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MINING LAWS APPLICABLE IN ALASKA

This circular contains the pertinent sections of mining law which govern the staking and holding of mining claims on Federal and State lands in Alaska. Not included are sections pertaining to patents, water rights, liens, and legal procedures between claim holders or contestants. The sections included here are copied verbatim from the various authorized sources. The Federal and State regulations under which these laws are administered, and which help to explain and implement the laws are not included. They are in the Code of Federal Regulations and the Alaska Administrative Code.\*

This publication is intended only as a handy reference to various laws in existence on the above data, and should not be quoted or used as an authoritative source in a serious legal action. For authoritative citation of a law, one should consult the codes and statutes named in the following portions of this circular.

Four groups or kinds of laws are applicable as follows:

- (1) Federal laws which apply to Federal public domain,
- (2) State laws which also apply to Federal public domain,
- (3) State laws which apply only to State owned lands, and
- (4) Alaska Administrative Code.

State laws may add restrictions or requirements to those imposed by Federal laws so long as they do not conflict with the Federal laws. An example of this is the State law which limits precious-metals association placer claims to 40 acres though the Federal law allows 160 acres. Since Alaska owns her navigable stream and lake bottoms, tidelands and submerged lands out to the 3 mile limit, State laws pertaining to these lands should be followed.

\*The definition of "annual labor" from the Alaska Administration Code is included, however (p. 17).

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## FEDERAL LAWS APPLICABLE ON FEDERAL PUBLIC DOMAIN

The following sections are from the United States Code, Title 30 (30 USC).

### Sec. 22. Lands open to purchase by citizens

Except as otherwise provided, all valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, shall be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

### Sec. 23. Length of claims on veins or lodes

Mining claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, located prior to May 10, 1872, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of their location. A mining claim located after the 10th day of May 1872, whether located by one or more persons, may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulation to less than twenty five feet on each side of the middle of the vein at the surface, except where adverse rights existing on the 10th day of May 1872 render such limitation necessary. The end lines of each claim shall be parallel to each other.

### Sec. 26. Locators' rights of possession and enjoyment

The Locators of all mining locations made on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim existed on the 10th day of May 1872 so long as they comply with the laws of the United States, and with State, territorial, and local regulations not in conflict with the laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes, and ledges throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side lines of such surface locations. But their right of possession to such outside parts of such veins or ledges shall be confined to such portion thereof as lie between vertical planes drawn downward as above described, through the end lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of such veins or ledges. Nothing in this section shall authorize the locator or possessor of a vein or lode which extends in its downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another.

### Sec. 27. Mining tunnels; right to possession of veins on line with; abandonment of right

Where a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes within three thousand feet from the face of such tunnel on the line thereof, not previously known to exist, discovered in such tunnel, to the same extent as if discovered from the surface; and locations on the line of such tunnel of veins

or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid; but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of such tunnel.

Sec. 28. Mining district regulations by miners; annual labor on claims pending issue of patent, expenditure on tunnels considered

The miners of each mining district may make regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to the following requirements: The location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining claims made after May 10, 1872, shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. On each claim located after the 10th day of May 1872, and until a patent has been issued therefor, not less than \$100 worth of labor shall be performed or improvements made during each year. On all claims located prior to the 10th day of May 1872, \$10 worth of labor shall be performed or improvements made each year, for each one hundred feet in length along the vein until a patent has been issued therefor; but where such claims are held in common, such expenditure may be made upon any one claim; and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after failure and before such location. Upon the failure of any one of several coowners to contribute his proportion of the expenditures required hereby the coowners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent coowner personal notice in writing or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and if at the expiration of ninety days after such notice in writing or by publication such delinquent should fail or refuse to contribute his proportion of the expenditure required by this section, his interest in the claim shall become the property of his coowners who have made the required expenditures. The period within which the work required to be done annually on all unpatented mineral claims located since May 10, 1872, including such claims in the Territory of Alaska, shall commence at 12 O'clock meridian on the 1st day of September succeeding the date of location of such claim.

Where a person or company has or may run a tunnel for the purposes of developing a lode or lodes, owned by said person or company, the money so expended in said tunnel shall be taken and considered as expended on said lode or lodes, whether located prior to or since May 10, 1872; and such person or company shall not be required to perform work on the surface of said lode or lodes in order to hold the same as required by this section. On all such valid claims the annual period ending December 31, 1921, shall continue to 12 O'clock meridian July 1, 1922.

Sec 28-1. Inclusion of certain surveys in labor requirements of mining claims; conditions and restrictions

The term "labor", as used in the third sentence of section 28 of this title, shall include, without being limited to, geological, geochemical and geophysical surveys conducted by qualified experts and verified by a detailed report filed in the county office in which the claim is located which sets forth fully (a) the location of the

work performed in relation to the point of discovery and boundaries of the claim, (b) the nature, extent, and cost thereof, (c) the basic findings therefrom and (d) the name, address, and professional background of the person or persons conducting the work. Such surveys, however, may not be applied as labor for more than two consecutive years or for more than a total of five years on any one mining claim, and each such survey shall be nonrepetitive of any previous survey on the same claim.

