



# LAWS OF ALASKA

1981

**Source**

SCS CSHB 434(Res) am S

**Chapter No.**

110

## AN ACT

Relating to pipelines and merging the Alaska Pipeline Commission with the Alaska Public Utilities Commission; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 10

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: July 26, 1981  
Actual Effective Date: July 27, 1981 except for Sec. 18(c)  
which is effective October 24, 1981

AN ACT

Relating to pipelines and merging the Alaska Pipeline Commission with the Alaska Public Utilities Commission; and providing for an effective date.

\* Section 1. AS 31.15.050(1) is amended to read:

(1) "commission" means the Alaska Public Utilities [PIPELINE] Commission;

\* Sec. 2. AS 38.35.120(a)(5) is amended to read:

(5) it will provide connections, as determined by the Alaska Public Utilities [PIPELINE] Commission under AS 42.06.340, to facilities on the pipeline subject to the lease, both on state land and other land in the state, for the purpose of delivering crude oil or natural gas, depending on the kind of pipeline involved, to persons (including the state and its political subdivisions) contracting for the purchase at wholesale of crude oil or natural gas transported by the pipeline when required by the public interest;

\* Sec. 3. AS 38.35.120(a)(7) is amended to read:

(7) it will construct and operate the pipeline in accordance with applicable state laws and lawful regulations and orders of the Alaska Public Utilities [PIPELINE] Commission;

\* Sec. 4. AS 39.25.120(10) is amended to read:

(10) the executive director, [AND] deputy director, hearing officers, and administrative law judges of the Alaska Public Utilities Commission;

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1 \* Sec. 5. AS 42.05.121(a) is amended to read:

2 (a) The commission may employ an executive director who shall  
3 have had at least five years of experience in public utility management  
4 or regulation, law, accounting, engineering, or an allied field. The  
5 executive director is responsible for directing the administrative  
6 functions of the commission and carrying out the policies as set by the  
7 commission. The commission may employ engineers, hearing officers,  
8 administrative law judges to the extent provided by AS 42.05.121(c),  
9 experts, clerks, accountants, and other agents and assistants it  
10 considers necessary. Employees [THE EXECUTIVE DIRECTOR AND HIS DEPUTY  
11 ARE IN THE PARTIALLY EXEMPT SERVICE UNDER AS 39.25.120. ALL OTHER  
12 EMPLOYEES] and agents of the commission who are not partially exempt  
13 under AS 39.25.120, other than legal counsel, are in the classified  
14 service under AS 39.25.100.

15 \* Sec. 6. AS 42.05.121 is amended by adding a new subsection to read:

16 (c) The commission may assign a qualified, unbiased, and impartial  
17 administrative law judge, with experience in the general practice of  
18 law, to conduct hearings under AS 42.06. The administrative law judge  
19 may perform other duties in connection with the administration of  
20 AS 42.06 and other laws. An administrative law judge hired to conduct  
21 hearings under AS 42.06 shall have been admitted to practice law for at  
22 least five years immediately before his appointment.

23 \* Sec. 7. AS 42.05.171 is amended to read:

24 Sec. 42.05.171. FORMAL HEARINGS. A formal hearing which the  
25 commission has power to hold may be held by or before three or more  
26 commissioners, a hearing officer, or an administrative law judge desig-  
27 nated for the purpose by the commission. The testimony and evidence in  
28 a formal hearing may be taken by the commissioners, by the hearing  
29 officer, or by the administrative law judge to whom the hearing has

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been assigned. A commissioner who has not heard or read the testimony, including the argument, may not participate in making a decision of the commission. In determining the place of a hearing the commission shall give preference to holding the hearing at a place most convenient for those interested in the subject of the hearing.

\* Sec. 8. AS 42.05.671 is repealed and reenacted to read:

Sec. 42.05.671. PUBLIC RECORDS. (a) Except as provided in (b) of this section, records that are in the possession of the commission are open to public inspection at reasonable times.

(b) The commission may, by regulation, classify the records submitted to it by regulated utilities as privileged records that are not open to the public for inspection. However, if a record involves an application or tariff filing pending before the commission, the commission shall release the record for the purpose of preparing for or making a presentation to the commission in the proceeding if the record or information derived from the record will be used by the commission in the proceeding.

(c) A person may make written objection to the public disclosure of information contained in a record under the provisions of this chapter or of information obtained by the commission under the provisions of this chapter, stating the grounds for the objection. When an objection is made, the commission may not order the information withheld from public disclosure unless the information adversely affects the interest of the person making written objection and disclosure is not required in the interest of the public.

