

**HOUSE BILL NO. 173**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

**BY REPRESENTATIVE FOSTER**

**Introduced: 3/5/97**

**Referred: Resources**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to the small operator surface coal mining assistance program**  
2 **under the Alaska Surface Mining Control and Reclamation Act and to exploration**  
3 **incentive credits for locatable or leasable minerals or coal deposits."**

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

5 \* **Section 1.** AS 27.21.100(b) is amended to read:

6 (b) Copies of records, permits, inspection materials, **data obtained under**  
7 **AS 27.21.120**, or other information obtained under this chapter by the commissioner  
8 relating to a surface coal mining and reclamation operation, other than information that  
9 is confidential under (c) of this section, must be made immediately and conveniently  
10 available to the public at the district office of the department closest to the location of  
11 the surface coal mining and reclamation operation.

12 \* **Sec. 2.** AS 27.21.120 is amended to read:

13 **Sec. 27.21.120. Small operator assistance. (a) The provisions of this**  
14 **section apply when** [IF] the commissioner finds that the probable total annual

1 production of all of the surface coal mining operations of an applicant or, if the  
 2 applicant is a subsidiary of another corporation, [OF] the applicant's parent corporation  
 3 and its subsidiaries [,] will not exceed 300,000 [100,000] tons.

4 (b) At [, THE COMMISSIONER SHALL, AT] the written request of an  
 5 [THE] applicant, the commissioner shall

6 (1) determine, for each applicant or applicant's parent corporation  
 7 and subsidiaries, as appropriate, the data that may be necessary in order to

8 (A) evaluate the probable hydrologic consequences of the  
 9 applicant's surface mining and reclamation operations in the proposed  
 10 permit area and adjacent areas;

11 (B) evaluate the results of test borings on core samplings for  
 12 the proposed permit area;

13 (C) develop cross-section maps and plans, if required;

14 (D) fulfill archeological and historic information required by  
 15 AS 44.37.040(3);

16 (E) fulfill all requirements that are imposed on the applicant  
 17 or the applicant's parent corporation and subsidiaries if, under a  
 18 regulation adopted under authority of this chapter, the applicant or  
 19 applicant's parent corporation is required to complete a preblasting survey  
 20 of nearby dwellings or structures and to prepare a report of the survey;  
 21 and

22 (F) fulfill requirements applicable to collecting site-specific  
 23 resources information, producing protection and enhancement plans for  
 24 fish and wildlife habitats and for subsistence uses of the permit area and  
 25 adjacent areas, and preparing information and plans for any other  
 26 environmental values; and

27 (2) to the maximum extent possible with money appropriated,  
 28 engage, at no cost to the applicant, a qualified laboratory to collect, analyze, and  
 29 report the results of the data for the tasks set out in (1)(A) - (F) of this subsection  
 30 [PREPARE A DETERMINATION OF PROBABLE HYDROLOGIC  
 31 CONSEQUENCES OF THE APPLICANT'S PROPOSED OPERATION AND A

1 STATEMENT OF TEST BORING OR CORE SAMPLINGS IF THESE ARE  
2 REQUIRED BY REGULATIONS ADOPTED UNDER AS 27.21.110].

3 \* **Sec. 3.** AS 27.21.120 is amended by adding a new subsection to read:

4 (c) The collection and analysis of data under (b)(2) of this section may proceed  
5 concurrently with the applicant's development of a reclamation plan.

6 \* **Sec. 4.** AS 27.30.020 is amended to read:

7 **Sec. 27.30.020. Procedure for requesting and taking the credit.** To obtain  
8 the credit authorized by this chapter,

9 (1) a person shall submit a request for the credit as follows:

10 (A) the person may [SHALL] submit a request and a statement  
11 of expenditures

12 (i) whenever the amount of credit certified in the  
13 request totals at least \$250,000 and the period covered is at least  
14 one year; or

15 (ii) when the person is ready to take the entire  
16 balance of the credit, regardless of the total amount of the credit  
17 [FOR THE PREVIOUS CALENDAR YEAR NOT LATER THAN 60 DAYS  
18 AFTER THE CLOSE OF THAT CALENDAR YEAR];

19 (B) the request must be on a form provided by the  
20 department and

21 (i) describe the work accomplished during each [THE  
22 PREVIOUS] year of the period covered by the request, the number  
23 of employees, and the names and number of consultants; [AND]

24 (ii) provide a detailed list or ledger of expenditures of  
25 the accomplishments described in (i) of this subparagraph and a list of  
26 exploration activity data that [IN THE FUTURE] will be provided  
27 [MADE AVAILABLE] to the department [COMMISSIONER UNDER  
28 (2)(a) OF THIS SECTION]; and

