

§549-B. Exploration permits, exploration claims and mining leases

1. Authority to explore. An individual over 18 years of age or other person may enter upon state lands, including lands held under specific trust instruments when the trust is consistent with mineral development, on receipt of an exploration permit from the director of the survey for the purpose of exploration, unless otherwise indicated in this subchapter. An exploration permit must be issued upon payment of a fee of \$20 and applies to state lands only. An exploration permit must bear a number and the date of issue of the permit and expires at midnight on the next June 30th. The holder of an exploration permit is entitled to a renewal of the permit upon expiration of the permit, by making application to the director of the survey on or before June 30th, including payment of the prescribed fee. The renewal takes effect on July 1st, and the renewed permit must bear the same number as the expired permit.

If machinery or explosives are to be used for exploration on state lands, the methods to be employed and the amount of explosives to be allowed must first be approved by the director of the survey and the director of the agency having jurisdiction over the state land. The use of machinery or explosives may be approved only where it will be done in harmony with the activities of the agency having jurisdiction over the state land and will not result in environmental harm.

[RR 2021, c. 2, Pt. B, §5 (COR).]

2. Exploration for and mining of hydrocarbons. The director of the survey and the Director of the Bureau of Parks and Lands may promulgate rules governing exploration and mining of hydrocarbons on all lands within the jurisdiction of the State, public and private, in order to prevent the waste of hydrocarbons and to protect correlative rights and natural resources. The directors may promulgate rules on all lands in the State to specify the size of the area of exploration, the amount charged for exploration permits and exploration claims, the duration of those permits and claims and other matters related to the exploration and mining of hydrocarbons on state lands.

[PL 1985, c. 201, §2 (NEW); PL 1995, c. 502, Pt. E, §30 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

3. Location of exploration claim and maintenance of rights of possession. Any person or corporation which has secured an exploration permit may locate one or more exploration claims by defining the boundary lines of the claim or claims. No exploration claim may be smaller than 20 acres, except in cases where only a smaller area is available in a parcel of state-owned land. The location or record of any exploration claim shall be construed to include all surface found within the surface boundary lines, and all ledges throughout their entire vertical depth, but shall not include any portion of the ledges beyond the end and sidelines of the exploration claim or timber or growth on the exploration claim. As nearly as circumstances permit, an exploration claim shall be staked out in the following manner:

A. By erecting a post or other reasonably permanent monument at each of the corners of the exploration claim. Each post or monument must stand not less than 4 feet above the ground, may not be less than 4 inches in diameter and must bear the following information: the name of the locator; the number of the locator's exploration permit; the date of the staking; and, if the exploration claim is staked on behalf of another person, the name of the other person and the number of that person's exploration permit; [RR 2021, c. 2, Pt. B, §6 (COR).]

B. By plainly marking the trees with paint and by trimming the underbrush along the boundary lines of the exploration claim to indicate clearly the outlines of the exploration claim. Where there are no trees or underbrush, by piling stones or placing pickets at reasonable intervals along the boundary lines of the exploration claim; or [PL 1985, c. 201, §2 (NEW).]

C. By establishing post or buoy markers to witness exploration claim corners which fall in a body of water, by placing posts on dry land and marking on the posts exact distances and directions to

over-water exploration claim corners or by such other methods as the director of the survey may by regulation establish. [PL 1985, c. 201, §2 (NEW).]

Any person who has located and recorded any exploration claim or claims shall, subject to this subchapter, have the right of possession of the premises covered by that exploration claim or claims, for the purpose of conducting exploration activities on those premises. The right of possession shall be alienable in the same manner as real estate. No alienation or transfer of the rights of possession conferred by a located and recorded exploration claim may be effective until the transferor has notified the director of the survey of the transfer and has received an acknowledgment by the director of the survey in writing of receipt of the notification. The director of the survey shall make an acknowledgment within 30 days of the receipt of the notice. Without the express prior written consent of the director of the survey and the agency of the State having jurisdiction over the state land, granted for good cause, the exploration claim shall in no way interfere with conservation, recreation, harvesting timber, leasing campsite lots or other activities of the agency having jurisdiction. [RR 2021, c. 2, Pt. B, §6 (COR).]

