

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

January 28, 2011

1:02 p.m.

MEMBERS PRESENT

Representative Eric Feige, Co-Chair
Representative Paul Seaton, Co-Chair
Representative Peggy Wilson, Vice Chair
Representative Alan Dick
Representative Neal Foster
Representative Bob Herron
Representative Cathy Engstrom Munoz
Representative Berta Gardner
Representative Scott Kawasaki

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

OVERVIEW(S): DEPARTMENT OF ENVIRONMENTAL CONSERVATION - OFFICE
OF THE COMMISSIONER~ DIVISION OF ENVIRONMENTAL HEALTH~ DIVISION
OF AIR QUALITY

- HEARD

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

LARRY HARTIG, Commissioner
Office of the Commissioner
Department of Environmental Conservation (DEC)
Juneau, Alaska

POSITION STATEMENT: Presented a PowerPoint overview on the
Department of Environmental Conservation.

KRISTIN RYAN, Director
Division of Environmental Health
Department of Environmental Conservation (DEC)
Anchorage, Alaska

POSITION STATEMENT: Presented a PowerPoint during the overview by the Department of Environmental Conservation.

ALICE EDWARDS, Acting Director
Division of Air Quality
Department of Environmental Conservation (DEC)
Juneau, Alaska

POSITION STATEMENT: Presented a PowerPoint during the overview by the Department of Environmental Conservation.

ACTION NARRATIVE

[1:02:17 PM](#)

CO-CHAIR ERIC FEIGE called the House Resources Standing Committee meeting to order at 1:02 p.m. Representatives Feige, Seaton, Gardner, Herron, and Wilson were present at the call to order. Representatives Munoz, Foster, Dick, and Kawasaki arrived as the meeting was in progress.

OVERVIEW(S): DEPARTMENT OF ENVIRONMENTAL CONSERVATION - OFFICE OF THE COMMISSIONER, DIVISION OF ENVIRONMENTAL HEALTH, DIVISION OF AIR QUALITY

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CO-CHAIR FEIGE announced that the only order of business would be an overview by the Department of Environmental Conservation (DEC).

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LARRY HARTIG, Commissioner, Office of the Commissioner, Department of Environmental Conservation (DEC), introduced the PowerPoint "Department of Environmental Conservation House Resources Overview." [Included in members' packets.] He stated that (slide 2) the DEC mission was "to protect human health and the environment. We make sure that the air you breathe, that the water you drink, the food that you eat, and the environment you live in, is healthy." He explained the nexus of the programs to be human health and the environment. He pointed out that, in addition to air, water, land, and food safeties, DEC was responsible for hazardous waste containment and clean-up. He noted that its programs derived from both state statute and federal requirements.

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COMMISSIONER HARTIG, discussing slide 3 "Core Services," described the federal programs, including the Clean Water Act and the Clean Air Act, and the federal funding in the DEC budget. He spoke about the DEC role as a facilitator for Alaska communities to comply with federal requirements. He reported on the science and engineering based pollution standards developed for air, water, and land.

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COMMISSIONER HARTIG pointed out that the development of standards was complex and went through a public regulatory process. He reported that these standards were monitored for compliance and were updated. He stated that DEC also developed the testing protocols. He commented on the systems for compliance and enforcement of these standards.

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COMMISSIONER HARTIG conveyed that DEC had a staff of 500 people, with a proposed budget of \$80 million. He invited visitation to the Environmental Health Lab in Anchorage, and explained that it was used for food safety testing, paralytic shellfish poison (PSP) testing, and veterinary testing. He reported that DEC regulated pesticides.

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COMMISSIONER HARTIG moved on to slide 4, "Programs," listed the divisions within DEC, and described the responsibilities of each, beginning with the Division of Administrative Services.

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COMMISSIONER HARTIG spoke briefly about the Division of Environmental Health and mentioned that its responsibilities had increased to include personal use and recreational beaches.

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COMMISSIONER HARTIG elaborated on the Division of Air Quality and its responsibility for green house gas emissions, particulate matter standards, and North Slope air quality issues.

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COMMISSIONER HARTIG described the three programs within the Division of Spill Prevention and Response: the preparedness plans, the Prevention Emergency Response program, and the contaminated sites program. He gave a brief overview of the emergency response funds for use during an oil spill.

