

**HB**

**436**

# Alaska State Legislature



While in Session:  
State Capitol Building  
Juneau, Alaska 99801-11-2  
907-465-3719

Interim:  
119 N. Cushman  
Suite 211  
Fairbanks, Alaska 99701  
907-456-5081

Representative Al Vezey

## SPONSOR STATEMENT HB 436

"An act prohibiting the Department of Environmental Conservation from adopting or enforcing a regulation that establishes an ambient air quality standard or emission standard that is more stringent than a corresponding federal standard; and providing for an effective date."

This bill will preclude the DEC from adopting by regulation any ambient air quality or emission standard that is more stringent than the federal standard. This bill will limit that authority to the legislature which can adopt by statute any standard deemed in the state's best interest.



*Department of Environmental  
Conservation*

# POSITION PAPER

BILL NO: HB436

APPROVED:

*John A. Tinkler*

DATE:

*2/22/94*

TITLE: An Act prohibiting the Department of Environmental Conservation from adopting or enforcing a regulation that establishes an ambient air quality standard or emission standard that is more stringent than a corresponding federal standard; and providing for an effective date.

During the 1993 legislative session the Alaska Department of Environmental Conservation (ADEC) was one of several partners involved with the Alaska Legislature in deliberating HB 167, the Air Bill, sponsored by Representative Mark Hanley. Obtaining new state legislation to meet the federal requirements has been a demanding multi-year effort not only for this agency, but for numerous industry and public interest groups in Alaska. HB 167 was successful in striking a very workable compromise among a wide range of Alaska's divergent interest groups. ADEC finds that it must now oppose HB 436 for several reasons; foremost because it breaks the balance of the compromises achieved last year with HB 167.

The Department's air quality mission of protecting health also comes with the responsibility to foster an environment that enables economic expansion for our businesses and industries, while safeguarding our health. Although, the intentions of HB 436 may be to better position state law for economic expansion through less environmental oversight, the effects of this proposed legislation could be quite different. For example, in a locale where existing air pollution levels are just slightly within accepted health standards, it may be possible to allow a new industrial activity, but only if ADEC has the ability to set out-of-stack emission standards that are more stringent than federal emission standards. To not have this tool of more stringent standards would close the opportunity to employ technology that would otherwise enable the enterprise to occur while also protecting the health of nearby Alaskans. This is not an uncommon example. Recently, this tool has become essential in enabling the agency to approve construction of the new Healy Clean Coal Project. This project expands interior power generating capacity by using new technology to offset air pollutant emission increases that minimize impacts to nearby Denali National Park.

In the Port of Valdez, Alaska has the nation's largest single source of organic vapor emissions due to tanker operations at Alyeska's Valdez Marine Terminal. EPA is in the final stages of setting emissions standards for this activity. Adopting state standards in conjunction with the federal action, could potentially provide greater flexibility for Alaska and our industry, but also meet the federal goal of reduced emissions.

Furthermore, the Environmental Protection Agency (EPA) does not always have a full grasp of what may or may not be safe health criteria in arctic and subarctic climates of Alaska. As we have learned recently from the people of Fairbanks, through the events of last winter's use of oxygenated automobile fuel, climatic conditions in our northern regions can result in unique public health concerns. Retaining authority to responsibly address pollution issues of local concern is, at its center, a state's rights issue. The inability to set more restrictive ground level ambient standards not only fails to respond to our citizen's needs, but could generate a localized public resentment to the business community that could stymie economic expansion.

In 1991, the department adopted a public health ambient standard for exposure to ammonia gas. Trees near the industry plants were dying and public concern was high. Federal standards for ammonia discharges have not been set, and are not under immediate consideration. Our action was supported by the regulated industry because it was done only after conclusion of both agency and industry review of the scientific information about the health and welfare impacts of this pollutant. Because citizens of north Kenai were very much a part of this process, there is now a stronger business-neighbor climate in that locale which will better serve the economy of that area.

*For further information contact Leonard Verrelli or Tom Chapple at 465-5100.*

ADDENDUM TO DEC POSITION PAPER  
Dated February 22, 1994  
Air Quality Management Component

Change To Fiscal Note

The information in the Original Position Paper is still valid. The Department aired in its evaluation of the impacts of the bill on the Air Quality Management Component. In addition, the Air Quality Management Increment was reduced by the House Sub-Finance Committee by \$200,000 which resulted in the loss of two positions.