(d) In this section, "record" means a report, file, book, account, paper, or application, and the facts and information contained in it.

\* Sec. 9. AS 42.06.150 is amended to read:

CHAPTER 06. [ALASKA] PIPELINE [COMMISSION] ACT.

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1           Sec. 42.06.150. POWERS AND DUTIES WITH RESPECT TO FEDERALLY REGU-  
2           LATED CARRIERS. AS 42.06.140 applies to oil and gas pipeline carriers  
3           regulated under federal law [THE INTERSTATE COMMERCE ACT OF 1906, OR  
4           THE NATURAL GAS ACT OF 1938,] only to the extent not preempted by  
5           [UNDER THOSE] federal law [ACTS].

6           \* Sec. 10. AS 42.06.230 is amended to read:

7           Sec. 42.06.230. JURISDICTION OF COMMISSION. Except [AS OTHERWISE  
8           PROVIDED IN THIS CHAPTER OR HEREAFTER OTHERWISE EXPRESSLY PROVIDED BY  
9           LAW, EXCEPT AS TO ANY CONCURRENT JURISDICTION WITH THE ALASKA PUBLIC  
10          UTILITIES COMMISSION UNDER AS 42.05 AS TO A PUBLIC UTILITY DESCRIBED IN  
11          AS 42.05.701(2)(D) AND (E), AND EXCEPT] as to jurisdiction of the  
12          Department of Law as provided by AS 42.06.140(10), the jurisdiction and  
13          authority over the subject matter of this chapter is exclusively in the  
14          commission. To the extent that the performance of any duties of the  
15          commission affects [AFFECT] a pipeline carrier or a pipeline subject to  
16          regulation under federal law [THE INTERSTATE COMMERCE ACT OR THE  
17          NATURAL GAS ACT], the performance of its duties shall not, as to that  
18          pipeline carrier or pipeline, conflict with applicable federal laws,  
19          regulations, rules, orders, or other requirements.

20          \* Sec. 11. AS 42.06.240(e) is amended to read:

21                 (e) The requirement for a certificate does [SHALL] not operate to  
22                 impose state regulation which has been preempted under federal law [THE  
23                 INTERSTATE COMMERCE ACT OF 1906 OR THE NATURAL GAS ACT OF 1938]. When  
24                 federal law has preempted state regulation the commission shall accept  
25                 the findings made under the federal scheme of regulation.

26          \* Sec. 12. AS 42.06.245 is amended to read:

27                 Sec. 42.06.245. FEDERALLY REGULATED CARRIERS. The requirements  
28                 of this chapter pertaining to permits and certificates of public con-  
29                 venience and necessity do not apply to the construction of a pipeline

facility exclusively subject to federal [THE] jurisdiction [OF THE INTERSTATE COMMERCE ACT OR THE NATURAL GAS ACT] or to the interstate portion of the business of a pipeline or pipeline carrier exclusively subject to federal [THE] jurisdiction [OF THE INTERSTATE COMMERCE ACT OR THE NATURAL GAS ACT]; however, the requirements of this chapter for permits and certificates of public convenience and necessity do apply to all the intrastate portion of the business of a pipeline or pipeline carrier subject to federal jurisdiction [THE INTERSTATE COMMERCE ACT AND THE NATURAL GAS ACT] whenever they engage in intrastate commerce; [PROVIDED,] however, nothing limits the powers of the commission set out in this chapter except to the extent they are preempted by federal law [THE INTERSTATE COMMERCE ACT OR THE NATURAL GAS ACT].

\* Sec. 13. AS 42.06.510 is repealed and reenacted to read:

Sec. 42.06.510. PUBLIC RECORDS. (a) Except as provided in (b) and (c) of this section, or prohibited from disclosure under state or federal law, records that are in the possession of the commission are open to public inspection at reasonable times.

(b) The commission may, by regulation, classify records submitted to it by regulated pipeline carriers or pipelines as privileged records that are not open to the public for inspection. However, if a record involves an application or tariff filing pending before the commission, the commission may release the record for the purpose of preparing for or making a presentation to the commission in the proceeding if the record or information derived from the record is considered by the commission to be relevant to an issue in the proceeding, and if the record or information will be used by the commission in the proceeding. A record or information that the commission releases under this subsection may be released only after giving to the party that filed the record or information reasonable notice of its intention to release the

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1 record or information and opportunity to object to that release.

