

MINING

LEASE

REGULATIONS

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ROBERT H. ZIEGLER, SR., Vice Chairman
DICK ELIASON
PAUL FISCHER
VIC FISCHER
BOB MULCAHY
ARLISS STURGULEWSKI



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate

Committee on Resources

MINUTES

May 16, 1984
3:12 pm

Beltz Room
Room 211, Capitol

MEMBERS PRESENT

Senator Fahrenkamp, Chairman
Senator Ziegler, Vice-chairman
Senator Paul Fischer
Senator Mulcahy
Senator Sturgulewski

CALENDAR

Hearing on proposed mining regulations.
TELECONFERENCED TO ANCHORAGE AND FAIRBANKS.

Esther Wunnicke, Commissioner, Department of Natural Resources, explained that these draft amendments to the Department's mining regulations would affect only those miners in areas of the state that require leasehold location. According to statute, those miners must obtain a mining lease by December 31, 1985.

Pedro Denton, Director, Division of Mining, Department of Natural Resources, explained that only 20% of state land is limited to leasehold location. There are about 25 mining operations on those land. Concerns voiced at recent public hearings in Fairbanks, Anchorage and Juneau focused on leasing mineral lands, the requirement that a best interest finding be made before a lease is issued, and the proposed 10-year term of the lease.

Henry Warner, President, Placer Miners of Alaska, Fairbanks, testified against the proposed regulations, urging the Department to issue leases to those miners affected before promulgating regulations on those leases.

Helen Warner, Fairbanks, testified against the draft regulations, and spoke in support of funding for the Mineral Institute Research Laboratory which could provide a resource data base for use in land planning.

Jim Jinks, Executive Director, Alaska Miners Association, Anchorage, questioned whether conversion of a leasehold to a lease should be considered a disposal of land. He spoke against the requirement that a best interest finding be made, and against the 10-year lease term. He discussed how these proposed regulations could affect pending litigation relating to Section 6(i) of the Statehood Act.

Ernest Wolff, Fairbanks, spoke in opposition to the regulations, specifically that the 10-year term for a lease was too short. He also felt these regulations would affect the pending 6(i) litigation.

Rudy Vetter, Fairbanks, was concerned about a proposed 200 foot wide greenbelt for a trail that runs across his mining claim. He also spoke in opposition to the proposed regulations.

Don Stein, Alaska Miners Association, Fairbanks, testified in opposition to the proposed regulations, and spoke of their effect on the 6(i) lawsuit.

Roger Burgraff, Fairbanks, asked if there was an Attorney General's opinion on which lands should be designated leasehold only, and if a conversion to lease is considered a land disposal. He spoke against the proposed 10-year lease and the effects of the regulations on the 6(i) lawsuit, and urged continued funding of DGGS mapping.

Bob Maynard, Assistant Attorney General, reported that an opinion is forthcoming on those questions. He indicated that AS 38.05.035 (a)(14) clearly treats leases as disposals and makes no distinction between a mining lease and any other lease.

Paul Metz, Fairbanks, spoke in opposition to the proposed regulations.

Paul Barelka, Fairbanks, spoke in opposition to the proposed regulations.

Wyatt Wickens, Geology Student, UAF, Fairbanks, urged continued funding for MIREL and DGGS mapping.

Robert Ranck, Geology Student, UAF, urged continued funding for MIREL and DGGS mapping.

Walt Weger, Fairbanks, recommended that the leasehold system only apply only to those reconveyed lands specified in section 6(i) of the Statehood Act.

The meeting adjourned at 4:20 pm.

LEGISLATIVE TELECONFERENCE NETWORK SIGN-IN SHEET

5-16-84_____ : DATE
FAIRBANKS, AK_____ : SITE/LOCATION
SEN RESOURCES/MINING REGS HEARING_____ : SPONSOR/SUBJECT

TESTIFIED/PARTICIPATED:

- 1. HENRY F. WARNER, PRES PLACER MINERS, BOX 80674, COLLEGE 99708---488-6058
- 2. WALT WEGER, TREAS PLACER MINERS, BOX 339, FAIRBANKS, 99701- - - NONE GIVEN
- 3. HELEN WARNER, BOX 80674, COLLEGE, AK, 99708 - - - - - 488-6058
- 4. ERNEST WOLFF, BOX 80989, COLLEGE, AK, 99708 - - - - - 452-7640
- 5. RUDY VETTER, BOX 342, FAIRBANKS, AK, 99707 - - - - - 456-7269
- 6. DONALD STEIN, AK MINERS ASSC., 605 DUNBAR, FKS, 99701 - - - - - 456-7642
- 7. ROGER BURGGRAF, SR 20086, FKS, 99701 - - - - - 479-2596
- 8. PAUL METZ, P.O. BOX 73666, FKS, 99707 - - - - - 479-2874
- 9. PAUL BARELKA, 1215 9TH, FKS, 99701 - - - - - 452-3152
- 10. WYATT WICKENS, BOX 80628, COLLEGE, AK, 99708- - - - - 474-7585
- 11. ROBERT RANCK, SR 20099-A, FKS, 99701 - - - - - 479-2826

OBSERVED:

- 1. JIM MADONNA, 504 COLLEGE RD, FBKS, 99701 - - - - - 452-7398
- 2. DICK REGER, BOX 81054, COLLEGE, AK, 99708- - - - - 479-3848
- 3. BRUCE STILLWELL, 551 3RD STREET, FKS, 99701- - - - - 456-1452
- 4. M. A. WILTSE, 719 DEPAUW DR., FKS, 99701 - - - - - 479-2148
- 5. LEAH MADONNA, 504 COLLEGE RD, FKS, 99701 - - - - - 452-7398
- 6. PHYLLIS HUNSUCKER, 1618 SCENIC LOOP, FKS - - - - - 479-6668
- 7. ROSALYN STOWELL, 308 HAINES AVE. FKS, 99701- - - - - 456-5832
- 8. RALPH MILLER, CRESCENT CITY CA - - - - - 707 464-5602
- 9. DICK SWAINBANK, BOX 81315, FKS, 99708 - - - - - 479-6093
- 10. ARNE BAKKE, BOX 83183, FKS, 99708- - - - - 474-7585
- 11. KERWIN TSCHETTER, P.O. BOX 81343, COLLEGE, 99708 - - - - - 479-8275
- 12. DAWN COSGROVE, SR 30725, FKS, 99701- - - - - 474-6009
- 13. DEL ACKELS, BX 2151, FKS, 99707 - - - - - 452-4971
- 14. BRUCE CAMPBELL, BOX 2245, FKS, 99708 - - - - - 452-8715
- 15. MIKE RIBOR, 2295 STEVENS AVE. - - - - - 455-6310
- 16. ROSE RYBACHEK, BOX 55698, NORTH POLE, - - - - - 488-6453

12___TESTIFY/ED
16___OBSERVE/ED
28___TOTAL

*****T/C STARTED: 3:00 P.M.
*****T/C ENDED: 4:15 P.M.

MAY 18 1984

1136 04-00040270 FRI 1 05/16/84 10:24:44 ORIG: LA19 IN= 0010 OUT= 0058
FROM: ANCHORAGE TO: TOM/FINAL STATS
TARGET: LJHV SUBJ: (S) RESOURCES, 5/16

LEGISLATIVE TELECONFERENCE NETWORK SIGN-IN SHEET

DATE: MAY 16, 1984
SITE: ANCHORAGE
SPONSOR/SUBJECT: (S) RESOURCES, DEPT OF NATURAL RESOURCES, MINING REGS

...1..TESTIFIED
...5..OBSERVED
...6..TOTAL

*****T/C STARTED: 3:00 PM
*****T/C ENDED: 4:18 PM

TESTIFIED

1. JAMES R. FINKS/AK MINER'S ASSN., 509 W. 3RD AVE., SUITE 17, 276-0347

OBSERVED

1. D. CREEKMAN/SELF, 2331 STABOARD LN., 345-4558
 2. MARY K. HESSION/SELF, DNR, DIV. OF MINING, 265-4318
 3. LAUREL MURPHY/SELF, , 265-4184
 4. MARLE WORCESTER/DEPT. OF LAW, 276-3550
 5. DAVE HEDDERLY-SMITH, 7201 NORTH PARK DRIVE, 345-6527
- *****
-

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Senate

Committee on Resources

MEMORANDUM

TO: Senate Resources Committee Members

FROM: Senate Resources Committee Staff

RE: Committee Meeting, Wednesday, May 16th.
TELECONFERENCED TO FAIRBANKS AND ANCHORAGE.

DATE: May 14, 1984

On Wednesday, May 16th at 3:00 pm in the Beltz Room, the Senate Resources Committee will hear testimony on proposed mining regulations.

The Department of Natural Resources is going to public hearing this month on draft amendments to their mining regulations. Of particular interest are those regulations governing conversion of leaseholds to leases (11 AAC 86.306).

Current statute (AS 38.05.185 and .205) provides that on state lands of mineral character or where land use conflicts exist, mining claims must convert to mining leases prior to production. In 1981, the legislature extended the deadline for conversion of claims to leases until 12/31/83; the 1983 legislature extended the deadline to 12/31/85. Approximately 20% of all State-owned land is designated for leasehold. Thousands of leasehold locations have been staked in such areas; 29 contain operational mines, and will need a lease by 12/31/85 in order to continue production.

The Director of the Division of Mining will provide the Committee with an overview of the draft regulations, and public comments will be heard. The hearing will be teleconferenced to Fairbanks and Anchorage.

§ 38.05.183

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13 P.2d 281 (1981).

§ 38.05.185

PUBLIC LANDS

§ 38.05.205

Article 7. Mining Rights.

