

2-12-82

SB 84

HOUSE LABOR & COMMERCE  
STANDING COMMITTEE  
February 12, 1982  
1:15 p.m.

Members Present: Rep. Martin, Chairman  
Rep. Bylsma, Vice-Chairman  
Rep. Gardiner  
Rep. Rogers

Members Absent: Rep. Randolph

COMMITTEE CALENDAR

SB 84 An Act relating to processing of permits by state agencies, and to administration of the Alaska Coastal Management program.

WITNESS REGISTER

Wilson Condon  
Attorney General  
Pouch K  
Juneau, Alaska 99811  
465-3600  
Position Statement: Went over draft bill and proposed amendments.

Representative Tony Vaska  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811  
465-4914  
Position Statement: Expressed concerns.

O.K. "Easy" Gilbreth  
Manager, Exploration & Production  
AOGA  
Anchorage, Alaska  
272-1481  
Position Statement: AOGA members endorse draft bill.

Jay Nelson  
4111 East 65th  
Anchorage, Alaska  
276-6653  
Position Statement: Supports permit reform, but opposes draft bill.

Dave Allison  
Alaska Environmental Lobby  
3140 Norwell Avenue

Juneau, Alaska 99801  
586-2345  
Position Statement: Commented on bill.

Mollie Dent  
Alaska League of Women Voters  
419 6th Street, #321  
Juneau, Alaska 99801  
586-2751  
Position Statement: Commented on bill.

Joyce Munson  
Resource Development Council  
Baranof Hotel  
586-1383  
Position Statement: Supported passage of SB 84.

Larry Edwards  
Southeast Alaska Conservation Council  
Box 2158  
Sitka, Alaska  
586-2345  
Position Statement: Requested committee to listen to Clark  
testimony on behalf of Alaska Logger's  
Association.

#### PREVIOUS ACTION

SB 84

Senate Action: First reading 1/15/81.  
Reported from Resources Committee 4/14/81.  
Moved from Finance to Rules by unanimous  
consent 4/20/81. Reported from Rules  
5/5/81; taken up immediately. Resources  
Committee Substitute adopted by unanimous  
consent in second reading 5/5/81; advanced  
to third reading by unanimous consent.  
Passed in third reading with effective date  
vote same as passage on 5/5/81.

House Action: First reading 5/6/81. Moved  
from Judiciary to Finance by unanimous  
consent 6/21/81. Reported from Finance  
6/21/81. Reported from Rules 6/22/81.  
Second reading 6/22/81; bill was recommitted  
to Rules by unanimous consent. Reported  
from Rules 6/23/81. Read again second time  
6/23/81; postponed until 6/24/81 by  
unanimous consent. Read again second time  
6/24/81; 2nd Rules Committee Substitute  
adopted; amended on floor. Failed to  
advance to third reading 6/24/81.  
Recommitted to Labor & Commerce by unanimous  
consent 1/11/82.

Statutory Reference: AS 44.62.

Action Taken: Rep. Bylsma moved that HCS CSSB 84 be replaced by 2d HCS CSSB 84 (L&C). There was objection by Rep. Gardiner. Rep. Bylsma withdrew the motion. No further action taken during this meeting.

ACTION NARRATIVE

Tape #14 and 15  
Recording  
Number 000

The meeting was called to order by Chairman Martin at 1:15 p.m. Members present were: Representatives Martin, Bylsma, and Gardiner. Rep. Rogers arrived a few minutes after the call to order. Rep. Randolph was absent.

Number 007

Rep. Martin brought HCS CSSB 84 (2d Rls) before the committee. Rep. Bylsma moved that HCS CSSB 84 (2d Rls) be replaced by 2d HCS CSSB 84 (L&C). There was objection by Rep. Gardiner. After Rep. Rogers arrived, Rep. Bylsma withdrew the motion.

Number 068

Rep. Martin asked that, for clarity, the committee refer to the Labor & Commerce draft committee substitute.