2 (c) A document filed with the commission that relates to the  
3 finances or operations of a pipeline subject to federal jurisdiction  
4 and that is in addition to or other than the copy of a document required  
5 to be filed with the appropriate federal agency is open to inspection  
6 only by an appropriate officer or official of the state for relevant  
7 purposes of the state.

8 (d) A person may make written objection to the public disclosure  
9 of information contained in a record filed under the provisions of this  
10 chapter or of information obtained by the commission under the provi-  
11 sions of this chapter, stating the grounds for the objection. When an  
12 objection is made, the commission shall order the information withheld  
13 from public disclosure if the information adversely affects the interest  
14 of the person making written objection and disclosure is not required  
15 in the interest of the public.

16 (e) A commissioner, and the executive director, may certify as to  
17 all official records of the commission under this section and may  
18 certify as to all official acts of the commission under this chapter.

19 (f) In this section, "record" means a report, file, book, account,  
20 paper, or application, and the facts and information contained in it.

21 \* Sec. 14. AS 42.06.630(1) is amended to read:

22 (1) "commission" means the Alaska Public Utilities [PIPE-  
23 LINE] Commission;

24 \* Sec. 15. AS 42.06.630(6) is amended to read:

25 (6) "municipality" means a home rule or general law borough  
26 or city, including a municipality unified under AS 29.68 [AN ORGANIZED  
27 BOROUGH OR INCORPORATED CITY];

28 \* Sec. 16. AS 42.06.640 is amended to read:

29 Sec. 42.06.640. SHORT TITLE. This chapter may be cited as the

[ALASKA] Pipeline [COMMISSION] Act.

\* Sec. 17. AS 43.56.210(6)(B)(iii) is amended to read:

(iii) oil and gas pipeline systems owned and operated by a [CERTIFICATED] public utility that is certificated under AS 42.05.221 and is regulated by the Alaska Public Utilities Commission; and

\* Sec. 18. TRANSITION. (a) All orders, determinations, regulations, contracts, certificates, decisions, and privileges that have been issued, made, adopted, granted, or allowed to become effective by the Alaska Pipeline Commission or by a court of competent jurisdiction, in the performance of functions or in the conduct of proceedings that are transferred by this Act, continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Alaska Public Utilities Commission or other authorized officials, a court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act do not affect a tariff proceeding or an application for a certificate that is pending before the Alaska Pipeline Commission on the effective date of this Act, but these proceedings and the processing of applications continue under the Alaska Public Utilities Commission. Orders shall be issued in these proceedings, and appeals may be taken from them, as if this Act had not been enacted; and orders issued in these proceedings continue in effect until modified, terminated, superseded, or revoked by an authorized official, or by a court of competent jurisdiction or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of these proceedings under the same terms and conditions and to the same extent that these proceedings could have been discontinued or modified if this Act had not been enacted.

(c) The Alaska Public Utilities Commission, with the advice of the Alaska Pipeline Commission, shall provide for the orderly transfer of pro-

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1 ceedings from the Alaska Pipeline Commission to the Alaska Public Utilities  
2 Commission.

3 (d) Except as provided in this subsection, the personnel employed in  
4 connection with, and the personnel positions, assets, liabilities, contracts,  
5 property, records, and unexpended balances of appropriations, authorizations,  
6 allocations, and other funds employed, held, used, arising from, available  
7 to or to be made available with, the functions and programs transferred by  
8 this Act are transferred from the Alaska Pipeline Commission to the Alaska  
9 Public Utilities Commission for appropriate allocation in accordance with  
10 law. The positions of commissioner and of executive director of the Alaska  
11 Pipeline Commission are abolished.

12 \* Sec. 19. REFERENCES TO PIPELINE COMMISSION. All other references in  
13 the Alaska Statutes to the Alaska Pipeline Commission, or to the commis-  
14 sioners of the Alaska Pipeline Commission, not expressly amended by or  
15 referred to in this Act shall be read as the Alaska Public Utilities Commis-  
16 sion, or the commissioners of the Alaska Public Utilities Commission, re-  
17 spectively, in order to implement this Act.

18 \* Sec. 20. AS 39.50.200(b)(22); AS 42.06.010 - 42.06.120, 42.06.160 -  
19 42.06.200, 42.06.490 - 42.06.500, 42.06.630(5) and (7); AS 44.62.330(a)(37);  
20 and AS 44.66.010(a)(5) are repealed.

21 \* Sec. 21. Sections 1 - 17, 18(a), (b), and (d), 19 and 20 of this Act  
22 take effect July 1, 1981.