

ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE

April 21, 2023

1:02 p.m.

MEMBERS PRESENT

Representative Tom McKay, Chair
Representative George Rauscher, Vice Chair (via teleconference)
Representative Kevin McCabe
Representative Dan Saddler
Representative Stanley Wright
Representative Jennie Armstrong (via teleconference)
Representative Donna Mears
Representative Maxine Dibert

MEMBERS ABSENT

Representative Josiah Patkotak

COMMITTEE CALENDAR

HOUSE BILL NO. 143

"An Act relating to the Department of Environmental Conservation; relating to advanced recycling and advanced recycling facilities; relating to waste; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 98

"An Act relating to state ownership of submerged land underlying navigable water within the boundaries of and adjacent to federal areas; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 143

SHORT TITLE: ADVANCED RECYCLING AND FACILITIES

SPONSOR(S): RESOURCES

03/27/23	(H)	READ THE FIRST TIME - REFERRALS
03/27/23	(H)	RES, L&C
04/05/23	(H)	RES AT 1:00 PM BARNES 124
04/05/23	(H)	-- MEETING CANCELED --

04/12/23 (H) RES AT 1:00 PM BARNES 124
04/12/23 (H) Heard & Held
04/12/23 (H) MINUTE(RES)
04/19/23 (H) RES AT 1:00 PM BARNES 124
04/19/23 (H) -- MEETING CANCELED --
04/21/23 (H) RES AT 1:00 PM BARNES 124

BILL: HB 98

SHORT TITLE: STATE OWNERSHIP OF SUBMERGED LAND

SPONSOR(s): SADDLER

03/06/23 (H) READ THE FIRST TIME - REFERRALS
03/06/23 (H) JUD, RES
03/29/23 (H) JUD AT 1:00 PM GRUENBERG 120
03/29/23 (H) Heard & Held
03/29/23 (H) MINUTE(JUD)
03/31/23 (H) JUD AT 1:00 PM GRUENBERG 120
03/31/23 (H) Moved HB 98 Out of Committee
03/31/23 (H) MINUTE(JUD)
04/03/23 (H) JUD RPT 6DP
04/03/23 (H) DP: C.JOHNSON, CARPENTER, EASTMAN,
GRAY, ALLARD, VANCE
04/14/23 (H) RES AT 1:00 PM BARNES 124
04/14/23 (H) Heard & Held
04/14/23 (H) MINUTE(RES)
04/21/23 (H) RES AT 1:00 PM BARNES 124

WITNESS REGISTER

EMMA POKON, Deputy Commissioner
Department of Environmental Conservation
Juneau, Alaska

POSITION STATEMENT: Provided invited testimony on HB 143.

DYANI CHAPMAN, State Director
Alaska Environment
Anchorage, Alaska

POSITION STATEMENT: Provided invited testimony on HB 143.

LINDSAY STOVALL, Director
State and Regulatory Affairs
American Chemistry Council
(No address provided)

POSITION STATEMENT: Provided invited testimony on HB 143.

CRAIG COOKSON, Senior Director
Plastics Sustainability

American Chemistry Council
Washington, D.C.

POSITION STATEMENT: Answered questions on HB 143.

TREVOR JEPSEN, Staff
Representative Tom McKay
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of the sponsor, the House Resources Standing Committee, of which Representative McKay serves as chair, clarified points made during testimony on HB 143.

CRAIG COMPEAU, representing self
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 98.

KIM REITMEIER, President
Regional Association
Alaska Native Claims Settlement Act
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 98.

MIKE TINKER, representing self
Ester, Alaska

POSITION STATEMENT: Testified in support of HB 98.

CAROL RUSHMORE, Economic Director
City and Borough of Wrangell
Wrangell, Alaska

POSITION STATEMENT: Testified in support of HB 98.