Sec. 28-2. Same; definitions

As used in section 28-1 of this title,

(a) The term "geological surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of geology as they relate to the search for and discovery of mineral deposits;

(b) The term "geochemical surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of chemistry as they relate to the search for and discovery of mineral deposits;

(c) The term "geophysical surveys" means surveys on the ground for mineral deposits through the employment of generally recognized equipment and methods for measuring physical differences between rock types or discontinuities in geological formations;

(d) The term "qualified expert" means an individual qualified by education or experience to conduct geological, geochemical or geophysical surveys, as the case may be.

Sec. 35. Placer claims conforming entry to legal subdivisions and surveys; limitation of claims

Claims usually called "placer" including all forms of deposit, excepting veins of quartz, or other rock in place, shall be subject to entry and patent, under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims; but where the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivisions of the public lands. And where placer claims are upon surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and all placer mining claims located after the 10th day of May 1872, shall conform as near as practicable with the United States system of public land surveys, and the rectangular subdivisions of such surveys, and no such location shall include more than twenty acres for each individual claimant; but where placer claims cannot be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands; and where by the segregation of mineral land in any legal subdivision a quantity of agricultural land may be entered by any party qualified by law, for homestead purposes.

Sec. 36. Same; subdivisions of 10-acre tracts; maximum of placer locations

Legal subdivisions, 40 acres may be subdivided into ten acre tracts; and two or more persons, or associations of persons, having contiguous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof; but no location of a placer claim, made after the 9th day of July 1870, shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any bona fide homestead claim upon agricultural lands or authorize the sale of the improvements of any bonafide settler to any purchaser.

#### Sec. 41. Intersecting or crossing veins

Where two or more veins intersect or cross each other, priority of title shall govern, and such prior location shall be entitled to all ore or mineral contained within the space of intersection; but the subsequent location shall have the right-of-way through the space of intersection for the purposes of the convenient working of the mine. And where two or more veins unite, the oldest or prior location shall take the vein below the point of union, including all the space of intersection.

#### Sec. 42. Patents for nonmineral lands

(a) Where nonmineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such non-adjacent surface ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable to veins or lodes; but no location made of such nonadjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by sections 21-24, 26-28, 29, 30, 33-48, 50-52, and 71-76 of this title for the superficies of the lode. The owner of a quartz mill or reduction works, not owning a mine in connection wherewith, may also receive a patent for his mill site, as provided in this section.

(b) Where nonmineral land is needed by the proprietor of a placer claim for mining, milling, processing, beneficiation, or other operations in connection with such claim, and is used or occupied by the proprietor for such purposes, such land may be included in an application for a patent for such claim, and may be patented therewith subject to the same requirements as to survey and notice as are applicable to placers. No location made of such nonmineral land shall exceed five acres and payment for the same shall be made at the rate applicable to placer claims which do not include a vein or lode.

#### Sec. 53. Possessory actions for recovery of mining titles

No possessory action between persons, in any court of the United States, for the recovery of any mining title, or for damages to any such title, shall be affected by the fact that the paramount title to the land in which such mines lie is in the United States; but each case shall be adjudged by the law of possession.

#### Sec. 611. Common varieties of sand, stone, gravel, pumice, pumicite, or cinders, and petrified wood

No deposit of common varieties of sand, stone, gravel, pumice, pumicite, or cinders and no deposit of petrified wood shall be deemed a valuable mineral deposit within the meaning of the mining laws of the United States so as to give effective validity to any mining claim hereafter located under such mining laws; Provided, however, that nothing herein shall affect the validity of any mining location based upon discovery of some other mineral occurring in or in association with such a deposit.

"Common varieties" as used in sections 601, 603, and 611-615 of this title does not include deposits of such materials which are valuable because the deposit has some property giving it distinct and special value and does not include so-called "block pumice" which occurs in nature in pieces having one dimension of two inches or more. "Petrified wood" as used in sections 601, 603, and 611-615 of this title means agatized, opalized, petrified, or, silicified wood, or any material formed by the replacement of wood by silica or other matter.

Sec. 612. Unpatented mining claims-prospecting, mining or processing operations

(a) Any mining claim hereafter located under the mining laws of the United States shall not be used, prior to issuance of patent therefor, for any purposes other than prospecting, mining or processing operations and uses reasonably incident thereto.

