

**SB**

**275**

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1--CORRECTED  
 Bill Version: SB 275  
 (S) Publish Date: 1/26/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Environmental Conservation  
 Title Relating to fees for the DEC RDU Multiple  
 Component Commissioner's Office  
 Sponsor Rules by Request  
 Requester Governor Component No. 633

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>541.1</b>	<b>653.5</b>	<b>653.5</b>	<b>653.5</b>	<b>653.5</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	(68.9)	(68.9)	(68.9)	(68.9)	(68.9)
1004 GF	0.0	(262.2)	(374.6)	(374.6)	(374.6)	(374.6)
1005 GF/Program Receipts	0.0	465.1	577.5	577.5	577.5	577.5
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
1052 Response Fund	0.0	(206.8)	(206.8)	(206.8)	(206.8)	(206.8)
1156 Receipt Supported Services	0.0	72.8	72.8	72.8	72.8	72.8
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

**ANALYSIS:** (Attach a separate page if necessary)

See Attached

Prepared by: Kristin Ryan, Director  
 Division: Environmental Health  
 Approved by: Kurt Fredriksson  
 Agency: Department of Environmental Conservation

Phone 269-7644  
 Date/Time 1/26/04 11:52 AM  
 Date 1/26/2004

## FISCAL NOTE #1 -- CORRECTED

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

BILL NO. SB 275

### ANALYSIS

This bill amends existing fee authority to allow DEC to recover the estimated actual costs of services provided for a pesticide registration program; seafood food/safety laboratory services; and contingency plan review and financial responsibility for noncrude oil operations. The bill also eliminates the prohibition on including travel costs in the estimated actual costs for services, adds late fee and permit revocation for nonpayment authority, and results in fund source changes from general fund or the Response Fund to general fund program receipts.

#### **FY2006**

##### **RDU: Environmental Health**

###### Component: All

Page 1, line 10. Removing the travel cost recovery prohibition in AS 44.46.025(a) will allow the department to recover costs from ongoing inspection and permit related activities. Estimated average costs that can be recovered, assuming field travel and associated per diem for inspections, not including complaint investigation, or non-fee generating travel, is \$90.0 beginning in FY2006. The programmatic breakdown for travel cost recovery and associated general fund replacement is:

Food Safety Program (RSS)	\$ 72.8
Laboratory Services (GFPR)	\$ 6.5
Drinking Water (GFPR)	<u>\$ 10.7</u>
	\$ 90.0

##### **RDU: Environmental Health**

###### Component: Laboratory Services/Pesticide Program

Page 2, line 14. Subsection (8) allows the department to recover direct costs from ongoing pesticide registration program activities. DEC will charge \$40.00 per pesticide brand registered beginning in FY2006. Fees will replace current general funds used to match the federal pesticide grant (\$68.9), and will replace general funds (\$59.9) for a position that processes registrations for manufacturers and suppliers of 5,500 pesticide brands sold in Alaska. Assumptions include a 40% reduction in the potential number of registrations, generating approximately \$132.0 annually.

##### **RDU: Environmental Health**

###### Component: Laboratory Services/Seafood Food Safety Lab

Page 2, line 15. Subsection (9) allows the department to recover program costs relating to services provided by the state seafood and food safety laboratory. SB 215 authorized the construction of a new seafood food safety lab. A move in date of July, 2005 with full operation by mid-FY2006 is expected. FY2006 revenue projections for testing drinking water and shellfish toxins for one half year is \$112.3. These receipts will double with the full year of operations in FY2007.

##### **PDU: Spill Prevention and Response**

###### Component: Industry Preparedness

Page 2, line 16. Subsection (10) allows the department to recover estimated actual costs relating to the ongoing Plan Review for Oil Discharge Prevention and Contingency Plans (C-Plans) for noncrude oil operations and the related C-Plan Financial Responsibility requirement.

Financial responsibility applications: 980 per year at \$150 per application = \$147,000

Nontank vessel contingency plans: 128 per year at \$250 per application = \$32,000

Other operator contingency plans - new applications: 10 per year at \$1,000 each = \$10,000

Other operator contingency plans - significant amendments: 10 per year at \$500 each = \$5,000

Other operator contingency plans - renewal applications: 17 per year at \$750 each = \$12,750

Current funding source for these activities is the Oil and Hazardous Substance Release Prevention and Response Fund. Fee revenues would replace expenditures from this funding source. Fees would be assessed beginning in FY2006. Total fund source change resulting from the noncrude C-Plan review and financial responsibility requirements is \$206.8.

FISCAL NOTE #1--CORRECTED

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

BILL NO. SB 275

ANALYSIS (cont.)

RDU: Air & Water Quality

Component: Water Quality

Page 3, line 9. Adds a new section in AS 44.46 allowing the department to assess late fees against a person who has failed to pay monetary charges. The section also allows the department to revoke or refuse to issue a permit or approval until payment of the charge is made. In 2002-2003 there were over 650 statements for past due balances. With statutory authority to compel clients to pay late fees on outstanding balances we estimate that the number of subsequent statements billed would be reduced by 75% and view the late fee as a deterrent to growing delinquent accounts along with the ability to revoke or refuse to issue authorization for nonpayment. At an average cost per statement of \$14.64 we expect late fees to be minimal and have not included them as a new revenue source.

FISCAL NOTE #1--CORRECTED

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

BILL NO. SB 275

ANALYSIS CONTINUATION

FY2006 Impacts to Funding by Section

FUND SOURCE	EH Travel	EH Lab Pesticides	EH Lab Fees	SPAR C-Plans	AWQ-WQ	Total
1002 Federal Receipts						0.0
1003 GF Match		(68.9)				(68.9)
1004 GF	(90.0)	(59.9)	(112.3)			(262.2)
1005 GF/Program Receipts	17.2	128.8	112.3	206.8		465.1
1037 GF/Mental Health						0.0
1052 Response Fund				(206.8)		(206.8)
1156 Receipt Supported Services	72.8					72.8
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

	EH Travel	EH Lab Pesticides	EH Lab Fees	SPAR C-Plans	AWQ-WQ	Total
Revenues	90.0	132.0	112.3	206.8		541.1

FY2007 and Out Years  
Impacts to Funding by Section

FUND SOURCE	EH Travel	EH Lab Pesticides	EH Lab Fees	SPAR C-Plans	AWQ-WQ	Total
1002 Federal Receipts						0.0
1003 GF Match		(68.9)				(68.9)
1004 GF	(90.0)	(59.9)	(224.7)			(374.6)
1005 GF/Program Receipts	17.2	128.8	224.7	206.8		577.5
1037 GF/Mental Health						0.0
1052 Response Fund				(206.8)		(206.8)
1156 Receipt Supported Services	72.8					72.8
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

	EH Travel	EH Lab Pesticides	EH Lab Fees	SPAR C-Plans	AWQ-WQ	Total
Revenues	90.0	132.0	224.7	206.8		653.5

# STATE OF ALASKA

**DEPT. OF ENVIRONMENTAL CONSERVATION**  
OFFICE OF THE COMMISSIONER

**FRANK H. MURKOWSKI, GOVERNOR**

410 Willoughby Ave., Ste 303  
Juneau, AK 99801-1795  
PHONE: (907) 465-5065  
FAX: (907) 465-5070  
<http://www.state.ak.us/dec/>

January 27, 2004

The Honorable Scott Ogan  
Chair, Senate Resources Committee  
Alaska State Senate  
State Capitol, Room 103  
Juneau, Alaska 99801

Dear Senator Ogan:

The Department of Environmental Conservation respectfully requests your consideration in scheduling a hearing for SB 275, an Act "Relating to certain fees of the Department of Environmental Conservation and actions relating to permits for nonpayment of permit fees," before the Senate Resources Committee at your earliest convenience.