4. Recording of exploration claim. No person may have the right of possession of any exploration claim until the exploration claim has been recorded with the director of the survey. The explorer who first records with the director of the survey a validly-staked exploration claim or claims shall be deemed the claim holder of record for the purposes of this subchapter. The record shall contain:

- A. The name of the claimant; [PL 1985, c. 201, §2 (NEW).]
- B. A general description of the minerals or metals sought; [PL 1985, c. 201, §2 (NEW).]
- C. The date of location and a description of the exploration claim as follows:
 - (1) A reference, using magnetic bearings and distances, to the natural object, permanent monument or survey corner of the state-owned parcel as will identify the claim; and
 - (2) A description, using magnetic bearings and distances, of each sideline and corner of the exploration claim; and [PL 1985, c. 201, §2 (NEW).]
- D. A United States Geological Survey quadrangle base map and an aerial photograph of a scale that shows with reasonable accuracy the outline location and corners of the exploration claim in relation to the state-owned parcel and prominent natural objects or permanent structural features so that the exploration claim may be located on the ground by the director of the survey or the director's representatives. [RR 2021, c. 2, Pt. B, §7 (COR).]

[RR 2021, c. 2, Pt. B, §7 (COR).]

5. Fees and terms of exploration claim. The fees and terms of exploration of any claim shall be as follows.

- A. The fee for recording, renewing, transferring or changing the size of a claim is \$100, which shall be paid to the director of the survey. [PL 1985, c. 201, §2 (NEW).]
- B. The term of the exploration claim is one year and is renewable for 5 years from the initial date of recording by written notice to the director of the survey before June 30th. For claims recorded after April 1st and before June 30th, the first renewal notice is due on the 2nd June 30th following the recording of the claim. At the end of the 5-year period, any title to the claim lapses, unless a mining lease has been issued by the State under this subchapter. The director of the survey may, upon application and for good cause, grant an extension for an additional period not to exceed 2 years. Upon lapse or filing of notice of abandonment of a claim, a person holding the claim immediately prior to the date of the lapse of abandonment, or that person's representative, partner, affiliate or leasing associate, may not relocate on the same area for a period of 60 days. [RR 2021, c. 2, Pt. B, §8 (COR).]

C. In addition to the recording fee, a rental fee shall be levied from the date of recordation of the claim as follows:

First year	\$.25 per acre
2nd year	\$.75 per acre
3rd year	\$1.50 per acre
4th year	\$2.50 per acre
5th year	\$5.00 per acre
6th year	\$20.00 per acre
7th year	\$30.00 per acre

The rental fee payment for the first year shall be due on the date of recordation of the claim. The rental fee payment for the 2nd year and for each year the claim is in effect shall be due on the June 30th which precedes the year for which the payment is due and shall be paid to the director of the survey. For claims recorded after April 1st and before June 30th, the 2nd rental fee payment shall be due on the 2nd June 30th following. [PL 1985, c. 201, §2 (NEW).]

D. An affidavit of investigatory and exploratory work must be filed each year with the director of the survey on June 30th. At the time of filing that affidavit, the claimant shall demonstrate to the director that investigatory work has been performed on that claim at a rate of at least \$5 per acre during the year ending June 30th. For claims recorded after April 1st and before June 30th, the first affidavit of investigatory and exploratory work must be filed on the 2nd June 30th following. All work done must be described in the affidavit and include work that tends to reveal such characteristics of the material sought as length, width, depth, thickness, tonnage and mineral or metal content, or, with respect to nonmetallic minerals, other physical characteristics of the deposit relating directly to the commercial exploitation of the deposit and such other information relating to the exploration work as the director of the survey may require. During the period of time in which the claim is in effect, this information is confidential and may not be disclosed, except that the information may be shared with other governmental agencies. [PL 2009, c. 567, §4 (AMD).]

