

# **NPR-A Impact Grant Program**

## **GOVERNING STATUTES and REGULATIONS**

**Federal Statutes (42 USC Chapter 78)**

**Alaska Statutes (AS 37.05.530)**

**Alaska Regulations (03 AAC 150)**

**UNITED STATES CODE**  
**Title 42 - The Public Health And Welfare**  
**Chapter 78 - National Petroleum Reserve In Alaska**

**Sec. 6501. - “Petroleum” defined**

As used in this chapter, the term "petroleum" includes crude oil, gases (including natural gas), natural gasoline, and other related hydrocarbons, oil shale, and the products of any of such resources.

**Sec. 6502. - Designation of National Petroleum Reserve in Alaska; reservation of lands; disposition and conveyance of mineral materials, lands, etc., preexisting property rights**

The area known as Naval Petroleum Reserve Numbered 4, Alaska, established by Executive order of the President, dated February 27, 1923, except for tract Numbered 1 as described in Public Land Order 2344, dated April 24, 1961, shall be transferred to and administered by the Secretary of the Interior in accordance with the provisions of this Act. Effective on the date of transfer all lands within such area shall be redesignated as the “National Petroleum Reserve in Alaska” (hereinafter in this chapter referred to as the “reserve”). Subject to valid existing rights, all lands within the exterior boundaries of such reserve are hereby reserved and withdrawn from all forms of entry and disposition under the public land laws, including the mining and mineral leasing laws, and all other Acts; but the Secretary is authorized to

- (1) make dispositions of mineral materials pursuant to the Act of July 31, 1947 (61 Stat. 681), as amended [30 U.S.C. 601 et seq.], for appropriate use by Alaska Natives and the North Slope Borough,
- (2) make such dispositions of mineral materials and grant such rights-of-way, licenses, and permits as may be necessary to carry out his responsibilities under this Act,
- (3) convey the surface of lands properly selected on or before December 18, 1975, by Native village corporations pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], and
- (4) grant such rights-of-way to the North Slope Borough, under the provisions of title V of the Federal Land Policy and Management Act of 1976 [43 U.S.C. 1761 et seq.] or section 28 of the Mineral Leasing Act, as amended [30 U.S.C. 185], as may be necessary to permit the North Slope Borough to provide energy supplies to villages on the North Slope. All other provisions of law heretofore enacted and actions heretofore taken reserving such lands as a Naval Petroleum Reserve shall remain in full force and effect to the extent not inconsistent with this Act.

**Sec. 6503. - Transfer of jurisdiction, duties, property, etc., to Secretary of the Interior from Secretary of Navy**

**(a) Transfer of jurisdiction over reserve; date of transfer**

Jurisdiction over the reserve shall be transferred by the Secretary of the Navy to the Secretary of the Interior on June 1, 1977.

**(b) Protection of environmental, fish and wildlife, and historical or scenic values; promulgation of rules and regulations**

With respect to any activities related to the protection of environmental, fish and wildlife, and historical or scenic values, the Secretary of the Interior shall assume all responsibilities as of April 5, 1976. As soon as possible, but not later than the effective date of transfer, the Secretary of the Interior may promulgate such rules and regulations as he deems necessary and appropriate for the protection of such values within the reserve.

**(c) Contract responsibilities and functions**

The Secretary of the Interior shall, upon the effective date of the transfer of the reserve, assume the responsibilities and functions of the Secretary of the Navy under any contracts which may be in effect with respect to activities within the reserve.

**(d) Equipment, facilities, and other properties used in connection with operation of reserve; transfer without reimbursement**

On the date of transfer of jurisdiction of the reserve, all equipment, facilities, and other property of the Department of the Navy used in connection with the operation of the reserve, including all records, maps, exhibits, and other informational data held by the Secretary of the Navy in connection with the reserve, shall be transferred without reimbursement from the Secretary of the Navy to the Secretary of the Interior who shall thereafter be authorized to use them to carry out the provisions of this chapter.

