

**HB**

**395**

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
Bill Version: CSHB 395(O&G)  
(H) Publish Date: 3/22/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
Title: Shallow Natural Gas RDU: Resource Development  
Component: Oil and Gas Development  
Sponsor: Harris, Gatto, Stoltze, Seaton  
Requester: House Resources Component No. 439

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	19.2	19.2	19.2	19.2	19.2	19.2
Travel						
Contractual	52.9	52.9	52.9	52.9	52.9	52.9
Supplies	3.9	0.9	0.9	0.9	0.9	0.9
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>76.0</b>	<b>73.0</b>	<b>73.0</b>	<b>73.0</b>	<b>73.0</b>	<b>73.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>	<b>** (Indeterminate Amount)**</b>
-------------------------------	------------------------------------

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	76.0	73.0	73.0	73.0	73.0	73.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>76.0</b>	<b>73.0</b>	<b>73.0</b>	<b>73.0</b>	<b>73.0</b>	<b>73.0</b>

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

HB 395 would make a number of changes to the state's shallow natural gas leasing program including additional public notice requirements; required surface use fees; setbacks, noise mitigation, and reclamation requirements; and a special provision for damages.

Under Section 5 of the bill, additional public notification beyond that already carried out by DNR would be required. Specifically, this would require DNR to publish notice in papers of general circulation in the affected area one additional time beyond what is currently done when giving notice of a shallow natural gas application and calling for public comments. In addition, the bill would require DNR to publish notice of intent to award the lease at least three times in at least two papers of general circulation in the area of the proposed action at intervals of not less than five days between publications.

Prepared by: Mark D. Myers Phone 269-8800  
Division: Oil and Gas Date/Time 3/15/04  
Approved by: Thomas Irwin, Commissioner Date 3/16/04  
Agency: Natural Resources

FISCAL NOTE #1

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

BILL NO. CSHB 395(O&G)

ANALYSIS CONTINUATION

Total number of additional publications of notice: 4 x 2 papers.

The Anchorage Daily News has general circulation in all areas of the state. The cost for a legal notice is \$404 per day (weekday).  
4 x \$404 = \$1,616

Publication cost in a local paper is estimated at \$225 (Frontiersman was used as an estimate) per day. 4 x \$225 = \$900

Combined total: \$2,516

Last year, DNR processed three groups of applications in calendar year 2003 (DNR tries to group applications to cut down on noticing costs). 3 x \$2,516 = \$7,548

Section 5 would also require direct notification to each resident in the vicinity of the proposed action when lease applications are received. The bill does not specify whether or not certified mail is required. Therefore, costs are estimated below under both a certified mail and a bulk mail scenario. The figures on the first page of this fiscal note use the figures calculated for certified mail. If bulk mail used, the figures will be substantially less. For this fiscal note DNR estimated that there would be 3 groups of applications = 15,000 additional direct mailings per year.

Certified mail:

Mailing data .05

Postage 2.67

Xerox cost .02

Paper .01

Envelope .05

Total 2.80 x 15,000 pieces of mail = \$42,000 per FY (\$41,100 in contractual, \$900 in supplies)

Bulk Mail:

Bulk mail permit with returned mail service: \$625 + 1.80 per each returned piece of mail (assumes 24 pieces returned for each 1,000 mailed) = \$1,273

Estimated mail-out cost per item for bulk (1,000 pieces) mail to one zip code.

Mailing data .05

Postage .23

Xerox cost .02

Paper .01

Total .31 x 15,000 pieces of mail = \$4,650 + \$1,273 from above = \$5,923 per FY (\$5,773 in contractual, \$150 in supplies)

An additional part-time administrative clerk would be required to handle the mail-outs. Cost of \$19.2 annually is based on an estimated 20 hours/week.

Contractual \$4.3 annually for phone, office space, telecommunications, and core service charges.

Supplies - One time costs for furniture and computer - \$3.0.

