



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

Department of Natural Resources

Division of Oil and Gas
Anchorage Office

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August 21, 2013

**Re: Oil and Gas Exploration and Development by Geographical Area and Plans of Operations;
Extension of period Opportunity to Comment on Proposed Regulations**

Dear Alaskan,

On July 12, 2013, the Department of Natural Resources (DNR) proposed new regulations dealing with oil and gas exploration and development by geographical area to implement legislation enacted in 2013, and to amend existing regulation for oil and gas plans of operations for leases and exploration licenses. Today, August 21, 2013, DNR extended the public comment period for these regulations until September 20, 2013, and provided notice of a public workshop regarding these regulations scheduled for September 6, 2013. I am writing to explain these proposed changes to these regulations, why we are proposing this regulation package now, and how this action relates to ongoing management of oil and gas leases. I invite you to review and comment on these proposed regulations.

Background

One way the DNR makes oil and gas interests available is through a competitive oil and gas lease sale process called an areawide lease sale. When beginning the process, the DNR first determines in a written finding that disposing of oil and gas interests is in the state's best interest. In the written finding, known as a "Best Interest Finding," the DNR considers and discusses certain topics, such as the reasonably foreseeable effects of the oil and gas lease disposal on the area's fish and wildlife, historic and cultural resources, and communities, as well as public comments and applicable laws and regulations. The DNR evaluates relevant facts and issues known at the time and balances the potential positive and negative effects of offering oil and gas leases, given the mitigation measures, terms and conditions under which the lessee must operate, and other protections. The DNR then makes a final finding of whether or not, on balance, the disposal of oil and gas interests is or is not in the state's best interest.

The resulting Final Best Interest Finding for the disposal is in effect for ten years, subject to an annual call for new information. Every year prior to offering oil and gas leases through an approved areawide lease sale, the DNR solicits input for new information that would justify supplementing the Best Interest Finding. After evaluating information received during the public comment period, the DNR issues a decision to either supplement the Best Interest Finding, or that no substantial new information has become available that justifies a supplement. Through this process DNR reviews information provided each year, and makes a determination whether supplementing the Best Interest Finding is in the public interest.

Both the Best Interest Finding and the resulting areawide lease sale describe the terms and conditions that a potential lessee must operate under, including lease mitigation measures to minimize potential adverse impacts of oil and gas development. For multiphased development, the scope of a Best Interest Finding may be limited to the lease sale phase of the project. Then, before a lessee may begin each subsequent phase, the public receives notice and an opportunity to comment and the DNR issues a written approval.

Additional phases include exploration, development, and transportation.¹ The DNR currently approves new phases, after public notice and comment, on an individual project basis when it approves oil and gas plans of operations.

In 2013, the Alaska legislature passed a new law that allows DNR to choose to review and authorize oil and gas exploration or development across a geographical area rather than by individual project. This new law does not affect the transportation phase, which will continue to be evaluated under existing laws and regulations.

Oil and gas exploration and development approval under the new law

The enabling legislation, Chapter 13, SLA 2013, CSHB129 (FIN), adopted a new provision in the Alaska Lands Act under power and duties of the director, Alaska Statute 38.05.035(o). The new law clarifies that the DNR can review exploration and development across a geographical area. The law also specifies that when the DNR provides public notice and an opportunity for public comment, it will use the methods described in AS 38.05.945, which includes publication in newspapers and posting in public places or public service announcements. The geographical areas are located within oil and gas lease sale areas previously offered for oil and gas leasing under a Best Interest Finding, and the law provides that the DNR may authorize exploration and development for up to ten years.

Under the new law, the DNR and the public can look holistically at a broader geographical area when evaluating how oil and gas exploration or development should occur on state land. Through this process, the DNR can minimize adverse effects on state land and resources, ensure the state is developing its resources by making them available for maximum use consistent with the public interest, and provide an opportunity for the public to comprehensively review oil and gas activities within a geographical area. For the lessee, a geographical area approval also provides certainty about conditions under which it can explore or develop in that area. And when approving exploration or development for a geographical area, the DNR will still be able to safeguard environmental, subsistence, community, recreational, and historical concerns through special stipulations and conditions.

After evaluating input from the public, the DNR can issue a decision that identifies the types of exploration or development activities that are allowed within a defined geographical area, and specifies the conditions and stipulations under which an oil and gas lessee must operate, in addition to their lease mitigation measures. Within an area approved for exploration or development, an oil and gas lessee must still submit plans of operations for approval by the DNR in order to begin actual activities. If a plan of operations complies with the terms and conditions in both the Best Interest Finding and the DNR decision authorizing exploration or development in a geographical area, the DNR may approve those plans of operations without a separate public notice. Once a lessee has begun its exploration or development within an area approved for exploration or development, the exploration or development approval remains valid for the term of the lease as long as all activities remain compliant with prior approvals. Individual plans of operations and amendments to plans of operations will continue to require approval by the DNR.

Proposed changes to 11 AAC 83.