E. The failure to comply with any of the requirements of this subsection operates as a forfeiture of the claim or claims. Written notice of the forfeiture must be sent by registered or certified mail to the claimant's last known address. A claimant who is aggrieved may file a written petition for a hearing before the director of the survey within 14 days after notice of forfeiture has been given. If the claimant files a petition for a hearing with the director of the survey within the 14-day period, the director of the survey shall, within 30 days, grant a hearing on the forfeiture and give the claimant 10 days' notice of the time and place of the hearing. For good cause, the director of the survey may extend the time for filing the petition. If the claimant is aggrieved by the decision of the director of the survey resulting from the hearing, the claimant may, within 30 days after the date of the decision, appeal to the Superior Court by filing a claim. The court shall fix a time and place for hearing and send notice of the hearing to the director of the survey and, after hearing, the court may affirm or reverse the decision of the director of the survey. The decision of the court is final. During the pendency of all proceedings under this paragraph, a person may not lay claim to the area of dispute. The director of the survey may perform the duties of this paragraph personally or through the director's designee. [RR 2021, c. 2, Pt. B, §9 (COR).]

F. Within 6 months of the lapse or termination of a validly located exploration claim or claims, the owner of the claim or claims shall provide to the director one copy of all factual data acquired during exploration of that claim or claims. The factual data shall include, but not be limited to, all geologic maps, drill logs, assay or other analytical data, geochemical maps, geophysical data and metallurgical or other laboratory tests, but shall not include interpretive reports derived from that data. [PL 1985, c. 201, §2 (NEW).]

[RR 2021, c. 2, Pt. B, §§8, 9 (COR).]

6. Land use ruling. Any person with a recorded exploration claim shall make application to the director of the agency having jurisdiction over the state lands on which the claim is located for a ruling on the question of whether mining operations can be carried on consistent with any prior or proposed other use by the State or any agency or instrumentality of the State. Such a ruling, that mining operations can be carried on, shall not be made without consulting the director of the survey. No mining lease may be issued under this subchapter without a land use ruling which answers the question in this subsection in the affirmative. A public hearing shall be held prior to any ruling required under this subsection. The ruling shall be made within 180 days of the date of the application and when obtained shall be binding and irrevocable for such period of time as the applicant and the State may agree. [PL 1985, c. 201, §2 (NEW).]

7. Mining lease. Mining leases may be applied for and granted as follows.

A. Any person with a valid recorded exploration claim in accordance with this subchapter may make application for a mining lease to the director of the agency having jurisdiction over the state lands on which the mining lease is sought. The application must be accompanied by a report from a certified or licensed geologist or mining engineer containing all information of a geologic, engineering and operational nature that is required by the director of the survey or the director of the agency having jurisdiction over the state lands on which the mining lease is sought to properly evaluate the application and an accurate survey of the property boundaries certified by a registered surveyor and evidence of ability to finance the proposed mining operations. [PL 2019, c. 285, §3 (AMD).]

B. The director of the agency having jurisdiction over these state lands shall hold a hearing for the purpose of hearing evidence on whether to grant or deny a mining lease to mine under this section. The hearing shall be held within 90 days of receipt of the application and notice of the date, time and place shall be given to the applicant and public notice shall be made by causing publication of the notice twice in a newspaper of general circulation in the proposed locality or, if none, in the state paper. The date of first publication shall be at least 10 days and the last publication shall be at least 3 days before the date of the hearing. [PL 1985, c. 201, §2 (NEW).]

C. A decision in accordance with this subsection shall be issued within 120 days of the date of the hearing. [PL 1985, c. 201, §2 (NEW).]

