



# LAWS OF ALASKA

1990

**Source**

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**Chapter No.**

143

**AN ACT**

Establishing the Yakataga State Game Refuge; relating to the management of state land within the Yakataga area; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 10

Approved by the Governor: June 19, 1990  
Actual Effective Date: Conditional

## AN ACT

Establishing the Yakataga State Game Refuge; relating to the management of state land within the Yakataga area; and providing for an effective date.

\* Section 1. AS 16.20 is amended by adding a new section to read:

Sec. 16.20.033. YAKATAGA STATE GAME REFUGE. (a) The following state-owned land and water and all land acquired in the future by the state lying within the parcels described in this subsection are established as the Yakataga State Game Refuge:

- (1) Township 20 South, Range 13 East, Copper River Meridian
  - Section 11: SE1/4
  - Section 12: S1/2
  - Section 13
  - Section 14: E1/2
  - Sections 22 - 27
  - Sections 34 - 36
- (2) Township 20 South, Range 14 East, Copper River Meridian
  - Sections 7 - 12: S1/2
  - Sections 13 - 36
- (3) Township 20 South, Range 15 East, Copper River Meridian
  - Sections 7 - 12: S1/2
  - Sections 13 - 36
- (4) Township 20 South, Range 16 East, Copper River Meridian
  - Sections 7 - 9: S1/2

Sections 16 - 36

- (5) Township 21 South, Range 11 East, Copper River Meridian  
Excluding that portion of Tract A-148 lying north and  
west of Seal River:

Sections 1 - 2

Sections 3 - 4: North and east of the Seal River  
and its associated lake system

Section 10: East of Seal River and one mile north  
of mean high tide line on the Gulf of Alaska

Sections 11 - 12

Sections 13 - 14: above mean high tide line on  
the Gulf of Alaska

- (6) Township 21 South, Range 11 1/2 East, Copper River  
Meridian

Sections 6 - 7

Section 18: Above mean high tide line on the Gulf  
of Alaska

- (7) Township 21 South, Range 12 East, Copper River Meridian

Sections 13 - 14: S1/2

Sections 23 - 26

Sections 35 - 36: Above mean high tide line on  
the Gulf of Alaska

- (8) Township 21 South, Range 13 East, Copper River Meridian

Sections 1 - 21

Section 22: W1/2, E1/2 one mile north of mean  
high tide line on the Gulf of Alaska

Sections 23 - 24: One mile north of mean high  
tide line on the Gulf of Alaska

- (9) Township 21 South, Range 14 East, Copper River Meridian

1 Sections 1 - 12

2 Sections 13 - 15: One mile north of mean high  
3 tide line on the Gulf of Alaska

4 Sections 16 - 18

5 Sections 19 - 22: One mile north of mean high  
6 tide line on the Gulf of Alaska

7 (10) Township 21 South, Range 15 East, Copper River Meridian

8 Sections 1 - 7

9 Sections 8 - 12: One mile north of mean high  
10 tide line on the Gulf of Alaska

11 (11) Township 21 South, Range 16 East, Copper River Meridian

12 Sections 1 - 6

13 Sections 7 - 12: One mile north of mean high tide  
14 line on the Gulf of Alaska.

15 (b) The Yakataga State Game Refuge is established to protect the

16 (1) fish and wildlife habitat and populations, including  
17 salmon spawning and rearing habitat and critical goat and moose winter  
18 habitat;

19 (2) public uses of fish and wildlife and their habitat,  
20 particularly commercial, sport, and subsistence fishing, hunting,  
21 viewing, photography, and general public recreation in a high quality  
22 environment; and

23 (3) the use and disposition of other resources when the  
24 activities are not inconsistent with (1) and (2) of this subsection.

25 (c) The department shall permit timber harvest activities in the  
26 area east of the Kaliakh River when the activities are not inconsis-  
27 tent with (b)(1) of this section.

28 (d) The state may not acquire by eminent domain private land  
29 that is located within the state-owned land specified in (a) of this

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1 section for inclusion in the Yakataga State Game Refuge. The state  
2 may acquire private land that is located within the state-owned land  
3 specified in (a) of this section by purchase, exchange, or otherwise  
4 from willing owners for inclusion in the Yakataga State Game Refuge.

