

Chapter 86

Mining Rights

Article 1

General Provisions

**11 AAC 86.100. Applicability.** The provisions of this chapter apply to the acquisition of mineral rights under AS 38.05.185 - 38.05.280.

**11 AAC 86.105. Discovery defined.** "Discovery" means a finding of valuable mineral as would justify an ordinarily prudent person in expending further time, labor, and money upon the property with a reasonable expectation of developing a paying mine.

**11 AAC 86.106. Deferral of rent for annual rental year beginning September 1, 1989.** Repealed.

**11 AAC 86.107. Payments and refunds.** (a) All payments required under this chapter, except for production royalty payments described in 11 AAC 86.769, may be made either by mail or in person as provided in this section.

(b) The proper office for payment made by mail is the financial office of the department. However, on or after June 1, 2002, the rental for a new mining claim, leasehold location, or prospecting site location, other than a converted MTRSC location established under 11 AAC 86.250, may be mailed to the applicable recording district office, if accompanied by the certificate of location to be recorded and by a completed rental payment worksheet provided by the department.

(c) The proper office for payment made in person is either the Anchorage or Fairbanks office of the department. However, on or after June 1, 2002, the rental for a new mining claim, leasehold location, or prospecting site location, other than a converted MTRSC location established under 11 AAC 86.250, may be paid at the applicable recording district office, if accompanied by the certificate of location to be recorded and by a completed rental payment worksheet provided by the department.

(d) If a rental payment is received in an amount in excess of that due for a location, the department will credit the excess amount to rent that might become due for that location, unless a refund is requested. The department will refund the excess amount only if it receives a written request for the refund within 90 days after the date of payment.

(e) A rental payment received for a closed location does not convey mineral rights to that location. The department will refund a payment received for a closed location if it receives a written request for a refund within 90 days after the date of the payment.

(f) The department may not refund a rental payment except as provided in (d) and (e) of this section.

(g) The department may not make a refund of a cash payment of annual labor.

**11 AAC 86.108. Notices.** (a) Any decision or deficiency notice given to a locator under the provisions of this chapter will be made in writing and delivered in person or mailed by certified mail, return receipt requested, to the address of the current owner of the location as shown on the records of the division of mining. Other notices and letters from the department will be delivered in person or sent by first class mail or certified mail to the locator's current address of record.

(b) For purposes of this chapter, the department will consider delivery by certified mail to occur when the receipt is signed. If the addressee neglects or refuses to sign for certified mail, the department will consider delivery to occur when the notice is deposited in a United States post office addressed to the person's current address of record with the department.

(c) A locator must inform the department of the locator's most recent, or permanent, mailing address. The department will make changes to a locator's address of record upon receipt of a written request by the locator.

**11 AAC 86.110. Existing mining claims, federal leases and permits.** Nothing in 11 AAC 86 and 11 AAC 88 adversely affects the continued validity of any lease, permit, license, location, or contract, or any rights arising thereunder, granted or issued by the United States, or any rights acquired or being exercised pursuant to the mining laws of the United States, before the land was acquired by the State of Alaska.

**11 AAC 86.115. Locations on state-selected land.** (a) A location made on state-selected land that has not been conveyed to the state by the federal government through tentative approval or patent is made at the locator's risk. Because the state does not have management authority over the land unless the selection has been conveyed and cannot authorize exploration work or mining until that time, the locator is responsible for obtaining any necessary permits from the federal land manager and other permitting authorities.

(b) A location made on state-selected land in accordance with this chapter creates prior rights against subsequent locators 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 the conveyance restricts or bars the location, or

unless a state mineral closure is in effect on the date of the conveyance. If a state leasing restriction is in effect on the date of the 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 the 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.

(d) The provisions of AS 38.05.210 - 38.05.240 do not apply to locations made on state-selected land until the state receives the conveyance of the selection from the federal government. The first labor year for a mining claim or a leasehold location made on state-selected land begins at noon on the first September 1 after the date the federal government conveys the selection. For the purpose of determining the amount of annual rent, a location on state-selected land is considered to have been first located on the date the federal government conveys the selection through tentative approval or patent, whichever occurs first.

(e) The first annual rental year for a location made on state-selected land begins on the date of conveyance of the selection to the state by the federal government and ends at noon on the following September 1. The first annual rental payment is due on the date of conveyance and must be paid within 90 days after that date. It is the locator's responsibility to determine the date of conveyance. In accordance with 11 AAC 86.107 and 11 AAC 86.215(f), the locator may make a one-time, non-refundable deposit of \$25 for each location made on state-selected land. If the

state receives conveyance to the selection, the department will credit the deposit to the first rental payment that becomes due for the location. In the event the rental deposit amount should ever change, the previous one-time nonrefundable deposit amount does not have to be adjusted so the amount is the same as the new rental deposit amount. A location made on state-selected land that is conveyed to the state by the federal government constitutes an abandonment of the location under AS 38.05.265 if the department has not received the rental payment or rental deposit for the location within 90 days after conveyance of the selection.

**11 AAC 86.120. Conditional mining leases and locations.** Repealed 5/18/90.

**11 AAC 86.125. Failure to comply.** (a) The failure on the part of a mining lessee or locator to comply strictly with the provisions of this chapter and the applicable statutes does not invalidate the mining lessee's or locator's rights if it appears to the satisfaction of the director that the locator or lessee complied as nearly as possible under the circumstances and that conflicting rights are not asserted by another person. Upon written application, the director may issue a certificate of substantial compliance that sets out the specific failure on the part of the lessee or locator and the relief granted. The certificate does not cure any defect not specifically referred to in the certificate. The certificate becomes effective when recorded in the recording district where the located or leased land is located.

(b) An application for a certificate of substantial compliance must include the name and address of the mining lessee or locator, the name of the location or lease, any serial number assigned by the department to the location or lease, an application fee as set out in 11 AAC 05.010(a)(9)(G), a statement of the specific failure to comply the reasons for the failure, and any other information the director considers necessary to determine the circumstances of the case.

**11 AAC 86.130. Filing and recording.** Repealed 12/31/82.

**11 AAC 86.135. Mineral deposits open to location.** (a) Rights in and to deposits of locatable minerals, except on tide and submerged land as specified in (c) of this section, may be acquired by making a mineral location in conformance with AS 38.05.185 - 38.05.275 and 11 AAC 86, unless the deposits are in or on state land that is closed to location. To constitute a valid location, both discovery and posting of the location notice must occur during a time when the land is open to location.

(b) This section constitutes the commissioner's finding, in accordance with AS 38.05.185(a), that selling or leasing of land, or conveying land under AS 29.65.010 - 29.65.140 or AS 38.05.810, other than a locatable mineral interest, with the mineral rights reserved to the state, creates potential use conflicts requiring that mining be allowed only under written leases. If the land remains open to location, a location made on that land after the sale, lease, or conveyance is a leasehold location.

(c) Rights in and to deposits of locatable minerals on tide and submerged land may be acquired only under the provisions of AS 38.05.250 and 11 AAC 86.500 - 11 AAC 86.570, except that tide and submerged land may be included in a location under AS 38.05.195 if two corners are on or above the line of mean high tide.

(d) If the land upon which a location is made is restricted to mining under lease before the discovery date or the date the location notice was posted, the locator has prior rights only to a leasehold location under AS 38.05.205.

(e) Notice will be given under AS 38.05.945 before an order closing land to mining or mineral location or restricting it to mining under lease is issued, amended, or revoked.

**11 AAC 86.140. Drawing of prior existing locations.** The requirement under 11 AAC 86.210(4), 11 AAC 86.215(a)(6), 11 AAC 86.410(a)(4), and 11 AAC 86.410(b)(6) that a locator show the relationship of his location to adjacent and contiguous mining claims, leasehold locations, and prospecting sites held by other parties is for informational purposes only. It is not an admission by the locator of the proper location and maintenance, good standing, or validity of those other claims, locations, or sites.

**11 AAC 86.145. Surface use.** (a) The following provisions apply to land for which the state owns the surface:

(1) A locator does not have exclusive use of the surface of the location. A locator may use the surface of the location only to the extent necessary for the prospecting for, extraction of, or basic processing of mineral deposits. A locator may not restrict public access to or other uses of the surface unless approved in writing by the director. The director may allow the locator to restrict public access or other surface uses of the location only to protect public safety or prevent unreasonable interference with the rights of the locator.

(2) The building, placing, or use of surface structures or other surface improvements, including airstrips and roads, within the boundaries of a mining property must be approved by the director in writing through a plan of operations, land use permit, or other written authorization. The director will only approve surface structures or other surface improvements that are necessary to carry out authorized operations. Factors to be used by the director in approving the surface structures, other surface improvements, or uses include: access to the property, remoteness of location, security of the operations, planned level of operations, existing authorized surface uses, and the current level of activity.

