

DEPARTMENT OF NATURAL RESOURCES



PROPOSED CHANGES TO REGULATIONS 11 AAC 83



**Oil and Gas Exploration and Development
By Geographical Area; and Lease Plans of Operations**

PUBLIC REVIEW DRAFT

July 12, 2013

**COMMENT PERIOD ENDS:
September 20, 2013, 5:00 p.m.**

**Please see the Supplemental Public Notice for
details about how to comment on these
proposed regulations.**

Notes to reader:

1. Proposed new text that amends existing regulation is **bolded and underlined**.
2. Words [CAPITALIZED AND BRACKETED] indicate text that is proposed to be deleted.
3. If the lead-in line indicates a new article or section is being added, the new text is not bolded or underlined.
4. When the word “including” is used, Alaska Statutes provide that it means “including, but not limited to.”

Title 11. Natural Resources.

11 AAC 83.158 is amended to read:

11 AAC 83.158. Plan of operations.

(a) Except as provided in (b) of this section, a plan of operations for all or part of the leased area or area subject to an oil and gas exploration license must be approved by the [COMMISSIONER]**department** before any operations may be undertaken on or in the leased or licensed area.

(b) A plan of operations is not required for **activities that are generally allowed under 11 AAC 96.020.**

[(1) ACTIVITIES THAT WOULD NOT REQUIRE A LAND USE PERMIT UNDER THIS TITLE; OR

(2) OPERATIONS UNDERTAKEN UNDER AN APPROVED UNIT PLAN OF OPERATIONS IN ACCORDANCE WITH THIS TITLE.]

(c) Before undertaking operations on or in the leased or licensed area, the lessee or licensee shall provide for full payment of all damages sustained by the owner of the surface estate as well as by the surface owner's lessees and permittees, by reason of entering the land.

(d) An **applicant shall submit an** application for [APPROVAL OF] a plan of operations [MUST] **to the department at least 120 days before the proposed operations are anticipated**

to commence. The department will notify the applicant if any additional information is necessary to review the application.

(e) An application for a plan of operations must contain sufficient information, based on data reasonably available at the time the plan is submitted [FOR APPROVAL], for the [COMMISSIONER]**department** to determine the surface use requirements and impacts directly associated with the proposed operations. An application must include statements and maps or drawings setting out the following:

(1) the sequence and schedule of the operations to be conducted on or in the leased or licensed area, including the date operations are proposed to begin and their proposed duration;

(2) projected use requirements directly associated with the proposed operations, including the location and design of well sites, material sites, water supplies, solid waste sites, **wastewater treatment and disposal sites**, buildings, roads, utilities, airstrips, and all other facilities and equipment necessary to conduct the proposed operations;

(3) plans for rehabilitation of the affected leased or licensed area after completion of operations or phases of those operations; [AND]

(4) a description of operating procedures designed to prevent or minimize adverse effects on other natural resources and other uses of the leased or licensed area and adjacent areas, including fish and wildlife habitats, historic and archeological sites, and public use areas;

(5) current surface ownership of the area directly associated with proposed operations, including the leased or licensed area, together with names and addresses for the record owners; and

(6) specific oil and gas leases or exploration licenses issued by state, federal, or private entities directly associated with the proposed operations, including well bore trajectories.

([E]f) in approving a lease or license plan of operations or an amendment of a plan, the [COMMISSIONER]**department** will require amendments that the [COMMISSIONER]**department** determines necessary to protect the state's interest. The [COMMISSIONER]**department** will not require an amendment that would be inconsistent with the terms of sale under which the lease was obtained, or terms under which the oil and gas exploration license was obtained or with the terms of the lease or license itself, or which would deprive the lessee or licensee of reasonable use of the leasehold or licensed interest.

([F]g) The lessee or licensee may, with approval of the [COMMISSIONER]**department**, amend an approved plan of operations.

([G]h) Upon completion of operations, the lessee or licensee shall inspect the area of operations and submit a report **to the department** indicating the completion date of operations and stating any noncompliance of which the lessee or licensee knows, or should reasonably know, with requirements imposed as a condition of approval of the plan.

([H]i) [IN]**When** submitting a proposed plan of operations for approval, the lessee or licensee shall provide [FIVE COPIES] **one paper copy and one electronic copy** of the plan **to the department**.

(j) In this section, "surface" means the fee estate excluding minerals. (Eff. 6/28/81, Register 78; am 8/15/82, Register 83; am 3/18/83, Register 85; am 9/22/95, Register 135; am 2/21/98, Register 145; am 12/27/2012, Register 204); am __/__/____, Register ____)

Authority: AS 38.05.020 AS 38.05.131 AS 38.05.145

AS 38.05.130

[AS 38.05.133]

AS 38.05.180

11 AAC 83 is amended by adding new sections to read:

Article 7. Exploration and Development by Geographical Area.

