

Department of Environmental Conservation
Primacy for the Clean Water Act Section 404 Wetlands Permitting Program
February 26, 2014

Benefits of an Alaska-run 404 program

- State, instead of federal management of water, land use, and permitting priorities.
- Possible cost savings in permitting major new projects; many of which will need 404 permits.
- No NEPA for projects under Alaskan program - eliminates lengthy NEPA process for many projects, while still protecting the environment. Reduces potential for legal challenges and project delay.
- Reduced bureaucracy - a faster permitting process that takes advantage of current permit streamlining and coordination efforts already underway at DEC and DNR.
- Alaska-specific guidance, permits and flexible project mitigation that reflect Alaska's unique conditions.
- Improved appeals process that is timelier, conducted by Alaskans, and less apt to stall projects.
- Accountability to Alaska's elected officials and the Alaskan public.
- No diminishing public notification and opportunities for participation.
- Better assurance that permitting agencies will have sufficient staff and resources to timely process applications for critical projects in the future.

Benefits to be gained, even if the state does not proceed to full primacy

- **Programmatic General Permits.** DEC is working with the Corps of Engineers to develop "programmatic general permits" that are developed by the Corps, but designed to be implemented by the State, without the need for State primacy - potential to provide significant streamlining for industries that need a CWA 404 permit and State permits. The first one underway is for placer mining.
- **Mitigation.** Wetlands and dredge and fill mitigation requirements are onerous and inappropriate to Alaskan conditions. Federal laws provide flexibility not currently utilized by the Corps. DNR has fully engaged with the Corps to evaluate improvements to Corps implementation of nationwide requirements for wetlands mitigation for projects permitted in Alaska. This effort will yield benefits to Alaskan projects, even if we don't pursue full program primacy; however, State primacy would have even broader benefits in this arena.
- **Permit Process Improvements.** DEC staff are working at the Corps office to learn permitting processes; steps we might want to emulate in a state-run program; and steps we might want to improve upon in a state-run program. This effort could result in improvements to the Corps program if the state doesn't take over.

Losses if we stop now

- Programmatic General Permits
- Momentum on improvements to mitigation requirements
- Federal agency momentum; current high level Corps and EPA "champions" for State primacy and productive State/federal working relationship.
- Highly engaged, experienced professional team assembled at the three agencies.
- Process improvements in Corps permitting.
- Program/permitting/resources data compilation and review currently underway to assess costs, benefits, and consequences to State program assumption.
- Greater delays in Corps permits due to decreasing federal budget.