

ALASKA LEGISLATURE

2306

HOUSE and SENATE FINANCE COMMITTEE FILES,

2001 - 2002



February 26, 2002

The Honorable Scott Ogan
Chairman, House Special Committee on Oil & Gas
Alaska State House of Representatives
State Capitol, Room 108
Juneau, AK 99801-1182

Via Fax: (907) 465-3265, Original Via First Class Mail

RE: Support of HB 439

Dear Representative Ogan:

These comments on HB 439 are submitted on behalf of Chugach Alaska Corporation ("CAC"), the Alaska Native Regional Corporation for the Chugach region established pursuant to the Alaska Native Claims Settlement Act of 1971, as amended, 43 U.S.C. § 1601, *et seq.* ("ANCSA"). CAC owns or has valid selection rights to over 930,000 acres of surface estate, subsurface estate and oil and gas rights within the Chugach Region, which stretches from the outer Kenai Coast to Icy Bay along the Gulf Coast near Yakutat. In addition to ANCSA, CAC's rights with respect to its lands are governed by the Alaska National Interest Lands Conservation Act of 1980, 16 U.S.C. § 3101, *et seq.* ("ANILCA"), and the 1982 Chugach Natives, Incorporated Settlement Agreement ("1982 CNI Settlement").

Most of CAC's economically viable lands are within coastal zones subject to the ACMP consistency review process for development activities. For this reason, the ACMP program has an enormous impact on virtually any projects CAC contemplates on its lands.

HB 439 eliminates the ability of a citizen of a coastal district to file a petition, after a proposed consistency determination, asking that the Coastal Policy Council (CPC) determine whether or not their comments opposing the project had been "fairly considered". The petition process has been abused by those opposed to development projects, and has not resulted in any meaningful improvement of the important oversight the program provides to coastal communities. With the development of a lengthy and multi-tiered public comment process, the individual petition is no longer important as an opportunity to be heard but is used instead as an opportunity for delay.

Individual members of the public have an opportunity to be involved in and to comment on not only the ACMP consistency review but also on each and every one of the agency

The Honorable Scott Ogan February 26, 2002

permits. Under the current law if a single individual that lives in the district where the project is proposed submits comments to DGC during the public comment period and the agency subsequently issues a proposed determination that the project is "consistent" – this lone individual has the right to notify DGC of intent to petition the CPC. It does not matter that the coastal district in which the individual lives has approved the project, or the local government has approved the project, or that all the agencies involved have approved the project.

The problems associated with the petition process have been long recognized. In 1984 the CPC itself wrote regulations to end the petition process but neglected to change the statute so petitions remained a problem. The Knowles Administration attempted to end the petition process through SB 186 (which did not pass for other reasons). In 1994 the legislature attempted to correct the abuses and legal ambiguities of the petition process by limiting the right of petition to the single question of whether or not an individual's comments had been "fairly considered" by the DGC. Regulations were finalized in 1999.

In spite of these past efforts to "fix" this problem, from year 2000 to date, 18 petitions were filed. Of the 18, nine were not accepted because of deficiencies in filing; nine were accepted (stopping the project clock); hearings were held on five (the Council ruled against the petitioner in each case); four were withdrawn near or on the day of the hearing, which meant the project was delayed the full time allocated for petition review.

HB 439 removes once and for all this now extraneous right that is being used for delay rather than the original purpose of citizen comment. The legislation does not decrease the many rights and opportunities of individual citizens to provide comments on a project that have been added over the years since the ACMP was enacted. Any citizens can comment to their own coastal district about a project. Any member of the public can comment to a coastal district, or to any agency or to the DGC. Finally, any citizen can go to court.

CAC believes that while other significant reforms of the ACMP program are needed, the growth of frivolous petitions of consistency reviews requires expeditious and focused action provided by HB 439.

We appreciate your attention to our concerns on this issue.

Sincerely,



Rick Rogers,
Vice President Lands and Resources



750 West Second Ave., Suite 109, Anchorage Alaska 99501 / Ph. 907.258.6171 / Fax 907.258.6177
P.O. Box 22151, Juneau Alaska 99802 / Ph. 907.463.3366 / Fax 907.463.3312 / www.acvoters.org

HB 439 ~ Coastal Zone Petition

TO: Representatives
DATE: March 5, 2002

Alaska Conservation Voters (ACV) is a nonprofit organization dedicated to protecting Alaska's environment through public education and advocacy. Our 32 member organizations represent over 35,000 registered Alaskans, many of whom participate in public notice and comment opportunities during the state's review of development projects of all types. As conservationists, our members are particularly concerned with issues affecting the multitude of coastal resources.

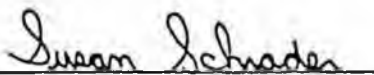
Alaskan conservationists, in good faith, have participated over the years in the many opportunities to comment on regulatory changes in the Alaska Coastal Management Program (ACMP). In particular, we have watched the program become more complex and convoluted, and less accessible to all Alaskans, especially those living in coastal communities who care about protecting their local resources.

The petition process that would be repealed by HB 439 has long ceased being a meaningful tool for Alaskan citizens to use. However, this process does provide the only opportunity, however limited, for the public to administratively appeal a project.

Alaskan citizens must have meaningful ways to participate in the protection of Alaska's miles of coastlines and watersheds. Because industry has problems with the citizen appeal process under ACMP, ACV encourages the Division of Governmental Coordination (DGC) to work to address industry's concerns *without further limiting the public's ability to participate.*

This bill simply represents another step closer to industry's goal of permit streamlining – a step that comes at the expense of further limitations on opportunities for Alaskans to shape how development in our state will occur.

Alaska Conservation Voters is opposed to this legislation and encourages you to vote "Nay." Send the message to industry and DGC to look for an alternative method to deal with industry's concerns.


Susan Schrader



THE ALLIANCE

ALASKA SUPPORT INDUSTRY ALLIANCE

2002 GOVERNMENT RELATIONS PRIORITIES

PRIORITY: OIL AND GAS DEVELOPMENT

The Alliance supports public policy that encourages responsible exploration and development of Alaska's oil and natural gas resources.

PRIORITY: REGULATORY REFORM

The Alliance advocates for clear, streamlined and equitable state and federal permit systems based on sound science and economics that will encourage private sector investment in the state.

PRIORITY: LONG TERM FISCAL PLAN

It is in the best interest of the State that the legislature and administration adopt a long-term fiscal plan to address the realities of the state's current fiscal gap. A state fiscal plan must address a strategy to bring state spending in line with revenues, encourage and promote economic development, and maintain the state's infrastructure. The most important factor to encouraging future oil and gas development in Alaska will be fiscally responsible government.

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Priority: OIL AND GAS DEVELOPMENT

Alaska is unique from other states in the nation in that our abundant natural resources--primarily the oil and gas resources of the North Slope, have generated almost 80% of the state's annual operating budget for decades. At peak production the North Slope fields produced two million barrels of oil per day. Today North Slope production has declined to approximately one million barrels of oil per day. This is a strong indicator that the economics of the North Slope have and will continue to change. The only way to offset today's production is through new discoveries and added production. The cost of Alaskan oil and gas production coupled with the costs to deliver the product to market must be managed efficiently to remain competitive worldwide and attract investment capital.

The Alliance supports public policy that encourages responsible exploration and development of Alaska's oil and natural gas resources. The Alliance favors the following:

- ▲ Incentives that encourage exploration and production of oil and gas resources in satellite fields, in "frontier" acreage, and the extraction of heavy viscous oil deposits.
- ▲ Expedited permit process for oil and gas exploration and the same expedited process for projects such as a trans-Alaska gas pipeline, a gas-to-liquids facility, or new discoveries.
- ▲ Public policy decisions that improve the commercial viability of developing Alaska's stranded natural gas resources.
- ▲ A stable and predictable oil and gas tax regime.



Priority: REGULATORY REFORM

The Alliance advocates for a clear, streamlined and equitable state and federal permit systems based on sound science and economics to encourage private sector investment in the state.

Specifically, The Alliance supports:

- ▶ The repeal of the "sunset" clause in last year's temporary water use bill. (HB 185)
- ▶ Legislative efforts to address misuse by "public interest" litigants against responsible resource development in Alaska.
- ▶ Partnering between industry and government to provide more reasonable regulations.
- ▶ Reform of the Alaska Coastal Management Program (ACMP) to a more comprehensive and equitable framework to ensure Alaska's regulatory climate is one that promotes private sector investment, namely:

The ACMP process must confine its review of permits to activities with a "direct and significant" coastal impact; and

Provide better criteria for determining which projects are subject to ACMP review; and

Establish firm deadlines for consistency reviews; and

Define the authority of the Department of Governmental Coordination in relation to other state review agencies; and

Require review agencies and public commenters to raise issues in a timely manner; and

Establish better standards for approving or rejecting elevations and petitions.



Priority: LONG TERM FISCAL PLAN

Fiscally sound state and federal government is essential to maintain a healthy oil and gas industry in Alaska. The Alliance supports legislation, regulation and processes that establish sound fiscal management in government.

State revenues rely on substantial private investments in our natural resources. A fiscally sound state government provides the kind of stable environment that allows businesses to invest with confidence. The Alliance strongly supports legislative efforts to balance the state budget, including the use of such tools as results-based budgeting, development of performance measures to determine agency efficiency, and a two-year budgeting cycle. As the state begins to "live within its means," Alaska can more effectively encourage and promote business development, economic investment and jobs for Alaskans. Through fiscal reform, investors can rely on an environment that is stable and attractive to investment capital.

Today the oil and gas industry pays approximately four-fifths (which equates to about 80%) of the cost of state government. We believe that further corporate and industry assessments will discourage future investments in developing Alaska's oil and gas resources.

Additional industry taxes will make Alaska even less attractive, given its remote location as well as heavy crude resources that are more expensive to refine. Alaska cannot afford to discourage investors (and employers) with an unprofitable and punitive business environment.

The Alliance membership is comprised of over 415 businesses and organizations. Collectively they employ over 35,000 people in Alaska.

The Alaska Support Industry Alliance

Founded in 1979, the Alaska Support Industry Alliance — also known as The Alliance, is a non-profit statewide trade association representing businesses and individuals engaged in activities related to oil and gas exploration, development, and production in Alaska. We are oilfield service companies, transportation enterprises, wholesale and retail businesses, professional firms and private citizens. Our mission is to promote responsible, safe, and environmentally sound exploration, development and production of oil and gas resources to benefit all Alaskans.

Our Goals

- To improve public understanding of the relationship between political decisions, industry activity and Alaska's economic health;
- To promote safe and environmentally sound development of Alaska's natural resources;
- To foster and promote a conducive business climate; and
- To foster a skilled Alaskan work force through participation in educational programs.



