

and such person or company shall not be required to perform work on the surface of said lode or lodes in order to hold the same as required by this section. On all such valid claims the annual period ending December 31, 1921, shall continue to 12 o'clock meridian July 1, 1922.

(R.S. §2324; Feb. 11, 1875, ch. 41, 18 Stat. 315; Jan. 22, 1880, ch. 9, §2, 21 Stat. 61; Aug. 24, 1921, ch. 84, 42 Stat. 186; Pub. L. 85-736, §1, Aug. 23, 1958, 72 Stat. 829; Pub. L. 103-66, title X, §10105(b), Aug. 10, 1993, 107 Stat. 406; Pub. L. 110-161, div. F, title I, (1), Dec. 26, 2007, 121 Stat. 2101.)

CODIFICATION

R.S. §2324 derived from act May 10, 1872, ch. 152, §5, 17 Stat. 92.

Pub. L. 110-161, which directed the amendment of section 28 of title 30, United States Code, "in section 28", was executed by making the amendment to R.S. §2324, which is classified to this section, to reflect the probable intent of Congress. See 2007 Amendment note below.

AMENDMENTS

2007—Pub. L. 110-161 substituted "shall commence at 12:01 ante meridian on the first day of September" for "shall commence at 12 o'clock meridian on the 1st day of September". See Codification note above.

1993—Pub. L. 103-66 inserted "that is granted a waiver under section 28f of this title," after "On each claim located after the 10th day of May 1872."

1958—Pub. L. 85-736 changed period for doing annual assessment work on unpatented mineral claims, substituting "1st day of September" for "1st day of July".

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

ASSESSMENT WORK YEARS, 1957-58 AND 1958-59

Pub. L. 85-736, §2, Aug. 23, 1958, 72 Stat. 829, provided that the period commencing in 1957 for the performance of annual assessment work under this section shall end at 12 o'clock meridian on the 1st day of July 1958, and the period commencing in 1958 for the performance of such annual assessment work shall commence at 12 o'clock meridian on the 1st day of July 1958, and shall continue to 12 o'clock meridian on Sept. 1, 1959.

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

The term "labor", as used in the third sentence of section 28 of this title, shall include, without being limited to, geological, geochemical and geophysical surveys conducted by qualified experts and verified by a detailed report filed in the county office in which the claim is located which sets forth fully (a) the location of the work performed in relation to the point of discovery and boundaries of the claim, (b) the nature, extent, and cost thereof, (c) the basic findings therefrom, and (d) the name, address, and professional background of the person or persons conducting the work. Such surveys, however, may not be applied as labor for more than two consecutive years or for more than a total of five years on any one mining claim, and each such survey shall be nonrepetitive of any previous survey on the same claim.

(Pub. L. 85-876, §1, Sept. 2, 1958, 72 Stat. 1701.)

§ 28-2. Definitions

As used in section 28-1 of this title,

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

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

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

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

(Pub. L. 85-876, §2, Sept. 2, 1958, 72 Stat. 1701.)

§ 28a. Omitted

CODIFICATION

Section, act June 29, 1950, ch. 404, 64 Stat. 275, provided for extension of time of annual assessment work, on mining claims in the United States, including Alaska, for period commencing July 1, 1949, until 12 o'clock noon Oct. 1, 1950, and also provided for commencement of assessment work or improvements required for year ending 12 o'clock noon July 1, 1951, immediately following 12 o'clock noon July 1, 1950. See sections 28b to 28e of this title.

§ 28b. Annual assessment work on mining claims; temporary deferment; conditions

The performance of not less than \$100 worth of labor or the making of improvements aggregating such amount, which labor or improvements are required under the provisions of section 28 of this title to be made during each year, may be deferred by the Secretary of the Interior as to any mining claim or group of claims in the United States upon the submission by the claimant of evidence satisfactory to the Secretary that such mining claim or group of claims is surrounded by lands over which a right-of-way for the performance of such assessment work has been denied or is in litigation or is in the process of acquisition under State law or that other legal impediments exist which affect the right of the claimant to enter upon the surface of such claim or group of claims or to gain access to the boundaries thereof.

(June 21, 1949, ch. 232, §1, 63 Stat. 214.)

§ 28c. Length and termination of deferment

The period for which said deferment may be granted shall end when the conditions justifying deferment have been removed: *Provided*, That the initial period shall not exceed one year but may be renewed for a further period of one year if justifiable conditions exist: *Provided further*, That the relief available under sections 28b to

28e of this title is in addition to any relief available under any other Act of Congress with respect to mining claims.

(June 21, 1949, ch. 232, § 2, 63 Stat. 215.)

§ 28d. Performance of deferred work

All deferred assessment work shall be performed not later than the end of the assessment year next subsequent to the removal or cessation of the causes for deferment or the expiration of any deferments granted under sections 28b to 28e of this title and shall be in addition to the annual assessment work required by law in such year.