(3) 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" for purposes of AS 38.05.255. The division of forestry must be contacted before using or clearing timber from timberlands.

(4) The director may require documentary evidence of mining activity to support a request for surface use. Failure to provide documentary evidence when required by the director is grounds for denial of the requested surface use. At the request of a person making a request for surface use, the department will keep confidential the cost data and financial information submitted by the person, but the person must clearly identify the cost data and financial information and separate it from information not qualifying under AS 38.05.035(a)(9) for confidential treatment.

(b) If the surface estate or interests in the surface estate are owned by a third party with the minerals reserved to the state under AS 38.05.125, the locator must make provisions under AS 38.05.130 to pay the owner of the surface estate or surface interests for any damage that may be caused by the use or development of that location. If the locator and the owner of the surface estate or interests are unable to reach agreement concerning the provision for payment of damages, the locator may enter the land in the exercise of the locator's right to use or develop the minerals reserved under AS 38.05.125 after a determination by the director that the proposed activities are necessary for the locator to exercise the rights reserved under AS 38.05.125, and after posting a surety bond determined by the director under AS 38.05.130. A locator who wishes to enter the land in this manner shall provide information requested by the director so that the director may make each of the determinations required by this subsection. The locator shall also

comply with requirements for a reclamation plan and bond under AS 27.19.010 - 27.19.100 and 11 AAC 97.010 - 11 AAC 97.640.

**11 AAC 86.150. Plan of operations instead of land use permit.** 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.

**11 AAC 86.155. Sale, lease, or other transfer.** (a) The rights held under a mining location on state land, or any interest in an undivided location, may be sold, leased, or otherwise transferred without the approval of the director. The sale, lease, or other transfer document must be recorded in the district recorder's office for the recording district in which each transferred mining location is located, and the transfer document must include:

(1) for a sale, lease, or transfer that is made on or after 8/26/98, the word "mining" in the title of the document;

(2) the claim name of each location;

(3) the ADL number (if assigned) for each location;

(4) every section, township, range, and meridian in which each transferred mining location is located;

(5) the current mailing address of each party to the transfer; the department will change the owner of record for a mining location on its records if a transfer document containing the information above is recorded.

(b) The failure to comply with the provisions of (a) of this section does not affect the validity or enforceability of the sale, lease, or transfer of a right or interest described in (a) of this section between the parties to the sale, lease, or transfer.

(c) Before a portion of a mining location may be sold or granted, the original location must be physically divided by amending it to reduce its size. A new location must be created on the remaining ground in accordance with this chapter. The original discovery and location dates apply only to the amended location and not to the newly created location. Any sale or grant of rights under either the amended location or the new location must comply with (a) of this section.

## Article 2

### Staking, Recording and Maintaining Claims and Leasehold Locations

**11 AAC 86.200. Discovery required.** No mining claim or leasehold location is complete until after the discovery, as defined in 11 AAC 86.105, of locatable minerals within the limits of the location.

**11 AAC 86.202. MTRSC and traditional mining claims and leasehold locations.** (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.

(b) A traditional mining claim is a claim located as provided in AS 38.05.195(b)(2) and this chapter, and means the same as a non-MTRSC location, as that term is used in AS 38.05.195(b)(2). A traditional leasehold location is a leasehold location located as provided in AS 38.05.195(b)(2), AS 38.05.205, and this chapter.

(c) A traditional location is a traditional mining claim or a traditional leasehold location.

**11 AAC 86.205. Marking locations.** The locator of a mining claim or leasehold location shall designate the location by erecting at each corner of the location substantial monuments of stone or setting posts, not less than three feet in height, not less than two and one-half inches in diameter, and hewn and marked with the name of the location and the number of the monument, beginning with number 1 at the northeast corner and proceeding in a clockwise direction around the location. Where it is impracticable to place a monument in its true position, a witness monument must be erected and marked so as to indicate the true position of the corner. Where locations under common ownership have common corners, a common corner monument may be used.

**11 AAC 86.210. Attaching location notice.** The locator of a mining claim or leasehold location shall personally, or through an agent, attach or post a notice on the monument at the northeast corner of the location. The notice may be in any form, including as a metal tag. The notice must include

(1) the name or number of the mining claim or leasehold location;

(2) the date of posting the notice of location;

(3) if the mining claim or leasehold location is

(A) a traditional location, the length and width of the mining claim or leasehold location in feet; or

(B) an MTRSC location, the meridian, township, range, section, and quarter- or quarter-quarter-section of the mining claim or leasehold location;

(4) a sketch depicting, to the best of the locator's knowledge, the relationship of the mining claim or leasehold location to adjoining and contiguous mining claims, leasehold locations, and prospecting sites; and

(5) the name and current mailing address of each locator.

**11 AAC 86.215. Certificate of location and first rental payment.** (a) Within 45 days after the date of posting of the notice of location, a locator shall record a certificate of location in conformance with AS 38.05.195. The certificate of location must be recorded in the recording district in which the location is situated, on a form approved by the department or on a substantially similar form meeting the recording requirements of 11 AAC 06.040, and must include

(1) the name or number of the location;

(2) the date of the locator's discovery and the date of posting of the notice of location;

(3) for a traditional location, the length and width of the location in feet, and each meridian, township, range, section, quarter-section, and quarter-quarter section in which the location is situated;

(4) for an MTRSC location, the meridian, township, range, section, quarter-section, and if applicable the quarter-quarter-section of the location;

(5) the name and current mailing address of each locator, and the signature of each locator or of the locator's agent;

(6) the name of the recording district in which the location is situated; and

(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 protracted or surveyed section lines surrounding the location, and, to the best of the locator's knowledge, the relationship of the location to adjacent or contiguous mining claims, leasehold locations, mining leases, and prospecting sites; if 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 if the document to which the map is attached is cross-referenced on each certificate of location.

(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.

(c) Repealed 5/30/85.

(d) Repealed 5/30/85.

(e) Repealed 5/30/85.

(f) The first annual rental payment for a new location on state land is due within 45 days after the date of posting of the notice of location. The first annual rental payment for a location on state-selected land is due on the date the federal government conveys all or a portion of the land within the location to the state, must be paid within 90 days after that date, and must be paid as provided in 11 AAC 86.107. A rental payment for a new location must be submitted as provided in 11 AAC 86.107 and must be accompanied by a copy of the certificate of location, whether or not it has been recorded. The first rental payment for a location on state land will be considered as rent for the period from the date of posting to noon of the following September 1. Before the date of conveyance, a locator may submit a payment and certificate of location for a location on state-selected land. As provided in 11 AAC 86.115, the payment will be considered a non-refundable deposit credited to the first rental payment if the selection is conveyed to the state.

**11 AAC 86.220. Annual labor.** (a) Except as provided in 11 AAC 86.115, the first labor year begins at noon on the first September 1 following the date a location notice is posted under 11 AAC 86.210. Each subsequent annual labor year begins at noon on September 1. A location that is located on September 1 will be considered to have been located after noon on that day.

(b) Work performed outside the boundaries of the location must develop or benefit the location to qualify as annual labor. Transportation of 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.

(c) During each labor year in which the performance of annual labor is required, or within 90 days after the close of that annual labor year, the owner of each mining claim, leasehold location, or mining lease on state land or some other person having knowledge of the facts, shall make and file for record an affidavit. The affidavit must describe the performance of the labor or the making of improvements for the immediately preceding year and any cash payment made instead of performing labor. The affidavit must describe any labor in excess of that required for the preceding year that is to be applied to later years, and that excess labor may be applied to any or all of the next four consecutive labor years. The affidavit must contain the following essential facts:

- (1) the name or number of the mining claim, leasehold location, or mining lease;
- (2) every meridian, township, range, and section in which the location or locations are situated, and the recording district in which it is located;
- (3) the name and current mailing address of each owner;

(4) the dates of performance of the labor and the character and value of the improvements made or labor performed, or the amount of cash payment made instead of annual labor; and

(5) the value of excess work to be applied from previous years.

(d) An affidavit 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 09.63.020.

(e) Repealed 5/30/85.

(f) Repealed 5/30/85.

(g) An affidavit of annual labor may be 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.

(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. The payment must be accompanied by a copy of the 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 an 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 must 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.

**11 AAC 86.221. Annual rental.** (a) A rental payment for a mining claim or leasehold location must be made in accordance with 11 AAC 86.107. The first rental payment for a new location must be made in accordance with 11 AAC 86.215(f). Each subsequent payment must be accompanied by a rental form provided by the department, a photocopy of that form, or a rental form approved by the director. The rental form must contain the name and address of the owner of record and the name and ADL number of the claim or leasehold location. The department will, in its discretion, refuse to accept a payment submitted without the required information.