THE ALLIANCE

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—Gov. Tony Knowles, Dec. 11, 2001

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Week of January 6, 2002

GOVERNMENT

AOGA says proposed ACMP regulations unclear, unfair, illegal

Sealaska tells DGC in times of declining state revenues it is not good for state to volunteer to perform 'costly bureaucratic reviews'

By Steve Sutherland
PNA Managing Editor

In an unparalleled move, the 18 members of the Alaska Oil and Gas Association joined with other stakeholders to protest the state's proposed Alaska Coastal Management Program regulations in a Dec. 13 letter to the state Division of Governmental Coordination. Dependent upon the agencies for permits — and therefore normally cautious about strenuously objecting to their proposals — the state's oil and gas companies told DGC that the second draft of the ACMP regulations is unclear, undisciplined, unfair and illegal.


"Nothing less than Alaska's investment and development future is at stake," AOGA said in its cover letter.

AOGA contends the proposed regulations should, but do not, address four basic questions for every project applicant:

1. Does the ACMP apply to my project?
2. What information must I submit for my application to be complete?
3. What standards will be applied to the consistency review of my project?
4. How long will it take to obtain a consistency determination?

"Ridding the draft regulations of ambiguities, unnecessary duplicative reviews, permit conditions that agencies have no authority to enforce, and undefined timelines will do much to clarify the regulations..."

—Chugach Alaska Corp.



Members include Alaska's major oil companies

The members of the Alaska Oil & Gas Association are companies that represent the majority of oil and gas exploration, production, refining, transportation and marketing activities in Alaska.

Members include the following:

- Alaska Pipeline Service Co.
- Anadarko Petroleum Corp.
- BP Exploration (Alaska) Inc.
- Chevron U.S.A. Inc.
- Cook Inlet Region Inc.
- Cross Timbers Oil Co.
- ExxonMobil Production Co.
- Frontier Petroleum Corp.
- Greenwich Energy Services Inc.
- Marathon Petroleum Corp.
- North Slope Alaska Inc.
- Shell Westamerica Inc.
- Union Pacific Corp.
- Unocal
- Unocal Energy Services Inc.
- Williams Alaska Petroleum

No clear boundaries

DGC's proposed regulations create confusion about which projects in Alaska do or do not require an ACMP review, AOGA said, and they expand the reach of the ACMP to lands beyond the intent of the Legislature. A DGC employee told PNA in September that the agency wants all projects north

see AOGA page 13



THE REST OF THE STORY

continued from page 13

AOGA

The Alaska Miners Association said the ACMP affects not only "big" business, but small business as well.

"The gravity of these proposed regulations for the mining industry must not be underestimated," the association said. "Many of our members are small business-

AOGA contends the proposed regulations should, but do not, address four basic questions for every project applicant:

1. Does the ACMP apply to my project?
2. What information must I submit for my application to be complete?
3. What standards will be applied to the consistency review of my project?
4. How long will it take to obtain a consistency determination?

es which do not have legal and permitting staff that can negotiate their way through these regulations. For all the regulated public, but especially for such small businesses, the ACMP regulations have historically been a major source of permitting difficulty and concern. The proposed regulations would both perpetuate the existing problems and even expand the problems for these small businesses."

Coastal Policy Council to review results

According to Bates, the division has received many comments on the proposed regulations, and will take several months to review and summarize them before proceeding.

"We'll take a hard look, and assuming we move forward, we'll send them to the Coastal Policy Council within the next few months," he said.

The Coastal Policy Council is charged with guiding the direction of the ACMP.

"We're trying to boil down what the issues are, and what the biggest impediments are," Bates said. "We'll look at the comments and see if they preclude us from

Coastal Policy Council Members

Public members

- Southern Southeast Region: Barry Br...
- Northern Southeast Region: Eli Hanlon
- Prince William Sound Region: Currently Vacant
- Lower Cook Inlet Region: Jack Cushing, mayor, City Of Homer
- Upper Cook Inlet Region: James Colver
- Kodiak-Aleutians Region: Robin Heinrichs, deputy mayor, Kodiak
- Southwest Region: Alice J. Ruby
- Bering Straits Region: Robert L. Fagerstrom
- Northwest Region: Chadote Brower

State agency officials

- Office of Management and Budget: Annalze McConnell, director
- Department of Community and Economic Development: Debbie Sedwick, commissioner
- Department of Environmental Conservation: Michele Brown, commissioner
- Department of Fish and Game: Frank Rue, commissioner
- Department of Natural Resources: Patrick Poubot, commissioner
- Department of Transportation and Public Facilities: Joe Perkins, commissioner

The Coastal Policy Council consists of six state agency officials, appointed by virtue of their position; and nine public members representing one of nine coastal geographic areas. Public members serve for two years or until a replacement is appointed. Public members are appointed by the governor from a list of names nominated by municipalities of each region. Nominees must be borough assembly or city council members or mayors.

moving forward."

Bates said DGC was actually trying to make the agency's review process more predictable by clarifying its regulations. If the changes create more problems than they solve, the division might abandon the proposed revisions.

Initially, Bates said, it appears that some of the comments are based on problems with statutes, which can't be changed by DGC, but must be addressed by the Legislature. For instance, the review processes and some of the appeal processes are codified by statute, he said.

"The Legislature must amend statutes, we're the body amending regulations," he said.

Bates said it has been 17 years since the

regulations have been put in place. DGC began an assessment in the early 1990s to address concerns that have arisen over the years, and it was suggested that changes be made to Chapter 50 of the regulations, regarding the contingency review process. That led to the current draft process, which has been under way for two and one-half years, Bates said.

He said there has been a wide range of public involvement, and that DGC has had significant input from both industry and environmental interests. He said the division had gathered a meaningful picture of existing concerns.

"We may be able to move forward," he said. "We'll need the support of everybody involved." ♦

continued from page 1

PELICAN

the ground and three track-mounted drills will bore to depths of 20 feet every 220 feet along a source line. A 4.4 pound charge of Dynoseis will be placed in each hole and the hole will be backfilled.

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The activity will be supported by a helicopter and fixed wing aircraft. The 30 person crew will be staged from existing facilities in Beluga, Tyonek or Shirleyville.

The program will be shot during the winter of 2001-2002 and take approximately 45 days.

—Krisan Nelson

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continued from page 2

AOGA

of the Brooks Range to be subject to an ACMP review. Rather than addressing "direct and significant impacts" on coastal resources, as intended by the Legislature when the program was adopted, the language in the proposed regulations expands the program to include activity that "may affect any coastal use or resource," or activity that "may have a reasonably foreseeable direct or indirect effect on any coastal uses or resources." The DGC employee said even projects that were hundreds of miles from the coast or a river might be subject to an ACMP review because of a "possible indirect effect on coastal uses or resources."

"In these times of declining state revenues, it is not good government for the office of the Governor to volunteer to perform costly bureaucratic reviews of small projects that will only have minor and occasionally isolative effects" on some coastal resource.

—Sealaska Corp.

The state received numerous comments about how difficult it was to determine which projects would fall within the review area, Randy Bates, DGC project analyst told PNA recently.

"It's a source of frustration for stakeholders," Bates said. "There is a clear threshold, but not a clear boundary."

AOGA said DGC is required by state law to identify "the boundaries of the coastal areas subject to the district coastal management program."

In contrast, Washington state regulations clearly limit reviews to upland areas 200 feet landward from the edge of waters covered under its program.

Agencies stop the clock on projects

Another problem, AOGA said, was that it is impossible to determine how long the process will take.

"As currently drafted, the rules contain too many exceptions and loopholes that either stop the clock entirely or allow the schedule to be sequentially extended," AOGA said. "Because the coordinating agency can unilaterally modify the schedule at nearly every step, the applicant is left with no meaningful ability to predict the amount of time that will be needed to complete the process."

To illustrate the problem, AOGA notes the vast majority of pending ACMP consistency determinations for oil and gas exploration and development projects are on a "stopped consistency review clock." PNA's analysis of oil and gas project files shows that in the majority of cases the clock has been stopped by the state Department of Environmental Conservation.

Illegal requirements on permits

AOGA said the draft regulations would "institutionalize" illegal requirements known as "homeless stipulations" on permits for oil and gas projects.

The proposed regulations continue to allow state resource agencies to attach stipulations from the ACMP consistency determination as a requirement of permit approval, AOGA said. By this device, state agencies exceed the authority granted them by the Legislature.

AOGA said homeless stipulations impose new obligations on oil and gas projects, yet have no basis in statute or regulation and are therefore illegal.

AOGA's excerpts from DGC letter

"Despite DGC's best intentions, we believe the current draft is a significant step backward toward an unlawful and dysfunctional permitting scheme, lacking in even the minimum necessary predictability and..."

"We do not offer this very critical judgment lightly. Indeed, we want to emphasize that our membership is collectively and individually deeply disturbed by the current draft..."

"The significance of the ACMP process looms even larger as advocacy groups increasingly see the ACMP process as the procedural avenue of choice to pursue national and special interest political positions by blocking, delaying or increasing the costs of activities they oppose..."

"Unfortunately, AOGA, DGC and other stakeholders face a serious challenge because after much time and effort the current draft regulations are anything but a success story. Alaska cannot sustain further degradation of its regulatory reputation by adoption of ACMP regulations so unclear, undisciplined and ultimately, unfair and unlawful..."

Further, the proposed regulations delay state permits until after the consistency determination is final. Projects can be delayed by allowing DGC to impose conditions no agency is authorized to impose by attaching them as provisions of other state permits.

Elevation and petition process — a morass

AOGA member companies said they encounter major difficulties with the elevation and petition processes. The association suggests eliminating the current two-tiered elevation process.

An elevation occurs when an issue cannot be resolved at the staff level. If such a stalemate occurs an agency can "elevate" the issue to the appropriate directors of the resource agencies within the Department of Natural Resources, the Department of Fish and Game and DEC.

DGC coordinates the elevation. If, after a series of meetings between the directors, the issue remains unresolved, then the whole process begins again with an elevation of some or all of the issues to the resource agency commissioners.

AOGA believes the directors' level elevation is an unnecessary step in an already flawed process. Most of the issues that are elevated to directors are matters of policy and not fact or science. It is unusual for policy issues to find resolution at the director level; most elevations continue on to the commissioners. AOGA, not a proponent of the elevation process in any form, believes issues should be elevated only to commissioners. At least this eliminates one step that generally just wastes the time of the agencies and the applicants and provides little or no benefit.

Even with modification of elevations to a one-tiered process, procedures under the proposed regulations for conducting elevation meetings and petition hearings must be clarified, AOGA said.

In order to make sense of the proposed regulations, AOGA members attempted to prepare a detailed flow chart of the process, including timelines. The association said ambiguous and circular language made it impossible to develop a clear diagram that would show the required steps in the ACMP process.