29 (iii) provide a statement by a certified public  
30 accountant that expenditures are supported by receipts for all  
31 activities eligible for the credit under AS 27.30.010(a) for each

**calendar year that these expenditures for a single mining operation equal or exceed \$40,000;**

(C) the person submitting the request is not required to transmit copies of receipts with the request, but the statement of expenditures is subject to audit in the discretion of the commissioner;

(D) if the commissioner determines to audit the statement of expenditures, the commissioner may require the person submitting the request to justify claims of expenditures with receipts and other reliable information;

(E) the commissioner shall respond to the request **within six months of the date of submission of the request** [BY SEPTEMBER 30] by certifying or not certifying the person's expenditures; if the commissioner

(i) does not certify **all of the** expenditures, the commissioner shall state the reasons for denial of certification **of the expenditures not certified** and give the person making the request an opportunity to correct any problems or to provide additional information;

(ii) certifies expenditures, the commissioner shall specify the exploration activity data requirements [FOR THAT YEAR] that must be presented to the department at the time of the taking of the credit;

(F) if the commissioner neither certifies nor denies certification of expenditures **within six months of the date of submission of the request** [BY SEPTEMBER 30], the expenditures are certified as submitted;

(2) the person whose expenditures have been certified under (1) of this subsection may thereafter request the taking of the credit for the certified expenditures as follows:

(A) the person shall deliver to the commissioner the exploration activity data identified by the commissioner under (1)(E)(ii) of this section [,] and shall request the commissioner's approval of the taking of the credit;

(B) the commissioner shall approve or disapprove the taking of the credit within **60 days** [SIX MONTHS] after receipt of the request for

1 taking of the credit; if the

2 (i) exploration activity data complies with the  
3 requirements identified by the commissioner under (1)(E)(ii) of this  
4 section, the commissioner shall approve the taking of the credit **and**  
5 **shall, within 30 days, notify the Department of Revenue that the**  
6 **taking of the credit has been approved;**

7 (ii) request is disapproved, the commissioner shall state  
8 the reasons for disapproval and offer the person seeking to take the  
9 credit an opportunity to correct any problems or to provide additional  
10 exploration activity data or other information;

11 (C) if the commissioner neither approves nor disapproves the  
12 request to take the credit within **60 days** [SIX MONTHS] after submission of  
13 the request, the taking of the credit is approved; **the commissioner shall,**  
14 **within 30 days, notify the Department of Revenue that the taking of the**  
15 **credit has been approved under this subparagraph.**

16 \* **Sec. 5.** AS 27.30 is amended by adding a new section to read:

17 **Sec. 27.30.025 Conditional certification.** (a) A person may submit a request  
18 for conditional certification for the credit when

19 (1) the person has conducted or intends to conduct exploration activities  
20 using an innovative technique;

21 (2) there exists a substantial question regarding the nature of the  
22 exploration data that will be delivered to the department; or

23 (3) the person contemplates assigning a credit under AS 27.30.060 and  
24 there exists a substantial question regarding whether the expenditures will be certified.

25 (b) A person shall submit a request for conditional certification on a form  
26 provided by the department.

27 (c) The commissioner shall respond to the request within six months from the  
28 date of the submission of the request for conditional certification by issuing a letter  
29 stating that

30 (1) under the specific facts and circumstances proposed by the person,  
31 the proposed expenditures and data appear eligible for a credit;

1 (2) there is not adequate information to determine whether the proposed  
2 expenditures and data appear to be eligible for a credit; or

3 (3) the expenditures and data as presented do not appear to be eligible  
4 for a credit.

5 (d) Approval of conditional certification under (c)(1) of this section does not  
6 relieve a person from obtaining certification of the credit under AS 27.30.020.

7 \* **Sec. 6.** AS 27.30.030(c) is amended to read:

8 (c) The person may not apply the credit under this section if the application[,  
9 WHEN ADDED TO CREDITS PREVIOUSLY APPLIED UNDER THIS SECTION,]  
10 would exceed the total amount of the credits approved under AS 27.30.020(2).

11 \* **Sec. 7.** AS 27.30 is amended by adding a new section to read:

12 **Sec. 27.30.095. Fees.** The commissioner may charge a fee for the direct costs  
13 incurred by the department and the Department of Revenue for evaluating or auditing  
14 an application to certify the credit authorized under AS 27.30.010, including the cost  
15 of contractors selected by the commissioner to assist in the evaluation or audit. The  
16 fee may not exceed

17 (1) \$500 for each application covering one or more years if the amount  
18 claimed in the application is \$1,000,000 or less;

19 (2) \$1,000 for each application covering one or more years if the  
20 amount claimed is more than \$1,000,000.