ACTION NARRATIVE

[1:02:41 PM](#)

CHAIR TOM MCKAY called the House Resources Standing Committee meeting to order at 1:02 p.m. Representatives McCabe, Wright, Mears, Dibert, and McKay were present at the call to order. Representatives Saddler, Armstrong (via teleconference), and Rauscher (via teleconference) arrived as the meeting was in progress.

HB 143-ADVANCED RECYCLING AND FACILITIES

[1:03:18 PM](#)

CHAIR MCKAY announced that the first order of business would be HOUSE BILL NO. 143, "An Act relating to the Department of Environmental Conservation; relating to advanced recycling and advanced recycling facilities; relating to waste; and providing for an effective date."

1:03:47 PM

CHAIR MCKAY opened public testimony on HB 143. After ascertaining there was no one who wished to testify, he closed public testimony on HB 143. He welcomed invited testimony.

1:05:00 PM

EMMA POKON, Deputy Commissioner, Department of Environmental Conservation (DEC), provided invited testimony in support for recycling programs; however, she noted that recycling in the state is limited. She addressed the current definition of "solid waste" in the state's statute and advised if there is to be a change to the definition of solid waste for recycling, it would need to be done in statute. She expressed the opinion that modifications would be needed for existing facilities to be able to do advanced recycling. She offered to answer questions.

1:08:25 PM

The committee took an at-ease from 1:08 p.m. to 1:13 p.m.

1:13:12 PM

REPRESENTATIVE MEARS, on behalf of the sponsor, the House Resources Standing Committee, presented a PowerPoint on HB 143, subtitled "Advanced Recycling" [hard copy included in the committee packet]. She introduced the presentation with a list of the benefits of recycling, which includes extending the life of landfills, reducing greenhouse gas generation and emission, maximizing utilization of resources, creating jobs, and promoting a circular economy. She directed attention to slide 3, titled "Background Waste and Recycling in Alaska," and said Alaska has 9 active Class I landfills. She explained that these collect more than 20 tons per day (tpd) of material, with Anchorage having the largest. She noted that municipal solid waste (MSW) and Construction and demolition debris (CDD) make up the materials in landfills. As shown on the slide, she pointed out that the tons per year (tpy) [in Anchorage, the Matanuska-Susitna Valley, Fairbanks, Soldotna, and the Denali Borough] add up to almost 550,000 tpy. She covered the remaining materials

on slide 3, which consisted of statistics on the collected waste materials from these communities.

[1:18:21 PM](#)

REPRESENTATIVE MEARS directed attention to slide 4 and reviewed the statutes which govern DEC. She moved to slide 5, subtitled "Section 2 - modifying definition of 'industrial waste,'" which read as follows [original punctuation provided]:

(11) "industrial waste" means a liquid, gaseous, solid, or other waste substance or a combination of them resulting from process of industry, manufacturing trade or business, or from the development of natural resources; "industrial waste" does not include post-use polymers and recovered feedstocks at an advanced recycling facility or [HOWEVER,] gravel, sand, mud, or earth taken from its original situs and put through sluice boxes, dredges, or other devices for the washing and recovery of the precious metal contained in them and redeposited in the same watershed from which it came [IS NOT INDUSTRIAL WASTE];

ADEC says this is unnecessary—post-use polymers and recovered feedstocks do not currently fall under the definition of "industrial waste"

REPRESENTATIVE MEARS addressed slide 6, subtitled "Section 3 - modifying definition of 'other wastes,'" which read as follows [original punctuation provided]:

(17) "other wastes" means garbage, refuse, decayed wood, sawdust, shavings, bark, trimmings from logging operations, sand, lime cinders, ashes, offal, oil, tar, dyestuffs, acids, chemicals, heat from cooling or other operations, and other substances not sewage or industrial waste that [WHICH] may cause or tend to cause pollution of the waters of the state; "other wastes" does not include post-use polymers and recovered feedstocks at an advanced recycling facility

ADEC says this is unnecessary—post-use polymers and recovered feedstocks do not fall under the definition of "other waste"

REPRESENTATIVE MEARS continued to slide 7, subtitled "Section 4 - modifying definition of 'solid waste,'" which read as follows [original punctuation provided]:

(26) "solid waste" means garbage, refuse, or abandoned [,] or other discarded solid or semi-solid material, regardless of whether subject to decomposition, originating from any source; "solid waste" does not include post-use polymers and recovered feedstocks at an advanced recycling facility

This section excludes advanced recycling inputs from the definition of "solid waste". This section, if approved, would give preferential treatment to advanced recycling activities and exempt them from the current law.

