

State of Alaska
Department of Natural Resources
Notice of Public Scoping for Possible
Updates and Revisions to DNR Regulations
11 AAC 86, Article 6
Mining Rights – Offshore Permits and Leases

The Alaska Department of Natural Resources is beginning the process of revising regulations which deal with mining leases for locatable minerals on state-owned tide and submerged lands. Specifically, DNR is seeking to create a body of regulations to set standards and establish the lease renewal process for leases of locatable minerals on tide and submerged lands. As part of the process the DNR is requesting that members of industry and the public who are affected by potential offshore lease renewal provide preliminary input regarding the administrative processes and requirements leading to renewal of offshore mining leases.

Background

Until 2012, AS 38.05.250 (c) provided that after a primary term of up to 20 years an offshore mining lease could be maintained “for so long a there is production in paying quantities from the leased area.” The statute contained no provision for renewal of the lease, so there was no mechanism for a lessee to secure the lease for any extended period beyond the primary term of the lease. After the primary term the lease could only be maintained through production in paying quantities.

In 2012 the Alaska State Legislature passed legislation that enabled the renewal of offshore mining leases. Chapter 27, SLA 2012 was enacted amending AS 38.05.250(c) to read:

(c) Each submerged land mining lease shall be for a period of up to 20 years and for so long as there is production in paying quantities from the leased area. **A submerged land mining lease may be renewed for a period of up to 20 years at the discretion of the director if the director determines that the renewal is in the best interests of the state.**

The Need for Regulations

The amendment to AS 38.05.250(c) mandates that the Director of the Division of Lands determine whether an offshore mining lease renewal is in the best interest of the State. The DNR is considering drafting regulations to guide the determination of the State’s best interest, and to ensure that the decision making process is consistent from one lessee to another. The regulations

must also provide an efficient process for lease renewal, both for the State and the lessee. The DNR needs a consistent process for determining whether a lease renewal is in the State's best interest, and if the lessee is actively developing, mining, and producing minerals from the leased property. If a lease is not being developed properly through exploration, mine planning and actual mining, the State's best interests may lie in re-offering the ground for competitive lease sale rather than renewing a lease that is not being developed.

Public Input

The DNR is asking affected members of the public and the mining industry for their input regarding regulations for offshore mining lease renewal. The DNR is interested in the public's ideas that will make the lease renewal process efficient for both the State and the mining public.

The DMLW is asking for your suggestions regarding how to develop regulations that both protect the interests of the State, and are reasonable for lessees. In formulating your suggestions the DMLW asks that you consider the following:

- What benefits should the State and people of Alaska derive from a renewed offshore mining lease?
- How can the DNR best determine that the interests of the State are being adequately met with regard to an offshore mining lease? At what point are the State's needs not being met?
- What is an appropriate level of either production or exploration to demonstrate that the lessee is seriously developing the lease in the best interests of the State?
- What requirements for lease renewal might help the lessee further their ability to effectively develop and mine the lease?
- What requirements and documentation will create the least regulatory burden on the lessee?
- What system of lease renewal application will be least burdensome for the lessee, and most efficiently administered by the DNR?
- Other questions/issues/suggestions you find pertinent to offshore mining lease renewal?

Written comments, suggestions, questions and other input must be received by the department no later than **5:00 p.m. on Friday, March 27, 2014**. Written comments, suggestions, questions and other input to may be submitted by mail to:

Bill Cole
Alaska Department of Natural Resources
550 West 7th Avenue, Suite 900B
Anchorage, Alaska 99501-3577

Written comments, suggestions, questions and other input to may be submitted by email to william.cole@alaska.gov.

Once public input has been received the DNR will consider the information if and when it drafts proposed regulatory revisions. Any proposed regulatory revisions will subsequently be released for public review and comment under AS 44.62, the Administrative Procedures Act.

The division of Mining, Land and Water Management reserves the right to waive technical defects in this publication. The State of Alaska, Department of Natural Resources, complies with Title II of the Americans with Disabilities Act of 1990. Individuals with disabilities who may need auxiliary aides, services or special modifications to participate in this scoping request may contact the above address, email or the TDD number (907) 269-8411.