5 (e) The establishment of the Yakataga State Game Refuge under  
6 this section does not impair or alter valid existing rights including  
7 pending Native allotment applications, access to set net sites, and  
8 access to and from private land located within the Yakataga State Game  
9 Refuge.

10 (f) The department shall allow commercial, sport, and subsis-  
11 tence fishing and hunting within the Yakataga State Game Refuge under  
12 regulations of the Board of Fisheries and the Board of Game. The  
13 department shall also permit associated support activities when neces-  
14 sary and consistent with AS 16.20.010 - 16.20.080 to support fishing  
15 and hunting permitted under this section, including fish buying  
16 operations, aircraft support including landing strips, and off-road  
17 vehicle use.

18 (g) Egress and ingress to and from private property within the  
19 parcels described in (a) of this section shall be allowed through  
20 access corridors established by agreement between the department, the  
21 Department of Natural Resources, and the owners of private land in-  
22 volved. The establishment of the Yakataga State Game Refuge does not  
23 impair or alter existing rights of access to set net lease sites.

24 (h) The department shall adopt and may revise a management plan  
25 for the Yakataga State Game Refuge.

26 \* Sec. 2. AS 16.20.033(a)(5) is amended to read:

27 (5) Township 21 South, Range 11 East, Copper River Meridian  
28 [EXCLUDING THAT PORTION OF] Tract A-148 lying north  
29 and west of Seal River [:]  
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1 Sections 1 - 2

2 Sections 3 - 4: North and east of the Seal River  
3 and its associated lake system

4 Section 10: East of Seal River and one mile north  
5 of mean high tide line on the Gulf of Alaska

6 Sections 11 - 12

7 Sections 13 - 14: Above mean high tide line on  
8 the Gulf of Alaska

9 \* Sec. 3. AS 16.20.033(a) is amended by adding new paragraphs to read:

10 (12) Township 21 South, Range 9 East, Copper River Meridian  
11 Tract A-148

12 (13) Township 21 South, Range 10 East, Copper River Meridian  
13 Tract A-148.

14 \* Sec. 4. AREA PLAN AND REPORT TO THE LEGISLATURE. (a) The commis-  
15 sioner of natural resources shall undertake and complete an area plan for  
16 the Yakataga area, the state land and water located between Icy Bay and  
17 Cape Suckling, under AS 38.04.065 and the regulations of the Department of  
18 Natural Resources. The area plan completed under this section does not  
19 include the land of the Yakataga State Game Refuge west of the Kaliakh  
20 River.

21 (b) The commissioner of natural resources shall consider the full  
22 range of management options for the timber rights in each tract of land of  
23 the University of Alaska (ADL 223456) under litigation, including and  
24 excluding timber harvest.

25 (c) The area plan shall be completed by July 1, 1993, and shall be  
26 delivered to the chairs of the Resource Committees of the legislature. The  
27 commissioner may include with the area plan recommendations for the re-  
28 striction or expansion in the boundaries of the Yakataga State Game Refuge  
29 and for legislation defining a part of the area as a state park, state

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1 forest, state game refuge, state critical habitat area, or other special  
2 designation.

3 (d) Except as provided in this subsection and (e) of this section and  
4 subject to valid existing rights, the commissioner of natural resources may  
5 not conduct timber or timber-related construction activity, including road  
6 construction, timber sales and commercial timber harvests in the Yakataga  
7 area, the area between Icy Bay and Cape Suckling, until July 1, 1993. The  
8 commissioner may maintain existing timber harvest facilities. This section  
9 does not diminish the right of a private property owner to have access or  
10 develop its land or resources or the authority of an agency to grant approval  
11 for access or development.

12 (e) The commissioner may permit the harvest of timber within the  
13 parcel described as Tract 152 at White River under ADL 223456.

14 \* Sec. 5. TIMBER TRACTS OF THE UNIVERSITY OF ALASKA. (a) The commis-  
15 sioner of natural resources shall engage in every reasonable effort to  
16 achieve a settlement of litigation involving the City of Yakutat v. the  
17 Department of Natural Resources (Civil No. 1JU-88-271) that accommodates  
18 the rights of the University of Alaska to compensation for university trust  
19 land conveyed to the Municipality of Anchorage. The commissioner shall,  
20 for the purposes of settlement of the litigation, consider the timber in  
21 the tracts transferred as ADL 223456 as the property of the university.  
22 Nothing in this subsection affects the claims or rights of a party to the  
23 litigation.

