

CS FOR HOUSE BILL NO. 183(O&G)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON OIL AND GAS

Offered: 4/16/07

Referred: Rules

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE BUDGET AND AUDIT COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the regulation and permitting of drilling and other operations by the
2 Alaska Oil and Gas Conservation Commission, to civil penalties assessed by the
3 commission, to reconsideration and appeal of decisions and the allocation of costs in
4 investigations and hearings before the commission, and to information filed with and
5 fees of the commission; and providing for an effective date."

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

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

9 LEGISLATIVE INTENT OF SECS. 10, 14, AND 15 OF THIS ACT. (a) It is the
10 intent of the legislature through secs. 10 and 15 of this Act to confirm by clarification that
11 AS 22.10.020(d), or court rules, have superseded inconsistent provisions of AS 31.05.080(b)
12 as they existed the day before the effective date of this Act.

13 (b) It is the intent of the legislature through the enactment of AS 31.05.150(f) in sec.

1 14 of this Act to confirm by clarification the long-standing interpretation of AS 31.05.150(d),
 2 as that section read before the effective date of this Act, by the Alaska Oil and Gas
 3 Conservation Commission that civil penalties may be administratively assessed by the
 4 commission and if not paid are recoverable by suit in the appropriate superior court as
 5 determined by court rules.

6 * **Sec. 2.** AS 31.05.030(d) is repealed and reenacted to read:

7 (d) The commission may require

8 (1) identification of ownership of wells, producing leases, tanks,
 9 plants, and drilling structures;

10 (2) the making and filing of reports, well logs, drilling logs, electric
 11 logs, lithologic logs, directional surveys, and all other subsurface information on a
 12 well for which a permit to drill has been issued by the commission, subject to the
 13 following:

14 (A) the reports required to be filed by the commission under
 15 this paragraph shall be filed within 30 days after the completion, abandonment,
 16 or suspension of the well; and

17 (B) the well logs, drilling logs, electric logs, lithologic logs,
 18 directional surveys, and all other information required to be filed by the
 19 commission under this paragraph shall be filed within 90 days after the
 20 completion, abandonment, or suspension of the well, unless extended by the
 21 commission on request;

22 (3) the drilling, casing and plugging of wells in a manner that will
 23 prevent the escape of oil or gas out of one stratum into another, the intrusion of water
 24 into an oil or gas stratum, the pollution of fresh water supplies by oil, gas or salt water,
 25 and prevent blowouts, cavings, seepages and fires;

26 (4) the furnishing of a reasonable bond with sufficient surety
 27 conditions for the performance of the duty to plug each dry or abandoned well or the
 28 repair of wells causing waste;

29 (5) the operation of wells with efficient gas-oil and water-oil ratios,
 30 and may fix these ratios;

31 (6) the gauging or other measuring of oil and gas to determine the

1 quality and quantity of oil and gas;

2 (7) every person who produces oil or gas in the state to keep and
3 maintain for a period of five years in the state complete and accurate records of the
4 quantities of oil and gas produced, which shall be available for examination by the
5 commission at all reasonable times;

6 (8) the measuring and monitoring of oil and gas pool pressures;

7 (9) the filing and approval of a plan of development and operation for
8 a field or pool to prevent waste, ensure a greater ultimate recovery of oil and gas, and
9 protect the correlative rights of persons owning interests in the tracts of land affected.

10 * **Sec. 3.** AS 31.05.030(e) is amended to read:

11 (e) The commission may regulate

12 (1) for conservation purposes **and, to the extent not in conflict with**
13 **regulation by the Department of Labor and Workforce Development or the**
14 **Department of Environmental Conservation, for public health and safety**
15 **purposes,**

16 (A) the drilling, producing, and plugging of wells;

17 (B) the **perforating, fracture simulation,** [SHOOTING] and
18 chemical treatment of wells;

19 (C) the spacing of wells;

20 (D) the disposal of salt water, nonpotable water, and oil field
21 wastes;

22 (E) the contamination or waste of underground water;

23 (F) the quantity and rate of the production of oil and gas from a
24 well or property; this authority shall also apply to a well or property in a
25 voluntary cooperative or unit plan of development or operation entered into in
26 accordance with AS 38.05.180(p);