This bill amends existing statutory fee authority to allow DEC to recover the estimated actual costs of services provided for a pesticide registration program; seafood food/safety laboratory services; and contingency plan review and financial responsibility for non-crude oil operations. The bill also eliminates the prohibition on including travel costs in the estimated actual costs for services, adds late fee and permit revocation for nonpayment authority.

SB 275 has an associated fiscal note that reflects the fund source changes from general fund and Oil and Hazardous Substance Release Prevention and Response funds to general fund program receipts, and no additional expenditure authority.

For further information regarding this bill contact Kristin Ryan, Director of the Division of Environmental Health at 269-7644 or Melanie Lesh, the department's legislative liaison, at 465-5290. Thank you for your consideration.

Sincerely,



Ernesta Ballard  
Commissioner

cc: Mike Tibbles, Legislative Director, Office of the Governor  
Kristin Ryan, Environmental Health, DEC

Governor's transmittal letter dated January 22, 2004

Dear President Therriault:

Under the authority of article III, section 18, of the Alaska Constitution, I am transmitting a bill relating to the fee authority of the Department of Environmental Conservation (DEC) AS 44.46.025. The bill would require a variety of persons benefiting from DEC's services to contribute toward the costs of providing those services.

This bill would expand DEC's authority to collect fees for services relating to pesticides under AS 46.03. Unlike most states, DEC does not have statutory authority to charge fees for its pesticide-related services. DEC provides services such as certifying applicators, issuing permits for pesticide application, and registering pesticides.

Similarly, this bill would grant DEC authority to collect fees for services provided through the state seafood and food safety laboratory. The seafood and food safety laboratory provides a myriad of services to certain users and the general public. Such services include testing crab, geoducks, and other shellfish for toxins before sale, testing local dairy products before sale to schools and the military, testing food products for the presence of harmful bacteria, and performing nutritional analyses.

This bill would require non-crude oil operators to contribute towards DEC's costs for reviewing, commenting upon, approving, and retaining oil discharge prevention and contingency plans and proof of financial responsibility. Non-crude operators include operators of: oil terminal facilities; oil barges; tank vessels; nontank vessels; and railroad tank cars that store or transport petroleum products derived from crude oil. Currently, only crude oil operators contribute towards DEC's costs for handling oil discharge prevention and contingency plans and proof of financial responsibility through the oil conservation surcharge on crude oil production in AS 43.55.300.

Both types of operators, non-crude and crude, derive a benefit from DEC's services. They should both contribute to the cost of maintaining the State of Alaska's oil spill safety net. The fee amount would be limited to recovering DEC's applicable direct costs associated with oil discharge prevention and contingency plans and proof of financial responsibility.

This bill would also authorize DEC to include travel costs in determining the amount of a fee and to assess late fees against a person for failing to pay amounts owed DEC. The late fees would be assessed on a monthly basis until the amount due is paid. The late fees would be adopted by DEC as fixed fees and may not exceed DEC's estimated average reasonable costs in collecting unpaid and late monetary charges. Under proposed AS 44.46.027, DEC would periodically review regulations adopted under that section, to identify any changes in the average actual cost of collecting unpaid and late monetary charges and, by regulation, adjust the late fees accordingly. After 30 days' written notice to the person, DEC could revoke or refuse to issue, modify, amend, or renew permits, approvals, or any other DEC authorization until payment is made to the department.

I urge your prompt and favorable action on this measure.

Sincerely yours,

/s/

Frank H. Murkowski  
Governor

**Subject: dec fee bill**

**Date:** Thu, 19 Feb 2004 10:26:44 -0900

**From:** "Jim" <jaguiar@ctcak.net>

**To:** "scott" <senator\_scott\_ogon@legis.state.ak.us>,  
"tom" <senator\_tom\_wagoner@legis.state.ak.us>,  
"fred" <senator\_fred\_dyson@legis.state.ak.us>,  
"ralph" <senator\_ralph\_seekins@legis.state.ak.us>,  
"ben" <senator\_ben\_stevens@legis.state.ak.us>,  
"kin" <senator\_kim\_elton@legis.state.ak.us>,  
"georgianna" <senator\_georgianna\_lincoln@legis.state.ak.us>,  
"nancy" <representative\_nancy\_dahlman@legis.state.ak.us>,  
"beverly" <representative\_beverly\_masek@legis.state.ak.us>,  
"cheryll" <representative\_cheryll\_heinze@legis.state.ak.us>,  
"carl" <representative\_carl\_gatto@legis.state.ak.us>,  
"bob" <representative\_bob\_lynn@legis.state.ak.us>,  
"nick" <representative\_nick\_stepovich@legis.state.ak.us>,  
"kelly" <representative\_kelly\_wolf@legis.state.ak.us>,  
"beth" <representative\_beth\_kerttula@legis.state.ak.us>,  
"max" <representative\_max\_gruenberg@legis.state.ak.us>

DEAR LEGISLATORS

I am a small oyster farmer outside of cordova. I would like you to know that the proposed dec fee (sb 275, hb 399) would put me out of business. My season goes for 32 weeks. I ship an average of 350 dozen oyster a week at \$4.00 a dozen.( 100 to 500 dz) the proposed fee would be \$250 a week about 20% average.far more than I can absorb.

I hope that d.e.c. a.s.g.a. and the legislature can work together to come up with a plan that will work for all of us.  
please do not distroy a new industry.

thank you

james aguiar

eagle shellfish farm

po box 2211

cordova ak. 99574

( 907 424 3481 )

# Alaskan Shellfish Growers ASSOCIATION



February 27, 2004

**Senator Scott Ogan, chair  
Senate Resources Committee  
Capitol Building, Room 103  
Juneau, AK 99811**

**Dear Sen. Ogan:**

Imposition of the user fees proposed by the Alaska Department of Environmental Conservation (DEC) to carry out the intent of SB 275 would put most aquatic farms in the state out of business and halt development of this promising economic opportunity in coastal Alaska. We urge your committee to remove the food safety lab from the measure and direct DEC to work with shellfish growers on strategies to reduce the operating cost of this vital public service.

Although we outlined in earlier correspondence the impact of the fees on the small mom-and-pop business that comprise our industry, the result of this legislation would be so devastating to the industry that it should be restated.

If the legislation is approved, DEC says it would charge shellfish growers \$125 per sample. After contacting several growers, ASGA has calculated growers would have been charged fees ranging between \$2,500 and \$25,000 for their 2003 production. While these might not sound significant, they are staggering sums to businesses with annual revenues of \$50,000 to \$150,000.