In its comments, AOGA suggests that

DGC attempt to create a flow chart of the permitting process under the proposed regulations, noting that many conflicts and complexities are brought to light by diagramming the process.

Diverse interests, similar concerns

Other stakeholders from around Alaska expressed concerns that often coincided with AOGA's criticisms of the proposed regulations.

Sealaska Corp. comments mirrored concern about the effect of the regulations on economic development in the state.

"As we've stressed in the past, these are the most important procedural regulations in Alaska; they are complex; and every turn is fraught with the possibility of costly unintended consequences," Sealaska said.

The Juneau-based Native regional corporation also addressed the practical need to limit the reach of the ACMP review to definable boundaries, as intended by the Legislature: "In these times of declining state revenues, it is not good government for the office of the Governor to volunteer to perform costly bureaucratic reviews of small projects that will only have minor and occasionally esoteric effects" on some coastal resource."

Chugach Alaska Corp. said, "Ridding the draft regulations of ambiguities, unnecessary duplicative reviews, permit conditions that agencies have no authority to enforce, and undefined timelines will do much to clarify the regulations..."

The Anchorage-based Native regional corporation said in order for DGC to attain its goals with the regulations, such as consensus building among stakeholders, a clear timeline for the review process must be established.

"In today's world, we can expect virtu-

ally all projects to become controversial," Chugach said. "In order for consensus building to work in these cases, definite deadlines must be established and responsibility clearly assigned."

The Resource Development Council for Alaska said, "Developing a clear, well-organized, equitable framework for the ACMP will be critical to ensure Alaska's regulatory climate is one that does not unduly discourage private sector investment and economic development."

see AOGA page 15

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Pocket GUIDE

to the

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5 steps to project approval in Alaska's coastal zone



Table of Contents

First Question:
Is this guide for you? 2

**Commonly Asked Questions
and Answers about Projects
Proposed in Alaska's Coastal Zone 4**

5 Steps to Project Approval..... 8
1 – Applicant Completes a CPQ 8
2 – Coordinating Agency Receives Packet 11
3 – Consistency Review Starts..... 13
4 – Proposed Determination Circulated 15
5 – Final Determination Issued..... 16
Elevation, Appeals, & Petitions 17

Where to Go for More Information 18
More Questions & Answers..... 18
Map of Alaska's Coastal Zone..... 20

Who to contact 22
Division of Governmental Coordination 22
Coastal Districts..... 23
State Agencies 28
Federal Agencies 30



*Working together for
the long-term economic and
environmental productivity
of Alaska's coast.*

Is this guide for you?

This guide is for you if you have little or no experience obtaining permits for projects in Alaska's coastal zone or you just want to learn more about the Alaska Coastal Management Program (ACMP). Here you will learn



Once you understand the permits your project will require, you can design a project that will address these requirements up front and avoid delays later during the permitting process.

How do I know if the ACMP applies to my project?

If your project meets the following two criteria, or if you are unsure, you should contact DGC. One of DGC's Project Review Coordinators will help you determine if your project requires an ACMP consistency review and guide you to the state agencies and coastal districts you may need to contact.

If your project is:

1. located in or will affect resources of the coastal zone; *and*
2. requires a state, federal, or local permit(s), your project may require an ACMP consistency review.

how to determine if your project is in the coastal zone, the 5 steps in the coastal consistency review process, answers to some commonly asked questions, and where to go for more information.

By answering the following questions, you should determine whether the Alaska Coastal Management Program applies to your project. If it does, feel assured that this booklet, the Division of Governmental Coordination (DGC), coastal districts, and state resource agencies will help you navigate your project through the ACMP consistency review process. You will find addresses, telephone numbers, and web site addresses for agencies you may need to contact at the end of this booklet.

If you are not sure about the location of your project in relation to Alaska's coastal zone or the permits required for your project, keep reading.

How do I know if my project is located in the coastal zone?

Alaska's coastal zone boundaries include more than 44,000 miles of coastline and can extend inland along river drainages as far as 250 miles. This variability can make it difficult to tell if your project is within the coastal zone. The map on pages 20-21 shows a representation of Alaska's coastal zone and coastal districts.

If your project is located within a coastal district, you should contact either DGC at (907) 465-3562 (Juneau) or 269-7470 (Anchorage), or the coastal district to determine whether your project is within its coastal zone. Coastal district contact information is located at the end of this booklet.

Please note that the ACMP also applies to projects in large areas of Prince William Sound and southeast Alaska that are in the coastal zone but not within a coastal district.

How do I know if my project will require state or federal permits?

If you are not sure what permits your project might require, fill out a Coastal Project Questionnaire (CPQ) (for your own information). Even if you don't require an ACMP consistency review, the questions in the CPQ will help you identify what permits might apply to your project and who to contact for more information. If you discover your project requires an ACMP consistency review, you will be well on your way to fulfilling the requirements in Step 1.

Keep reading to learn more about the ACMP consistency review process and how DGC, your local coastal district, and state resource agencies can be of assistance.

Questions & Answers

What is the Alaska Coastal Management Program?

In 1972 Congress passed the Coastal Zone Management Act (CZMA) to promote the orderly development and protection of the country's coastal resources. The CZMA resulted from concern spurred by the increasing demands for development of the nation's coastal areas, population increases near the coast, and declining productivity of the coastal environment. The CZMA established a voluntary partnership among the federal government, coastal states, and local governments to develop individual state programs for managing coastal resources.

The Alaska Coastal Management Program (ACMP) implements legislation passed by the State of Alaska in 1977. With this legislation, called the Alaska Coastal Management Act, Alaska joins the partnership envisioned by the CZMA.

The ACMP improves stewardship of Alaska's coastal land and water uses, and natural resources, by creating a network of local, state, federal, and applicant interests in the project approval process. The networking provided by the ACMP helps to ensure that all aspects of a project are considered during a single review and approval process. This integrated approach promotes both economic and environmental productivity of Alaska's rich and diverse coastal resources.

The ACMP requires that projects in Alaska's coastal zone be reviewed by coastal resource management professionals and found consistent with the statewide standards of the ACMP. These standards and the enforceable policies of an affected coastal district ensure that development interests observe the vision set out for the future by the state and coastal communities. It is called the consistency review process. A finding of consistency with the ACMP must be obtained before permits can be issued for the project.

Mission of the Alaska Coastal Management Program:

"The ACMP provides stewardship of Alaska's rich and diverse coastal resources to ensure a healthy and vibrant coast that sustains long-term economic and environmental productivity."

What criteria does the ACMP use to evaluate my project?

The ACMP applies to projects within or affecting Alaska's coastal zone. The statewide standards (6 AAC 80) and coastal district enforceable policies of the ACMP provide direction for coastal resources and uses, such as:

- coastal development (whether a project is water-dependent or water-related),
- habitats (such as wetlands, tideflats, or streams),
- air, land, and water quality,
- transportation and utility routes and facilities,
- timber harvest,
- mining and mineral processing,
- subsistence opportunities,
- recreation designations,
- geophysical hazard areas,
- historical and archaeological resources,
- energy facilities, and
- fish and seafood processing.

Using the statewide standards and local enforceable policies, the ACMP evaluates the effects a project will have on the above coastal resources and uses. Projects must be consistent with the requirements found in the standards and enforceable policies.

What is the Coastal Consistency Review Process?

The coastal consistency review process, or *consistency review process*, helps ensure your project meets the statewide standards and coastal district policies. It also serves as the review process for most permits you will need from state resource agencies. This 5-step process advances your project through review and approval requirements in a timely fashion.

The consistency review process is a coordinated review process that benefits applicants and project reviewers alike. Applicants have a single, primary point of contact for their projects. Reviewers benefit by comprehensively reviewing a project only once.

This booklet explains the consistency review process in more detail and how you can get your project approved with a minimum of difficulty. The Division of Governmental Coordination, as well as state resource agencies and coastal districts, are available to help you understand and navigate your project through the consistency review process.

Who is DGC?

The **Division of Governmental Coordination (DGC)** is home to the ACMP. Located in the Office of the Governor, DGC is responsible for the overall administration and operation of the ACMP. In this role, DGC provides assistance to applicants, coastal districts, and state agencies in carrying out their duties and responsibilities under the ACMP.

DGC has connections throughout the ACMP network.



As such, *your first ACMP contact should probably be one of DGC's helpful Project Review Coordinators.* DGC also serves as the coordinator for the consistency review process if your project requires a federal permit or permits from more than one state agency.

The staff at DGC perform a variety of other activities that support the ACMP, including

- preapplication meetings for applicants
- federal funding for the ACMP
- assistance to local districts in getting their coastal management programs approved
- assistance resolving conflicts
- appeals, elevations, and petitions
- ACMP education and training

Who are the State Resource Agencies?

The State of Alaska has three agencies primarily responsible for managing its natural resources and uses of those resources. These resource agencies have permitting authorities for specific activities. If your project requires a permit(s) from only one state resource agency, that agency coordinates the consistency review process.

Your project will most likely require one or more permits from at least one resource agency. The state resource agencies include:

- *Department of Natural Resources (DNR)* manages state-owned land and natural resources, including sales and leases.
- *Department of Fish and Game (DFG)* manages the state's fish and wildlife resources and their habitats.

- *Department of Environmental Conservation (DEC)* serves to safeguard the public health and environment from human uses.

What is a coastal district?

Coastal districts are generally local governments, such as cities and boroughs, that contain a portion of Alaska's coastal area. In coastal areas outside the boundaries of local government, coastal districts known as Coastal Resource Service Areas (CRSA) may be formed.

Most coastal districts develop a coastal management program that requires a rigorous state and federal approval process. A district coastal management program contains enforceable policies that guide development affecting the coastal resources within its boundaries. Once approved, a district coastal management program becomes a part of the ACMP.

During the consistency review process, an affected coastal district reviews your project against the enforceable policies of its coastal management program. By complying with its enforceable policies, your project can help the district achieve its goals and objectives for coastal development within its boundaries.

The ACMP consistency review process provides:

- *a one-stop, consolidated state response to coastal development projects and related state and federal permit applications;*
- *specific timeframes and deadlines for reviewing project applications; and*
- *a fast appeal (elevation) process.*

Step 1

Complete a Coastal Project Questionnaire (CPQ)

What is the CPQ?

The Coastal Project Questionnaire, commonly called the CPQ, serves as the application for getting your project started in the ACMP consistency review process. A project in the coastal zone must receive an ACMP consistency determination, the end product of the consistency review process, before agencies can issue permits for the project.

The CPQ also helps you identify which state and federal permits will be required for your project. In addition, your completed CPQ provides reviewers with a description of your project and serves as your certification that your project will be conducted in a manner consistent with the ACMP. The CPQ (and this guide) includes a list of state agency and coastal district contacts for your convenience.

