

ALASKA STATE LEGISLATURE

House District 6
Co-Chair House Resources Committee
Transportation Committee
Fisheries Committee
Joint Armed Services Committee



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Federal statutes for programs the state has taken primacy from the federal government for, have specific statutory language in place requiring federal courts to set security or bond amounts on an injunction or temporary restraining order according to the Federal Rules of Procedure.

Federal Rule of Civil Procedure 65(c) states: *(c)SECURITY. The court may issue a preliminary injunction or a temporary restraining order only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained.*

The exception language in (d) was added because the State has been concerned that EPA or Office of Surface Mining (Dept. of Interior) might view the injunction provision in HB 47 as chilling third parties' access to the court, if those third parties would challenge DEC or DNR permits issued under a state permitting program that was developed under federal law and approved by a federal agency. By adding the exception language to exclude permitting programs in which the State has assumed primacy, the state should avoid this outcome.