27 **(G) the underground injection of gas for purposes of**
28 **storage;**

29 (2) the disposal of drilling mud, cuttings, and nonhazardous drilling
30 operation wastes in the annular space of **a** [AN OIL OR GAS] well **for which a**
31 **permit to drill has been issued by the commission** [OR IN THE ANNULAR

1 SPACE OF A WATER WELL ASSOCIATED WITH OIL OR GAS
 2 EXPLORATION AND PRODUCTION]; in this paragraph, a "nonhazardous drilling
 3 operation waste" means a waste, other than a hazardous waste identified by the
 4 Environmental Protection Agency in 40 C.F.R., Part 261, its regulation identifying and
 5 listing hazardous wastes, associated with the act of drilling a [AN OIL OR GAS] well
 6 for exploratory or production purposes.

7 * **Sec. 4.** AS 31.05.030(f) is amended to read:

8 (f) The commission may classify a well or a specific portion of a well
 9 [WELLS] as an exploratory, development, service, or stratigraphic test well and
 10 may classify a development well as an oil or gas well [WELLS] for purposes
 11 material to the interpretation or enforcement of this chapter.

12 * **Sec. 5.** AS 31.05.030(j) is amended to read:

13 (j) For exploration and development operations involving nonconventional
 14 gas, the commission

15 (1) may not

16 (A) issue a permit to drill under this chapter if the well would
 17 be used to produce gas from an aquifer that serves as a source of water for
 18 human consumption or agricultural purposes unless the commission
 19 determines that the well will not adversely affect the aquifer as a source of
 20 water for human consumption or agricultural purposes; or

21 (B) allow injection of produced water except at depths below
 22 known sources of water for human consumption or agricultural purposes;

23 (2) shall

24 (A) regulate hydraulic fracturing in nonconventional gas wells
 25 to ensure [ASSURE] protection of drinking water quality;

26 (B) regulate the disposal of wastes produced from the
 27 operations unless the disposal is otherwise subject to regulation by the
 28 Department of Environmental Conservation or the United States
 29 Environmental Protection Agency;

30 (C) [REPEALED]

31 (D) as a condition of approval of a permit to drill a well for

1 **regular** production [OR PRODUCTION TESTING] of coal bed methane,
 2 require the operator to design and implement a water well testing program to
 3 provide baseline data on water quality and quantity; the commission shall
 4 make the results of the water well testing program available to the public.

5 * **Sec. 6.** AS 31.05.035(a) is amended to read:

6 (a) For all wells for which a permit to drill has been issued by the commission
 7 [SINCE JANUARY 3, 1959], the commission may require:

8 (1) the making and filing of reports, well logs, drilling logs, electric
 9 logs, lithologic logs, directional surveys, and all other subsurface information on a
 10 well **for which a permit to drill has been issued by the commission** [DRILLED
 11 FOR OIL OR GAS, OR FOR THE DISCOVERY OF OIL OR GAS, OR FOR
 12 GEOLOGIC INFORMATION];

13 (2) the filing of flow test information and all logs, except experimental
 14 logs and velocity surveys run on a well and not required by (1) of this subsection; and

15 (3) the operator to make available for copying the digitized log
 16 information, if it is available, on any log required to be filed under (1) or (2) of this
 17 subsection.

18 * **Sec. 7.** AS 31.05.035(c) is amended to read:

19 (c) The reports and information required in (a) of this section **that relate to an**
 20 **exploratory or stratigraphic test well and those portions of an application for a**
 21 **permit to drill an exploratory or stratigraphic test well that the commission**
 22 **determines contain proprietary engineering or geotechnical information** shall be
 23 kept confidential for 24 months following the 30-day filing period unless the owner of
 24 the well gives written permission to release the **application and** reports and
 25 information at an earlier date. If the commissioner of natural resources finds that the
 26 required reports and information contain significant information relating to the
 27 valuation of unleased land in the same vicinity, the commissioner shall keep the
 28 reports and information confidential for a reasonable time after the disposition of all
 29 affected unleased land, unless the owner of the well gives written permission to
 30 release the reports and information at an earlier date. Well **surface and bottom hole**
 31 **locations** [LOCATION], **well** depth, **well** status, [AND] production data, and

1 production reports required by the commission to be filed subsequent to the 30-day
2 filing period shall be considered public information and may not be classified
3 confidential. Production data, as used in this subsection, means volume, gravity and
4 gas-oil ratio of all production of oil or gas after the well begins regular production.