Who has to fill out a CPQ?

Anyone proposing a project within or affecting coastal areas of Alaska must submit a CPQ, with the following exceptions:

1) Placer miners: submit an *Annual Placer Mining Application* to the Department of Natural Resources (DNR).

2) Aquatic farmers: submit a *State of Alaska Aquatic Farm Permits Application* to DNR.



Federal agencies should contact DGC for information on how the consistency review process is used to review federal activities.

How do I get a CPQ?

Copies of the CPQ are available from DGC, state resource agencies (see the back of this brochure), the

U.S. Army Corps of Engineers (toll-free at 1-800-78-2712), other federal permitting agencies, and local coastal district offices.

What else do I need to know?

One of DGC's Project Review Assistants will help you determine what you need to do and who to contact to get your project ready for the consistency review process.

If your project is located within a coastal district, be sure to contact the district's ACMP coordinator and the planning department early to find out what will be required at the local level.

Once you've determined what permits will be required, be sure to contact those agencies to learn their permitting requirements.

How do I apply for my other permits?

Alaska has streamlined the permitting process to provide developers with a single point of entry. Your CPQ packet will include applications and fees for the permits you will need.

The consistency review process also serves as the permit review process for state resource agencies.

How much does it cost?

There is no charge for the ACMP consistency review process. However, agencies issuing permits for the project may require fees.

Is there anything I can do to pave the way for my project?

Before you finalize project plans or submit your CPQ and other information necessary for a complete application packet, the state can arrange a preapplication meeting with you and other review participants to discuss your draft plans. This meeting identifies concerns and information needs, helps you avoid 'pitfalls', and promotes a mutual understanding of your project. To

Pave the way for your project by identifying and addressing concerns before you turn in your application packet. Ask the state for a pre-application meeting.

arrange a preapplication meeting, contact the coordinating agency. In lieu of a meeting, the coordinating agency can distribute materials to review participants for preapplication assistance.

Fill in all the blanks

To complete the CPQ, fill in all the blanks and contact agencies as directed on the CPQ. Filling out the questionnaire properly is important and helps agencies process your project application without delays. If a question is not applicable then put "N/A." If you answer yes to a question and are not applying to that agency for a permit, explain why.

Your signature on the CPQ certifies that you believe your project is consistent with the standards and enforceable policies of the Alaska Coastal Management Program. The standards and enforceable policies are available from DGC and your local coastal district. If you need assistance, contact DGC or your local coastal district.

Is your application packet complete?

Your CPQ package should include:

- The completed CPQ and signed Certification of Consistency;
- Copies of any necessary state and federal permit applications, topographic maps, and plan drawings required by the approving agency. DGC encourages you to send original applications to the state or federal agency issuing the permit. Any fees associated with these permits also go to the issuing agency.
- Any additional pertinent information. Make sure you include a complete description of your entire project to minimize the need to provide more information later.

Step 2

Coordinating agency receives packet

Where do I send the CPQ?

Once you have a completed CPQ and application packet, you should submit it to the state agency responsible for coordinating the coastal consistency review for your project, commonly referred to as the review coordinating agency. You can determine the review coordinating agency for your project from the following:

- If your project requires a permit(s) from only one state agency, submit your CPQ and permit applications to that state agency. That agency will coordinate the consistency review for your project.
- If your project requires permits from two or more state agencies, or a permit from a federal agency, then you should submit your CPQ packet to the Division of Governmental Coordination, which will coordinate the consistency review for your project.

If you are not sure where to send your CPQ packet, contact DGC.

What happens next?

The review coordinating agency receives the application packet, decides whether it is complete, and determines if the project needs to undergo a coastal consistency review.

Does my project qualify for expedited review?

Some projects that have no significant impact on coastal resources, or are routine activities, may be exempt from further coastal consistency review requirements. The state maintains a list of permits and projects that qualify for expedited review in 6 AAC 50.050. The list is



referred to as the "Classification of State Agency Approvals" but is commonly known as the "ABC List."

To find out if your project qualifies for expedited review in the ABC List, contact DGC or your review coordinating agency. Projects that are in the coastal zone and not exempt from further review in the ABC List must undergo a full ACMP coastal consistency review.

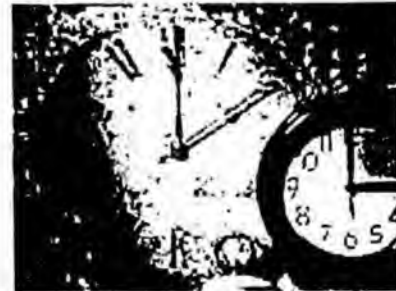
Step 3

Consistency review starts

50-day coastal consistency review begins

Once your application is received by the review coordinating agency and determined to be complete, the coordinating agency initiates the required public notices. The consistency review starts once all public notices have been issued.

The coordinating agency issues a deadline for reviewer and public comments and circulates your application packet to review participants. The coordinating agency tracks the project during the review and makes sure all interested parties take the opportunity to participate within the designated time frames.



The review coordinating agency will notify you of your review's start date, review number, review schedule, and any other pertinent information. With a few exceptions, the state must complete the consistency review of your project 50 days after the start date.

Do all consistency reviews last 50 days?

Although most projects require a 50-day review, the actual time frame may be shortened or extended under certain circumstances. Alternatives to 50-day consistency reviews are identified below:

- The consistency review of your project may be expedited if your project is a routine activity identified in the ABC List. For more information, refer to *Does my project qualify for expedited review?* in Step 2.
- The 50-day review schedule for your project may be extended for specific reasons. For more information, refer to *Extensions to the review schedule* below.

50-Day Consistency Review Schedule

| ACMP Consistency Review Process | Day |
|---|-----|
| Step 1 – Complete CPQ | 0 |
| Step 2 – Turn in your Packet | 0 |
| Step 3 – Consistency Review Starts | 1 |
| Deadline for information requests | 25 |
| Comment deadline | 34 |
| Step 4 – Proposed Determination | 44 |
| Deadline to file for elevation or petition* | 49 |
| Step 5 – Final Determination | 50 |
| *See page 17 | |

- If all necessary permits for your project are legally required to be issued within 30 days, the consistency review can be completed within a 30-day time frame as provided in 6 AAC 50.110 (a).
- Federal activities (projects conducted by or for a federal agency) may require a different review schedule. However, this booklet is not designed to address specific review or consistency requirements for federal activities. Contact DGC for more information at (907) 465-8794.

Who reviews the project?

The participants in the coastal consistency review process include: (1) you, the applicant; (2) state resource agencies and the Division of Governmental Coordination; (3) the affected coastal district; (4) other interested members of the public; and (5) federal agencies.

Having had a preapplication meeting can really pay off during step 3. Identifying concerns before the review begins can avoid delays and the need for additional stipulations.

Extensions to the review schedule

The review schedule may be extended for certain reasons as provided in 6 AAC 50.110(b). For example, after demonstrating a need for an extension, reviewers may request an extension:

- For you to provide additional information on your project that is needed for their analysis. The project review may be stopped within specified deadlines until that information is received. Within 7 days of receipt of the additional information, you will be notified of its adequacy.
- To perform a field review within a 10-day limit.
- To coordinate with DNR's process for disposals of interest in state land or resources.
- For a public hearing held as part of the consistency review process.

Step 4

Proposed consistency determination

What happens after reviewers submit comments?

After receiving comments from participants during the review process, the coordinating agency tries to resolve any issues that were raised. The coordinating agency then develops a **proposed consistency determination**. The proposed determination is discussed with you, state resource agencies, and the affected coastal district for concurrence.

What are stipulations?

The proposed consistency determination may include stipulations that modify your project and are necessary to bring it into compliance with the ACMP. These stipulations, or conditions of approval, are attached to permits issued for the project. Applicants and reviewers may discuss, or negotiate, the stipulations that will be included in the final determination.

What happens if I don't concur with the proposed consistency determination?

If concurrence cannot be reached by the review deadline, an elevation and/or petition can be requested by you or certain review participants. Please note that the instances of elevation are low. In fact, our statistics show that less than one percent of proposed consistency determinations receive requests for elevation or petition.

For a brief explanation of these processes, refer to *Elevations, Appeals, and Petitions* after Step 5. DGC can provide you with more information than is presented here in the unlikely event that this becomes an issue for your project.

Step 5

Final determination

When does my project get a final consistency determination?

A final consistency determination is issued when you and the project reviewers concur with the proposed determination, including the stipulations. The final consistency determination must be issued by the review deadline, generally 50 days.

When do I get my permits?

Once the final consistency determination is completed, most state agencies issue state permits covered by the determination within five days. However, an agency may find that additional time is necessary to fulfill its statutory requirements. For example, leases and other disposals of state land or resources issued by DNR generally require additional time. DGC or the permitting agency can provide you with more information on when you can expect to receive the permits for your project.



Once all your permits are in place, the real work begins.

Elevations, Appeals, and Petitions

Elevation

If you disagree with the proposed determination on your project, you may request elevation (further review) to division directors within state resource agencies. A resource agency or affected coastal district may also request an elevation. This request must be in writing and include a proposed alternative consistency determination that would effectively address your concerns. The directors review the proposed determination and the alternative determination included in the elevation request, then issue a director-level proposed determination.

If you do not agree with the director-level review, you may elevate the review to the commissioners of the resource agencies, who issue a final determination. This is the last step in the administrative process. Each elevation review can take up to 15 days.

Petition

Under AS 46.40.096, certain eligible parties may petition the Coastal Policy Council to review a project if the petitioner believes their comments related to the enforceable policies of an affected coastal district were not fairly considered. These parties may include the project applicant, an affected coastal district, a state agency, or a citizen of an affected coastal district. The petition process must be completed within 30 days. Contact DGC for more information.

Appeal

If your project requires a federal approval and you disagree with the state's final consistency determination, you may also appeal to the U.S. Secretary of Commerce in Washington, D.C., as provided in 15 CFR 930.125(h). DGC can provide you with information on this appeal process upon request.

Looking for more information?

Where you go to obtain more information will depend on the type of information you are seeking and your familiarity with the ACMP consistency review process. Generally, DGC can provide answers to your questions or direct you to the right person. However, before and during the application and review process, you will also likely benefit from contacting the local coastal district, and the agency or agencies that will be issuing permits.

If you are new to the ACMP or are unsure where to go, we recommend you contact the Division of Governmental Coordination (DGC). As the administrator of the Alaska Coastal Management Program, DGC's duties include helping applicants navigate the consistency review process and obtaining the information they need to succeed in getting their projects approved.

What other information can DGC provide?

The Division of Governmental Coordination (DGC) serves as the information center for the ACMP and the consistency review process. DGC can provide quick answers to whether or not your project is in the coastal zone, what permits you will need, and other questions you have about the project approval process.