Number 079

Wilson Condon, Attorney General, testified on behalf of the administration on the draft bill. He went over the administration's efforts to work with other groups on the bill. He said they had not been too successful with AOGA, and that AOGA members had not dealt in good faith. He went over problems they had encountered. Condon said the draft bill is the "AOGA bill". He said the governor has policy objections to the bill, and that he expects the governor to veto the bill as written.

Number 140

Condon handed out copies of eleven amendments proposed by the administration, and went over each proposed amendment in detail.

Number 620

There was discussion about the relationship between the bill and regulations. Rep. Rogers asked Condon what the administration would do in the absence of a bill at the end of session. Condon didn't know. He said

the administrative agencies had decided to work something out, not adopting regulations, but dealing directly with AOGA, as there were no problems with other industries. He said this method had not worked; hence, AOGA went to the legislature. There was further discussion.

Side B, Number 027

Rep. Vaska expressed concern about shortening processing times, as rural areas need longer to digest and respond to the types of documents required. Condon said the administration felt it needed 85 days, rather than 65. He said the oil industry is pushing for as few days as possible, and that the administration doesn't think they can process all permits within 65 days. He said consideration of other interests is another reason to lengthen process time. Condon said he expects the legislature to consider other groups.

Number 066

Rep. Vaska said there has to be balance in giving local governments discretion, and asked how this would be addressed. Condon referred to proposed amendment #3, which deals with how local coastal resource districts can take disagreements to court. He said that the Commissioner would have to find that consistency or inconsistency was supported by a preponderance of evidence in the record. There was discussion.

Number 103

Rep. Gardiner asked the administration's position on the 2d Rls bill. Condon said they supported it. There was discussion of various phrases in the bill.

Number 175

O.K. Gilbreth, Manager of Exploration and Production, AOGA, said there has been no significant change in problems obtaining permits since he gave testimony last year, but that permit approval times reduced slightly in 1981. He passed out a chart showing permit approval times, and noted that it takes up to a year for most approvals to be processed. He said that AOGA members endorse the L&C draft bill.

Number 230

Gilbreth said the problems that the bill would alleviate are: 1) too much time required for permit approval; 2) duplication in handling of permits; 3) interlocking web of agency jurisdiction that can entangle

project; 4) employees' attitudes must reflect state policy; 5) many small problems add up to big problems; a lead agency could reduce or eliminate this; 6) state agencies are trying to design projects and set standards; 7) added costs, lost time, and lost effort mean nothing to some regulators; 8) regulators demand zero risk, which cannot be done; 9) operators are forced to accept stipulations that are unfounded, invalid, and not in the best interests of the state. He went on to say that, philosophically, the industry needs predictability in timing in the process. The bill will determine how agencies operate. Gilbreth recommended accepting the draft committee substitute. There was discussion.

Number 329

Rep. Gardiner asked if last year's bill (the Rules committee substitute) would be better than the existing situation. Gilbreth said that several member companies felt they could live with the bill, but that, after study, most want no bill at all rather than that bill. There was discussion of the impact of the draft bill.

Number 390

Jay Nelson of Anchorage, representing himself, said he supports permit reform, but opposes the draft bill. He felt the draft was worse than the original bill. He said the point of permits is to protect the public's good, and he felt the draft bill does the reverse. He elaborated on why he felt this way. Nelson felt that uniform permit regulations was a better approach than the bill. There was discussion.

Number 500

Dave Allison, Alaska Environmental Lobby; former legislator in Indiana; lawyer; and member of the Alaska Miners Association, said that he represents a coalition of environmental groups--Sierra Club, Friends of the Earth, Southeast Alaska Conservation Council, and others.

Number 526

Allison said the environmental community takes the definite position that they favor sound and responsible development. He said the draft bill guarantees constitutional and statutory litigation. He felt the result of the bill would be delay. He criticized the oil industry's position. He said the bill disregards the interests of citizens of

local communities. He commented on the lack of notice of hearing. Allison said he would like to see administrative regulations with legislative review. He recommended trying the administrative process. There ensued a discussion of administrative policy and the power of the legislature.

