

SB

186

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER:

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)

3/16/87 DATE TURNED INTO OFFICE

Mr. President:

STATE AFFAIRS Committee considered SB 186

limitng the scope and content of regulations adopted under the
Administrative Procedure Act; efd.

and recommended:

[] replace with CS [] same title
[] attached amendment(s) and [] new title

[] do pass

[] do not pass

[] no recommendation

[] individual recommendations

[] further referral to

[] letter of intent adopted and attached

** Committee [] attached or [] adopted fiscal note(s)
[] zero [] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Phil [Signature] (DO PASS)
Jan [Signature]

Jan P. Josephson - Do NOT Pass
Public Hearing DO Pass

Sen [Signature]
Chairman signature and recommendation

[] Committee Backup Attached

Senator John B. (Jack) Coghill
Alaska State Legislature



Box V
Juneau, Alaska 99811
(907) 465-4797

Box 55028
North Pole, Alaska 99705
(907) 488-0802

TO: SENATE STATE AFFAIRS COMMITTEE
FROM: SENATOR JACK COGHILL
DATE: MAY 6, 1987
RE: SB 186 "An act limiting the scope of regulations adopted under the Administrative Procedure Act, and providing for an effective date".

The intent and purpose of this bill is straight-forward and quite simple. In essence, section 1 of SB 186 would require that, unless authorized by state law, a regulation adopted under this chapter may not limit the activities or choices available on a matter also subject to federal regulations to an extent greater than the minimum federal requirements.

In other words, the sponsor believes that federal regulations are sufficiently stringent to protect Alaska's best interests on matters where state and federal regulations apply. Indeed, it is an unfortunate observation that many of the state's rigid regulations stunt our private sector growth and do nothing more than allow a whole unneeded layer of government to exist.

With the current deep recession it is imperative that some of Alaska's unreasonable regulations be removed. If the private sector in Alaska is to flourish and produce the permanent jobs that Alaskans are calling for, SB 186 must be adopted.

Section 2 of SB 186 gives agencies until July 1, 1988 to bring regulations that conflict with Section 1 into compliance.

An immediate effective date for new regulations would also be in effect.

I would appreciate your support for SB 186.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

| | | | |
|------------------------------------|---------------------|--|------------------------------|
| DEPARTMENT Fish and Game | DIVISION Habitat | BILL NUMBER SB 186 | SPONSOR Coghill and Jones |
| DEPARTMENT POSITION Oppose | | | |
| PREPARED BY AS Habitat Division | DATE 4/22/87 | COMMISSIONER'S SIGNATURE <i>Donnell</i> | DATE 4-25-87 |

SUMMARY

| | |
|---|---|
| OTHER AGENCIES AFFECTED BY BILL All State Agencies | CONSTITUENT GROUP(S) AFFECTED BY BILL Sportsmen, commercial and recreational fishermen, subsistence users, municipalities and local governments, coastal resource districts (ACMP) |
| ORGANIZATIONAL SUPPORT FOR BILL Unknown | ORGANIZATIONAL OPPOSITION TO BILL Unknown |

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

This measure amends AS 44.62.020 (Administrative Procedure Act) to preclude administrative promulgation of a regulation on any matter that is also subject to federal regulation if the state regulation is more restrictive than the minimum federal requirements.

ANALYSIS OF BILL/PROGRAM EFFECTS

Section 1 of this measure will significantly limit the Department of Fish and Game's and the Boards of Fisheries and Game's authority to promulgate regulations for the conservation and development of the game, fisheries, and aquatic resources of the state. This limitation will preclude active state management of its fish, game and aquatic resources; essentially transferring management responsibility to the federal government for those activities currently under concurrent state and federal regulation. Specific activities affected include subsistence hunting and fishing, migratory waterfowl hunting, endangered and threaten species, and commercial fishing activities beyond the state's three mile limit.