DGC also retains copies of:

- all coastal district management programs,
- coastal zone boundary maps,
- ACMP statutes and regulations,
- policies, procedures, special project papers,
- ACMP history and legal opinions, and
- other documents related to the ACMP.

For projects requiring permits from two or more state agencies, or a federal permit, DGC serves as the coordinating agency for the consistency review. In addition, DGC coordinates the review for federal projects proposed in the coastal zone.

What information can other state resource management agencies provide?

The Department of Natural Resources (DNR), Department of Environmental Conservation (DEC), and the Department of Fish and Game (DFG) can provide information about the ACMP consistency review process but specialize in providing applicants with permitting requirements under their authority. For projects only requiring a permit from one of these state resource agencies, that agency coordinates the consistency review.

What information can coastal districts provide?

Coastal Districts can provide information about the ACMP consistency review process, but most importantly can share with you local permitting requirements for your project. In addition, coastal districts have expertise of local conditions and community standards, including development priorities, cultural values, and environmental conditions.

What information can I find on the Internet?

If you have access to the internet, be sure to visit the ACMP Website at:

<http://www.alaskacoast.state.ak.us/>

This new site will feature:

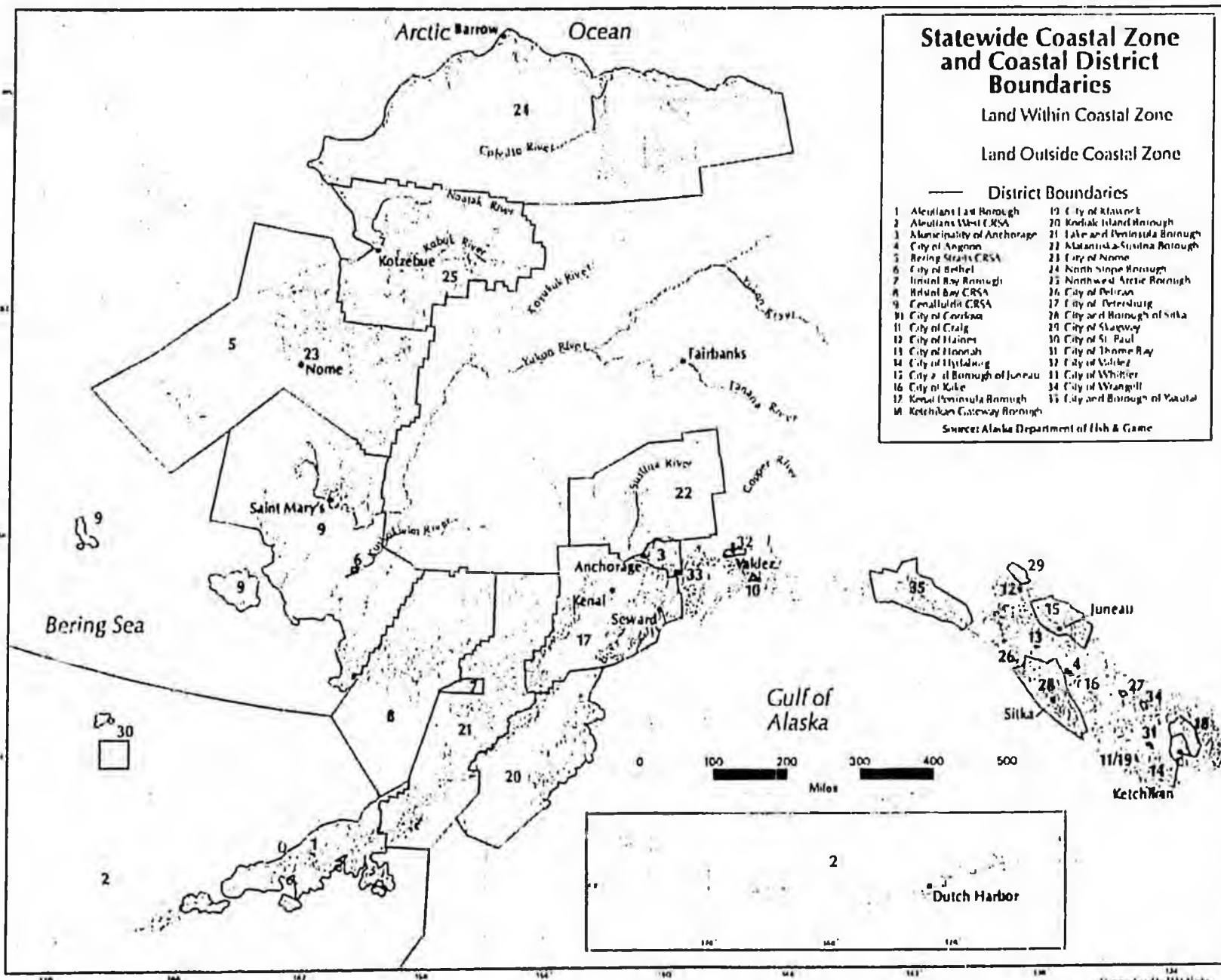
- a downloadable CPQ,
- more complete information about who to contact to help you through the consistency review process,
- access to DGC's project review database,
- coastal district enforceable policies,
- the ACMP statewide standards in 6 AAC 80,
- and much more.

If you need detailed information about an Alaskan community, visit the Department of Community and Regional Affairs community profiles database web page at:

http://www.comregaf.state.ak.us/CF_ComDB.htm

DGC can provide answers to your questions or direct you to the right person.





DGC Contacts: addresses are on back cover



**JUNEAU
OFFICE**

Main Line (907) 465-3562
Fax (907) 465-3075
Web Site Address:
<http://www.alaskacoast.state.ak.us>

Director of DGC..... 465-3562
Project Review Coordinators..... 465-2142
Project Review Analysts
ABC List..... 465-3529
ANILCA 269-7477
Federal Consistency/Supervisor 465-8794
Mining and Timber 465-8791
Oil and Gas 465-8792

ANCHORAGE DGC OFFICE

Main Line (907) 269-7470
Fax (907) 561-6134

Project Review Coordinators..... 269-7472

JOINT PIPELINE OFFICE

Main Line (907) 271-4317
Fax (907) 272-0690

Project Review Coordinator 271-4317

Coastal District Contacts

Aleutians East Borough

P.O. Box 349
Sand Point, AK 99661
Phone: (907) 383-2699
Telecopy: (907) 383-3496
E-mail: aebclerk@aol.com

Aleutians West CRSA

P.O. Box 920045
Dutch Harbor, AK 99692
Phone: (907) 581-2212
Telecopy: (907) 581-1306
E-mail: awcrsa@ptialaska.net

Anchorage, Municipality of

Department of Community
Planning and Development
P.O. Box 196650
Anchorage, AK 99519-6650
Phone: (907) 343-4261
Telecopy: (907) 343-4220
E-mail: TobishTG@ci.anchorage.ak.us
Web Site: <http://www.ci.anchorage.ak.us>

Angoon, City of

P.O. Box 189
Angoon, AK 99820
Phone: (907) 788-3653
Telecopy: (907) 788-3821

Bering Straits CRSA

P.O. Box 190
Unalakleet, AK 99684
Phone: (907) 624-3062
Telecopy: (907) 624-3811

Bethel, City of

P.O. Box 388
Bethel, AK 99559
Phone: (907) 543-5301
Telecopy: (907) 543-4186
E-mail: john_malone@ddc-alaska.org

Bristol Bay Borough

P.O. Box 189
Naknek, AK 99633
Phone: (907) 246-4224
Telecopy: (907) 246-6633
E-mail: bbbmgmt@bristolbay.com

Coastal District Contacts

Bristol Bay CRSA

Nanvaq Building, Room 207
P.O. Box 849
Dillingham, AK 99576
Phone: (907) 842-2666
Telecopy: (907) 842-2776
E-mail: bbersant@nushtel.com

Ceñaliulriit CRSA

P.O. Box 368
St. Mary's, AK 99658
Phone: (907) 438-2638
Telecopy: (907) 438-2643

Cordova, City of

P.O. Box 1210
Cordova, AK 99574
Phone: (907) 424-6200
Telecopy: (907) 424-6246
E-mail: samflora@cordovanet.com

Craig, City of

City of Craig
P.O. Box 725
Craig, AK 99921
Phone: (907) 826-3275
Telecopy: (907) 826-3278
E-mail: jbolling@ptialaska.net

Haines, City of

City of Haines
P.O. Box 1049
Haines, AK 99827
Phone: (907) 766-2231
Telecopy: (907) 766-3179
Web Site: <http://www.haines.ak.us>

Hoonah, City of

P.O. Box 360
Hoonah, AK 99829
Phone: (907) 945-3663
Telecopy: (907) 945-3445

Hydaburg, City of

P.O. Box 49
Hydaburg, AK 99922
Phone: (907) 285-3761
Telecopy: (907) 285-3760

Coastal District Contacts

Juneau, City and Borough of

Community Development Department
155 South Seward Street
Juneau, AK 99801
Phone: (907) 586-5230
Telecopy: (907) 586-3365
Email: Terry_Stone@mail.ci.juneau.ak.us
Web Site: <http://www.juneau.Lib.ak.us>

Kake, City of

P.O. Box 500
Kake, AK 99830
Phone: (907) 785-3804
Telecopy: (907) 785-4815
E-mail: clerkake@seaknet.alaska.edu

Kenai Peninsula Borough

144 N. Binkley Street
Soldotna, AK 99669-7599
Phone: (907) 262-4441 x337
E-mail: Glandua@borough.kenai.ak.us
Web Site: <http://www.borough.kenai.ak.us>

Ketchikan Gateway Borough

344 Front Street
Ketchikan, AK 99901
Phone: (907) 228-6610
Telecopy: (907) 247-8439
E-mail: ktnczm@ktn.net

Klawock, City of

P.O. Box 113
Klawock, AK 99925
Phone: (907) 755-2261
Telecopy: (907) 755-2403

Kodiak Island Borough

Community Development Department
710 Mill Bay Road
Kodiak, AK 99615-6340
Phone: (907) 486-9360
Telecopy: (907) 486-9376
E-mail: lfred@kib.co.kodiak.ak.us (no caps)

Lake and Peninsula Borough

P.O. Box 495
King Salmon, AK 99613
Phone: (907) 246-3421
Telecopy: (907) 246-6602
E-mail: lpboro@bristolbay.com

Coastal District Contacts

Matanuska-Susitna Borough

350 E. Dahlia Avenue
Palmer, AK 99645-6488
Phone: (907) 745-9865
Telecopy: (907) 745-9876

Nome, City of

P.O. Box 281
Nome, AK 99762
Phone: (907) 443-5242
Telecopy: (907) 443-5349
Web Site: <http://www.alaska.net/~nome/>