Number 700

Allison said that, if the bill is not improved, it should not be passed out of committee. He said there is not enough time for processing permits. He felt that each type of permit should have time requirements. Allison said he agreed with most of Condon's comments, but felt that, if all the proposed amendments were adopted, the bill would be worse than last year's bill.

Tap 2, Number 0'8

Allison said the position of the Alaska Environmental Lobby is that the bill is unacceptable to their constituency. At Rep. Gardiner's request, Allison said he would provide the committee with a list of suggestions.

Number 100

Rep. Gardiner felt the Department of Natural Resources' budget should be looked over, as several positions involved with permit issuance are slated to be cut.

Number 140

Mollie Dent, Alaska League of Women Voters, listed the League's concern about the permit process. (She submitted her testimony to the committee; this is available for inspection.)

Number 205

Joyce Munson said she represented the Resource Development Council, which is a public interest group which attracts a wide range of people. She said she supports passage of SB 84. Permits are to protect the public, but are also to protect the public requesting the permit; that they have a right not to wait forever. She said that, without time limits, the waiting time depends on the efficiency of the department. She said the legislature is often at fault when developing legislation that does not give final authority to any agency. There was discussion about timeframes.

Number 428

Mollie Dent, League of Women Voters, said that the League requested a teleconference

hearing to take additional testimony before the committee acts on the bill.

Number 465

Larry Edwards, Southeast Alaska Conservation Council, Sitka, requested the committee listen to Clark testimony on behalf of Alaska Loggers Association. A man from the audience said that Clark doesn't speak for the Alaska Loggers Association.

Number 496

As there was no further testimony or business to come before the committee, the meeting was adjourned at 3:25 p.m.

SB 84

SIGN-IN SHEET

Name (please print)	Address	Representing	Testify? (YES or NO)	Phone Number
LARRY VAURA	1401 MARTIN RD	UNION OIL	?	586-2391
THOMAS HORSBARGER		AOGA	No	
* O.K. EASY GILBRETH	Anchorage	AOGA	Yes	272-1481
Marc Bond	1007 W. 3rd Ave, Anchorage	Chevron USA Inc.	?	279-3581
Bob STRAUB	2400 HASTINGS LANE	Sohio	?	263-5535
Jim Barnett	SRA 240J 99507	Sohio	?	263-5432
* DAVID ALLISON	3140 Nowell Ave	Alaska Environmental <sup>Index</sup>	Yes	586-2345
LARRY EDWARDS	BY 2158 SITKA	SEACC	YES	586-2345
* Jay Nelson	4111 E 65th Anch.	self	Yes	276-6653
Mollie J. Dent	4196TH ST #321 JUNEAU	Alaska League of Women Voters; Sierra Club Legal Defense Fund	Yes	586-2751
Beverly Ward	134 N FRANKLIN	Arco	No	586 3680







2/12/82

1:15

Call to order

007

Intro of members, HCSC SB 54 (2d rls); referred to packet fm governor - appointments - to be on next week's calendar

017

Byzoma moved HCSC SB 54 be replaced by 2d HCS CS SB 54 (2<sup>nd</sup> rls); objection by Gardiner; asked that committee wait for Rogers, writing (0357 052) (Rogers arrived)

064

Byzoma w/drew motion  
will refer to

068

Martin - ~~afford~~ to draft rather than CS at this time

079

Wilson Condon, AG, on behalf of admin re draft bill; went over administration's efforts to work w/ other groups on bill. <sup>not too successful w/ success</sup> AOGA - haven't dealt in good faith. ~~best~~ Have overview of problems. Draft is "AOGA bill". Can live with it w/ change. ~~Policy~~ Gov has policy objections to bill. Expects gov to veto bill as written

140

(REF. DRAFT BILL)

Administration changes wanted: (11 prop'd amendments) (copy <sup>drawn</sup> ~~governor~~ out)

- #1 p 2, lines 8-12
- #2 p 2 " 26-28
- #3 p 4 " 6-29
- #4 p 5 " 1-2
- #5 p 5 3-5
- #6 5 16-17 - (not satisfied w/ this amount; want to redraft it)
- #7 5 22-23
- #8 5 24
- #9 6 11-13
- #10 6 15-17
- #11 7 12

600

feet 2 amendments wd be cont'l - <sup>dealing</sup> ~~dealing~~ findings re C2M consistency ~~status~~ & local C2M plan

661

Rogers - <sup>asked act</sup> relationship between bill & regns - what wd admin do in absence of bill at end of session

London didn't know; debate among admin agencies - decided to try & work out something; not adopt regns & deal directly w/ADGA (no probs w/other industries). Didn't work - ADGA went to legislature.