**(e) Unexpended funds previously appropriated for use in connection with reserve and civilian personnel ceilings assigned to management and operation of reserve**

On the date of transfer of jurisdiction of the reserve, the Secretary of the Navy shall transfer to the Secretary of the Interior all unexpended funds previously appropriated for use in connection with the reserve and all civilian personnel ceilings assigned by the Secretary of the Navy to the management and operation of the reserve as of January 1, 1976.

**Sec. 6504. - Administration of reserve**

**(a) Conduct of exploration within designated areas to protect surface values**

Any exploration within the Utukok River, the Teshekpuk Lake areas, and other areas designated by the Secretary of the Interior containing any significant subsistence, recreational, fish and wildlife, or historical or scenic value, shall be conducted in a manner which will assure the maximum protection of such surface values to the extent consistent with the requirements of this Act for the exploration of the reserve.

**(b) Continuation of ongoing petroleum exploration program by Secretary of Navy prior to date of transfer of jurisdiction; duties of Secretary of Navy prior to transfer date**

The Secretary of the Navy shall continue the ongoing petroleum exploration program within the reserve until the date of the transfer of jurisdiction specified in section 6503 (a) of this title. Prior to the date of such transfer of jurisdiction the Secretary of the Navy shall—

- (1) cooperate fully with the Secretary of the Interior providing him access to such facilities and such information as he may request to facilitate the transfer of jurisdiction;
- (2) provide to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives copies of any reports, plans, or contracts pertaining to the reserve that are required to be submitted to the Committees on Armed Services of the Senate and the House of Representatives; and
- (3) cooperate and consult with the Secretary of the Interior before executing any new contract or amendment to any existing contract pertaining to the reserve and allow him a reasonable opportunity to comment on such contract or amendment, as the case may be.

**(c) Commencement of petroleum exploration by Secretary of the Interior as of date of transfer of jurisdiction; powers and duties of Secretary of the Interior in conduct of exploration**

The Secretary of the Interior shall commence further petroleum exploration of the reserve as of the date of transfer of jurisdiction specified in section 6503 (a) of this title. In conducting this exploration effort, the Secretary of the Interior—

- (1) is authorized to enter into contracts for the exploration of the reserve, except that no such contract may be entered into until at least thirty days after the Secretary of the Interior has provided the Attorney General with a copy of the proposed contract and such other information as may be appropriate to determine legal sufficiency and possible violations under, or inconsistencies with, the antitrust laws. If, within such thirty day period, the Attorney General advises the Secretary of the Interior that any such contract would unduly restrict competition or be inconsistent with the antitrust laws, then the Secretary of the Interior may not execute that contract;
- (2) shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives any new plans or substantial amendments to ongoing plans for the exploration of the reserve. All such plans or amendments submitted to such committees pursuant to this section shall contain a report by the Attorney General of the United States with respect to the anticipated effects of such plans or amendments on

competition. Such plans or amendments shall not be implemented until sixty days after they have been submitted to such committees; and

- (3) shall report annually to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives on the progress of, and future plans for, exploration of the reserve.

**Sec. 6505. - Executive department responsibility for studies to determine procedures used in development, production, transportation, and distribution of petroleum resources in reserve; reports to Congress by President; establishment of task force by Secretary of the Interior; purposes; membership; report and recommendations to Congress by Secretary; contents**

(a) Omitted

(b)

- (1) The President shall direct such Executive departments and/or agencies as he may deem appropriate to conduct a study, in consultation with representatives of the State of Alaska, to determine the best overall procedures to be used in the development, production, transportation, and distribution of petroleum resources in the reserve. Such study shall include, but shall not be limited to, a consideration of—
  - (A) The alternative procedures for accomplishing the development, production, transportation, and distribution of the petroleum resources from the reserve, and
  - (B) the economic and environmental consequences of such alternative procedures.
- (2) The President shall make semiannual progress reports on the implementation of this subsection to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives beginning not later than six months after April 5, 1976, and shall, not later than one year after the transfer of jurisdiction of the reserve, and annually thereafter, report any findings or conclusions developed as a result of such study together with appropriate supporting data and such recommendations as he deems desirable. The study shall be completed and submitted to such committees, together with recommended procedures and any proposed legislation necessary to implement such procedures not later than January 1, 1980.