C-1. Notwithstanding any other provision of law to the contrary, the director of the agency having jurisdiction over the state lands on which a mining lease is sought may not grant a mining lease under this section that authorizes mining operations proposed to be located wholly or partially in, on or under any of the following state lands:

- (1) Designated lands under section 598-A;
- (2) Historic sites as defined in section 1801, subsection 5;
- (3) Parks as defined in section 1801, subsection 7;
- (4) Public reserved lands as defined in section 1801, subsection 8;
- (5) Submerged lands as defined in section 1801, subsection 9;
- (6) The Allagash Wilderness Waterway as established under chapter 220, subchapter 6; and
- (7) State-owned wildlife management areas acquired in accordance with section 10109, subsection 1. [PL 2017, c. 142, §1 (NEW).]

D. The director of the agency having jurisdiction over the state lands, with the consent of the director of the survey, may issue a mining lease subject to such terms and conditions as the directors may determine. [PL 1985, c. 201, §2 (NEW).]

E. If a lease is issued, the lessee shall be required to provide a bond in an amount determined by the director of the agency having jurisdiction over the state-owned lands to be necessary to reclaim the area mined and to protect against damage that may be caused to any property located outside the leased area by the lessee's mining operations or, in lieu of a bond, other security determined by the director of the agency having jurisdiction over the state-owned lands to provide the same protection as a bond. [PL 1985, c. 201, §2 (NEW).]

[PL 2019, c. 285, §3 (AMD).]

8. Common and undivided interests. The director of the survey and the Director of the Bureau of Parks and Lands, acting jointly, may, by regulation, establish procedures for the filing of exploration claims and issuance of exploration permits and leases covering state-owned public lands, including public reserved lands, which are comprised of state-owned common and undivided interests. The regulations may condition the issuance of an exploration permit or mining lease and the filing of an exploration claim upon the consent of a majority of the private common and undivided ownership of the parcel of land to which the exploration permit, exploration claim or mining lease relates.

Any permit or lease issued under this section shall extend only to the common and undivided interest of the State. Any partition occasioned by a negative ruling under subsection 6 or 7 shall be conducted with reasonable expedition. In any partition or location of public reserved land, the Bureau of Parks and Lands may accept a partition of the surface estate and continue as a cotenant in all or a portion of the mineral estate.

[PL 1985, c. 201, §2 (NEW); PL 1995, c. 502, Pt. E, §30 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §24 (REV).]

9. Royalty. Royalty payments shall be made as follows.

A. The holder of a lease to mine shall make royalty payments annually or more frequently if so specified in the lease. [PL 1985, c. 201, §2 (NEW).]

B. The amount of royalty payments, including minimum royalties and preproduction payments, together with the other terms and conditions of the lease, shall be set jointly by the director of the survey and the director of the agency having jurisdiction over the state lands. The royalty rate set shall reasonably relate to applicable royalty rates generally prevailing. [PL 1985, c. 201, §2 (NEW).]

[PL 1985, c. 201, §2 (NEW).]

10. Disposition of fees and royalties. All fees and royalties accruing to the survey under this subchapter must be paid into a separate account to be established by the Treasurer of State to be used for salaries and other expenses incurred in the administration of this subchapter, subject to and to the extent permitted by section 1849. The account may not lapse but must continue from year to year.

[PL 1997, c. 678, §3 (AMD).]

11. Rights-of-way. A person who has located an exploration claim and has been issued a mining lease in accordance with this subchapter may, with the consent of the director of the agency having jurisdiction over those state lands and consistent with the law, have the right of access across any lands owned or controlled by the State to and from that location. The holder of a mining lease may be issued a permit giving the holder the authority to open, construct, put in, maintain and use ditches, tunnels, pipes, conduits, flumes and other works through, over and upon that land for drainage and passage of water, together with the right to construct dams, as long as such water does not flow on land of others, in connection with the working of the mine to bring water to the mine necessary or convenient for its operation, with such conditions and restrictions as may be imposed.

[RR 2021, c. 2, Pt. B, §10 (COR).]