715  
(side 2  
000)

Discussion - Rogers / Condon

to

005

Martin - ps amnts 6 & 7 - feels amnts are redundant

019

Condon - bill doesn't apply to occupational licensing; give reasons for wanting amnts

027

Vaska - local governing entities abilities to deal w/ a control developmt - how much time willing to give areas for response? Wants more than 30, 45 or 65 days. Rural areas take longer to digest & respond to these types of documents.

043

Condon - re class II permits - policy call by legislature.

Admin thinks they need 85 rather than 65 days. One ind. pushing for as few days as possible; admin doesn't think they can do it in 65 days; consideration of other interests is another reason to go this way. Their consideration is can it be done; expect legis. to consider other ops

066

Vaska - has to be balance in giving local govt discretion; what def'n included in giving weight to local govts.

074 London - <sup>ref</sup> ~~amdt 3~~ <sup>deals w/how</sup> ~~of~~ local coastal resource district can take disgmt to court. Comm wd have to find that consistency or inconsist wd have to be supported by preponderance of evidence in record.

093 Martin - admin have sign rules & codes coming up; considerable determination that local entities have priority in considering permits

103 Gardiner - what is admin's position on 2d res bill?

London - support it

G - p. 2, line 21 "unusually complex issues" - ~~who interprets?~~ interpreted or defined?

C - Interpreted

A - can't this be defined so no controversy arises?

C - ~~not~~ open to definition

134 G - findings of head of agency ... can be appealed by applicant  
Can it be/shd it be appealed by someone else?

~~to~~ Discussion Gardiner, London whether this shd be appealable by anyone other than applicant/agency.

Discussion <sup>q. str abt 'resource agency' defn.</sup>

164 Vaska - ~~long in defn for resource agency.~~

175 OK & Douth, <sup>Exploration & Production Reg.</sup> AOGA - ~~pretty~~ no signif

Chng in probe obtaining permits (since testimony last yr); however permit approval times reduced slightly <sup>in 1981</sup> Passed out w/o (graph) on permit approval time. - minimum times; noted that appl' times go up to a yr

212 Members endorse draft bill

225 Agencies have <sup>lately</sup> been rejecting applications.

230 Major problems that bill wd alleviate:

- 1) too much time required for permit appl
- 2) duplicate in handling of permits
- 3) interlocking web of agency jurisdiction that can entangle project
- 4) employees attitudes must reflect state policy
- 5) <sup>many</sup> small probs add up to big probs; lead agency cd <sup>reduce or</sup> eliminate <sup>this</sup>
- 6) st agencies trying to design projects & set standards
- 7) Added costs lost time lost effort mean nothing to
- 8) some regulators
- 8) regulators demand 0 risk - can't be done
- 9) operators forced to accept steps unfounded, invalid, & not in best interests of st

~~Expect bill to st~~ philosophical <sup>comment</sup> problems:

Industry needs predictability in timing in process

Bill will determine how agencies operate. ~~Agencies can~~

Members concerned w/ bill but unanimously agreed to back bill as compromise; recommend accepting draft.

298 Martin asked for eye of test.

301 Rogers - ~~will~~ cd time reqmts change w/ head of agency?

Hilbreth - yes, cd.

Discussion

313 Gardiner - any reason for change in # permits in 1977  
Galbraith - corresponds w/ change of commissioners or directors

329 Gard - wd last yrs bill be better than existing sit'n <sup>after study</sup>  
Galb - sev members cos felt they cd live w/ bill, but most  
want no bill rather than that bill

#### Discussion

347 Gard - one thing being considered is reduction in op'l budget -  
removing 100 posns in DNR - wd that make difference?

