

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 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 Pipeline right-of-way leasing regulations.

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

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 16.20 Management of legislatively designated game refuges, sanctuaries, and critical habitat areas.

AS 16.20.060,
AS 16.20.094, 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 Require measures for continued conservation, protection, restoration, and propagation of endangered fish and wildlife.

AS 16.05.841 Requires permit from ADF&G prior to obstruction of 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.

5 AAC 195.010 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 46.03.900(35) Definition of waste.

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

20 AAC 25.005 to
20 AAC 25.570 Requires permit to drill, to help maintain regulatory control over drilling and completion activities in state.

20 AAC 25.140 Requires water-well authorization to allow abandoned oil and gas wells to be converted to freshwater wells and to assure freshwater source is not contaminated.

8. Alaska Department of Environmental Conservation (ADEC)

AS 26.23.900(1)	Defines State Emergency Response Commission.
AS 46.03	Provides for environmental conservation including water and air pollution control and radiation and hazardous waste protection.
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)	Definition of waste.
AS 46.04.010 to AS 46.04.900	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 aboveground storage 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 permit for operation of hazardous waste disposal facility may be issued.
18 AAC 60.200	Requires solid waste disposal permit to control or eliminate detrimental health, environmental, and nuisance effects of improper solid waste disposal practices and to operate solid waste disposal facility.
18 AAC 60.430(a)(2)	General requirement for containment structures used for disposal of drilling wastes.
18 AAC 70	Requires Certificate of Reasonable Assurance (Water Quality Certification) in order to protect state waters from becoming polluted. Assures that issuance of federal permit will not conflict with Alaska's water quality standards.

18 AAC 72	Requires wastewater disposal permit in order to prevent water pollution (and public health problems) due to unsafe wastewater disposal systems and practices.
18 AAC 75.305 to 18 AAC 75.395	Provides for oil and other hazardous substance pollution control, including oil discharge contingency plan.
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 and surge tanks.
18 AAC 75.080	Facility piping requirements for oil terminal, crude oil transmission pipeline, exploration, and production facilities.

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	Water pollution controls
33 USC § 1344	Army Corps of Engineers permit required 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	Criteria for oil removal contingency plans
40 CFR § 110	Discharge of oil
40 CFR § 112	Oil pollution prevention
40 CFR § 112.7	Guidelines for implementing spill prevention, control, and countermeasures plan
40 CFR § 113(A)	Liability limits for small onshore storage facilities (oil)

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40 CFR § 116 Designation of 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

40 CFR § 136 Test procedures for analysis of pollutants

National Pollutant Discharge Elimination System regulations.

40 CFR § 122 NPDES permit regulations

40 CFR § 125 Criteria and standards for NPDES permits

40 CFR § 129 Toxic pollutant effluent standards

40 CFR § 401 General provisions of effluent guidelines and standards

40 CFR § 435 Offshore oil and gas extraction point-source category

Ocean dumping regulations.

40 CFR §§ 220 to 228 Ocean dumping regulations, permits, and criteria

Materials discharge and disposal regulations.

40 CFR § 230 Discharge of dredged or fill material into navigable waters

40 CFR § 231 Disposal site determination

Oil and other hazardous substance pollution regulations.

40 CFR § 300 National Oil and Hazardous Substances Pollution Contingency Plan

Underground injection regulations.

40 CFR § 144 Permit regulations for underground injection control program

40 CFR § 146 Criteria and standards for underground injection control program

40 CFR § 147 State underground injection control program

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 to 158 Oil pollution prevention and control

33 CFR § 153 Reporting oil spills to Coast Guard, Department of Homeland Security

33 CFR §§ 155 to 156 Vessels in oil transfer operations

4. Army Corps of Engineers

Navigable waters regulations.

33 CFR § 209.200 Navigable waters

33 CFR §§ 320 to 327 and 330 Permit program regulations

33 CFR § 323 Discharge of dredge and fill

33 CFR §§ 328 and 329 Definitions of waters

5. Fish and Wildlife Coordination Act

Clean Water Act § 404 Permit applications

16 USC § 662(a) Allows comments on permit applications by EPA, National Marine Fisheries Service, U.S. Fish and Wildlife Service (USF&WS), and state agency that administers wildlife resources.

6. Comprehensive Environmental Response, Compensation, and Liability Act

42 USC §§ 9601 to 9675 Environmental laws

7. Safe Drinking Water Act

42 USC § 300 (f) to (h) Safety of public water systems

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

42 USC §§ 6901 to 6991 Solid waste disposal planning, management, and regulation

Clean Air Act

42 USC §§ 7401 to 7661 Emission standards, noise pollution restrictions, and permit regulations

9. Toxic Substances Control Act

15 USC §§ 2601 to 2655 Control of toxic substances, including asbestos

10. National Environmental Policy Act (NEPA)

42 USC §§ 4321 to 4347 Administration of environmental policy

Council on Environmental Quality-administered NEPA-related regulations

40 CFR §§ 1500 to 1508 Implement NEPA procedures

11. Endangered Species Act

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

12. USF&WS

Threatened and endangered species regulations

50 CFR § 17 Threatened and endangered wildlife and plant species

50 CFR § 402 Interagency cooperation

13. Marine Protection, Research, and Sanctuaries Act

33 USC §§ 1401 to 1445 Ocean dumping regulation and research

14. Marine Mammal Protection Act

16 USC §§ 1361 to 1407 Conservation and protection of marine mammals

15. Migratory Bird Treaty Act

16 USC §§ 703 to 712 and 715 Migratory bird treaty and conservation

16. National Historic Preservation Act

16 USC § 469 and 470 Preservation of historical and archeological data

17. Leases and Permits on Restricted Properties

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