12 Section 152; Civ. C. '02 Section 145; R. S. 101; 1883 (18) 304; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, substituted "department" for "board", and in the second sentence, deleted "But" before "in no case".

**SECTION 10‑9‑180.** Power to fix and change rates for digging phosphate.

The department is hereby vested with full and complete power and control over all mining in the phosphate territory belonging to this State and over all persons digging or mining phosphate rock or phosphatic deposit in the navigable streams and waters or in the marshes thereof, with full power and authority, subject to the provisions of Sections 10‑9‑130 and 10‑9‑190 to fix, regulate, raise, or reduce such royalty per ton as shall from time to time be paid to the State by such persons for all or any such phosphate rock dug, mined, removed, and shipped or otherwise sent to the market therefrom. Six months' notice shall be given all persons at such time digging or mining phosphate rock in such navigable streams, waters, or marshes before any increase shall be made in the rate of royalty theretofore existing.

HISTORY: 1962 Code Section 1‑372; 1952 Code Section 1‑372; 1942 Code Section 2218; 1932 Code Section 2218; Civ. C. '22 Section 155; Civ. C. '12 Section 148; Civ. C. '02 Section 141; R. S. 98; 1897 (22) 504; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7,M, substituted "department" for "board"; in the last sentence, deleted "But" before "six"; and made other nonsubstantive changes.

**SECTION 10‑9‑190.** Returns of rock mined; payment of royalty; rate of royalty.

Each person to whom a license shall be issued must, at the end of every month, make to the Comptroller General a true and lawful return of the phosphate rock and phosphatic deposits he may have dug or mined during such month and shall punctually pay to the State Treasurer, at the end of every quarter or three months, a royalty of five cents per ton upon each and every ton of the crude rock (not of the rock after it has been steamed or dried), the first quarter to commence to run on the first day of January in each year.

HISTORY: 1962 Code Section 1‑374; 1952 Code Sections 1‑373, 1‑374; 1942 Code Sections 2217, 2219; 1932 Code Sections 2217, 2219; Civ. C. '22 Sections 154, 156; Civ. C. '12 Sections 147, 149; Civ. C. '02 Sections 140, 142; G. S. 68; R. S. 97; 1878 (16) 781; 1892 (21) 383; 1893 (21) 418; 1923 (33) 69; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, reenacted the section with no apparent change.

**SECTION 10‑9‑200.** Comptroller General notified of licenses issued.

The Department of Health and Environmental Control, within twenty days after the grant of any license as aforesaid, shall notify the Comptroller General of the issuing of such license, with the name of the person to whom issued, the time of the license, and the location for which it was issued.

HISTORY: 1962 Code Section 1‑375; 1952 Code Section 1‑375; 1942 Code Section 2220; 1932 Code Section 2220; Civ. C. '22 Section 157; Civ. C. '12 Section 150; Civ. C. '02 Section 143; R. S. 99; 1889 (20) 298; 1950 (46) 3605; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, substituted "Department of Health and Environmental Control" for "State Budget and Control Board", and made other nonsubstantive changes.

**SECTION 10‑9‑210.** Mining without license; penalty.

Every person who shall dig, mine, or remove any phosphate rock or phosphatic deposit from the beds of the navigable streams, waters, and marshes of the State without license therefor previously granted by the State to such person shall be liable to a penalty of ten dollars for each and every ton of phosphate rock or phosphatic deposits so dug, mined, or removed, to be recovered by action at the suit of the State in any court of competent jurisdiction. One‑half of such penalty shall be for the use of the State and the other half for the use of the informer.

HISTORY: 1962 Code Section 1‑376; 1952 Code Section 1‑376; 1942 Code Section 2225; 1932 Code Section 2225; Civ. C. '22 Section 162; Civ. C. '12 Section 155; Civ. C. '02 Section 148; G. S. 65; R. S. 104; 1877 (15) 305; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, made nonsubstantive changes.

**SECTION 10‑9‑220.** Purchasing or receiving from unlicensed person.

It shall be unlawful for any person to purchase or receive any phosphate rock or phosphatic deposit dug, mined, or removed from the navigable streams, waters, or marshes of the State from any person not duly authorized by act of the General Assembly of this State or license of the department to dig, mine, or remove such phosphate rock or phosphatic deposit.

HISTORY: 1962 Code Section 1‑377; 1952 Code Section 1‑377; 1942 Code Section 2226; 1932 Code Section 2226; Civ. C. '22 Section 163; Civ. C. '12 Section 156; Civ. C. '02 Section 149; G. S. 66; R. S. 105, 1877 (15) 305; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, substituted "department" for "board" and made other nonsubstantive changes.

**SECTION 10‑9‑230.** Penalty for violation of Section 10‑9‑220.

Any person violating Section 10‑9‑220 shall forfeit to the State the sum of ten dollars for each and every ton of phosphate rock or phosphatic deposit so purchased or received, to be recovered by action in any court of competent jurisdiction. One‑half of such forfeiture shall be for the use of the State and the other half for the use of the informer.

HISTORY: 1962 Code Section 1‑378; 1952 Code Section 1‑378; 1942 Code Section 2227; 1932 Code Section 2227; Civ. C. '22 Section 164; Civ. C. '12 Section 157; Civ. C. '02 Section 150; G. S. 67; R. S. 106; 1877 (15) 305; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, made nonsubstantive changes.

**SECTION 10‑9‑240.** Department may take measures to prevent interference, obstruction, or molestation.

Should any person whosoever interfere with, obstruct, or molest or attempt to interfere with, obstruct, or molest the department or anyone by it authorized or licensed hereunder in the peaceable possession and occupation for mining purposes of any of the marshes, navigable streams, or waters of the State, then the department may, in the name and on behalf of the State, take such measures or proceedings as it may be advised are proper to enjoin and terminate any such molestation, interference, or obstruction and place the State, through its agents, the department or anyone under it authorized, in absolute and practical possession and occupation of such marshes, navigable streams, or waters.