Section 1 of this measure will also affect both the state's and local government entities' (with approved ACMP District Plans) authority under the Alaska Coastal Management Program to render conditional consistency findings for activities on federal lands within the coastal zone. In addition, the measure may limit or

(Continued)

AMENDMENTS PROPOSED

This measure is extremely broad and encompassing in scope and applicability and may have subsequent affects outside of its intended purpose. It is preferable that specific legislative concerns and purposes be directly addressed through specific legislation or statement of legislative intent.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

ANALYSIS OF BILL/PROGRAM EFFECT (Continued)

potentially preclude state administration and/or active state participation in the federal programs established under the Federal Water Pollution Control Act (Clean Water Act), Clean Air Act, Surface Mining Control and Reclamation Act (SMCRA), Anadromous Fish Conservation Act, Endangered Species Act, Resource Conservation and Recovery Act (RCRA), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), Noise Control Act, Occupational Safety and Health Act (OSHA), and Safe Drinking Water Act.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____ Bill Version: SB 186
 Publish Date: 4/22/87
 Revision Date: _____ Agency Affected: Fish and Game
 Title: An Act limiting the scope and content of regulations adopted under the Administrative Procedures Act.
 Sponsor: Coghill and Jones Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING | FY 87 | FY 88 | FY 89 | FY 90 | FY 91 | FY 92 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0 | 0 | 0 | 0 | 0 | 0 |

| | | | | | | |
|---------|---|---|---|---|---|---|
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

| | | | | | | |
|---------|---|---|---|---|---|---|
| REVENUE | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|---|---|---|---|---|---|
| GENERAL FUND | | | | | | |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | 0 | 0 | 0 | 0 | 0 | 0 |

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS : (Attach a separate page if necessary)

 Prepared by: Bruce H. Baker Phone: 465-4105
 Division: Habitat Date: _____

Approved by Commissioner: David M. Williams Date: 4-25-87
 Agency: Department of Fish and Game

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requester
 Office of Management and Budget
 Impacted Agencies
 Senate Secretary

Senator John B. (Jack) Coghill
Alaska State Legislature

Box V
Juneau, Alaska 99811
(907) 465-4797

Box 55028
North Pole, Alaska 99705
(907) 488-0862



TO: SENATOR ABOOD
FROM: SENATOR COGHILL
DATE: APRIL 29, 1987
RE: SB 186 "An Act Limiting regulations"

I would appreciate your State Affairs Committee hearing my SB 186 as soon as possible. This important bill would not allow state regulations to be more stringent than federal regs. This would do much to free up more resource and economic development in our state, which would translate into more private sector jobs. Please place SB 186 on your calendar as soon as possible. Thank you very much.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

May 6, 1987

Honorable Jack Coghill
Alaska State Legislature
Room 30, Capitol Building
Juneau, Alaska 99811

Re: SB 186 (administrative
regulations)

Dear Senator Coghill:

Your assistant, Mike States, has asked for a "position paper" on your SB 186. I have not discussed the bill with the governor, and cannot state the Administration's position on it, but perhaps a few comments would be helpful.

The bill adds to the Administrative Procedure Act a sentence prohibiting regulations adopted under that Act from setting a higher standard than a federal regulation covering the same subject matter. By its general applicability, this provision would cover a great range of subjects, from air and water quality to asbestos and occupational safety standards to prevailing wage rates to federally funded public works projects such as highways, etc. The effect would be to allow the federal government to set a whole range of standards for Alaska without allowing the state to tailor the requirements to a higher and more appropriate local standard. In addition, it seems that very often it is the state's effort to raise our standards to the federal minimum that causes an outcry in some sector, not the fact that the state is setting a higher standard.

Your amendment does include the phrase "unless authorized by state law," but, for a number of existing statutorily covered subjects, the general prohibition would apply until the legislature takes action to amend a variety of existing statutes. In addition, it is quite possible for the legislature to overlook this provision when enacting some new program. So there is the potential for some difficulty if this amendment were to pass.

I understand that this bill is being taken up today in the Senate State Affairs Committee, so I am getting these com-

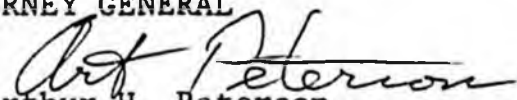
Hon. Jack Coghill
Alaska State Legislature

May 6, 1987
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ments to you as quickly as possible, and I hope that you find them helpful. Thank you for this opportunity to comment.