(b) Except as provided in (f) of this section, the amount of the annual rental payment is based on the number of years since a mining claim or leasehold location was first located, as follows:

Number of Years Since First Located	Rental Amount for Each Quarter-Section Size MTRSC Location	Rental Amount for Each Quarter-Quarter Section Size MTRSC Location	Rental Amount for Each Traditional Mining Claim or Leasehold Location
0-5	\$140	\$35	\$35
6-10	\$280	\$70	\$70
11 or more	\$680	\$170	\$170

(c) For purposes of determining the amount of annual rental, a claim or leasehold location located on state land on or before August 31, 1989, is considered to have been first located on August 31, 1989, and the first rental year for such a claim or leasehold location is considered to have begun at noon on September 1, 1989. The first rental year for a claim or leasehold location located on or after September 1, 1989, begins on the date of posting location and ends at noon on the following September 1. The first rental year for a claim or leasehold location located on state-selected land begins on the date the federal government conveys the land to the state and ends at noon on the following September 1. A claim or leasehold location located on any September 1 will be considered to have been located after noon on that day.

(d) The rental payment for each subsequent rental year is due on September 1 and must be paid on or before November 30.

(e) If a locator fails to make a timely rental payment, the claim or leasehold location will be considered abandoned under AS 38.05.265. If a rental payment is timely submitted to the department, but the director determines that the payment is less than the amount due, the locator will be granted 30 days after a deficiency notice is delivered under 11 AAC 86.108 to submit the additional rental due. In the deficiency notice, the department will advise the locator that if full payment is not received within the 30-day period, the deficient payment will be applied until exhausted to the claims and leasehold locations with the lowest ADL numbers. The claims and leasehold locations with the remaining ADL numbers for which rent was due and full payment not received will be considered abandoned without further notice.

(f) The following additional rules apply to a rental determination:

(1) for the rental year following the year in which a new MTRSC location is established, the new MTRSC location is entitled to a 50 percent reduction in the rental that would otherwise be due based on the size of the new MTRSC location;

(2) for the rental year following the year in which a traditional location is converted to an MTRSC location, the converted MTRSC location is entitled to a 50 percent reduction in the rental that would otherwise be due based on the size and rental age of the converted MTRSC location as determined under 11 AAC 86.260;

(3) if a traditional location is converted into an MTRSC location, the annual rental for the converted MTRSC location is based on its size and its rental age as determined under 11 AAC 86.260;

(4) the annual rental for a location established by a locator or a locator's successor in interest under the circumstances described in 11 AAC 86.223(c) or (d) is based on the location's size and on the number of years since the relinquished or existing location was first located.

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

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

(2) 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.

(b) A locator may not include in a new location any part of a mining claim or leasehold location abandoned under AS 38.05.265 less than a year ago by that locator or by a person to whom the locator is a successor in interest, regardless of whether the abandoned location was an MTRSC or a traditional location.

(c) The posting date for a relinquished MTRSC or traditional location will be used as the date for determining the rental owed under 11 AAC 86.221(b) for a new traditional location, a new MTRSC location, or a traditional location that is converted to an MTRSC location under 11 AAC 86.250 - 11 AAC 86.255 if

(1) the relinquished location is relinquished under circumstances not constituting abandonment under AS 38.05.265;

(2) within a year after relinquishing the relinquished location, its former owner or a successor in interest posts the new traditional location, the new MTRSC location, or the converted MTRSC location; and

(3) the new traditional location, the new MTRSC location, or the converted MTRSC location includes any part of the relinquished location.

(d) If a locator posts an MTRSC location over an existing location, and is the locator of or a successor in interest to the locator of the existing location, the new location will be considered to be a converted MTRSC location that is subject to 11 AAC 86.250.

**11 AAC 86.225. Service of notice on co-owners.** The service of written personal notice authorized by AS 38.05.215 shall be made by certified mail only.

**11 AAC 86.230. Recordation of sale, lease, or other transfer.** Repealed 5/30/85.

### Article 3

#### Converted MTRSC Locations

**11 AAC 86.250. General principles for conversion of a traditional location to a converted MTRSC location.** One or more traditional mining claims or leasehold locations may be amended at any time to establish one or more converted MTRSC locations. The following rules apply to a conversion:

(1) all or part of a traditional location may be included in the converted MTRSC location; each converted MTRSC location must be supported by a discovery somewhere within its boundaries;

(2) if only part of a traditional location is included in the converted MTRSC location, the remaining part may be either relinquished or relocated as an amended location;

(3) a converted MTRSC location does not establish locatable mineral rights to an area outside the traditional location if that area is not open to location;

(4) conversion of a traditional location to a converted MTRSC location is not complete unless the annual rental due on the traditional location for the year in which the conversion occurs is timely paid in full; the failure to timely pay the required rental on the traditional location results in abandonment of both the converted MTRSC location and traditional locations under AS 38.05.265.

**11 AAC 86.255. Certificate of location for a converted MTRSC location.** In addition to marking the location as required by 11 AAC 86.205 and attaching a notice of location as required by 11 AAC 86.210, a locator establishing a converted MTRSC location must record a certificate of location within 45 days after posting the converted MTRSC location. The certificate of location must be recorded in the recording district in which the converted MTRSC location is situated, on a current form approved by the department for conversions or on a substantially similar form meeting the recording requirements of 11 AAC 06.040, and must include

(1) the location name or number of the converted MTRSC location, and the meridian, township, range, section, and quarter- or quarter-quarter-section of the location;

(2) for each traditional location being converted to the MTRSC location, the ADL number, if assigned, location name, discovery date, posting date, and

(A) original book and page of recording; or

(B) recording office serial number;

(3) the name of the recording district in which the converted MTRSC location is situated;

(4) the name and current mailing address of each locator, and the signature of each locator or of the locator's agent;

(5) 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 converted MTRSC location and each existing location being converted, the dominant physical features of the land, the protracted or surveyed section lines surrounding the converted MTRSC and existing locations, and, to the best of the locator's knowledge, the relationship of the locations to adjacent or contiguous mining claims, leasehold locations, mining leases, and prospecting sites; if the converted MTRSC location is being recorded simultaneously with one or more contiguous converted MTRSC or new locations, a single map showing all 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

(6) proof of ownership transfer, if the locator of the converted location is not the owner of record of each existing location being converted; that proof must be filed with the certificate of location.

**11 AAC 86.260. Rental age of a converted location.** For purposes of establishing the annual rental owed under 11 AAC 86.221, the rental age of a converted MTRSC location is the number of years since the first posting of the traditional location from which the MTRSC location was converted. If more than one existing traditional location is used to establish a converted MTRSC location, the rental age of the converted location is the average of the rental ages of the existing traditional locations, then rounded to the nearest whole year. For purposes of calculating that average,

(1) if a converted quarter-section MTRSC location includes fewer than four existing traditional locations, the department will count each existing location's rental age as only

25 percent of the average; additional imaginary locations, each assumed to be one year old and each counting as 25 percent, will be added to the average to reach 100 percent; the average age will then be rounded to the nearest whole year; and

(2) the rental age of a relinquished location, as determined by that location's posting date, will be included in calculating a converted MTRSC location's rental age if the converted MTRSC location

(A) includes any part of the relinquished location;

(B) is established less than a year after the relinquishment; and

(C) is established by the locator of the relinquished location or by that locator's successor in interest under 11 AAC 86.223.

**11 AAC 86.265. Credit or deficiency in payment of rental on a converted location.**

(a) The annual rental paid in the year of conversion on an existing location included in whole or in part in a converted MTRSC location will be credited as a timely payment to the first-year rental owed on the converted MTRSC location. If parts of the existing location are included in more than one converted MTRSC location, the department will allocate the rental payment equally to the first-year rental owed on each converted MTRSC location. If a deficiency exists, the department will mail a deficiency notice to the locator as provided in 11 AAC 86.221(e) to permit payment of the balance owed. If an excess exists, it will be credited to rent owed for the converted MTRSC location in the second and subsequent rental years until exhausted. If a deficiency is not cured in accordance with notice from the department, the

(1) converted location will be considered abandoned under AS 38.05.265; and

(2) department will consider the traditional location from which the abandoned location was converted to continue in force and be subject to this chapter as if the conversion had not occurred.

