

**Notes to reader:**

1. Except as discussed in note 2, proposed new text that amends an existing regulation is **bolded and underlined**.
2. If the lead-in line states that a new section, subsection, paragraph, subparagraph, or clause is being added, or that an existing section, subsection, etc. is being repealed and readopted (replaced), the new (or replaced) text is not bolded or underlined.
3. [ALL-CAPS TEXT WITHIN BRACKETS] indicates text that is proposed to be deleted.
4. When the word “including” is used, Alaska Statutes provide that it means “including, but not limited to.”

**PROPOSED REGULATIONS – \_\_\_\_\_**

11 AAC 86.100 is amended to read:

**11 AAC 86.100. Applicability.** The provisions of this chapter apply to the acquisition of mineral rights under AS 38.05.185 - AS 38.05.275 [280], **and AS 38.05.880**. (Eff. 9/15/74, Register 51; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

**Authority:** **AS 27.05.010** AS 38.05.020(b)

11 AAC 86.115 is amended to read:

(b) A location made on state-selected land in accordance with this chapter creates prior rights against subsequent locators, **except for locations described by AS 38.05.275 or as provided in (f) of this subsection**, and becomes a mining claim, leasehold location, or prospecting site when the federal government conveys the selection to the state through tentative approval or patent, whichever occurs first.[, UNLESS] **If** the conveyance restricts or bars the location, or [UNLESS] a state mineral closure

is in effect on the date of the conveyance, **the location made on state-selected land will be void.** If a state leasing restriction is in effect on the date of conveyance, a location made before the conveyance is subject to that restriction. If the land is closed to mineral entry or restricted to leasing after the date of conveyance, a valid location that was made before the conveyance is unaffected.

(c) If only a portion of the area of a mining location on state-selected land is conveyed to the state, only the portion of the mining location that is on the land conveyed becomes a mining claim, leasehold location, or prospecting site. The portion of the area of the location on the state-selected land that is not conveyed continues as a mining location on state-selected land without further action by the locator, **to which the department will assign a unique location number.**

11 AAC 86.115 is amended by adding a new subsection to read:

(f) Written and recorded permission to locate a mining claim on state-selected land located within an active unpatented federal mining claim, as required by AS 38.05.275(a), must be notarized and include the following information:

(1) the full name of the person or persons, who shall be qualified to locate state mining claims under AS 38.05.190, that posted the location on the state-selected location;

(2) the full name of and signature of all active unpatented federal mining claim holders affected by the location;

(3) the claim numbers, and names of the federal claims; and

(4) a signed statement from the federal claim holders authorizing the locator to place the state-selected location within the active unpatented federal mining claim. If simultaneously recording certificates for contiguous locations, the locator may attach the signed statement of permission from the federal claim holders to a single certificate of location and shall cross-reference

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that certificate of location on each other certificate of location to which the statement of permission applies. Any location certificate on state-selected land within an active unpatented federal mining claim that does not include a signed statement of permission or a cross-reference to a certificate of location to which an applicable statement of permission is attached is void. (Eff. 9/5/74, Register 51; am 5/30/85, Register 94; am 5/18/90, Register 114; am 8/26/98, Register 147; am 4/24/99, Register 150; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_)

<b>Authority:</b>	AS 27.05.010	AS 38.05.185	AS 38.05.275
	AS 38.05.020	AS 38.05.211	

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

**11 AAC 86.121 Qualifications.** Acquisition and continuance of mineral rights on state land require a person to be qualified under AS 38.05.190.

(a) In order to remain qualified,

(1) corporations, limited liability companies, or other entities described by AS 38.05.190(a)(5) shall hold a certificate that complies with AS 38.05.190(g). A certificate that is canceled, revoked, or involuntarily dissolved constitutes the loss of qualification, and may result in a declaration by the department that the mineral interest is void in accordance with AS 38.05.190(b) – (f);

(2) trusts shall at all times comply with requirements of AS 38.05.190(a)(6), and the failure to do so may result in a declaration by the department that the mineral interest is void in accordance with AS 38.05.190(b) – (f); and

(3) all members of an association described by AS 38.05.190(a)(7) shall maintain individual qualifications at all times, and the failure to do so may result in a declaration by the

department that the mineral interest is void in accordance with AS 38.05.190(b) – (f).