Very truly yours,

GRACE BERG SCHAIBLE
ATTORNEY GENERAL

By: 
Arthur H. Peterson
Assistant Attorney General

AHP:md

cc: Hon. Mitch Abood, Chair
State Affairs Committee
Alaska State Senate

George Sullivan
Legislative Liaison
Governor's Office

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PARKS AND OUTDOOR RECREATION

3601 C STREET
ANCHORAGE, ALASKA 99503
PHONE: (907) 561-2020

MAILING ADDRESS:
PO. BOX 107001
ANCHORAGE, ALASKA 99510-7001

May 1, 1987

Re: 3140-3 (Completing National Register Nomination Forms)

Senator Joe Josephson
Attn: Rosemary Karish
Alaska State Senate
P.O. Box V
Capital Building, Room 113
Juneau, Alaska 99811

Dear Senator Josephson:

Thank you for your interest in listing your property in the National Register of Historic Places. If accepted for the Register your property will be one of several thousand to receive this national recognition.

Significant heritage properties are listed in the National Register through a process that begins with owner's consent. After reading the enclosed owner's consent form, please sign it, have it notarized, and return it to this office. If you wish to list a property that you do not own, you must get the owner's signature before the property may be listed in the Register. Listing can not proceed without owner's consent. . .

The actual listing of your property in the National Register is done by nomination. Buildings, structures, objects and sites are eligible for the Register. You can nominate your own property to the Register by filling out the enclosed nomination form, or, you may have someone else complete the form for you. The complete nomination will include the nomination form, a sketch showing the plan of your property, clear black and white photographs, and a map showing its location.

The finished form undergoes two reviews after it arrives in this office. The Governor's Historic Sites Advisory Committee reviews all nomination forms for Alaska before they are sent to the Keeper of the National Register in Washington, D.C. The staff of the Keeper also reviews completed nomination forms and makes the final decision before the property can be listed in the National Register. Once listed, the nomination becomes part of a permanent, national archive. This resource is consulted by historians, planners, architects, educators and decision makers who need accurate information in their work. It is very important that your writing be clear, that statements of fact are adequately documented and references are cited for any quotations

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used. You are not only writing the story of your property, you are writing history. Writing a nomination that passes two formal reviews and is listed in the National Register without being returned with questions depends on the quality of information in the nomination form.

Please take a little time to familiarize yourself with the attached instructions for filling out the nomination form. The first thing to become familiar with are the Criteria for Evaluation. Properties eligible for the Register (districts, sites, structures, buildings, objects) must possess integrity of location, design, setting, materials, workmanship, feeling and association and:

- be associated with events that have made a significant contribution to the broad patterns of our history; or
- be associated with lives of persons significant in our past; or
- embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or possess high artistic values, or represent a significant and distinguishable entity whose components may lack individual distinction; or
- yield, or may be likely to yield, information important in prehistory or history.

Select one or more of the Criteria that you feel best describes your property and plan to tell why your property should be nominated to the National Register based on that Criteria.

Two important steps follow after selecting the Criteria. First, the property should be inspected and evaluated for authenticity and integrity. Second, results of literature research and field investigation should be recorded on the nomination form. In the case of a building (or buildings), look for proof of how much remains of the original structure(s), whether it has been relocated, and how much it may have been changed or rebuilt. There is no single, correct way to write a Physical Description (Item 7); you may prefer to start at the foundation and work your way up to the roof by describing the materials used, changes made (and approximate dates), and condition of the material today. If the building is on pilings this should be noted, dimensions should be given for the structure's length, width and height, its plan should be described (square, rectangular, "H", "T" shape, etc., the number of floors and type of roof should also be described, if siding was used on the exterior walls its type size and color should be noted, location and arrangement of windows and doors should also be detailed. The uses of the building (if it has had several), moves and other modifications may be described in additional paragraphs.