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COMMISSIONER HARTIG spoke about the Division of Water, noting the water quality standards and permitting, and the facility programs. He pointed out the difficulties encountered as the federal funding declined.

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CO-CHAIR FEIGE asked what percentage of personnel positions was filled.

COMMISSIONER HARTIG, in response, said that DEC had 547 staff positions, and that it was a struggle for recruitment and retention of engineers. He offered to research the actual staff vacancies.

CO-CHAIR FEIGE, directing attention to the PM 2.5 (particulate material) program, asked if it was an attainable standard for Fairbanks at a reasonable cost.

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COMMISSIONER HARTIG replied that the Environmental Protection Agency (EPA) had tightened the standard for particulates, and that the wood smoke in Fairbanks and the Mendenhall Valley in Juneau would create a difficulty for attainment. He explained the health concerns and risks, and voiced that this was not just a compliance issue, but also a human health issue. He pointed out that there had not been state or federal standards at that time. He opined that Fairbanks could attain compliance, but this would require a switch to cleaner technology from dirty burning boilers and wood stoves, and it would necessitate a good supply of dry wood. He relayed that DEC was monitoring the conditions in Fairbanks and was working toward solutions with the University of Alaska Fairbanks and the Fairbanks North Star Borough.

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CO-CHAIR SEATON asked for an update to the air quality rules for fugitive dust.

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COMMISSIONER HARTIG explained that fugitive dust and fugitive emissions are road dust, coal dust, or similar, which has not been confined, but simply released into the open air. He reported that any large facility would have an air quality permit which would include provisions for reasonable precautions to control fugitive dust. He addressed the problem of smaller facilities that don't require air permits, so only the regulation for reasonable precautions would apply. He said that DEC was investigating options for more defined standards and enforcement.

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REPRESENTATIVE MUNOZ, inquiring about the air quality in Mendenhall Valley, asked for any health data related to these incidences.

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COMMISSIONER HARTIG replied that there was data which DEC had reviewed.

REPRESENTATIVE MUNOZ asked which department would conduct a review if there was a concentration of disease within a defined area.

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COMMISSIONER HARTIG, in response, explained that the DEC environmental lab worked with Department of Health and Social Services should either department notice any disease. He noted that Center for Disease Control and Prevention (CDC) was also tracking diseases, and would contact DEC regarding any environmental disease. He stated that there was good communication between the agencies. He pointed to the difficulty of tracking higher incidences of disease in areas of low population, as there was not the statistical significance.

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COMMISSIONER HARTIG, in response to Representative Herron, spoke of DEC division accomplishments over the prior year, highlighting the oversight work on pipeline safety. He reflected that his biggest disappointment was the lack of a long term solution to make the response fund sustainable.

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The committee took a brief at-ease.

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KRISTIN RYAN, Director, Division of Environmental Health, Department of Environmental Conservation (DEC), presented a PowerPoint entitled "Environmental Health," [Included in members' packets.] addressed slide 1, "Division Mission," and stated that "our goal is to provide businesses with clear standards so they can protect our environment and provide safe food and drinking water to Alaskans." She moved on to slide 2, "Organization Chart," which listed the different programs she would discuss. She elaborated that job was to provide the direction for changes to the nine regulatory chapters in the division, to manage the budgets so that the resources were used wisely, and to provide clear direction for staff and management decisions. She directed attention to slide 4, "What do we do?" and listed the core services of the program, which included: assistance to federally regulated public water systems, enforcement of standards for monitoring of contaminants, and review of construction, installation and operation plans for the construction and modification of public water systems.

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MS. RYAN moved on to slide 5, "Federally-Designated," noting that federally designated water systems were defined as serving 25 or more people. She reported that federal drinking water regulations often had complex rule changes, which the state would adopt. She stated that there were more than 1500 federally designated water systems in Alaska, for both ground water and surface water.

MS. RYAN, pointing to slide 6, "State-Regulated," shared that the standards for the state regulated systems, which served 25 or fewer people, were not equivalent to the federal standards. She shared that these systems served assisted living homes, apartments, day care facilities, and office buildings. She

affirmed that there were not any standards for private homes or duplexes.

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CO-CHAIR FEIGE asked which regulatory designation covered restaurants.

MS. RYAN replied that about 200 restaurants were included in the small state regulated systems.

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MS. RYAN, in response to Representative Herron, said that the well on the Salcha Fairgrounds was currently inoperable, but that money had been requested to drill a new well.