North Slope Borough

P.O. Box 69
Barrow, AK 99723
Phone: (907) 852-0440 x266
Telecopy: (907) 852-5991
E-mail: jdunham@co.north-slope.ak.us

Northwest Arctic Borough

P.O. Box 1110
Kotzebue, AK 99752
Phone: (907) 442-2500
Telecopy: (907) 442-2930
E-mail: acar@cagle.ptialaska.net
Web Site: <http://www.northwestarcticborough.com>

Pelican, City of

P.O. Box 737
Pelican, AK 99832
Phone: (907) 735-2202(wk)
Telecopy: (907) 735-2258

Petersburg, City of

P.O. Box 329
Petersburg, AK 99833
Phone: (907) 772-4533
Telecopy: (907) 772-4876
E-mail: luczak@alaska.net

Sitka, City and Borough of

100 Lincoln Street, #201
Sitka, AK 99835-7540
Phone: (907) 747-1812
Telecopy: (907) 747-7403
E-mail: campbell@cityofsitka.com
Web Site: <http://www.CityofSitka.com>

Coastal District Contacts

Skagway, City of

P.O. Box 415
Skagway, AK 99840
Phone: (907) 983-2297
Telecopy: (907) 983-2151

St. Paul, City of

P.O. Box 501
St. Paul, AK 99660
Phone: (907) 546-2331
Telecopy: (907) 546-3199

Thorne Bay, City of

P.O. Box 19110
Thorne Bay, AK 99919
Phone: (907) 828-3380
Telecopy: (907) 828-3374

Valdez, City of

P.O. Box 307
Valdez, AK 99686
Phone: (907) 835-4313
Telecopy: (907) 835-2992
E-mail: vdzadm@alaska.net

Whittier, City of

P.O. Box 729
Whittier, AK 99693
Phone: (907) 472-2326
Telecopy: (907) 472-2404

Wrangell, City of

P.O. Box 531
Wrangell, AK 99929
Phone: (907) 874-2381
Telecopy: (907) 874-3952
E-mail: ccodev@wrangell.com

Yakutat, City and Borough of

P.O. Box 160
Yakutat, AK 99689
Phone: (907) 784-3323
Telecopy: (907) 784-3281

State Agency Contacts

Primary State Resource Management Agency Contacts

Department of Natural Resources

Web Site: <http://www.dnr.state.ak.us>

Southcentral Alaska:
Public Information Office
3601 C Street, Suite 200
Anchorage, AK 99503-5929
Phone: 269-8400
Fax: 269-8901

Southeast Alaska:
Public Information Office
400 Willoughby, Fourth Floor
Juneau, AK 99801-1790
Phone: 465-3400
Fax: 586-2954

Northern Alaska:
Public Information Office
3700 Airport Way
Fairbanks, AK 99709-4699
Phone: 451-2700
Fax: 451-2751

Department of Fish and Game Division of Habitat and Restoration

Web Site: [http://www.state.ak.us/local/akpages/
FISH.GAME/adfghome.htm](http://www.state.ak.us/local/akpages/FISH.GAME/adfghome.htm)

Southcentral Alaska:
333 Raspberry Rd.
Anchorage, AK 99518-1599
Phone: 267-2335
Fax: 267-2464

Southeast Alaska:
P.O. Box 240020
Douglas, AK 99824-0020
Phone: 465-4290
Fax: 465-4272

State Agency Contacts

Northern Alaska:
1300 College Rd.
Fairbanks, AK 99701-1599
Phone: 459-7289
Fax: 456-3091

Department of Environmental Conservation

Web Site: [http://www.state.ak.us/local/akpages/
ENV.CONSERV/home.htm](http://www.state.ak.us/local/akpages/ENV.CONSERV/home.htm)

Southcentral Alaska:
555 Cordova St.
Anchorage, AK 99501
Phone: 269-7500
Fax: 269-7652

Southeast Alaska:
410 Willoughby Ave. Suite 105
Juneau, AK 99801
Phone: 465-5350
Fax: 465-5274

Northern Alaska:
610 University Ave.
Fairbanks, AK 99709-3643
Phone: 451-2360
Fax: 451-2187

Federal Agency Contacts

U.S. Army Corps of Engineers

<http://www.usace.army.mil/alaska>

P.O. Box 898
Anchorage, AK 99506-0898
ATTN: NPACO-RF
Phone: 1-800-478-2712

Your project may also require permits from other federal agencies such as those listed below. However these agencies do not have consistent or single points of contact for permit information and ACMP requirement. DGC can provide you with appropriate contact information if your project may require permits from these agencies.

Bureau of Land Management

<http://www.ak.blm.gov/>

Environmental Protection Agency

<http://www.epa.gov/region10/www/search.html>

222 W. 7th Ave. #19
Anchorage, AK 99513-7588
1-800-781-0983

Federal Aviation Administration

Federal Energy Regulatory Commission

Minerals Management Service

949 E. 36th Ave.
Anchorage, AK 99508
(907) 271-6010

U.S. Coast Guard

<http://www.uscg.mil.d17uscgd17.html>

U.S. Forest Service

<http://www.fs.fed.us/r10/>

For more information about federal consistency or appeals to the U.S. Secretary of Commerce contact

Office of Ocean and Coastal Resource Management (OCRM)

<http://www.nos.noaa.gov/ocrm/>

OCRM, National Ocean Service
National Oceanic & Atmospheric Administration
U.S. Department of Commerce
1305 East-West Hwy., N/ORM4
Silver Spring, Maryland 20910



State of Alaska,
Office of the Governor

Division of Governmental Coordination (DGC)

DGC Web Site:

<http://www.alaska coast.state.ak.us>

Juneau DGC Office

Address: 240 Main St.,
Suite 500, Juneau, AK

Mailing: P.O. Box 110030,
Juneau, AK
99811-0030

Telephone: (907) 465-3562
Fax: (907) 465-3075

Anchorage DGC Office

Address: 3601 "C" St., Suite 370
Anchorage, AK
99503-5930

Telephone: (907) 269-7470
Fax: (907) 561-6134

Joint Pipeline Office

Address: 411 W. 4th Ave.
Suite 2-C, Anchorage,
AK 99501-2342

Telephone: (907) 271-4317
Fax: (907) 272-0690



Funding for this publication provided by the State of Alaska and through the Coastal Zone Management Act of 1972, as amended in 1990, administered by the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce. These booklets were printed at a cost of 96 each in Anchorage, Alaska during June, 1998.

HB 439-COASTAL ZONE MANAGEMENT PETITIONS
SENATE FINANCE COMMITTEE

SIGN-IN

✓
NAME: Pam LaBolle Subject/Bill No: HB 439
Co./Dept./Title: AK State Chamber President Phone: 586-2010
Address: 217 2nd St Juneau Zip: 99801
Do you wish to testify? Yes No Respond To Questions

NAME: Linda Hoy Subject/Bill No: HB 439
Co./Dept./Title: Rep Ogan Phone: # 2283
Address: #108 Zip: _____
Do you wish to testify? Yes No Respond To Questions

✓
NAME: Patrick Galvin Subject/Bill No: HB 439
Co./Dept./Title: Div. of Governmental Coord. Phone: 465-8800
Address: Juneau Zip: 99811
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

HB

443

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 443(L&C)
(H) Publish Date: 4/3/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Environmental Conservation
Title: Relating to tattooing and body piercing BRU: Environmental Health
Component: Food Safety and Sanitation
Sponsor: Rep Kohring
Requester: House Labor and Commerce Committee Component No.: 2343

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2003 | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 | 3.1 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Supplies | 0.2 | 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 |
| TOTAL OPERATING | 3.3 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|------------|------------|------------|------------|------------|------------|
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-----------------------------|------------|------------|------------|------------|------------|------------|

| | | | | | | |
|-------------------------------|------------|------------|------------|------------|------------|------------|
| CHANGE IN REVENUES () | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-------------------------------|------------|------------|------------|------------|------------|------------|

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 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1004 GF | 2.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1005 GF/Program Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1037 GF/Mental Health | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other (Specify Type-Do not abbreviate) | 1.3 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL | 3.3 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 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)

This bill will require public notice of a revised effective date for application and fees. A portion of this cost would be covered by interagency receipts from the Department of Commerce and Economic Development, Division of Occupational Licensing. General funds will be required to cover the remainder of the public notice cost.

Prepared by: Mary Siroky - Legislative Liaison
Division: Statewide Public Services
Approved by: Kurt Fredriksson - Deputy Commissioner
Agency: Department of Environmental Conservation

Phone: (907) 465-5355
Date/Time: 3/22/02 3:16 PM
Date: 3/22/2002

ALASKA STATE LEGISLATURE

Interim:

600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 373-1842
Fax - (907) 373-4729



Session:

State Capitol Building, Room 24
Juneau, Alaska 99801-1182
(907) 465-2186
Fax - (907) 465-3818

REPRESENTATIVE VIC KOHRING
DISTRICT 26

SPONSOR STATEMENT

HOUSE BILL 443

TATTOOING AND BODY PIERCING

In 2000, the Legislature passed SB 34 to bring tattoo and body piercing practitioners under the regulation and licensing requirement of AS 08.13, Barbers and Hairdressers. The legislation established qualification and training requirements for license applicants, regulations for shop licenses, and set application deadline and initial licensing dates.

The 2000 legislation did not allow for a grace period or appeal process for missing the license application deadline. Several established practitioners missed the deadline because they were unaware of the new regulations. Shops not meeting the new requirements will have to close or cease the effected part of their business. This will result in loss of income to shop owners, practitioners, shop support staff and vendors.

This bill will extend the application period and the initial licensing date.

ALASKA STATE LEGISLATURE

Interim:

600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 575-1842
Fax -(907) 575-4729



Session
State Capitol Building, Room 421
Juneau, Alaska 99801-1132
907-465-2186
Fax - (907) 465-5819

REPRESENTATIVE VIC KOHRING
DISTRICT 26

SECTIONAL ANALYSIS

CS HOUSE BILL 443 (L&C)

TATTOOING AND BODY PIERCING

- ◆ **Section 1(a)(1)** extends the application deadline from July 1, 2001, to October 1, 2002.
 - This will allow practitioners who missed the original deadline additional time to file for transitional license.
- ◆ **Section 1(a)(2)** changes the wording for the qualifying experience period from 12 out of the 24 consecutive months immediately preceding the transitional application to 12 out of the 24 months beginning July 1, 1999, and June 30, 2001.
 - This, in effect, keeps the qualifying period the same as the current statute. An applicant must have been qualified to apply for the transitional license by July 1, 1999, the date of the original application deadline.
- ◆ **Section 2** changes the licensing requirement date for the initial member appointed to the Board from July 1, 2002, to December 1, 2002.
- ◆ **Section 3(a)** changes the effective date for licensing and, notification requirements, from July 1, 2002, to December 1, 2002.
 - The licensing requirement date has to be after the application deadline. Making the license and effective dates December 1, 2002, will give the department time to process the applications and administer the test before the application requirement date without unduly delaying regulations or the apprenticeship period for people wishing to enter the profession.