(c)

(1) The Secretary of the Interior shall establish a task force to conduct a study to determine the values of, and best uses for, the lands contained in the reserve, taking into consideration

(A) the natives who live or depend upon such lands,

(B) the scenic, historical, recreational, fish and wildlife, and wilderness values,

(C) mineral potential, and

(D) other values of such lands.

(2) Such task force shall be composed of representatives from the government of Alaska, the Arctic slope native community, and such offices and bureaus of the Department of the Interior as the Secretary of the Interior deems appropriate, including, but not limited to, the Bureau of Land Management, the United States Fish and Wildlife Service, the United States Geological Survey, and the United States Bureau of Mines.

(3) The Secretary of the Interior shall submit a report, together with the concurring or dissenting views, if any, of any non-Federal representatives of the task force, of the results of such study to the Committees on Interior and Insular Affairs of the Senate and the House of Representatives within three years after April 5, 1976, and shall include in such report his recommendations with respect to the value, best use, and appropriate designation of the lands referred to in paragraph (1).

**Sec. 6506. - Applicability of antitrust provisions; plans and proposals submitted to Congress to contain report by Attorney General on impact of plans and proposals on competition**

Unless otherwise provided by Act of Congress, whenever development leading to production of petroleum is authorized, the provisions of subsections (g), (h), and (i) of section 7430 of title 10 shall be deemed applicable to the Secretary of the Interior with respect to rules and regulations, plans of development and amendments thereto, and contracts and operating agreements. All plans and proposals submitted to the Congress under this chapter or pursuant to legislation authorizing development leading to production shall contain a report by the Attorney General of the United States on the anticipated effects upon competition of such plans and proposals.

**Sec. 6506a. – Competitive leasing of oil and gas**

**(a) In general**

The Secretary shall conduct an expeditious program of competitive leasing of oil and gas in the Reserve in accordance with this Act.

**(b) Mitigation of adverse effects**

Activities undertaken pursuant to this Act shall include or provide for such conditions, restrictions, and prohibitions as the Secretary deems necessary or appropriate to mitigate reasonably foreseeable and significantly adverse effects on the surface resources of the National Petroleum Reserve in Alaska.

**(c) Land use planning; BLM wilderness study**

The provisions of section 1712 and section 1782 of title 43 shall not be applicable to the Reserve.

**(d) First lease sale**

The; first lease sale shall be conducted within twenty months of December 12, 1980: Provided, That the first lease sale shall be conducted only after publication of a final environmental impact statement if such is deemed necessary under the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

**(e) Withdrawals**

The withdrawals established by section 6502 of this title are rescinded for the purposes of the oil and gas leasing program authorized under this section.

**(f) Bidding systems**

Bidding systems used in lease sales shall be based on bidding systems included in section 205(a)(1)(A) through (H) of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629).

**(g) Geological structures**

Lease tracts may encompass identified geological structures.

**(h) Size of lease tracts**

The size of lease tracts may be up to sixty thousand acres, as determined by the Secretary.

**(i) Terms**

**(1) In general**

Each lease shall be issued for an initial period of not more than 10 years, and shall be extended for so long thereafter as oil or gas is produced from the lease in paying quantities, oil or gas is capable of being produced in paying quantities, or drilling or reworking operations, as approved by the Secretary, are conducted on the leased land.

**(2) Renewal of leases with discoveries**

At the end of the primary term of a lease the Secretary shall renew for an additional 10-year term a lease that does not meet the requirements of paragraph (1) if the lessee submits to the Secretary an application for renewal not later than 60 days before the expiration of the primary lease and the lessee certifies, and the Secretary agrees, that hydrocarbon resources were discovered on one or more

wells drilled on the leased land in such quantities that a prudent operator would hold the lease for potential future development.