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The Statement of Significance (Item 8) should be written as though reviewers and people who may read the finished nomination have no knowledge of the property or why it is important. Develop the Statement of Significance in local, state or national history. Alaskan Territorial and State history, like most western states', is so new that many early settlers and citizens who helped found our cities played major roles in this history. The story of their homes and businesses are often the first chapter of town and city history. Alaska Native history is also rich in material, as are other periods of our history (Russian Colonial, Gold Rush, and Military). Research for the Register may include the following sources:

- University, local museums
- Alaska Historical Library in Juneau, local libraries, University of Alaska Libraries
- Interviews with old-time residents and elders of a community
- Local newspapers
- Land office records

With experience you will discover that the most frequently consulted historical sources are periodicals, newspapers, memoirs, military reports, U.S. Geological Survey bulletins, business annual reports, maps, and family photographs. Other useful sources include records of the town, land offices, courts, district recorder offices, the Bureau of Indian Affairs, Bureau of Land Management, and the State Division of Lands. Town records may include early photographs, tax records, fire insurance maps, etc. Early fire insurance maps (Sanborn Maps) will indicate the location and shape of insured buildings, sometimes include detailed architectural descriptions and can be found in University Libraries. The records of the borough or city tax assessor will be useful in tracing the history of ownership of historic properties. Court records include deeds, wills, inventories, marriage records, early tax records, bankruptcy papers, plats, etc.

A legal description of the property on which the historical structure is located is necessary. In the case of towns, block and lot numbers will suffice. If the land is patented, the year when the patent was issued, the patent number and amount of acreage will be needed. In the case of unpatented mining properties, examine the records of the district recorder's office, which will include a description of the boundaries of the mining claim.

The property should also be examined as it stands today. Each structure should be photographed with black and white film on all sides and photos should be taken of any character-defining features (staircases, display cabinets, ornate interior moldings, and other special features that give the structure character.) Prints submitted with the nomination should be 5" x 7"

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or larger; please send two copies of each print. Copies of historical photographs showing the structure are very useful to document its history; two copies are preferred as one is sent to Washington with the nomination and the second remains in this office's files. The location of buildings and other structures should be marked, in pencil, on a United State Geological Survey map, a one-inch-to-the-mile, map is preferred. Floor plans of structures should be prepared, indicating the location of windows, doors, porches, stairs, and the dimensions of the structure. An architect does not have to prepare the plans, an informal sketch that has this information on it will suffice.

It is a good idea to submit a draft of the nomination, with photographs, sketches and maps, so one of my staff can work with you if polishing is needed. The completed nomination not only expands historical knowledge about Alaska, but it also provides the basis for protection of significant properties by law. Please do not hesitate to call Jo Antonson at 762-4142 if you have questions or if we can help you in your research.

Sincerely,

Neil C. Johannsen
Director

By: 
Judith E. Bittner
State Historic Preservation Officer

enclosures

PWC:tls

STATE

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PARKS AND OUTDOOR RECREATION

May 1, 1987

Re: 3140-3 (Historic Preservation in Alaska)

3601 C STREET
ANCHORAGE, ALASKA 99503
PHONE: (907) 561-2020

MAILING ADDRESS:
PO. BOX 107001
ANCHORAGE, ALASKA 99510-7001

Senator Joe Josephson
Attn: Rosemary Karish
Alaska State Senate
P.O. Box V
Capital Building, Room 113
Juneau, Alaska 99811

Dear Senator Josephson:

I would like to take this opportunity to describe the Alaska historic preservation program and explain how it functions. This office (the Office of History and Archaeology) is a section of the Alaska Division of Parks and Outdoor Recreation. The functions of our office are mandated under the National Historic Preservation Act and the Alaska Historic Preservation Act. Our primary activities involve nominating, and assisting others to nominate, sites to the National Register of Historic Places. The National Register is the federal government's official list of historic and prehistoric properties recognized by the federal government as worthy of preservation. Before listing in the Register can take place, owner's consent must be given.

There are several benefits which apply to a listed property:

1. Listing on the Register means that a property is accorded proper recognition nationwide for its significance in American history or prehistory.
2. There are certain tax benefits which apply to income-producing Register sites, including a 25% investment tax credit on the cost of approved rehabilitation work and 18-year depreciation of 87.5%. These, and other tax benefits, run with the property and may be transferable to a new owner.
3. Listed properties are automatically eligible for matching grants from the federal government that can be used for rehabilitation and restoration purposes. During FY'83 Alaska received nearly \$400,000 in such grant funds. However, the program has not been funded since, and prospects do not look good for such monies to be authorized by Congress for FY'87.
4. Listed properties, or those eligible for listing, are protected by a review process (established under Section 106 of the NHPA) when proposed for impact by a federally funded, licensed, or otherwise federally assisted project. Please note that neither properties

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listed in nor properties eligible for the Register, or modifications to the latter, are the subject of this review. The subject of the review process is the federal project and its impact; the review is designed to take place while the project is still in the planning stage. Its purpose is to avoid, if at all possible, damaging or destroying significant heritage properties by seeking alternative designs, locations, etc. The review is conducted by the lead federal agency in consultation with the State Historic Preservation Officer and the Advisory Council on Historic Preservation (a federal agency).