ALASKA STATE LEGISLATURE

Interim:

600 East Railroad Avenue
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Session:

State Capitol Building, Room 24
Juneau, Alaska 99801-1182
(907) 465-2186
Fax - (907) 465-3818

REPRESENTATIVE VIC KOHRING
DISTRICT 26

HB 443

TATTOOING AND BODY PIERCING

Background Information

SB 34 was introduced in 1999 to regulate tattooing and body piercing practitioners by licensing them through the Division of Occupational Licensing under the Barbers and Hairdressers Board. The bill, amending AS 08.01.065 and 08.13 was signed into law May 31, 2000, with various effective dates:

- Section 31(a)(1), chapter 93, SLA 2000 set the transitional license application deadline as July 1, 2001.
- Section 32, chapter 93, SLA 2000 set the licensing requirement date for the initial member appointed to the Board as July 1, 2002.
- Section 35(a), chapter 93, SLA 2000 set the licensing requirement date for practitioners as July 1, 2002.

ALASKA STATE LEGISLATURE

Interim:
600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 373-1842
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Session:
State Capitol Building, Room 24
Juneau, Alaska 99801-1182
(907) 465-2186
Fax - (907) 465-3818

REPRESENTATIVE VIC KOHRING
DISTRICT 26

HB 443

TATTOOING AND BODY PIERCING

Issue Statement

Several practitioners missed the application deadline set by the passage of SB 34 because they did not know of its existence. No mechanism was provided for qualified practitioners who missed the July 1, 2001, deadline.

Notices were only sent out to "obvious" business names and to persons on DCED and DEC's interested party lists. Businesses without some catch word in their title were not notified. Newspaper notices are ineffectual because most people don't go looking for them unless they already know the regulation exists.

Under these new regulations, practitioners who missed the deadline:

- will have to close their own business. This would result in:
 - loss of income for practitioner;
 - loss of income for employees;
 - loss of income for support vendors, etc.
- practitioners with many years experience might be put in the position to have to "apprentice" under a competitor with far less experience in order to qualify for a license if:
 - the practitioner can find a licensed practitioner willing to hire him/her;
 - there is a licensed practitioner in the area.

If the practitioner is unable to find someone to "apprentice" under, he/she would have to:

- relocate to another area where a willing licensed practitioner is available, or
- find another line of employment.

March 8, 2002

To: Senator Vic Kohring
State Capitol

Sir: I'd like to express my support
for HB 443, moving the date for ^{§§} implementation
of Transitional Licensure from
July 2002^{§§} to ~~December~~ ^{§§} October 2002.

Several Tattoo Artists, Body Piercers
and Permanent Cosmetic Colorists
did not receive notice that their
profession was going to be
licensed and they missed the first
deadline to register for the
Transitional license.

HB 443 will enable these
individuals to continue working
in the profession of their choice
in Alaska.

I want to say this is my personal
opinion and not a representation of
the Board of Barber and Hairdressers.

Thank you Cheryl Sutton
205 Seward St
Fairbanks AK 99801

March 7, 2002

Vic Kohring
State Representative
Alaska State Capitol, Rm. 24
Juneau, Alaska 99801

To Whom It May Concern,

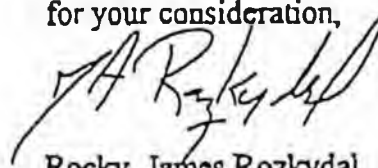
I received a package of material regarding House Bill 443 from Vic Kohring's office which addresses the need to extend the application period for Tattoo and Body Piercing.

I work at Muttley's Tattoo Clinic and am aware that we should have received the applications, but didn't. Shouldn't something of this importance have been sent "Registered Mail"?

I believe the need to regulate the industries is a valid one and perhaps even long in coming but at the same time I see no need to make sacrifices of the qualified tradesmen in our haste to implement them.

If these amendments are not excepted, what recourse do we artists and piercers who should have been notified but were not, have available to us?

Thank You
for your consideration,



Rocky, James Rozkydal

March 7, 2002

Vic Kohring
State Representative
Alaska State Capitol, Rm 24
Juneau Alaska 99801

Dear Sirs:

I have been tattooing in Alaska for over fifteen years and frankly we are well overdue to be regulated.

My personal complaint is that there were applications for transitional licensing sent out to all listed "Tattoo" Facilities. Unfortunately, we failed to receive an application at my establishment, and we were unaware that said application even existed for well over a month after it was due.

Sirs, you would think that a letter that would determine the fate of a career or livelihood would be serious enough to be registered mail. Myself and my employees more than meet the criteria set for the Transitional Licensing.

It is my belief that if a person meets the requirements for any job that requires an occupational license, they should be granted that license.

It is my understanding that the outcome of House Bill #443 will determine whether or not I may continue run a successful small business. Not only am I battling for myself, but also for my employees, who are counting on me to provide them with job security

I am also battling for our clients. We were recently voted "Best in the Valley" by a readers poll in the "Frontiersmen" our local editorial.

I am one man struggling to keep my business flourishing and I would be, very dissapointed to see the "Best in the Valley" close their doors.

I am willing to give my testimony telephonically or in person if need be. Please, help me save my business and the careers of those working for me.

Sincerely,



JEFF MARTIN
Owner
Muttley's Tattoo Clinic



Lakeland Wintersun Luczak-Peck
Hc33 Box 3050
Wasilla, AK 99654
(907) 357-4791

March 8, 2002

Vic Kohring,
State Representative
Alaska State Capitol, Room 24
Juneau, Alaska 99801

To whom it may concern:

My name is Lakeland Wintersun Luczak-Peck, and I am an upcoming hopeful in the tattoo industry. I had recieved a package regarding House Bill #443 recently, and I noticed that if the bill does not pass, I may not begin my apprenticeship in the art of Tattoo. Currently I am employed by Jeff Martin of "Muttley's Tattoo Clinic" in Wasilla. It is my understanding that I need 12 to 24 consecutive months of training under a person with a valid practitioner's license. It is my concern that House Bill #443 is passed, so that my employer (who did not recieve his license renewal forms, due to a technicality) may remain licensed for the duration of my apprenticeship. Personally I think it would be unfair to deny my training, especially after I have already put so much into this, thus far.

Sincerely,

Lakeland Wintersun Luczak-Peck
Lakeland Wintersun Luczak-Peck
Muttley's Tattoo Clinic Employee

March 12, 2002

Vic Kohring
State Representative
State Capitol Building Rm 24
Juneau, Alaska 99801-1182



Dear Honorable Sirs,

Hello, my name is April Smiloff. I am writing in regards to House Bill 443. I support Bill 443, I have multiple reasons on why Bill 443 should be passed. May I ask you to take a little of your time to read over my letter of recommendation?

Tattoo and Body Piercing Regulations are in dire need, there is no denying that fact. There does need to be certain guidelines to Tattooing and Body Piercing; if not every ignorant person would practice in a very unsterile, unsafe environment.

The complicated job of regulating and writing these guidelines was dumped on the Board of Barbers and Hairdressers. We all know what happens when you start rolling a large stone down a hill without looking before you shove. I believe this has happened with Tattoo and Body Piercing regulations. It all happened very quickly, not all things were thought over thoroughly. It would take me too long to explain all of them. My point is that if you pass House Bill 443 this will give you a second glance down the hill. Therefore, the Board of Barbers and Hairdressers will have more time to think out thoroughly their law making.

In the hastiness that the Regulations have been handled so far, some people have not been properly contacted, or even had known about the proposed regulations, let alone known of the deadline. I hope these other concerned peoples have also had taken the time to write their recommendation, so you know I am not the only one.

I am able to do a telephone conferance during the hearing. If you have any questions please contact me. I thank you for taking the time to read my letter of recommendation in SUPPORTING HOUSE BILL 443.

Sincerely,

April Smiloff

March 14, 2002
Attention Vic Kohring
State representative

Bill #443

Dear committee,

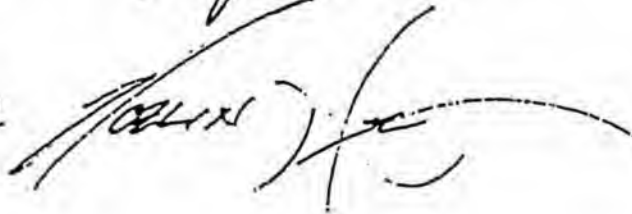
My name is Ray Bilodeau I am owner and operator of Dragon Ray's Tattoos in Anchorage, AK I also operate Dragon Ray's West of Boise, ID. I was unable to meet the July deadline due to working out of state, I would appreciate the opportunity to make application for licensing in AK, so I would support your bill #443 and would like to testify at the hearing. I also had to at high expense to myself relocate one of my Tattoo artist Noelin Wheeler to my shop in Boise because of the fast deadline that would not let him complete time apprenticeing if your bill works he would be able to return to Alaska where his family is and work in my shop. I also would be able to operate my own shop, and it would untie my hands to let me operate my business without limits and options. Please contact me for any further information at 1 208 887 7651 or 1 208 571 2447 we both would like the opportunity to testify at the committee.

3/14/02

Ray A BILODEAU



Noelin WHEELER



Tony Knowles, Governor

Alaska

**Department of Community
and Economic Development**

Division of Occupational Licensing

P.O. Box 110806, Juneau, AK 99811-0806

Telephone: (907) 465-2534 • Fax: (907) 465-2974 • Text Telephone: (907) 465-5437

Email: License@dced.state.ak.us • Website: www.dced.state.ak.us/occ/

April 8, 2002

The Honorable Vic Kohring
Alaska State Representative
State Capital, Room 24
Juneau, AK 99801

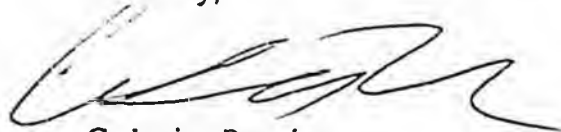
Dear Representative Kohring:

During its April 8, 2002 meeting in Anchorage, the Board of Barbers and Hairdressers reviewed CSHB 443.

The board, by motion, voted to support this bill in its entirety. On behalf of the board, I am relaying their support of CSHB 443.

Thank you for your work and support of this profession.