5 * **Sec. 8.** AS 31.05.035 is amended by adding a new subsection to read:

6 (f) Confidentiality under (d) of this section is not applicable to information
7 submitted with or as part of a petition for a commission order or to information
8 submitted for or as part of a hearing before the commission.

9 * **Sec. 9.** AS 31.05.080(a) is amended to read:

10 (a) Within 20 days after written notice of the entry of an order or decision of
11 the commission, or such further time as the commission grants for good cause shown,
12 a person affected by it may file with the commission an application for
13 **reconsideration** [THE REHEARING IN RESPECT] of the matter determined by the
14 order or decision, setting **out** [FORTH] the respect in which the order or decision is
15 believed to be erroneous. The commission shall grant or refuse the application in
16 whole or in part within 10 days after it is filed, and failure to act on it within this
17 period is a refusal of it and a final disposition of the application. If **reconsideration**
18 [THE HEARING] is granted, the commission may enter a new order or decision after
19 **reconsideration** [REHEARING] as may be required under the circumstances.

20 * **Sec. 10.** AS 31.05.080(b) is repealed and reenacted to read:

21 (b) A person who has applied for reconsideration and is dissatisfied with the
22 disposition of the application for reconsideration may appeal to the superior court. The
23 questions reviewed on appeal are limited to the questions presented to the commission
24 by the application for reconsideration.

25 * **Sec. 11.** AS 31.05.085(a) is amended to read:

26 (a) During a hearing or investigation held under this chapter, the commission
27 may allocate the costs of the hearing or investigation among the parties, including the
28 commission, as is just under the circumstances. In allocating costs, the commission
29 shall consider the regulatory cost charge paid by a person under AS 31.05.093 and
30 may consider the results, evidence of good faith, other relevant factors, and mitigating
31 circumstances. The costs allocated may include

1 (1) the costs of any time devoted to the investigation or hearing by
 2 hired consultants, whether or not the consultants appear as witnesses or participants;
 3 [AND]

4 (2) any out-of-pocket expenses incurred by the commission in the
 5 particular proceeding; **and**

6 **(3) when the investigation or hearing relates to a violation of a**
 7 **provision of this chapter, a regulation adopted under this chapter, or an order,**
 8 **stipulation, or term of a permit issued by the commission, the costs of any time**
 9 **devoted to the investigation or hearing by the commission staff.**

10 * **Sec. 12.** AS 31.05.090 is repealed and reenacted to read:

11 **Sec. 31.05.090. Permits to drill wells.** (a) A person must apply for and receive
 12 a permit from the commission before drilling

13 (1) a well in search of oil or gas;

14 (2) a well in support of the recovery or production of oil or gas;

15 (3) an underground injection well for the purpose of gas storage; or

16 (4) an underground injection well for which the state has acquired
 17 primary enforcement responsibility under AS 31.05.030(h).

18 (b) A person must submit a separate permit application for each well. The
 19 permit application must be in the form required by the commission and include all
 20 information required by the commission.

21 (c) After receiving an application under (b) of this section, the commission
 22 shall promptly approve or deny the application for a permit to drill.

23 (d) In making a determination under (c) of this section, the commissioner shall
 24 consider whether the

25 (1) proposed well is contrary to law, a provision of this chapter, a
 26 regulation adopted under this chapter, or an order, stipulation, or term of a permit
 27 issued by the commission; or

28 (2) applicant is in violation of a provision of this chapter, a regulation
 29 adopted under this chapter, or an order, stipulation, or term of a permit issued by the
 30 commission and the magnitude of such violation.