\*\* Indeterminate Negative Revenue Amount: The wording in Section 9 may make the state liable for any damages that may occur to the surface owners property. If this is the case, it is impossible at this time to determine the negative fiscal impact to the state.

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSHB 395(RES)  
 (H) Publish Date: 4/19/04

Revision Date/Time (Note if correction): 4/19/2004 Dept. Affected: Natural Resources  
 Title: Shallow Natural Gas RDU: Resource Development  
 Component: Oil and Gas Development  
 Sponsor: Harris, Gatto, Stoltze, Seaton  
 Requester: House Resources Component No. 439

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual	7.0	7.0	7.0	7.0	7.0	7.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>7.0</b>	<b>7.0</b>	<b>7.0</b>	<b>7.0</b>	<b>7.0</b>	<b>7.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>	
-------------------------------	--

**FUND SOURCE (Thousands of Dollars)**

FUND SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
1002 Federal Receipts						
1003 GF Match						
1004 GF	7.0	7.0	7.0	7.0	7.0	7.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>7.0</b>	<b>7.0</b>	<b>7.0</b>	<b>7.0</b>	<b>7.0</b>	<b>7.0</b>

Estimate of any current year (FY2004) cost: 0.0  
 Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** *(Attach a separate page if necessary)*  
 HB 395 would make a number of changes to the state's shallow natural gas leasing program including additional public notice requirements; setback guidelines, noise mitigation, and reclamation requirements; and a provision for bonding  
  
 Under Sections 13 and 14 of the bill, additional public notification beyond that already carried out by DNR would be required. Specifically, this would require DNR to publish notice in a paper of statewide circulation and a paper in the affected area one additional time beyond what is currently done when giving notice of a shallow natural gas application and calling for public comments. In addition, the bill would require DNR to publish two display ads in at least one paper of statewide circulation and one local paper in the area of the proposed action.

Prepared by: Mark D. Myers Phone 269-8800  
 Division: Oil and Gas Date/Time 4/19/04  
 Approved by: Thomas Irwin, Commissioner Date 4/19/04  
 Agency: Natural Resources

FISCAL NOTE #2

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

BILL NO. CSHB 395(RES)

ANALYSIS CONTINUATION

The Anchorage Daily News has general circulation in all areas of the state. The cost for a legal notice is \$404 per day (weekday).

Publication cost in a local paper is estimated at \$225 (Frontiersman was used as an estimate) per day.

Display ad in the Anchorage Daily News =  $\$614.70 \times 2 = 1,229.40$

Display ad in a local paper =  $\$242.00 \times 2 = 484.00$

Combined total all additional notice: \$ 2,342.40

Last year, DNR processed three groups of applications in calendar year 2003 (DNR tries to group applications to cut down on noticing costs).  $3 \times \$2,342.40 = \$7,027.20$

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 7, 2004

**SUBJECT:** Draft CSHB 395( ), an Act relating to natural resources --  
sectional analysis (Work Order No. 23-LS1314V)

**TO:** Representative Beverly Masek,  
Co-Chair of House Resources Committee

**FROM:** Jack Chenoweth  
Assistant Revisor of Statutes

Eleanor Wolfe has requested preparation of a sectional analysis for the above-captioned bill.

### *Changes to the section authorizing shallow natural gas leasing (AS 38.05.177) --*

**Bill section 5** amends AS 38.05.177(c) relating to requirements of notice. The insertions made at page 4, lines 19 and 20 and line 24 acknowledge that the director of the division of land should actually consider public comment that may be received before executing a lease. The substitution of "may" for "shall" at page 4, line 26 and again at line 27, alters the scope of the director's authority to act, changing it from an act that is mandatory if the leasing standard is met ("[if] the director determines that the discovery of a local source of natural gas would benefit the residents of an area") to one as to which the director may exercise discretion.