When examining the user fees proposed in SB 275, it is significant to note that the food safety laboratory is the only DEC service mentioned that is designed specifically to protect public health and safety. Indeed, that is how every other coastal state views these types of services, as no other jurisdiction in the country charges users for testing shellfish for marine toxins or pollution.

Alaska is known by scientists throughout the world as the "hot spot" for paralytic shellfish poisoning (PSP) as outbreaks are pretty commonplace in some regions of the state. The current PSP testing program for shellfish farms is the only monitoring the state does for these deadly toxins and the tests should be regarded as vital warning systems for recreational and subsistence harvesters.

Shellfish growers do not oppose the concept of user fees. Growers pay DEC fees for water quality certification, and invest significant sums of their own funds and time to collect the samples and send them to the lab for analysis. ASGA urged DEC for years to have growers collect their own water samples as we recognized the cost of the state chartering airplanes and sending DEC officials to remote areas was far too expensive an undertaking.

ASGA believes that the operating cost of the PSP testing program can be reduced significantly without compromising public health or safety. We'd like to work with DEC

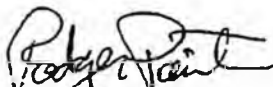
on strategies to accomplish this goal. It also is fair to point out that DEC did not consult with the industry when this bill was being drafted; we believe this should be the first step an agency takes when it moves to impose user fees.

We respectfully request you amend SB 275 as follows:

Delete all language on line 15 and renumber accordingly. [(9) the state seafood and food safety laboratory;].

ASGA also would be willing to draft suggested language for a letter of intent to attach to the amended bill directing ADEC to work with users to reduce the cost of operating the food safety lab. Kristen Ryan, director of the Division of Environmental Health, has told me she's be happy to work with growers over the interim on strategies to reduce the operating cost of the new lab.

Thank you very much for considering my comments on the behalf of shellfish growers from across the state.

  
Rodger Painter  
Vice President

c.c. Senators Wagoner, Seekins, Ben Stevens, Elton and Lincoln

# Alaskan Shellfish Growers ASSOCIATION



February 12, 2004

Senator Scott Ogan, chair  
Senate Resources Committee  
Capitol Building, Room 103  
Juneau, AK 99811

Dear Sen. Ogan:

The state's fiscal crisis certainly is causing a rethinking of how we fund state government and what are the appropriate levels of various state services. While user fees are appropriate for many state services, it certainly doesn't work for others. In the case of user fees for marine toxin tests by the state's Food Safety Lab, the imposition of user fees would destroy a promising sector of our economy and virtually eliminate the only data the state has to detect deadly marine toxins.

Two administration bills (SB 275 and HB399) instruct DEC to impose fees for the services of the food safety laboratory. DEC tells me that means growers would be faced with costs of \$125 for each sample submitted for analysis of toxin, such as paralytic shellfish poisoning (PSP).

This would put all current farms out of business and bring development to a grinding halt. In the case of my own farm, about 15% of my gross sales revenues would be eaten up by the fees. It's even worse for new farms. I talked to several farms to determine the number of samples they were required to submit in 2003. Here's what I found:

2003 Farm Businesses	No. Samples	\$/Sample	Annual Cost
PWS Oyster Farm	32	\$125	\$4,000
Kake Oyster Farm	20	\$125	\$2,500
POW Oyster/Clam Farm	86	\$125	\$10,750
POW Oyster/Clam Farm	198	\$125	\$24,750

The number of samples vary according to experience of the farm, season, amount of product sold and number of species produced, so the costs are significantly different from farm to farm. All of the farms I've contacted say the fees would put them out of business.

The impact on new farmers is the heaviest. Consider this example:

New Oyster Farm	Gross Sales*	DEC Fees	% of Rev.
50 doz./week for 18 weeks	\$3,375	\$1,250	37.04%
100 doz./week for 17 weeks	\$6,375	\$4,250	66.67%
200 doz./week for 17 weeks	\$12,750	\$2,500	19.61%
<b>Total</b>	<b>\$22,500</b>	<b>\$8,000</b>	<b>35.56%</b>

\*\$3.75/doz. farmgate

The impact on the newly emerging geoduck farms in the Ketchikan area also would be heavy:

New Geoduck Farm	No. Samples	\$/Sample	Annual Cost
3 samples/sale/50 sales	150	\$125	\$18,750

Policymakers become accustomed to industry saying government fees or regulations will put them out of business, but it certainly is the case with these fees. Alaska shellfish farms are mom-and-pop businesses and they simply can't shoulder fees of this magnitude.

Important to keep in mind is the farms operate year round, selling relatively small amounts of product on a weekly basis. This feature increases economic benefits to local communities, allows farmers to charge premium prices, and provides Alaskans with the only fresh local seafood products they can buy 52 weeks a year. However, it also greatly increases the cost of PSP testing.

Under current PSP testing guidelines, geoduck divers can certify an entire bay for two days on the results of three tests. The divers might harvest 30,000 pounds of product from the bay during the two-day opening. Contrast the \$375 lab fee bill with the cost to a farmer to sell 30,000 pounds in weekly lots of 1,000 pounds: \$11,250.

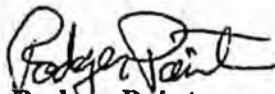
Every state with extensive shellfish beds provides some level of testing to ensure public health for recreational and commercial harvested product. In some states, Shellfish growers are not charged for these tests anywhere else in the country, as it is regarded as a necessary public health service.

The state's current marine toxin testing program is an important safeguard for public health, as the aquatic farms are ensured of providing safe shellfish for local consumption. Outbreaks of PSP are an unfortunate fact of life in Alaska and the testing at farms provide the only information available in most areas about the risks of PSP.

Two things are clear to us: (1) the fees would sink most, if not all, existing farms, and (2) interest in starting new farms will cease if the fees are enacted. While we are very mindful of the state's precarious fiscal situation, ASGA believes transfer of the cost of these essential public health programs to the private sector would be self-defeating because the impacted businesses will go broke. As one grower commented, "The state won't have to build a new lab...there will be no customers."

We think there's a better solution. ASGA would like to work with DEC over the coming year on strategies to reduce the number of samples required of shellfish farms without compromising the safety of the testing program. We believe enough data has been collected to regionalize PSP management, there should be more consolidation of testing requirements where there are clusters of farms, and the number of samples required should be re-examined.

The UA Marine Advisory Program has agreed to work on such an effort with DEC and the industry. I am optimistic that we can find ways to significantly reduce the number of samples required.

  
**Rodger Painter**  
Vice President

Subject: FW: SB275 hearing

Date: Sat, 28 Feb 2004 03:35:18 -0900

From: "Rodger Painter" <rodgerpainter@hotmail.com>

To: Linda\_Hay@legis.state.ak.us

I think you have this already, but thought I should make sure. It saure would be nice if this could make it into committee packets.

I would really like to be at the hearing but have to go to my farm for 10 days. I do have email access via satellite dish. Please contact me if I can answer questions or put you in contact with someone.

Thanks much.

