

# Appendix B: Laws and Regulations Pertaining to Oil and Gas Exploration, Development, Production, and Transportation

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## **A. Alaska Statutes (AS) and Administrative Code (AAC) Sections**

### **1. Alaska Department of Natural Resources (ADNR)**

AS 38.05.027	Management of legislatively designated state game refuges and critical habitat areas is joint responsibility of ADF&G (AS 16.20.050-060) and ADNR. Lessees are required to obtain permits from both ADNR and ADF&G.
AS 38.05.127	Provides for reservation of easements to ensure free access to navigable or public water.
AS 38.35.010 to AS 38.35.260	Right-of-way leasing for pipeline transportation of crude oil and natural gas is under control of commissioner of ADNR. Commissioner shall not delegate authority to execute leases.
11 AAC 51.045	Easements to and along navigable or public water.
11 AAC 83.158(a)	Plan of operations for all or part of leased area or area subject to oil and gas exploration license must be approved by ADNR commissioner before any operations may be undertaken on or in leased or licensed area.
11 AAC 96.010	Operations requiring permits, including use of explosives and explosive devices, except firearms.
11 AAC 96.025	Generally allowed land use activities are subject to general stipulations that will minimize surface damage or disturbance of drainage systems, vegetation, or fish and wildlife resources.

### **2. ADNR Division of Oil and Gas (DO&G)**

AS 38.05.035(a)(8)(C)	Requires geological and geophysical data to be kept confidential upon request of supplier.
AS 38.05.130	Allows DO&G director to approve oil and gas exploration and development activities in cases where surface estate is not held by state or is otherwise subject to third-party interests, provided director determines that adequate compensation has been made to surface estate holder for any damages that may be caused by lease activities.
AS 38.05.132	Establishes exploration licensing program.
AS 38.05.180	Establishes oil and gas leasing and gas only leasing programs to provide for orderly exploration for and development of petroleum resources belonging to the State of Alaska.

11 AAC 96.010 to 11 AAC 96.145 Provides controls over activities on state lands in order to minimize adverse activities; applies to geophysical exploration permit.

### 3. ADNR Division of Forestry

AS 41.17.082 Alaska Forest Resources Practices Act. Requires that all forest clearing operations and silvicultural systems be designed to reduce likelihood of increased insect infestation and disease infections that threaten forest resources.

11 AAC 95.195 Describes approved methods of disposal or treatment of downed spruce trees to minimize spread of bark beetles and reduce risk of wildfire.

11 AAC 95.220 Requires lessee to file detailed plan of operations with state forester.

### 4. ADNR Division of Mining, Land and Water

AS 38.05.075 Governs public auctions for leasing lands (including tidelands and submerged lands) — procedures, bidding qualifications, and competitive or noncompetitive bidding methods.

AS 38.05.850 Authorizes the director to issue permits, rights-of-way, or easements on state land for recovery of minerals from adjacent land under valid lease.

11 AAC 80.005 to 11 AAC 80.085 Establishes pipeline right-of-way leasing regulations.

11 AAC 93.040 to 11 AAC 93.130 Requires a water rights permit for appropriation of state waters.

11 AAC 93.210 to 11 AAC 93.220 Provides for temporary water use permits and application procedures.

11 AAC 96.010 to 11 AAC 96.110 Land use permit activities not permitted by multiple land use permit or lease operations approval.

### 5. ADNR Division of Coastal and Ocean Management

6 AAC 80.070(b)(3) Requires that energy facilities in coastal areas be consolidated to extent feasible and prudent.

6 AAC 80.070(b)(10) to 6 AAC 80.070(b)(12) Requires that energy facilities in coastal areas be sited to extent feasible and prudent where development will necessitate minimal site clearing, dredging, and construction in productive habitats; to minimize risk of oil spills in, or other contamination of, productive or vulnerable habitats; and to allow for free passage and movement of fish and wildlife.

6 AAC 80.130(c)(3) Requires that wetlands and tide flats be managed to assure adequate water flow and to avoid adverse effects on natural drainage patterns, destruction of important habitat, and discharge of toxic substances.

11 AAC 110 Alaska Coastal Management Program implementation.

## **6. Alaska Department of Fish and Game (ADF&G)**

AS 16.05.841 Requires that an obstruction across a fishbearing stream provide for fish passage.

AS 16.05.871 Provides for protection of anadromous fish and game in connection with construction or work in beds of specified water bodies and calls for approval of plans by ADF&G for construction of hydraulic project or any use, diversion, obstruction, change, or pollution of these water bodies.

AS 16.20 Manages legislatively designated game refuges, sanctuaries, and critical habitat areas.

AS 16.20.060 and  
AS 16.20.530 Commissioner, ADF&G, may require submission and written approval of plans and specifications for anticipated use and construction work and plans for proper protection of fish and game (including birds) within legislatively designated game refuges, critical habitat areas, and sanctuaries.