24 (b) The commissioner of natural resources shall engage in every  
25 reasonable effort to reach agreement on the fair market value for the  
26 timber rights to Tract A-148 at Cape Suckling and Tract 20 at Yakataga.  
27 The commissioner shall report the fair market value agreed upon by the  
28 commissioner and the University of Alaska under this subsection to the  
29 chairs of the resources committees of the legislature on the date the

1 commissioner and the university reach agreement on the fair market value  
2 determined under this subsection.

3 (c) Regardless of the disposition of City of Yakutat v. the Depart-  
4 ment of Natural Resources (Civil No. 1JU-88-271), the legislature intends  
5 that the state reacquire from the University of Alaska its interest in  
6 Tract A-148 at Cape Suckling and Tract 20 at Yakataga. The legislature  
7 intends to compensate the University of Alaska for Tract A-148 and Tract 20  
8 based on the agreement on the fair market value reached under (b) of this  
9 section. If the commissioner and the University of Alaska reach agreement  
10 on the fair market value determined under (b) of this section, all money  
11 received in satisfaction of the court order issued in Sullivan v. State  
12 after the date of agreement shall be transferred to the University of  
13 Alaska trust fund as additional earnest money for the reacquisition of the  
14 timber rights of the University of Alaska on Tract A-148 at Cape Suckling  
15 and Tract 20 at Yakataga.

16 (d) The commissioner of revenue shall establish a trust account in  
17 the general fund of the state. The commissioner of natural resources shall  
18 transfer to the commissioner of revenue for deposit into the trust account  
19 any amounts paid from July 1, 1990, through the date the commissioner and  
20 the university reach agreement under (b) of this section, with respect to  
21 rights arising under the Icy Cape II Timber Sale Contract, ADL 203002. The  
22 commissioner of revenue shall, on the date the commissioner and the univer-  
23 sity reach agreement under (b) of this section, transfer funds received  
24 under this subsection to the University of Alaska if an agreement on the  
25 agreed fair market value is reached under (b) of this section by Janu-  
26 ary 21, 1991. If an agreement is not reached under (b) of this section by  
27 January 21, 1991, the funds shall be transferred to the general fund of the  
28 state.

29 \* Sec. 6. LEGISLATIVE INTENT. It is the intent of the legislature that  
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1 the establishment of the Yakataga State Game Refuge only take effect if the  
2 administrative decision of the commissioner of natural resources that  
3 authorizes timber harvesting in the "extension area" under the Icy Cape II  
4 timber sale, ADL 203002, as amended on March 7, 1990, is not challenged in  
5 the Alaska Superior Court by administrative appeal within the time permit-  
6 ted by law, or, if appealed, the decision is affirmed by a final judicial  
7 order not subject to further appeal.

8 \* Sec. 7. Sections 2 - 3 of this Act take effect on the effective date  
9 of an appropriation Act appropriating to the University of Alaska those  
10 amounts necessary to compensate the university for the agreed value reached  
11 under sec. 5(b) of this Act for the interest of the university in Tract  
12 A-148 at Cape Suckling after crediting to the university those amounts  
13 received by the university under sec. 5(c) and (d) of this Act.

14 \* Sec. 8. Except as provided in sec. 9 of this Act, secs. 1 and 4 - 5  
15 of this Act take effect on the date that the commissioner of natural  
16 resources certifies to the lieutenant governor and the revisor of statutes  
17 that the administrative decision of the commissioner authorizing timber  
18 harvesting in the extension area under the Icy Cape II timber sale,  
19 ADL 203002, as amended on March 7, 1990, has become final and is not  
20 subject to further administrative or judicial review.

21 \* Sec. 9. The area described in sec. 1 of this Act that is east of the  
22 Kaliakh River shall be included in the Yakataga State Game Refuge only if  
23 and to the extent that the area plan prepared by the commissioner of  
24 natural resources under sec. 4 of this Act contains a recommendation of the  
25 commissioner to include that area within the Yakataga State Game Refuge.  
26 Until the commissioner issues an area plan under sec. 4 of this Act, the  
27 area east of the Kaliakh River shall be described as the Yakataga Special  
28 Management Area and managed by the commissioner of natural resources.