

Sec. 38.05.135. Leasing generally; royalty and net profit share payments and interest.

(a) Except as otherwise provided, valuable mineral deposits in land belonging to the state shall be open to exploration, development, and the extraction of minerals. All land, together with tide, submerged, or shoreland, to which the state holds title to or to which the state may become entitled, may be obtained by permit or lease for the purpose of exploration, development, and the extraction of minerals. Except as specifically limited by AS 38.05.131 - 38.05.181, land may be withheld from lease application on a first-come, first-served basis, and offered only on a competitive bid basis when determined by the commissioner to be in the best interests of the state.

(b) When mineral land is to be leased, in addition to any other notice given, notice must also be given as provided in AS 38.05.945.

(c) Payment of a royalty or a net profit share payment to the state under a lease issued under AS 38.05.135 - 38.05.181 becomes due on the date and in the manner specified in the lease or in a regulation adopted by the commissioner.

(d) If a royalty or net profit share payment to which the state is entitled under AS 38.05.135 - 38.05.181 is not paid or is underpaid when it becomes due under (c) of this section, the unpaid amount of the royalty or net profit share payment bears interest in a calendar quarter at the rate of five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District as of the first day of that calendar quarter, or at the annual rate of 11 percent, whichever is greater, compounded quarterly as of the last day of that quarter.

(e) If a royalty or net profit share payment to which the state is entitled under AS 38.05.135 - 38.05.181 is overpaid, interest at the rate and compounded in the manner provided in (d) of this section shall be allowed and paid on the overpayment. The interest allowance is subject to the following:

(1) if the state grants a credit against future payments for the overpayment, the state shall pay interest on the overpayment

(A) from the date that is the later of the date the overpayment was

(i) due; or

(ii) received;

(B) to the date that is the earlier of the date

(i) of notice to the lessee of the credit; or

(ii) on which the lessee actually takes the credit;

(2) if the state refunds the overpayment, the state shall pay interest on the overpayment

(A) from the date that is the later of the date the overpayment was

(i) due; or

(ii) received;

(B) to the date the state issues the refund.

(f) The issuance by the state and acceptance by a lessee of a credit or refund of an overpayment under (e) of this section does not affect any right of the state or lessee to claim an adjustment and interest on the overpayment.

(g) [Repealed, Sec. 1 ch 37 SLA 2001].

History -

(Sec. 1 art VIII ch 169 SLA 1959; am Sec. 1 ch 30 SLA 1964; am Sec. 1 ch 91 SLA 1967; am Sec. 2 ch 71 SLA 1971; am Sec. 10 ch 257 SLA 1976; am Sec. 2 ch 155 SLA 1978; am Sec. 1 ch 23 SLA 1991; am Sec. 3 ch 35 SLA 1994; am Sec. 1 - 3 ch 114 SLA 1998; am Sec. 1 ch 37 SLA 2001)

Decisions -

Cited in *Kirkpatrick v. Commissioner, Dep't of Natural Resources*, 391 P.2d 7 (Alaska 1964); *Moore v. State*, 553 P.2d 8 (Alaska 1976).

Collateral Refs -

38 Am. Jur. 2d, Gas and Oil, Sec. 59-77, 104-129, 211-234; 53A Am. Jur. 2d, Mines and Minerals, Sec. 1, 21-67; 72 Am. Jur. 2d, States, Territories, and Dependencies, Sec. 64-68.

73B C.J.S., Public Lands, Sec. 287-295.

Prohibiting or regulating removal or exploitation of oil and gas, minerals, soil, or other natural products within municipal limits. 10 ALR3d 1226.

Grant, lease, exception, or reservation of oil and/or gas rights as including oil shale. 61 ALR3d 1109.

Article Notes -

Administrative Code. For disposition of royalty oil, gas, or gas liquids, see 11 AAC 03.

For oil and gas leasing, see 11 AAC 83.

For other leasable minerals, see 11 AAC 84.

Editors Notes. Section 18, ch. 75, SLA 1987 provides that "[a] minerals management or disposal decision made before June 16, 1987, is valid, whether or not the land was classified if other requirements of law were met."

Sec. 38.05.137. Leasing agreements.

The commissioner is authorized to enter into cooperative mineral leasing agreements with the United States regarding land which is the subject of a title dispute between federal and state authorities. Any such lease need not conform to the provisions of state law applicable to state leases issued under the authority of this chapter.

History -

(Sec. 2 ch 30 SLA 1964)

Collateral Refs -

38 Am. Jur. 2d, Gas and Oil, Sec. 211-232.