**Bill section 6** amends AS 38.05.177(f) to add a series of additional requirements that must be inserted in a shallow natural gas lease, to include (in paragraph (2)) required water well testing requirements in an area roughly within one-quarter mile around a drill site, (in paragraph (3)) appropriate setbacks applicable to compressor stations that are appropriate to the lease; (in paragraph (4)) required and appropriate noise mitigation measures; and (in paragraph (5)), at termination or conclusion of the lease, surface restoration requirements if the surface is disturbed by exploration or development operations.

**Bill section 7:** This bill section amends AS 38.05.177(k). In instances in which an owner and a lessee cannot reach agreement for the latter's entry on to property to explore for and develop shallow natural gas and the lessee seeks to post a bond to permit entry, the first amendment (beginning at page 7, line 1) adds a further requirement that the lessee demonstrate "that access and entry upon the land of the owner is reasonably necessary or convenient" to secure the lessee's rights, and the second amendment (beginning at page 7, line 10) requires the lessee to provide 30 days' advance notice of initial entry on to an owner's property.

**Bill section 8** adds two new subsections.

The language of subsection (p) expands upon the procedures currently applicable to securing protection against damages insofar as those procedures relate to shallow natural gas exploration and development activities:

-- Under paragraph (1), if the owner and lessee come to an agreement as to the lessee's entry, the terms of the agreement are to incorporate the requirements spelled out in AS 38.05.177(f), amended earlier in the bill.

-- Under paragraph (2), if the parties can't agree and the lessee seeks determination of the amount of a surety bond in order to proceed, in conjunction with the director's determination, the owner may provide comments about the appropriate location of improvements to be made on the owner's property.

Subsection (q) supplies a definition for "owner" for relevant subsections in which the term is used.

**Bill sections 9 and 10:** This pair of bill sections amends the notice requirements generally applicable to activities to be taken under the Alaska Land Act, AS 38.05. The amendment made to AS 38.05.945(a) in bill section 9 adds to the section's notice requirement the "receipt of a [shallow natural gas] lease application and call for [public] comments [on the application]," as required by AS 38.05.177(c). The amendment made to AS 38.05.945(b) in bill section 10 directs the department to adhere to the general notice requirements of that subsection when issuing that call for public comments for a lease application submitted under AS 38.05.177(c).

**Bill sections 14 and 15:** The amendment made by bill section 14 and the repealers set out in bill section 15 eliminate provisions by which the commissioner of natural resources may, if the Department of Natural Resources clearly demonstrates an overriding state interest, "approve a waiver of local planning authority approval and requirements relating to compliance with local ordinances and regulations."

*Changes relating to shallow natural gas activity oversight by the Alaska Oil and Gas Conservation Commission --*

**Bill section 1:** The amendment to AS 31.05.030(j) made by this bill section alters the authority of the Alaska Oil and Gas Conservation Commission as that authority may be exercised with respect to shallow natural gas exploration and development. Paragraph (1) imposes a prohibition against the commission's issuing a permit to drill under AS 31.05 "if . . . operations . . . would involve producing gas from an aquifer that serves as a source of drinking water . . . or . . . for agricultural purposes" and a conditional prohibition against the reinjection of produced water. Paragraph (2) expands the authority of the commission to regulate hydraulic fracturing associated with exploration for and the disposal of wastes produced by those operations.

Representative Beverly Masek  
April 7, 2004  
Page 3

**Bill section 2:** In conjunction with shallow natural gas exploration and recovery, this section adds a new provision directing the Alaska Oil and Gas Conservation Commission to initiate a public forum process to resolve informally of public health, safety, welfare, and environmental complaints. The provision sets out the minimal procedural requirements for informal resolution of complaints. Language was added (page 2, lines 21 and 22) requiring the informal resolution of complaints within 60 days of the filing of the complaints. If informal resolution of a complaint is unsuccessful, the commission may schedule and act on petition concerning the complaint under procedures in place for commission review of matters subject to its jurisdiction. The commission is to act on matters within its jurisdiction and may refer complaints not within its jurisdiction to other appropriate agencies.