Reservations in the United States to use of the surface and surface resources

(b) Rights under any mining claim hereafter located under the mining laws of the United States shall be subject, prior to issuance of patent therefor, to the right of the United States to manage and dispose of the vegetative surface resources thereof and to manage other surface resources thereof (except mineral deposits subject to location under the mining laws of the United States). Any such mining claim shall also be subject, prior to issuance of patent therefor, to the right of the United States, its permittees, and licensees, to use so much of the surface thereof as may be necessary for such purposes or for access to adjacent land: Provided, however, that any use of the surface of any such mining claim by the United States, its permittees or licensees, shall be such as not to endanger or materially interfere with prospecting, mining or processing operations or uses reasonably incident thereto: Provided further, that if at any time the locator requires more timber for his mining operations than is available to him from the claim after disposition of timber therefrom by the United States, subsequent to the location of the claim, he shall be entitled, free of charge, to be supplied with timber for such requirements from the nearest timber administered by the disposing agency which is ready for harvesting under the rules and regulations of that agency and which is substantially equivalent in kind and quantity to the timber estimated by the disposing agency to have been disposed of from the claim: Provided further, that nothing in sections 601, 603, and 611-615 of this title shall be construed as affecting or intended to affect or in any way interfere with or modify the laws of the States which lie wholly or in part westward of the ninety-eighth meridian relating to the ownership, control, appropriation, use and distribution of ground or surface waters within any patented mining claim.

Severance or removal of timber

(c) Except to the extent required for the mining claimant's prospecting, mining or processing operations and uses reasonably incident thereto, or for the construction of buildings or structures in connection therewith, or to provide clearance for such operations or uses, or to the extent authorized by the United States, no claimant of any mining claim hereafter located under the mining laws of the United States shall, prior to issuance of patent therefor, sever, remove, or use any vegetative or other surface resources thereof which are subject to management or disposition by the United States under subsection (b) of this section. Any severance or removal of timber which is permitted under the exceptions of the preceding sentence, other than severance or removal to provide clearance, shall be in accordance with sound principles of forest management.

STATE LAWS APPLICABLE ON FEDERAL PUBLIC DOMAIN

The following sections are from the Alaska Statutes, Title 27 (AS 27).

Sec. 27.10.010 Claims to be located as prescribed by law. A person who discovers upon the public domain in the state a lode or vein of rock in place, or a placer



deposit which is open to location under the mining laws of the United States, may locate a lode mining claim or placer mining claim by posting a notice of location and by marking the boundaries as provided in Sec. 30-70 of this chapter. An attempted location of a mining claim that does not comply with Sec. 30-70, and 150-190 of this chapter is void.

Sec. 27.10.020. Grubstake contracts to be in writing and recorded. All contracts commonly known as "grubstaking," except as between the parties making them, are void unless in writing, subscribed by the parties and filed for record with the recorder of the recording district in which the location is made. The contract must contain the names of the parties and the duration of the contract.

Sec. 27.10.030. Manner of designating a lode claim location. The discoverer of a lode claim shall designate the location as follows:

(1) by posting at the northeast corner of the claim a plain sign or notice containing

- (A) the name of the lode claim;
- (B) the name of the locator or locators;
- (C) the date of the location;
- (D) the approximate bearings of the corners and angle posts of the claim and the distances between them; and

(2) by erecting at each corner or angle of the claim substantial monuments of stone or setting posts, not less than three feet in height nor less than three inches in diameter hewn and marked with the name of the claim, the position or number of the monument and the direction of the boundary lines, and by cutting out, blazing or marking the boundary lines so that they can be readily traced. Where it is impracticable to place a monument in its true position, a witness monument shall be erected and marked to indicate the true position of the corner or angle.

Sec. 27.10.040. Manner of designating a placer claim location. The discoverer of a placer claim shall designate the location as follows:

(1) by posting on the northeast corner post of the claim a location notice showing

- (A) The name of the claim,
- (B) the date of discovery and the date of posting the location notice,
- (C) the direction and approximate distance from a certain, numbered corner to the point where the discovery was made,
- (D) the number of feet claimed in length and width,
- (E) the name and signature of each locator and his current address.

(2) by erecting at each corner of the claim monuments or posts. These monuments or posts should be at least 3 feet above ground level. Posts should be at least 3 inches in diameter and marked by number, in sequence, in a clockwise direction around the claim. The monuments should show the approximate direction and distance to adjacent monuments, and the name of the claim should show on each monument. Claim lines should be clear so that they can be readily traced.

Sec. 27.10.050. Certificate of location to be recorded. The locator of a lode or placer claim shall within 90 days after location and posting the location notice on the claim, have the claim recorded by filing a certificate of location with the recorder of the recording district in which the claim is located.

(1) The certificate of notice of location shall contain:

- (A) the name of the claim,
- (B) the date of discovery and of posting the notice
- (C) the width and length of the claim
- (D) the name of locator or locators and their addresses
- (E) a description of the claim with such reference to some natural object or permanent monument so that an intelligent person, with a knowledge of the permanent natural objects and permanent monuments in the vicinity, can identify the claim.

