



## Fact Sheet: Annual Labor

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### Background:

The performance of annual labor and recording of a statement or affidavit of annual labor are required for all mining claims, leasehold locations and mining leases under Alaska Statute (AS) 38.05.210. During the labor year, or within 90 days of the close of the labor year (September 1<sup>st</sup>), the owner of the mining claim, leasehold location, or mining lease or other person having knowledge of the facts must record a statement of annual labor describing the labor or improvements made during the annual labor year (including any labor in excess of the requirement for that year or cash payments).

If a statement of annual labor is not recorded timely within the recording district where the mining claim, leasehold location or lease is situated or does not set out the information required under AS 38.05.210(b), the mining claim(s) and leasehold location(s) are subject to abandonment under state law AS 38.05.265 and mining lease will enter into default.

### What is an Annual Labor Year?

Except for locations on state-selected land (see below), the first labor year begins on **September 1<sup>st</sup> at noon**, following the location posting date or initiation of the lease. Thereafter, each **Annual Labor Year begins and ends at noon on September 1<sup>st</sup>**.

### What are annual labor requirements for state mining claims, leasehold locations, and mining leases?

Statements of Annual Labor become due on September 1<sup>st</sup> and must be recorded within 90 days in the recording district where the mining claims, leasehold locations or leases are situated. The minimum amount of labor that must be performed depends on the size of the mining location. For each traditional, fractional and ¼-¼ section MTRSC location, a minimum of \$100 worth of work is necessary. For each ¼ section MTRSC location, a minimum of \$400 worth of work is necessary. For mining leases, \$100 per partial or whole 40 acres is required.

### What information must be included on a statement of annual labor?

Under state regulation 11 AAC 86.220 the statement of annual labor **must** be signed, dated, notarized, and recorded in the recording district where the mining claim, leasehold location or lease is located. The statement of annual labor **MUST** contain the following information:

- (1) the assessment work year for which the statement is being recorded;
- (2) the name and land administration number assigned by the department for each mining claim, leasehold location, or mining lease benefited by the labor;
- (3) each meridian, township, range, and section in which a mining claim, leasehold location, or mining lease is located;
- (4) the recording district in which the mining claim, leasehold location, or mining lease is located;
- (5) the total amount of work required for the assessment work year for a mining claim, leasehold location, or mining lease described in the statement;
- (6) a description of the labor performed during the assessment work year;
- (7) the value of
  - a. The labor performed during the assessment work year;
  - b. Any excess labor from a previous year applied against the labor required; or
  - c. Any cash payment to the state applied toward the value of the annual labor required under AS 38.05.210(a); and
- (8) the name and mailing address of an owner designated to receive notices regarding a mining claim, leasehold location, or mining lease.

***To ensure that you include all the required information, please use the State Annual Labor form and fill it out completely. You may attach additional sheets if needed for any required information.***

### **What do I do with the statement of annual labor once it is completed?**

After the statement of annual labor is completed, signed, dated, and notarized, record the document in the recording district where the mining claim, leasehold location or mining lease is situated. The document may be recorded in person or mailed to the Recorders Office. **You must include a check or credit card authorization for the required recording fees.** To authorize the use of a credit card, please include your credit card information with instructions to “charge this credit card the appropriate amount to record the enclosed documents”. Please see the following State websites for recording information: <http://dnr.alaska.gov/ssd/recoff/distlist> (district list) <http://dnr.alaska.gov/ssd/recoff/fees> (for fees). **Failure to timely record the statement of annual labor will constitute an abandonment of all rights acquired for the mining claim or leasehold location under the state Abandonment law AS 38.05.265.**

### **Can an affidavit of annual labor be amended?**

**Yes.** The statement of annual labor may be corrected or amended at any time. If notified by the department of an error on the statement of annual labor, the statement of annual labor must be corrected within 90 days of receipt of notification. Failure to amend or correct the statement of annual labor within the 90-day period, will result in the claim or leasehold location being declared invalid, or a mining lease to be placed in default. Any additional labor claimed on an amended or corrected statement of annual labor, may not be used to fulfill labor requirements in subsequent years.