Galb - wd depend on dir of div & his emphasis

367 Martin - admin doesn't know yet where cuts will be  
Discussion

378 Rogers - wk w/ other industries in wkg up draft?

Galb - No substantial contact w/ other industries

390 J. Nelson, for self - Anc - supports permit reform, but opposes  
draft; worse than original bill. Point of permits to protect  
public's good; this does reverse. Spec, § 2 class I & II  
permits, 30 & 65 days is too rigid an approach for  
processing permits, not enough time

§ 2.3 - time period extension - agrees w/ this - jointly  
processing permits is good, but last part of sentence  
eliminates this. Uniform permit regns better approach  
than this bill. Give example. Wants more admin.  
approach.

452 Discussion abt notice of (this) mtg

469 Discussion of regulations

481 Gardiner - <sup>asked</sup> opinion of 2d rls CS

488 Nelson - latest draft worse; SB84 wrong approach.

500 Dave Allison, At Envt Lobby, former legislator in Indiana, lawyer, member At Miners Assoc, wkd in fisheries and deupt. Represents coalition of env. gpps - Sierra Club Friends of Earth 4 SE At Com. Council, & others.

526 1) Envt community takes definite posn that they favor sound & responsible deupt. If comm wants to stop issuance of permits, ~~must offer~~ river pass bill. Bill guarantees const' & statutory litigation. Intent is to expedite permit process, but <sup>to</sup> honest ind. person approaching permit process it's almost impossible. Result of bill will be delay. ~~Every industry~~ <sup>Criticized</sup> but oil industry's position. If bill passed, disregards interests of citizens of local communities. Must determine who's going to run things. & Commented on lack of notice of mtg. We like to see admin. regns w/ legislative review. ~~Says~~ Recommends trying administrative process.

570 Discussion of admin policy & pur of legis (Marking & Allison).

700

Allison - if bill not improved, shd not pass out of committee.  
If not done, wd agree that bill shd be killed.

Tape 2  
000

Not enough time for processing permits. In each case,  
~~at least~~ each type of permit, shd determine time needed.

Agreed w/ most of London's comments but if all ammnts  
adopted, bill wd be worse than last yrs bill.

~~Martin - why shd admin~~

Discussion - Martin, Allison, re notification of mtgo

047 Rogers - getn as to committee process; discussion

055 Allison, re Hilbreth stmt - other side is protection of public  
interest. Can't have protection w/o some restriction on people's  
ability to act.

068 Posn of AK Envtl Lobby that bill is unacceptable to their  
constituency.

077 Gardiner - asked posn on SB 84 (2d rlx)

084 Allison - said they'd provide comm. w/ list of suggestions;  
suggests using codification of regulations wk'd out by admin.  
Will send list of concerns.

100 Gardiner requested <sup>admin</sup> regulations alluded to.

Gardiner said he has analysis of effect of budget cuts in DNR -  
sev'l posns to be cut are people issuing permits (water permits  
& others). Suggested looking at those budget items.  
(referring to memo for Comm. to H. Finance Comm). Wants to look  
at issue of permits (subcomm. recomndas) before comm.  
finalizes budget.

140

Molly Dent, At League of Women Voters & ~~Sierra Club~~ Legal  
~~Defense Fund~~ - presenting League testimony today.

League submitted test to Senate Resources, & HCR @ last  
yr in Ane.

Re permit reform process - concerns

- 1) adequate public notice
- 2) adequate opportunity for input by local land use authority

League has adopted plans on land use & land disposal.

Urge more flexible time network

Oppose automatic permit iss

see h  
test. →

Showed comm. gov's permit reform regns that Hardines (?)  
requested; also offered list of kinds of permits affected by  
legislation. Also offered said she'd submit written  
comments.

205

Joyce Munson - for Resource Devopt Council (pub interest grp) -  
rep miners, fishermen, housewives, corpo - wide range of people.  
Testified on SB 54 last yr as it came fm Senate; testified  
against gov's uniform permit procedures. Spoke of a teleconf  
she attended last yr on gov's regns. Her committee found it  
had nothing to do w/ reform; wd create more st. jobs & cost  
more money. Actual procedure cd be stopped by a person  
who objected to any permit.