Sec. 27.10.060. Effect of failure to file and late filing. Failure to file the certificate of location for record within the required 90 days constitutes an abandonment of the claim and the ground is open to location. However, recordation after the 90 day period but before the ground is located by another, renews the location and saves the rights of the original locator.

Sec. 27.10.070. Changes in locations and amended notices. Notices may be amended at any time and monuments changed to correspond with the amended location but no change may be made which interferes with the rights of others. Whenever monuments are changed or an error is made in the notice or in the certificate of location, an amended certificate of location shall be filed for record in the same manner and with the same effect as the original certificate.

Sec. 27.10.090. Sections applicable to precious-metal placers only. Sections 100-140 of this chapter apply only to placer deposits containing gold, silver, or other precious metals or minerals.

Sec. 27.10.100. Limits on size of individual placer claims. The unit of placer locations in the state is 20 acres and no single or individual placer mining claim may be located in excess of 20 acres nor have a greater length than 1,320 feet. Where a parcel of ground lies between and adjoins two or more validly located claims the restriction as to length does not apply.

Sec. 27.10.110. Limits on size of association claims. No association placer mining claim may be located in excess of 40 acres, and have a greater length than 2,640 feet.

Sec. 27.10.120. Locations of claims by agent or attorney. No person may locate a placer mining claim as agent or attorney for another unless he is authorized to do so by a power of attorney in writing, acknowledged and executed within four years before the date of location, and recorded in the office of the recorder of the recording district in which the claim is located. No person may act as attorney in fact for more than two principals in any one recording district.

Sec. 27.10.130. Value of labor or improvements required on placer claims. Upon each placer mining claim located after March 14, 1935, until patent is issued, not less than \$100 worth of labor shall be performed or improvements made during each year for each 20 acres or excess fraction contained in the claim.

Sec. 27.10.140. Location in violation of law is void. A placer claim attempted to be located in violation of Sec. 90-140 of this chapter is null and void, and the whole area of it may be located by a qualified locator as if no earlier attempt had been made, and no placer mining claim which contains a greater area or is longer than is fixed by law may be patented.

Sec. 27.10.150 Annual labor or improvements required. (a) During each year

beginning at noon on September 1, and until patent is issued, annual labor shall be performed or improvements made on, or for the benefit of or development of, each mining claim in the state to the extent required by the laws of the United States applicable to Alaska.

(b) If the owner of a mining claim fails to perform the annual labor or make the improvements required by the laws of the United States, the claim is forfeited and open to location by others as if no location of it had ever been made.

(c) If the general laws of the United States requiring annual labor upon mining claims in Alaska are suspended, the laws of the state requiring annual labor upon mining claims are likewise suspended upon the same terms and conditions.

Sec. 27.10.160. Affidavit of labor or improvements. Within 90 days after September 1, of each year the owner of a mining claim, or some other person having knowledge of the facts, shall make and file for record with the recorder for the district in which the claim is located, an affidavit showing the performance of labor or the making of improvements. The affidavit shall contain:

- (1) the name or number of the mining claim and where situated;
- (2) the number of days' work done and the character and value of the improvements made;
- (3) the date of the performance of the labor and of the making of improvements;
- (4) at whose instance the work was done or the improvements made;
- (5) the actual amount paid for the work and improvements, and by whom paid, when the work was not done by the owner or his lessee.

Sec. 27.10.170. Effect of recording and of failure to record affidavit of labor or improvements. The affidavit when recorded as provided in Sec. 160 of this chapter is prima facie evidence of the performance of the work or of making the improvements stated in it. If the assessment work affidavit is not filed for record within six months after the close of the assessment work year the claim is abandoned and is subject to relocation by any other person. However, compliance with the provisions of Sec. 10-70 and 150-190 of this chapter before a relocation saves the rights of the last locator, claimant or owner of a forfeited claim. If a claim is not relocated by any other person within one year after a forfeiture, the last locator, claimant or owner of the forfeited claim may return to the forfeited claim and relocate it as though it had never been located.

Sec. 27.10.230. Surveys may qualify as annual labor. The term "labor" where used in Sec. 130 and 150 of this chapter includes, without being limited to, geological, geochemical and geophysical surveys conducted by qualified experts and verified by a detailed report filed in the recording district office in which the claim is located which sets forth fully: (1) the location of the work performed in relation to the point of discovery and boundaries of the claim, (2) the nature, extent, and cost thereof, (3) the basic findings therefrom, and (4) the name, address, and professional background of the person or persons conducting the work. Surveys of this kind, however, may not be applied as labor for more than two consecutive years or for more than a total of five years on any one claim, and each of these surveys shall be nonrepetitive of any previous survey on the same claim.