>From: Jim Redfield <jaredfield@earthlink.net>  
>To: senator.georgianna.lincoln@legislature.state.ak.us,  
>senator.ralph.seekins@legislature.state.ak.us,  
>senator.scott.ogan@legislature.state.ak.us,  
>senator.fred.dyson@legislature.state.ak.us,  
>senator.tom.wagoner@legislature.state.ak.us,  
>senator.ben.stevens@legislature.state.ak.us,  
>senator.kim.elton@legislature.state.ak.us, governor@gov.state.ak.us  
>CC: Kristin\_Ryan@dec.state.ak.us, Rodger Painter  
><rodgerpainter@hotmail.com>, linda.hay@legislature.state.ak.us,  
>commissioner@dec.state.ak.us  
>Subject: SB275 hearing  
>Date: Fri, 27 Feb 2004 17:34:53 -0800  
>  
>Ladies and Gentlemen,  
>  
>I became aware earlier today of a hearing to be held on Monday, March 1, on  
>SB 275, a bill put forward by DEC, and am very startled and concerned.  
>Unfortunately I will be travelling and unavailable to speak at this  
>hearing. I wish this email to be verbally read into the proceedings.  
>  
>Thank you for allowing me to express my opinions regarding SB275.  
>  
>Let me introduce myself. My name is Jim Redfield. I have a Ph. D. in  
>ecological genetics and worked for over 10 years as a Research Scientist  
>with CSIRO, Division of Fisheries Research, in Australia. My role there was  
>identifying new prawn stocks in the tropical and very remote Gulf of  
>Carpentaria. Although the water is warmer, the scientific and commercial  
>challenges are similar to southeast Alaska.  
>  
>My partners and I are newcomers to the Southeast Alaska aquaculture  
>industry. Under HB208, we recently acquired the lease rights to two  
>subtidal geoduck farm sites (19 acres) off Etohin Island, about 30 miles  
>southwest of Wrangell.  
>  
>It is our understanding that the Governor is a strong advocate of these new  
>aquaculture ventures and works very hard to provide the proper economic  
>encouragement to help these aquaculture ventures to succeed. We are  
>particularly interested in Alaskan geoduck for the very high end live  
>geoduck Asian market. As such we need the help and input of many agencies  
>including the DEC.  
>  
>We are in the very early stages of obtaining all the necessary permits,  
>approvals, and certifications from the State of Alaska. We are excited  
>about the future of this industry and judging by the success of the British  
>Columbia sub-tidal farming ventures, feel that geoducks could become a

>significant cash crop for southeast Alaska. But like any new industry,  
>opening the opportunity needs careful nurturing by the relevant government  
>agencies. Sometimes that means guidance and direction, sometimes it means  
>getting out of the way. It almost always means providing an economic  
>environment that will attract strong investment from a variety of sources.

>  
>With attacks like that proposed in SB275, we reflect that maybe the  
>sub-tidal Geoduck farms were not such a good idea after all. Some in the  
>State appear to want to tax geoduck aquaculture farmers out of existence  
>before we get off the ground.

>  
>I refer directly to the \$125/sample tax the DEC wants to impose on PSP  
>testing for all shellfish.

>  
>This equates to a \$62.50/day tax every day a geoduck farmer is harvesting  
>(the test is only valid for 2 days). Given the nature of taxes, this tax  
>may well be \$100 to \$500/day by the time the first newly planted geoduck  
>are mature in 7 to 8 years. Who knows?

>  
>The whole SE Alaska shellfish industry suffers enormously due to the  
>distance to the testing facility from the harvesting grounds. No one would  
>reasonably argue that it is in the best interests of a growing industry to  
>placing a critical path facility 1000 miles away from the harvest area. Yet  
>that is exactly what we have with the lab facility in Palmer. This facility  
>should be located in Petersberg, Wrangell, or Ketchikan. The science done  
>there for PSP testing is straight-forward and routine, certainly within the  
>capacity of a trained lab technician.

>  
>Worse, DEC does little in the way of pro-active, on-site monitoring for PSP  
>precursors.

>  
>As a big for example, DEC does not allow the harvesters to use reliable  
>MIST tests to certify their harvest. The MIST Alert test can instantly  
>detect PSP toxins in phytoplankton, both in the laboratory and in the  
>field, and has been shown to provide an effective early warning system of  
>PSP algal blooms in field studies.

>  
>According to Jellett Biotek, the inventors of the MIST Alert system: "The  
>tests, called MIST Alert, are simple enough for field use and can be  
>applied to the detection of marine biotoxins in shellfish or phytoplankton.  
>Thousands of shellfish samples were tested in parallel using the mouse  
>bioassay and MIST Alert for PSP in Alaska, Maine, British Columbia, New  
>Zealand and the UK. The MIST Alert for PSP detected 100% of the toxic (>80  
>µg/100g) sample extracts, and also detected the majority of extracts  
>containing PSP toxin over 32 µg/100g. Compared to the mouse bioassay, there  
>was a false positive rate recorded of about 10-12% by the MIST Alert.  
>However, when the extracts that gave false positive results on the MIST  
>Alert™ were further analyzed by HPLC, it was found that the MIST Alert  
>detected toxicity that was present in many of the extracts in the range of  
>20-40 µg/100g, below the level detectable by the mouse bioassay. Therefore  
>MIST Alert for PSP gave false positive results only about 1-2% of the time,  
>when there was low to no detectable PSP present."

>  
>The short version is that the MIST tests work and work well more or less  
>instantaneously.

>  
>Let's review what this proposed DEC initiated, PSP tax means to a new  
>aquaculture farmers like us:

>  
>During our startup phase this tax would burden us an additional \$62.50/day  
>when we are simply preparing our site for a farm. Sites were deliberately  
>chosen by various parties because they believed the sites don't have high  
>densities of geoduck. So we must realize what is being proposed here.

>  
 >We need to collect and send live 3 geoducks (at \$4/pound these would be  
 >collectively worth about \$30) from Etolin Island to Palmer for a reasonably  
 >straight forward test (mix up a bit of geoduck, inject the mixture into a  
 >mouse, and watch the mouse die - I don't want to trivialize this, but it is  
 >a routine lab test done with simple equipment).

>  
 >Our cost of collection (10 minutes bottom time- \$50, 6 hours steaming  
 >(return)-\$200, GoldStreak to Anchorage - \$50, ground transportation to  
 >Palmer - \$30, one full day of work lost waiting for results - \$250) will  
 >easily surpasses \$500 every other day as a necessary cost of doing  
 >business. Now DEC wants to impose yet another \$125 on top of that. This  
 >does not makes economic sense.

>  
 >Add to that the cost of our Water Quality Testing about \$4000 (\$500-State  
 >Fees plus about \$3500-sampling and shipping costs) in order to get to the  
 >point where we can have the honor of paying the for the PSP testing.

>  
 >Another way of looking at this is to imagine that all 11 recently awarded  
 >geoduck farms are fully utilized and that new farms are added. Each farmer  
 >must test for PSP on their own, unlike the commercial fishers who have a  
 >'site' qualified and they all can participate in the harvest. Now let's say  
 >that the average harvest took 10 weeks, and that sampling for PSP needed to  
 >be done every other day over the 70 day period. That would result in 35  
 >tests \* 11 farms \*(\$125 state PSP tax + \$500 collection and shipping fees)  
 >would result in a loss of \$240,625 to a fledgling industry. If we take the  
 >collection and shipping fees out of this equation we are left with a (35  
 >samples\*11 farms\*\$125 = ) \$48,125 tax on geoduck aquaculturalists at a time  
 >when they are trying to forge out a new industry that will help the State  
 >in the long run.