*Standardized references relating to maximum depth of shallow natural gas recovery --*

**Bill sections 3 and 13:** The amendments made in each of these sections eliminate, in the respective definitions of or references to "shallow natural gas," the reference to recovery of natural gas from a depth of up to 4,000 feet and replace it with a reference to 3,000 feet. Recovery at greater depths requires treatment of the operation under conventional oil and gas lease requirements.

*Other matters --*

**Bill section 4:** The bill section adds provisions to the title in the Alaska Statutes generally dealing with Property that guide the interaction between a "developer" and a "surface owner" relating to mineral interest operations. This material would apply only to the extent the operations constitute activities that are not otherwise governed by the Alaska Land Act (AS 38.05). See page 3, lines 12 and 13 ("Except for activities governed by AS 38.05, . . .").

**Bill section 11:** AS 46.03.100 imposes permit requirements that relate to operations resulting in disposal of waste materials on state land and water. Existing AS 46.03.100(f)(3) exempts from the section's permit requirement certain surface water discharges that arise out of, among other activities, "coal bed methane drilling or other natural gas drilling to recover gas from a field if a part of the field is within 3,000 feet of the surface." The amendment made in this bill section deletes that exception.

**Bill section 12:** The amendment made is a conforming change necessitated by the renumbering of provisions in bill section 1.

**Bill section 16** gives the measure a July 1, 2004, effective date.

JBC:med  
04-381.med

23-LS1314U  
Chenoweth  
4/6/04

CS FOR HOUSE BILL NO. 395( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES HARRIS, Gatto, Stoltze, Seaton, Kohring

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the recovery of shallow natural gas, to the regulation of shallow  
2 natural gas or coal bed methane operations, and to oil and gas leasing operations  
3 involving activities not governed under the Alaska Land Act; and providing for an  
4 effective date."

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

6 \* Section 1. AS 31.05.030(j) is amended to read:

7 (j) For exploration and development operations involving shallow natural  
8 gas, the commission

9 (1) may not

10 (A) issue a permit to drill under this chapter if the well  
11 would be used to produce gas from an aquifer that serves as a source of  
12 water for human consumption or agricultural purposes unless the  
13 commission finds that the well will not adversely affect the aquifer as a  
14 source of water for human consumption or agricultural purposes; or

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

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

(2) shall

(A) regulate hydraulic fracturing in shallow natural gas wells to assure protection of drinking water quality;

(B) regulate the disposal of wastes produced from the operations unless the disposal is otherwise subject to regulation by the Department of Environmental Conservation or the Environmental Protection Agency; and

(C) for the purposes of AS 46.04.030(b), [THE COMMISSION SHALL] determine whether a well drilled for shallow natural gas may penetrate a formation capable of flowing oil and, if so, whether the volume of oil encountered will be of such quantities that an oil discharge prevention and contingency plan will be required.

\* Sec. 2. AS 31.05 is amended by adding a new section to read:

**Sec. 31.05.098. Public forum process concerning shallow natural gas. (a)**

For the purpose of resolving public health, safety, welfare, or environmental complaints about potential or actual shallow natural gas exploration and development operations, the commission shall, by regulation, develop and implement a public forum process by which to achieve informal resolution of the complaints within 60 days of the filing of the complaints. The commission may provide that, if resolution of the complaints is not achieved through the informal process established by regulation, a party may petition the commission to take action on the complaint under AS 31.05.060 - 31.05.085 as to a matter that falls within the commission's powers and duties under AS 31.05.030. For any other matter, the commission shall refer the complaint to other federal, state, or local agencies, as appropriate.

(b) The commission's regulations adopted under this section shall provide for scheduling a public forum at a location reasonably proximate to the land that is the subject of or that is affected by the complaint and reasonable public notice and opportunity to be heard. If the public forum is not personally convened and conducted

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

by a majority of the members of the commission, the person conducting the forum shall prepare and submit to the commission a report of the forum proceedings. The report prepared under this subsection is a public record. The commission may modify a rule or condition in a plan of development or operation for a field or pool to address an issue identified by the commission or the report.