Sec. 27.10.240. Definitions. In Sec. 230 of this chapter

(1) the term "geological surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of geology as they relate to the search for and discovery of mineral deposits;

(2) The term "geochemical surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of chemistry as they relate to the search for and discovery of mineral deposits;

(3) the term "geophysical surveys" means surveys on the ground for mineral deposits through the employment of generally recognized equipment and methods for measuring physical differences between rock types or discontinuities in geological formations;

(4) the term "qualified expert" means an individual qualified by education or experience to conduct geological, geochemical, or geophysical surveys.

#### STATE LAWS APPLICABLE ON STATE OWNED LANDS

The following sections are from the Alaska Statutes Title 38 (AS 38)

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 Sec. 185-280 of this chapter. Nothing in Sec. 185-280, of this chapter, affects the laws 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 mines only under lease, and, subject to the limitations of Sec. 300 of this chapter, those lands which shall be closed to mining.

(b) The failure on the part of a mining lessee or a locator to comply strictly with Sec. 185-280 of this chapter 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 in 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 Sec. 185-280 of this chapter.

Sec. 38.05.190. Qualifications (a) The right to acquire, exploration and mining rights under Sec. 185-280 of this chapter may be acquired or held only by:

- (1) Citizens of the United States at least 19 years of age;
- (2) legal guardians or trustees of citizens of the United States under 19 years of age on behalf of such citizens;
- (3) persons at least 19 years of age who have declared their intention to become citizens of the United States;
- (4) aliens at least 19 years of age if the laws of their country grant like privileges to citizens of the United States;
- (5) associations of such persons;
- (6) corporations organized under the laws of the United States of any state or territory of the United States and qualified to do business in the State, except that if more than 50 percent of the stock of a corporation is owned or controlled by aliens who are not qualified the corporation isn't qualified to acquire or hold such rights.

(b) If an unqualified person acquires an interest in exploration or mining rights by operation of law, he shall be allowed two years in which to become qualified or to dispose of his interest to a qualified person.

Sec. 38.05.195. Mining Claims Rights to deposits of minerals subject to Sec. 185-280 of this chapter in or on state lands which are open to claim staking may be acquired by discovery, location and filing as prescribed in Sec. 185-280 of this chapter. The locator has the exclusive right of possession and extraction of all such minerals lying within the boundaries of his claim. A location may not exceed 1,320

feet in its longest dimension, and its boundaries shall run in the four cardinal directions. A location shall be distinctly marked on the ground in the manner prescribed by the commissioner and a notice of location shall be posted on the claim in the manner and containing the information required by the commissioner. Within 90 days after the date of posting the notice of location on the claim, the locator shall file for record in the recording district where the claim is located a certificate of location. The certificate of location shall contain the information required by the commissioner. Locations may be amended in the manner and with the effect prescribed in Sec. 200 of this chapter. Annual labor shall be performed and statements of annual labor recorded as prescribed in Sec. 210-235 of this chapter.

Sec. 38.05.200. Changes in locations and amended notices. Notices may be amended at any time and monuments changed to correspond with the amended location but no change may be made which interferes with the rights of others. Whenever monuments are changed or an error is made in the notice or in the certificate of location, an amended certificate of location shall be filed for record in the same manner and with the same effect as the original certificate.

Sec. 38.05.205. Mining leasing. (a) Prior discovery, location and filing shall initiate prior rights to mineral deposits subject to Sec. 185-280 of this chapter 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 Sec. 195 of this chapter. If the located lands are available only for leasing, an application form for a mining lease shall be mailed to the locator by the director upon request or upon receipt of notice that the location has been made on lands open only for leasing. 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 his prior rights shall terminate. A mining lessee has the exclusive rights of possession and extraction of all minerals subject to Sec. 185-280 of this chapter lying within the boundaries of his lease. 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 Sec. 210 of this chapter 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 Sec. 210 of this chapter 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 Sec. 195 of this chapter 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.

Sec. 38.05.210. Annual Labor. Labor shall be performed or improvements made annually on or for the benefit or development of each mining claim on state land except that where adjacent claims are held in common, the expenditure may be made on any one claim. The commissioner shall establish the date of the commencement of the year during which the labor or improvements are to be performed. Labor shall be performed at the annual rate of \$200 per claim. If more work is performed than is required by this section to be performed in any one year, the excess work up to a value

of \$800 may be applied against labor required to be done during the subsequent year or years. Sections 240 and 280 of this chapter apply to this section. During the year in which the performance of annual labor is required or within 90 days after the close of that year, the owner of the mining claims or some person having knowledge of the facts shall file for record with the recorder of the district in which the claim is located a signed statement setting out the information, as may be required by the commissioner, concerning the annual labor of the preceding year and any labor in excess of that required for the preceding year. The statement, properly filed, is prima facie evidence of the performance of the annual labor. The failure of any one of several owners to contribute his portion of the expenditures required for annual labor shall be treated in accordance with secs. 215-235 of this chapter.