### **How do I determine what my labor is worth?**

The value assigned to labor performed must be reasonable and appropriate to the type of work that was performed. For hand labor, the Division of Mining, Land and Water (DMLW), suggests the value of \$200 per laborer working a 10-hour day, but recognizes that wage variations may occur. The value of equipment utilized for mining or development purposes on the location or lease is equal to the current rental rates charged for that type of equipment.

### **Can I claim the cost of staking my location as annual labor on my affidavit?**

**No.** The cost of work involved in the staking and recording of your location is not considered as annual labor. Only the labor performed **after** the discovery, posting and recording of the location certificate may be considered.

### **Is the work I perform before the beginning of my first labor year acceptable as annual labor?**

Although no annual labor is required between the posting and recording of the location and the immediate September 1<sup>st</sup>, DMLW does recommend and accept statements of annual labor for the first labor year so the amount may be credited towards annual labor requirements for the subsequent year(s). **The first labor year statement of annual labor must be timely recorded in order to be used as credit in a later year.**

### **Can I claim the value of work that I perform in excess of the amount required?**

**Yes.** If more than the required minimum annual labor is performed in any one year, the excess value may be carried forward and applied towards labor requirements for up to four subsequent years. To receive credit for excess labor, the description and value of the labor must have been included on the affidavit filed for the year in which the excess work is performed. **The statement of annual labor must be timely recorded in order to apply the excess labor credit towards the annual labor requirement due.**

### **Do I need a permit before beginning annual labor?**

You are required to obtain a permit or an approved plan of operations from the Alaska Department of Natural Resources (ADNR), and any other applicable State or Federal agencies before conducting mining activities or mining site development that are not allowed as a Generally Allowed Use under state regulations 11 AAC 96.020 - 025. You may not store equipment on or transport equipment across state land to your mining claim, leasehold location, or lease until you have obtained a permit. Please consult the fact sheets for “Generally Allowed Uses” and “Structures on Mining Locations”. Note: Contact the Alaska Department of Fish & Game and Department of Environmental Conservation before any suction dredging activities.

### **What type of work qualifies as annual labor?**

Labor includes work performed or improvements made in good faith on or for the benefit of a mining claim, leasehold location, or mining lease that is directly related to exploring for, developing or producing minerals. AS 38.05.240 provides examples of qualifying labor.

#### Examples of qualifying labor and improvements are:

- Excavating, tunneling, drilling, or clearing land.
- constructing or maintaining roads, trail, or landing strips.
- extracting or producing ore.
- Performing a metallurgical analysis, an environmental study, or an economic feasibility study, or conducting engineering or permitting activity.
- Constructing settling ponds, water supplies, or other utilities.
- Providing worker housing.
- Performing reclamation activities under a reclamation plan approved under AS 27.19.030.
- Transporting workers and equipment in the state to or from a mining site; the claimed value of transportation may not exceed 50 percent of the total value of labor in the statement of annual labor for the assessment work year.
- Conducting geochemical, geological, geophysical, or airborne surveys by a qualified expert and verified by a report filed in the recording district office in which the claim, leasehold location, or mining lease is located, that sets out
  - a) the location of the survey in relation to the boundaries of the claim, leasehold location, or mining lease;
  - b) the nature, extent, and cost of the survey; or
  - c) the name, address, and professional background of the person conducting the work.