(b) The annual rental owed on a converted MTRSC location in the next and subsequent rental years following the year of conversion is due and payable in accordance with 11 AAC 86.221. From the rental owed on a converted MTRSC location in the rental year following the year of conversion, the department will deduct the 50 percent discount described in 11 AAC 86.221(f)(2), together with any credit for overpayment of first-year rental. The overpayment credit, if any, and the 50 percent rental discount are considered timely partial payment toward the second-year rental.

**11 AAC 86.270. Labor obligation on a converted location.** The labor obligation required to be met in the year that an existing location is included in a converted MTRSC location must still be satisfied and is subject to AS 38.05.265 as if a conversion had not occurred.

**11 AAC 86.290. Definitions.** In 11 AAC 86.250 - 11 AAC 86.290, unless the context requires otherwise,

(1) "conversion" means the amendment of one or more traditional mining claims or traditional leasehold locations to establish an MTRSC location;

(2) "converted MTRSC location" means an MTRSC location established by means of a conversion.

#### Article 4

#### Upland Mining Leases

**11 AAC 86.300. Preference right by leasehold location.** The preference right to a lease that is acquired by establishing and maintaining a leasehold location remains in existence until a lease is issued, the leasehold location is adjudicated and found invalid, or the leasehold location is abandoned.

**11 AAC 86.305. Applications for lease.** (a) When the division receives a copy of a certificate of location for a location on state land that is restricted to mining under lease, 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 form to the locator only when

(1) the division learns that the locator is ready to begin production or, if authorized by sec. 5, ch. 108, SLA 1981, as amended by sec. 1, ch. 90, SLA 1985, the locator is already producing;

(2) the locator requests a lease application form; or

(3) the locator of a mining claim requests a lease application form.

(c) The lease application submitted by a person described in (b) of this section 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.

(d) The division will reject a lease application and the location will be void if the director determines, after a review of all documents that are filed, a field examination, or analysis of other information, that

(1) the requirements of AS 38.05.185 - 38.05.275 have not been met;

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

(3) the land is closed to mining.

(e) The division will reject a lease application received

(1) for a location on state-selected land that has not been conveyed to the state by the federal government; and

(2) for other land to which the state does not hold title to the locatable mineral estate.

(f) The director will send by certified mail a copy of the notice described in (b) of this section to the holders of apparent conflicting rights as shown on state land records. Any assertion of conflicting rights must be received by the director within 30 days of the date of the notice unless the director authorizes an extension of time. The assertion of conflicting rights must be in writing and must describe:

(1) the conflicting rights asserted; and

(2) any factual or legal basis for, and documents in support of, the conflicting rights.

(g) If conflicting rights are asserted by another locator and the director decides not to adjudicate the conflict, the division will reject the lease application and advise the parties to resolve the conflict. A person may file a new lease application after the conflict between the parties has been resolved.

(h) The division may not adjudicate a lease application that does not meet the requirements of this section, or that otherwise deviates from the form provided by the division.

The division will return the application to the applicant with an explanation of the reason for its return. A new lease application may be filed later.

**11 AAC 86.308. Rental.** Repealed 5/18/90.

**11 AAC 86.309. Showing of discovery.** (a) The director will, in his or her discretion, at any time, require a showing of discovery for each mining claim or leasehold location included within a leasehold or listed in a lease application.

(b) The showing of discovery required of a lessee must relate to the discovery originally sworn to in the application for a lease. However, the showing may be supported with subsequently acquired data.

(c) The statement of discovery sworn to in a lease application is not confidential, but any supplemental geological, geophysical, or engineering data supplied in support of a showing of discovery will, upon the lessee's request, be kept confidential by the state and by any agents or experts consulted or retained by the state to assist in the determination of the existence of a discovery.

(d) A mining claim or leasehold location determined by the director to lack a discovery is void and will be excluded or removed from the leasehold or the lease application.

**11 AAC 86.310. Bond.** Repealed 5/30/85.

**11 AAC 86.311. Survey of exterior boundary.** (a) Unless otherwise specified by the director, 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 instructions issued by the department.

(b) Repealed 1/19/2002.

**11 AAC 86.312. Lease duration.** A lease will be issued for a term of 20 years, subject to renewal as provided in AS 38.05.205(c). However, the director will, in his or her discretion, set a different term if justified on the basis of the expected mine life.

**11 AAC 86.313. Annual rental.** (a) The provisions of this section apply to rental payments for mining leases other than for leases under AS 38.05.250.

(b) A rental payment for a mining lease must be made in accordance with 11 AAC 86.107 and must be accompanied by a rental form provided by the department, a photocopy of that form, or a form approved by the director. The form must contain the name and address of the owner of record and the ADL number of the mining lease.

(c) The annual rental amount is based on the number of acres included in the lease and the number of years since the predecessor claim or leasehold location of the mining lease was first located, as follows:

Number of Years Since First Located	Rental Amount Per Acre for Mining Lease
0-5	\$0.88
6-10	\$1.75
11 or more	\$4.25

Before survey under 11 AAC 86.311, the rent will be based on the number of acres estimated in the lease document.

(d) If a mining lease contains more than one claim or leasehold location, the predecessor claim or leasehold location for determining the rental amount is the claim or leasehold location that was located first.

(e) For purposes of determining the amount of annual rental, a claim or leasehold location located on state land on or before August 31, 1989, is considered to have been first located on August 31, 1989, and the first rental year for such a claim or leasehold location is considered to

have begun at noon on September 1, 1989. The first rental year for a claim or leasehold location located on or after September 1, 1989, begins on the date of posting location and ends at noon on the following September 1.

(f) The first annual rental payment for a mining lease that becomes effective after August 31, 1989 will be applied to the period from the effective date of the lease to the next September 1.

(g) A rental payment that was paid for a predecessor mining claim or leasehold location during the rental year in which a lease is issued will be credited toward the first annual rental payment under the lease.

(h) The rental payment for each subsequent rental year is due on September 1 and must be paid on or before November 30.

(i) If the lessee fails in whole or in part to make a timely rental payment, the mining lease will be considered in default and the department will supply the lessee a deficiency notice in accordance with 11 AAC 86.108, describing the lease in default by the lease's ADL number. In the notice, the department will advise the lessee that the lease will be terminated without further notice if the department does not receive the required payment in full within 30 days after the lessee's receipt of the notice.

**11 AAC 86.314. Annual labor.** The annual labor requirements set out in 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).

**11 AAC 86.315. Termination.** Repealed 5/30/85.

**11 AAC 86.320. Relinquishment.** Repealed 5/30/85.

**11 AAC 86.321. Surrender.** Unless otherwise specified by the director, 11 AAC 82.635 applies to the surrender or relinquishment of an upland mining lease.

**11 AAC 86.325. Transfers.** Repealed 5/30/85.

**11 AAC 86.350. Termination of lease and reissuance.**

## Article 5

### Prospecting Sites

**11 AAC 86.400. Purpose and rights acquired.** (a) A prospecting site may be located at the option of the prospector and nothing in this chapter requires that a prospecting site location must be made before any prospecting work may be done on state land.

(b) The holder of a prospecting site on state land has the exclusive right, subject to any prior rights, to use the surface within the boundaries of the location for performing work acceptable as prospecting work under 11 AAC 86.425 and also has the exclusive right to stake mining claims or leasehold locations within the boundaries of the prospecting site. The exclusive right begins when the corners and boundaries are marked and the location notice posted as required in 11 AAC 86.405 and 11 AAC 86.410 and terminates as provided in 11 AAC 86.420.

**11 AAC 86.405. Boundaries and corners.** Boundaries and corners of a prospecting site must be marked in accordance with 11 AAC 86.205.

**11 AAC 86.410. Prospecting site location notice and certificate of location.** (a) On a monument at the northeast corner of the prospecting site location, the locator shall attach or post a notice. The notice may be in any form, including as a metal tag. The notice must include

- (1) the name or number of the prospecting site location;
- (2) the date of posting the notice of location;

(3) the meridian, township, range, section, and quarter-section of the prospecting site location;

(4) a sketch depicting, to the best of the locator's knowledge, the relationship of the prospecting site to adjacent and contiguous prospecting sites, mining claims, and leasehold locations;

(5) the name and current mailing address of each locator; and

(6) the recording district in which the prospecting site is located.

(b) The holder of a prospecting site location shall, within 45 days after the date of posting the location notice, record a certificate of location in the recording district in which the location is situated using a form approved by the department, or a substantially similar form meeting the recording requirements of 11 AAC 06.040. The certificate of location must include

(1) the name or number of the prospecting site location;

(2) the date of posting the notice of location;

(3) the meridian, township, range, section, and quarter-section of the prospecting site location;

(4) the name and current mailing address of each locator, and the signature of each locator or of the locator's agent;

(5) the name of the recording district in which the prospecting site is located; and

(6) 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 prospecting site, the dominant physical features of the land, the protracted or surveyed section lines surrounding the prospecting site, and, to the best of the locator's knowledge, the relationship of the prospecting site to adjacent and contiguous mining claims, leasehold locations, and prospecting sites;

(7) repealed 1/19/2002.