252

For passage of SB 84. Not talking abt just oil ex. permits.  
Permits are to protect public; also to ~~not~~ protect public asking  
for permit - have a right not to wait forever. Without  
time limit, depends on efficiency of dept.

Legislature often at fault when developing legislation that  
does not give final authority to any agency. Someone has  
to be responsible.

312

Rogers asked if she'd looked at gov's amendments  
She hadn't - ~~comments~~ <sup>listened</sup> to Conlon testimony. Doesn't like  
idea of opening liberals (specific time w/exceptions)  
Discussion, Rogers/Munson, re timeframes

Rogers - any prob on amendment # 9?

Munson - no provision

400

Barry informed  
on behalf of deacon,

428

Molly (?) - requested teleconf before comm. takes action,

Re notice - had requested notice in Ane & never got any.

Martin said entire state had notification of full teleconf.

not possible before April, will be deliberately delaying action

465

R. Edwards, <sup>St<sup>th</sup></sup> SE Ak Cons Council -

Requested comm. listen to Clark testimony, Ak Loggers Assoc.

Man from audience said Clark does not speak for Ak  
Loggers Assoc.

476

Adj. 3:25

LABOR & COMMERCE COMMITTEE  
DAILY COMMITTEE HEARING

Date: 2/12/82

Place: \_\_\_\_\_

<u>Members</u>	<u>Present</u>	<u>Absent</u>	<u>Time Arrived</u>	<u>Time Left</u>
Rep. B. Bylsma, V. Chair	✓		1:05	
Rep. D. Randolph				
Rep. B. Rogers	✓		1:18	
Rep. T. Gardiner	✓		1:12	
Rep. T. Martin, Chair	✓		1:00	

Subject Matter:

House Bill No. & HCSCSSB 84 (2d R15) \_\_\_\_\_

Senate Bill No. \_\_\_\_\_

Special Orders:

*Rep. Vaska attending*

Original sponsors: Bennett, Parr and  
Fahrenkamp

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE SENATE

2 2d HOUSE CS FOR CS FOR SENATE BILL NO. 84 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to processing of permits by state  
7 agencies, and to administration of the Alaska Coastal  
8 Management program."

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

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

11 (1) the orderly development of state resources is being unneces-  
12 sarily delayed by the length of time required to obtain permits from state  
13 agencies, by the complexity of the permitting process, and by the number of  
14 agencies involved in the permitting process;

15 (2) the uncertainties created by the lack of specific time limits,  
16 the proliferation of agency reviews, the number of agencies involved in the  
17 permit process, and unjustified agency requirements upon the processing of  
18 permit applications have cost Alaskans millions of dollars in lost employ-  
19 ment and higher prices;

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

22 (4) by reducing the number of agencies and agency reviews in-  
23 volved in the permit process, and by requiring state agencies to process  
24 permit applications in an expeditious manner, the social, economic, and  
25 environmental health and well-being of Alaska citizens will be promoted; and

26 (5) there are many administrative orders and similar documents  
27 that have been promulgated by the executive branch relating to interagency  
28 review that conflict and overlap, retarding the permit issuing process.

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

ARTICLE 8A. PERMIT PROCESSING.

Sec. 44.62.632. PERMIT CLASSIFICATION. (a) Each state resource agency shall by regulation classify each of the permits issued by that agency within one of the two following categories:

(1) class I permits, for which the state agency must issue a final decision within 30 days after the date of receipt of a completed permit application; and

(2) class II permits, for which, because of a necessary public notice or interagency review period, a final decision cannot be issued within 30 days. A final decision on a class II permit must be issued within 65 days after the date of receipt of a completed permit application, unless a public hearing is held on the application, in which case a final decision must be issued within 75 days after the date of receipt.