**NOTE:** *Airborne surveys shall be nonrepetitive of any previous survey on the same claim, leasehold location, or mining lease.*

#### Examples of qualifying labor activities that require a permit include but are not limited to:

- Drilling greater than 300', excavating, including ore extraction or other material.
- The cost of setting up a drill rig on a location.
- Development work towards an actual mine, such as shafts, tunnels, inclines, crosscuts and drifts, settling ponds and dams.
- Bringing water for direct mining or milling purposes.
- Clearing of brush, timber, debris, or overburden where necessary to facilitate the extraction or processing of minerals.
- Construction of trails, roads, or landing strips to provide access to claims.
- Construction costs for worker housing, mills and equipment storage buildings.
- **REMINDER: Development and construction must be pre-approved in a plan of operation, and necessary for the development of the mineral deposit and only be used during periods of mining or development.**

#### What type of work does NOT qualify as annual labor?

- Watchman services for warding off "trespassers" or to prevent over-staking.
- Maintenance work such as brushing or marking the lines and replacing corner posts or location notices, is not considered annual labor. These are duties that State law imposes on the claimant in addition to the Annual Requirement.

#### Can I apply my annual labor work to adjacent mining claims?

**Yes.** Annual labor work conducted on a claim, leasehold location, or mining lease may be applied to all adjacent claims, leasehold locations, or mining leases held in common, including adjacent federal or private mineral interest held in common. State regulation 11 AAC 88.185 defines "adjacent" to mean touching or lying in close proximity. State regulation 11 AAC 86.220(i) defines held in common as meaning under common control. If the mining claims, leasehold locations or leases are not adjacent, or held in common, separate affidavits must be recorded.

#### Can I make a cash payment instead of performing annual labor?

**Yes.** The holder of a mining claim, leasehold location, or mining lease may make a cash-in-lieu payment to the State equal to the value of labor required (\$100 or \$400 per claim or \$100 per each partial or whole 40 acres for a lease). **Payment must be made in person or mailed (postmarked) by September 1<sup>st</sup>, during the Annual Labor year** and may be made for up to five consecutive years before labor must be performed again.

A cash-in-lieu payment will only be accepted for one labor year at a time. The cash payment must be described on the recorded affidavit of annual labor. DMLW recommends that locators record their affidavit on the same date of the

payment.

If a miner fails to make a payment in lieu of labor before September 1 and there is no excess labor available from past years, the claim is abandoned effective September 1. Failure to make a timely cash payment in lieu of labor is the same as not performing required labor and is therefore not curable under AS 38.05.265.

**What are the labor requirements for locations on State-selected land?**

Annual labor is not due on locations made on State-selected land until the State receives conveyance of the land from the federal government either through Tentative Approval (TA) or Patent, whichever occurs first under state regulation 11 AAC 86.115 for Locations on State-Selected Land. The first labor year begins at noon on the first September 1<sup>st</sup> after the federal government conveys the land.

**What happens if I record my annual labor late?**

Late recording results in the abandonment of the claims under Alaska Statute 38.05.265. You may attempt to cure the abandonment by properly recording the annual labor affidavit and paying a penalty equal to the annual rent for the mining claim or leasehold location that was abandoned. The reinstate waiting period begins ***after*** all obligations have been met.

If another person has located a mining location that includes all or part of your location, your location ***cannot*** be cured. A locator of an abandoned location or a successor in interest may ***not*** relocate the location until ***one year*** after abandonment. Please consult the Fact Sheet on “*Abandonment of a Mining Location and Options Available Under the Law*” for more information.

**For answers to questions not covered in the Fact Sheet please contact a Public Information Center:**

**Anchorage Public Information Center**

Department of Natural Resources  
Public Information Center  
550 West 7<sup>th</sup> Avenue, Suite 1360  
Anchorage, Alaska 99501-3561  
Monday thru Friday / 8:00 AM to 4:30 PM  
(907) 269-8400  
dnr.pic@alaska.gov

**Fairbanks Public Information Center**

Department of Natural Resources  
Public Information Center  
3700 Airport Way  
Fairbanks Alaska 99709-4699  
Monday thru Friday / 8:00 AM to 4:30 PM  
(907) 451-2705  
fbx-pic@alaska.gov

Statewide TTY – 711 for Alaska Relay or 1-800-770-8973