[1:21:15 PM](#)

REPRESENTATIVE MEARS, in response to a request from Representative Saddler to speak to the importance of excluding post-use polymers and recovered feedstocks from the definition of solid waste, advised that if there were health hazards or animals in the area the centers may be exempted from regulation.

[1:22:02 PM](#)

REPRESENTATIVE MEARS continued the presentation on slide 8, subtitled "Section 5 - modifying definition of 'solid waste disposal facility,'" which read as follows [original punctuation provided]:

(27) "solid waste disposal facility" means a facility for the discharge, deposit, injection, consolidation, or placement of solid waste into or onto the land and includes transfer stations and sanitary landfills, but does not include an advanced recycling facility

This section is unnecessary as per ADEC, this term is referring to disposal of waste to land at a facility (most likely a landfill). The advanced recycling facility is not disposing of waste to the land.

REPRESENTATIVE MEARS moved to slide 9, subtitled "Section 6 - modifying definition of 'solid waste processing,'" which read as follows [original punctuation provided]:

(28) "solid waste processing" means extraction of materials from solid waste, volume reduction, conversion to energy, or other separation and preparation of solid waste for reuse or disposal and includes processing by incinerators, shredders, balers, and transfer stations; "solid waste processing" does not include the extraction of materials from solid waste through advanced recycling; This section excludes advanced recycling as it may otherwise be included for regulation under solid waste processing. This section, if approved, would give preferential treatment to advanced recycling activities and exempt them from the current law.

REPRESENTATIVE MEARS, in response to a request for further clarification, spoke about a list of certain regulations around solid waste processing facilities, which include restricting access and covering materials. She stated that these would be exempt in the case of advanced recycling.

CHAIR MCKAY suggested amendments could be made to alleviate these concerns.

1:25:20 PM

REPRESENTATIVE MEARS continued the presentation on slide 10, subtitled "New Definitions" which read as follows [original punctuation provided]:

If Sections 2-7 are not adopted, new definitions are not needed.

If any of Sections 2-7 are adopted, the definition of "advanced recycling", and following definitions would be needed.

Some of the definitions are too narrowly defined to specifically refer to the advanced recycling process.

The following definitions would need to be reconsidered for including other recycling operations currently employed in the state:

- gasification
- other recycled product
- pyrolysis
- recovered feedstock
- recycled plastics

- third-party certification system

REPRESENTATIVE MEARS brought attention to slide 11, "HB 143 - Conclusions," which read as follows [original punctuation provided]:

- Many sections of the bill are already covered with existing regulations within the Alaska Department of Conservation
- Two sections (4 and 6) would preferentially exempt any future advanced recycling operation from definitions which the rest of the recycling and waste industries must comply
- If any of the sections 2-6 are adopted, the new definitions need to be modified to include existing industry practices

[1:28:49 PM](#)

MS. POKON, in response to Chair McKay, said DEC has no issues with the current version of HB 143.

[1:29:17 PM](#)

REPRESENTATIVE SADDLER questioned whether the definitions in Section 2 and Section 3 of HB 143 were unnecessary.

[1:29:42 PM](#)

MS. POKON clarified that Section 2 and Section 3 provide the definitions of "industrial waste" and "other waste", respectively. She stated that DEC has no objection to these changes. She said, "Covering that issue in all the definitions probably provides some clarity." She added that the degree of clarity desired in statute would be up to the committee. In response to a follow-up question, she agreed "that language could be redundant."

