

Original sponsor: Rules/Administrative  
Regulation Review Committee

Offered: 4/17/80  
Referred: Rules

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 548

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL.

6 For an Act entitled: "An Act relating to the processing of permits by state  
7 agencies; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. FINDINGS. The legislature finds that

10 (1) the orderly development of state resources is being unneces-  
11 sarily delayed by the length of time required to obtain permits from state  
12 agencies;

13 (2) the uncertainty created by the lack of specific time limits  
14 and the proliferation of unjustified agency requirements upon the processing  
15 of permit applications has cost Alaskans millions of dollars in lost employ-  
16 ment and higher prices;

17 (3) the public interest has not been advanced by protracted delay  
18 in the processing of permit applications by state agencies; and

19 (4) by requiring state agencies to process permit applications in  
20 an expeditious manner within a reasonable period of time, the state will  
21 promote the social, economic and environmental health and well-being of its  
22 citizens.

23 \* Sec. 2. AS 44.62 is amended by adding new sections to read:

24 ARTICLE 9. ISSUANCE OF PERMITS.

25 Sec. 44.62.632. TIME LIMIT ON THE PROCESSING OF PERMITS. (a)  
26 Upon receipt of a permit application or receipt of a federal agency  
27 request for state review of an application for a federal permit, the  
28 responsible state agency shall issue a final decision granting, denying  
29 or reasonably conditioning the issuance of the permit, or issue a final

1 response to the federal agency's request for state review, within 30  
2 days from date of receipt of the application, unless the person filing  
3 the application has designated the application as a master application  
4 under AS 46.35.030 or unless another statute provides a specific time  
5 period in which the agency must act with respect to the subject matter  
6 of the permit application or federal agency request for review.

7 (b) The final decision on a permit application under (a) of this  
8 section shall set out the following information:

9 (1) the name and address of the state agency, and the division  
10 of the agency, if any, issuing the final decision;

11 (2) the name of the state employee or employees responsible  
12 for issuing the final decision;

13 (3) the name and address of the applicant or applicants;

14 (4) the statute which requires the issuance of the permit and  
15 empowers the agency to process the application;

16 (5) a general statement concerning the nature of the project  
17 for which the permit is sought;

18 (6) findings made by the agency concerning the project's com-  
19 pliance with applicable state laws;

20 (7) conclusions of the agency which support its decision  
21 concerning the permit application, including justification of any condi-  
22 tions or stipulations to which the permit is subject; and

23 (8) the final disposition of the permit application by the  
24 agency.

25 (c) The final decision under (a) of this section must bear a fair  
26 and substantial relation to the object of the legislation under which the  
27 agency is empowered to act.

28 (d) A permit applied for under (a) of this section

29 (1) may not be denied because of the lack of any other permit;

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and

(2) may not be conditioned upon the acquisition of any other permit.

(e) A permit application which has not received a final decision by the responsible state agency within the time period specified in (a) of this section is approved as submitted. The permit is presumed to have been issued on the last day on which the state agency could have announced a final decision on the application.

Sec. 44.62.634. DEFECTIVE APPLICATIONS; NOTICE TO APPLICANT. (a) If an agency receives a permit application requesting a permit which the agency believes it does not have authority to issue, or which it believes is unnecessary, it shall notify the applicant within 10 days of its receipt of the application. When appropriate, the agency shall specify the agency to which it believes the application should be directed.

(b) If an agency receives a permit application which it believes does not contain sufficient information concerning the location and nature of the project to allow the agency to determine compliance of the project with state law, it shall notify the applicant within 10 days of its receipt of the application. The notice must specify all information which the agency requires to determine compliance of the project with state law.

(c) A notice given under this section is the final decision required by AS 44.62.632.

Sec. 44.62.636. REVIEW BY THE SUPERIOR COURT. (a) Judicial review by the superior court of a final decision issued by a state agency under AS 44.62.632 or 44.62.634 may be had by filing a notice of appeal in the superior court in accordance with the applicable rules of appellate procedure. The right to appeal is not affected by the failure

1 to seek reconsideration. The review shall be governed by the provisions  
2 of AS 44.62.560(b) - (e).

3 (b) On an appeal to the superior court, the agency which issued  
4 the final decision has the burden of proving that the decision is in  
5 accordance with AS 44.62.632 and 44.62.634.

6 (c) An appeal taken under (a) of this section has preference on  
7 the calendar of civil actions before the court and shall be decided  
8 without unnecessary delay.

9 \* Sec. 3. AS 44.62.640 is amended by adding a new subsection to read:

10 (c) In AS 44.62.632 - 44.62.636,

11 (1) "permit application" includes the following documents:

12 (A) a document requesting the issuance of a permit which  
13 contains sufficient information concerning the location and nature  
14 of a project to allow the state agency to which it is directed to  
15 determine compliance of the project with state law,

16 (B) a document, submitted to a state agency by a govern-  
17 mental entity, which solicits comments in connection with a permit  
18 being processed by the governmental entity;

19 (2) "date of receipt" means the date on which an agency  
20 actually receives an application requesting issuance of a permit;

21 (3) "disposition" means the grant, denial or conditional  
22 grant of a permit;

23 (4) "permit" means a permit, license, certification, con-  
24 sistency determination, plan review or other authorization or approval  
25 issued as a written document which is required to be obtained from a  
26 state agency before the construction or operation of a project;

27 (5) "project" means a new activity or expansion or addition  
28 to an existing activity, fixed in location, for which permits are re-  
29 quired before construction or operation;

1 (6) "state agency" means a state department, commission,  
2 board or other agency of the state; for the purposes of AS 44.62.632 -  
3 44.62.636, "state agency" also means a local or regional air pollution  
4 control authority established under AS 46.03.210, and a coastal resource  
5 district and a coastal resource service board established under AS 46.-  
6 40.010 - 46.40.210.

7 \* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-  
8 070(c).

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