\* Sec. 3. AS 31.05.170(14) is amended to read:

(14) "shallow natural gas" means coal bed methane, natural gas drilled for under a lease authorized by AS 38.05.177, or natural gas drilled for in a well the true vertical depth of which is 3,000 [4,000] feet or less;

\* Sec. 4. AS 34 is amended by adding a new chapter to read:

**Chapter 90. Mineral Interests.**

**Sec. 34.90.010. Notice of operations.** (a) Except for activities governed by AS 38.05, the developer shall give the surface owner written notice of the oil and gas operations contemplated at least 20 days before commencement of operations. The requirement of written notice may be waived by the parties.

(b) Unless notice has been waived by the parties, the developer shall give notice to the record surface owner at the owner's address as shown by the records of the state recorder at the time notice is given. The notice must sufficiently disclose the plan of work and operations to enable the surface owner to evaluate the effect of oil and gas operations on the surface owner's use of the property.

(c) If a developer fails to give notice as provided in this section, the surface owner may seek any appropriate relief in the court of proper jurisdiction and may receive punitive and actual damages.

**Sec. 34.90.020. Damages and posting of bond.** A developer may not exercise a right of entry until the developer makes provision to pay the surface owner full payment for all damages sustained by the surface owner by reason of entering upon the land. If the surface owner, for any cause, refuses or neglects to settle the damages, the developer may enter upon the land after posting a surety bond determined by the Department of Natural Resources using a procedure similar to the procedure used to administer AS 38.05.130, including notice and an opportunity to be heard. The bond must be sufficient as to form, amount, and security to secure to the

1 surface owner payment for damages. The surface owner may institute legal  
2 proceedings in a court where the land is located as may be necessary to determine the  
3 damages that the surface owner may suffer.

4 **Sec. 34.90.095. Definitions.** In this chapter,

5 (1) "developer" means the person who acquires the mineral estate or  
6 lease for the purpose of extracting or using the minerals;

7 (2) "mineral estate" means an estate in or ownership of all or part of  
8 the minerals underlying a specific tract of land;

9 (3) "minerals" includes oil and gas;

10 (4) "oil and gas operations" means the drilling of an oil and gas well,  
11 the production and completion operations ensuing from the drilling, and oil and gas  
12 geophysical exploration activities that require entry upon the surface estate;

13 (5) "surface estate" means an estate in or ownership of the surface of a  
14 particular tract of land;

15 (6) "surface owner" means any person who holds record title to the  
16 surface of the land as an owner.

17 \* **Sec. 5.** AS 38.05.177(c) is amended to read:

18 (c) The director shall give notice under AS 38.05.945 of receipt of the lease  
19 application, [AND] call for comments from the public, and execute a lease as  
20 follows:

21 (1) the [. THE] director's call for public comments must provide  
22 opportunity for public comment for a period of not less than 60 days;

23 (2) if [. IF], after review of information received during the public  
24 comment period and consideration of public comments received, the director  
25 determines that the discovery of a local source of natural gas would benefit the  
26 residents of an area, the director may [SHALL] execute a lease for the area described  
27 in (b) of this section; the [. THE] director may [SHALL] execute the lease only after  
28 completion of a title search, the close of the public comment period, and, if review is  
29 required under AS 46.40, after the final consistency determination is made under  
30 AS 46.40;

31 (3) a [. A] lease entered into under this subsection gives the lessee the

1 exclusive right to explore for, develop, and produce, for a term of three years, natural  
2 gas on the state land described in the lease; the right to explore for, develop, and  
3 produce is limited to gas from a field if a part of the field is within 3,000 feet of the  
4 surface.