(c) Failure to record a certificate of location within 45 days, as provided in (b) of this section, constitutes abandonment under AS 38.05.265 of all rights in the prospecting site location.

(d) Repealed 5/30/85.

(e) Repealed 5/30/85.

(f) Repealed 5/30/85.

**11 AAC 86.415. Recordation of sale, lease, or other transfer.** Repealed 5/30/85.

**11 AAC 86.420. Duration.** Repealed 5/30/85.

**11 AAC 86.422. Term and rental.** (a) The provisions of AS 38.05.245(c) set the term of a prospecting site located on or after August 20, 2000. Expenditures for prospecting work on a prospecting site location may not be credited toward expenditures for annual labor for a mining claim or leasehold location.

(b) The rental required for a prospecting site is set out in AS 38.05.211(a) and must be paid in accordance with 11 AAC 86.107. The rental for a prospecting site located on state land is due within the time provided by AS 38.05.245(c). The rental for a prospecting site located on state-selected land is due on the date the federal government conveys all or a portion of the land within the location to the state, and must be paid within 90 days after that date. Before the date of conveyance, a locator of a prospecting site on state-selected land may submit a \$255 payment with the certificate of location, as provided in 11 AAC 86.107. The payment will be considered a non-refundable deposit credited to the required rental payment if the selection is conveyed to the state.

**11 AAC 86.425. Prospecting work.** (a) During each year of the term of a prospecting site, acceptable work amounting to at least \$5 per acre for the area enclosed within the prospecting site location must be performed.

(b) The only prospecting work acceptable for holding prospecting sites is

(1) drilling or excavating; or

(2) geological, geophysical, or geochemical work by persons qualified to do the work.

**11 AAC 86.430. Prospecting sites located before August 20, 2000.** (a) A prospecting site located before August 20, 2000 may be extended once for a period of one year beyond the original expiration date by recording a notice of extension, in the recording district where the prospecting site is located, during the 90-day period before the prospecting site expires.

(b) The notice of extension for a prospecting site located before August 20, 2000 must meet the recording requirements of 11 AAC 06.040 and must

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

(2) contain the name and ADL number of the prospecting site being extended, and

the

(A) book and page number of the site's original recorded certificate of location; or

(B) serial number of the site's original recorded certificate of location;

(3) state why an extension is needed;

(4) be signed by the locator or the locator's agent; and

(5) indicate each meridian, township, range, section, and quarter-section in which the prospecting site is situated and the recording district in which the site is located.

(c) A locator of a prospecting site located before August 20, 2000 may request further one-year extensions by submitting a written request to the director no later than 90 days before the expiration of the prospecting site. The request for extension must contain the information required under (b) of this section. The director may request that additional information be supplied to support the request for extension. The director will grant further extensions only under unusual circumstances.

(d) If a further extension is granted by the director, the prospecting site locator shall, no later than 90 days after delivery of the notice of extension, record the notice in the recording district in which the site is located.

(e) The amount of work required during the first year of extension of the prospecting site is \$5 per acre. During each subsequent year of extension, the required work is \$10 per acre.

(f) If a prospecting site has been located before August 20, 2000 on state-selected land, and conveyance to the state occurs on or after that date, the rights, responsibilities, and conditions for acquisition and maintenance of the prospecting site are those applicable to sites located on and after August 20, 2000, as provided in AS 38.05.245, AS 38.05.265, and 11 AAC 86.422.

**11 AAC 86.435. Staking claims on expired sites.** The expiration of a prospecting site does not prevent the locator from staking a mining claim or leasehold location in the area formerly covered by the prospecting site location.

## Article 6

### Offshore Permits and Leases

**11 AAC 86.500. Permit applications.** (a) The 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.

(b) An applicant may file for and be granted an offshore prospecting permit only on tide and submerged land that has been opened for offshore prospecting permits.

(c) Notwithstanding (a) and (b) of this section and 11 AAC 86.565, all prospecting permit applications pending as of January 2, 1983, will be adjudicated without regard to whether the area applied for was open to filing at the time of application. This action is intended to preserve priority rights established by the applications' order of filing. The commissioner is exercising his authority under AS 38.05.020 and AS 38.05.035(b)(2) to grant and preserve these priority rights in order to avoid inequitable detriment to diligent applicants due to situations over which the applicants had no control. The commissioner finds that this exercise of this authority under AS 38.05.035(b)(2) is in the best interests of the state.

(d) No person may file offshore prospecting permit applications that exceed, in the aggregate or in combination with offshore prospecting permits already held by that person, 300,000 acres.

(e) Notwithstanding (d) of this section, any person who, as of January 2, 1983, has pending prospecting permit applications that exceed 100,000 acres, shall, within 24 months after January 1, 1983, reduce the acreage under prospecting permit application to 300,000 acres or less. The department will adjudicate and issue up to 100,000 acres of offshore prospecting permits according to a priority list established by the applicant to the extent administratively practicable. If excess applications are not relinquished, adjudication of pending applications will take place in an order determined by the department.

(f) All tide and submerged land will be opened for offshore prospecting permit applications on June 30, 1984, unless the department finds that

(1) the land contains known mineral deposits that will be offered by competitive leasing;

(2) mining would be incompatible with significant surface uses; or

(3) adequate funding has not been appropriated for disposal of these minerals under the procedures provided by law.

(g) Issuance of an offshore prospecting permit is subject to requirements of AS 38.05.035(e), 38.05.830, 38.05.945, and 38.05.946.

(h) 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 that tract. Until the application is adjudicated, those minerals are unavailable for location under AS 38.05.185 - 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.

(i) In deciding whether to approve an offshore prospecting permit, the director will prepare a written finding that considers the following:

(1) property descriptions and locations;

(2) the mineral potential of the application area, in general terms;

(3) fish and wildlife species and their habitats in the application area;

(4) the current and projected uses in the application area, including uses and value of fish and wildlife;

(5) the governmental powers to regulate mineral exploration, development, production, and transportation;

(6) the reasonably foreseeable cumulative effects of mineral exploration, development, production, and transportation on the application area, including effects on subsistence uses, fish and wildlife habitat and populations and their uses, and historic and cultural resources;

(7) permit and lease stipulations and mitigation measures, including any measures to prevent and mitigate releases of metal and hazardous substances, to be included in the permit or lease, and a discussion of the protections offered by these measures;

(8) the method or methods most likely to be used to mine the application area, and the advantages, disadvantages, and relative risks of each;

(9) the reasonably foreseeable fiscal effects of the offshore prospecting permit and the subsequent activity on the state and affected municipalities and communities, including the explicit and implicit subsidies associated with the lease sale, if any;

(10) the reasonably foreseeable effects of mineral exploration, development, production, and transportation on municipalities and communities within or adjacent to the application area; and

(11) other factors considered relevant by the director.

**11 AAC 86.505. Effective date.** The effective date of a permit or lease is as provided by 11 AAC 82.675.

**11 AAC 86.510. Acceptable permit work.** Only expenditures and labor on land covered by the permit or permits, which in the opinion of the commissioner develop or benefit the permits, are acceptable. The work must add to the knowledge of mineral deposits within the

limits of the permit or permits or must directly facilitate the acquisition of such information. Creditable work may include, but is not limited to, sampling and geological and geophysical surveys. General economic and feasibility studies, and work such as roads and other structures on adjacent upland, are not acceptable unless considered reasonably necessary by the commissioner for the development of the permit or group of permits. Work done in excess of minimum requirements in one year may be credited during the following two years.

**11 AAC 86.515. Compliance with permit rental requirement.** (a) On or before the second and each subsequent anniversary date of the offshore prospecting permit, the permittee shall pay rental, submit an affidavit of work creditable against the rental, or submit a combination of a partial rental payment and an affidavit of work creditable against rental, in the amount due. The affidavit of work must be filed with the department. The signing of the affidavit constitutes certification that, to the knowledge of the permittee, the work, or that portion of work claimed as an excess from a previous year, has not been previously credited to any rental or work requirement.

(b) The affidavit must be supported by substantiating evidence, as might be required by the commissioner. The affidavit must set out fully

- (1) the location of the work performed;
- (2) the nature, extent and cost of the work;
- (3) the general findings from the work; and
- (4) the name, address, and professional background of each person conducting the

work.