Section

- 185. Generally
- 205. Mining leasing
- 207. Production license

Section

- 250. Tide and submerged lands
- 275. Recognition of locations

Sec. 38.05.185. Generally. (a) The acquisition and continuance of rights in and to deposits on state lands of minerals which on January 3, 1959, were subject to location under the mining laws of the United States shall be governed by AS 38.05.185 -- 38.05.280. Nothing in AS 38.05.185 -- 38.05.280 affects the law pertaining to the acquisition of rights to mineral deposits owned by any other person or government. The director, with the approval of the commissioner, shall determine those lands from which mineral deposits may be mined only under lease, and, subject to the limitations of AS 38.05.300, those lands which shall be closed to mining. State land may not be closed to mining or mineral location unless the commissioner makes a finding that mining would be incompatible with significant surface uses on the state land. State land may not be restricted to mining under lease unless the commissioner determines that potential use conflicts on the state land require that mining be allowed only under written leases issued under AS 38.05.205 or the commissioner has determined that the land was mineral in character at the time of state selection. The determinations required under this subsection shall be made in compliance with land classification orders and land use plans developed under AS 38.05.300.

(b) The failure on the part of a mining lessee or a locator to comply strictly with AS 38.05.185 -- 38.05.280 and regulations adopted under it does not invalidate his rights if it appears to the satisfaction of the commissioner that the locator complied as nearly as possible under the circumstances of the case, and that no conflicting rights are asserted by any other person. Unless otherwise provided, the usages and interpretations applicable to the mining laws of the United States as supplemented by state law apply to AS 38.05.185 -- 38.05.280. (§ 1 art IX ch 169 SLA 1959; am § 19 ch 61 SLA 1960; am § 1 ch 123 SLA 1961; am § 1 ch 108 SLA 1981)

Effect of amendments. -- The 1981 amendment added the fourth through sixth sentences of subsection (a).

NOTES TO DECISIONS

Stated in June 10, 1982, Op. Att'y Gen.

Sec. 38.05.205. Mining leasing. (a) Prior discovery, location and filing shall initiate prior rights to mineral deposits subject to AS 38.05.185 -- 38.05.280 in or on state lands, other than submerged

lands, which are open to mining leasing. Locations shall be made and certificates of location recorded in accordance with AS 38.05.195. If the located lands are available only for leasing, the director shall publish in a paper of general circulation in the area of the location, notice of the filing of the location and notice that a mineral lease will be issued. The notice may be combined with notices of locations either in the same general area or statewide. Unless a conflicting location exists, no later than two weeks after publication of the notice, an application form for a mining lease shall be mailed to the locator by the director. A lease application shall be filed with the director by the locator within 90 days after receipt of the form. If the located lands are not available for leasing, notice shall be given the locator by the director and the locator's prior rights shall terminate. A mining lessee has the exclusive rights of possession and extraction of all minerals subject to AS 38.05.185 — 38.05.280 lying within the boundaries of his lease or location. Mining leases may be issued for one location or for a group of contiguous locations held in common. Minerals may not be mined and marketed or used until a lease is issued, except for limited amounts necessary for sampling or testing.

(b) Beginning on the date established by the commissioner under AS 38.05.210 there shall accrue an annual rental for each leasehold location or portion thereof whether or not under lease, not less than the value of annual labor improvements required for mining claims. The value of work done on, or for the benefit of, the leasehold in compliance with AS 38.05.210 may be credited against the rental.

(c) A mining lease shall be for any period up to 55 years, and the lessee has a right to a new lease at the end of each lease period. The commissioner may make reasonable adjustments of the rental rate at the end of each 20 year period, based upon changed conditions in production costs and markets. A valid mining claim located and held under AS 38.05.195 may be converted to a lease at any time upon application by the owner, and issuance by the director. No rights granted by a mining lease may be exercised until the lease has been filed for record in the recording district where the land is located. (§ 4 art IX ch 169 SLA 1959; am § 1 ch 123 SLA 1961; am § 2 ch 108 SLA 1981)

Effect of amendments. — The 1981 amendment in subsection (a), added "the director shall publish in a paper of general circulation in the area of the location, notice of the filing of the location and notice that a mineral lease will be issued" at the end of the third sentence, added the present fourth sentence, added "unless a conflicting location exists, no later than two weeks after publication of the notice" at the beginning of the fifth sentence, deleted "upon request or upon receipt of

notice that the location has been made on lands open only for leasing" at the end of the fifth sentence, substituted "the locator's" for "his" preceding "prior rights" in the sixth sentence and added "or location" following "lease" in the seventh sentence.

Editor's notes. — Section 5, ch. 108, SLA 1961, as amended by § 1, ch. 90, SLA 1983, provides: "SPECIAL PROVISION FOR MINING LEASE LOCATIONS. Notwithstanding AS 38.05.205(a), until

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DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MINING

POUCH 7-016
ANCHORAGE, ALASKA 99510

**NOTICE OF PROPOSED CHANGES IN THE
REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES**

Notice is given that the Department of Natural Resources, under authority vested by AS 38.05.020, proposes to adopt, amend, and repeal regulations in Title 11 of the Alaska Administrative Code, dealing with mining locations upland mining leases, offshore prospecting permits and leases, and production licenses, to implement and interpret AS 38.05.185-38.05.280, as follows:

1) 11 AAC 82.635 is proposed to be amended to require that surrenders of a portion of a lease or prospecting permit be by legal subdivision.

2) Article 1 of 11 AAC 86 is proposed to be amended to limit the time during which a location on state selected land can be rejected after tentative approval, and to preclude issuance of mining leases or production licenses on state-selected land (sec. 115); to require additional material in applications for certificate of substantial compliance (sec. 125); to delete obsolete land classification references, add the commissioner's finding that surface disposals create potential use conflicts (this restricts the land to mining leasing), give "grandfather rights" to locations discovered and posted but not yet recorded before a leasing requirement takes effect, and require public notice before a closing or leasing order is issued or changed (sec. 135). New secs. 145-155 are adopted to limit surface uses of a mining claim and set out "timberlands" criteria under AS 38.05.255, allow filing plan of operations instead of miscellaneous land use permit application, and define terms used in 11 AAC 86.

3) In article 2 of 11 AAC 86, amendments are proposed to clarify that discovery must precede posting (sec. 215); to make editorial changes in location notice and certificate requirements (secs. 210-215); to let a single map cover several contiguous locations, allow use of approved location certificates in lieu of the state form itself, and require recordation of amended location certificates if original did not comply with requirements (sec. 215); to make annual labor procedures applicable to work in lieu of rental on leasehold locations (sec. 220); and to require mining locations to be amended before being subdivided and sold (sec. 230).

4) In article 3 on upland leasing, amendments are proposed to set out additional circumstances under which the state cannot or will not proceed to convert a leasehold location to lease (sec. 300) and to explain the lease application process (sec. 305). New sections are proposed to set out how the state will process the lease application and allow multiple adjacent locations to be grouped into a single lease if reasonably compact (sec. 306); to state rental requirements for leasehold locations and leases (sec. 308); to deal with discovery requirements for the locations within a mining lease (sec. 309); and to set out the lease duration (sec. 312) and general stipulations (sec. 311) for upland mining leases.

5) In article 4 (prospecting sites), amendments are proposed to make staking requirements for a prospecting site the same as for a mining claim (sec. 405); to make housekeeping changes (sec. 410); to delete an invalid clause (sec. 425); and to set out requirements for getting a prospecting site extended (sec. 430).

6) In article 5 (offshore prospecting permits and leases), amendments are proposed to make sections of 11 AAC 82, dealing with chargeable acreage and surveying, applicable to offshore permits and leases (secs. 500 and 535); to clarify that filing an offshore prospecting permit application segregates the locatable minerals in the tract applied for (sec. 500); to set out the process and standards for converting prospecting permits to offshore leases, including the information required to be filed (sec. 530); to allow carry-forward of work credits in lieu of rental (sec. 540); and to specify that known offshore deposits will be offered competitively, while providing standards for the known deposits determination (sec. 545). New sections are proposed to set out general stipulations for prospecting permits and leases (sec. 508), prohibit permit extensions (sec. 530), fix the duration of an offshore lease (sec. 532), allow lease extensions under some circumstances if the lessee is close to attaining production (sec. 575), and allow lessees to apply for suspensions under certain circumstances (sec. 580).

8) In article 7, mining production licenses, amendments are proposed to require date of production in the application (sec. 700); to set out the circumstances under which an application would be rejected (sec. 705, with a corresponding change in sec. 735); to provide for notice, if possible, to persons holding conflicting rights (sec. 710); and to make editorial changes (secs. 715 and 740).

9) A new article 8, general provisions for prospecting permits and both upland and offshore leases, is proposed. Sec. 800 sets out plan of operation requirements; sec. 805 allows the director to require a lease or permit bond; sec. 810 provides for suspension or termination for breach of permit or lease terms; and secs. 815 and 820 make the relinquishment and transfer sections of 11 AAC 82 applicable to prospecting permits and mining leases under 11 AAC 86.

10) 11 AAC 86.200, .310, .315-.325, .420, .550-.560, and .570 are repealed.

Notice is also given that any interested person may present oral or written statements or arguments relevant to the proposed action at a hearing to be held at the Multipurpose Room, Ryan Jr. High School (951 Airport Way), Fairbanks, Alaska, at 7:00 p.m. on May 10, 1984; or the Middle Level, Pioneer Schoolhouse (3rd and Eagle), Anchorage, Alaska, at 7 p.m. on May 14, 1984. In addition, written statements or arguments may be sent to the Department of Natural Resources, Division of Mining, Pouch 7-016, Anchorage, Alaska 99510, and must be received no later than May 31, 1984.

This action is not expected to require an increased appropriation.

Copies of the proposed regulations may be obtained by writing to the Department of Natural Resources, Division of Mining, Pouch 7-016, Anchorage, Alaska 99510, or may be picked up at the division's Mining Information Offices (794 University Ave., Fairbanks; 3601 C St., Suite 1008, Anchorage; 230 So. Franklin, Juneau; or 2nd Floor, State Office Building, Ketchikan).

The Department of Natural Resources, upon its own motion or at the instance of any interested person, may after the close of the comment period adopt proposals within the scope of this notice without further notice or may decide to take no action on them.