"Annual labor" is further defined on page 17 by the Alaska Administrative Code (Register 51, dated October 1974):

Sec. 38.05.215. Notice to co-owners to contribute to cost of annual labor or improvements and forfeiture for failure to contribute. If one of several co-owners fails to contribute his proportion of the expenditures required for annual labor, the co-owners who have performed the labor or made the improvements may, at the expiration of the annual labor year, give the delinquent co-owners personal notice in writing, or notice by publication in the newspaper published nearest the claim for at least once a week for 90 days, and, if at the expiration of 90 days, after service of the notice in writing, or 90 days after the completion of the publication, the delinquent fails or refuses to contribute his proportion of the required expenditures, his interest in the claim is forfeited to his co-owners who have made the expenditures.

Sec. 38.05.220. Recording the notice to contribute and affidavits. (a) Within 120 days after personal service, or within 120 days after the completion of publication of the notice provided for in Sec. 215 of this chapter, the co-owner who claims the forfeiture shall file for record in the office of the recorder of the recording district in which the claim is located a copy of the notice with the following affidavits attached:

- (1) an affidavit of the person serving the notice giving the time, place and manner of service and by whom and upon whom the service was made or if service was made by publication in a news paper, an affidavit of the editor, publisher, printer or foreman of the newspaper giving the name of the newspaper, the place where, and the time during which the notice was published and the number of insertions;
- (2) An affidavit of the co-owner who claims the forfeiture stating that neither the delinquent co-owner nor any person acting for him has paid or tendered to the affiant the delinquent's proportion of the expenditures for annual labor or improvements;

(b) The record of the notice and affidavits or a certified copy of it is prima facie evidence of the facts contained in it.

Sec. 38.05.225. Lienholder may perform the annual labor. A person who holds a claim to or lien upon an unpatented mining claim under a certificate of sale, mortgage attachment, levy, judgment, or other lien may, when it is necessary for the protection of his lien or claim, go upon the mining claim and perform or cause to be performed the annual labor required by law to prevent forfeiture. Before performing the labor he shall mail a written notice of his intention to perform the annual labor on the claim to the owner of the claim at his last known address.

Sec. 38.05.230. Lien for performance of annual labor. (a) The person performing or causing to be performed annual labor upon an unpatented mining claim as provided in Sec. 225 of this chapter shall have a lien upon the claim for the assessment work,

including the reasonable cost of transportation to and from the claim, incurred in doing the work. The lien is enforced either as in other suits for the foreclosure of liens upon real property or as supplemental accruing costs in an action, if any, then pending in which the claim has been levied upon by attachment, execution or other court process.

(b) A person claiming a lien under this section shall, within 90 days after the completion of the annual labor for which the lien is claimed, file for record in the office of the recorder of the recording district in which the property on which the lien is claimed is situated his notice of claim of lien, verified by his oath or that of some other person having knowledge of the facts, and stating the name of the owner or reputed owner of the property, the amount of the claim, the time of the performance of the annual labor for which the lien is claimed, the nature of the labor done or improvements made, and the amount of the claim, including costs of transportation, after deducting all just credits and offsets.

(c) An independent suit or action brought to enforce a lien under this section shall be commenced within six months after the filing for record of the notice of claim of lien.

Sec. 38.05.235. Lien for annual labor is independent of other liens. The lien given for the performance of annual labor, by Sec. 230 of this chapter, if the work is done in good faith and necessarily for the protection either of possession under a certificate of sale or of an attachment, levy, mortgage, judgment or other lien, remains in effect notwithstanding the contemporaneous or subsequent vacation, dissolution, or setting aside of, or redemption from, the certificate of sale, attachment, levy, mortgage, judgment or other lien.

Sec. 38.05.240. Labor defined for Secs. 210-235 of this chapter. The term "labor" where used in secs. 210-235 of this chapter includes, without being limited to, geological, geochemical, geophysical and airborne surveys conducted by qualified experts and verified by a detailed report filed in the recording district office in which the claim is located which sets out fully (1) the location of the work performed in relation to the point of discovery and boundaries of the claims, (2) the nature, extent and cost thereof, and (3) the name, address, and professional background of the person or persons conducting the work. Basic survey finds shall be filed in the central recording office of the Department of Natural Resources, but kept confidential and released only if the claim or prospecting site lapses. The commissioner, by regulation, shall define the nature of acceptable survey work and the qualifications of a person competent to perform this work. The airborne surveys, however, may not be applied as labor for more than two consecutive years or for more than a total of five years on any one mining claim, and each of those surveys shall be nonrepetitive of any previous survey on the same claim.

Sec. 38.05.245. Prospecting sites. (a) Before the discovery of valuable minerals, an exclusive right to prospect by geophysical, geochemical and similar methods may be acquired by marking boundaries and posting a notice of location of a prospecting site in a manner and containing such information as the commissioner requires. A prospecting site may not exceed 2,640 feet in its longest dimension and its boundaries shall run in the four cardinal directions. A certificate of location shall be filed for record in the recording district where the prospecting site is located within 90 days after posting the notice of location, and a copy of the certificate shall also be mailed to the director within the 90 day period. The locator of a prospecting site has the exclusive right to stake mining claims or leasehold locations within the boundaries of his site.

