



LAWS OF ALASKA

2013

Source
CSHB 129(FIN)

Chapter No.

AN ACT

Relating to approval for oil and gas or gas only exploration and development in a geographical area; 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 approval for oil and gas or gas only exploration and development in a
2 geographical area; and 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) in 2001, the legislature amended AS 38.05.035(e) to clarify that the
8 Department of Natural Resources is only required to issue a single written best interest
9 finding before approving contracts for the sale, lease, or other disposal of available land,
10 resources, property, or interests in them;

11 (2) on March 29, 2013, the Alaska Supreme Court issued an opinion in
12 Sullivan v. Resisting Environmental Destruction on Indigenous Lands, Supreme Court Case
13 No. S-14216, Opinion No. 6769 (March 29, 2013), that correctly and properly recognized that
14 art. VIII, sec. 2, Constitution of the State of Alaska, gives the legislature the "responsibility

1 and discretion to create procedures to meet the policy outlined in article VIII, section 1 to
2 develop Alaska's resources 'for the maximum benefit of [the State's] people,'" and that it is
3 "not the court's place to provide instruction on how the State should determine what action
4 would be for the maximum benefit of the Alaskan people";

5 (3) while the decision of the Alaska Supreme Court acknowledged the
6 legislature's authority to limit best interest findings to the disposal phase, the Alaska Supreme
7 Court also held that the Department of Natural Resources had a constitutional duty to
8 "continue to analyze and consider all factors material and relevant to what is in the public
9 interest after the lease sale phase, including the cumulative impacts of the project, and to
10 provide the public with timely and meaningful notice of its cumulative impacts assessment in
11 order to ensure the constitutional principle of maximum use consistent with the public
12 interest";

13 (4) the decision of the Alaska Supreme Court noted that this constitutional
14 duty would be met by taking a "continuing hard look at new information and changing
15 circumstances" as projects proceed through phases subsequent to the lease disposal phase;

16 (5) the Department of Natural Resources has carefully considered and
17 continues carefully to consider approvals of oil and gas exploration and development and
18 conducts an extensive analysis for each approval;

19 (6) the legislature instructed the Department of Natural Resources regarding
20 how it should determine what action would be for the maximum benefit of the people of
21 Alaska by enacting AS 38.05.180(a);

22 (7) the Department of Natural Resources already has taken and continues to
23 take a "continuing hard look at new information and changing circumstances" by gathering
24 information each year under AS 38.05.035(e)(6)(F) and by calling for comments from the
25 public to determine whether there is substantial new information that justifies a supplement to
26 the best interest finding for the most recent areawide lease sale;

27 (8) in addition to those efforts by the Department of Natural Resources, the
28 processes for issuing numerous other state, federal, and local permits and authorizations, some
29 of which are described in ch. 101, SLA 2001, provide the public with timely and meaningful
30 notice of information related to the effects of leasing, exploration, development, and
31 transportation;

1 (9) under AS 38.05.020(b)(1), the commissioner of natural resources is
2 expressly granted the ability to adopt regulations that are consistent with AS 38.05.180(a) and
3 provide procedures necessary to meet the constitutional duty created by the decision of the
4 Alaska Supreme Court for taking an ongoing hard look at new information and changing
5 circumstances when evaluating subsequent phases of an oil and gas project.

6 * **Sec. 2.** AS 38.05.035 is amended by adding a new subsection to read:

7 (o) The director may approve exploration or development for all or part of an
8 area previously approved for oil and gas or gas only leasing under (e) of this section.
9 An approval applies to exploration or development commencing during a period for
10 up to 10 years, as specified by the director in the approval. When authorizing
11 exploration or development under this subsection, the department shall provide public
12 notice and the opportunity to comment using the methods described in
13 AS 38.05.945(b) and (c). The approval authorizes a lessee to begin exploration or
14 development during the period specified in the approval, subject to the lessee
15 receiving other authorizations required from the department or other state, local, or
16 federal agencies. Once a lessee begins exploration or development on a lease or group
17 of leases, the approval for exploration under this subsection or the approval for
18 development under this subsection remains valid for the term of the lease. This
19 subsection does not relieve lessees of any statutory, regulatory, or lease obligations,
20 including any obligations to submit for approval plans of operation, of exploration, or
21 of development.

22 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).