HISTORY: 1962 Code Section 1‑379; 1952 Code Section 1‑379; 1942 Code Section 2228; 1932 Code Section 2228; Civ. C. '22 Section 165; Civ. C. '12 Section 158; Civ. C. '02 Section 151; R. S. 107; 1890 (20) 693; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, substituted "department" for "board" throughout, and made other nonsubstantive changes.

**SECTION 10‑9‑250.** Forfeiture of boats, vessels, dredges, or other appliances used by unlicensed persons; enforcement proceedings.

Should any person attempt to mine or remove phosphate rock and phosphatic deposits from any of the marshes, navigable waters, or streams, including the Coosaw River phosphate territory, by and with any boat, vessel, marine dredge, or other appliances for such mining or removal, without the leave or license of the department thereto first had and obtained, all such boats, vessels, marine dredges, and other appliances are hereby declared forfeited to and property of the State, and the Attorney General, for and in behalf of the State, shall institute proceedings in any court of competent jurisdiction for the claim and delivery thereof, in the ordinary form of action for claim and delivery, in which action the title of the State shall be established by the proof of the commission of any such act of forfeiture by the person owning them, or his agents, in possession of such boats, vessels, marine dredges, or other appliances. In any such action the State shall not be called upon or required to give any bond or obligation such as is required by parties plaintiff in action for claim and delivery.

HISTORY: 1962 Code Section 1‑380; 1952 Code Section 1‑380; 1942 Code Section 2229; 1932 Code Section 2229; Civ. C. '22 Section 166; Civ. C. '12 Section 159; Civ. C. '02 Section 152; R. S. 108; 1890 (20) 694; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, substituted "department" for "board", and made other nonsubstantive changes.

**SECTION 10‑9‑260.** Interfering with State, department, or licensees; mining without license.

Any person wilfully interfering with, molesting, or obstructing or attempting to interfere with, molest, or obstruct the State or the Department of Health and Environmental Control or anyone by it authorized or licensed in the peaceable possession and occupation of any of the marshes, navigable streams, or waters of the State, including the Coosaw River phosphate territory, or who shall dig or mine or attempt to dig or mine any of the phosphate rock or phosphatic deposits of this State without a license so to do issued by the department shall be punished for each offense by a fine of not less than one hundred dollars nor more than five hundred dollars or imprisonment for not less than one nor more than twelve months, or both, at the discretion of the court.

HISTORY: 1962 Code Section 1‑381; 1952 Code Section 1‑381; 1942 Code Section 1259; 1932 Code Section 1259; Cr. C. '22 Section 154; Cr. C. '12 Section 305; Cr. C. '02 Section 225; R. S. 515; 1890 (20) 694; 1950 (46) 3605; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, substituted "Department of Health and Environmental Control" for "State Budget and Control Board", substituted "department" for "board", and made other nonsubstantive changes.

**SECTION 10‑9‑270.** Annual report to General Assembly.

The department shall report annually to the General Assembly its actions and doings under this article during the year to the time of the meeting of the assembly, with an itemized account of its expenses for the year incurred in connection with its duties and powers under this article.

HISTORY: 1962 Code Section 1‑382; 1952 Code Section 1‑382; 1942 Code Section 2224; 1932 Code Section 2224; Civ. C. '22 Section 161; Civ. C. '12 Section 154; Civ. C. '02 Section 147; R. S. 103; 1890 (20) 693; 1892 (21) 383; 1950 (46) 3605; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, substituted "department" for "board" and made other nonsubstantive changes.

ARTICLE 5

Geothermal Resources

**SECTION 10‑9‑310.** Definitions.

For purposes of this article "geothermal resources" means the natural heat of the earth at temperatures greater than forty degrees Celsius and includes:

(1) the energy, including pressure, in whatever form present in, resulting from, created by, or that may be extracted from that natural heat;

(2) the material medium, including the brines, water, and steam naturally present, as well as any substance artificially introduced to serve as a heat transfer medium;

(3) all dissolved or entrained minerals and gases that may be obtained from the material medium but excluding hydrocarbon substances and helium.

HISTORY: 1984 Act No. 375, Section 1; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, made nonsubstantive changes.

**SECTION 10‑9‑320.** Lease of development rights to geothermal resources underlying surface lands owned by State.

The Department of Health and Environmental Control may lease development rights to geothermal resources underlying surface lands owned by the State. The department must promulgate regulations regarding the method of lease acquisition, lease terms, and conditions due the State under lease operations. The South Carolina Department of Natural Resources is designated as the exclusive agent for the department in selecting lands to be leased, administering the competitive bidding for leases, administering the leases, receiving and compiling comments from other state agencies concerning the desirability of leasing the state lands proposed for leasing and such other activities that pertain to geothermal resource leases as may be included herein as responsibilities of the department.

HISTORY: 1984 Act No. 375, Section 1; 1993 Act No. 181, Section 86; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, substituted "Department of Health and Environmental Control" for "State Budget and Control Board (board)", and substituted "department" for "board" throughout.

**SECTION 10‑9‑330.** Oil, natural gas, or minerals drilling leases, specific reference to geothermal energy drilling rights required.

Any lease of rights to drill for and use oil, natural gas, or minerals on public or private lands must not allow drilling for or use of geothermal energy by the lessee unless the instrument creating the lease specifically provides for such use.

HISTORY: 1984 Act No. 375, Section 1; 2014 Act No. 121 (S.22), Pt V, Section 7.M, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 7.M, reenacted the section with no apparent change.