



# LAWS OF ALASKA

**2003**

**Source**

SCS CSHB 57(FIN)

**Chapter No.**

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**AN ACT**

Amending the manner of determining the royalty received by the state on gas production as it relates to the manufacture of certain value-added products.

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**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

THE ACT FOLLOWS ON PAGE 1



## AN ACT

1 Amending the manner of determining the royalty received by the state on gas production as it  
2 relates to the manufacture of certain value-added products.

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4 \* **Section 1.** AS 38.05.180(bb) is amended to read:

5 (bb) In (aa) **and (ee)** of this section,

6 (1) "gas or electric utility" includes an electric cooperative organized  
7 under AS 10.25, a municipal utility, and a gas or electric utility regulated under  
8 AS 42.05; provided that, if the contract gas is transmitted to consumers through a  
9 pipeline and the gas utility either owns the pipeline or is related in ownership to the  
10 owner of the pipeline, then the gas utility qualifies as a "gas or electric utility" within  
11 the meaning of this paragraph only if it is bound or agrees to be bound by the  
12 covenants set out in AS 38.35.120;

13 (2) "price for the gas established in the contract" includes tax  
14 reimbursement amounts, deliverability and other charges, and other forms of

consideration paid by the gas or electric utility **or by the manufacturer of agricultural chemicals, as appropriate,** under the contract;

(3) "state's royalty share of gas production"

(A) includes payments on federal leases made to the state under 30 U.S.C. 191;

(B) does not include the state's royalty share of gas production from land patented to the state under

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

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

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

\* **Sec. 2.** AS 38.05.180(bb) is amended by adding a new paragraph to read:

(4) "manufacturer of agricultural chemicals" means a person that is a business entity primarily engaging in the manufacturing of nitrogenous and phosphatic based fertilizers, mixed fertilizers, pesticides, and similar chemicals for agricultural purposes.

\* **Sec. 3.** AS 38.05.180(cc) is amended to read:

(cc) The provisions of (aa) **and (ee)** of this section do not prohibit the commissioner from accepting any payment on a federal lease tendered by the federal agency responsible for determination and transmittal of the payment to the state under 30 U.S.C. 191 or otherwise due the state as the state's royalty share of gas production irrespective of the state's acceptance of **an amount that is different than the amount due under the lease** [THE USE OF THE CONTRACT PRICE] for purposes of determining royalty share on gas production under that subsection.

\* **Sec. 4.** AS 38.05.180 is amended by adding a new subsection to read:

(ee) For a contract that is entered into on or after the effective date of this Act, within 90 days after the written request of a lessee of a lease issued under this section or of a lessee of federal land from which the state is entitled under applicable federal law to receive a share of the royalty on gas production, in order to establish the value of the state's royalty share of gas production sold by the lessee under the contract, the

1 commissioner may enter into an agreement with the lessee to use or accept as a price  
2 for the gas an amount that is not less than the price established in the contract between  
3 the lessee and a manufacturer of agricultural chemicals, not to exceed the amount that  
4 would otherwise be due under the lease. The commissioner may enter into the  
5 agreement if it is in the best interest of the state

6 (1) only if the primary function of the manufacturer is to engage in the  
7 production of a value-added product, and the manufacturer with which the lessee has  
8 entered into the contract is not affiliated with the lessee or with a subsequent purchaser  
9 of more than 10 percent of the manufacturer's value-added product; for purposes of  
10 this paragraph, the parties to a contract or purchase are affiliated if, in the judgment of  
11 the commissioner, one of the parties to the contract or purchase exercises substantial  
12 influence over the policies and actions of the other as evidenced by relationship based  
13 on common ownership or family interest or by action taken in concert without regard  
14 to whether that influence is based upon stockholdings, stockholders, officers, or  
15 directors;

16 (2) unless the commissioner makes a written finding, based on clear  
17 and convincing evidence, that

18 (A) the contract price is unreasonably low; or

19 (B) the prospective reduction in royalty receipts would not be  
20 balanced by employment opportunities or other tangible benefits to the state.

21 \* **Sec. 5.** The uncoded law of the State of Alaska is amended by adding a new section to  
22 read:

23 **APPLICABILITY.** The provisions of this Act apply to determine the price received  
24 by the state on royalty gas production as it relates to the sale of the gas to a manufacturer of  
25 agricultural chemicals based on contracts under AS 38.05.180(ee) that are entered into on or  
26 after the effective date of this Act.