5 \* Sec. 6. AS 38.05.177(f) is amended to read:

6 (f) A shallow gas lease must provide for

7 (1) payment to the state of annual rent in the amount of \$1 an [PER]  
8 acre; the [. THE] rent is due and payable on the date determined in the lease; if [. IF]  
9 the lease payment is not received by the due date, the director shall mail the lessee one  
10 written notice, certified return receipt requested; if [. IF] the lessee fails to pay the  
11 rent within 30 days after [OF] receipt of the notice, the director shall terminate the  
12 lease;

13 (2) a water well testing requirement for each lease that contains  
14 one or more wells that serve as a source of potable water; the testing requirement  
15 of this paragraph applies to each water well that is located within a square that  
16 bounds a circle with a radius of one-quarter mile around the drill site and the  
17 sides of which are parallel or perpendicular to the four cardinal directions and  
18 are tangent to the circle; under this paragraph, the lessee shall, before  
19 commencement of production testing and production activities on the lease,

20 (A) test each well for dissolved contents, including methane,  
21 and water flow; and

22 (B) provide a copy of the test results to the land owner, who  
23 shall maintain the test record;

24 (3) appropriate setbacks governing the placement by the lessee or  
25 the lessee's agent of compressor stations on the lease; setbacks developed under  
26 this paragraph must be determined with reference to the population density of  
27 the parcel or parcels subject to the lease, the size of the owner's parcels, and the  
28 general character of the land subject to the lease; the terms of the lease must  
29 require the lessee or lessee's agent to negotiate to meet the requirement of this  
30 paragraph, but the owner may not unreasonably withhold agreement;

31 (4) reasonable and appropriate measures to mitigate the noise of

1 compressors, engines, and other equipment operated by the lessee or the lessee's  
2 agent of compressor stations on the lease; noise mitigation measures developed  
3 under this paragraph must be determined with reference to the population  
4 density of the parcel or parcels subject to the lease, the size of the owner's  
5 parcels, and the general character of the land subject to the lease; the terms of  
6 the lease shall require the lessee or lessee's agent to negotiate to meet the  
7 requirement of this paragraph, but the owner may not unreasonably withhold  
8 agreement;

9 (5) action at the time of the termination or abandonment of the  
10 lease to require the lessee or the lessee's agent to restore, reclaim, or abate the  
11 adverse effects of the exploration and development operations using natural  
12 revegetation or reseeded using endemic plant species; the lease may require the  
13 lessee or the lessee's agent to consult with the director of the division of  
14 agriculture.

15 \* Sec. 7. AS 38.05.177(k) is amended to read:

16 (k) The commissioner [MAY]

17 (1) may adopt only the regulations that are reasonable and that are  
18 necessary to implement, interpret, or make specific the provisions of this section or to  
19 establish procedures to govern application of the provisions of this section; [AND]

20 (2) may, in addition to any requirement for a bond under  
21 AS 38.05.130, establish by regulation a form and amount for statewide, areawide,  
22 unit-wide, or per-lease bonds sufficient to secure damages that may be caused by the  
23 activities of a lessee, or the lessee's successors or assigns, related to a shallow natural  
24 gas lease entered into under this section; if the commissioner acts under this  
25 paragraph, the commissioner

26 (A) shall require a person applying for a lease under this  
27 section to post the bond as a condition for the director's executing the lease;

28 (B) may not require a bond posted under this paragraph from a  
29 person applying for a lease if the person has already posted a bond covering  
30 the person's statewide oil and gas leasing activities in an amount of at least  
31 \$500,000;

1                   (3) shall, if a bond is sought under AS 38.05.130, before the  
2                   amount of the surety bond to be posted is determined by the director, require as  
3                   a condition for issuing the bond that the director, after notice and an opportunity  
4                   to be heard, determine that, to exercise rights under the reservation as set out in  
5                   AS 38.05.125 and the lease, the lessee has demonstrated that access and entry  
6                   upon the land of the owner is reasonably necessary or convenient to render  
7                   beneficial and efficient the complete enjoyment of the property and the reserved  
8                   rights; the lessee has the burden of demonstrating compliance with the  
9                   requirement of this paragraph; and

10                   (4) shall require the lessee to provide written advance notice to the  
11                   owner of initial entry onto the property of the owner at least 30 days before  
12                   initial entry.