DATE: 4/18/84

for Samuel G. Murray
Pedro Denton, Director, Division of Mining

TWENTY QUESTIONS ABOUT MINING LEASING ON STATE-OWNED LANDS

1) WHY IS THE STATE SETTING UP A LEASING SYSTEM? IS THIS PART OF THE "6(i)" LAWSUIT? The mining leasing system has no connection to the lawsuit recently filed under sec. 6(i) of the Statehood Act. Since 1961 there has been a state law allowing lands to be designated for leasing only, rather than for staking mining claims. Over the last 23 years about a fifth of all state-owned lands have been put into a leasing category. Thousands of leasehold locations have been staked in such areas, but these leasehold locations have not been converted into mining leases because the leasing system was not yet ready. Now, however, the legislature has set a deadline of Dec. 31, 1985. After that date, miners will not be able to produce on lease-only lands unless they have a lease. This is why the state Department of Natural Resources (DNR) is amending its regulations and preparing to issue leases to miners who need them in order to produce or continue production.

2) IS THIS A COMPETITIVE LEASING SYSTEM? No. The miner begins the leasing process by staking a "leasehold location," which gives the miner exclusive rights to convert the location into a noncompetitive lease. There is no lease sale, open bidding, or royalties.

3) WHAT'S A LEASEHOLD LOCATION? A leasehold location is a location made on lease-only lands and not yet converted to lease. Discovery, location, and filing requirements are the same for leasehold locations as for mining claims, but the rights acquired are different. A mining claimant has "exclusive rights of possession and extraction of all [locatable] minerals lying within the boundaries of his claim" (AS 38.05.195), whereas a leasehold locator has "prior rights" to the deposits but does not get possession and extraction rights until the lease is issued (AS 38.05.205).

4) WHO HAS TO GET A MINING LEASE? If you have a leasehold location on state land, you may not produce minerals for commercial purposes after December 31, 1985 without a lease. (If you have a mining claim, you are not required to get a lease prior to production, but you may request a lease if you wish.) There are about 25 mines in production now that will require a lease to operate after December 31, 1985. These operations are located in the Talkeetna, Circle, Fairbanks, and Skagway areas. The Division of Mining will attempt to notify each of these operators that a lease will be necessary; however, it is the responsibility of the miner to get a lease if one is required.

5) WHAT DO I HAVE TO DO TO GET A LEASE?

a. Stake your location. You must first establish a location under state mining laws and regulations (through discovery, location, and filing), and maintain that location in good standing by keeping it marked on the ground and by performing and filing annual labor.

b. Get a lease application. Contact the Division of Mining and ask for a lease application. Remember that if you are a leasehold locator, you must have a lease before you can begin production. Because the leasing process could take several months, be sure to request your application well in advance of the mining field season. Before a lease application will be sent to you, the law requires the Division of Mining to publish a notice about your location filing and the expected issuance of your lease. Generally, a lease application will be sent to you within two weeks after the publication of the notice. However, if another locator says he has rights to the same land and the division decides it will not try to resolve the conflict, it will stop the leasing process. The two locators will be advised to settle the dispute before processing can be resumed.

c. Return your lease application. Once you have received your lease application, you have 90 days to complete and return it with the \$20 application fee. It is especially important that leasehold locators return the completed form within 90 days because the leasehold location will be considered abandoned if they don't. The next part is up to the state (see below). Once the lease is issued, you must record it before it takes effect.

6) WHAT DOES THE STATE DO WITH MY LEASE APPLICATION? After receiving the completed lease application, the Division of Mining will prepare a written "state's best interest finding" about the lease and the terms and conditions to be included. It will give notice of that finding by newspaper advertisements and by a letter to the local municipality. If your leasehold location is within Alaska's coastal zone, the state must also determine whether lease issuance would be consistent with the Alaska Coastal Management Program.

7) IS THE STATE GOING TO DO A VALIDITY DETERMINATION BEFORE ISSUING A LEASE? The State has always had the right to conduct validity tests and may implement a procedure to do this in a few cases before issuing a lease. Generally, the state will issue a lease based on an affidavit filed by the applicant stating that proper discovery and filing has been completed. In areas of particularly high resource conflict where a mining lease is suspected of being used to facilitate illegal surface uses (vacation cabin, hunting lodge, etc.), the state may do a validity test.

8) WHY IS THE PROCESS SO COMPLICATED? The lease grants the right to produce the minerals found within the leased area. That's an important property right; transferring it to an individual qualifies as "a disposal of an interest in state lands." Under the Constitution and Alaskan natural resource laws, procedural safeguards such as public notice and written documentation of the decision are required before the State can convey its lands or resources to someone else.

9) COULD SOME MEMBER OF THE PUBLIC OBJECT TO THE LEASE AND KEEP IT FROM BEING ISSUED? By law, disposals of state-owned resources must take place in a manner open to public review. A member of the public, local government, or another agency could point out a serious problem or conflict that the division has overlooked. If so, the division would have to look for ways to minimize the problem through lease stipulations or other measures, or balance the conflict by the benefits that Alaska as a whole would gain from leasing. If the division was unable to do this, and could not conclude that it was in the state's best interest to issue the lease, the disposal could not take place.

10) ARE THE LEASES GOING TO CONTAIN SPECIAL STIPULATIONS? State land is designated for leasing only if it contains other valuable resources or if the surface has already been leased or sold for residential or commercial uses. This means that mining leases are likely to contain stipulations so that potential use conflicts between mining and the other resource uses can be worked out or reduced. The lease will also require a "plan of operations."

11) WHY IS DNR REQUIRING A PLAN OF OPERATIONS? The plan of operations will allow DNR to evaluate and approve a work plan for up to a 10-year period instead of the yearly Miscellaneous Land Use Permit that is currently required. This will relieve the miner of applying to DNR every year and allow DNR to look at the long-term effects and benefits of the operation.

12) IS THERE ANY LIMIT TO THE SIZE OF MY LEASE, OR THE NUMBER OF LEASES I CAN HAVE? COULD I SELL OR SUBLEASE ALL OR PART OF MY LEASE? There are no size or number limitations on mining leases. However, if a lease is made up of multiple locations, those locations must share common boundaries. With DNR approval, you can sell or sublease your lease. If you wish to transfer only a part of the lease, you must do so by legal subdivision. (In most boroughs you cannot subdivide into parcels less than 40 acres without filing a plat for borough review.)

13) HOW MANY YEARS WILL MY LEASE BE GOOD FOR? Your lease will be issued for 10 years, and you have a right to a new lease at the end of that time.

14) DOES MY LEASE REQUIRE ME TO PAY RENT OR A ROYALTY? You are not required to pay a royalty; however, you do have to pay rent, or do work instead of paying rent, every year. You pay less rent in the early years of your operation. Rent is \$10 per acre for the first five years, \$15 per acre for the next five years, and \$20 per acre after that. As with mining claims, you can carry excess work or rental forward to the next year or years.

15) THE RENTAL RATE FOR LEASEHOLD LOCATIONS WORKS OUT TO \$5 PER ACRE--SAME AS THE ANNUAL LABOR RATE FOR MINING CLAIMS. WHY IS THE RENTAL RATE FOR LEASES HIGHER? The rental rate is higher in order to discourage premature lease conversions, because of the expense of issuing leases. In most cases, a lease will never become necessary: Very few claims are rich enough to produce minerals.. There are almost 50,000 state mining claims, yet less than 200 mines are in production.

16) CAN I LOSE MY LEASE? Yes, but only if you fail to comply with the terms of your lease. For example, if you do not pay your rent (or file your affidavit of work instead of rent) on time, your lease is automatically terminated.

17) I CAN SEE SOME DISADVANTAGES TO HAVING A MINING LEASE. ARE THERE SOME ADVANTAGES? Once the State has issued you a lease, you have more secure land tenure because the State will not accept any top filings. The State recognizes you as the official owner of the locatable mineral rights within the leased area. Because your tenure is more secure, you may find it easier to borrow money for lease development. And through the leasing process, conflicts with other resource users or owners will also have been worked out.

18) IF I DON'T CONVERT MY LEASEHOLD LOCATION TO A LEASE, WHAT HAPPENS? You are free to hold your leasehold location from year to year without converting it to a lease--there is no time limit on how long you can keep it in that status. But after December 31, 1985, you cannot go into production until you have received a lease. On land designated only for leasing, production without a lease would be illegal. Failing to file a lease application under those circumstances would result in forfeiture of the leasehold location and the land would be available for someone else to stake.

19) WHAT'S THE LEGAL BASIS FOR LEASING?

Article VIII, sec. 11 of the State Constitution: "Prior discovery, location, and filing, as prescribed by law, shall establish a prior right to these [locatable] minerals and also a prior right to permits, leases, and transferable licenses for their extraction."

AS 38.05.185(a): "The director, with the approval of the [DNR] commissioner, shall determine those lands from which mineral deposits may be mined only under lease....State land may not be restricted to mining under lease unless the commissioner determines that potential use conflicts on the state land require that mining be allowed only under written leases issued under AS 38.05.205...."

AS 38.05.205: "Prior discovery, location and filing shall initiate prior rights to [locatable] mineral deposits...in or on state lands, other than submerged lands, which are open to mining leasing....A lease application shall be filed with the director within 90 days after receipt of the [application] form....A mining lessee has the exclusive rights of possession and extraction of all [locatable] minerals...lying within the boundaries of his lease....Minerals may not be mined and marketed or used until a lease is issued, except for limited amounts necessary for sampling or testing."

20) ARE THESE MINING LEASE REGULATIONS FINAL? There have been mining lease regulations in effect for many years, but DNR is proposing to make several important changes in those regulations. These changes (in particular, see Articles 3 and 8) are attached for your review and comment. Public hearings on the proposed amendments will be held in May, as detailed in the hearing notice (also attached). You may also comment in writing until May 31. The hearing testimony and written responses will be used to help the department decide on the final wording of the regulations. That decision will probably be made late in the summer or early fall. The amendments will then require the approval of the Alaska Department of Law before they can be officially filed and go into effect.