[1:31:48 PM](#)

CHAIR MCKAY reopened public testimony on HB 143.

[1:32:04 PM](#)

DYANI CHAPMAN, State Director, Alaska Environment, testified in opposition to HB 143. She stated that chemical recycling is not an adequate solution to plastic waste issues and is harmful to

the environment. She referenced an analysis conducted by the National Renewable Energy Laboratory, which claims that pyrolysis and gasification to produce plastic is significantly worse economically and environmentally than creating virgin plastic. She stated that these methods are known to release toxic chemicals into the air, and she suggested that this could cause cancer, birth defects, and other health problems. She argued that the process of chemical recycling is energy intensive, and this would waste valuable energy if powered by renewables and create greenhouse gases if powered by fossil fuels. She criticized chemical recycling for its lack of potential economic viability. She suggested some policy recommendations to HB 143, including that incineration should not count as advanced recycling. She said that regulations and definitions should clearly distinguish between plastics that fuel processes and processes that turn plastics into new plastics.

MS. CHAPMAN urged the committee to create a system that would not compete with less damaging forms of waste management, like mechanical recycling. She expressed the hope that the legislation would compel companies to become transparent about pollution created by their facilities. She maintained that proponents of advanced recycling present this as a part of a circular economy, which is misleading as a solution to the plastics crisis. She suggested that this is "greenwashing" and "nothing as environmentally nasty as this should be considered sustainable." She suggested the state should instead invest in "real solutions" for managing plastic waste.

[1:34:48 PM](#)

CHAIR MCKAY, after ascertaining that there was no one else who wished to testify, closed public testimony on HB 143.

[1:35:20 PM](#)

LINDSAY STOVALL, Director, State and Regulatory Affairs, American Chemistry Council, provided invited testimony on HB 143. She pointed out the challenges with recycling, which include the complexity in engineered packaging, economics, market demand, and the recent restrictions in China. She gave examples of incorporating new technologies of advanced recycling in large companies like Herbal Essences and Wendy's, as these companies have adopted using packaging from advanced recycling. She opined that if Alaska converted just 50 percent of the current plastic in landfills utilizing advanced recycling, it

could generate \$70 million in economic output each year. She mentioned that under HB 143, new technologies would be subject to local, state, and federal regulations, such as the Clean Water Act and the Clean Air Act. She added that advanced recycling would be regulated the same way manufacturing is. She further urged support for HB 143, expressing the belief that it would bring added investment and jobs to the state, increase recycling, conserve resources, and reduce plastic waste.

[1:39:16 PM](#)

CRAIG COOKSON, Senior Director, Plastics Sustainability, American Chemistry Council, provided invited testified on HB 143. He provided clarifications to the National Renewable Energy Laboratory report referred to in public testimony. He mentioned his experience regarding advanced recycling programs across the country and argued that the report lacked data from "real operations." He added that the study was "old." He then referred to a different and more recent study conducted by the Argonne National Laboratory, which details converting plastics into pyrolysis oil, which is used as an alternative feedstock. He said this method has a 27 percent smaller greenhouse gas footprint compared to virgin oil. He expressed the understanding that the National Renewable Energy Laboratory report is commonly miscited and mischaracterized.

[1:41:34 PM](#)

REPRESENTATIVE MEARS asked about the advanced facility feedstock threshold in tonnage and necessary minimums for viable facilities.

MR. COOKSON said there are many different options for new advanced recycling facilities in Alaska. He gave an example of a viable facility that received 35-50 tpd. He mentioned that many large companies are pushing to utilize advanced recycling in order to achieve an International Sustainability and Carbon Certification.

[1:43:50 PM](#)

REPRESENTATIVE MEARS asked whether Alaska is better off shipping its plastics to facilities in the Lower 48.

MR. COOKSON answered that shipping plastics in a liquid state is less expensive than shipping plastics in a solid state.