**(3) Renewal of leases without discoveries**

At the end of the primary term of a lease the Secretary shall renew for an additional 10-year term a lease that does not meet the requirements of paragraph (1) if the lessee submits to the Secretary an application for renewal not later than 60 days before the expiration of the primary lease and pays the Secretary a renewal fee of \$100 per acre of leased land, and—

- (A) the lessee provides evidence, and the Secretary agrees that, the lessee has diligently pursued exploration that warrants continuation with the intent of continued exploration or future potential development of the leased land; or
- (B) all or part of the lease—
  - (i) is part of a unit agreement covering a lease described in subparagraph (A); and
  - (ii) has not been previously contracted out of the unit.

**(4) Applicability**

This subsection applies to a lease that is in effect on or after August 8, 2005.

**(5) Expiration for failure to produce**

Notwithstanding any other provision of this Act, if no oil or gas is produced from a lease within 30 years after the date of the issuance of the lease the lease shall expire.

**(6) Termination**

No lease issued under this section covering lands capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same due to circumstances beyond the control of the lessee.

**(j) Unit agreements**

**(1) In general**

For the purpose of conservation of the natural resources of all or part of any oil or gas pool, field, reservoir, or like area, lessees (including representatives) of the pool, field, reservoir, or like area may unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit agreement for all or part of the pool, field, reservoir, or like area (whether or not any other part of the oil or gas pool, field, reservoir, or like area is already subject to any cooperative or unit plan of development or operation), if the Secretary determines the action to be necessary or advisable in the public interest. In determining the public interest, the Secretary should consider, among other

things, the extent to which the unit agreement will minimize the impact to surface resources of the leases and will facilitate consolidation of facilities.

**(2) Consultation**

In making a determination under paragraph (1), the Secretary shall consult with and provide opportunities for participation by the State of Alaska or a Regional Corporation (as defined in section 1602 of title 43) with respect to the creation or expansion of units that include acreage in which the State of Alaska or the Regional Corporation has an interest in the mineral estate.

**(3) Production allocation methodology**

(A) The Secretary may use a production allocation methodology for each participating area within a unit that includes solely Federal land in the Reserve.

(B) The Secretary shall use a production allocation methodology for each participating area within a unit that includes Federal land in the Reserve and non-Federal land based on the characteristics of each specific oil or gas pool, field, reservoir, or like area to take into account reservoir heterogeneity and area variation in reservoir producibility across diverse leasehold interests. The implementation of the foregoing production allocation methodology shall be controlled by agreement among the affected lessors and lessees.

**(4) Benefit of operations**

Drilling, production, and well reworking operations performed in accordance with a unit agreement shall be deemed to be performed for the benefit of all leases that are subject in whole or in part to such unit agreement.

**(5) Pooling**

If separate tracts cannot be independently developed and operated in conformity with an established well spacing or development program, any lease, or a portion thereof, may be pooled with other lands, whether or not owned by the United States, under a communitization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit when determined by the Secretary of the Interior (in consultation with the owners of the other land) to be in the public interest, and operations or production pursuant to such an agreement shall be deemed to be operations or production as to each such lease committed to the agreement.

**(k) Exploration incentives**

**(1) In general**

**(A) Waiver, suspension, or reduction**

To encourage the greatest ultimate recovery of oil or gas or in the interest of conservation, the Secretary may waive, suspend, or reduce the rental fees or minimum royalty, or reduce the royalty on an entire leasehold (including on any lease operated pursuant to a unit agreement), whenever (after consultation with the State of Alaska and the North Slope Borough of Alaska and the concurrence of any Regional Corporation for leases that include land that was made available for acquisition by the Regional Corporation under the provisions of section 1431(o) of the Alaska National Interest Lands Conservation Act) in the judgment of the Secretary it is necessary to do so to promote development, or whenever in the judgment of the Secretary the leases cannot be successfully operated under the terms provided therein.