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TITLE 11. NATURAL RESOURCES.

Chapter

-- --
82. Mineral Leasing Procedure (11 AAC 82.100 -- 11 AAC 82.815)

-- --
86. Mining Rights (11 AAC 86.100 -- 11 AAC 86.835 [750])

CHAPTER 82. MINERAL LEASING PROCEDURE.

11 AAC 82.635(a) is amended to read:

11 AAC 82.635. SURRENDERS. (a) All of the land in a lease or permit may be surrendered by the lessee or permittee of record by filing a written surrender at the [A] appropriate [FILING] office of the department. A surrender of any legal subdivision of the lease or permit land [A PORTION OF THE LAND], or of a separate and distinct zone or geological horizon in all or a portion of the land, is not effective unless approved by the commissioner.

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(Eff. 9/5/74, Register 51; am 7/22/79, Register 71; am / / , Register)

Authority: AS 38.05.020
AS 38.05.145(a)

CHAPTER 86. MINING RIGHTS.

Article

- 1. General Provisions (11 AAC 86.100 -- 11 AAC 86.155) [140]
- 2. Staking, Recording and Maintaining Claims and Leasehold Locations (11 AAC 86.200 -- 11 AAC 86.230)
- 3. Upland Mining Leases (11 AAC 86.300 -- 11 AAC 86.312 [.325])
- 4. Prospecting Sites (11 AAC 86.400 -- 11 AAC 86.435)
- 5. Offshore Prospecting Permits and Leases (11 AAC 86.500 -- 11 AAC 86.580) [.570]

- 7. Mining Production Licenses (11 AAC 86.700 -- 11 AAC 86.750)
- 8. General Prospecting Permit and Lease Provisions (11 AAC 86.800 -- 11 AAC 86.820)

ARTICLE 1. GENERAL PROVISIONS.

Section

-- --
115. Locations prior to tentative approval

-- --
125. Failure to comply
-- --

DRAFT

Register , 1984

NATURAL RESOURCES

11 AAC 82.635

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AS 38.05.145(a)

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ARTICLE 1. GENERAL PROVISIONS.

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115. Locations prior to tentative approval

-- --
125. Failure to comply
-- --

135. Mineral deposits open to location

145. Surface use

150. Plan of operations in lieu of land use permit

155. Definitions

11 AAC 86.115 is amended to read:

Even if state gets land, may classify it non-mining. Period risk may be 10 12 yrs.

11 AAC 86.115. LOCATIONS PRIOR TO TENTATIVE APPROVAL.

(b) If [SUCH] these locations are made in accordance with this chapter, they constitute [VALID] mining claims, leasehold locations, or prospecting sites upon receipt by the state of tentative approval from the selection for the federal government, subject, however, to the provisions of the tentative approval and to mineral closures or leasehold location orders issued [LAND CLASSIFICATION] by the state before or within one year after receipt of tentative approval. This subsection is also applicable to locations on state-selected land that were made before the effective date of this amendment.

state must file 1 yr. of A claim
Timor
may or may not
under claim
stated by state
should be
have 200
to 200

(c) No mining lease under AS 38.05.205 or mining production license under AS 38.05.207 may be issued on state-selected land for which the state has not yet received tentative approval. (Eff. 9/5/74, Register 51; am / / , Register)

Authority: AS 38.05.020
AS.38.05.275

11 AAC 86.125 is amended to read:

11 AAC 86.125. FAILURE TO COMPLY.

(b) An application for a certificate of substantial compliance must [SHALL] include the name and address of the owner, the name of the location, and the serial number (if any) assigned by the department to the location or lease, and must state the specific failure to comply, the reasons for the failure, and any other information the director may determine is necessary to determine the circumstances of the case. (Eff. 9/5/74, Register 51; am / / , Register)

Authority: AS 38.020(b)(i)
AS 38.05.035(a)(4)
AS 38.05.185(b)

11 AAC 86.135 is amended to read:

11 AAC 86.135. MINERAL DEPOSITS OPEN TO LOCATION. (a) Deposits of locatable minerals, except on tide and submerged lands as specified in (c) of this section, may be acquired by staking locations [CLAIM.] in conformance with AS 38.05.195, AS 38.05.205, and 11 AAC 86.200 -- 11 AAC 86.230 unless [IF] the deposits are in or on state land that was closed to location before the dates of discovery and posting the notice of location [IS IN ONE OR MORE OF THE FOLLOWING CLASSIFICATIONS AT THE TIME DESCRIPTION OF THE LAND CLAIMED IS RECEIVED AT THE PRINCIPAL OFFICE OF THE DIVISION:

- (1) GRAZING LAND;
- (2) MATERIAL LAND;
- (3) MINERAL LAND;
- (4) TIMBER LAND;
- (5) UNCLASSIFIED LAND; OR
- (6) UTILITY LAND.

IF DUAL OR MULTIPLE CLASSIFICATIONS INCLUDE ANY CLASSIFICATIONS OTHER THAN THOSE LISTED ABOVE, MINERALS MAY BE ACQUIRED ONLY BY LEASING.]

(b) This section constitutes the commissioner's finding, in accordance with AS 38.05.185(a), that selling, leasing, or otherwise disposing of state land, with the mineral rights reserved to the state, creates potential use conflicts requiring that mining be allowed only under written leases. Unless closed to location, any locations made after such a disposal are leasehold locations. [DEPOSITS OF LOCATABLE MINERALS, EXCEPT ON TIDE AND SUBMERGED LANDS AS SPECIFIED IN (c) OF THIS SECTION, MAY BE ACQUIRED ONLY BY MINING LEASING IN CONFORMANCE WITH AS 38.05.205 AND 11 AAC 86.300 -- 11 AAC 86.325 IF DEPOSITS ARE IN OR ON STATE LAND SOLD, LEASED, OR UNDER PERMIT BY THE STATE WITH THE MINERAL RIGHTS RESERVED TO THE STATE, OR IN ONE OF THE FOLLOWING CLASSIFICATIONS:

- (1) AGRICULTURAL LAND;
- (2) COMMERCIAL LAND;
- (3) PRIVATE RECREATION LAND;
- (4) PUBLIC RECREATION LAND;
- (5) RESIDENTIAL LAND;
- (6) RESERVED USE LAND;
- (7) INDUSTRIAL LAND;
- (8) WATERSHED LAND;
- (9) RESOURCE MANAGEMENT LAND;
- (10) OPEN-TO-ENTRY LAND;
- (11) ANY CLASSIFICATION WHICH BY ITS TERMS LIMITS ACQUISITION OF MINERAL DEPOSITS TO LEASING ONLY.]

(c) Deposits of locatable minerals on tide and submerged lands may only be acquired under the provisions of AS 38.05.250 and [SECS.] 11 AAC 86.500 - 11 AAC 86.570, except that tide and submerged lands may be included in a [MINING CLAIM] location under AS 38.05.275 if two corners are [ON OR] above the line of mean high tide.

(d) If the land upon which a location [CLAIM] is staked is restricted to mining under lease [CLASSIFIED INTO ONE OF THE CLASSIFICATIONS LISTED IN (B) OF THIS SECTION AFTER THE CLAIM IS STAKED BUT] before the dates of discovery and location [THE DIVISION RECEIVES NOTICE OF THE CLAIM], the claimant has prior rights only to a [IS ENTITLED TO] lease [ONLY].

(e) Notice will be given under AS 38.05.345 before a mineral closing order or leasehold location order is issued, amended, or revoked.
(Eff. 9/5/74, Register 51; am / / , Register)

Authority: AS 38.05.020
AS 38.05.185
AS 38.05.275
AS 38.05.300

11 AAC 86 is amended by adding new sections to read:

11 AAC 86.145. SURFACE USE. (a) A locator does not have exclusive use of the surface of the location. A locator may restrict public access to the surface of the location only if authorized to do so under an approved plan of operations or land use permit to protect public safety.

(b) Any surface structure built or placed within the boundaries of a mining property must be necessary for, and only used during, prospecting, extraction, or basic processing activities. Factors used to determine the necessity of building, placing, or using the structure will include: access to the property, remoteness of location, security of the operation, planned level of operation, and the current level of activity.

(c) A classification or designation indicating that timber and other forest products of significant value are included within a mining property is prima facie evidence that the land on which the property is located is considered to be "timberlands" under AS 38.05.255. The division of forestry must be contacted prior to using or clearing timber from timberlands. (Eff. / / , Register)

Authority: Art. VIII, sec.
11, Alaska Const.
AS 38.05.020
AS 38.05.035
AS 38.05.255
AS 38.05.365

11 AAC 86.150. PLAN OF OPERATIONS IN LIEU OF LAND USE PERMIT. On land not under a mining lease, a person intending to conduct mineral exploration or development activities that would require a land use permit under 11 AAC 96 may file a plan of operations for approval instead of applying for a land use permit. The plan of operations must meet the requirements of 11 AAC 86.800. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.035

11 AAC 86.155. DEFINITIONS. As used in 11 AAC 86.100 -- 11 AAC 86.825

(1) "claim" or "mining claim" means a location made under AS 38.05.195;

(2) "leasehold" means the area held under a mining lease issued in accordance with AS 38.05.205;

(3) "leasehold location" means a location made under AS 38.05.205 for which a lease has not yet been issued. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.205

ARTICLE 2. STAKING, RECORDING AND MAINTAINING CLAIMS AND LEASEHOLD LOCATIONS.