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MS. RYAN presented slide 7, "Successes and Challenges," and shared that the Drinking Water Program had 57 employees to supply technical assistance for compliance with the federal water systems regulations. She confirmed that Alaska was the only state allowed to certify third party engineers for inspections. She announced that Alaska was also the only state granted a waiver to the 48 hour hold times for bacteria samples, in order to allow extra time to get water samples to a lab from remote areas. In response to Co-Chair Feige, she explained that the source water assessment program assisted local water systems with programs for protection, which would, in turn, reduce the extensive monitoring requirements.

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MS. RYAN, in response to Representative Herron, said that the grant opportunities for drinking water protection were statewide and were being well received.

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MS. RYAN pointed out that the plan offered knowledge for all the potential risks to the source water.

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MS. RYAN moved on to discuss "Pesticide Control and DEC, Statutory Authority" (slide 9) and she listed the statutes for

regulation, which included three aspects: control, spraying in public places, and public pesticide programs.

CO-CHAIR FEIGE asked if there would be a serious effect if the public pesticide program requirement was repealed.

MS. RYAN replied that AS 46.03.330 was an antiquated statute; as the pesticide product had already been approved, to also require a permit to spray created a double standard.

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MS. RYAN presented slide 10, "What do we do?", noted that the pesticide program only had five employees, and mentioned that it conducted the inspections and issued the permits for pesticide application.

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MS. RYAN agreed that the bed bug information on the web site was only offered as a courtesy.

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MS. RYAN directed attention to slide 11, "Successes and Challenges," and explained the difficulty of issuing a permit for the Alaska Railroad to spray a benign herbicide. She noted that there were 5000 pesticide products registered in Alaska.

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MS. RYAN reviewed slide 13, "Solid Waste Management and DEC What do we do?" She explained that this was about land fill regulation permits and monitoring. She introduced slide 14, "Basics," and noted that the Solid Waste Program had 14 staff and monitored 301 landfills. She declared that all 23 of the large landfills, 5 tons or more each day, and all 26 of the industrial landfills were permitted and "running well." She specified that only 22 percent of the approximately 250 village landfills, less than 5 tons each day, were permitted. She explained that on-line management plans were available for the village landfills. Remarking on slide 16, "Challenges and Successes," she lauded that only about 50 of the 600 inactive drilling waste pits were still left to clean up.

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MS. RYAN, in response to Representative Herron, said that she did not know how many videos had been submitted for the "Unraveling of Trash" contest.

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MS. RYAN moved on to slide 18, "Food Safety and Sanitation Statutory Authority and Regulations-Food." She noted that the Food, Drug, and Cosmetic Act, AS 17.20, ensured that food either offered to the public, or sold, was safe. She shared that this also included aquatic farms and seafood processing. She clarified that the Division of Agriculture (Department of Natural Resources) was in charge of raw products.

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MS. RYAN called attention to slide 19, "Sanitation," and stated that AS 18.35 and AS 44.46.020 regulated body piercing, public toilets, pools and spas, and laundromats.

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REPRESENTATIVE DICK asked about the history of AS 17.20.

MS. RYAN replied that there had been no substantial changes to it since statehood, and that it was a challenge to determine its boundaries. She assessed slide 20, "What do we do?" and voiced that the program "established standards for the permitting, inspecting, and enforcing of food processing." She reiterated that this did not include whole foods. She conveyed that the 40 staff in 8 offices provided education and training on the safe handling of food, and monitored more than 4500 restaurants, markets, and food processors, 786 seafood processors, and 3716 public facilities.

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MS. RYAN discussed slide 21, "Basics." She reported that 26 percent of the permitted retail food establishments were inspected in 2010. She offered her belief that the infrequency of these food inspections, which included technical assistance, was a cause for the higher rate of violation by the inspected food establishments. She spoke about the success of the on line food handler program, which had distributed 90,000 cards over the previous four years. She pointed out that any food sold beyond state lines was regulated by FDA.

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MS. RYAN shifted to slide 22, "Successes and Challenges," and acknowledged there were regulations at public events where food was offered or sold.

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MS. RYAN directed attention to slide 23, "What can be sold off the farm with no DEC oversight?" She stated that products which needed to be cooked before eating were not usually regulated. She stated that smoked fish, cheese, and baggy leafy greens were all foods that needed a permit.