REPRESENTATIVE MEARS commented that Alaska ships in significantly more materials than it ships out, and often it ships empty containers back to the Lower 48. She noted that the state's ability to backhaul unprocessed feedstock in these containers would be high.

MR. COOKSON pointed out the program that shipped recyclable plastics to China had stalled. He advised that the domestic supply chain is more important.

CHAIR MCKAY pointed out that HB 143 would only provide the legal framework for advanced recycling.

[1:47:14 PM](#)

TREVOR JEPSEN, Staff, Representative Tom McKay, Alaska State Legislature, on behalf of the sponsor, the House Resources Standing Committee, of which Representative McKay serves as chair, cleared up several points made by testifiers. He stated that according to industry experts, for the state to see investments in future projects, advanced recycling is necessary. He clarified the definition of "solid waste" in the proposed legislation. He expressed doubt concerning the testimony that had asserted advanced recycling creates more pollution than landfills. He expressed the understanding that making virgin plastics from crude oil creates higher emissions than advanced recycling.

[1:49:33 PM](#)

CHAIR MCKAY announced that HB 143 was held over.

HB 98-STATE OWNERSHIP OF SUBMERGED LAND

[Contains discussion of SB 92.]

[1:49:40 PM](#)

CHAIR MCKAY announced that the final order of business would be HOUSE BILL NO. 98, "An Act relating to state ownership of submerged land underlying navigable water within the boundaries of and adjacent to federal areas; and providing for an effective date."

[1:50:04 PM](#)

CHAIR MCKAY opened public testimony on HB 98.

[1:50:39 PM](#)

CRAIG COMPEAU, representing self, testified in favor of HB 98. He shared that he has been living in Alaska for 62 years and in these years only 9 percent of rivers have been designated navigable. He expressed the desire that 2023 would be the year "we are finally taking control of what we were promised at statehood," which includes ownership of submerged land underlying navigable waters.

[1:53:57 PM](#)

KIM REITMEIER, President, Regional Association, Alaska Native Claims Settlement Act (ANCSA), testified in support of HB 98. She explained that ANCSA had allowed 44 million acres to return to Alaska Native regional villages and corporations. She encouraged the committee to allow time for private landowners to work with the Division of Natural Resources to ensure that the legislation would not cause unintended consequences to private landowners like Alaska Native corporations.

[1:56:36 PM](#)

MIKE TINKER, representing self, testified in support of HB 98. He expressed concern about federal overreach of Alaska waters. He expressed the understanding that the federal government has held Alaska to different standards, and he referred to the equal footing doctrine. Mr. Tinker pointed out the U.S. Supreme Court ruling on Sturgeon v. Frost II 587 U.S., 2016. He discussed how the National Park Service has yet to change any regulations. He urged that [Revised Statute 2477, Section 8 of the federal Mining Act of 1866] is important legislation to review concerning federal lands abutting waterways.

[1:59:02 PM](#)

CAROL RUSHMORE, Economic Director, City and Borough of Wrangell, testified in support of HB 98. She said the Stikine River is a significant navigable water in Southeast Alaska, as it is an important subsistence, recreation, and economic area for the people of Wrangell. She said the Stikine River has been tied up for years with disclaimers of interest and determinations of waterways between the U.S. Forest Service and other federal entities. She suggested that passing HB 98 would finally formalize the rights of Alaskans to "enjoy their waterways unhampered."

[2:01:22 PM](#)

CHAIR MCKAY noted that SB 92 is the companion bill still held in the Senate, and it is pending referral to the House Resources Standing Committee.

[2:01:40 PM](#)

REPRESENTATIVE SADDLER brought up concerns on SB 92. He mentioned that Mendenhall Lake is currently under litigation and should be removed from the list. He expressed concerns about the bill's possible effect on private property. He suggested that amendments could make it explicitly clear that SB 92 would not affect private property.

[2:03:37 PM](#)

CHAIR MCKAY announced HB 98 was held over.

[2:04:22 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:04 p.m.