



LAWS OF ALASKA

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Chapter No.
138

AN ACT

Revising laws relating to oil and gas leasing as related to land previously the subject of a written best interest finding; amending provisions setting out exceptions to sales, leases, or other disposals for which a revised written best interest finding is not required; encouraging annual offer of land for oil and gas leases if the land was the subject of a best interest finding; and modifying the statement of purpose in the Alaska Land Act as it applies to oil and gas leasing to provide for annual lease sales.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: July 10, 1996
Actual Effective Date: October 8, 1996

AN ACT

1 Revising laws relating to oil and gas leasing as related to land previously the subject of a
2 written best interest finding; amending provisions setting out exceptions to sales, leases, or
3 other disposals for which a revised written best interest finding is not required; encouraging
4 annual offer of land for oil and gas leases if the land was the subject of a best interest finding;
5 and modifying the statement of purpose in the Alaska Land Act as it applies to oil and gas
6 leasing to provide for annual lease sales.

7 _____

8 * **Section 1.** AS 38.05.035(e) is amended to read:

9 (e) Upon a written finding that the interests of the state will be best served, the
10 director may, with the consent of the commissioner, approve contracts for the sale, lease,
11 or other disposal of available land, resources, property, or interests in them. In [, AND,
12 IN] addition to the conditions and limitations imposed by law, the director may impose

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1 additional conditions or limitations in the contracts as the director determines, with the
2 consent of the commissioner, will best serve the interests of the state. The preparation
3 and issuance of the written finding by the director is subject to the following:

4 (1) with the consent of the commissioner and subject to the director's
5 discretion, for a specific proposed disposal of available land, resources, or property, or
6 of an interest in them, the director, in the written finding,

7 (A) shall establish the scope of the administrative review on
8 which the director's determination is based, and the scope of the written finding
9 supporting that determination; the scope of the review and finding may address
10 only reasonably foreseeable, significant effects of the uses proposed to be
11 authorized by the disposal;

12 (B) may limit the scope of an administrative review and finding
13 for a proposed disposal to

14 (i) applicable statutes and regulations;
15 (ii) the facts pertaining to the land, resources, or property,
16 or interest in them, that the director finds are material to the
17 determination and that are known to the director or knowledge of which
18 is made available to the director during the administrative review; and

19 (iii) issues that, based on the statutes and regulations
20 referred to in (i) of this subparagraph, on the facts as described in (ii) of
21 this subparagraph, and on the nature of the uses sought to be authorized,
22 the director finds are material to the determination of whether the
23 proposed disposal will best serve the interests of the state; and

24 (C) may, if the project for which the proposed disposal is sought
25 is a multiphased development, limit the scope of an administrative review and
26 finding for the proposed disposal to the applicable statutes and regulations, facts,
27 and issues identified in (B)(i) - (iii) of this paragraph that pertain solely to a
28 discrete phase of the project when

29 (i) the only uses to be authorized by the proposed disposal
30 are part of that discrete phase;

31 (ii) the department's approval is required before the next

1 phase of the project may proceed; and

2 (iii) the department describes its reasons for a decision to
3 phase and conditions its approval to ensure that any additional uses or
4 activities proposed for that or any later phase of the project will serve the
5 best interests of the state;

6 (2) the director shall discuss in the written finding prepared and issued
7 under this subsection the reasons that each of the following was not material to the
8 director's determination that the interests of the state will be best served:

9 (A) facts pertaining to the land, resources, or property, or an
10 interest in them other than those that the director finds material under (1)(B)(ii)
11 of this subsection; and

12 (B) issues based on the statutes and regulations referred to in
13 (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this
14 subsection;

15 (3) a written finding for an oil and gas lease sale under AS 38.05.180 is
16 subject to (g) of this section;

17 (4) a contract for the sale, lease, or other disposal of available land or an
18 interest in land is not legally binding on the state until the commissioner approves the
19 contract but if the appraised value is not greater than \$50,000 in the case of the sale of
20 land or an interest in land, or \$5,000 in the case of the annual rental of land or interest
21 in land, the director may execute the contract without the approval of the commissioner;

22 (5) public notice requirements relating to the sale, lease, or other disposal
23 of available land or an interest in land for oil and gas proposed to be scheduled in the
24 five-year oil and gas leasing program under AS 38.05.180(b), **except for a sale under**
25 **(6)(G) of this subsection**, are as follows:

26 (A) before a public hearing, if held, or in any case not less than
27 180 days before the sale, lease, or other disposal of available land or an interest
28 in land, the director shall make available to the public a preliminary written
29 finding that states the scope of the review established under (1)(A) of this
30 subsection and includes the applicable statutes and regulations, the material facts
31 and issues in accordance with (1)(B) of this subsection, and information required

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1 by (g) of this section, upon which the determination that the sale, lease, or other
2 disposal will serve the best interests of the state will be based; the director shall
3 provide opportunity for public comment on the preliminary written finding for
4 a period of not less than 60 days;

5 (B) after the public comment period for the preliminary written
6 finding and not less than 90 days before the sale, lease, or other disposal of
7 available land or an interest in land for oil and gas, the director shall make
8 available to the public a final written finding that states the scope of the review
9 established under (1)(A) of this subsection and includes the applicable statutes
10 and regulations, the material facts and issues in accordance with (1) of this
11 subsection, and information required by (g) of this section, upon which the
12 determination that the sale, lease, or other disposal will serve the best interests
13 of the state is based;

14 (6) before a public hearing, if held, or in any case not less than 21 days
15 before the sale, lease, or other disposal of available land, property, resources, or interests
16 in them other than a sale, lease, or other disposal of available land or an interest in land
17 for oil and gas under (5) of this subsection, the director shall make available to the
18 public a written finding that, in accordance with (1) of this subsection, sets out the
19 material facts and applicable statutes and regulations and any other information required
20 by statute or regulation to be considered upon which the determination that the sale,
21 lease, or other disposal will best serve the interests of the state was based; however, a
22 written finding is not required before the approval of

23 (A) a contract for a negotiated sale authorized under
24 AS 38.05.115;

25 (B) a lease of land for a shore fishery site under AS 38.05.082;

26 (C) a permit or other authorization revocable by the
27 commissioner;

28 (D) a mineral claim located under AS 38.05.195;

29 (E) a mineral lease issued under AS 38.05.205;

30 (F) a production license issued under AS 38.05.207; or

31 (G) an exempt oil and gas lease sale under AS 38.05.180(d) of

1 acreage subject to a best interest finding issued [OFFERED IN A SALE
2 THAT WAS HELD] within the previous 10 [FIVE] years [IF THE SALE WAS
3 SUBJECT TO A WRITTEN BEST INTEREST FINDING, UNLESS THE
4 COMMISSIONER DETERMINES THAT NEW INFORMATION HAS
5 BECOME AVAILABLE THAT JUSTIFIES A REVISION OF THE BEST
6 INTEREST FINDING;] or

7 [(H)] a reoffer oil and gas lease sale under AS 38.05.180(w) of
8 acreage subject to a best interest finding issued [OFFERED IN A SALE
9 THAT WAS HELD] within the previous 10 [FIVE] years [IF THE SALE WAS
10 SUBJECT TO A BEST INTEREST FINDING], unless the commissioner
11 determines that substantial new information has become available that justifies
12 a supplement to [REVISION OF] the most recent best interest finding for the
13 exempt oil and gas lease sale acreage and for the reoffer oil and gas lease
14 sale acreage; however, for each oil and gas lease sale described in this
15 subparagraph, the director shall call for comments from the public; the
16 director's call for public comments must provide opportunity for public
17 comment for a period of not less than 30 days; if the director determines
18 that a supplement to the most recent best interest finding for the acreage is
19 required under this subparagraph,

20 (i) the director shall issue the supplement to the best
21 interest finding not later than 90 days before the sale;

22 (ii) not later than 45 days before the sale, the director
23 shall issue a notice describing the interests to be offered, the location
24 and time of the sale, and the terms and conditions of the sale; and

25 (iii) the supplement has the status of a final written
26 best interest finding for purposes of AS 38.05.035(i) and (l);

27 (7) the director shall include in

28 (A) a preliminary written finding, if required, a summary of
29 agency and public comments, if any, obtained as a result of contacts with other
30 agencies concerning a proposed disposal or as a result of informal efforts
31 undertaken by the department to solicit public response to a proposed disposal,

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1 and the department's preliminary responses to those comments; and

2 (B) the final written finding a summary of agency and public
3 comments received and the department's responses to those comments.