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MS. RYAN, in response Co-Chair Seaton, said that milk should have been listed with foods requiring a permit.

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REPRESENTATIVE GARDNER asked to clarify custom processed meat.

MS. RYAN explained that meat can be processed for use by the animal owner without a permit.

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MS. RYAN, addressed slide 24 and slide 25, "Are people getting sick?" which listed the food borne illness outbreaks in Alaska since 2004.

MS. RYAN, in response to Representative Kawasaki, said that such infrequent inspections, due to budget limitations, lead to a continuance of the illness outbreaks. She selected slide 27, "State Veterinarian," and said that the overall authority was to keep animals from making humans sick. She turned to slide 28, "What do we do?" and shared that there were just 5 staff, including 2 veterinarians, who sampled and monitored animals for diseases.

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MS. RYAN turned to slide 29, "Successes and Challenges," pointed to the need for a revision to the animal health regulations, and opined that it was going to be controversial. She stated that

the maintenance of Alaska's disease-free status was very important.

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MS. RYAN introduced "What's going on with Cheese?" (slide 30) and shared that a state statute required that dairy products comply with the U.S. Pasteurized Milk Ordinance. She assessed that Alaska was no stricter than other states.

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MS. RYAN moved forward to slide 32, "Environmental Health Laboratory What do we do?" and offered a quick overview of the lab and its environmental samples testing process. She said that the lab ran almost 70,000 tests in 2010, primarily on food.

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MS. RYAN, in response to a question from Co-Chair Seaton, said that the additional Ketchikan based position for aquatic farm site permits had been filled. She talked about the new marine vessel tracking program, which eliminated the need to accompany the vessel to monitor the sample collections.

The committee took a brief at-ease.

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ALICE EDWARDS, Acting Director, Division of Air Quality, Department of Environmental Conservation (DEC), presented a PowerPoint, "Division of Air Quality Overview, " [Included in members' packets.] read from slide 2, "Mission," and stated that the mission of the division was "to conserve, improve, and protect Alaska's natural resources and environment and control air pollution, in order to enhance the health, safety, and welfare of the people of the state." She moved on to slide 3, "Core Services," and explained that the division issued air quality permits to facilities, provided compliance assistance and enforcement, provided assistance to communities to protect air quality, and conducted air quality assessments and monitoring.

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MS. EDWARDS presented slide 4, "Programs," and listed the three primary air quality programs: air permits, air non-point and

mobile sources, and air monitoring and quality assurance. She provided slide 5, "Air Quality Division Structure," which portrayed the structure of the division.

MS. EDWARDS referred to slide 6, "Air Permits Program," and listed the three focuses: authorize construction of new and modified facilities, establish compliance monitoring, and conduct compliance assurance inspections on permit deviations. She confirmed that the Air Permits Program ensured that air emissions from industrial operations did not create unhealthy air.

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MS. EDWARDS summarized slide 7 and slide 8, "Air Non-Point & Mobile Source Program," and explained that the program "partners with communities to look at options and find solutions to local and regional air quality concerns." She relayed that the focus was primarily on mobile and area sources of pollution, and that it conducted education and outreach on air quality issues. She pointed out that the program ensured that community-based pollution control programs were incorporated with the Alaska air quality plan.

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MS. EDWARDS, addressing slide 9 and slide 10, "Air Monitoring and Quality Assurance Program," said that these assess compliance with the national ambient air quality standards, and provide quality assurance audits for the state air monitoring network.

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MS. EDWARDS, in response to Co-Chair Feige, said that the monitoring was concentrated in the primary population centers. She added that the program also assisted communities with special monitoring studies, such as wildfire smoke and dust. She declared that the program issued the air quality advisories.

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REPRESENTATIVE DICK asked if there was any consideration for the Arctic haze emanating from Asia.

MS. EDWARDS replied that there was monitoring and announced that the division had just finished its Regional Haze State

Implementation Plan. She agreed that there was a haze impact from both Asia and Northern Europe.

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MS. EDWARDS, speaking about slide 11, "Administrative Support Program," pointed out that the program provided assistance with budgets, grants, and billings. She spoke about the "Ongoing Permit Streamlining and Process Improvement Initiatives and Challenges" listed on slide 13 and slide 14. She shared that the goal was to improve the consistency and timeliness of the permitting, while maintaining high quality, legally defensible permits. She said that the division sought to improve the predictability by standardizing processes and permit requirements, and had established a quality management system. She explained that operating permits had standard conditions to improve efficiency.