(c) Failure to timely submit a rental payment or affidavit of work for an offshore prospecting permit is an abandonment under AS 38.05.265 and automatically terminates the offshore prospecting permit without prior notice.

(d) If any rental payment in combination with any work creditable against rental is less than the amount due, the permittee will be granted 30 days after receipt of a notice from the director to submit the additional rental due. If the permittee does not correct the default within the time allowed in the notice, the offshore prospecting permit automatically terminates without further notice.

**11 AAC 86.520. Grouping of permits.** Contiguous permits may be grouped for work requirement purposes if it is shown to the satisfaction of the commissioner on or before the time provided in 11 AAC 86.515 that the permits are and were held under common ownership or assignment. For purposes of grouping permits, work affidavits must be filed on a group basis and in accordance with 11 AAC 86.515.

**11 AAC 86.525. Failure to comply.** Repealed 5/30/85.

**11 AAC 86.528. Permit extension.** An offshore prospecting permit will not be extended or renewed.

**11 AAC 86.530. Conversion of an offshore prospecting permit to a mining lease.** (a) At any time while an offshore prospecting permit is in effect, the permittee is entitled to a noncompetitive mining lease on that part of the permit area that has been shown to the satisfaction of the director to contain workable mineral deposits. The leased land 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.

(b) An application 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 processed. Until processing is completed, 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 a lease will be accompanied by a written explanation of the grounds for the denial.

(c) A permittee applying to convert the permit to an offshore mining lease has the burden of demonstrating to the director's satisfaction that each of the requirements for the issuance of a lease has been met, and shall provide sufficiently reliable and detailed economic, geophysical, geologic, and engineering data to enable the director to make a knowledgeable decision. The following information must be submitted in support of the lease application:

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

(2) the average grade of recoverable reserves, including a discussion of the sample density, sample collection technique, sample preparation, and analytical testing methods;

(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 the 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 required by the director to assist in evaluating the conversion of a prospecting permit to a lease.

(d) Any financial information and geological, geophysical, engineering, and cost data supplied by the applicant as part of the application 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.

(e) In this section, "workable mineral deposit" means a locatable mineral deposit that has been shown by the applicant to have a reasonable prospect of developing into a successful mine, based on the presence of one or more locatable minerals of sufficient value and quantity to induce a prudent operator to pursue development under present conditions.

**11 AAC 86.532. Duration of "grandfather rights" leases.** When an offshore lease that was issued before 1982 is renewed, the term of the new lease will be 10 years, subject to extension as provided in AS 38.05.250.

**11 AAC 86.535. Survey.** The provisions of 11 AAC 82.640 - 11 AAC 82.650 apply to offshore mining leases.

**11 AAC 86.540. Lease rental.** Repealed 5/18/90.

**11 AAC 86.541. Offshore mining lease rental.** (a) A rental payment for a tide or submerged land mining lease must be made in accordance with 11 AAC 86.107. Each payment

must be accompanied by a rental form provided by the department, a photocopy of that form, or a rental form approved by the director. The rental form must contain the name and address of the owner of record and the ADL number of the lease. The department will, in its discretion, refuse to accept a payment submitted without the required information.

(b) The amount of the annual rental payment is \$.88 per acre during the first five years of the lease, \$1.75 per acre during the next five years of the lease, and \$4.25 per acre after that. Payments made for an offshore prospecting permit will not be applied against the rent that becomes due after the permit is converted to a lease.

(c) The first rental year for a tide or submerged land mining lease that was issued on or before August 31, 1989 began at noon on September 1, 1989 and payment for that rental year must be made on or before June 29, 1990. The rental payment for each subsequent rental year is due on September 1 and must be paid on or before November 30.

(d) The first annual rental payment for a tide or submerged land mining lease issued after August 31, 1989 must be paid within 90 days after the effective date of the lease and will be applied to the period from the effective date of the lease to the following September 1. The rental payment for each subsequent rental year is due on September 1 and must be paid on or before November 30.

(e) If the lessee fails to make a timely rental payment, the lease will be considered abandoned under AS 38.05.265. If a rental payment is timely submitted to the department, but the director determines that the payment is less than the amount due, the lessee will be granted 30 days after a deficiency notice is delivered under 11 AAC 86.108 to submit the additional rental due. The deficiency notice will specify the ADL number of the lease that will be

considered abandoned without further notice if full payment is not received within the 30-day period.

**11 AAC 86.545. Leases granted by competitive bidding.** If the director offers tide and submerged lands containing known deposits of locatable minerals for lease, leases will be granted under the competitive bidding procedures of 11 AAC 82.400 - 11 AAC 82.475. Known deposits of locatable minerals are those determined by the director, after reviewing public information, to exist in sufficient quantity and quality to induce further development towards production of minerals for sale.

**11 AAC 86.550. Bond.** Repealed 5/30/85.

**11 AAC 86.555. Termination.** Repealed 5/30/85.

**11 AAC 86.560. Relinquishment.** Repealed 5/30/85.

**11 AAC 86.561. Surrender.** 11 AAC 82.635 applies to the surrender or relinquishment of an offshore prospecting permit or offshore mining lease.

**11 AAC 86.565. Land in terminated permits and leases.** The procedures of 11 AAC 82.500 - 11 AAC 82.540 pertaining to land in terminated permits and leases are applicable to land on which permits or leases under this chapter have terminated unless the land has been classified for competitive leasing.

**11 AAC 86.570. Transfers.** Repealed 5/30/85.

**11 AAC 86.575. Production and lease extension.** (a) To qualify for extension of an offshore mining lease for so long as production continues, production must be achieved by the end of the lease's stated term.

(b) Under the circumstances set out in AS 38.05.250(d), the lessee may apply for a short-term extension of a lease that is not yet in production.

**11 AAC 86.580. Suspension.** (a) An application for a suspension of operations and production under a lease must comply with 11 AAC 88.105 and must contain complete information showing the necessity or justification for the suspension.

(b) No lease expires because production or operations leading to production are suspended by order of or with the assent of the department. 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.

## Article 7

### Millsites

**11 AAC 86.600. Millsite permit.** (a) The director may grant the owner of a mining interest on federal, state, or private land a millsite permit for use of the state's surface estate for a millsite, tailings disposal, or another use necessary for the mineral development. The surface estate subject to the millsite permit must be on or near the owner's mining interest. The director will set the term of the millsite permit for a duration that is appropriate to the permittee's use of the site, and will condition the millsite permit upon payment of fair market rental value for the term of the permit.

(b) This section does not require an owner of a mineral location under AS 38.05.185 - 38.05.275 to obtain a millsite permit for use of the state's surface estate within the boundaries of the location.

## Article 8

### Mining Production Licenses

- 11 AAC 86.700. Applications for production licenses.** Repealed.
- 11 AAC 86.705. Application review.** Repealed.
- 11 AAC 86.710. Public notice.** Repealed.
- 11 AAC 86.715. Review after public notice.** Repealed.
- 11 AAC 86.720. Commissioner's determination to adjudicate.** Repealed.
- 11 AAC 86.725. Adjudication by commissioner.** Repealed.
- 11 AAC 86.730. No adjudication by commissioner.** Repealed.
- 11 AAC 86.735. Interim mining.** Repealed.
- 11 AAC 86.740. Transfer of a production license.** Repealed.
- 11 AAC 86.745. Expiration of a production license.** Repealed.
- 11 AAC 86.750. Definitions.** Repealed.

## Article 9

### Mining Production Royalty

**11 AAC 86.760. Production royalty.** As required by AS 38.05.212, the holder of a mining claim, leasehold location, or mining lease, including a mining lease under AS 38.05.250, shall pay a royalty of three percent of net income, as determined under AS 43.65 and 15 AAC 65, on all minerals produced from land subject to the claim, leasehold location, or mining lease, subject to the following exceptions:

(1) If the holder segregates its gross income, deductions, and expenses under 11 AAC 86.766, the holder's gross income, deductions, and expenses attributable to minerals produced from land owned by the federal government, a borough or municipality, a native corporation, or a private party shall be omitted from the calculation of net income.

(2) Net income must be determined and reported, and the production royalty must be paid, for each calendar year rather than each tax year.

(3) Credit will be given for annual rental paid on a mining claim, leasehold location, or mining lease in production that year. A refund may not be made if the amount of annual rental due and paid exceeds the amount of the production royalty.

(4) A new mining operation is not exempt from production royalties.

