



LAWS OF ALASKA

2003

Source

SCS HB 69(RES)

Chapter No.

AN ACT

Relating to regulation of shallow natural gas leasing and closely related energy projects; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to regulation of shallow natural gas leasing and closely related energy projects; and
2 providing for an effective date.

3
4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 LEGISLATIVE FINDINGS. The legislature finds that

7 (1) the development of shallow natural gas resources is in the best interests of
8 the State of Alaska;

9 (2) shallow natural gas is abundant and widespread in Alaska and bears the
10 promise of providing Alaskans, particularly Alaskans living in rural areas, with an
11 inexpensive and clean source of energy if those resources can be economically developed;

12 (3) the development of shallow natural gas poses significantly fewer risks and
13 creates substantially less impact to the environment than traditional deep oil and gas projects,
14 which have served as the model for oil and gas industry and environmental regulations to date

1 in Alaska;

2 (4) the regulatory requirements developed and applied to traditional deep oil
3 and gas projects in Alaska are ill-suited and unduly onerous when applied to shallow natural
4 gas projects, threatening the economic viability of otherwise desirable exploration and
5 development projects;

6 (5) there is an immediate state and national need for the development of clean
7 and economical unconventional energy sources, such as shallow natural gas resources;

8 (6) reform of existing laws and regulations is needed to remove unnecessary
9 regulatory burdens on the private sector to foster and encourage the development in Alaska of
10 these necessary resources;

11 (7) the legislature is acting in the interest of promoting the active development
12 of such resources, while ensuring that suitable measures are taken to protect human health and
13 safety and the natural environment,

14 (A) to remove impediments to the responsible development of shallow
15 natural gas;

16 (B) to provide the proper state agencies with clear authority and
17 discretion to adopt regulatory practices appropriate to shallow natural gas exploration
18 and development projects, in recognition of the lower risks posed by such projects to
19 human health and safety and the natural environment; and

20 (C) to reserve all rights and powers not preempted by federal law and
21 regulation in order to assert state primacy over the regulation of shallow natural gas.

22 * **Sec. 2.** AS 31.05.030 is amended by adding a new subsection to read:

23 (j) For the purposes of AS 46.04.030(b), the commission shall determine
24 whether a well drilled for shallow natural gas may penetrate a formation capable of
25 flowing oil and, if so, whether the volume of oil encountered will be of such quantities
26 that an oil discharge prevention and contingency plan will be required.

27 * **Sec. 3.** AS 31.05.060 is amended by adding new subsections to read:

28 (c) Notwithstanding the requirements of (a) and (b) of this section that relate
29 to fixing a date for a hearing and causing notice of the hearing to be given, for an
30 action under this chapter that involves the exploration for or development of shallow
31 natural gas and that has application to a single well or a single field, upon the request

1 of a lessee or operator, the commission may, where operations might be unduly
2 delayed, approve a variance from the commission's regulations that apply to the well
3 or field without providing notice and opportunity to be heard. In the exercise of its
4 authority to issue the variance,

5 (1) the commission may approve the variance if

6 (A) the approval provides at least an equally effective means of
7 accomplishing the requirement set out in the commission's regulation; or

8 (B) the commission determines that the request is more
9 appropriate to the proposed operation than compliance with the requirement of
10 the regulation; and

11 (2) the terms of the approval of the variance may include exempting
12 the lessee or operator from a requirement of a regulation if the commission determines
13 that the requirement is not necessary or not suited to the well or field taking into
14 consideration

15 (A) the nature of the operation involved;

16 (B) the characteristics of the well or field for which the
17 variance is sought; and

18 (C) the reasonably anticipated risks of the exemption from the
19 requirement to human safety and the environment.

20 (d) The provisions of (c) of this section do not apply to authorize approval of a
21 variance from the commission's regulations that relate to underground injection.

22 * **Sec. 4.** AS 31.05 is amended by adding a new section to read:

23 **Sec. 31.05.125. Regulation of shallow natural gas; relationship of chapter**
24 **to other laws.** If the Department of Natural Resources clearly demonstrates an
25 overriding state interest, the commissioner of natural resources may approve a waiver
26 of local planning authority approval and requirements relating to compliance with
27 local ordinances and regulations. The commissioner shall issue specific findings
28 giving reasons for granting a waiver under this section.

29 * **Sec. 5.** AS 31.05.170 is amended by adding a new paragraph to read:

30 (15) "shallow natural gas" means coal bed methane, natural gas drilled
31 for under a lease authorized by AS 38.05.177, or natural gas drilled for in a well the

1 true vertical depth of which is 4,000 feet or less.

2 * **Sec. 6.** AS 38.05.177 is amended by adding a new subsection to read:

3 (o) If the department clearly demonstrates an overriding state interest, the
4 commissioner may approve a waiver of local planning authority approval and
5 requirements relating to compliance with local ordinances and regulations. The
6 commissioner shall issue specific findings giving reasons for granting a waiver under
7 this subsection.

8 * **Sec. 7.** AS 46.04.030(b) is amended to read:

9 (b) A person may not cause or permit the operation of a pipeline or an
10 exploration or production facility in the state unless an oil discharge prevention and
11 contingency plan for the pipeline or facility has been approved by the department and
12 the person is in compliance with the plan. This subsection does not apply to an
13 exploration or production facility used solely to explore for or to develop or
14 produce shallow natural gas resources, except that this exemption does not apply if
15 the Alaska Oil and Gas Conservation Commission determines under
16 AS 31.05.030(j) that

17 (1) a well drilled for shallow natural gas may penetrate a
18 formation capable of flowing oil; and

19 (2) the volume of oil encountered will be of such quantities that a
20 contingency plan will be required [BY MEANS OF DRILLING A WELL ON A
21 LEASE AUTHORIZED UNDER AS 38.05.177].

22 * **Sec. 8.** AS 46.04.900 is amended by adding a new paragraph to read:

23 (30) "shallow natural gas" means coal bed methane, natural gas drilled
24 for under a lease authorized by AS 38.05.177, or natural gas drilled for in a well the
25 true vertical depth of which is 4,000 feet or less.

26 * **Sec. 9.** AS 46.40 is amended by adding a new section to read:

27 **Sec. 46.40.205. Consistency determinations for certain activities involving**
28 **shallow natural gas.** (a) When conducted under oversight and regulation of the
29 Alaska Oil and Gas Conservation Commission and the state's resource agencies,
30 projects for the exploration and development of shallow natural gas are consistent with
31 the program described in this chapter. Persons responsible for activities subject to this

1 section shall obtain all required permits and approvals from municipal, state, and
2 federal agencies as otherwise required by law.

3 (b) In this section, "shallow natural gas" has the meaning given in
4 AS 46.04.900.

5 * **Sec. 10.** This Act takes effect immediately under AS 01.10.070(c).