Section

200. [Repealed]

210. Posting location notice

215. Certificate of location[; RECORDING]

230. [RECORDATION OF] Sale, lease, or other transfer

11 AAC 86.200 is repealed.

11 AAC 86.200. DISCOVERY REQUIRED. Repealed / / .

11 AAC 86.210 is amended to read:

11 AAC 86.210. POSTING LOCATION NOTICE. After making a discovery as defined in 11 AAC 86.105, the locator of a mining claim or leasehold location shall post a notice on the monument at the northeast corner of the location. The notice must contain

- - -

(5) [THE NAME OF] each locator's name, [HIS] current mailing address, and [HIS] signature or the signature [THAT] of the locator's [AN AUTHORIZED] agent [REPRESENTING HIM]. (Eff. 9/5/74, Register 51; am 12/31/82, Register 84; am / / , Register)

Authority: Art. VIII, sec.
11, Alaska Const.
AS 38.05.020
AS 38.05.195
AS 38.05.205

11 AAC 86.215 is amended to read:

11 AAC 86.215. CERTIFICATE OF LOCATION [; RECORDING]. (a) The locator of any mining claim or leasehold location on state land shall, within 90 days after the date of posting the notice of location on the location, record the location by filing a certificate of location in conformance with AS 38.05.195. The certificate of location must be recorded on a form provided by the division, an exact replica of that form, or on a form approved by the director, and must

- - -

(4) contain [THE NAME OF] each locator's name, [HIS] current mailing address, and [HIS] signature (or the signature [THAT] of the locator's [AN] agent) [REPRESENTING HIM]

- - -

(6) include a map at an indicated scale of 1:63,360 (1 inch = 1 mile) or a more detailed scale which shows the boundaries of the claim or leasehold location, the dominant physical features of the land, the protracted or surveyed section lines surrounding the location [CLAIM] and, to the best of the locator's knowledge, the relationship of the location to adjacent and contiguous mining claims, leasehold locations and prospecting sites. If more than one contiguous location is being recorded simultaneously, a single map showing all of the locations may be attached to one of the certificates of location if the document to which the map is attached is cross-referenced on each certificate of location; and

- - -

(b) Failure to file for record a certificate of location within the time provided constitutes an abandonment of the claim or leasehold location, and the land is open to location and reclassification. If a certificate is timely filed, but is otherwise an improper filing, an amended certificate of location must be filed for record by the locator within 90 days after receiving notification from the director that the filing is improper. Failure to file an amended certificate of location within the time limit constitutes abandonment of the location.

[(c) AFTER DECEMBER 31, 1983, A CERTIFICATE OF LOCATION OF A MINING CLAIM OR LEASEHOLD LOCATION MUST BE RECORDED ON A FORM PROVIDED BY THE DIVISION. BEFORE JANUARY 1, 1984, THE LOCATOR MAY RECORD A CERTIFICATE OF LOCATION ON A FORM OTHER THAN THE FORM PROVIDED BY THE DIVISION, IF IT COMPLIES WITH THE REQUIREMENTS OF (a)(1) - (7) OF THIS SECTION.]

[(d) IF A MINING CLAIM OR LEASEHOLD LOCATION CERTIFICATE OF LOCATION ON A FORM OTHER THAN THE FORM PROVIDED BY THE DIVISION, IS RECEIVED AFTER DECEMBER 31, 1983, THE DIVISION WILL SEND TO THE LOCATOR BY CERTIFIED MAIL NOTIFICATION OF REJECTION OF THE CERTIFICATE ALONG WITH THE APPROPRIATE FORM. AN AMENDED CERTIFICATE OF LOCATION MUST BE FILED FOR RECORD BY THE LOCATOR WITHIN 30 DAYS AFTER RECEIVING NOTIFICATION AND THE APPROPRIATE FORM. FAILURE TO FILE AN AMENDED CERTIFICATE OF LOCATION WITHIN THE TIME LIMIT CONSTITUTES ABANDONMENT OF THE LOCATION.]

(Eff. 9/5/74, Register 51; am 12/31/82, Register 84; am / / , Register)

Authority: AS 38.05.020
 AS 38.05.195
 AS 38.05.200
 AS 38.05.205
 AS 38.05.265
 AS 44.37.025

11 AAC 86.220 is amended by adding a new subsection to read:

11 AAC 86.220. ANNUAL LABOR.

(g) This section applies to all leasehold locations for which work in lieu of rental is performed. Rental requirements for all leasehold locations are found in 11 AAC 86.308. (Eff. 9/5/74, Register 51; am 12/31/82, Register 84; am / / , Register)

Authority: AS 27.05.010
 AS 38.05.020
 AS 38.05.210
 AS 38.05.240
 AS 38.05.280
 AS 44.37.025

11 AAC 86.230 is amended to read:

11 AAC 86.230. [RECORDATION OF] SALE, LEASE, OR OTHER TRANSFER. (a) If a mining claim or leasehold location on state land or any interest in one is sold, leased, or otherwise transferred, the sale, lease or other transfer [,] must be recorded within 90 days after the date of the transaction. The sale, lease, or other transfer document must include the current mailing address of all involved parties.

(b) A mining claim or leasehold location on state land may not be subdivided by means of sale, lease, or other transfer. Instead, the original location must be amended and a new location or locations made on the remaining ground before the transfer may take place. (Eff. 9/5/74, Register 51; am 12/31/82, Register 84; am 7 / / , Register)

Authority: AS 38.05.020
AS 38.05.195
AS 38.05.270

ARTICLE 3. UPLAND MINING LEASES.

Section

- 300. Preference right by staking
- 305. Applications for lease
- 306. Conversion to lease
- 308. Rental
- 309. Showing of discovery
- 310. [Repealed]
- 311. Performance standards for mining leases
- 312. Lease duration
- 315. [Repealed]
- 320. [Repealed]
- 325. [Repealed]

11 AAC 86.300 is amended to read:

11 AAC 86.300. PREFERENCE RIGHT BY STAKING. The preference right acquired by establishing and maintaining [STAKING] a leasehold location [AND FILING FOR ONE] in compliance with 11 AAC 86.200 -- 11 AAC 86.300 remains in existence until a lease is issued, or until

(1) a lease is refused because of an existing prior right, prior land classification effective before September 7, 1983 that precludes mining, or prior mineral closing order; [, OR UNTIL]

(2) the leasehold location is abandoned through failure either to pay timely the annual rental and record timely the affidavit of that payment, or to perform work creditable to the rental and [OR TO] record timely the affidavit of the performance [SIGNED STATEMENT] of that [SUCH] work, as required by this chapter; [,] or

(3) the leasehold location is abandoned through failure to comply with the filing requirements of AS 38.05.205(a) and AS 38.05.205;

(4) the state's selection of the land is rejected or relinquished.
(Eff. 9/5/74, Register 51; am / / , Register)

Authority: AS 38.05.020
AS 38.05.205

11 AAC 86.305 is amended to read:

11 AAC 86.305. APPLICATION FOR LEASE. (a) When the division receives [UPON THE RECEIPT BY THE DIVISION OF] a copy of a location certificate [AS PROVIDED IN AS 40.05.020] for a location on state land[S] open to mining only through [TO] leasing, the division will notify the locator of the leasing requirement.

b) The division will publish the notice required by AS 38.05.205(a) and subsequently mail a lease application to the locator only when: [AND FORWARD TO HIM APPLICATION FORMS TOGETHER WITH A STATEMENT OF CONDITIONS AND STIPULATIONS WHICH WILL BE INCORPORATED IN THE LEASE]

(1) it learns that the leasehold locator is ready to begin production or, where authorized by sec. 5, ch. 108, SLA 1981 as amended, is already producing;

(2) the leasehold locator requests a lease;

(3) the owner of a mining claim requests a lease; or

(4) circumstances such as conflicting resource uses or imminent disposals of other resources require the division to initiate conversion of a leasehold location to lease on its own motion.

(c) The division will not process lease applications received for locations on land selected by the State of Alaska for which the state has not received tentative approval or on other land to which the state does not hold title. [AN APPLICATION FOR LEASE MUST BE COMPLETED AND SUBMITTED TO THE DIVISION WITHIN 90 DAYS AFTER RECEIPT OF THE APPLICATION FORM BY THE LOCATOR; FAILURE TO COMPLETE THE APPLICATION WITHIN THE TIME LIMIT CONSTITUTES ABANDONMENT OF THE LOCATION. A MINING LEASE MAY BE ISSUED FOR ONE LEASEHOLD LOCATION OR FOR A GROUP OF CONTIGUOUS LOCATIONS. THE INITIAL PERIOD FOR WHICH RENT MUST BE PAID BEGINS ON SEPTEMBER 1 FOLLOWING THE DATE OF LOCATION.]

(d) The application must include a sworn affidavit stating for each mining claim or leasehold location

(1) that discovery, location, and filing were performed as required by law;

(2) the type and nature of the mineral discovery; and

(3) the position of the discovery in relation to the northeast corner of the location.

(e) Applications that do not meet the requirements of this section or that otherwise deviate from the form provided by the division will be rejected and returned to the applicant with an explanation of the reason for the rejection. An applicant may file another application after the rejection of a previous application. (Eff. 9/6/74, Register 51; am 12/31/82, Register 84; am / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.205

11 AAC 86 is amended by adding new sections to read:

11 AAC 86.306. CONVERSION TO LEASE. (a) Issuance of a lease under AS 38.05.205 is a disposal of an interest in land. After receiving the completed application, the director will prepare the written decision required by AS 38.05.035(a)(14) and will give notice of that decision in accordance with AS 38.05.301 and AS 38.05.345(b) and (c).

(b) A mining claim or leasehold location includes the right of conversion to lease. The lease will be issued after the director determines that the disposal will best serve the interests of the state (and, if the area is within the state's coastal zone, after the disposal is determined consistent with the state or approved district coastal management program). The decision will include any proposed lease conditions and stipulations.

(c) Processing the lease application will be halted or rejected if:

(1) the mining claim or leasehold location is on land selected by the state for which the State of Alaska has not received tentative approval or on other land to which the state does not hold title, in which case the lease application will be rejected until the title question has been resolved;

(2) conflicting rights are asserted by another locator and the division decides not to adjudicate the conflict, in which case processing will be halted and the parties will be advised to resolve the conflict. If possible, the director will notify the holders of apparent conflicting rights as shown on state status plats that a lease application is being processed;

(3) the land was not open to location when the mining claim or leasehold location was made; or

(4) the department determines, after a review of all filing documents, a field examination, or analysis of other information, that the prior requirements of AS 38.05.185-AS 38.05.280 have not been met.