(b) A declaration by the department that a mineral interest is void due to the failure to become or remain qualified results in the unqualified person losing all rights to exploration or mineral interests; that person may become qualified or requalify pursuant to AS 38.05.190(b) or (e), at which point that person may acquire or hold new rights in exploration or mining interests pursuant to AS 38.05.185 – 38.05.275, and associated regulations.

(c) The department may request proof of qualification under AS 38.05.190 and associated regulations at any time.

(d) A person, other than the department, who believes a defect exists in the qualification status of a qualified person or persons, and who wishes to report that information to the department for the purpose of AS 38.05.190(c), shall do so by submitting a signed, written statement to the department that includes the following information:

(1) the name and address of the person or persons whose qualifications are being challenged as deficient;

(2) any information that supports the basis for a defect in qualification status; and

(3) the name and address of the person alleging the deficiency in qualification status.

(Eff. \_\_/\_\_/\_\_\_\_ Register \_\_)

**Authority:** AS 27.05.010 AS 38.05.020 AS 38.05.190

11 AAC 86.202(a) is amended to read:

(a) An MTRSC [CLAIM] is a claim located as provided in AS 38.05.195(b)(1) and this chapter. An MTRSC leasehold location is a leasehold location located as provided in AS 38.05.195(b)(1), AS 38.05.205, and this chapter.

11 AAC 86.202 is amended by adding a new subsection to read:

(d) Claims or leasehold locations posted per the requirements of AS 38.05.195(b)(1) and (2) must clearly show the actual boundaries of the claim by showing what lands are being claimed and those non-state lands and existing mineral rights within the claim to be excluded from the claim or leasehold location boundaries. (Eff. 1/19/2002, Register 161, am \_\_/\_\_/\_\_\_\_, Register \_\_\_\_)

<b>Authority:</b>	AS 27.05.010	AS 38.05.195	AS 38.05.211
	AS 38.05.020	AS 38.05.205	

11 AAC 86.215(a)(2) is amended to read:

(2) the dates **s, including the month, day, and year,** of **both** the locator's discovery and [THE DATE OF] posting of the notice of location;

11 AAC 86.215(a)(5) is amended to read:

(5) the name and current mailing address of each locator, and the signature of each locator or of the locator's agent; **and, if the location is made on behalf of a trust, the name and mailing address of at least one trustee who is a person described in AS 38.05.190(a)(1)-(5);**

11 AAC 86.215(a)(7) is amended to read:

(7) a map at an indicated scale of 1:63,360 (one inch = one mile) or a more detailed scale that shows the boundaries of the claim or leasehold location, the dominant physical features of the land, **the surveyed section line or, if unavailable,** the protracted [OR SURVEYED] section lines surrounding the location, and, to the best of the locator's knowledge, the relationship of the location to

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adjacent or contiguous mining claims, leasehold locations, mining leases, [AND] prospecting sites, mineral orders, and non-state land; if simultaneously posting contiguous locations, [MORE THAN ONE CONTIGUOUS LOCATION IS BEING RECORDED SIMULTANEOUSLY, ]a single map showing all locations may be attached to one of the certificates of location and that certificate must be [IF THE DOCUMENT TO WHICH THE MAP IS ATTACHED IS] cross-referenced on each other certificate of location to which the map applies.

11 AAC 86.215(b) is amended to read:

(b) Failure to [FILE FOR] record a certificate of location within the time specified in (a) of this section, constitutes an abandonment of the claim or leasehold location under AS 38.05.265(a).