>  
 >What is really disturbing is that DEC seems to be doing nothing to make the  
 >cost of doing business for geoduck aquaculture farmers more economical. It  
 >is no wonder that British Columbia geoduck fishers and farmers get premium  
 >price for their highly regarded, pristine, and very high quality geoduck in  
 >the live Asian market while Alaskan geoduck fishermen get much less. We  
 >need to make the production and distribution chain more efficient, not tax  
 >the producers to prop up a remote testing facility that is often seen as a  
 >liability.

>  
 >Here are four recommendations (in order of priority):

- >  
 >1. Create a water quality and PSP testing facility in Southeast Alaska,  
 >near the shellfish industry of that region. Why not have a facility in  
 >Petersberg, Wrangell, or Ketchikan? This facility could be privately run.  
 >Given the opportunity, I would love to take on this task.
- >  
 >2. Allow the shell fishermen to conduct their own PSP testing at least 80%  
 >of the time using the reliable MIST test kit. Wait, you say, we can't trust  
 >the fishermen to test their own product! They might not reveal results  
 >unfavorable to their harvest. Well, the State already entrusts the  
 >aquaculture farmers to collect their own water samples for water quality  
 >testing. If they can be trusted for this critical procedure, why can't they  
 >be trusted for part of another procedure?
- >  
 >2A. Develop procedures to use mussels (or other species) as an indicator  
 >species for daily PSP levels. Mussels are good because they rapidly take up  
 >and void PSP toxins, are easy to grow, and can be sampled quickly from the  
 >surface on suspended cultures. These indicator species tests could be used  
 >in conjunction with other tests to create a broad picture of PSP levels in  
 >any given region.
- >  
 >3. DEC should become proactive in monitoring for PSP indicators to obtain a

>more accurate picture of when potential problems may occur.

>

>Is the State really serious about stimulating aquaculture, or are they  
>interested in finding new ways to tax fragile startup operations?

>

>Continued tax attacks like this will drive away external sources of  
>funding. This external funding is critical to the success of geoduck  
>aquaculture. I already have some of my potential investors questioning  
>whether geoduck aquaculture has State of Alaska support. These investors  
>wonder if the State may be sucker-punching us by inviting aquaculture  
>participation just prior to taxing us out of existence.

>

>We have water quality issues, lease issues (the State gives us a 10 year  
>lease, in Canada similar operations get 30 year renewable leases),  
>aquaculture issues, predator issues, funding issues, and PSP issues. Don't  
>kill an new industry before we know if it can lay any golden eggs. Kill the  
>tax, not the industry.

>

>Thank you for your time.

>

>Dr. James Redfield

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Subject: SB 275

Date: Mon, 1 Mar 2004 04:07:42 -0900

From: "Stephen La Croix" <s.w.lacroix@worldnet.att.net>

To: "Linda Hay" <Linda\_Hay@legis.state.ak.us>

Dear Linda, My name is Stephen La Croix, I live in Ketchikan. I have been working to develop the geoduck clam resource in Southeast Alaska since 1986. We had a major breakthrough in that effort this year. We were struggling with our efforts to export live geoducks because we could not afford to fund the cost of doing all the necessary PSP sampling. Last session the legislature agreed to fund \$250,000 over two years to help us get started. So far this year we have sent 300,000 pounds of live product @ over \$3.00 per pound to market. The increased revenue from the increased value of the product will provide the fishermen with the funds to pay their own way in the future. WE call this Priming the Pump. I believe the same principle applies to the aquatic farmers who are just starting to develop some of the potential in the State of Alaska. My suggestion to the Committee is, do not tax them out of business before they get started. At least wait a few years for these new businesses to get established. Let them get the Pump Primed. Thankyou, Stephen La Croix 907 247 5687

Subject: SB 275  
Date: Sun, 29 Feb 2004 11:12:08 -0800 (PST)  
From: David Chipman <hisoysters@yahoo.com>  
To: Mark\_Stopha@legis.state.ak.us

Mr. Mark Stopha,

I will not be able attend the public hearing on SB 275 on Monday so please consider this my written statement.

I have lived in Cordova for 15 years and have been involved in oyster farming for 10 years. Our oyster farm employs 3 full time and 2 part time seasonal employees. If SB 275 passes, my business and employees will be in jeopardy. Below you will find a case study of our farm for 2003 based on the current Uniform Shellfish Sampling Plan for PSP for the first three years of production if SB 275 passes.

Part of ADEC mission is to protect the health and safety of the people of the State and their overall economic and social well being. PSP testing is major part of this mission. The only PSP monitoring in Prince William Sound is provided by the farms and tested by the ADEC lab. There are no State certified shellfish digging beaches in P.W.S. so the only data available for P.W.S. is the Uniform Shellfish Sampling Plan. Subsistence, personal use and recreational shellfish harvesting has always been a way of life in P.W.S. and without any monitoring controls of PSP the health and safety of the people of P.W.S. is not being protected and requiring the oysters farmer to pay for this monitoring is not in the best interest of the economic and social well being of the people of the State.

Aquatic Farming is a growing industry in the state and has the possibility of growing into a multi million dollar industry if the state regulatory agency will work with the industry to make it financially feasible to do business in the state.

Case study of my farm for 2003

Sales of 7,200 Doz. oysters @ \$3.75 per Doz. = \$27,000. Farm gate price.

Farm gate price = sales - cost of processing, packaging and shipping.


Years 1, 2 and 3.

30 lots @ 2 tests per lot @ \$125. = \$7,500.  
7 lot over 500 doz. additional 2 tests \$1,750.

Express Mail 30 @ \$20. \$600.  
Cost of oysters 2 1/2 doz. per sample \$480.  
Total \$10,330.

\$ 10,330. / \$27,000. = 38 % with the additional cost of permits, water sampling and lease payments the cost is closer to 50% of gross farm gate income.

Thank you for your time.  
David Chipman  
Hawkins Island Shellfish Co.



**ALASKA CONSERVATION VOTERS**

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JUNEAU, AK 99802

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(907) 463-3312 FAX

No. of PAGES: 3

DATE: 3-1-2004

TO: Paula  
Mark  
LINDA  
GERAN

FAX NUMBER: 465-2108  
465-2652  
465-3265  
465-2108

FROM: Matt Davidson

SUBJECT: SB 275 - DEC FEES

MESSAGE: Examples of the fees other states charge for pesticide registration

## ADAMS TECHNOLOGY SYSTEMS

5145 FOREST RUN TRACE - SUITE B • ALPHARETTA GA 30022-4504

Phone: 770-751-1073 • Fax: 770-751-1173

www.AdamsTechnology.com • E-mail: AdamsTech@ATS2.com

### ADAMS TECHNOLOGY STATE PESTICIDE REGISTRATION SERVICE CENTER (ATSSC)

This chart is for quick reference only! It is meant to give an overview of the registration fees and the total cost of registering one product in all states. We have intentionally used the New Product Fee that most registrants will likely pay. This chart is not perfect but gives a rough picture of the fees as of the date listed below. Please refer to the state forms for current and complete registration information. Most states post their regulations, fee schedules and forms on the internet.