(June 21, 1949, ch. 232, § 3, 63 Stat. 215.)

§ 28e. Recordation of deferment

Claimant shall file or record or cause to be filed or recorded in the office where the notice or certificate of location of such claim or group of claims is filed or recorded, a notice to the public of claimant's petition to the Secretary of the Interior for deferment under sections 28b to 28e of this title, and of the order or decision disposing of such petition.

(June 21, 1949, ch. 232, § 4, 63 Stat. 215.)

§ 28f. Fee

(a) Claim maintenance fee

(1) Lode mining claims, mill sites, and tunnel sites

The holder of each unpatented lode mining claim, mill site, or tunnel site, located pursuant to the mining laws of the United States before, on, or after August 10, 1993, shall pay to the Secretary of the Interior, on or before September 1 of each year, to the extent provided in advance in appropriations Acts, a claim maintenance fee of \$100 per claim or site, respectively. Such claim maintenance fee shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28–28e)¹ and the related filing requirements contained in section 1744(a) and (c) of title 43.

(2) Placer mining claims

The holder of each unpatented placer mining claim located pursuant to the mining laws of the United States before, on, or after August 10, 1993, shall pay to the Secretary of the Interior, on or before September 1 of each year, the claim maintenance fee described in subsection (a)(1), for each 20 acres of the placer claim or portion thereof. Such claim maintenance fee shall be in lieu of the assessment work requirement contained in the Mining Law of 1872 (30 U.S.C. 28 to 28e)¹ and the related filing requirements contained in section 1744(a) and (c) of title 43.

(b) Time of payment

The claim maintenance² fee under subsection (a) shall be paid for the year in which the location is made, at the time the location notice is recorded with the Bureau of Land Management.

¹ See References in Text note below.

² So in original. Probably should be "maintenance".

The location fee imposed under section 28g of this title shall be payable not later than 90 days after the date of location.

(c) Oil shale claims subject to claim maintenance fees under Energy Policy Act of 1992

This section shall not apply to any oil shale claims for which a fee is required to be paid under section 2511(e)(2) of the Energy Policy Act of 1992 (Public Law 102–486; 106 Stat. 3111; 30 U.S.C. 242).

(d) Waiver

(1) The claim maintenance fee required under this section may be waived for a claimant who certifies in writing to the Secretary that on the date the payment was due, the claimant and all related parties—

(A) held not more than 10 mining claims, mill sites, or tunnel sites, or any combination thereof, on public lands; and

(B) have performed assessment work required under the Mining Law of 1872 (30 U.S.C. 28–28e)¹ to maintain the mining claims held by the claimant and such related parties for the assessment year ending on noon of September 1 of the calendar year in which payment of the claim maintenance fee was due.

(2) For purposes of paragraph (1), with respect to any claimant, the term "related party" means—

(A) the spouse and dependent children (as defined in section 152 of title 26), of the claimant; and

(B) a person who controls, is controlled by, or is under common control with the claimant.

For purposes of this section, the term control includes actual control, legal control, and the power to exercise control, through or by common directors, officers, stockholders, a voting trust, or a holding company or investment company, or any other means.

(3) If a small miner waiver application is determined to be defective for any reason, the claimant shall have a period of 60 days after receipt of written notification of the defect or defects by the Bureau of Land Management to: (A) cure such defect or defects, or (B) pay the \$100 claim maintenance fee due for such period.

(Pub. L. 103–66, title X, §10101, Aug. 10, 1993, 107 Stat. 405; Pub. L. 105–240, §116, Sept. 25, 1998, 112 Stat. 1570; Pub. L. 105–277, div. A, §101(e) [title I], Oct. 21, 1998, 112 Stat. 2681–231, 2681–235; Pub. L. 107–63, title I, (1), Nov. 5, 2001, 115 Stat. 418; Pub. L. 108–108, title I, (1), Nov. 10, 2003, 117 Stat. 1245; Pub. L. 110–161, div. F, title I, (2), Dec. 26, 2007, 121 Stat. 2101; Pub. L. 111–8, div. E, title I, Mar. 11, 2009, 123 Stat. 704; Pub. L. 111–88, div. A, title I, Oct. 30, 2009, 123 Stat. 2907; Pub. L. 112–74, div. E, title IV, §430, Dec. 23, 2011, 125 Stat. 1047; Pub. L. 113–6, div. F, title IV, §1403, Mar. 26, 2013, 127 Stat. 419.)

REFERENCES IN TEXT

The Mining Law of 1872 (30 U.S.C. 28–28e), referred to in subsecs. (a) and (d)(1)(B), probably means act May 10, 1872, ch. 152, 17 Stat. 91. That act was incorporated into the Revised Statutes as R.S. §§2319 to 2328, 2331, 2333 to 2337, and 2344, which are classified to sections 22 to 24, 26 to 28, 29, 30, 33 to 35, 37, 39 to 42, and 47 of this title.