11 AAC 86.215 is amended by adding a new subsection to read:

(g) Locations posted under AS 38.05.195(b) that include both a mining claim and a leasehold location are required to be subdivided and assigned separate and distinct location numbers for each type of location. (Eff. 9/5/74, Register 51; am 12/31/82, Register 84; am 5/30/85, Register 94; am 5/18/90, Register 114; am 8/26/98, Register 147; am 1/19/2002, Register 161; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_\_)

<b>Authority:</b>	AS 27.05.010	AS 38.05.195	AS 38.05.211
	AS 38.05.020	AS 38.05.205	AS 38.05.265

11 AAC 86.220(b) is amended to read:

(b) Qualifying labor is defined by AS 38.05.240. Work performed outside the boundaries of the location must develop or benefit the location to qualify as annual labor. [TRANSPORTATION

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OR WORKERS OR EQUIPMENT TO OR FROM THE LOCATION DOES NOT QUALIFY AS ANNUAL LABOR. DRILLING OR EXCAVATING, INCLUDING ORE EXTRACTION, OR GEOLOGICAL, GEOCHEMICAL, GEOPHYSICAL, OR AIRBORNE SURVEYS, AS PROVIDED FOR IN AS 38.05.240, MAY QUALIFY AS ANNUAL LABOR.]

11 AAC 86.220(c) is repealed:

(c) Repealed \_\_/\_\_/\_\_\_\_.

11 AAC 86.220(d) is amended to read:

(d) A[N] **statement of annual labor** [AFFIDAVIT] required by this section must [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 09.63.020.

11 AAC 86.220(g) is amended to read:

(g) A[N] **statement** [AFFIDAVIT] of annual labor may be **corrected or** amended under AS 38.05.210[(C)]. HOWEVER, AN AFFIDAVIT THAT DOES NOT SET OUT THE ESSENTIAL FACTS IS VOID UNDER AS 38.05.265 AND MAY NOT BE AMENDED.]

11 AAC 86.220(h) is amended to read:

(h) A cash payment made instead of performing annual labor must be received by the department as provided in 11 AAC 86.107 and must be received by the department on or before September 1st of each year. **If mailed, payment must be postmarked on or before September 1 and payment must be received by the department no later than September 15.** The payment must

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be accompanied by a copy of the **statement** [AFFIDAVIT] of annual labor or a statement containing the name and ADL number for the mining claim, leasehold location, or mining lease for which the payment is made. If cash payment is asserted in a[N] **statement** [AFFIDAVIT] of annual labor but is not paid by the end of the labor year, the mining claim or leasehold location will be considered abandoned under AS 38.05.265. [A PERSON MAY NOT MAKE A CASH PAYMENT INSTEAD OF ANNUAL LABOR FOR MORE THAN FIVE CONSECUTIVE YEARS AT A TIME.] A locator who makes a cash payment in lieu of annual labor for one or more years shall also record an affidavit of annual labor under AS 38.05.210 [AND (C) OF THIS SECTION] for each year for which a cash payment is made. **A cash payment will be accepted for only one labor year at a time.**

11 AAC 86.220 is amended by adding new subsections to read:

(i) In order to apply the excess value of labor performed or new improvements made under AS 38.05.210(a) during a mining labor year to a subsequent year or years, for up to four consecutive years, the excess labor performed or improvements made must be described on a previous, timely recorded statement of annual labor.

(j) The owner of a mining claim, leasehold location, or mining lease may apply a combination of excess carry over labor, actual performed labor recorded, and cash payment to the state equal to the value of labor required to meet the minimum annual labor requirements. The cash payment equal to the value of labor required must meet the requirements of (h) of this section, and any combination is subject to the four and five-year limitations on use of excess carry over labor value and cash payments under AS 38.05.210(a).

(k) Consistent with (a) of this section, a mining labor year begins at noon on September 1 of a given year and ends the following year on September 1 at 11:59 am.