### ATSSC State Pesticide Registration Fee Chart - Updated: November 19, 2003 (10:30am)

State	2003 Reg Fee	Date Confirmed	2004 Reg Fee	Form Chgk?	Comments
AK Alaska	\$0.00	11/13/03	\$0.00	No	Proposed \$150
AL Alabama	\$100.00	11/17/03	\$100.00		
AR Arkansas	\$150.00	11/13/03	\$200.00	Yes	Reg \$150 + \$50 Pesticide Disposal (some exemptions)
AZ Arizona	\$100.00	11/11/03	\$100.00		
CA California	\$200.00	11/13/03	\$750.00	Yes	Plus Mill Tax: \$0.0021 - Amendments: \$100 (new chg & form)
CO Colorado	\$95.00	11/12/03	\$95.00	No	
CT Connecticut	\$500.00	11/13/03	\$750.00	No	Five year registration (\$150/yr) - Pro-rated first year registration to fit into a 5 year cycle
DC Washington DC	\$75.00	11/11/03	\$130.00	No	
DE Delaware	\$70.00	11/11/03	\$70.00		Two year registration (\$35/yr)
FL Florida	\$250.00	11/12/03	\$250.00	Yes	SLN & EUP: \$100
GA Georgia	\$100.00	11/17/03	\$100.00		
HI Hawaii	\$225.00	11/18/03	\$225.00		Three year registration (\$75)
IA Iowa	\$250.00	11/17/03	\$250.00		Based on sales: Minimum \$250, Maximum \$3000
ID Idaho	\$145.00	11/11/03	\$145.00		
IL Illinois	\$500.00	11/17/03	\$800.00	Yes	Includes Company Fee of \$400/yr! Registration fee after first is \$200/product
IN Indiana	\$75.00	11/11/03	\$75.00		
KS Kansas	\$210.00	11/13/03	\$210.00	Yes	Antimicrobials \$150
KY Kentucky	\$125.00	11/13/03	\$125.00	No	
LA Louisiana	\$300.00	11/12/03	\$400.00	No	
MA Massachusetts	\$100.00	11/11/03	\$300.00	Yes	New AI: \$500, Renewals: \$250
MD Maryland	\$80.00	11/11/03	\$100.00		
ME Maine	\$115.00	11/11/03	\$125.00		
MI Michigan	\$190.00	11/17/03	\$190.00		Fee is 0.75% of sales, minimum \$190. Antimicrobials, Household, etc: \$140
MN Minnesota	\$250.00	11/11/03	\$250.00	Yes	Plus Mill Tax: Sales x 0.004 plus 0.003 ACRRR - Proposed \$350
MO Missouri	\$15.00	11/11/03	\$15.00	No	Proposed \$100

### ATSSC State Pesticide Registration Fee Chart - Updated: November 19, 2003 (10:30am)

State	2003 Reg Fee	Date Confirmed	2004 Reg Fee	Form Chge?	Comments
MS Mississippi	\$200.00	11/13/03	\$200.00	Yes	
MT Montana	\$185.00	11/13/03	\$185.00	No	
NC North Carolina	\$80.00	11/11/03	\$150.00		Reg fee \$100 + \$50 > \$5000 in sales or \$25 < \$5000
ND North Dakota	\$350.00	11/12/03	\$350.00	No	Designated Two year registration periods (\$175/yr)
NE Nebraska	\$200.00	11/12/03	\$200.00	Yes	Specialty Products: \$135
NH New Hampshire	\$50.00	11/13/03	\$50.00	No	
NJ New Jersey	\$250.00	11/11/03	\$250.00		
NM New Mexico	\$35.00	11/11/03	\$35.00		
NV Nevada	\$80.00	11/11/03	\$80.00		
NY New York	\$310.00	11/13/03	\$310.00	No	Two year registration (\$155/yr) (expect fee increase by July 1, 2005!)
OH Ohio	\$75.00	11/17/03	\$75.00		
OK Oklahoma	\$100.00	11/12/03	\$160.00	No	
OR Oregon	\$160.00	11/11/03	\$160.00		
PA Pennsylvania	\$135.00	11/17/03	\$135.00	No	
RI Rhode Island	\$80.00	11/11/03	\$80.00		
SC South Carolina	\$100.00	11/17/03	\$175.00		
SD South Dakota	\$175.00	11/12/03	\$175.00	No	Two year registration (\$87.50/yr)
TN Tennessee	\$100.00	11/11/03	\$100.00		
TX Texas	\$350.00	11/12/03	\$420.00	Yes	Two year registration (\$210/yr) (Pro-rated first year registration to fit into a 2 year cycle)
UT Utah	\$70.00	11/17/03	\$70.00		
VA Virginia	\$160.00	11/13/03	\$160.00	Yes	
VT Vermont	\$75.00	11/11/03	\$75.00		
WA Washington	\$290.00	11/17/03	\$290.00	Yes	Two Year Registration (\$145/yr)
WI Wisconsin	\$265.00	11/12/03	\$265.00	No	Reg Fee from \$265 to \$3060 plus 1.3% of sales. *See detail below.
WV West Virginia	\$100.00	11/17/03	\$100.00		
WY Wyoming	\$75.00	11/11/03	\$75.00		
<b>One Reg Fee Total</b>	<b>\$8,230.00</b>		<b>\$9,880.00</b>		<b>119.81% percent of last year (Reg Fees only; No mill taxes included)</b>

**\* Wisconsin Registration Fee Details**

**"HOUSEHOLD" pesticides:** \$0 to \$24,999 in sales pay \$265; sales between \$25,000 and \$74,999 pay \$750; and sales over \$75,000 pay \$1,500.

**"INDUSTRIAL" pesticides:** \$0 to \$24,999 in sales pay \$315; sales between \$25,000 and \$74,999 pay \$860; and sales over \$75,000 pay \$3,060.

**"NON-HOUSEHOLD" pesticides:** \$0 to \$24,999 in sales pay \$325; gross sales between \$25,000 and \$74,999 pay \$1060; sales over \$75,000 pay \$3,060 PLUS 1.3% of the gross sales of the product in WI.



## RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

March 1, 2004

Senator Scott Ogan  
Chair, Senate Resources Committee  
Alaska State Senate  
State Capitol, Room 103  
Juneau, Alaska 99801-1182

Re: SB 275 — Dept. of Environmental Conservation Fees

Dear Senator Ogan:

On behalf of the Resource Development Council for Alaska, Inc. (RDC), I am writing to offer our comments on SB 275 — Dept. of Environmental Conservation Fees.

RDC is a private, membership-funded, non-profit trade association. The organization represents individuals and companies from Alaska's mining, timber, oil and gas, tourism and fishing industries. Also within our ranks are local communities, Native regional and village corporations, organized labor and industry support firms. Our mission is to help grow Alaska's economy through the responsible development of the state's natural resources.

Our comments on SB 275 are limited to Section 3 of the bill, specifically the changes proposed to AS 44.46.027(c). While we support a strong enforcement capability for DEC, we believe the language in subsection (c) is problematic for two reasons.