In summary, listing a property on the Register does not place limitations on the property. Certain responsibilities are involved, however. If a property owner wishes to maintain a property on the Register, the features which qualified the property for listing must be maintained. Some very general recommendations have been developed which address problems encountered by owners of Register properties. The Secretary of the Interior's Standards for Historic Preservation Projects include recommendations against removing historic material, suggestions for non-destructive cleaning methods, advice for making repairs that match the original fabric of the building, etc. A copy of the Standards will be sent to you upon request.

Public visitation rights are not required of owners who list their properties on the National Register. Neither the federal government nor the state government will attach restrictive covenants to the property, or seek to acquire it. Register listing does not invoke of any state or local regulations for design review, restrictive zoning, or review of alterations. If a building is listed in the National Register and then modified to such an extent that many of its significant original features are lost, it is possible that its National Register status may be revoked. Should this happen, any rehabilitation and restoration grants previously awarded by this office or (in the case of income-producing properties) investment tax credits taken on the building's renovation costs would have to be returned to the State of Alaska or the Federal Internal Revenue Service, as appropriate. This condition is imposed to discourage demolition and excessive modification of significant historic buildings.

Surveys of local heritage resources are critical first steps if these sites are to be preserved and interpreted for the enjoyment and education of future Alaskans. Matching federal funds for Survey and Inventory grants are available on a yearly basis and may be used for historic property inventories, resource protection planning, writing national register nominations, and archaeological surveys. Any individual or group is eligible to apply for these grants, provided that a matching source of funding or in-kind labor/materials are pledged toward the project. These grants may not be used for acquisition or development purposes. Architectural plans, specifications, historic structures reports and engineering studies may not be funded by this

May 1, 1987

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program. An historic structure may, however, be documented (without developing restoration plans), archival research and oral histories may also be done. The program is primarily for inventory purposes; in the past these funds have been used to document the prehistories/histories of villages, towns or regions. Grants for FY'86 were awarded in April, 1986; we currently anticipate awarding grant funds again in May 1987.

There are no state-funded preservation grants available at this time. The one source of state money which is available for preservation projects is the Historical District Revolving Loan Fund, administered by the Division of Investments (Alaska Department of Commerce and Economic Development, Pouch D, Juneau, Alaska 99811). Loans may be made for the restoration, improvement, rehabilitation or maintenance of historical buildings. The structures must be suitable for superficial modification so that they can conform to the period or motif of the surrounding structures that are the reason for the area's designation as a historical district. Loans are made at 7.5% interest to a maximum amount of \$250,000 per structure over a 30 year period. The loans are secured by a first lien position given to the state. All projects must be approved by a local Historical District Commission and by a majority of the Alaska Historic Sites Advisory Committee, which is appointed by the Governor.

If you wish to proceed with the nomination process for an historic object, building or structure, please contact Ms. Jo Antonson with the Office of History and Archaeology, at 762-4142. She can help you with questions about the National Register, financial incentives associated with it and can send you forms for owner's consent and for listing a property in the National Register.

Sincerely,

Neil C. Johannsen
Director

By: 
Judith E. Bittner
State Historic Preservation Officer

PWC:clk

United States Department of the Interior
National Park Service

National Register of Historic Places Registration Form

This form is for use in nominating or requesting determinations of eligibility for individual properties or districts. See instructions in *Guidelines for Completing National Register Forms* (National Register Bulletin 16). Complete each item by marking "x" in the appropriate box or by entering the requested information. If an item does not apply to the property being documented, enter "N/A" for "not applicable." For functions, styles, materials, and areas of significance, enter only the categories and subcategories listed in the instructions. For additional space use continuation sheets (Form 10-900a). Type all entries.