13 \* Sec. 8. AS 38.05.177 is amended by adding new subsections to read:

14                   (p) Under AS 38.05.130 as applicable to shallow natural gas exploration and  
15                   development that is authorized under this section, if

16                   (1) the owner and the lessee enter into an agreement by which the  
17                   lessee makes provision to pay the owner of the land for all damages, the parties shall  
18                   incorporate in the agreement the provisions described in (f) of this section that are  
19                   negotiated;

20                   (2) the owner and the lessee do not enter into an agreement by which  
21                   the lessee makes provision to pay the owner of the land for all damages, and the lessee  
22                   proceeds to request the director to set the amount of a surety bond, the owner may, in  
23                   conjunction with notice and the opportunity to be heard, provide the director with the  
24                   owner's comments about the appropriate location of wells, roads, and other  
25                   improvements that may be made by the lessee or the lessee's agent to secure the  
26                   lessee's rights under the lease.

27                   (q) In (f), (k)(3), and (p) of this section, "owner" means the property owner  
28                   whose property is subject to the reservation described in AS 38.05.125(a).

29 \* Sec. 9. AS 38.05.945(a) is amended to read:

30                   (a) This section establishes the requirements for notice given by the  
31                   department for the following actions:

1 (1) classification or reclassification of state land under AS 38.05.300  
2 and the closing of land to mineral leasing or entry under AS 38.05.185;

3 (2) zoning of land under applicable law;

4 (3) issuance of a

5 (A) preliminary written finding under AS 38.05.035(e)(5)(A)  
6 regarding the sale, lease, or disposal of an interest in state land or resources for  
7 oil and gas subject to AS 38.05.180(b);

8 (B) [REPEALED

9 (C)] written finding for the sale, lease, or disposal of an interest  
10 in state land or resources under AS 38.05.035(e)(6), except an oil or gas lease  
11 sale described in AS 38.05.035(e)(6)(F) for which the director must provide  
12 opportunity for public comment under the provisions of that subparagraph;

13 (4) a competitive disposal of an interest in state land or resources after  
14 final decision under AS 38.05.035(e);

15 (5) a preliminary finding under AS 38.05.035(e) concerning sites for  
16 aquatic farms and related hatcheries;

17 (6) a decision under AS 38.05.132 - 38.05.134 regarding the sale,  
18 lease, or disposal of an interest in state land or resources;

19 (7) a notice of receipt of a lease application and call for comments  
20 under AS 38.05.177(c).

21 \* Sec. 10. AS 38.05.945(b) is amended to read:

22 (b) When notice is required to be given under this section,

23 (1) the notice must contain sufficient information in commonly  
24 understood terms to inform the public of the nature of the action and the opportunity  
25 of the public to comment on it;

26 (2) if the notice is of a preliminary written finding described in  
27 (a)(3)(A) of this section or a call for comments under (a)(7) of this section, the  
28 department shall give notice at the beginning of the public comment period for the  
29 preliminary written finding or call for comments, as appropriate, notifying the  
30 public of the right to submit comments; the department shall give notice by

31 (A) publication of a legal notice in newspapers of statewide

1 circulation and in newspapers of general circulation in the vicinity of the  
2 proposed action at least once a week for two consecutive weeks;

3 (B) publication of a notice in display advertising form in the  
4 newspapers described in (A) of this paragraph at least once a week for two  
5 consecutive weeks;

6 (C) public service announcements on the electronic media  
7 serving the area to be affected by the proposed action; and

8 (D) one or more of the following methods:

9 (i) posting in a conspicuous location in the vicinity of  
10 the action;

11 (ii) notification of parties known or likely to be affected  
12 by the action; or

13 (iii) another method calculated to reach affected parties;

14 (3) if the notice is of an action described in (a) of this section, other  
15 than notice of an action under (a)(3)(A) or (a)(7) of this section, the department shall  
16 give notice at least 30 days before the action by publication in newspapers of  
17 statewide circulation and in newspapers of general circulation in the vicinity of the  
18 proposed action and one or more of the following methods:

19 (A) publication through public service announcements on the  
20 electronic media serving the area affected by the action;

21 (B) posting in a conspicuous location in the vicinity of the  
22 action;

23 (C) notification of parties known or likely to be affected by the  
24 action; or

25 (D) another method calculated to reach affected persons.