(d) A leasehold made up of multiple mining claims or leasehold locations must be reasonably compact in form. The mining claims or leasehold locations to be included in the leasehold must share common boundaries. (Eff. / / , Register)

- Authority: AS 38.05.020
- AS 38.05.035
- AS 38.05.205
- AS 38.05.265
- AS 38.05.345
- AS 44.19.145
- AS 46.40.200

11 AAC 86.308. REITAL. (a) The general requirements for paying rental on leasehold locations or leaseholds are as follows:

(1) rental must be made payable to the Alaska Department of Revenue and be tendered to the Department of Natural Resources' Anchorage accounting office; it must be accompanied by a statement containing the owner's name and address, the serial number (if any) assigned by the department to the leasehold location or lease, and, if applicable, the name of the leasehold location;

(2) if more annual rental is paid, or work performed in lieu of rental, than is due under this section, the excess value up to \$800 may be applied against rental due during the subsequent year or years; excess value accrued for a leasehold location may be applied against rental due after conversion to lease.

(b) For leasehold locations,

(1) the rental year is the same as the annual labor year established under 11 AAC 86.220(a);

(2) the annual rental is \$200 per leasehold location;

(3) within the time specified in 11 AAC 86.220(c), the holder of a leasehold location shall

(A) pay the rental due, or perform work to be credited against rental due, or combine rental and work, and

(B) record an affidavit of that rental, work, or a combination of rental and work; a previous filing of excess rental or work in lieu of rental does not relieve the leasehold locator of the obligation to record an affidavit each year;

(4) If the rental obligation is not met and an affidavit of rental, work, or combined rental and work is not timely recorded, the leasehold location is considered abandoned under AS 38.05.265;

(5) if a rental payment is timely submitted to the department and the affidavit of rental is timely recorded, or an affidavit of work in lieu of rental is timely recorded, but the director finds that the payment made or the expenditures creditable against rental are less than \$200 per leasehold location, the locator will be granted 30 days from receipt of a notice from the director to submit the additional rental due; if the default is not corrected by the locator within 30 days, the leasehold location is terminated without further notice.

located by mining claim AS/acre/yr on a 40-acre claim
once have a lease, work toward production

(c) For Leaseholds,

(1) the rental year begins on the effective date of the lease;

(2) rental during the first five years of the lease is \$10 per acre, increasing to \$15 per acre during the next five years of the lease, and increasing again to \$20 per acre during subsequent years;

(3) rental must be paid, or an affidavit of work submitted to the department, within 90 days after the anniversary date of the lease;

(4) the affidavit of work performed in lieu of rental must meet the requirements of 11 AAC 86.220(b)-(f), except that it need not be recorded;

(5) failure to timely submit a rental payment or affidavit of work terminates the lease under AS 38.05.265;

(6) if a rental payment or affidavit of work is timely submitted to the department, but the director finds that the payment made or the expenditures creditable against rental are less than the amount due, the mining lessee will be granted 30 days from receipt of a notice from the director to submit the additional rental due. If the default is not corrected by the mining lessee within 30 days, the lease is terminated without further notice;

(7) after detailed exploration of the lease has been completed, the director may, to encourage the greatest ultimate recovery of minerals and in the interest of conservation, approve the lessee's request for a reduction in rental if force majeure, depressed market conditions, or other situations beyond the reasonable control of the lessee make it uneconomic to perform enough work on the lease to offset the rental. (Eff. / / , Register)

SB 311
offshore

- Authority: AS 38.05.020
- AS 38.05.035
- AS 38.05.185
- AS 38.05.205
- AS 38.05.210
- AS 38.05.265

11 AAC 86.309. SHOWING OF DISCOVERY. (a) The director reserves the right to require a showing of discovery at any time if minerals are not being produced in commercial quantities on each of the mining claims or leasehold locations included within the leasehold. That showing must be based on the discovery originally sworn to when the lease was applied for, but the lessee may supplement the record with additional information at any time.

(b) The discovery affidavit in a lease application is not confidential, but any supplemental geological, geophysical, or engineering data supplied will be kept confidential at the lessee's request.

(c) Any mining claim or leasehold location that lacks a discovery is void and will be removed from the leasehold. (Eff. / / , Register)

- Authority: AS 38.05.020
- AS 38.05.035
- AS 38.05.205

11 AAC 86.310 is repealed.

11 AAC 86.310. BOND. Repealed / / .

11 AAC 86 is amended by adding new sections to read:

11 AAC 86.311. PERFORMANCE STANDARDS FOR MINING LEASES. In addition to any stipulations or conditions imposed specifically for the leased area, the following performance standards apply to leases issued under AS 38.05.205 unless otherwise specified by the director.

(1) Within 10 years after the effective date of the lease, the exterior boundary of the leasehold must be surveyed in accordance with 11 AAC 53 and under instructions issued by the department.

(2) The leasehold's exterior boundary must be kept brushed until the survey is completed; it is not necessary to clear interior boundaries where mining claims or leasehold locations included within the leasehold adjoin each other. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.130
AS 38.05.205

11 AAC 86.312. LEASE DURATION. A lease will be issued for 10 years, subject to renewal as provided in AS 38.05.205(-), (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.205

11 AAC 86.315 is repealed.

11 AAC 86.315. TERMINATION. Repealed / / .

11 AAC 86.320 is repealed.

11 AAC 86.320. RELINQUISHMENT. Repealed / / .

11 AAC 86.325 is repealed.

11 AAC 86.325. TRANSFERS. Repealed / /

ARTICLE 4. PROSPECTING SITES.

Section

- 405. Boundaries and corners
- 410. Prospecting site location notice and certificate of location
- 415. [RECORDATION OF] Sale, lease, or other transfer
- 420. [Repealed]
- 425. Prospecting work
- 430. [REQUEST FOR] Extension

11 AAC 86.405 is amended to read:

11 AAC 86.405. BOUNDARIES AND CORNERS. Boundaries and corners of a prospecting site must be marked in accordance with 11 AAC 86.205. [THE BOUNDARIES OF EACH PROSPECTING SITE SHALL BE MARKED SO THAT THEY CAN READILY BE TRACED ON THE GROUND; COLORED MARKINGS THAT CAN READILY BE SEEN FROM POINT

TO POINT ARE ADEQUATE FOR THIS PURPOSE. DOUBLE MARKINGS SHALL BE PROVIDED AT EACH CORNER. FAILURE OF THE LOCATOR OF A PROSPECTING SITE TO KEEP THE BOUNDARIES MARKED, AS REQUIRED IN THIS SECTION, OPENS THE AREA WITHIN THE SITE TO LOCATION BY OTHERS.] (Eff. 9/5/74, Register 51; am / / , Register)

Authority: AS 38.05.020
AS 38.05.245

11 AAC 86.410 is amended to read:

11 AAC 86.410. PROSPECTING SITE LOCATION AND NOTICE AND CERTIFICATE OF LOCATION. (a) On a monument at the northeast corner of the prospecting site location, the locator shall post notice. The notice must contain

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(5) [THE NAME OF] each locator's name, [HIS] current mailing address, and [HIS] signature or the signature [THAT] of the locator's [AN AUTHORIZED] agent [REPRESENTING HIM]. (Eff. 9/5/74, Register 51; am 12/31/82, Register 84; am / /84, Register)

Authority: AS 38.05.020
AS 38.05.245
AS 38.05.265

11 AAC 86.415 is amended to read:

11 AAC 86.415. [RECORDATION OF] SALE, LEASE, OR OTHER TRANSFER. (a) If a prospecting site is sold, leased, or otherwise transferred, the sale, lease, or other transfer must be recorded within 90 days after the date of the sale, lease, or other transfer in the recording district in which the site is located. The sale or transfer document must include the current mailing address of all involved parties.

(b) A prospecting site may not be subdivided by sale, lease, or other transfer. Instead, the original prospecting site must be amended and a new location or locations made on the remaining ground before the transfer may take place. (Eff. 9/5/74, Register 51; am 12/31/82, Register 84; am / / , Register)

Authority: AS 38.05.020
AS 38.05.245
AS 38.05.270

11 AAC 86.420. DURATION. Repealed / / .

11 AAC 86.425(b) is amended to read:

11 AAC 86.425. PROSPECTING WORK.

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(b) The only prospecting work acceptable for holding prospecting sites is [DRILLING OR EXCAVATING, OR] geological, geophysical, or geochemical work by persons qualified to do such work. (Eff. 9/5/74, Register 51; am / / , Register)

Authority: AS 38.05.020

AS 38.05.245

11 AAC 86.430 is amended to read:

11 AAC 86.430. [REQUEST FOR] EXTENSION. [A REQUEST FOR EXTENSION OF A PROSPECTING SITE LOCATION MUST BE ACCOMPANIED BY A SIGNED STATEMENT OF WORK DESCRIBING IN DETAIL THE KIND AND AMOUNT OF WORK DONE SINCE THE DATE OF LOCATION OR SINCE THE DATE OF ANY PRIOR SIGNED STATEMENT. IT MUST ALSO BE ACCOMPANIED BY AN ESTIMATE OF THE AMOUNT OF EACH KIND OF WORK TO BE DONE BEFORE THE EXPIRATION DATE OF THE PROSPECTING SITE LOCATION OR CURRENT EXTENSION.] (a) An [NO] extension of a prospecting site will [MAY] be approved only if [UNLESS] a substantial part of the required work has been done before the application for extension is made.

(b) A request for extension of a prospecting site must be in writing and be filed with the division no later than 30 days before the prospecting site is due to expire.

(c) The request for extension must

(1) contain the name and current mailing address of each owner;

(2) contain the names and the serial numbers (if any) assigned by the department to the prospecting sites involved;

(3) explain the need for additional time to make discoveries;

(4) be accompanied by an affidavit describing in detail the character and value of the work that has been performed;

(5) include an overall work plan stating the kind and amount of work that remains to be performed; and,

(6) be signed by the owner or the owner's agent, and if signed by an agent, contain the current mailing address of that agent.