Closer examination of the impacts of HB436 revealed that staff had not taken into account the impacts of what is called PSD AVOIDANCE. PSD Avoidance is when a source elects emission standards more stringent than the Federal New Source Performance Standards (NSPS) in order to avoid the more costly PSD permit process. This is very common for a source such as large turbine, utilities and boilers to be considered PSD however the permittee has a choice. HB436 would preclude that choice forcing source through the PSD process.

The Department estimates it processes between 13 and 25 PSD Avoidance permits annually. The permittees are usually Rural Electric Utilities, Soil Remediation Units, Exploratory Wells, Seafood Processors and Hospitals.

The fiscal note before the committee is based on half of the avoiders falling under the NSPS emission standards resulting in 6 or more PSD applications being processed by Air Quality Management. The PSD process depending on the complexity takes 6 months to one year to process. To provide additional service the regulated community would require additional staff and funds for contracting some of the Best Available Control Technology work for modeling and source evaluation as an example.

The cost to industry will increase significantly. PSD permit application cost in the hundreds of thousands of dollars to prepare depending on the complexity. The PSD Avoidance Permits can be processed quickly (two or three months) by our Regional Offices however as stated earlier full blown PSD Reviews can take up to a year or more.

The most obvious example of the effects of the bill, would be the Healy Permit being processed by the department. This permit has emission limits that are more stringent than the Federal counterpart. If the bill passes in its current form the Healy Project could not be permitted. The bill could result in EPA denying primacy (delegation) of the Title V Program to the state, since the bill would limit the department in being able to apply BEST AVAILABLE CONTROL TECHNOLOGY as required by the Clean Air Act 1990.

# FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. HB 436

Revision Date: 22-Feb-94  
 Title: An Act Prohibiting ADEC from adopting or enforcing standards more stringent than federal air standards  
 Sponsor: Representative Vezey  
 Requestor: Representative Vezey

Department Affected: Environmental Conservation  
 BRU: Environmental Quality  
 Component: Air Quality Management

COMPONENT SERIAL NO. \_\_\_\_\_

Expenditures/Revenues:	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0
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**FUND SOURCE**

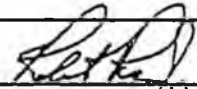
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTLA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost: \$ 0.0


**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.)  
 Should this become law, the department's preliminary analysis indicated there to be no fiscal impact to ADEC. Setting standards which are more stringent than federal standards is a relatively unique event driven frequently by very localized conditions. It is very difficult to estimate the fiscal consequences of these unique events.

Prepared by: Bob Poe, Director   
 Division: Information and Administrative Services

Phone: 465-5010  
 Date: 2/22/94

Approved by Commissioner:   
 Agency: Department of Environmental Conservation

2  
 Date: 2/22/94

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(7)

Date Referred: February 4, 1994

FURTHER REFERRALS:

Resources

Date of Committee Action: 2-24-94

The STATE AFFAIRS Committee considered:

HB 436

HOUSE BILL NO. 436

STRICTNESS OF AIR QUALITY REGS

"An Act prohibiting the Department of Environmental Conservation from adopting or enforcing a regulation that establishes an ambient air quality standard or emission standard that is more stringent than a corresponding federal standard; and providing for an effective date."

RECOMMENDATIONS:  the same title  
be replaced with \_\_\_\_\_  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note DEC

zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Al Vesey</i>	x	<i>Pete Fort</i>		<input checked="" type="checkbox"/>	
<i>Hailey Olberg</i>	✓	<i>Jeff Sogard</i>		<input checked="" type="checkbox"/>	
		<i>Fred L. Dean</i>		<input type="checkbox"/>	

*Al Vesey*  
CHAIRMAN'S SIGNATURE

FOR REPRODUCTION ON 03/28/94 AND HAS 9 REVISIONS  
TESTIMONY WILL BE TAKEN WITH A 5 MINUTE LIMIT  
STANDARD REMARKS (FUD): TESTIMONY 1 ALLOTTED