First, the bill provides no opportunity or process to appeal an enforcement action whether it is the assessment of a late fee or the revocation of a permit. The right to appeal in the event of a legitimate dispute with the department is essential. Including a reasonable appeals provision will strengthen the bill.

Second, the bill allows DEC to revoke or refuse to issue, modify, amend, or renew any department authorization in the event of unpaid late fees. In other words, an operation with multiple permits from DEC risks the revocation of any or all of its authorizations if it has failed to pay a monetary charge associated with only one authorization. In this case, the potential punishment far outweighs the offense. Limiting the department's enforcement capability only to the authorization in question is more appropriate.

Thank you for considering our comments on this important issue. Please contact me if you have any questions.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL for Alaska, Inc.

Tadd Owens  
Executive Director

**Subject:** CSPA's Testimony on SB 275  
**Date:** Mon, 1 Mar 2004 16:28:00 -0500  
**From:** "Andy Hackman" <ahackman@cspa.org>  
**To:** "Linda Hay" <linda.hay@legis.state.ak.us>

Dear Ms. Hay:

Thank you for accommodating Consumer Specialty Products Association's (CSPA) testimony via email and teleconference. Attached is CSPA's brief testimony. This testimony requests that the pesticide registration fee be specified in this legislation

Please let me know if you or any of the members of the Senate Resources Committee have any questions regarding our position on this issue. Also please reply to this message and let me know if you received the testimony and were able to open the attachment.

Thank you very much,


Andy Hackman

Manager, State Affairs Programs

The Consumer Specialty Products Association

P: (202) 833-7328

F: (202) 872-8114

	CSPA's Testimony AK SB 275.pdf	<b>Name:</b> CSPA's Testimony AK SB 275.pdf <b>Type:</b> Acrobat (application/pdf) <b>Encoding:</b> base64 <b>Download Status:</b> Not downloaded with message
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**The Consumer Specialty Products Association**

**Testimony on Senate Bill 275**

**Presented: March 1, 2004**

**By: Andrew Hackman, Manager State Affairs Programs  
To: Senate Resources Committee**

Senator Ogan, and distinguished members of the Senate Resources Committee, my name is Andrew Hackman and I am representing the Consumer Specialty Products Association (CSPA).

The Consumer Specialty Products Association (CSPA) is seeking clarification about provisions of Senate Bill 275 that would authorize the Department of Environmental Conservation (the department) to charge a pesticide registration fee. We believe that any pesticide registration fee should be limited to the costs directly related to the department's pesticide registration program. Per Fiscal Note #1 and discussions with the department we believe this cost would be no more than \$40 per product. We respectfully ask that this legislation specifically state that any registration fee should not exceed \$40 per product.

CSPA is a national nonprofit trade association that represents more than 235 companies engaged in the formulation, manufacture, distribution and sale of consumer and institutional products. CSPA members produce a wide variety of products including household and institutional disinfectants, disinfecting cleaners, and ready-to-use pesticides,

Consumer and institutional pesticide products and antimicrobials play a vital role in protecting consumers from dangerous pests and biological contaminants. These products include, among other things, any disinfectant, sanitizer, germicide, fungicide, herbicide, insecticide, insect repellent, and rodenticide. Institutional pesticide products are also used in settings such as hospitals, schools, day care centers, restaurants, and office buildings. Consumer and institutional antimicrobial products help eliminate biological contaminants such as mold and bacteria (including many pathogens) that cause a variety of human health problems; and consumer and institutional pesticide products also protect against disease carrying pests such as cockroaches and rodents.

All of these products must be registered as pesticides with the U.S. EPA and the State of Alaska. According to CSPA's recent national pesticide registration fee survey, our members represent nearly 90% of those companies who will be paying any registration fee in the State. Therefore, any fee **will** be a significant cost to our member companies since many of them register **hundreds** of products in the State.

Over the past month, CSPA has had discussions with Kristin Ryan, Director of the Division of Environmental Health at the Department of Environmental Conservation and has appreciated the department's consideration of our position. In our discussions with Ms. Ryan, regarding this fee, we understand that the needs of the department would warrant a pesticide registration fee no larger than \$40. CSPA generally supports pesticide registration fees that fund the cost of administering the registration program and benefit all registrants equally. Thus, CSPA would not oppose a \$40 registration fee. However, we would like see this \$40 registration fee stated in this legislation.

Therefore, CSPA respectfully suggests that you to amend SB 275 to specifically limit the amount that the department would be allowed to charge for pesticide registrations to \$40.

CSPA appreciates your consideration of our industry's perspective on this important issue.



# ALASKA MINERS ASSOCIATION, INC.

3305 Arctic Blvd., #105, Anchorage, Alaska 99503 • (907) 563-9229 • FAX: (907) 563-9225 • www.alaskaminers.org

3/3

February 28, 2004

Honorable Scott Ogan  
Alaska State Senate  
Capitol Building  
Juneau, AK 99801

RE: Senate Bill 275, DEC Fees and Failure to Pay

Dear Senator Ogan,

Thank you for the opportunity to comment on this bill. There are some aspects of this bill that we can support, but there are other aspects that we strongly oppose.

A general comment is appropriate. A couple years ago the mining industry worked with other industries and DEC and developed a framework for DEC to use when charging fees for services. The premise was that industry would cover the direct permit/project-specific costs and the general fund would cover the overhead and general costs to run the programs. A bill was passed by the Legislature and became law which defined how the fees would be developed. We believe the approach developed then is still appropriate and should not be changed.

During the discussions that led up to the existing DEC fees statute (which extended over a two year period), the issue of charging for travel became a major issue for small mine operators. Examples came to light of situations where up to three different agencies (not all DEC and not all state agencies) had each visited a single small mine during the same week, some by fixed wing aircraft, some by helicopter. Some of the visits appeared to be directly proportional to remoteness or uniqueness of the operation. The solution to help guard against an operator being charged for several such "visits" was to not allow travel charges as part of the fees.

Also, examples exist where persons opposing a legally permitted activity have called DEC repeatedly accusing a company of some environmental violation. When such a complaint is made, DEC is obliged to visit the project and investigate the situation. In one instance involving air quality, the state repeatedly charged the mine for the time spent investigating the complaint, even though no violation was found. Removing the prohibition on charging for travel would provide added incentive for spurious complaints and the miner would be hurt even more than now.

**These examples are not hypothetical. The prohibition against DEC charging for travel should remain in place. The change proposed on page 1 lines 10-11 (44.46.025(a)) should be removed from the bill.**

Regarding the proposed new section 44.46.027 on late fees - We do not object to the assessment of

late fees. We do however strongly object to the extremely punitive way this is being proposed. There is no opportunity or process to address an appeal where the person may disagree with the late fee being charged. Also, the prohibition of not receiving "any other department authorization until payment" is extremely onerous and must be removed. **The proposed subsection 44.46.027(c) should be removed in total.**

Thank you for the opportunity to comment on this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Borell", written in a cursive style.

