

## **Reporting requirements in HB 4 Version P:**

- AGDC must annually review the corporation's assets and present to the legislature by Jan. 10 a complete accounting of all assets, including of the pipeline fund, with accounting audited by an independent outside auditor. The review must include a review of assets in excess of that required to fulfill the corporation's purpose. (Sec. 3, 31.25.140, page 15)
- Within 45 days of adopting regulations, AGDC must submit those to the Administrative Regulation Review Committee (Sec. 3, 31.25.130, page 13)
- Following an open season, AGDC has 10 days to disclose to the speaker of the house, the senate president, and the public the names of each prospective shippers; the amount of capacity contracted for; and the duration of the contracts. (Section 3, 31.25.080, page 10)
- For each board meeting, AGDC must keep minutes and submit certified copies to the governor and to the Legislative Budget and Audit committee. (Sec. 3, 31.25.035, page 6)
- Additionally, it is worth noting that AGDC's board is subject to the Open Meetings portion of the Administrative Procedures Act, which means the board must meet in public; provide reasonable public notice of board meetings; provide members of the public opportunity to be heard; keep minutes; and so on. (Sec. 3, 31.25.130, page 13)
- If a capital reserve fund is created and used, the corporation chairman must annually certify the sum required (if any) to replenish the capital reserve fund. (Sec. 3, 31.25.190, page 21)
- The corporation has to submit to the governor an annual report 'accounting for the efficient discharge of all responsibility assigned by law or by directive to the corporation.' The legislature must be notified the report is available. By Jan. 10, the corporation has to prepare an annual report and make it publicly available; the report must include a financial statement audited by an independent, outside auditor. (Sec. 3, 31.25.270, page 24).
- The RCA must include in its annual report a review of activities under 42.08, regulating contract carrier natural gas pipelines. (Sec. 21, 42.08.260, Page 39)
- A pipeline regulated under 42.08 must file, every three years after pipeline operations begin, a report with updated cost data and a calculation of the three-year average actual return on equity. (Sec. 42.08.450, page 51).

## **Current Alaska Statute governing Sale of Royalty**

For a recent example, please see DNR's March 25 "Final Best Interest Finding and Determination for the Sale of Alaska North Slope Royalty Oil to Flint Hills Resources Alaska LLC":

[http://dog.dnr.alaska.gov/Royalty/Documents/RIKDocuments/Final\\_BIF\\_FHR\\_3-22-13.pdf](http://dog.dnr.alaska.gov/Royalty/Documents/RIKDocuments/Final_BIF_FHR_3-22-13.pdf)

Sec. 38.05.183. Sale of royalty.

(a) The sale, exchange, or other disposal of a mineral obtained by the state as a royalty under AS 38.05.182, or the sale, exchange, or other disposal in whole or in part of a right to receive future mineral production under a state lease under this chapter, shall be by competitive bid and the sale, exchange, or other disposal made to the highest responsible bidder, except that competitive bidding is not required when the commissioner, after prior written notice to the Alaska Royalty Oil and Gas Development Advisory Board under AS 38.06.050, determines that the best interest of the state does not require it or that no competition exists.

(b) When competitive bids are required, the commissioner, after prior written notice to the Alaska Royalty Oil and Gas Development Advisory Board, may reject all bids on a determination that because of the amount of the bids, the lack of responsibility on the part of the bidders, or for reasons consistent with the criteria set out in AS 38.06.070, the acceptance of the bids would not be in the best interest of the state.

(c) If the commissioner determines that a sale, exchange, or other disposal of a mineral obtained by the state as a royalty under AS 38.05.182 or of a right to receive future mineral production under a state lease under this chapter shall be made otherwise than by competitive bid, and the Alaska Royalty Oil and Gas Development Advisory Board has been notified in writing of that determination, the commissioner shall make public in writing the specific findings and conclusions upon which that determination is based.

(d) Oil or gas taken in kind by the state as its royalty share may not be sold or otherwise disposed of for export from the state until the commissioner determines that the royalty-in-kind oil or gas is surplus to the present and projected intrastate domestic and industrial needs. The commissioner shall make public, in writing, the specific findings and reasons on which the determination is based.

(e) When a sale, exchange, or other disposal of oil or gas taken in kind by the state as its royalty share, or a sale, exchange, or other disposal in whole or in part of a right to receive future royalty oil or gas, under a state lease under this chapter is made other than by competitive bid, the sale, exchange, or other disposal shall be awarded by the commissioner to the prospective buyer whose proposal offers the maximum benefits to citizens of the state. The commissioner shall consider

(1) the cash value offered;

(2) the projected effects of the sale, exchange, or other disposal on the economy of the state;

(3) the projected benefits of refining or processing the oil or gas in the state;

(4) the ability of the prospective buyer to provide refined products or by-products for distribution and sale in the state with price or supply benefits to the citizens of the state; and

(5) the criteria listed in AS 38.06.070(a).

(f) The commissioner may not enter into a contract for the sale of royalty oil unless the contract provides that any material amendment to the contract that appreciably reduces the consideration received by the state requires prior approval of the legislature.

(g) AS 38.05.035(e) does not apply to a sale, exchange, or other disposal of oil or gas under this section.

(h) Upon legislative approval, the commissioner may enter into a contract to sell royalty gas taken in kind by the state to a gas or electric utility at a negotiated price for the gas if the commissioner, after considering the consumer benefits, other benefits, and detriments of the sale, makes a written finding that the sale is in the best interest of the state. In this subsection,

(1) "gas or electric utility" has the meaning given in AS 38.05.180(bb);

(2) "royalty gas taken in kind by the state" does not include royalty gas taken in kind by the state from gas production on land patented to the state under

(A) P.L. 84-830, 70 Stat. 709 (Alaska Mental Health Enabling Act);

(B) 38 Stat. 1214 (Act of March 4, 1915); or

(C) 43 U.S.C. 1635 in settlement of the claims of the state under 38 Stat. 1214.

#### History -

(Sec. 1 ch 56 SLA 1970; am Sec. 3 ch 9 SSSLA 1974; am Sec. 9, 10 ch 112 SLA 1980; am Sec. 2 ch 68 SLA 1984; am Sec. 2 ch 105 SLA 1984; am Sec. 1 ch 64 SLA 1985; am Sec. 3 ch 55 SLA 1986; am Sec. 6 ch 134 SLA 1990)

Revisors Notes - Enacted as AS 38.05.363. Renumbered in 1970.

Cross References - For required legislative approval of waiver of right to receive royalty oil or gas, see AS 38.06.055.

Decisions - Waiver of competitive bidding. - An initial waiver of competitive bidding and a second waiver at the time of amendment removed any obligation to open the contract to competitive bidding. *McKinnon v. Alpetco Co.*, 633 P.2d 281 (Alaska 1981).