(d) The affidavit required under (c) of this section must comply with the provisions of 11 AAC 86.220(c) and (d), except that the recordation requirement does not apply.

(e) Acceptable survey work under 11 AAC 86.425(b) is only work that qualifies under AS 38.05.240.

(f) If an extension is granted, the notice of extension issued by the director must be recorded in the recording district in which the site is located within 90 days after the notice is issued. (Eff. 9/5/74, Register 51; am / / , Register)

Authority: AS 38.05.020
AS 38.05.240
AS 38.05.245(c)

ARTICLE 5. OFFSHORE PROSPECTING PERMITS AND LEASES.

Section

500. Permit applications

- - -

508. Additional performance standards

- - -

515. Compliance with permit rental requirement

- - -

525. [Repealed]

528. Permit extension

530. Conversion of an offshore prospecting permit to a mining lease

532. Lease duration

535. Survey and monumentation required

540. Lease rental

545. Leases granted by competitive bidding

550. [Repealed]

555. [Repealed]

560. [Repealed]

- - -

570. [Repealed]

575. Lease extension

580. Suspension

11 AAC 86.500. PERMIT APPLICATIONS. (a) The [NONCOMPETITIVE] procedures of 11 AAC 82.105, 11 AAC 82.110, 11 AAC 82.200, 11 AAC 82.205, 11 AAC 82.300, 11 AAC 82.305, and 11 AAC 82.500 -- 11 AAC 82.540 apply to offshore prospecting permits.

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(g) An offshore prospecting permit issued under this section is a disposal of an interest in land and is subject to requirements of AS 38.05.035(a)(14), AS 38.05.301 [38.06.301], AS 38.05.345, and AS 38.05.346. The filing of an application for an offshore prospecting permit does not vest

a property right but merely creates a priority right to any permit that may be issued. The filing of an application segregates the locatable minerals in the tract applied for. Until the application is adjudicated, those minerals are unavailable for location under AS 38.05.275. Prospecting permit applications filed will be shown as soon as possible on the department's land records and will immediately be entered on a list available by mail from the division. (Eff. 9/5/74, Register 51; am 1/1/83, Register 85; am / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.250

11 AAC 86 is amended by adding a new section to read:

11 AAC 86.508. ADDITIONAL PERFORMANCE STANDARDS. In addition to any stipulations or conditions imposed specifically for the lease or prospecting permit area, the following performance standards apply to offshore permits or leases issued under AS 38.05.250 unless otherwise specified by the director.

(1) Construction of marine facilities must be limited to the minimum necessary for the approved exploration and reclamation activities.

(2) Dredge spoils must be redeposited in the areas disturbed by dredging.

(3) Except for small and temporary diversions of water around marine facilities, drill pads, and support facilities, water may not be diverted. Dredging, filling, and the construction of facilities must be designed to minimize changes in the coastline's natural regime of tidal deposition and erosion. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.250

11 AAC 86.515 is amended to read:

11 AAC 86.515. COMPLIANCE WITH PERMIT RENTAL REQUIREMENT.

(c) Failure to timely submit a rental payment or affidavit of work terminates the offshore prospecting permit under AS 38.05.265.

(d) If the payment made or the expenditures creditable against rental are less than \$3 per acre, the permittee will be granted 30 days from receipt

of a notice from the director to submit the additional rental due. If the default is not corrected by the permittee within the time allowed in the notice, the offshore prospecting permit expires without further notice. (Eff. 9/5/74, Register 51; am 1/1/83, Register 85; am / / , Register)

Authority: AS 38.05.020(b)(1)
AS 38.05.035(a)(4)
AS 38.05.250
AS 38.05.265

11 AAC 86.525 is repealed.

11 AAC 86.525. FAILURE TO COMPLY. Repealed / / .

11 AAC 86 is amended by adding a new section to read:

11 AAC 86.528. PERMIT EXTENSION. A permit will not be extended or renewed. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.250

11 AAC 86.530 is amended to read:

11 AAC 86.530. CONVERSION OF AN OFFSHORE PROSPECTING PERMIT TO A MINING LEASE. (a) At any time while a permit is in effect, [IF THE PERMITTEE SHOWS TO THE SATISFACTION OF THE COMMISSIONER THAT THE LAND COVERED BY THE PERMIT CONTAINS WORKABLE MINERAL DEPOSITS,] the permittee is entitled to a noncompetitive mining lease on that [ALL OR] part of the permit area that has been shown to the satisfaction of the director to contain workable mineral deposits or to be needed for full utilization of those deposits [LAND COVERED BY THE PERMIT, IF THE TRACT COVERED BY THE LEASE IS IN COMPACT FORM]. The land leased will be described by legal subdivision according to the official survey or to the official protraction diagram approved by the Bureau of Land Management or the Department of Natural Resources [A PROTRACTED SURVEY].

(b) An application[S] to convert a permit to a noncompetitive mining lease must be filed in accordance with 11 AAC 88.105. If the application is filed before the permit expires, the permit's expiration is postponed while the application is being acted on. In the meantime the permittee retains all rights specified in the permit until otherwise notified by the department, and the locatable minerals in the land described in the conversion application remain segregated from filing under other offshore prospecting permit applications or as mining locations. There is no further rental obligation after the original expiration date. A decision denying conversion to lease will be accompanied by a written explanation of the grounds or rationale on which the denial is based.

(c) The director will determine if a workable deposit is present based upon, but not limited to, the following information that must be submitted by

To convert OPP to lease, need to show workable mineral deposit. (c) defines, cause is confusion over what it is.

the permittee:

(1) an estimate of reserves, including whether these are measured, indicated, or inferred; sufficient geologic, geophysical and engineering data must be presented to substantiate the reserve estimates;

(2) the average grade of those reserves, including a discussion of the sample density, sample collection technique, sample preparation, and analytical testing methods used to determine the average grade of the deposit; the grade of a deposit is only that value that can be recovered during milling or concentrating the host rock;

(3) topographic, geologic, or ocean floor maps that clearly show the location of all samples, trenches, drill holes, and geophysical surveys, and the outline of the ore body;

(4) a description of the probable mining and recovery methods;

(5) an economic appraisal of the proposed mining operation that estimates both revenue from the sale of the ore; and the costs of mine development and of extracting, milling, transporting, and marketing the ore;

(6) an evaluation of toxic materials that naturally occur in the proposed mining area and proposed methods to control the release of those materials;

(7) any additional documentation as required by the director to assist in evaluating the conversion of a prospecting permit to a lease.

(e) In this section, "workable deposit" means a mineral deposit that has been shown by the applicant to have a reasonable prospect of developing into a successful mine under present conditions, based on the presence of minerals of sufficient value and quantity to induce a prudent operator to pursue development. (Eff. 9/5/74, Register 51; am 1/1/83, Register 85; am / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.250

11 AAC 86 is amended by adding a new section to read:

11 AAC 86.532. LEASE DURATION. An offshore lease is issued for a term of 10 years, subject to extension as provided in AS 38.05.250. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.250

11 AAC 86.535 is amended to read:

11 AAC 86.535. SURVEY AND MONUMENTATION REQUIRED. The provisions of 11 AAC 82.640 [11 AAC 82.645] -- 11 AAC 82.650 apply to the survey requirements under 11 AAC 86.500 -- 11 AAC 86.570. (Eff. 9/5/74, Register 51; am / / , Register)

Authority: AS 38.05.020
AS 38.05.250

11 AAC 86.540 is amended to read:

11 AAC 86.540. LEASE RENTAL. Rental for mining leasing on tide and submerged land is \$3 per acre per year. Expenditures on or for the benefit of the leasehold are creditable against the rental. Work done in excess of minimum requirements in one year may be credited during the following two years. Expenditures to be credited must be supported by an affidavit. Rental must be paid or the affidavit must be filed in duplicate for the immediately preceding year with the division within 90 days after each anniversary date of the lease. Failure to pay rent or to file the required affidavit terminates the lease. Remittances are payable to the Department of Revenue of the State of Alaska. (Eff. 9/5/74, Register 51; am 1/1/83, Register 85; am / / , Register)

Authority: AS 38.05.020(b)(1)
AS 38.05.250
AS 38.05.265

11 AAC 86.545 is amended to read:

11 AAC 86.545. LEASES GRANTED BY COMPETITIVE BIDDING. The commissioner in his or her discretion, upon the request of any qualified applicant or on his or her own motion, will [MAY] offer tide and submerged lands containing known deposits of locatable minerals for lease by competitive bidding. Known mineral deposits are those determined by the division of geological and geophysical survey, after reviewing public information, to exist in sufficient quantity and quality to induce further exploration or development. Land may be offered for lease under the competitive bidding procedures of 11 AAC 82.400 -- 11 AAC 82.475 [11 AAC 82.480]. (Eff. 9/5/74, Register 51; am / / , Register)

Authority: AS 38.05.020
AS 38.05.145(a)
AS 38.05.250(b)

11 AAC 86.550 is repealed.

11 AAC 86.550. BOND. Repealed / / .

11 AAC 86.555 is repealed.

11 AAC 86.555. TERMINATION. Repealed / / .

11 AAC 86.560 is repealed.

11 AAC 86.560. RELINQUISHMENT. Repealed / / .

11 AAC 86.570 is repealed.

11 AAC 86.570. TRANSFERS. Repealed / / .

11 AAC 86 is amended by adding a new section to read:

11 AAC 86.575. PRODUCTION AND LEASE EXTENSION. (a) To qualify for extension of an offshore lease,

(1) production must be achieved by the end of the primary term, or

(2) the lessee must show that the lease is reasonably close to attaining production and that, despite diligent, good-faith efforts, the lessee has been unable to produce due to force majeure, depressed market conditions, or other situations beyond the lessee's reasonable control. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.205
AS 38.05.250

11 AAC 86.580. SUSPENSION. (a) After detailed exploration of the lease has been completed, the director may, to encourage the greatest ultimate recovery of minerals and in the interest of conservation, approve the lessee's application for a suspension of operations and production based on the lessee's showing that the suspension is necessary to promote development of the lease; that the lease cannot be successfully operated under its terms; or that force majeure, depressed market conditions, or other situations beyond the reasonable control of the lessee make the lease uneconomic to operate.