**(B) Applicability**

This paragraph applies to a lease that is in effect on or after August 8, 2005.

**(2) Suspension of operations and production**

The Secretary may direct or assent to the suspension of operations and production on any lease or unit.

**(3) Suspension of payments**

If the Secretary, in the interest of conservation, shall direct or assent to the suspension of operations and production on any lease or unit, any payment of acreage rental or minimum royalty prescribed by such lease or unit likewise shall be suspended during the period of suspension of operations and production, and the term of such lease shall be extended by adding any such suspension period to the lease.

**(l) Receipts**

All receipts from sales, rentals, bonuses, and royalties on leases issued pursuant to this section shall be paid into the Treasury of the United States: Provided, That 50 percent thereof shall be paid by the Secretary of the Treasury semiannually, as soon thereafter as practicable after March 30 and September 30 each year, to the State of Alaska for:

(1) planning;

(2) construction, maintenance, and operation of essential public facilities; and

(3) other necessary provisions of public service: Provided further, That in the allocation of such funds, the State shall give priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this Act.

**(m) Explorations**

Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the National Petroleum Reserve in Alaska which do not interfere with operations under any contract maintained or granted

previously. Any information acquired in such explorations shall be subject to the conditions of 43 U.S.C. 1352 (a)(1)(A).

**(n) Environmental impact statements**

**(1) Judicial review**

Any action seeking judicial review of the adequacy of any program or site-specific environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) concerning oil and gas leasing in the National Petroleum Reserve-Alaska shall be barred unless brought in the appropriate District Court within 60 days after notice of the availability of such statement is published in the Federal Register.

**(2) Initial lease sales**

The detailed environmental studies and assessments that have been conducted on the exploration program and the comprehensive land-use studies carried out in response to sections 6505(b) and (c) of this title shall be deemed to have fulfilled the requirements of section 102(2)(c) of the National Environmental Policy Act (Public Law 91–190) [42 U.S.C. 4332 (2)(C)], with regard to the first two oil and gas lease sales in the National Petroleum Reserve-Alaska: Provided, That not more than a total of 2,000,000 acres may be leased in these two sales: Provided further, That any exploration or production undertaken pursuant to this section shall be in accordance with section 6504 (a) of this title.

**(o) Regulations**

As soon as practicable after August 8, 2005, the Secretary shall issue regulations to implement this section.

**(p) Waiver of administration for conveyed lands**

**(1) In general**

Notwithstanding section 1613 (g) of title 43—

**(A)** the Secretary of the Interior shall waive administration of any oil and gas lease to the extent that the lease covers any land in the Reserve in which all of the subsurface estate is conveyed to the Arctic Slope Regional Corporation (referred to in this subsection as the “Corporation”);

**(B)**

**(i)** in a case in which a conveyance of a subsurface estate described in subparagraph (A) does not include all of the land covered by the oil and gas lease, the person that owns the subsurface estate in any particular portion of the land covered by the lease shall be entitled to all of the revenues reserved under the lease as to that portion,

including, without limitation, all the royalty payable with respect to oil or gas produced from or allocated to that portion;

(ii) in a case described in clause (i), the Secretary of the Interior shall—

(I) segregate the lease into 2 leases, 1 of which shall cover only the subsurface estate conveyed to the Corporation; and

(II) waive administration of the lease that covers the subsurface estate conveyed to the Corporation; and

(iii) the segregation of the lease described in clause (ii)(I) has no effect on the obligations of the lessee under either of the resulting leases, including obligations relating to operations, production, or other circumstances (other than payment of rentals or royalties); and

(C) nothing in this subsection limits the authority of the Secretary of the Interior to manage the federally-owned surface estate within the Reserve.