26 \* **Sec. 11.** AS 46.03.100(f) is amended to read:

27 (f) This section does not apply to discharges of solid or liquid waste material  
28 or water discharges from the following activities if the discharge is incidental to the  
29 activity and the activity does not produce a discharge from a point source, as that term  
30 is defined in regulations adopted under this chapter, directly into any surface water of  
31 the state:

- 1 (1) mineral drilling, trenching, ditching, and similar activities;  
2 (2) landscaping;  
3 (3) water well drilling and [,] geophysical drilling [, OR COAL BED  
4 METHANE DRILLING OR OTHER NATURAL GAS DRILLING TO RECOVER  
5 GAS FROM A FIELD IF A PART OF THE FIELD IS WITHIN 3,000 FEET OF THE  
6 SURFACE]; or  
7 (4) drilling, ditching, trenching, and similar activities associated with  
8 facility construction and maintenance or with road or other transportation facility  
9 construction and maintenance; however, the exemption provided by this paragraph  
10 does not relieve a person from obtaining a permit under this section if  
11 (A) the drilling, ditching, trenching, or similar activity will  
12 involve the removal of the groundwater, stormwater, or wastewater runoff that  
13 has accumulated and is present at an excavation site for facility, road, or other  
14 transportation construction or maintenance; and  
15 (B) a permit is otherwise required by this section.

16 \* Sec. 12. AS 46.04.030(b) is amended to read:

17 (b) A person may not cause or permit the operation of a pipeline or an  
18 exploration or production facility in the state unless an oil discharge prevention and  
19 contingency plan for the pipeline or facility has been approved by the department and  
20 the person is in compliance with the plan. This subsection does not apply to an  
21 exploration or production facility used solely to explore for or to develop or produce  
22 shallow natural gas resources, except that this exemption does not apply if the Alaska  
23 Oil and Gas Conservation Commission determines under AS 31.05.030(j)(2)(C)  
24 [AS 31.05.030(j)] that

- 25 (1) a well drilled for shallow natural gas may penetrate a formation  
26 capable of flowing oil; and  
27 (2) the volume of oil encountered will be of such quantities that a  
28 contingency plan will be required.

29 \* Sec. 13. AS 46.04.900(25) is amended to read:

30 (25) "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 3,000 [4,000] feet or less;

2 \* Sec. 14. The uncodified law of the State of Alaska added by sec. 1, ch. 45, SLA 2003, is  
3 amended to read:

4 LEGISLATIVE FINDINGS. The legislature finds that

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

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

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

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

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

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

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

28 (A) to remove impediments to the responsible development of  
29 shallow natural gas; and

30 (B) to provide the proper state agencies with clear authority and  
31 discretion to adopt regulatory practices appropriate to shallow natural gas

1 exploration and development projects, in recognition of the lower risks posed  
2 by such projects to human health and safety and the natural environment [;  
3 AND

4 (C) TO RESERVE ALL RIGHTS AND POWERS NOT  
5 PREEMPTED BY FEDERAL LAW AND REGULATION IN ORDER TO  
6 ASSERT STATE PRIMACY OVER THE REGULATION OF SHALLOW  
7 NATURAL GAS].

8 \* Sec. 15. AS 31.05.125 and AS 38.05.177(n) are repealed. ~~AS~~

9 \* Sec. 16. This Act takes effect July 1, 2004.