31 * **Sec. 13.** AS 31.05.093(c) is amended to read:

1 (c) The commission shall determine the regulatory cost charges levied under
 2 this section so that the total amount to be collected approximately equals the
 3 appropriations made for the operating costs of the commission under this chapter for
 4 the fiscal year [, LESS THE ESTIMATED TOTAL OF THE FEES TO BE
 5 COLLECTED UNDER AS 31.05.090. IF THE AMOUNT THE COMMISSION
 6 EXPECTS TO COLLECT UNDER THIS SECTION AND UNDER AS 31.05.090
 7 EXCEEDS THE APPROPRIATIONS MADE FOR THE OPERATING COSTS OF
 8 THE COMMISSION UNDER THIS CHAPTER, THE COMMISSION SHALL, BY
 9 ORDER, ADJUST THE REGULATORY COST CHARGES SO THAT THE TOTAL
 10 AMOUNT OF THE REGULATORY COST CHARGES AND FEES THAT ARE
 11 COLLECTED APPROXIMATELY EQUALS THE APPROPRIATIONS MADE
 12 FOR THE OPERATING COSTS OF THE COMMISSION UNDER THIS CHAPTER
 13 FOR THE FISCAL YEAR].

14 * **Sec. 14.** AS 31.05.150 is repealed and reenacted to read:

15 **Sec. 31.05.150. Penalties.** (a) In addition to the penalties in (b) - (e) of this
 16 section, a person who violates a provision of this chapter, a regulation adopted under
 17 this chapter, or an order, stipulation, or term of a permit issued by the commission is
 18 liable for a civil penalty of not more than \$100,000 for the initial violation and not
 19 more than \$10,000 for each day thereafter on which the violation continues.

20 (b) A person who knowingly commits an act specified in AS 11.46.630(a) for
 21 the purpose of evading a provision of this chapter, a regulation adopted under this
 22 chapter, or an order, stipulation, or term of a permit issued by the commission, is
 23 guilty of a class A misdemeanor.

24 (c) A person who knowingly aids or abets another person in the violation of a
 25 provision of this chapter, a regulation adopted under this chapter, or an order,
 26 stipulation, or term of a permit issued by the commission, is subject to the same
 27 penalty as that prescribed in this chapter for the violation by the other person.

28 (d) In addition to the penalties in (a) - (c) and (e) of this section, the
 29 commission may impose a civil penalty for each 1,000 cubic feet of natural gas flared,
 30 vented, or otherwise determined to be waste as defined in AS 31.05.170. The penalty
 31 shall be twice the fair market value of the natural gas at the point of waste.

1 (e) A person who knowingly violates a provision of this chapter, a regulation
 2 adopted under this chapter, or an order, stipulation, or term of a permit issued by the
 3 commission is guilty of a misdemeanor punishable by a fine of not more than \$10,000
 4 a day for each day of violation.

5 (f) The commission may assess the civil penalties provided in this section and,
 6 if not paid, the penalties are recoverable by suit filed by the attorney general in the
 7 name and on behalf of the commission in the superior court. The payment of a penalty
 8 does not relieve a person on whom the penalty is imposed from liability to any other
 9 person for damages arising out of the violation.

10 (g) In determining the amount of a penalty assessed under (a) of this section,
 11 the commission shall consider

12 (1) the extent to which the person committing the violation was acting
 13 in good faith in attempting to comply;

14 (2) the extent to which the person committing the violation acted in a
 15 wilful or knowing manner;

16 (3) the extent and seriousness of the violation and the actual or
 17 potential threat to public health or the environment;

18 (4) the injury to the public resulting from the violation;

19 (5) the benefits derived by the person committing the violation from
 20 the violation;

21 (6) the history of compliance or noncompliance by the person
 22 committing the violation with the provisions of this chapter, the regulations adopted
 23 under this chapter, and the orders, stipulations, or terms of permits issued by the
 24 commission;

25 (7) the need to deter similar behavior by the person committing the
 26 violation and others similarly situated at the time of the violation or in the future;

27 (8) the effort made by the person committing the violation to correct
 28 the violation and prevent future violations; and

29 (9) other factors considered relevant to the assessment that are adopted
 30 by the commission in regulation.

31 * **Sec. 15.** AS 31.05.080(c) and 31.05.080(d) are repealed.

1 * **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 REVISOR'S INSTRUCTION. The revisor of statutes is instructed to change the
4 heading of AS 31.05.080 from "Rehearings and appeals" to "Reconsiderations and appeals."

5 * **Sec. 17.** This Act takes effect immediately under AS 01.10.070(c).