**Sec. 6507. - Authorization of appropriations; Federal financial assistance for increased municipal services and facilities in communities located on or near reserve resulting from authorized exploration and study activities**

(a) There are authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out the provisions of this chapter.

(b) If the Secretary of the Interior determines that there is an immediate and substantial increase in the need for municipal services and facilities in communities located on or near the reserve as a direct result of the exploration and study activities authorized by this chapter and that an unfair and excessive financial burden will be incurred by such communities as a result of the increased need for such services and facilities, then he is authorized to assist such communities in meeting the costs of providing increased municipal services and facilities. The Secretary of the Interior shall carry out the provisions of this section through existing Federal programs and he shall consult with the heads of the departments or agencies of the Federal Government concerned with the type of services and facilities for which financial assistance is being made available.

**Sec. 6508. – Transferred**

**ALASKA STATUTES**  
**Title 37. Public Finance**  
**Chapter 5. Fiscal Procedures Act**  
**Section 530. National Petroleum Reserve - Alaska Special Revenue Fund**

(a) The National Petroleum Reserve - Alaska special revenue fund is established. The fund consists of all money disbursed to the state by the federal government under 42 U.S.C. 6506a or former 42 U.S.C. 6506a or former 42 U.S.C. 6508 (P.L. 96-514) since December 12, 1980, less the amount deposited in the general fund and expended by the state by general fund appropriations before June 9, 1984.

(b) The commissioner of revenue shall manage the National Petroleum Reserve - Alaska special revenue fund.

(c) The Department of Commerce, Community, and Economic Development shall adopt regulations under which municipalities impacted by National Petroleum Reserve - Alaska oil and gas development under 42 U.S.C. 6506a or former 42 U.S.C. 6508 may apply for and be eligible to receive grants to alleviate the impact. The department shall give priority in the allocation of grants to municipalities that are experiencing or will experience the most direct or severe impact from oil and gas development under 42 U.S.C. 6506a or former 42 U.S.C. 6508 within the National Petroleum Reserve - Alaska. The department shall fund all meritorious grant applications out of the money appropriated to it each year. Within 10 days after the convening of each regular session of the legislature, the department shall submit to the legislature a list of all municipalities that have received grants, a list of all municipalities determined by the department to be eligible for further grants, a recommendation of the amount of money to be granted for those additional applications, and written justification of each past and potential grant.

(d) It is the intent of the legislature that each year all of the money in the National Petroleum Reserve - Alaska special revenue fund be made available for appropriation by the legislature to municipalities that demonstrate under (c) of this section present impact, or the need to determine or plan for future impact, from oil and gas development under 42 U.S.C. 6506a or former 42 U.S.C. 6508. It is the intent of the legislature that an initial appropriation be made to the Department of Commerce, Community, and Economic Development to cover anticipated impact grants, and that additional funds be made available through supplemental appropriations if the impact is greater than anticipated and the legislature considers the additional grants proposed by the department to be meritorious.

(e) A municipality may use the funds received under (d) of this section only for the following activities and services to alleviate the impact of the oil and gas development under 42 U.S.C. 6506a or former 42 U.S.C. 6508 within the National Petroleum Reserve - Alaska:

(1) planning;

(2) construction, maintenance, and operation of essential public facilities by the municipality; and

(3) other necessary public services provided by the municipality.

(f) Funds appropriated under (d) of this section may not be used for the retirement of municipal debt.

(g) The provisions of this subsection apply to amounts received by the state under 42 U.S.C. 6506a(l) or former 42 U.S.C. 6508, as follows:

(1) amounts received and not appropriated for grants to municipalities under (d) of this section shall be deposited at the end of each fiscal year as follows:

(A) 25 percent of amounts received by the state during that fiscal year under 42 U.S.C. 6506a(l) or former 42 U.S.C. 6508 to the principal of the Alaska permanent fund; and

(B) .5 percent of amounts received by the state during that fiscal year under 42 U.S.C. 6506a(l) or former 42 U.S.C. 6508 to the public school trust fund (AS 37.14.110);

