

Dear House Finance Committee Members:

HB 129 has the potential to adversely affect how the public and affected communities participate in oil and gas permitting decisions for oil and gas exploration and development activities.¹

The following describes the process regarding review and approval of oil and gas exploration and development plans of operation and how HB 129 changes public participation in that process.

Plans of Operation. Before a lessee may conduct any exploration or development activities within an oil and gas lease or unit area, the lessee is required to prepare a plan of operations that must be approved by DNR.² Though not required by statute, plans of operation for lease or unit activities are public noticed with an opportunity for public comment.³

Oil and gas lease activities addressed by plans of operation include seismic surveys, exploration drilling, roads, construction of support facilities, material sites, temporary camps, fuel storage, water use, solid waste disposal, production wells, and oil and gas processing facilities. Among other things, plans address ways to prevent or minimize adverse effects on other natural resources and other uses of the area.

HB 129. Under HB 129, DNR may approve exploration or development for all or part of an areawide lease sale area before specific lease activities are identified. Exploration and development approvals will be subject to public notice and comment. An exploration or development approval is good for ten years. The approval for a lease activity that is initiated during that ten years remains valid for the entire lease term, but the activity is still subject to other authorizations, including plans of operation.

Changes from Current Practice

1. The public review and comment on oil and gas exploration and development approvals within an areawide lease sale area will take place with little information on where, when or how specific oil and gas exploration or development lease activities will occur.

¹ The comments submitted here reflect what I've learned from hearings on this legislation in the House and Senate Resource committees. For more information, please see my comments submitted to the House Resources Committee dated March 1, 2013 and to the Senate Resources Committee (for SB 59) dated March 19, 2013.

² 11 AAC 83.158 (lease plan of operations); 11 AAC 83.346 (unit plan of operations)

³ The plan of operations public notice and comment serve as the required notice and comment for phased reviews of oil and gas projects. See AS 38.05.035(e)(1)(C)(ii).

2. While DNR will still review and approve plans of operation for specific lease or unit activities, the public and affected communities will no longer be given notice about the plans or have the opportunity to comment on the information provided in the plans.
3. People will still be allowed to appeal plans of operation. However, without public notice of an internal DNR decision on a plan of operations, most people will be unaware a decision has been made until the time for an appeal has passed.
4. The public will still have opportunities to comment on other permits issued for lease activities.⁴ However, these permits are issued piecemeal and are limited in scope, in contrast to plans of operation that provide comprehensive information about all lease activities and how local issues will be addressed.

DNR Testimony. During committee hearings on HB 129/SB 59, DNR testified as to how they intend to implement the proposed statute, including potentially providing for public notice and comment on a plan of operations even when there is an exploration or development approval for an area. However, without specific language in statute, there is no guarantee DNR will follow through with their stated intentions. In addition, the proposed language in the bill may lack the necessary statutory authority for DNR to issue regulations to do what they propose.

DNR also testified that they receive very few substantive comments on plans of operation. However, this may be because until two years ago, local issues regarding oil and gas lease activities were often dealt with through the now defunct coastal management program.

CONCLUSION

I am commenting on this legislation because the opportunity for public and local community involvement in state resource permitting decisions has diminished over the years. HB 129 is one more door closing on Alaska's citizens. I believe there are other, more effective ways to improve the permitting process and urge you to vote "no" on this legislation. Thank you for your consideration.

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⁴ Note that other legislation is being proposed that may limit public involvement in DNR project-specific permits. HB 77 authorizes the commissioner to issue general permits for a wide range of activities that may include oil and gas exploration and development lease activities. A general permit has broad application and limits the opportunity for people to comment on a specific activity.