



DEPARTMENT OF THE AIR FORCE

REGIONAL ENVIRONMENTAL COORDINATOR

SAN FRANCISCO, CALIFORNIA 94105-2230

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Clare R. Mendelsohn
Department of Defense
Regional Environmental Coordinator Region 10
50 Fremont St Ste 2450
San Francisco, CA 94105

The Honorable Tammie Wilson
Alaska House of Representatives
State Capitol, Room 415
Juneau, AK 99801-1182

Dear Representative Wilson:

As the Department of Defense (DoD) Regional Environmental Coordinator (REC) for the states in U.S. Environmental Protection Agency (US EPA) Region X, including Alaska, and on behalf of all the military services, I am responsible for coordinating responses to various environmental policies or regulatory matters of interest. I appreciate the opportunity to provide comments on the proposed amendment to Alaska's Clean Water Act (AK CWA).

DoD and Alaska have a long and proud history of cooperation. Alaska's military installations and training range areas within the state are crucial to DoD's worldwide mission. In this spirit of cooperation, DoD has worked with the Alaska Department of Environmental Conservation (ADEC), Alaska Office of the Attorney General, US EPA, the Alaska Military Force Advocacy and Structure Team (AMFAST), and other interested stakeholders to develop this amendment.

As background, under AS §46.03.100, the disposal of solid or liquid waste material into waters or onto land of the state is prohibited without authorization from ADEC. Importantly, the statute was amended in 2008 when Alaska sought US EPA approval of its CWA program (Alaska Pollutant Discharge Elimination System). As a result, the statutory exclusion for military ranges under AS §46.03.100(e)(7) was modified so that it now excludes "the firing or other use of munitions in training activities conducted on active ranges, including active ranges operated by the United States Department of Defense or a United States military agency, *unless it results in a discharge into waters of the United States.*"

This existing language in Alaska's statute ("unless it results in a discharge into waters of the United States") might be interpreted to restrict the use of Alaska military ranges in a way that is not required under the federal Clean Water Act. To alleviate this concern, the proposed amendment would allow the use of military ranges "unless otherwise regulated by the Federal Water Pollution Control Act." Besides helping ensure military ranges can be used in accordance with federal law, federal and Alaska state agencies agree this amendment will not jeopardize continued US EPA approval of Alaska's CWA program.

The benefit of the proposed amendment to the military in Alaska will be to ensure questions regarding the application of the AK CWA to military ranges are determined in accordance with the federal Clean Water Act. Moreover, while there may be uncertainty as to how the federal Clean Water Act program might apply to military ranges, the proposed amendment will not preclude Alaska agencies, the military, USEPA, or a private plaintiff from making any appropriate arguments under the federal statute. Thus, unless amended, the application of the AK CWA to military ranges might be inconsistent with the application of clean water programs in other states. Finally, because ADEC plans to apply its CWA program to munitions starting on October 31, 2011, DoD strongly supports passing this amendment in the 2011 legislative session.

In closing, this amendment will help ensure Alaska's continued capacity to host sustainable military readiness training for our outstanding airmen, soldiers, and sailors. We welcome the opportunity to provide you with any additional information as you consider this important legislation that has the potential to impact DoD installations.

Thank you for the opportunity to provide comment on this proposed amendment.

Sincerely

A handwritten signature in black ink, appearing to read "Clare R. Mendelsohn", with a long horizontal flourish extending to the right.

CLARE R. MENDELSON

DoD Regional Environmental Coordinator, Region 10