3 MINUTE LIMIT

HEARING SITE: JUNEAU  
CONTACT: MARK MCCOBBELL TEL#: (907) 465-3715  
LEGISLATIVE

CHAIRS: WILLIAMS

STANDARD HRS: HOST RESOURCES  
\*\*\* ORDER SUMMARY \*\*\*

TIME: 4057B  
DATE & TIME: 03/28/94 08:15 TO 10:00 STATUS: 6  
ADJOURNED  
11:28:23  
PAGE 01  
LEGISLATIVE TELECONFERENCE NETWORK

\*\*\* AGENDA \*\*\*

1. HB 286 ACTIVITIES IN ANADROMOUS FISH STREAMS
2. HB 428 STRICTNESS OF AIR QUALITY REGS

\*\*\* PARTICIPATING BLDG \*\*\*

ANC ANCHORAGE	716 W 4TH. #200	LOCATION STAFF
COR CORDOVA	705 2ND STREET	LOCATION STAFF
FBX FAIRBANKS	119 N CUSHMAN ST	LOCATION STAFF
JNU JUNEAU	CAPITOL	LOCATION STAFF
PAT NAISU	165 E PARKS HWY.	LOCATION STAFF
SIT SITKA	210 LAKE STREET	LOCATION STAFF
SOL KEN/SOL	34824 PALIFONSKY	LOCATION STAFF
VAL VALDEZ	STATE BLDG. #13	LOCATION STAFF

PARTICIPANTS IN: ANCHORAGE ANC

1	BEN	ELLIS	KENAI RIVER	3POK TSEY, HB 286
	PO BOX 1228		SOLDOTNA	AK 99659 (907)232-8568
2	GREG	BELL		TSEY, HB 286
	2048 ESQUIRE DR		ANCHORAGE	AK 99517 (907)563-3938
3	CARL	LONDON		TSEY, HB 286
	6231 OLD SEDAWD HWY		ANCHORAGE	AK 99518 (907)274-6560
4	PAUL	MCLAUGHLIN		TSEY, HB 286
	4916 CASTLE CRT		ANCHORAGE	AK 99508 (907)333-5485
5	JOE	DEHRMAN		TSEY, HB 286
	3527 VASSAR DR		ANCHORAGE	AK 99508 (907)276-6852
6	JEFF	PARKER	ANCH F&C ADVIS	TSEY, HB 286
	1207 HYDER		ANCHORAGE	AK 99507 (907)274-5418
	LAPOL	TRUSKEY	F&C	OBSV, HB 286
	333 RASPBERRY RD		ANCHORAGE	AK 99507 (907)267-7391

PARTICIPANTS IN: CORDOVA COR

1 MS.	DORN	HAWKHURST	COFU	TSEY, HB 286
	PO BOX 939		CORDOVA	AK 99574 (907)424-3447

PARTICIPANTS IN: FAIRBANKS FBX

1 MR.	PAUL	HEADLEE	TCC	TSEY, HB 286
	122 1ST AVE.		FAIRBANKS	AK 99701 (907)452-8251
2 MR.	FRED	PRATT		OBSV, ALL ITEMS
	PO BOX 72981		FAIRBANKS	AK 99707 (907)000-0000

PARTICIPANTS IN: JUNEAU JNU

1 REP	BILL	WILLIAMS		TSEY, ALL ITEMS
				AK (907)000-0000
2 REP	ELDON	MULDER		TSEY, ALL ITEMS

LTM100-R01  
03/28/94

LEGISLATIVE TELECONFERENCE NETWORK

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11:28:23

TCN: 40578 DATE & TIME: 03/28/94 08:15 TO 10:00 STATUS: 6 ADJOURNED

PARTICIPANTS IN: JUNEAU JNU

3 REP	JEANNETTE	JAMES		AK (907)000-0000
				TSEY, ALL ITEMS
4 REP	JOE	GREEN		AK (907)000-0000
				TSEY, ALL ITEMS
5 REP	CON	BURDE		AK (907)000-0000
				TSEY, ALL ITEMS
6 REP	BILL	HUDSON		AK (907)000-0000
				TSEY, ALL ITEMS