(2) if, after making the grants under (d) of this section, the amounts remaining are insufficient to make payment in full of the deposits required by (1) (A) and (B) of this subsection, the deposits shall be allocated pro rata between the fund deposits;

(3) the amounts remaining after the making of payment of the deposits in full to the Alaska permanent fund and the public school trust fund under (2) of this subsection may be appropriated

(A) first, to each of the funds described in (1)(A) and (B) of this subsection to recover amounts not paid to those funds on or after the effective date of this Act because of deficiencies in making the payments required by (2) of this subsection; and

(B) after appropriations authorized by (A) of this paragraph, to the power cost equalization and rural electric capitalization fund (AS 42.45.100);

(4) the amounts remaining after any appropriation to the power cost equalization and rural electric capitalization fund shall lapse into the general fund for use by the state for the following facilities and services: planning; construction, maintenance, and operation of essential public facilities; and other necessary public services.

(h) In making appropriations from the National Petroleum Reserve - Alaska special revenue fund, the legislature shall identify the grants for activities, services, and facilities as capital appropriation items and shall specify the amounts for each item. Notwithstanding other provisions of law and unless expressly provided by the legislature in the appropriation item making the appropriation, an appropriation from the National Petroleum

Reserve - Alaska special revenue fund shall, for the purposes of determining the funding sources for the appropriation be treated as though the appropriation takes effect in the fiscal year in which the appropriation passes the legislature. The authorization to expend funds appropriated from the fund shall take effect as otherwise provided by law.

## **Chapter 150 National Petroleum Reserve - Alaska Impact Program**

### **3 AAC 150.010. General objectives**

The primary objective of the National Petroleum Reserve-Alaska (NPR-A) Impact Program is to provide municipalities with financial assistance to help mitigate significantly adverse impacts related to oil or gas leasing within the NPR-A, including exploration, production, and oil or gas transportation activities, conducted under the authority of 42 U.S.C. 6508. Financial assistance may be available for

- (1) planning;
- (2) construction, maintenance, and operation of essential public facilities; and
- (3) other necessary public services.

### **3 AAC 150.020. Administration of NPR-A impact program**

Under sec. 2, ch. 53, SLA 1986, the legislature will appropriate each year the balance remaining in the National Petroleum Reserve-Alaska special revenue fund to the Department of Community and Economic Development. The department will, in accordance with this chapter, receive, review, and evaluate applications from eligible municipalities each year, and will fund qualified grant requests up to the amount of the appropriation. Money not allocated to eligible municipalities each year lapses in accordance with sec. 3, ch. 53, SLA 1986. If the total amount of money requested by eligible municipalities in a year exceeds the appropriation for that year, the department will allocate the available grant money in accordance with the criteria for priority set out in 3 AAC 150.060 - 3 AAC 150.080. Additional money might be made available through supplemental appropriations if the impact is greater than anticipated and the legislature considers the additional grants proposed by the department to be meritorious.

### **3 AAC 150.030. Eligibility in General**

Eligibility for NPR-A impact assistance has two main components: applicant eligibility and project eligibility.

### **3 AAC 150.040. Applicant eligibility**

To be eligible to receive assistance under the NPR-A Impact program, the applicant

- (1) must be a municipality under state law; and
- (2) must demonstrate present impact, regardless of date of initial occurrence, or foreseeable future impact, on the applicant or the applicant's residents from oil or gas exploration, production, or transportation activities in the NPR-A under 42 U.S.C. 6508.

### 3 AAC 150.050. Project eligibility

(a) To be eligible for funding under the NPR-A impact program, a project must be related to present, continuing, or reasonably foreseeable impact on the applicant or the applicant's residents from oil or gas exploration, production, or transportation activities in the NPR-A under 42 U.S.C. 6508.

(b) To be eligible for funding, a project also must be for the purpose of

- (1) planning;
- (2) construction, maintenance, and operation of essential public facilities; or
- (3) other necessary public services.