(b) No prospecting site location may include within its exterior boundaries, nor shall its boundaries be coincident with more than one boundary of any mining claim, min-

ing leasehold location, or land under a mining lease, unless the locator of the prospecting site is also the owner, optionee or lessee of said mining property. If such mining property or area is so included or bounded, the prospecting site is void.

(c) No person may locate more than six prospecting sites in one calendar year in one recording district. A prospecting site remains in effect for one year after the notice of location is posted and may, at the discretion of the director, be extended for one year periods. During each year, work of a type compatible with the purpose of this section and acceptable to the director shall be done. The minimum expenditure for the work shall be established by the commissioner uniformly for all prospecting sites. Where adjacent prospecting sites are held in common the expenditure may be made on any one or more locations. If a prospecting site expires, neither the locator nor his successor in interest may again locate the same prospecting site or any portion of it, as a prospecting site, for a period of two years following the date of expiration or abandonment; nor may he, during the two years, either directly or indirectly, obtain a beneficial interest in the same prospecting site or a portion of it.

Sec. 38.05.250. Tide and submerged lands. (a) The exclusive right to prospect for deposits of minerals subject to Sec. 185-275 of this chapter in or on tide and submerged state lands may be granted by a permit issued by the director. Permits shall be granted to the first qualified applicant. No permit may include an area larger than 2,560 acres, subject to the rule of approximation. Lands subject to a prospecting permit shall be as compact in form as possible taking into consideration the area involved. The term of the permit shall be 10 years. Prospecting permits shall be conditioned upon payment of rental against which credit shall be given for useful expenditures on land covered by the permit or group of contiguous permits under common ownership or assignment. The rental shall be \$1 per acre for the first two-year period of the permit, payable at the end of the period, and \$1 per acre for each year thereafter, payable at the end of each year. No minerals from lands under a prospecting permit may be mined and marketed or used, except for limited amounts necessary for sampling or testing.

(b) Upon discovery, the right to possess and extract the minerals may be acquired by noncompetitive lease. A noncompetitive lease shall be granted to a holder of a prospecting permit for so much of the land subject to the permit as is shown to the satisfaction of the director to contain workable mineral deposits. Submerged lands containing known deposits of minerals subject to Sec. 185-275 of this chapter may, in the discretion of the director, be offered by competitive bid. These lands shall be leased to the responsible qualified person offering the highest amount of cash bonus.

(c) Leases for submerged lands shall be conditioned upon payment of an annual rental of \$1 per acre. Expenditures on or for the benefit of the leasehold may be credited against the rental. Rent shall be paid or a statement of annual labor shall be filed within 90 days after each anniversary date of the lease. All submerged land mining leases shall be for a period of up to 55 years, and the lessee has the 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 years period, based upon changed conditions in production costs and market.

Sec. 38.05.255. Surface Use. Surface uses of land or waters included within mining properties by owners of those properties shall be limited to those necessary for the prospecting for, extraction of, or basic processing of mineral deposits and shall be subject to reasonable concurrent uses. Permits for millsites and tailings disposal may be granted by the director. The permits shall be conditioned upon payment of a reasonable charge for the use and continuance of the limited use. Timber



from lands open to mining without lease, except timberlands, may be used by a mining claimant or prospecting site locator for the mining development of his location or adjacent claims under common ownership. On other lands, timber may be acquired as provided elsewhere in this chapter. Use of water shall be made in accordance with Sec. 260 of this chapter and rules and regulations adopted under it or in accordance with any law amending or superseding that section.

Sec. 38.05.265. Abandonment. Failure to (1) properly file for record a certificate of location or a statement of annual labor, or (2) file with the director within the time prescribed a lease application or a copy of a prospecting site location certificate, or (3) pay rental or receive credit for rental, or (4) keep location boundaries clearly marked, all as required by this article and by regulations adopted under Sec. 185-280 of this chapter, constitutes abandonment of all rights acquired under the mining lease, locations, or site involved, and it is subject to relocation by others. If a location is not relocated by another person within one year after such failure, or, in the case of a prospecting site, two years, the locator or claimant of the abandoned location, or his successor in interest, may return to relocate it as though it had never been located. A statement of annual labor which does not accurately set out the essential facts is void and of no effect.

Effective September 4, 1974 the State adopted regulations requiring mining claimants on State lands to file with the Division of Lands, Minerals Section, a copy of any document required by the statutes to be filed for record in the recording district. Considerable publicity to the regulation change has been given through the news media and Division of Lands mailing lists. However, because many mining claimants may not have received notice through this publicity, the Division of Lands has researched the mining records to determine claims that may lie within State selected areas. Claimants thus identified will be individually notified.