**11 AAC 86.763. Holder defined.** (a) As used in 11 AAC 86.760 - 11 AAC 86.796, a "holder" or a "holder of a mining claim, leasehold location, or mining lease" is a person engaged in one or more of the following activities in the state, and includes a person who is temporarily exempt from taxation under AS 43.65.010(a):

(1) owning and operating a mining property;

(2) owning a mining property and receiving lease or royalty payments based on production from the property;

(3) leasing a mining property from another person and operating the property;

(4) possessing a mineral interest, whether an economic or a production interest, in a producing property, including royalty, working or operating interests, net profits, overriding royalties, carried interests, and production payments.

(b) There may be more than one holder of a mining claim, leasehold location, or mining lease. For example, if the owner of a mining claim leases the mining claim to another person, both the owner and lessee are holders under this section.

**11 AAC 86.766. Segregation.** (a) The holder may segregate gross income, deductions, and expenses using any one of the three methodologies described in (b) - (d) of this section.

(b) Separate or Traced Accounting of Minerals, Income, Deductions, and Expenses. If the holder traces every item of income, deductions, and expenses to either minerals produced from state land or minerals produced from non-state land, then only income, deductions, and expenses traced to minerals produced from state land shall be used in calculating the production royalty. If the holder mines the same mineral from both state and non-state land, income will be treated as traced income only if the holder:

(1) maintains separate operations and separate books, maintained in conformance with generally accepted accounting principles, for mining on state land and on non-state land; or

(2) contemporaneous with mining, records the amount of raw mineral mined from state land, the amount of raw mineral mined from non-state land, and the corresponding grades of such raw material, and, contemporaneous with sale, records the corresponding income from the minerals mined.

(c) Actual Income with Proportionate Deductions and Expenses. If the holder has jointly developed state land and non-state land as a single mining operation and, contemporaneous with mining, records the amount of raw mineral mined from state land, the amount of raw mineral mined from non-state land, and the corresponding grades of such raw material and, contemporaneous with sale, records the corresponding income from the mineral mined, then the holder may segregate income from state land and non-state land on that basis. For purposes of calculating production royalties under this subsection, deductions and expenses shall be proportionate to income. Deductions for state land shall equal gross income from state land multiplied by total deductions for both state and non-state land, then divided by gross income from both state and non-state land. Expenses for state land shall equal gross income from state

land multiplied by total expenses for both state and non-state land, then divided by gross income from both state and non-state land.

(d) Apportionment of Gross Income, Deductions, and Expenses Based on Volume or Tonnage. If the holder has jointly developed state land and non-state land as a single mining operation, gross income, deductions, and expenses may be apportioned on the basis of the gross income per cubic yard or ton of ground mined that calendar year. Gross income from state land shall equal the number of cubic yards or tons of state ground mined multiplied by the gross income from both the state and non-state land, then divided by the number of cubic yards or tons of both state and non-state ground mined. Deductions for state land shall equal the number of cubic yards or tons of state ground mined multiplied by the deductions for both the state and non-state land, then divided by the number of cubic yards or tons of both state and non-state ground mined. Expenses for state land shall equal the number of cubic yards or tons of state ground mined multiplied by the expenses for both the state and non-state land, then divided by the number of cubic yards or tons of both state and non-state ground mined.

(e) Repealed 8/26/98.

(f) A holder of separate mining operations may select any one of the methodologies set out in (b) - (d) of this section for each mining operation.

(g) A holder who elects to segregate income using one of the methodologies described in this section may not change methodologies after May 1, 1992 without the written consent of the director. Consent may not be given without an extraordinary change in circumstances that makes the methodology initially selected wholly inappropriate or impossible to use. An application for consent to change methodologies must be filed before the last day of the calendar year for which

the change is sought. The director shall grant, modify, or deny the application within 90 days after filing.

**11 AAC 86.769. Production royalty payments and returns.** (a) Production royalty returns must be prepared and submitted on forms available from the division. Completed returns and payments must be submitted to the department office in Anchorage or Fairbanks.

(b) Production royalty returns must be filed for each year after 1989 in which production occurs, or minerals produced from state land are sold, exchanged, or otherwise disposed of; returns are not otherwise required.

(c) Production royalty returns and payments are due every year on May 1 for the preceding calendar year.

(d) Upon written request, the division may grant an extension of time to file a production royalty return and to pay the royalty payment. The written request must be received by the division no later than 10 days before the due date set in (c) of this section. The written request must include a complete statement of the reasons for the request. An extension of time may not exceed 120 days. Interest accrues on the unpaid balance of a royalty payment during the term of an extension.

**11 AAC 86.772. Interest on unpaid royalties; deficient payments.** (a) Interest accrues from the due date set in 11 AAC 86.769(c) on the outstanding balance of any production royalty not paid in full when due. This interest accrues at the legal rate of interest in the State of Alaska, as specified in AS 45.45.010(a), until the outstanding balance is paid in full.

(b) If the division discovers that a production royalty payment is deficient, the division shall send the holder of a mining claim, leasehold location, or mining lease a deficiency notice

by certified mail, return receipt requested. The deficiency notice must comply with 11 AAC 88.140, and must

(1) state the amount of the deficiency, if known;

(2) state the rate at which interest accrues on the deficiency;

(3) inform the holder that it has 60 days after the date on the notice to pay in full the total of the deficiency plus interest; and

(4) inform the holder that failure to pay the total of the deficiency plus interest within 60 days is an abandonment of the holder's claim, leasehold location, or mining lease unless the holder, under 11 AAC 86.778, contests the deficiency notice before expiration of the 60-day period.

**11 AAC 86.775. Books and records.** The holder must keep its books and records pertaining to mining income, expenses, and deductions for no less than six years after the calendar year to which they relate. Books and records for both mining on state land and mining in Alaska on non-state land must be kept as required by this section. The books and records must be available for inspection and copying by authorized representatives of the state. If the office in which the books and records are kept and maintained is not readily accessible to the authorized representatives of the state, the books and records, upon request, must be produced at the state office designated by the state representative.

**11 AAC 86.776. Confidentiality.** The financial information contained in the production royalty returns filed by a holder, and the books and records produced by the holder, shall be held confidential upon the written request of the holder, except that the following information may be made available to the public:

(1) the holder's name;

(2) the quantity of mineral mined from each location;

(3) the net income reported, or which should have been reported, by ADL number or in total;

(4) the existence and nature of a dispute between a holder and the division over production royalty accounting or payment; and

(5) information relevant to litigation in which the state claims underpayment or nonpayment of production royalties.

**11 AAC 86.778. Contesting notice of deficiency.** (a) A holder who wishes to protest a deficiency notice issued under 11 AAC 86.772(b) shall file a written protest with the department. To preserve the holder's rights and to receive consideration by the department, this written protest must

(1) be personally delivered or mailed by certified mail, return receipt requested, to either the Anchorage or Fairbanks office of the department;

(2) be received by the department within 60 days after the date on the notice of deficiency;

(3) state the departmental action the holder is protesting, the relief sought, and the ADL numbers affected;

(4) state the grounds for the holder's protest, including the facts at issue, the legal authority relied upon, and any generally accepted accounting principles that support the holder's protest; and

(5) state whether the holder wants an informal conference or waives that right in favor of a formal hearing.

(b) A holder may be represented or assisted by an attorney, certified public accountant, or other representative at the informal conference and the formal hearing.

**11 AAC 86.781. Informal conferences.** (a) Unless the holder waives the right to an informal conference, upon receipt of the holder's written protest under 11 AAC 86.778 the department will designate a conference officer who will promptly schedule the informal conference with the holder. A holder wishing to present facts and financial information in support of its position must bring all pertinent books, records, and other documents to the conference or must make them readily available for examination by the conference officer. The conference officer may copy any of the books, records, and other documents brought to the conference or made available for the conference officer's examination.

(b) A holder whose protest turns solely on one or more findings of material fact and who has waived its right to an informal conference in favor of a formal hearing, may be required to attend an informal conference before going to a formal hearing if the department believes the disagreement over material facts can be resolved at the conference level.

(c) After considering the facts, financial information, and arguments presented by the holder at the informal conference, the officer will make a recommendation to the department. The conference officer is not authorized to compromise or waive the production royalty payment that is protested by the holder; however, upon a conference officer's recommendation that a correction of the department's original action is warranted, the department will make the recommended correction if it decides that the action is appropriate and will promptly notify the holder in writing of its decision and of the correction. In all other cases, the department will make a decision on the conference officer's recommendation and will notify the holder in writing of the decision.

(d) A holder who is dissatisfied with the department's decision under (c) of this section and who wishes to continue its protest in the matter shall, within 30 days after the date on the department's notice of its decision on the conference officer's recommendation, file a written request, as described in 11 AAC 86.784(b), for a formal hearing before the department. Failure to timely file a request waives the holder's right to further consideration of its protest before the department.

(e) A decision under (c) of this section is not a final administrative determination of the holder's protest by the department.