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MS. EDWARDS explained the next challenge, depicted on slide 16 and slide 17, "Fairbanks PR 2.5." She announced that the Fairbanks/North Pole area was exceeding the 24 hour standard for fine particulate matter, and that an air quality attainment plan was due in December, 2012. She allowed that the plan and the control options were controversial in Fairbanks, as the fine particulate matter was all coming from combustion sources, including home heating from wood and coal. She agreed that this was a complex problem. She opined that it was realistically attainable to achieve the standard, but that it would be a complicated process, with difficult choices.

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MS. EDWARDS said that the Division was coordinating the planning efforts between the state, the Fairbanks North Star Borough, and the Environmental Protection Agency (EPA). She noted that the Division was actively responding to complaints about smoke, and working on public education to mitigate the pollution. She stated that there was also a study to characterize vehicle emissions at cold temperatures.

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CO-CHAIR FEIGE asked if the regulations had any allowance for natural sources of particulates, such as wildfires.

MS. EDWARDS replied that EPA did distinguish between natural and manmade sources.

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MS. EDWARDS spoke about dust in rural Alaska, noting that many homes were right on the unpaved roadways. She stated that the dust was a potential health issue.

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MS. EDWARDS shared that complaints about dust came from all across Alaska. She directed attention to slide 20, "Airborne Dust in Alaska," which plotted the communities which registered complaints and monitored for dust. She indicated that fugitive dust came from many sources, including material handling and sandblasting. She reported that there were scheduled workshops to address fugitive dust regulations and solutions.

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MS. EDWARDS, in response to an earlier question from Representative P. Wilson, shared that DEC was working with Department of Transportation & Public Facilities for solutions to dust impacts from rural roads. She reported on a pilot program in eight communities which applied chemical dust suppressant on the road surface.

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REPRESENTATIVE P. WILSON asked when this pilot program would be completed.

MS. EDWARDS offered her belief that more information would be available by early 2012.

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MS. EDWARDS spoke about "Revised National Ambient Air Quality Standards" (slide 22). She said that these were reviewed every five years and that a few new standards had been adopted. She opined that EPA could revise the carbon monoxide and particulate matter standards during the upcoming year.

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MS. EDWARDS reviewed the chart on slide 23, which reflected the change in particulate matter standards since 1997.

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MS. EDWARDS directed attention to slide 24 and slide 25, "New EPA Air Quality Rules," and discussed the challenges when EPA issued new and revised rules. She reported on the green house gas permitting rules, and shared that Alaska had adopted the federal requirements.

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MS. EDWARDS confirmed that EPA had issued an advanced notice regarding potential regulation of lead in aviation gasoline because of health problems, and that Alaska had submitted early comments for its concerns. She observed that these early comments allowed EPA to gather additional information and better consider the concerns. She opined that new EPA air quality standards needed to be released along with guidance for implementation.

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MS. EDWARDS directed attention to slide 26, "North Slope Air Quality Assessment." She stated that DEC wanted a pro-active approach to air quality issues on the North Slope, in order to better address local concerns for air pollution as well as determine where additional data could be useful. She listed the short term goals to include: assess and summarize the existing emission and meteorological data, determine the need for additional relevant data for permits and impact assessment, develop a technical approach for modeling regional impacts, and determine a long term strategy for monitoring and assessing impacts.

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CO-CHAIR FEIGE asked about the impact of EPA requirements on state resource development.

MS. EDWARDS, in response, opined that the regulations posed challenges which were not insurmountable. She voiced that DEC was working to incorporate the EPA requirements with the state requirements. She noted that air quality permits were complex.

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MS. EDWARDS, in response to Representative P. Wilson, said that EPA was working on air quality permits for the outer continental shelf (OCS) activities. She observed that much of the permit work was based on on-shore monitoring data and modeling.

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MS. EDWARDS, in response to Representative Foster, said that currently there were no aviation gasoline proposals. She explained the multi-step process to include an engagement finding for determining if the leaded fuel was causing an endangerment. She pointed out that, for concerns with aviation fuel, EPA had to work with the Federal Aviation Administration (FAA). She agreed that this was a huge issue for Alaska, as currently there was not a replacement fuel. She predicted that EPA would not propose a regulation without a replacement option.

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ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:02 p.m.