(I) A person, other than the department, who believes a deficiency exists in a statement of annual labor, and who wishes to report that information to the department for the purpose of AS 38.05.210(g), shall do so by submitting a signed, written statement to the department that includes the following information:

(1) the names and numbers of the mining claims or leasehold locations being challenged as having deficient statements of annual labor;

(2) the name and address of the claim owner or owners;

(3) the year, document number, and recording district of the statement of labor being challenged;

(4) a description of the believed deficiency on the statement of annual labor that may result in invalidity of the claim or claims; and

(5) the name and address of the person alleging the deficiency in the statement of annual labor. (Eff. 9/5/74, Register 51; am 12/31/82, Register 84; am 5/30/85, Register 94; am 5/18/90, Register 114; am 8/26/98, Register 147; am \_\_\_/\_\_\_/\_\_\_, Register \_\_\_)

<b>Authority:</b>	AS 27.05.010	<u><b>AS 38.05.240</b></u>	<i>Chalovich v. State, Dept. of</i>
	AS 38.05.020	AS 38.05.242	<i>Natural Resources, 104</i>
	AS 38.05.210	AS 38.05.265	P.3d 125 (Alaska 2004)

11 AAC 86.223 (a) is amended to read:

**11 AAC 86.223. Abandonment, relinquishment, and relocation.** (a) For purposes of AS 38.05.265 and this section, a “successor in interests” to a locator or claimant means:

(1) the spouse, child, sibling, or parent of the locator or claimant;

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(2) **any person, association, or entity described in AS 38.05.190(a) that owned an interest in the locator's or claimant's location.** [A PERSON OR ASSOCIATION DESCRIBED IN AS 38.05.190(A) THAT OWNED AN INTEREST IN THE LOCATOR'S OR CLAIMANT'S LOCATION; OR]

[(3) A CORPORATION OR ASSOCIATION THAT IS DESCRIBED IN AS 38.05.190(A)(5) OR AS 38.05.190(A)(6) THAT OWNED AN INTEREST IN THE LOCATOR'S OR CLAIMANT'S LOCATION, BUT ONLY IF A MAJORITY OF THE OWNERSHIP OF THE CORPORATION OR ASSOCIATION IS HELD BY A PERSON OR ASSOCIATION DESCRIBED IN (1) OR (2) OF THIS SUBSECTION.]

(Eff. 8/26/98, Register 147; am 1/19/2002, Register 161; am \_\_/\_\_/\_\_, Register \_\_\_\_)

**Authority:** AS 38.05.020                      **AS 38.05.190**                      AS 38.05.265

11 AAC 86.314 is amended to read:

**Annual Labor.** The annual labor requirements set out in **AS 38.05.210 and** 11 AAC 86.220 apply to a lease. If a lease includes multiple MTRSC locations, or a combination of traditional locations and MTRSC locations, the annual labor rate will be computed by the acreage method under AS 38.05.210(a)(3). (Eff. 1/19/2002, Register 161; am \_\_/\_\_/\_\_, Register \_\_\_\_)

**Authority:** **AS 27.05.010**                      AS 38.05.035                      [AS 38.05.265]  
AS 38.05.020                      AS 38.05.210

11 AAC 88.185 is amended adding new paragraphs to read:

**(38) "qualified expert" means a professional geologist certified under AS 08.02.011, or certified under the applicable occupational licensing statute and regulation of**

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**another state, Canada, or Australia, who is qualified by education or experience to conduct geological, geochemical, or geophysical surveys, as the case may be. A person without the requisite certification may submit a written request to be recognized as a qualified expert to the department based on alternative training or work experience, which the department may approve.**

**(39) “state-selected lands” has the meaning as defined by AS 38.05.275(b).** (Eff.

9/5/74, Register 51; am 3/27/82, Register 81; am 5/30/85, Register 94; am 5/18/90, Register 114; am 5/22/93, Register 126; am 9/10/98, Register 147, 12/26/2019, Register 232; am \_\_/\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 38.05.020

AS 38.05.177