Steven C. Borell, P.E.  
Executive Director

cc: Commissioner Ernesta Ballard

Subject: SB275 - testimony clarification

Date: Tue, 02 Mar 2004 17:58:07 -0900

From: "Ryan, Kristin J." <Kristin\_Ryan@dec.state.ak.us>

To: "Senator\_Ben\_Stevens@legis.state.ak.us" <Senator\_Ben\_Stevens@legis.state.ak.us>,  
 "Senator\_fred\_dyson@legis.state.ak.us" <Senator\_fred\_dyson@legis.state.ak.us>,  
 "Senator\_Georgianna\_lincoln@legis.state.ak.us" <Senator\_Georgianna\_lincoln@legis.state.ak.us>,  
 "Senator\_Kim\_Elton@legis.state.ak.us" <Senator\_Kim\_Elton@legis.state.ak.us>,  
 "Senator\_ralph\_seekins@legis.state.ak.us" <Senator\_ralph\_seekins@legis.state.ak.us>,  
 "Senator\_scott\_ogan@legis.state.ak.us" <Senator\_scott\_ogan@legis.state.ak.us>,  
 "Senator\_tom\_wagoner@legis.state.ak.us" <Senator\_tom\_wagoner@legis.state.ak.us>

CC: "linda\_hay@legis.state.ak.us" <linda\_hay@legis.state.ak.us>

Honorable Senate Resource Committee Members:

I would like to clarify my testimony on SB275 yesterday, provide the PSP analysis cost breakdown, and respond to some of the statements made by Mr. Redfield.

The lab portion of the fee bill does not have any relationship with the amortization of the bond bill. That is an expense the Department of Revenue incurs and has no relationship to the operating budget of the laboratory. Department of Revenue is the only department with the expertise to answer further questions on amortization of bond debt.

DEC was asked last year to replace General Funds with fees when it became clear through hearings that the laboratory provided a lot of testing for free. Since the lab conducts 984 PSP tests a year it was an obvious target for fees. Of the 984 tests performed last year, DEC charged \$125.00 (our standard fee for this test) for 125 tests. SB275 proposes charging for all PSP related tests rather than just a small percentage.

SB275 just replaces GF with Receipt Supported Services for the current lab operating budget. It has no relationship with increased operating costs or amortization of the bond bill.

Determining the cost of running a sample is slightly complicated. Costs vary depending on the result. If the first test is positive, we have to run it again to confirm it. If PSP is not detected the first time then a second test is not required. The breakdown is as follows:

Non detect: \$57.82 wages, \$26.65 overhead, \$14.20 incidentals = \$98.67. If PSP detected the costs are: \$100.65 wages, \$47.67 overhead, \$28.20 incidental = \$176.52. Ave: \$137.60. The original \$125 fee was based on the cost to perform this work in 1992. While it is slightly out of date, \$125 is close enough to \$137.60 for the State to recoup most of its expenses.

In response to Mr. Redfield, DEC has worked closely with Jillet Biotech to develop the MIST PSP test kits and provided the company much support in the process. FDA has stated that while the MIST test is useful in the field, it must be confirmed by the Mouse Bioassay on product to be sold in commerce. DEC is bound by FDA and the National Shellfish Sanitation Program and must adhere to their requirements. Otherwise Alaska's shellfish program would not be approved and our growers and harvesters would not be able to sell their products outside of Alaska. We are considering ways the MIST test could be used as a screening tool though.

Mr. Redfield also suggested that the laboratory be located in Southeast Alaska and PSP testing become privatized. Shellfish harvesting and growing occur throughout the State and significant portion of PSP samples come from South-Central. When considering all the testing the lab does and where those samples come from, Anchorage was the most central location. To date, no

private laboratory has been willing to provide PSP testing due to the extensive liability insurance it would require. Ensuring food is safe to eat is a risky business. Lab staff have often provided technical assistance to private labs considering this service and we will continue to.

I hope this clarifies my testimony and answers questions you may still have.

Kristin Ryan  
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Division of Environmental Health  
Department of Environmental Conservation  
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-----Original Message-----

From: Jim Redfield [<mailto:jaredfield@earthlink.net>]  
Sent: Sunday, February 29, 2004 9:00 AM  
To: senator.georgianna.lincoln@legislature.state.ak.us;  
senator.ralph.seekins@legislature.state.ak.us;  
senator.scott.ogan@legislature.state.ak.us;  
senator.fred.dyson@legislature.state.ak.us;  
senator.tom.wagoner@legislature.state.ak.us;  
senator.ben.stevens@legislature.state.ak.us;  
senator.kim.elton@legislature.state.ak.us  
Cc: linda.hay@legislature.state.ak.us; governor@gov.state.ak.us;  
Kristin\_Ryan@dec.state.ak.us; Rodger Painter; commissioner@dec.state.ak.us  
Subject: Re: SB275 hearing

Ladies and Gentlemen,

This is a short follow-up to my submission to your committee regarding the proposed bill SB275 as put forward by the DEC. I submit this supplemental proposal as a result of my discovery of additional published scientific information regarding the use of MIST tests and PSP testing.

I refer directly to a publication in the Journal of Shellfish Research (December 2002, Vol. 21, No. 2, p 455-460) by FH MacKintosh and EA Smith, both from the Fisheries Research Services, Marine Laboratory, in Aberdeen Scotland.

These scientists tested MIST kits against routine mouse bioassay procedures for the detection of PSP in mussels, scallops, oysters, cockles, and razor fish. Some of their conclusions are given here:

1. In the lab, all shellfish extracts with PSP toxins above the 80 microgram limit using the mouse bioassay WERE CONFIRMED POSITIVE BY THE MIST test.
2. In the field, shellfish farmers correctly identified ALL samples with PSP toxins above the 80 microgram limit.
3. MIST tests could be used as part of a routine PSP testing regime.

Therefore, I would like to modify my recommendations regarding testing for PSP:

1. Allow the shell fishermen to conduct their own PSP testing using the

proven and reliable MIST test kit. Occasionally during the harvest, have these results checked against DEC results using the mouse bioassay.

2. Establish a training program to ensure that each and every person using the MIST tests in the field for commercial harvest are properly trained on how to apply the test.

3. Have the State buy in bulk from the Canadian manufacturer (to achieve economies of scale) and resale kits to the harvesters at much reduced prices.

4. Implement any and all quality control procedures that will reduce the cost of harvesting without sacrificing health and safety.

5. Move the water quality testing and PSP testing facility to SE Alaska, near the shellfish industry in that region.

6. Develop 'indicator' species testing for geoduck harvesters.

7. Change DEC participation from reactive enforcement to proactive monitoring to achieve a more accurate picture of when and where potential PSP problems may occur. Proactive monitoring is done elsewhere in the USA, why not Alaska?

Like I said before: Don't kill a new industry before we know if it can lay any golden eggs. Kill the tax, not the industry.

Jim Redfield, Ph.D.  
Geoduck farmer

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**Public Opinion Message**

Cordova Legislative Information Office (LIO)  
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**From:** Please PRINT the information below. This form must be signed by the sender.

Mr. / Ms. / Mrs.	First name	M.I.	Last name	Jr. / Sr. / III
Mr.	Mary Jo		Lord-Wild	
Group affiliation (if applicable)				Daytime telephone number
Elfin Cove Oysters				907-239-2222
Mailing address				Zip code
P.O. Box 109, Elfin Cove, Alaska				99825
Residence (street) address if different from mailing address				Zip code
1st St S2				
Email address			Signature	Date
none			Mary Jo Lord-Wild	3/4/04

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