If a claimant receives one of these notices, or he otherwise believes his location is in the vicinity of State lands, he should first determine if his claim is, in fact, in conflict with State selected areas. This can be accomplished by researching land records in the U. S. Bureau of Land offices in Fairbanks or Anchorage or in the Division of Lands offices in Anchorage, Fairbanks, or Juneau. Written inquiries to the State should be directed to the Anchorage office of the Division of Lands and should specify the claim name and located date and contain a map or other data showing the exact location of the claim.

If the claim is on State lands the claimant should determine if his location date precedes the State selection date. If the claim was filed after the lands were selected by the State, the claim can only come under State law and the claimant must comply with the State regulations including the filing requirements mentioned above. If the location date precedes selection of the lands by the State the claimant can either protest the selection of land by the State with the objective of keeping his claim under Federal law and administration or he can do nothing and allow the land to transfer to the State and have his claim administered by the State under State law.

Sec. 38.05.270. Transfers. The sale, lease or other transfer of mining property or interest in mining property shall be recorded or shall be approved by the director in compliance with such regulations as the commissioner may adopt. The heirs and assigns of mining property or interest in mining property have the same rights and duties as their predecessors.

Sec. 38.05.275. Recognition of locations. Mining locations made on state lands, including shorelands, tidelands or submerged lands, or selected lands, under Sec. 185-280 of this chapter or in the manner described as AS 27.10.010-27.10.240 acquires for

the locator mining rights under Sec. 185-280 of this chapter, subject to existing claims and to any denial of or restriction in the tentative approval of state selection or the patent of the lands to the state. If shorelands, tidelands or submerged lands are included in a mining location or within the projected boundaries of a mining location made in accordance with this section, the locator is required to file a certificate of location with the Division of Lands within 90 days following the date of posting the notice of location, in addition to filing a certificate of location as required by Sec. 195 of this chapter. The certificate of location must identify the position of the mining location in the system of rectangular or protracted surveys.

Sec. 38.05.280. Definitions. In Sec. 210-240 of this chapter:

- (1) "geochemical survey" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of chemistry as they relate to the search for and discovery of mineral deposits;
- (2) "geological surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of geology as they relate to the search for and discovery of mineral deposits;
- (3) "geophysical surveys" means surveys on the ground for mineral deposits through the employment of generally recognized equipment and methods for measuring physical differences between rock types or discontinuous in geological formations;
- (4) "qualified expert" means an individual qualified by education or experience to conduct geological, geochemical or geophysical surveys, as the case may be;
- (5) "airborne survey" means a survey from the air for mineral deposits by the proper application of magnetometers, electromagnetic input systems, infrared detectors, side-looking radar, vertical and panoramic cameras and other devices as they relate to the search for and discovery of mineral deposits.

"11 AAC 86.220. ANNUAL LABOR. (a) The first annual labor year commences at noon on the first day of September following the date of location of a claim. The date of the commencement of each annual labor year thereafter is noon on the first day of September.

"(b) The work required does not necessarily have to be done within the boundaries of the claim, but it must develop or benefit the claim. No credit is allowed for transportation of men or equipment to or from the claim. Credit is allowed for drilling or excavating, including ore extraction, or for geological, geochemical, geophysical or airplane surveys as provided for in AS 38.05.240.

"(c) Before December 2nd of each year, the owner of each mining claim or some other person having knowledge of the facts shall make and file for record, in conformance with section 130 of this chapter, an affidavit showing the performance of the labor or the making of improvement for the immediately preceding assessment year and any labor in excess of that required for the preceding year which is to be applied to the subsequent year or years. The affidavit must contain:

"(1) the name or number of the mining claim, where situated, and the name and current mailing address of each owner;

"(2) the number of days work done and the character and value of the improvements made;

"(3) the date of performance of the labor and of the making of improvements, and the name and mailing address of the person who did the work;

"(4) the actual amount paid for the work and improvements, and by whom paid, if the work was not done by the owner or his lessee.

"(d) The affidavits required by this section may be made before any officer authorized to administer oaths, or, when no official empowered to administer oaths is available, in the manner provided by AS 09.65.012.

"(e) Acceptable survey work is only that work on which the basic survey finds are filed with the division in a form that can be readily used by the state or the public (upon release of the information), such as maps, reports, records and analyses prepared by qualified experts. The person conducting the work and preparing the information, or the person supervising it, shall certify as to the correctness and completeness of the information and the qualifications of the persons conducting the work and preparing the information.

"(f) To determine the qualifications of a person competent to perform geological, geochemical, geophysical and airborne surveys to qualify as annual labor under AS 38.05.210, a certified statement must be filed with the division by the person responsible for the work showing the education and experience qualifying each person conducting a technical phase of the work to perform the work. On the basis of this information, the director shall determine if the person is a qualified expert as defined by AS 38.05.280(4)."