1. Name of Property

historic name _____

other names/site number _____

2. Location

street & number _____

not for publication

city, town _____

vicinity

state _____ code _____ county _____ code _____ zip code _____

3. Classification

Ownership of Property

- private
- public-local
- public-State
- public-Federal

Category of Property

- building(s)
- district
- site
- structure
- object

Number of Resources within Property

| Contributing | Noncontributing |
|--------------|------------------|
| _____ | _____ buildings |
| _____ | _____ sites |
| _____ | _____ structures |
| _____ | _____ objects |
| _____ | _____ Total |

Name of related multiple property listing: _____

Number of contributing resources previously listed in the National Register _____

4. State/Federal Agency Certification

As the designated authority under the National Historic Preservation Act of 1966, as amended, I hereby certify that this nomination request for determination of eligibility meets the documentation standards for registering properties in the National Register of Historic Places and meets the procedural and professional requirements set forth in 36 CFR Part 60. In my opinion, the property meets does not meet the National Register criteria. See continuation sheet.

Signature of certifying official _____

Date _____

State or Federal agency and bureau _____

In my opinion, the property meets does not meet the National Register criteria. See continuation sheet.

Signature of commenting or other official _____

Date _____

State or Federal agency and bureau _____

5. National Park Service Certification

I, hereby, certify that this property is:

- entered in the National Register.
 See continuation sheet.
- determined eligible for the National Register. See continuation sheet.
- determined not eligible for the National Register.
- removed from the National Register.
- other, (explain:) _____

Signature of the Keeper

Date of Action

B. Statement of Significance

Certifying official has considered the significance of this property in relation to other properties:

nationally statewide locally

Applicable National Register Criteria A B C D

Criteria Considerations (Exceptions) A B C D E F G

Areas of Significance (enter categories from instructions)

Period of Significance

Significant Dates

Cultural Affiliation

Significant Person

Architect/Builder

State significance of property, and justify criteria, criteria considerations, and areas and periods of significance noted above.

See continuation sheet

United States Department of the Interior
National Park Service

National Register of Historic Places Continuation Sheet

Section number _____ Page _____

Regulations are key issue facing state

By ERIC R. DAVENPORT

Government regulations daily affect all of us either directly, or indirectly. This article discusses this very expensive aspect of our state government and its effect on economic development—our economic future in Alaska.

During these days of transition for Alaska, common themes of economic diversification, jobs for Alaskans and protecting our environment are on all our minds. These are complex concerns and present tremendous challenges for the administration of Gov. Steve Cowper.

There are many issues and problems surrounding these popular themes and a key one is regulation. Interestingly, state and local governments control this major obstacle to Alaska realizing its goals in these areas.

Industries providing jobs for Alaskans that are safe for our air and water have incredibly large regulatory hurdles to cross in order to locate or expand in our state. State departments having regulations which affect new industries or the expansion of existing Alaskan industries include the departments of Environmental Conservation, Labor, Natural Resources, Public Safety, Management and Budget, Commerce and Economic Development, Fish and Game and the Department of Transportation and Public Facilities.

Many local governments have additional regulatory requirements often involving departments of Planning, Building, Engineering, Fire and Public Works.

Cost Factors

The actual cost of regulations in the form of permits or licenses is relatively small compared to the expense associated with long writing periods for review and approval. And this does not include the costs to prepare materials prior to submitting a request for permit or license, such as environmental impact statements, construction plans, calculations, etc.

Some points about regulations that we need to keep in mind are:

- Most were originally developed and implemented for good reasons.
- They are expensive to administer in terms of dollars and the number of people needed for operations.
- Each regulation is narrowly focused, usually on a single issue. The administering agency is often insensitive to other departments or levels of government having a similar or related charge.
- They are usually expensive for businesses or the individual to comply with.

Vital components of government—so critical to this issue—include the governor, state departments, and the legislature. These components often have conflicting agendas when trying to minimize the negative effects of regulations.

Departments are organized and exist for the purposes of dealing with specific types of issues. A primary way they accomplish their charge is by regulation. Commissioners and other administrative staff are less concerned with coordinating activities between departments than they are with getting their specific task done. The result is regulations that have little substantive or operational compatibility with other departments. Sometimes this lack of coordination and awareness occurs within departments themselves.