(c) In this section, "impact" means an effect reasonably attributable to NPR-A oil and gas activities under 42 U.S.C. 6508 on

- (1) population;
- (2) employment;
- (3) finances;
- (4) social and cultural values;
- (5) air and water quality;
- (6) fish and wildlife habitats;
- (7) the ability to provide essential public services, including health care, public safety, education, transportation, utilities, and government administration; and
- (8) other things of demonstrable importance to the applicant or the applicant's residents.

(d) Examples of needs that eligible projects may address include the following:

- (1) resource protection to ensure the continued viability of fish, wildlife, and other natural resources on which the applicant's residents rely for subsistence needs;
- (2) alleviation or mitigation of adverse social or cultural impacts;
- (3) health needs, including hospitals, clinics, emergency medical facilities, alcohol and drug abuse facilities, mental health facilities, waste disposal systems, and water quality improvement systems;
- (4) public safety needs, including police protection, search and rescue, and fire protection;
- (5) utility needs, including electric generating plants and distribution systems, water supply systems, telephone systems, and other fuel distribution systems;
- (6) housing needs;
- (7) recreational needs.

### 3 AAC 150.060. Project criteria

(a) If the total amount of money requested by eligible applicants for eligible projects in meritorious applications exceeds the amount appropriated for grants that year, the department will rank applications for the purpose of establishing priority for funding.

(b) In determining the merit of an application, the department will consider

- (1) the degree to which the project proposed in the grant application alleviates the impact caused by development in the NPR-A under 42 U.S.C. 6506a or former 42 U.S.C. 6508;
- (2) the ability of the applicant to accommodate or absorb the impacts through existing facilities or programs; and
- (3) other criteria the department identifies as critical to determination of the merit of the application.

(c) In ranking the applications, the department will consider

- (1) the severity of the impact caused by the development in the NPR-A under 42 U.S.C. 6506a or former 42 U.S.C. 6508 on the municipality; and
- (2) the degree to which the impact on the municipality is directly caused by development in the NPR-A under 42 U.S.C. 6506a or former 42 U.S.C. 6508.

### 3 AAC 150.070. Submission of applications

- (a) Application must be made on forms provided by the department. The forms will be such that they may be easily filled out by small communities without technical staff. The department will, upon request, provide assistance to applicants to the extent possible based upon the availability of financial and human resources.
- (b) In a year when NPR-A impact assistance money is available under AS 37.05.530 , a grant application for impact assistance under (a) of this section must be postmarked no later than November 15 of that year. If November 15 is a Saturday, Sunday, or state holiday, the deadline for postmark is the department's next regular business day.

### 3 AAC 150.080. Review of applications and award of grants

- (a) The department will review applications for eligibility for NPR-A impact assistance and place applications in order of priority in accordance with 3 AAC 150.060.
- (b) The department will review each application determined to be eligible for NPR-A impact assistance to determine whether the amount requested for a project is reasonably necessary for the project to alleviate impacts from oil and gas development in the NPR-A under 42 U.S.C. 6506a or former 42 U.S.C. 6508, the department will deduct from the amount requested any amounts that are not reasonably necessary for that purpose.
- (c) If, after making necessary adjustments to grant requests under (b) of this section, the department determines that the total amount for eligible projects requested by all eligible applicants that year is equal to or less than the amount appropriated for that year, the department will fund all meritorious requests. If the total amounts requested are greater than the amount appropriated, the department will fund requests in

accordance with the priorities established in 3 AAC 150.060 until the appropriation is spent. The department will, in its discretion, recommend to the legislature that additional money be made available through supplemental appropriations.

### 3 AAC 150.090. Reconsideration and judicial review

A municipality aggrieved by a decision made under this chapter may request reconsideration by the commissioner of community and economic development, and must seek such reconsideration before seeking judicial review. A final decision of the department is subject to judicial review in accordance with Rule 602 of the Alaska Rules of Appellate Procedure.