The proposed regulations clarify how the DNR will define geographical areas within areawide lease sale boundaries for oil and gas exploration and development; what criteria and information DNR will use

¹ The transportation phase involves transporting oil and gas via pipelines, etc.

when evaluating how it will authorize oil and gas exploration and development, and specifies the content of the DNR public notice under AS 38.05.945(b)(1).

The proposed regulations also include changes for plans of operations to clarify that plans of operations are required for all oil and gas operations that affect state oil and gas leases or exploration licenses. The DNR is proposing that applications for plans of operations be submitted well in advance of proposed operations to allow time for the DNR to review the application, and is requesting additional information be submitted with the applications.

The DNR proposes to adopt a new article entitled “**Article 7. Exploration and Development by Geographical Area**” to establish procedures and criteria for authorizing oil and gas exploration and development activities within existing oil and gas lease sale areas in order to implement Alaska Statute 38.05.035(o).

Geographical areas will primarily include state land that is under lease, or is within areas surrounding existing leases. The DNR will exclude areas adjacent to incorporated communities, such as Nuiqsut on the North Slope, and Homer on the Kenai Peninsula, as well as unincorporated communities with a population greater than 200 people. Projects within close proximity to these communities will continue to be evaluated individually under the DNR’s existing processes.

A geographical area for exploration will not exceed 35 percent of a lease sale area. For the North Slope Areawide lease sale area, that means a single geographical area for exploration will not exceed 1.785 million acres. A geographical area for development will not exceed 300,000 acres. For comparison, the Prudhoe Bay Unit on the North Slope is about 255,000 acres.

When the department chooses to authorize exploration or development under the new law, these proposed regulations specify the criteria and information the DNR will consider when evaluating how it will authorize oil and gas exploration or development in a geographical area. The DNR will evaluate whether the exploration or development best serves the state’s interest to maximize the use of its resources, as well as the public’s interest in the resources, concurrent uses of the land, and measures to minimize adverse impacts of oil and gas activity. DNR will balance potential positive and negative effects of specific exploration and development activities given the mitigation measures and other protections in effect for the geographical area.

The proposed regulations specify what the DNR will include in its public notice under AS 38.05.945 when authorizing oil and gas exploration or development in a geographical area. The public notice will contain information describing the geographical area under consideration, and will specify the types of exploration or development activities the DNR is proposing to authorize. The public will be invited to comment and provide input on the areal extent of the geographical area, the types of proposed activities, and other factors the public believes the DNR should consider when making its decision.

Why do we need to adopt regulation changes now?

The DNR is adopting new regulations to establish procedures to administer the new legislation, and to update the plan of operations regulation. The proposed regulations, coupled with the new legislation, will give DNR a tool to evaluate an exploration or development phase of a multi-phased oil and gas project across multiple leases within a geographical area. The proposed regulations will help DNR meet the

growing demand for exploring state lands while preserving public input at the beginning of the process and provide certainty regarding the conditions of approved development.

Extended Opportunity to Comment and Public Workshop

Interested parties are encouraged to review the proposed regulations and continue to submit written comments to the DNR. Enclosed is the official “Supplemental Notice of Proposed Changes in the Regulations of the Alaska Department of Natural Resources,” which lists the specific areas and provides the details regarding the submission of public comments. You can view the proposed regulations on our website at: <http://dog.dnr.alaska.gov/AboutUs/PublicNotices.htm#pnother>. Further details on the extension of the opportunity to comment may be found in the Enclosed “Supplemental Notice of Proposed Changes in the Regulations of the Alaska Department of Natural Resources.”

A Public Workshop has been scheduled for **Friday, September 6, 2013 from 1:00 pm to 3:00 pm in room 602 in the Atwood Building, 550 W. 7th Avenue, Anchorage**. The workshop will begin with a brief presentation by DNR, followed by specific questions from member of the public regarding the proposed regulations. All questions will be considered as public comments. Further details on the Workshop may be found in the Enclosed “Supplemental Notice of Proposed Changes in the Regulations of the Alaska Department of Natural Resources.”

You are invited to comment on these proposed regulation changes to the Division of Oil and Gas. For your comments to be considered, **the division must receive your written comments no later 5:00 p.m. on Friday September 20, 2013**. Comments must be in writing, and may be mailed, faxed, or emailed to the address below; or may be submitted through the on-line public comment form at: <http://dog.dnr.alaska.gov/ContactUs/PublicComment.htm>.

Alaska Department of Natural Resources
Division of Oil and Gas, Attention: Bob Pawlowski
550 W. 7th Avenue, Suite 1100
Anchorage, Alaska 99501
Fax: (907) 269-8938
E-mail: DOG.Comments@alaska.gov

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Bob Pawlowski at 269-8800 by September 4, 2013 to ensure that any necessary accommodations can be provided.

For more information on the process, or for a copy of the proposed regulation changes, go to <http://dog.dnr.alaska.gov/AboutUs/PublicNotices.htm#pnother>, or write the Director’s Office, Division of Oil and Gas, Attention Bob Pawlowski at the address above; or call (907) 269-8800, or email at bob.pawlowski@alaska.gov.

Thank you for your consideration. I look forward to reading your comments.

Sincerely,

/s/

W. C. Barron
Director