From another perspective, the legislature sets law and directs policy protecting or promoting the interests of Alaskan individuals and organizations. Recent legislative history shows that many laws have been passed establishing regulations which have large operating price tags.

No doubt the purpose of the regula-

tion was well intended; and there was little concern about the cost when the treasury was full. However, the next legislature will deal with quite a different problem. Needs have not changed but the amount of available dollars to fund regulatory programs is substantially less than what it has been. Also, they must give consideration to the effect of regulations on business in Alaska and how these rules impact our quality of life and economic well being.

"The fact is that the size of regulatory government grows in number and complexity every year."

The governor is often viewed as being in the middle of this problem. He has the authority to veto legislation and appoint commissioners who administer the state's programs. How Gov. Cowper uses commissioners who administer the state these authorities in dealing with regulations will send a clear message to business worldwide, about Alaska's receptivity towards commercial growth in our unique Alaskan environment.

Unique Problems

The importance of a favorable regulatory environment, as a means of attracting business, becomes more clear when we remember the unique problems small businesses have in our state. Namely, they have problems of distance from production materials and major domestic markets; costly and scattered concentrations of labor; and high energy costs.

These factors, for the most part, are not in state government control. But what Alaska regulates and how it administers these regulations is within the state's control. The efficiency by which we deal with the issue of regulatory government can go a long way toward offsetting the negative aspects of doing business in Alaska.

In the past, local, state and federal governments have shown that they recognize the importance of regulatory programs by undertaking efficiency programs such as permit streamlining, regulatory relief or the elimination of red tape.

These were well intended but have had little positive gain, aside from isolated innovations. Businesses today have larger governmental affairs staffs than they did 10 years ago when streamlining and regulatory reformism last became a popular issue.

The fact is that the size of regulatory government grows in number and complexity every year.

From a regulatory perspective, it is more difficult today to locate and build a building than it was even five years ago. The public simply shakes its head, attributing the condition to "the general nature of bureaucracies." The expectation is for things to get worse and become more complicated.

Actual Solutions

Gestures and phrases may work well politically but flounder economically. Solutions to the regulatory maze must be "actual." They must

result in reductions in both government spending for regulatory programs and business expenses to obtain compliance.

"Actual" changes of this nature will serve as confidence builders in the business community. The positive result will be new and expanding industries, more jobs for Alaskans, and a continued clean environment for us to live and work in.

Possible solutions for making "actual" changes to present methods of

administering regulatory programs include:

- Investigate each regulatory program to determine why it was originally developed and sunset those programs for which that reason has changed or no longer exists.
- Consolidate, into a single department, like administrative functions

occurring in different departments.

- Standardize internal systems across department lines.
- Eliminate the various appeals boards dealing with violations of administrative regulations. Replace these boards by making Commissioners the first point of appeal and develop a new single body, the Alaska Appeals Board, the second and final appeals point.
- Investigate innovations to existing regulatory programs like prorated fines based on production income levels v. flat fines; elimination of state and local duplicating regulations, (building related codes, business licenses, land use laws, etc.); low interest loans available to businesses to retrofit equipment; implement Industrial Development (ID) Districts in communities which have select regulatory advantages for siting businesses; make the Marine Highway sys-

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tem available for moving raw materials or products between Alaskan ports and Seattle on a space available basis and at reduced rates.

And most importantly, implement all regulatory program reforms by order of the governor, at the cabinet level, in the form of organization wide policies. This will provide leadership establishing continuity and uniformity throughout the state bureaucracy.

It will also function to transmit innovations and information to all state agencies and ensure that changes, regardless of special interests and internal agendas, will be implemented.

We have vast resources available to us to deal with our future, intellectual, cultural, and natural. We control the manner and method of how we regulate these resources. Our actions, or lack of actions, at this time regarding these key issues will go along way in shaping Alaska's future.

Eric R. Davenport is a management consultant based in Juneau specializing in organizational development, regulatory management processes, and program evaluation and design. He has been involved with regulatory government since 1975 and is nationally recognized for pioneering a national program model called the Permit Application Center. He later became Deputy Director of the Builders Board for the State of Oregon.



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