(b) Final regulations classifying its permits, and uniform procedural regulations providing for the processing of these permits, shall be adopted by each state resource agency by October 1, 1982, following appropriate notice and hearing. Permits applied for after October 1, 1982 must be issued in accordance with the time periods specified in (a) of this section, and the provisions of the implementing regulations.

Sec. 44.62.633. OTHER REGULATORY REQUIREMENTS FOR PERMIT PROCESSING. (a) Upon a finding by the head of a resource agency that a permit being considered involves unusually complex issues so that the agency cannot render a final decision within the time period specified in AS 44.62.632(a), the head of the agency may prescribe a time period within which the final decision will be made. The finding of the head of the agency may be appealed by the applicant to the superior court under the Appellate Rules of Procedure. *unless the applicant otherwise agrees* The time period may not be extended more than 120 days beyond the time period specified in AS 44.62.632(a), *unless the applicant otherwise agrees.*

(b) The time period specified in AS 44.62.632(a) may be extended

1 if necessary to facilitate joint processing of a permit application by  
2 state and federal agencies, but only if adherence to the time periods  
3 established in AS 44.62.632(a) would cause an irreconcilable conflict  
4 with a federal statute or regulation.

5 (c) Subject to (a) and (b) of this section and AS 44.62.634,  
6 failure of a resource agency to make a final decision within 30 days  
7 after the receipt of a completed permit application for a class I  
8 permit, or within 65 days after the receipt of a completed permit  
9 application for a class II permit, is approval of the application. In  
10 an appeal of a permit issued by operation of this subsection, the  
11 record shall be considered in the light most favorable to the applicant,  
12 and the permit shall be accorded a presumption of regularity.

13 (d) A state agency may not condition the issuance of a permit  
14 upon the issuance of a permit from another governmental agency.

15 Sec. 44.62.634. ADDITIONAL INFORMATION. (a) If a resource agen-  
16 cy receives a completed permit application that does not contain suffi-  
17 cient information concerning the project's compliance with the agency's  
18 statutes and regulations, the agency shall notify the applicant within  
19 15 days after receipt of a completed permit application for a class I  
20 permit, and within 30 days after receipt for a class II permit.

21 (b) The notification must specify those particular facts or  
22 issues concerning the proposal upon which the agency requires additional  
23 information in order to determine whether the project will conform to  
24 the agency's statutes and regulations.

25 (c) If a timely request under (a) and (b) of this section is  
26 made, the time period specified in AS 44.62.632 is suspended from the  
27 date of request to the date of full compliance with the request.  
28 Subsequent requests for additional information may be made, but must  
29 relate only to new issues raised by the response to the initial noti-

1 fication. Subsequent requests do not extend the time periods specified  
2 in AS 44.62.632.

3 (d) Nothing in this section grants a resource agency the authority  
4 to request information beyond the authority given to it by other sta-  
5 tutes.

6 Sec. 44.62.635. LEAD AGENCY. (e) There is established a lead  
7 agency that is solely responsible for issuing coastal management consis-  
8 tency determinations under AS 46.40 and for preparing and submitting  
9 state comments on federal permit applications. The lead agency is that  
10 resource agency that has principal responsibility for authorizing the  
11 overall activity, including instances where an activity requires permits  
12 from more than one resource agency. For classes of activities for  
13 which no agency with principal responsibility exists the governor shall  
14 designate a resource agency to be a lead agency for each class by  
15 administrative order no later than October 1, 1982. In performing its  
16 functions under this section, the lead agency shall consult with other  
17 resource agencies and with coastal resource districts under AS 46.40.

18 (b) Substantive consideration shall be given to the documented  
19 factual statements or data submitted by resource agencies and to the  
20 office of coastal management within their primary areas of expertise,  
21 and to the documented factual statements or data submitted by coastal  
22 resource districts made under an approved district coastal management  
23 program. The lead agency shall consider opinions, conclusions or  
24 recommendations submitted by the commenting agency, but may, in its  
25 discretion, reach contrary opinions, conclusions or recommendations  
26 according to the evidence received. The lead agency shall then balance  
27 competing factors in reaching its final decision. No resource agency  
28 other than the lead agency has primary expertise in the balancing of  
29 competing factors.