4 * Sec. 2. AS 38.05.180(a) is amended to read:

5 (a) The legislature finds that

6 (1) the people of Alaska have an interest in the development of the
7 state's oil and gas resources to

8 (A) maximize the economic and physical recovery of the
9 resources;

10 (B) maximize competition among parties seeking to explore and
11 develop the resources;

12 (C) maximize use of Alaska's human resources in the
13 development of the resources;

14 (2) it is in the best interests of the state

15 (A) to encourage an assessment of its oil and gas resources and
16 to allow the maximum flexibility in the methods of issuing leases to

17 (i) [(A)] recognize the many varied geographical regions
18 of the state and the different costs of exploring for oil and gas in these
19 regions;

20 (ii) [(B)] minimize the adverse impact of exploration,
21 development, production, and transportation activity; **and**

22 **(B) to offer acreage for oil and gas leases, specifically**
23 **including**

24 **(i) state acreage that has been the subject of a best**
25 **interest finding at annual areawide lease sales; and**

26 **(ii) land in areas that, under (d) of this section, may**
27 **be leased without having been included in the leasing program**
28 **prepared and submitted under (b) of this section.**

29 * Sec. 3. AS 38.05.180(d) is amended to read:

30 (d) The commissioner

31 **(1) may annually offer oil and gas leases of the acreage described**

1 in AS 38.05.035(e)(6)(G);

2 (2) may issue oil and gas leases in an area that has not been included
3 in a leasing program submitted, in accordance with (b) of this section, to the legislature
4 if the land to be leased

5 (A) [(1)] was previously subject to a valid state or federal oil
6 and gas lease;

7 (B) [(2)] is contiguous to land already under state, federal or
8 private lease and the commissioner makes a written finding, after hearing, that
9 leasing of the land would result in a substantial probability of early evaluation
10 and development of the land to be leased;

11 (C) [(3)] is adjacent to land owned or controlled by another
12 party on which a discovery of commercial quantities of oil or gas has been
13 made, and the commissioner finds, after hearing, that there is a reasonable
14 probability that the land to be leased contains oil or gas in communication with
15 the oil or gas discovered on the land of the other party;

16 (D) [(4)] is adjacent to land included in the federal five-year
17 Outer Continental Shelf leasing program under 43 U.S.C. 1344, and the
18 commissioner makes a written finding, after hearing, that coordinated or
19 simultaneous leasing with the federal government is in the public interest; or

20 (E) [(5)] is the subject of an oil and gas exploration license
21 issued under AS 38.05.131 - 38.05.134.

22 * Sec. 4. AS 38.05.180(w) is amended to read:

23 (w) Notwithstanding any other provisions of this section, land that was subject
24 to a best interest finding issued within the previous 10 years [WHICH HAS BEEN
25 OFFERED FOR LEASE WITHIN THE PREVIOUS FIVE YEARS AND WHICH
26 RECEIVED NO BIDS AT COMPETITIVE SALE OR FOR WHICH NO BID WAS
27 ACCEPTED] may be, at the discretion of the commissioner, immediately offered for
28 lease, under regulations adopted by the commissioner, upon terms appearing most
29 advantageous to the state; however, noncompetitive leasing is prohibited. The
30 commissioner shall establish a royalty determined to be in the public interest but not less
31 than 12 1/2 percent. A lease must provide for payment to the state of rental but need

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1 not adhere to the rental schedule in (n) of this section nor to the 5,760-acres-per-lease
2 limitation in (m) of this section. The lease term may not exceed 10 years, except as
3 provided in (o) of this section.

4 * Sec. 5. AS 38.05.945(a) is amended to read:

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

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

9 (2) zoning of land under applicable law;

10 (3) issuance of a

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

14 (B) final written finding under AS 38.05.035(e)(5)(B) regarding
15 the sale, lease, or disposal of an interest in state land or resources for oil and gas
16 subject to AS 38.05.180(b);

17 (C) written finding for the sale, lease, or disposal of an interest
18 in state land or resources under AS 38.05.035(e)(6), except an oil or gas lease
19 sale described in AS 38.05.035(e)(6)(G) for which the director must provide
20 opportunity for public comment under the provisions of that subparagraph;

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

23 (5) a public hearing under AS 38.05.856(b);

24 (6) a preliminary finding under AS 38.05.035(e) and 38.05.855(c)
25 concerning sites for aquatic farms and related hatcheries;

26 (7) a decision under AS 38.05.132 - 38.05.134 regarding the sale, lease,
27 or disposal of an interest in state land or resources.