AS 16.20.180 to  
AS 16.20.210 Requires measures for continued conservation, protection, restoration, and propagation of endangered fish and wildlife.

5 AAC 95.010 Atlas and catalog of waters important for spawning, rearing, or migration of anadromous fish. Permit application procedures.

## **7. Alaska Oil and Gas Conservation Commission (AOGCC)**

AS 31.05.005 Establishes and empowers AOGCC.

AS 31.05.030(d)(9) Requires oil and gas operator to file and obtain approval of plan of development and operation.

AS 46.03.100 Standards and limitations for accumulation, storage, transportation, and disposal of solid or liquid waste or heated process or cooling water.

AS 46.03.900(35) Defines waste.

20 AAC 25 Requires permit to drill, to help maintain regulatory control over drilling and completion activities in state. Regulates well spacing and underground injection.

20 AAC 25.140 Requires authorization to allow an abandoned oil and gas well to be converted to a freshwater well.

## 8. Alaska Department of Environmental Conservation (ADEC)

AS 26.23.900(1)	Defines Alaska State Emergency Response Commission.
AS 46.03	Sets state policy; to conserve, improve, and protect the state's natural resources and environment, and control water, land, and air pollution.
AS 46.03.100	Requires solid waste disposal permits.
AS 46.03.759	Establishes maximum liability for discharge of crude oil at \$500 million.
AS 46.03.900(35)	Defines waste.
AS 46.04	Oil and Hazardous Substance Pollution Control Act. Prohibits discharge of oil or any other hazardous substances unless specifically authorized by permit; requires those responsible for spills to undertake cleanup operations; and holds violators liable for unlimited cleanup costs and damages as well as civil and criminal penalties.
AS 46.04.030	Requires lessees to provide oil discharge prevention and contingency plans (C-plans). Also provides regulation of aboveground storage facilities that have capacities of greater than 5,000 bbl of crude oil or greater than 10,000 bbl of noncrude oil.
AS 46.04.050	Exemptions for oil terminal facilities that have capacities of less than 5,000 bbl of crude oil or less than 10,000 bbl of noncrude oil.
18 AAC 50	Provides for air quality control, including permit requirements, permit review criteria, and regulation compliance criteria.
18 AAC 50.316	Preconstruction review for construction or reconstruction of major source of hazardous air pollutants.
18 AAC 60.265	Requires proof of financial responsibility before a permit for operation of hazardous waste disposal facility may be issued.
18 AAC 60.200	Requires a solid waste disposal permit.
18 AAC 60.430(a)(2)	General requirement for containment structures used for disposal of drilling wastes.
18 AAC 70	Sets water quality standards.
18 AAC 72	Protects public health, public and private water systems, and the environment from diseases transmitted by domestic wastewater by establishing minimum treatment, construction, operation, and maintenance standards for domestic wastewater treatment works and disposal systems.

18 AAC 75.005 to 18 AAC 75.025	Requirements for oil storage facilities for oil pollution prevention.
18 AAC 75.065 to 18 AAC 75.075	Requirements for oil storage tanks.
18 AAC 75.080	Facility piping requirements for oil terminal, crude oil transmission pipeline, and exploration and production facilities. Requires a corrosion control program.
18 AAC 75.235	Sets financial responsibility levels for oil discharges
18 AAC 75.300	Requires ADEC be notified of spill of oil and other hazardous substances.
18 AAC 75.400 to 18 AAC 75.496	Requires oil discharge contingency plans and specifies their contents.

## B. Federal Laws and Regulations

Notes: CFR is the Code of Federal Regulations; USC is the United States Code.

### 1. Clean Water Act

33 USC §§1251 to 1387	Establishes water pollution controls to restore and maintain the integrity of U.S. waters
33 USC §1344	Requires a COE Section 404 permit to excavate, fill, alter, or otherwise modify course or condition of navigable or U.S. coastal waters and to discharge dredge-and-fill material

### 2. Environmental Protection Agency (EPA)

Oil and other hazardous substance regulations.

40 CFR §109	Establishes criteria for oil removal (spill) contingency plans
40 CFR §110	Requires reporting of spills
40 CFR §112	Oil pollution prevention, designed to form a comprehensive federal/state spill prevention program that minimizes the potential for discharges
40 CFR §112.7	General requirements for spill prevention, control, and countermeasures plan
40 CFR §113	Sets liability limits for small onshore storage facilities (oil)

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- 40 CFR §116 Designates hazardous substances
- 40 CFR §117 Determination of reportable quantities for hazardous substances