7	REP	DAVID	FINKELSTEIN	AK	(907)000-0000
					TSFY, ALL ITEMS
8	REP	PAT	CARNEY	AK	(907)000-0000
					TSFY, ALL ITEMS
9	SEP	JOHN	DAVIES	AK	(907)000-0000
					TSFY, ALL ITEMS
10		TO	OBSERVE	AK	(907)000-0000
					OBSV, ALL ITEMS
11		TO	OBSERVE		OBSV, ALL ITEMS
12		TO	OBSERVE		OBSV, ALL ITEMS
13		TO	OBSERVE		OBSV, ALL ITEMS
14		TO	OBSERVE		OBSV, ALL ITEMS
15		TO	OBSERVE		OBSV, ALL ITEMS
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26		TO	OBSERVE		OBSV, ALL ITEMS
27		TO	OBSERVE		OBSV, ALL ITEMS
28		TO	OBSERVE		OBSV, ALL ITEMS
29		TO	TESTIFY		TSFY, ALL ITEMS
30		TO	TESTIFY		TSFY, ALL ITEMS
31		TO	TESTIFY		TSFY, ALL ITEMS
32		TO	TESTIFY		TSFY, ALL ITEMS
33		TO	TESTIFY		TSFY, ALL ITEMS
34		TO	TESTIFY		TSFY, ALL ITEMS
35		TO	TESTIFY		TSFY, ALL ITEMS
36		TO	TESTIFY		TSFY, ALL ITEMS

PARTICIPANTS IN: NATSU NAT

1	MR.	TED	SMITH		TSFY, HB 286
		PO BOX 1026		WILLIW	AK 99688 (907)495-6627
2	MR.	DAVE	CRUZ		TSFY, HB 286
		PO BOX 2027		WASILLA	AK 99645 (907)736-3144
3	MR.	STEVE	STRUBE		OBSV, HB 286
		PO BOX 521155		HIG LAKE	AK 99652 (907)892-7760

PARTICIPANTS IN: SITKA SIT

1		DOM	MULLER		TSFY, HB 436
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 TCR: 40578 DATE & TIME: 03/28/94 08:15 TO 10:00 STATUS:6 ADJOURNED

PARTICIPANTS IN: SITKA SIT

		BOX 1042		SITKA	AK 99835 (907)747-8808
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PARTICIPANTS IN: KEN/SOL SOL

1	MR.	DAVID	ANDERSON	SELF	OBSV, HB 286
		PO BOX 1548		KENAI	AK 99611 (907)283-7125
2	MR.	DALE	BONDURANI	SELF	TSFY, HB 286
		HC1 BOX 1197		SOLDOTNA	AK 99669 (907)262-1691
3	MR.	ROBERT	BONDURANI	SELF	OBSV, HB 286
		HC1 BOX 1197		SOLDOTNA	AK 99669 (907)000-0000

PARTICIPANTS IN: VALDEZ VAL

1	MR.	STAN	STEPHANS		TSFY, HB 436
		PO BOX 1297		VALDEZ	AK 99686 (907)835-4731
2	MS.	LEANN	FERRY		OBSV, HB 436
		PO BOX 633		VALDEZ	AK 99686 (907)835-5260
3	MR.	GREG	WILLIAMS	KCHU	OBSV, ALL ITEMS
		PO BOX 457		VALDEZ	AK 99686 (907)835-4667



HOUSE RESOURCES COMMITTEE

DATE: 3/28/94

PLACE: Capitol, Room 124

SUBJECT OF MEETING:  
 HB 286 - Activities In Anadromous Fish Streams  
 HB 436 - Strictness of Air Quality Regs.

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Michael Menge	DEC				5260	Y	N	HB 436
Frank Rue	ADFCG				4105	Y	N	HB 286
Kate Troll	Southwest Ak. Seiners.				787-5117	(Y)	N	HB 286
John George	AOC	9515 MORaine Way Juneau	99801	9140	9-0172	(Y)	N	HB 286
Jay McLeod	UFA				586 2820	(Y)	N	HB 286
Joseph Epstein Jr.	R-P Veery	State Capitol				Y	N	HB 436
Troy Reinhart	AFA	111 STEEDMAN, #200	99901		225- 6114	(Y)	N	HB 286
Rick Leuber	PSPA	321 Highland Dr. Juneau	99801		586- 6366	(Y)	N	HB 436
						Y	N	
						Y	N	
						Y	N	