**11 AAC 86.784. Formal hearings.** (a) The department will hold a formal hearing for a holder if

(1) the holder timely files a protest fulfilling the requirements of 11 AAC 86.778(a), waiving the right to an informal conference in favor of a formal hearing;

(2) within 30 days after the date on the department's notice under 11 AAC 86.781(c) of its decision on the conference officer's recommendation regarding that holder's protest, the holder files a written request for a formal hearing which fulfills the requirements of (b) of this section; or

(3) under the facts and circumstances of a particular case it appears appropriate to the department to conduct a formal hearing.

(b) A holder's request to continue its protest at a formal hearing after the department's decision under 11 AAC 86.781(c) regarding that protest must be in writing and must

(1) be personally delivered or mailed by certified mail, return receipt requested, to either the Anchorage or Fairbanks office of the department;

(2) state the nature of the holder's continuing protest and the relief sought; and

(3) state the grounds for the holder's protest, including the facts remaining at issue, the legal authority relied upon, and any generally accepted accounting principles that support the holder's protest.

(c) Following receipt of the holder's request for a formal hearing, the department will appoint a hearing officer to preside over that hearing. Notice of the appointment of the hearing officer will be mailed to the holder by certified mail. Within 15 days after the date on the notice, the holder may reject the hearing officer. A holder may exercise its right to reject a hearing officer only once.

(d) On the hearing officer's own motion or at the request of the holder or of the division, the hearing officer may order that a prehearing conference be scheduled for the purpose of narrowing issues or establishing a schedule for the discovery or production of evidence, for submission of briefs, or for stipulation of facts.

(e) The formal hearing will be scheduled as early as possible at an office of the department nearest the holder's place of business or at another time and place acceptable to the department and the holder.

(f) At the hearing, the holder has the burden of proving its protest by a preponderance of the evidence. At the hearing, both the holder and the department's representative may introduce into evidence materials relevant to a determination of the merit of the protest; however, redundant materials, even though relevant, may be excluded by the hearing officer.

(g) After the hearing, the hearing officer shall prepare a written recommendation, specifying the hearing officer's findings of fact and conclusions of law. Upon approval by the commissioner, the written recommendation of the hearing officer becomes the final decision of the department. If the commissioner disagrees with the recommendation of the hearing officer,

the commissioner will issue a decision, supported by findings of fact and conclusions of law, which includes a discussion of the reasons the hearing officer's recommendation is not acceptable.

**11 AAC 86.787. Appeals.** The commissioner's decision under 11 AAC 86.784 is a final administrative order for purposes of appeal to court. No further appeal to the commissioner or petition for the commissioner's reconsideration is available. A holder who disagrees with the decision of the commissioner under 11 AAC 86.784 may appeal the decision to a court having jurisdiction to hear such appeals as provided in AS 44.62.560 and AS 44.62.570.

**11 AAC 86.790. Abandonment; suit to collect payment.** (a) The department will consider that the holder of a mining claim, leasehold location, or mining lease has abandoned to the state all rights acquired under that state mining claim, leasehold location, or mining lease if the holder

(1) fails to file a production royalty return when due; or

(2) does not pay a portion of the production royalty when the payment is due and thereafter does not, within 30 days of receipt of a certified notice of abandonment, pay the total amount that is due.

(b) If the holder of more than one state mining claim, leasehold location, or mining lease timely files a production royalty return and timely pays in full a production royalty payment for one or more but not all of that holder's mining claims, leasehold locations, or mining leases, only those mining claims, leasehold locations, and mining leases for which the holder failed to timely file a production royalty report or failed to timely pay at least a portion of the production royalty payment are subject to abandonment under this section. If the division cannot readily determine the allocation of a production royalty payment to the holder's various mining claims, leasehold

locations, or mining leases on which the holder failed to report or pay, all the holder's mining claims, leasehold locations, and mining leases in production during that calendar year are considered abandoned.

(c) If a production royalty payment is deficient but is otherwise timely paid, the holder of a mining claim, leasehold location, or mining lease is considered to have abandoned the mining claim, leasehold location, or mining lease unless

(1) the holder pays the deficiency, plus interest, within 60 days after the date on the deficiency notice required by 11 AAC 86.772(b);

(2) the holder, after protest of the deficiency under 11 AAC 86.778, pays the amount determined to be due at the conclusion of an informal conference conducted under 11 AAC 86.781 or, if the protest was continued, within 30 days after the date on the notice of the department's decision under 11 AAC 86.784(g); or

(3) the holder, after appeal under 11 AAC 86.787, pays the amount adjudicated to be due within 30 days after final non-appealable judgment.

(d) If an abandonment is considered to have occurred under this section, the division shall post at the Anchorage and Fairbanks offices of the division, and record in the recording district in which the mining claim, leasehold location, or mining lease is located, a notice of abandonment. This notice must

(1) identify the mining claim, leasehold location, or mining lease;

(2) state the basis on which the mining claim, leasehold location, or mining lease is considered abandoned; and

(3) be signed by a representative of the division.

(e) For purposes of abandonment of any mining claim, leasehold location, or mining lease, the owner of record with the division as of the last day of the calendar year has the primary responsibility of assuring that all holders with interests in the mining claim, leasehold location, or mining lease at any time during that calendar year timely report and pay in full the production royalties due. Should any holder of an interest in that mining claim, leasehold location, or mining lease fail to timely file its production royalty report and pay in full the production royalties when due, all interests in the mining claim, leasehold location, or mining lease, except those of the state, are subject to abandonment to the state under 11 AAC 86.760 - 11 AAC 86.796. To avoid abandonment, the owner of record or any other holder may timely file and pay in full the production royalties due from a holder of an interest in the mining claim, leasehold location, or mining lease.

(f) In addition to considering a mining claim, leasehold location, or mining lease to be abandoned, the division may file suit to collect a production royalty payment, if the production royalty payment was not paid or was deficient or a production royalty return was not filed when due.

**11 AAC 86.793. Relocation.** (a) A mining claim, leasehold location, or mining lease that has been abandoned under 11 AAC 86.790 is subject to relocation by another after the date on which notice of abandonment is posted at both the Anchorage and Fairbanks offices of the division under 11 AAC 86.790(d).

(b) A holder or locator of an abandoned mining claim, leasehold location, or mining lease may not relocate the abandoned location until one year after notice of abandonment is posted at both the Anchorage and Fairbanks offices of the division under 11 AAC 86.790(d).

**11 AAC 86.796. Definitions.** As used in 11 AAC 86.760 - 11 AAC 86.796,

- (1) "ADL" means the Alaska Division of Lands in the department;
- (2) "department" means the Department of Natural Resources;
- (3) "director" or "division" means the director or division delegated the authority of the director of lands in the department;
- (4) "gross income" means gross income as defined in 15 AAC 65.110;
- (5) "person" means the same as in AS 01.10.060;
- (6) "produced mineral" or "mineral produced" means any mineral or raw material extracted or leached in-situ from the surface or subsurface and removed from the mining claim, leasehold location, or mining lease from which it was extracted or leached in-situ; "produced mineral" or "mineral produced" does not include any mineral produced as a result of taking a sample or bulk sample; for purposes of this paragraph, "bulk sample" has the meaning given in 15 AAC 65.990, and the definition of "bulk sample" in that section, as revised as of August 1, 2001, is adopted by reference;
- (7) "ton" means 2,000 pounds.

## Article 10

### General Prospecting Permit and Lease Provisions

**11 AAC 86.800. Plan of operations.** (a) A plan of operations that describes the activities proposed to take place under an upland mining lease, offshore prospecting permit, or offshore mining lease must be submitted to and approved by the director before activities may occur under the prospecting permit or lease. 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, as applicable:

- (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) method of tailings disposal;
- (6) area of timber to be cleared, amount to be used, and clearing methods;
- (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 avoid or minimize detrimental effects on fish and wildlife and their habitats;
- (10) amount and source 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 or to prevent unreasonable interference with the rights of the operator;

(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. Confidential 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. If the approved work is not completed before the end of the stated period, the director will, in his or her discretion, allow an extension rather than requiring a new plan to be filed. An amendment must be filed for approval if 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 department 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, and effects on anadromous fish habitat.

**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 provide the bond.

(b) The director will, in his or her discretion, if a significant change in the scope of operations occurs, or before approving an assignment, alter the amount of the bond.

(c) A bond provided 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.

**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 38.05.265), and the failure continues for 30 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.

**11 AAC 86.815. Transfers.** An offshore prospecting permit, offshore mining lease, or upland mining lease may be transferred in accordance with 11 AAC 82.605 - 11 AAC 82.630.