(b) The lessee's application for a suspension must comply with 11 AAC 88.105 and must contain complete information showing the necessity or justification for the suspension.

(c) No ... expires because production or operations leading to production are ... by order of or with the assent of the director. When a suspension is removed, the lessee will have a reasonable time, which will not be less than six months, to resume operations or production. The obligation to pay rental continues during the suspension. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.250

ARTICLE 7. MINING PRODUCTION LICENSES.

Section

700. Applications for production licenses

705. Application review [FOR COMPLIANCE]

710. Public notice

715. Review after public notice

735. Interim mining

740. Transfer of a production license

11 AAC 86.700--11 AAC 86.715 are amended to read:

11 AAC 86.700. APPLICATIONS FOR PRODUCTION LICENSES.

(c) An application must be made under oath by an owner of the mining claim, mining leasehold location, or mining lease and must contain

(5) a statement of the date that the applicant either began or expects to begin [HAS PRODUCED MINERALS FOR SALE FROM THAT PROPERTY BEFORE JANUARY 1, 1983, OR ANTICIPATES] production of minerals for sale from that property [ON OR AFTER A DATE TO BE FILLED IN BY THE APPLICANT]; and

(Eff. 5/12/83, Register 86; am / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.207

11 AAC 86.705. APPLICATION REVIEW [FOR COMPLIANCE].

(c) If the commissioner discovers that location certificates and annual labor affidavits for mining claims or mining leasehold locations have not been properly filed or the terms of a state mining lease have not been complied with, processing of the application will be suspended until either the commissioner is satisfied that compliance has been achieved or the commissioner determines under AS 38.05.185(b) that the applicant has complied as nearly as possible under the circumstances of the case. The commissioner will notify the applicant of any noncompliance which causes the suspension of processing of the application. If compliance is not achieved or the commissioner is not satisfied that the applicant complied as nearly as possible under the circumstances of the case, the application will be rejected and the case will be closed.

(d) If the commissioner discovers that the location is on land selected by the state for which the state has not received tentative approval, or is on other land to which the State of Alaska does not hold title, the application will be rejected. The commissioner will notify the applicant of the rejection of the application. (Eff. 5/12/83, Register 86; am / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.207

11 AAC 86.710. PUBLIC NOTICE.

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(c) If possible the commissioner will notify [ALSO SEND A COPY OF THE NOTICE] by certified mail [TO] the holders of any apparent conflicting rights as indicated on the state status plats available to the division [OF MINERALS AND ENERGY MANAGEMENT] at the time of the review for compliance of the application. The commissioner will send the notice to the address of record of the holder of the apparent conflicting rights in the files of the division [OF MINERALS AND ENERGY MANAGEMENT]. If the notice is returned by the mail service, the commissioner will have no further obligation to notify the third party, except by the public notice requirements set out in (a) of this section. (Eff. 5/12/83, Register 86; am / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.207

11 AAC 86.715. REVIEW AFTER PUBLIC NOTICE.

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(b) If the commissioner receives an assertion of conflicting rights, the commissioner will send to the applicant a copy of the assertion within 10 days after receiving it and will send, within 30 days after receiving the

assertion, copies of the notice of his or her determination, under 11 AAC 86.720, whether or not to adjudicate the matter to the applicant and the party or parties asserting conflicting rights. (Eff. 5/12/83, Register 86; am / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.207

11 AAC 86.735--11 AAC 86.740 are amended to read:

11 AAC 86.735. INTERIM MINING. After filing an application, and pending completion of the public notice requirement and the issuance of the production license, the applicant may, at his or her own risk, produce minerals for sale from the property unless either that application is rejected under 11 AAC 86.700(d) or the applicant is notified that processing of his or her production license has been suspended or rejected under 11 AAC 86.705[d] or 11 AAC 86.730(b). (Eff. 5/12/83, Register 86; am / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.207

11 AAC 86.740. TRANSFER OF A PRODUCTION LICENSE. (a) A mining production license passes with a conveyance of the mining claim, mining leasehold location, or mining lease which is the subject of the production license.

(b) In the case where some but not all of the multiple mining claims, mining leasehold locations, or mining leases covered by a multiple production license are transferred and the portion of the multiple production license which covers the transferred claims, leasehold locations, or leases is to be transferred with them, the original production license will be amended to include only those claims which have been retained by the original holder of the multiple production license while a second amended production license covering the transferred claims, leasehold locations, or leases will be issued to the transfer[R]ee of those claims, leasehold locations, or leases. (Eff. 5/12/83, Register 86; am / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.207

11 AAC 86 is amended by adding a new article to read:

ARTICLE 8. GENERAL PROSPECTING PERMIT AND LEASE PROVISIONS.

Section

- 800. Plan of operations
- 805. Bond
- 810. Suspension and termination
- 815. Relinquishment
- 820. Transfers

Now to mine, need from D.I.P. "miscellaneous" land use permit requires annual approval

If in coastal zone, 10 yr plan would have to fit w/ system.

new plan approved 10 yr plan - would require need for "mlup"

11 AAC 86.800. PLAN OF OPERATIONS. (a) A plan of operations that describes the activities proposed to take place under a lease or prospecting permit must be submitted for the director's approval. An approved plan of operations takes the place of the "land use permit" or "miscellaneous land use permit" that would be required under this title for unleased land. (If proposed lease or permit activities are so minor that they could take place without a land use permit on unleased land, a plan of operations is not required.)

(b) The plan must show how the operator proposes to comply with performance standards, stipulations, or conditions applicable to the prospecting permit or lease. The proposed plan of operations must address the areas to be mined, location and design of settling ponds, tailings disposal, overburden storage, permanent or temporary diversions of water, access routes, reclamation plans, and other actions necessary to conduct the operation. The plan must include statements and maps or drawings setting out the following:

- (1) the sequence, schedule, and duration of the proposed operations;
- (2) size and purpose of the operations;
- (3) number of pieces of equipment and people working on the project;
- (4) amount of material to be handled, processed, or removed, and how the material will be processed;
- (5) how the tailings will be disposed of;
- (6) amount of timber to be cleared or used;
- (7) overland access routes to be used, and whether new roads, landing strips, or other new transportation facilities will be needed;
- (8) reclamation that will be carried out, including a timetable for each step in the reclamation, an estimate of the cost, and a description of the measures to ensure that all debris is disposed of in a sound manner;

(9) the actions to be taken to minimize detrimental effects on fish and wildlife;

(10) amount of water to be used;

(11) location and size of camp facilities;

(12) any site the operator wants the division to close to public access, in order to protect public safety; and

(13) how the operator's plans for compliance with other applicable laws and regulations (including size and location of required facilities or improvements) will affect resources under the jurisdiction of the department; and

(14) any additional information required by the director to assist in evaluating the proposed plan of operations.

(c) Any geological, geophysical, or engineering data supplied by the applicant as part of the plan of operations will be kept confidential at the applicant's request. Such data must be clearly identified by the applicant and separated from information not qualifying as confidential.

(d) The plan of operations may cover up to a ten-year period. An amendment must be filed and approved whenever the operator wants to deviate significantly from the approved plan. If the time period the operator chooses to cover in the plan is less than the intended life of the mine, the plan must show how the proposed operations relate to subsequent operations.

(e) The plan must be submitted to the division at least 50 days before operations under the prospecting permit or lease are proposed to begin. Before operations may begin, the plan must be approved in writing by the division after consulting with the Department of Fish and Game, Department of Environmental Conservation, and other affected agencies.

(f) For the operator's convenience, the proposed plan may include information needed to apply for approvals from other departments or local and federal agencies under other applicable laws and regulations, such as effects of the operation on air and water quality, disposal of toxic wastes, effects on navigation, effects on anadromous fish habitat, etc. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.205
AS 38.05.250

11 AAC 86.805. BOND. (a) 11 AAC 82.600 applies to offshore prospecting permits, offshore mining leases, and upland mining leases. If a bond is required, the applicant, permittee, or lessee will be given notice of the requirement and its effective date. At least 30 days will be allowed to file the bond.

(b) The director may, in the event of any significant change in the scope of operations or before approving an assignment, alter the amount of the bond.

(c) A bond filed under this section will be released upon the following conditions:

(1) the expiration or relinquishment of the lease or prospecting permit; and

(2) the reclamation of the lease area or prospecting permit area as set out and approved in the plan of operations. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.035
AS 38.05.130
AS 38.05.205
AS 38.05.250

11 AAC 86.810. SUSPENSION AND TERMINATION. If the permittee or lessee fails to comply with applicable statutes and regulations, or to comply with the provisions of the prospecting permit or lease (except for failure to pay rental, which results in termination under AS 38.05.205), and the failure continues for 60 days after service of written notice and an opportunity to be heard, the director will, in his or her discretion,

(1) suspend production or operations leading to production until compliance is achieved, during which the obligation to pay rental continues, or

(2) terminate the permit or lease. (Eff. / / , Register)

Authority: AS 38.05.020
AS 38.05.185(b)
AS 38.05.205
AS 38.05.250
AS 38.05.265

Register , 1984

NATURAL RESOURCES

11 AAC 86.815

11 AAC 86.820

11 AAC 86.815. RELINQUISHMENT. The provisions of 11 AAC 82.635 apply to the relinquishment or surrender of offshore prospecting permits, offshore mining leases, and upland mining leases. (Eff. / / , Register)

Authority: AS 38.05.020

AS 38.05.205

AS 38.05.250

11 AAC 86.820. TRANSFERS. After an offshore prospecting permit, offshore mining lease or upland mining lease is issued, it may be transferred in accordance with the provisions of 11 AAC 82.605 -- 11 AAC 82.630. (Eff. / / , Register)

Authority: AS 38.05.020(b)(1)

AS 38.05.270

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