12. Mining under bodies of water. Where any mineral deposit is situated under or in the bed of a stream or lake and for the efficient working of the mineral deposit it is necessary to divert the water of that stream within the boundaries of public land or drain any lake, the director of the agency having

jurisdiction over these state-owned lands may permit the diversion or drainage to be done, subject to such provisions, for the benefit of any person who is entitled to the use of the water of that stream or lake in its natural state, as to the director may seem just and expedient.
[RR 2021, c. 2, Pt. B, §11 (COR).]

13. Annual reports. Any person with a mining lease engaged in mine development or mining under this subchapter shall, in the month of June following the year the operation was carried on, pay all applicable fees, rentals and royalties and file an annual report with the director of the survey and director of the agency having jurisdiction over the state-owned land setting forth:

- A. The location of the operation; [PL 1985, c. 201, §2 (NEW).]
- B. The quality and grade of mineral products or ores produced; [PL 1985, c. 201, §2 (NEW).]
- C. The amount of royalty that has accrued on material extracted; [PL 2009, c. 567, §5 (AMD).]
- D. The number of persons ordinarily employed at operation below ground and above ground; and [PL 1985, c. 201, §2 (NEW).]
- E. Any other information, relating to the mining lease, mine development or mining, the director of the division and the director of the agency having jurisdiction over the state-owned lands may require by regulation. [PL 1985, c. 201, §2 (NEW); PL 2011, c. 657, Pt. W, §7 (REV).]

This information is confidential and may not be disclosed, except that the information may be shared with other governmental agencies.

[PL 2009, c. 567, §5 (AMD); PL 2011, c. 657, Pt. W, §7 (REV).]

14. Termination. In the event that any explorer, claimant or lessee violates any provision of this subchapter or any rule, the director of the survey or the director of the agency having jurisdiction over the state-owned lands shall notify the explorer, claimant or lessee, as the case may be, of the alleged violation and of the nature of the alleged violation, by sending the notice by registered or certified mail to the explorer, claimant or lessee at the last known address of the explorer, claimant or lessee. If the violation is not remedied within 30 days after the date of mailing the notice, the permit, claim or lease of the violator in existence at the time of the violation may be terminated by the State through the director of the survey or the director of the agency having jurisdiction over the state-owned lands by giving written notice of termination in the same manner specified for notice of violation. For cause, the State, through the director of the survey or the director of the agency having jurisdiction over the state-owned lands, may extend the time for compliance as it may determine. A person who is aggrieved may file a written petition for a hearing before the State within 30 days of the date of the giving of written notice of termination by the State. The hearing must take place within 30 days of receipt of the petition and a decision must be rendered by the State within 60 days following the final adjournment of the hearing. Appeals from the State's decision must be pursuant to the Maine Rules of Civil Procedure as they apply to appeals from rulings of public agencies.

[RR 2021, c. 2, Pt. B, §12 (COR).]

15. Injunctions against violation. Whenever it appears that any person is violating or threatening to violate this subchapter or any rule or order issued pursuant to this subchapter, the State may seek an injunction against that person in the Superior Court of the county in which the office of the director of the survey and the director of the agency having jurisdiction over the state-owned lands is located or of any county where the violation occurs or is threatened, or in the county in which the defendant resides or in which any defendant resides if there is more than one defendant, to restrain the person from continuing the violation or from carrying out the threat of violation. In any such action, the court shall have jurisdiction to grant to the State, without bond or other undertaking, such prohibitory or mandatory injunctions as the facts may warrant, including temporary restraining orders and preliminary injunctions.

[PL 1985, c. 201, §2 (NEW).]

SECTION HISTORY

PL 1985, c. 201, §2 (NEW). PL 1995, c. 502, §E30 (AMD). PL 1997, c. 678, §3 (AMD). PL 2009, c. 567, §§4, 5 (AMD). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §24 (REV). PL 2017, c. 142, §1 (AMD). PL 2019, c. 285, §3 (AMD). RR 2021, c. 2, Pt. B, §§5-12 (COR).

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