Except as otherwise required by federal law,

(c) <sup>n</sup> No state agency other than the lead agency may comment to a federal permitting agency.

~~(d) An agency's completion of a review under sec. 401 of the Clean Water Act (33 U.S.C. sec. 1341) does not constitute that agency as a lead agency under this section.~~  
*delete this subsection; replace with attached \* (entitled Amendment 5)*

Sec. 44.62.636. COMMENT PERIOD. A coastal resource district or state agency that receives a request for comment in connection with a permit application or plan review being processed by a resource agency shall submit these comments in accordance with the following schedule:

(1) comments on class I permits shall be submitted within 15 days after the agency's receipt of the request;

(2) comments on class II permits and federal permits shall be submitted within 30 days after the agency's receipt of the request;

(3) when under AS 44.62.633, the requesting agency has extended the time periods specified in AS 44.62.632, that agency may extend the time period specified in this section. *However, comments submitted under this subsection shall be submitted no later than 30 days prior to the date on which the 30-day lead agency must issue a final decision.*

Sec. 44.62.637. ADMINISTRATIVE APPEALS. (a) The uniform procedural regulations adopted under AS 44.62.632(b) must provide for an administrative appeal from a final decision on a permit application. The administrative appeal is to the head of the resource agency involved. Except as provided in this section the procedure is conducted under AS 44.62.330 - 44.62.630.

(b) The administrative appeal must be resolved within 45 days after the final decision on a permit application, or, if a hearing is held on the administrative appeal, within 65 days after the final decision on the permit application.

(c) An appeal taken from a decision granting a permit may, but need not, stay the issuance of the permit.

1 (d) The head of the agency may summarily dismiss an appeal before  
2 the time established in this section, and the dismissal is the final  
3 agency action on the matter.

4 (e) In an appeal from the denial or conditioning of a permit the  
5 head of the agency may, if he determines that the public interest would  
6 be served, grant the permit or remove conditions of the permit until  
7 the appeal is determined.

8 Sec. 44.62.638. REVIEW BY THE SUPERIOR COURT. (a) Judicial  
9 review by the superior court of a final decision issued under AS 44.-  
10 62.632 - 44.62.637 may be had by filing a notice of appeal in the  
11 superior court in accordance with the applicable Rules of Appellate  
12 Procedure. [The right to appeal is not affected by the failure to seek  
13 further review under AS 44.62.637.] The review is governed by the  
14 provisions of AS 44.62.560(b) - (e) and AS 44.62.570.

15 (b) An appeal taken under this section <sup>should have</sup> ~~has~~ preference on the  
16 calendar of civil actions before the court and <sup>should</sup> ~~shall~~ be decided without  
17 unnecessary delay.

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

9 (c) As used in AS 44.62.632 - 44.62.638,

10 (1) "date of receipt" means the date on which a state agency  
11 actually receives a completed application filed in accordance with  
12 agency regulations and at a place identified as appropriate for filing  
13 in the agency's regulations;

14 (2) "permit" means a permit, license, certification, consis-  
15 tency determination, or other authorization or approval issued by a  
16 resource agency as a written document that is required to be obtained  
17 or is solicited from a state agency before the construction or opera-  
18 tion of a project; "permit"

19 (A) does not include the approval of a unit agreement,

1 a unit development plan, or a unit exploration plan, or conveyances  
2 of interest in state land or water;

3 (E) does include all authorizations and approvals,  
4 whether proprietary or regulatory, necessary to undertake a project  
5 under a previously conveyed property interest;

6 (3) "project" means a new activity or expansion or addition  
7 to an existing activity for which permits are required before construc-  
8 tion or operation; "project" does not include pursuing a trade or  
9 profession, providing public health service, or operating a financial  
10 institution;

11 (4) "resource agency" includes the Department of Natural  
12 Resources, the Department of Environmental Conservation, and the Depart-  
13 ment of Fish and Game with respect to permits issued for the protection  
14 of fish habitat or the regulation of state sanctuaries, refuges, and  
15 critical habitat areas.