### Water quality regulations.

- 40 CFR §121 State certification of activities requiring federal license or permit which may result in any discharge into navigable waters
- 40 CFR §122 NPDES permit regulations
- 40 CFR §125 Sets criteria and standards for NPDES permits
- 40 CFR §129 Sets toxic pollutant effluent standards and lists toxic pollutants
- 40 CFR §136 Establishes test procedures for the analysis of pollutants
- 40 CFR §401 Prescribes effluent limitations guidelines and standards
- 40 CFR §435 Sets discharge criteria for onshore and offshore facilities

### Underground injection regulations.

- 40 CFR §144 Requirements for underground injection control program
- 40 CFR §146 Sets technical criteria and standards for the underground injection control program
- 40 CFR §147 Sets forth state-administered underground injection control program

### Ocean dumping regulations.

- 40 CFR §§220-228 Regulations, permits, and criteria related to dumping of material in the ocean

### Materials discharge and disposal regulations.

- 40 CFR §230 Regulates the discharge of dredged or fill material into navigable waters
- 40 CFR §231 Sets the procedures for approving or prohibiting disposal of dredged or fill material at a site

Oil and other hazardous substance pollution regulations.

40 CFR §300 National Oil and Hazardous Substances Pollution Contingency Plan, to provide for efficient, coordinated, and effective response to discharges of oil and hazardous substances

### **3. Coast Guard, Department of Homeland Security**

Regulations relevant to a determination of a hazard to navigation and oil spills in navigable waters.

33 CFR §64.31 Determination of hazard to navigation

33 CFR §§153-158 Prescribes regulations concerning notification to the Coast Guard of the discharge of oil or hazardous; the procedures for the removal of a discharge of oil; the costs that may be imposed or reimbursed for the removal of a discharge; and for the transfer of oil to, from, or within vessels

### **4. Army Corps of Engineers**

Navigable waters regulations.

33 CFR §209.200 Regulations governing navigable waters

33 CFR §§320-327 and 330 Prescribes policies and procedures applicable to review of applications for certain activities in U.S. waters, including discharge of dredged or fill material, including nationwide permits

33 CFR §§328 and 329 Defines waters and navigable waters of the U.S.

### **5. Fish and Wildlife Coordination Act**

16 USC §662(a) Requires consultation between agencies on activities conducted in waters.

### **6. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)**

42 USC §§9601-9675 Defines and designates hazardous substances, sets quantities for reportable releases, and sets cleanup standards

### **7. Safe Drinking Water Act**

42 USC §300 (f)-(h) Regulates public water systems to ensure their safety

## **8. Solid Waste Disposal Act, as amended by Resource Conservation and Recovery Act**

42 USC §§6901-6991 Regulates solid waste disposal planning and management and sets reduction or elimination of hazardous waste as national policy

## **9. Clean Air Act**

42 USC §§7401-7671 Encourages and promotes reasonable governmental actions for air pollution prevention; sets standards, and permit requirements

## **10. Toxic Substances Control Act**

15 USC §§2601-2655 Controls toxic substances, including asbestos

## **11. National Environmental Policy Act (NEPA)**

42 USC §§4321-4347 Sets environmental policy; requires a detailed statement of environmental impacts in reports on proposed federal actions significantly affecting the quality of the environment.

Council on Environmental Quality-administers NEPA-related regulations

40 CFR §§1500-1508 Provides regulations applicable to and binding on federal agencies for implementing NEPA, including when and whether to prepare and environmental impact statement

## **12. Endangered Species Act**

16 USC §§1531-1543 Interagency cooperation, prohibited acts, penalties, and enforcement

## **13. USF&WS**

Threatened and endangered species regulations

50 CFR §17 Threatened and endangered wildlife and plant species

50 CFR §402 Directs federal agencies to further the purposes of the Endangered Species Act

## **14. Marine Protection, Research, and Sanctuaries Act**

33 USC §§1401-1445 Regulation and research of ocean dumping

## **15. Marine Mammal Protection Act**

16 USC §§1361-1423 Requires measures to conserve and protect marine mammals

## **16. Pipeline Inspection, Protection, Enforcement, and Safety Act (PIPES Act) of 2006**

49 CFR §192 Prescribes minimum safety requirements for pipeline facilities and the transportation of gas

49 CFR §195 Prescribes safety standards and reporting requirements for pipeline facilities used in the transportation of hazardous liquids or carbon dioxide

## **17. Migratory Bird Treaty Act**

16 USC §§703-712 and 715 Protects migratory birds, per the act and international treaties

## **18. Archaeological and Historic Preservation Act**

16 USC §469 Preserves historical and archaeological data that might be lost or destroyed due to a federally licensed activity

## **19. National Historic Preservation Act**

16 USC §470 Protects prehistoric and historic resources

## **20. Leases and Permits on Restricted Properties**

25 CFR §162 Leasing and permitting on Native and restricted lands

# **C. Local Laws and Regulations**

## **1. North Slope Borough**

Title 19 North Slope Borough land management regulations, planning, and permitting powers.