Section

650. Purpose

660. Geographical area for exploration

665. Geographical area for development

670. Criteria

675. Public notice

695. Definitions

11 AAC 83.650. Purpose. The purpose of 11 AAC 83.650 – 11 AAC 83.695 is to establish procedures for authorizing exploration and development in a geographical area under AS 38.05.035(o). (Eff. __/__/____, Register__)

Authority: AS 38.05.020 AS 38.05.145 AS 38.05.180

AS 38.05.035

11 AAC 83.660. Geographical area for exploration. The department may define a geographical area for exploration activities called an exploration area. An exploration area

- (a) will be contiguous and described by legal subdivision;
- (b) will be prospective for oil and gas exploration activities within the next ten years;
- (c) may include leased or unleased acreage;

(d) will not exceed 35 percent of a lease sale area; and

(e) will exclude communities listed in the Alaska Community Database Online, published by the Department of Commerce, Community, and Economic Development, Division of Community and Regional Affairs, which are:

(1) incorporated; or

(2) unincorporated with a population greater than 200, except Prudhoe Bay may be included within an exploration area. (Eff. __/__/____, Register__)

Authority: AS 38.05.020 AS 38.05.145 AS 38.05.180
AS 38.05.035

11 AAC 83.665. Geographical area for development. The department may define a geographical area for development activities called a development area. A development area

(a) will be contiguous and described by legal subdivision;

(b) will be prospective for oil and gas development within the next five years;

(c) will include leased acreage;

(d) will not exceed 300,000 acres;

(e) will exclude communities listed in the Alaska Community Database Online, published by the Department of Commerce, Community, and Economic Development, Division of Community and Regional Affairs, which are:

(1) incorporated; or

(2) unincorporated with a population greater than 200, except Prudhoe Bay may be included within a development area; and

(f) may encompass one or more oil and gas units under AS 38.05.180(p). (Eff.

___/___/___, Register__)

Authority: AS 38.05.020 AS 38.05.145 AS 38.05.180
AS 38.05.035

11 AAC 83.670. Criteria.

(a) The department may authorize exploration or development within a geographical area upon a written finding that exploration or development in the geographical area will, on balance, best serve the state’s interests. In evaluating whether exploration or development within a geographical area best serves the state’s interests, the department will consider

- (1) encouraging an assessment of its oil and gas resources;
- (2) minimizing adverse impacts of oil and gas activities;
- (3) maximizing use consistent with the public interests;
- (4) concurrent uses of state land; and
- (5) other relevant factors that the department determines are necessary or

advisable to protect the state’s interests.

(b) In evaluating the criteria in (a) of this section, the department will consider

(1) information in the most recent best interest findings approving oil and gas lease sales under AS 38.05.180 within the geographical area, including any supplements to the best interest findings;

(2) types of activities occurring within the geographical area;

(3) Department of Natural Resources’ area plans, management plans, site-specific plans, or other land use classifications, as applicable;

(4) other state management plans affecting the geographical area, as applicable;

and

(5) other facts and issues the commissioner determines relevant to the specific geographical area.

(c) The department may impose conditions on approval of the exploration or development within a geographical area that the department determines necessary to protect the state's interest. The department will not require conditions that are inconsistent with the terms of sale under which a lease was obtained, or with the terms of a lease, or that would deprive a lessee of reasonable use of the leasehold interest. (Eff. __/__/____, Register__)

Authority: AS 38.05.020 AS 38.05.145 AS 38.05.180
AS 38.05.035

11 AAC 83.675. Public notice.

(a) Before authorizing exploration or development in a geographical area, the department will provide public notice under AS 38.05.945(b)(3) and (c). The public notice will

- (1) comply with AS 38.05.945(b)(1);
- (2) describe the areal extent of the geographical area;
- (3) specify communities located within the vicinity;
- (4) specify if it is an exploration area, development area, or both;
- (5) identify the types of activities the commissioner is proposing to allow within

the geographical area;

(6) summarize the conditions that a lessee shall be required to follow when operating within the geographical area;

(7) specify the deadline, address, and available methods for submitting comments; and

(8) specify how the public can obtain further information.

(b) The department will consider timely written comments provided during the notice period. (Eff. __/__/____, Register__)

Authority: AS 38.05.020 AS 38.05.145 AS 38.05.180
AS 38.05.035 AS 38.05.945

11 AAC 83.695. Definitions. In 11 AAC 83.650 – 11 AAC 83.695, unless the context requires otherwise

(1) “Development” means those activities associated with developing oil and gas.

(2) “Exploration” means those activities associated with exploring for oil and gas.

(3) “Geographical area” means a defined area within an area that has been offered for oil and gas or gas only leasing under AS 38.05.180.

(4) “Oil and gas activities” means exploration or development activities necessary to find, produce, save, store, treat, process, transport, and market all oil, gas, and associated substances, including building structures, pipelines, and facilities. (Eff. __/__/____, Register__)

Authority: AS 38.05.020 AS 38.05.145 AS 38.05.180
AS 38.05.035