



LAWS OF ALASKA

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Source

HCS CSSB 319(RES)

Chapter No.

49

AN ACT

Relating to shallow natural gas; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: June 19, 2002

Actual Effective Date: Section 10 takes effect June 20, 2002; remainder of Act takes effect July 1, 2002

AN ACT

1 Relating to shallow natural gas; and providing for an effective date.

2

3 * Section 1. AS 38.05.177(a) is amended to read:

4 (a) The provisions of this section

5 (1) apply to gas, whether methane associated with and derived from
6 coal deposits or otherwise, [DEVELOPED] from a field if a part of the field
7 [SOURCE THAT] is [ONSHORE AND] within 3,000 feet of the surface; and

8 (2) do not apply to authorize lease of

9 (A) land

10 (i) that is subject to an oil and gas exploration license or
11 lease issued under AS 38.05.131 - 38.05.134; or

12 (ii) that is leased under AS 38.05.180;

13 (B) the land (i) that is proposed to be subject to an oil and gas
14 exploration license or lease issued under AS 38.05.131 - 38.05.134; or (ii) that
15 is described in and part of a proposed oil and gas leasing program prepared

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1 under AS 38.05.180(b); however, the commissioner may waive the limitations
2 of this subparagraph;

3 (C) the land that is held under a coal lease entered into under
4 AS 38.05.150, unless the applicant for a shallow natural gas lease is also the
5 lessee under AS 38.05.150 of that land; or

6 (D) the valid existing selections of the Alaska Mental Health
7 Trust Authority made for the purpose of reconstituting the mental health trust
8 established under the Alaska Mental Health Enabling Act, P.L. 84-830, 70
9 Stat. 709 (1956), that become subject to management under AS 38.05.801, or
10 of land that has been designated by law for or is subject to designation for
11 conveyance to the Alaska Mental Health Trust Authority; however, after
12 consultation with the Alaska Mental Health Trust Authority, the commissioner
13 may waive the limitations of this subparagraph.

14 * Sec. 2. AS 38.05.177(b) is amended to read:

15 (b) For the purpose of exploring for and developing shallow natural gas
16 reservoirs, upon application, the director may lease to a person land for which the state
17 owns the subsurface rights. A person applying for a lease under this subsection

18 (1) shall specify the area to be leased; the area to be leased may not
19 exceed 5,760 acres; a lessee may not hold more than **an aggregate of 138,240**
20 **[46,080]** acres of land under leases entered into under this section;

21 (2) may be required to pay a reasonable application fee of up to **\$5,000**
22 **[\$500]**.

23 * Sec. 3. AS 38.05.177(c) is amended to read:

24 (c) **The** [WITHIN 20 DAYS OF RECEIPT OF A LEASE APPLICATION,
25 THE] director shall give notice under AS 38.05.945 of receipt of the lease application
26 and call for comments from the public. The director's call for public comments must
27 provide opportunity for public comment for a period of **not less than** 60 days. If, after
28 review of information received during the public comment period, the director
29 determines that the discovery of a local source of natural gas would benefit the
30 residents of an area, the director shall execute a lease for the area described in (b) of
31 this section. The director shall execute the lease [WITHIN 90 DAYS] after

1 completion of a title search, the close of the public comment period, and [OR], if
2 review is required under AS 46.40, [WITHIN 30 DAYS] after the final consistency
3 determination is made under AS 46.40 [, WHICHEVER IS LATER]. A lease entered
4 into under this subsection gives the lessee the exclusive right to explore for, develop,
5 and produce, for a term of three years, natural gas on the state land described in the
6 lease; the right to explore for, develop, and produce is limited to gas [DERIVED] from
7 a field if a part of the field is [NATURAL GAS] within 3,000 feet of the surface.

8 * **Sec. 4.** AS 38.05.177(f) is amended to read:

9 (f) A shallow gas lease must provide for payment to the state of annual rent in
10 the amount of \$1 [50 CENTS] per acre. The rent is due and payable on the date
11 [DATES] determined in the lease. If the lease payment is not received by the due
12 date, the [THE] director shall mail the lessee one written notice, certified return
13 receipt requested [, THREE WEEKS BEFORE THE DUE DATE OF THE RENT]. If
14 the lessee fails to pay the rent within 30 days of receipt of the notice, the director
15 shall terminate the lease.

16 * **Sec. 5.** AS 38.05.177(j) is amended to read:

17 (j) A lease does not give the lessee the right to produce oil. A lease gives
18 [DOES NOT GIVE] the lessee the right to produce gas only to the extent [FROM
19 SOURCES] that it is from a field if a part of the field is [ARE NOT] within 3,000
20 feet of the surface. If a well drilling for natural gas under a lease authorized by this
21 section penetrates a field, no portion of which is within [FORMATION CAPABLE
22 OF PRODUCING GAS BELOW] 3,000 feet of the surface, or penetrates a formation
23 capable of producing oil, the owner or operator

24 (1) shall notify the department and the Alaska Oil and Gas
25 Conservation Commission; and

26 (2) may not conduct further operations in the drilled well until the
27 facility complies with all applicable laws and regulations relating to oil and gas
28 exploration and production; however, this paragraph does not prevent the owner or
29 operator from conducting activities that may be required by the Alaska Oil and Gas
30 Conservation Commission to plug, plug-back, or abandon a well.

31 * **Sec. 6.** AS 38.05.177(k) is amended to read:

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1 (k) The commissioner [OF NATURAL RESOURCES] may
2 (1) adopt only the regulations that are reasonable and that are
3 necessary to implement, interpret, or make specific the provisions of this section or to
4 establish procedures to govern application of the provisions of this section; and
5 (2) in addition to any requirement for a bond under AS 38.05.130,
6 establish by regulation a form and amount for statewide, areawide, unit-wide, or
7 per-lease bonds sufficient to secure damages that may be caused by the activities
8 of a lessee, or the lessee's successors or assigns, related to a shallow natural gas
9 lease entered into under this section; if the commissioner acts under this
10 paragraph, the commissioner

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

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

18 * Sec. 7. AS 46.03.100(f) is amended to read:

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

- 24 (1) mineral drilling, trenching, ditching, and similar activities;
25 (2) landscaping;
26 (3) water well drilling, geophysical drilling, or coal bed methane
27 drilling or other natural gas drilling to recover gas from a **field if a part of the field is**
28 **within** [RESERVOIR AT A DEPTH OF LESS THAN] 3,000 feet **of the surface;** or
29 (4) drilling, ditching, trenching, and similar activities associated with
30 facility construction and maintenance or with road or other transportation facility
31 construction and maintenance; however, the exemption provided by this paragraph

1 does not relieve a person from obtaining a permit under (a) of this section if

2 (A) the drilling, ditching, trenching, or similar activity will
3 involve the removal of the groundwater, stormwater, or wastewater runoff that
4 has accumulated and is present at an excavation site for facility, road, or other
5 transportation construction or maintenance; and

6 (B) a permit is otherwise required by (a) of this section.

7 * Sec. 8. AS 46.04.040(b) is amended to read:

8 (b) A person may not cause or permit the operation of a pipeline or an
9 exploration or production facility in the state unless the person has furnished to the
10 department, and the department has approved, proof of financial ability to respond in
11 damages. Proof of financial responsibility required for

12 (1) a pipeline or an offshore exploration or production facility is
13 \$50,000,000 per incident;

14 (2) an onshore production facility is

15 (A) \$20,000,000 per incident if the facility produces over
16 10,000 barrels per day of oil;

17 (B) \$10,000,000 per incident if the facility produces over 5,000
18 barrels per day but not more than 10,000 barrels per day of oil;

19 (C) \$5,000,000 per incident if the facility produces over 2,500
20 barrels per day but not more than 5,000 barrels per day of oil;

21 (D) \$1,000,000 per incident if the facility produces 2,500
22 barrels per day or less of oil;

23 (3) an onshore exploration facility is

24 (A) \$25,000 per incident for a facility used solely to explore for
25 shallow natural gas by means of drilling a well to explore for gas, whether
26 methane associated with and derived from coal deposits or otherwise, from a
27 **field if a part of the field** [SOURCE THAT] is within 3,000 feet of the
28 surface; and

29 (B) except as provided by (A) of this paragraph, \$1,000,000 per
30 incident.

31 * Sec. 9. AS 38.05.177(i) is repealed.

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1 * **Sec. 10.** The uncoded law of the State of Alaska is amended by adding a new section to
2 read:

3 **TRANSITION: REGULATIONS.** Notwithstanding sec. 13 of this Act, the
4 Department of Natural Resources may proceed to adopt regulations necessary to implement
5 the changes made by this Act. The regulations take effect under AS 44.62 (Administrative
6 Procedure Act), but not before the effective date of the statutory change.

7 * **Sec. 11.** The uncoded law of the State of Alaska is amended by adding a new section to
8 read:

9 **TRANSITION: CONVERSION OF CERTAIN EXISTING LEASES UNDER**
10 **AS 38.05.177.** On or after July 1, 2002, and before October 1, 2002, upon application of the
11 lessee, the Department of Natural Resources is authorized to convert leases entered into under
12 AS 38.05.177 and in existence on the effective date of secs. 1 - 9 of this Act to leases that are
13 consistent with the provisions of this Act.

14 * **Sec. 12.** Section 10 of this Act takes effect immediately under AS 01.10.070(c).

15 * **Sec. 13.** Except as provided in sec. 12 of this Act, this Act takes effect July 1, 2002.