Sincerely,



Catherine Reardon
Director

HB

443

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAY 08 2002
SENATE FINANCE
COMMITTEE

DATE: 4/26/02

FURTHER:

DATE TURNED IN TO OFFICE: 9 May 2002

Finance Committee considered CS FOR HOUSE BILL NO. 443(L&C)
HB 443 TATTOOING AND BODY PIERCING

"An Act retroactively extending the application and licensing deadlines and amending the effective date of certain provisions relating to regulation of persons who practice tattooing and permanent cosmetic coloring or body piercing; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS HB 443 (L&C)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

| Department | Date | Fiscal | Zero | FN# |
|------------|------|--------|------|-----|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

PREVIOUS FISCAL NOTE(S):

| Department | Date | Fiscal | Zero | FN# |
|------------|---------|--------|------|-----|
| DEC | 4/19/02 | 3.3 | | #2 |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | Do PASS | Do NOT PASS | No REC | AMEND |
|---------------------------------|---------|-------------|--------|-------|
| <i>[Signature]</i> | | | ✓ | |
| <i>[Signature]</i> | | | ✓ | |
| <i>[Signature]</i> | | | ✓ | |
| <i>[Signature]</i> | | | ✓ | |
| | | | | |
| | | | | |
| COCHAIR: <i>[Signature]</i> | ✓ | | | |
| COCHAIR: <i>[Signature]</i> | | | | |

MAY 08 2002

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CS HB 443 (L&C)
(S) Publish Date: 4/26/02

Revision Date/Time 4/19/02 3:00pm (Corrected)
Title Relating to tattooing and body piercing
Sponsor Rep Kohring
Requester Senate Labor and Commerce
Dept. Affected: Environmental Conservation
BRU Environmental Health
Component Food Safety and Sanitation
Component No. 2343

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2003 | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 | 3.1 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Supplies | 0.2 | 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 |
| TOTAL OPERATING | 3.3 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|------------|------------|------------|------------|------------|------------|
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-----------------------------|------------|------------|------------|------------|------------|------------|

| | | | | | | |
|-------------------------------|------------|------------|------------|------------|------------|------------|
| CHANGE IN REVENUES () | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-------------------------------|------------|------------|------------|------------|------------|------------|

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 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1004 GF | 2.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1005 GF/Program Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1037 GF/Mental Health | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1007 Inter agency receipts | 1.3 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL | 3.3 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY 2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 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)

This bill will require public notice of a revised effective date for application and fees. A portion of this cost would be covered by interagency receipts from the Department of Commerce and Economic Development, Division of Occupational Licensing. General funds will be required to cover the remainder of the public notice cost.

Prepared by: Mary Siroky - Legislative Liaison Phone (907) 465-5355
Division Statewide Public Services Date/Time 4/19/02 12:00 AM
Approved by: Kurt Fredriksson - Deputy Commissioner Date 4/19/2002
Agency Department of Environmental Conservation

ALASKA STATE LEGISLATURE

Interim:

600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 373-1842
Fax - (907) 373-4729



Session:

State Capitol Building, Room 24
Juneau, Alaska 99801-1182
(907) 465-2186
Fax - (907) 465-3818

REPRESENTATIVE VIC KOHRING
DISTRICT 26

SPONSOR STATEMENT

HOUSE BILL 443

TATTOOING AND BODY PIERCING

In 2000, the Legislature passed SB 34 to bring tattoo and body piercing practitioners under the regulation and licensing requirement of AS 08.13, Barbers and Hairdressers. The legislation established qualification and training requirements for license applicants, regulations for shop licenses, and set application deadline and initial licensing dates.

The 2000 legislation did not allow for a grace period or appeal process for missing the license application deadline. Several established practitioners missed the deadline because they were unaware of the new regulations. Shops not meeting the new requirements will have to close or cease the effected part of their business. This will result in loss of income to shop owners, practitioners, shop support staff and vendors.

This bill will extend the application period and the initial licensing date.

ALASKA STATE LEGISLATURE



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REPRESENTATIVE VIC KOHRING
DISTRICT 26

SECTIONAL ANALYSIS

CS HOUSE BILL 443 (L&C)

TATTOOING AND BODY PIERCING

- ◆ **Section 1(a)(1)** extends the application deadline from July 1, 2001, to October 1, 2002.
 - This will allow practitioners who missed the original deadline additional time to file for transitional license.
- ◆ **Section 1(a)(2)** changes the wording for the qualifying experience period from 12 out of the 24 consecutive months immediately preceding the transitional application to 12 out of the 24 months beginning July 1, 1999, and June 30, 2001.
 - This, in effect, keeps the qualifying period the same as the current statute. An applicant must have been qualified to apply for the transitional license by July 1, 1999, the date of the original application deadline.
- ◆ **Section 2** changes the licensing requirement date for the initial member appointed to the Board from July 1, 2002, to December 1, 2002.
- ◆ **Section 3(a)** changes the effective date for licensing and, notification requirements, from July 1, 2002, to December 1, 2002.
 - The licensing requirement date has to be after the application deadline. Making the license and effective dates December 1, 2002, will give the department time to process the applications and administer the test before the application requirement date without unduly delaying regulations or the apprenticeship period for people wishing to enter the profession.

ALASKA STATE LEGISLATURE

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REPRESENTATIVE VIC KOHRING
DISTRICT 26

HB 443

TATTOOING AND BODY PIERCING

Background Information

SB 34 was introduced in 1999 to regulate tattooing and body piercing practitioners by licensing them through the Division of Occupational Licensing under the Barbers and Hairdressers Board. The bill, amending AS 08.01.065 and 08.13 was signed into law May 31, 2000, with various effective dates:

- Section 31(a)(1), chapter 93, SLA 2000 set the transitional license application deadline as July 1, 2001.
- Section 32, chapter 93, SLA 2000 set the licensing requirement date for the initial member appointed to the Board as July 1, 2002.
- Section 35(a), chapter 93, SLA 2000 set the licensing requirement date for practitioners as July 1, 2002.

ALASKA STATE LEGISLATURE

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REPRESENTATIVE VIC KOHRING
DISTRICT 26

HB 443

TATTOOING AND BODY PIERCING

Issue Statement

Several practitioners missed the application deadline set by the passage of SB 34 because they did not know of its existence. No mechanism was provided for qualified practitioners who missed the July 1, 2001, deadline.

Notices were only sent out to "obvious" business names and to persons on DCED and DEC's interested party lists. Businesses without some catch word in their title were not notified. Newspaper notices are ineffectual because most people don't go looking for them unless they already know the regulation exists.

Under these new regulations, practitioners who missed the deadline:

- will have to close their own business. This would result in:
 - loss of income for practitioner;
 - loss of income for employees;
 - loss of income for support vendors, etc.
- practitioners with many years experience might be put in the position to have to "apprentice" under a competitor with far less experience in order to qualify for a license if:
 - the practitioner can find a licensed practitioner willing to hire him/her;
 - there is a licensed practitioner in the area.

If the practitioner is unable to find someone to "apprentice" under, he/she would have to:

- relocate to another area where a willing licensed practitioner is available, or
- find another line of employment.

Tony Knowles, Governor

Alaska Department of Community
and Economic Development

Division of Occupational Licensing

P.O. Box 110806, Juneau, AK 99811-0806

Telephone: (907) 465-2534 • Fax: (907) 465-2974 • Text Telephone: (907) 465-5437

Email: License@dced.state.ak.us • Website: www.dced.state.ak.us/occl/

April 8, 2002

The Honorable Vic Kohring
Alaska State Representative
State Capital, Room 24
Juneau, AK 99801

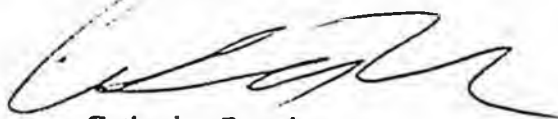
Dear Representative Kohring:

During its April 8, 2002 meeting in Anchorage, the Board of Barbers and Hairdressers reviewed CSHB 443.

The board, by motion, voted to support this bill in its entirety. On behalf of the board, I am relaying their support of CSHB 443.

Thank you for your work and support of this profession.

Sincerely,



Catherine Reardon
Director

March 8, 2002

To: Senator Vic Kohring
State Capitol

Sir: I'd like to express my support
for HB 443, moving the date for [§] implementation
of Transitional Licensure from
July 2002 [§] to ~~December~~ [§] October 2002.

Several Tattoo Artists, Body Piercers
and Permanent Cosmetic Colorists
did not receive notice that their
profession was going to be
licensed and they missed the first
deadline to register for the
Transitional license.

HB 443 will enable these
individuals to continue working
in the profession of their choice
in Alaska.

I want to say this is my personal
opinion and not a representation of
the Board of Barber and Hairdressers.

Thank you Cheryl Sutton
205 Seaward St
Tulac, AK 99801

March 7, 2002

Vic Kohring
State Representative
Alaska State Capitol, Rm. 24
Juneau, Alaska 99801

To Whom It May Concern,

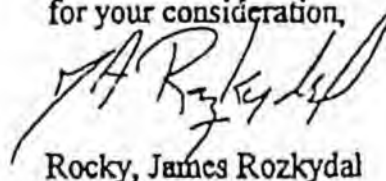
I received a package of material regarding House Bill 443 from Vic Kohring's office which addresses the need to extend the application period for Tattoo and Body Piercing.

I work at Muttley's Tattoo Clinic and am aware that we should have received the applications, but didn't. Shouldn't something of this importance have been sent "Registered Mail"?

I believe the need to regulate the industries is a valid one and perhaps even long in coming but at the same time I see no need to make sacrifices of the qualified tradesmen in our haste to implement them.

If these amendments are not excepted, what recourse do we artists and piercers who should have been notified but were not, have available to us?

Thank You
for your consideration,



Rocky, James Rozkydal

March 7, 2002

Vic Kohring
State Representative
Alaska State Capitol, Rm 24
Juneau Alaska 99801

Dear Sirs:

I have been tattooing in Alaska for over fifteen years and frankly we are well overdue to be regulated.

My personal complaint is that there were applications for transitional licensing sent out to all listed "Tattoo" Facilities. Unfortunately, we failed to receive an application at my establishment, and we were unaware that said application even existed for well over a month after it was due.

Sirs, you would think that a letter that would determine the fate of a career or livelihood would be serious enough to be registered mail. Myself and my employees more than meet the criteria set for the Transitional Licensing.

It is my belief that if a person meets the requirements for any job that requires an occupational license, they should be granted that license.

It is my understanding that the outcome of House Bill #443 will determine whether or not I may continue run a successful small business. Not only am I battling for myself, but also for my employees, who are counting on me to provide them with job security

I am also battling for our clients. We were recently voted "Best in the Valley" by a readers poll in the "Frontiersmen" our local editorial.

I am one man struggling to keep my business flourishing and I would be, very dissappointed to see the "Best in the Valley" close their doors.

I am willing to give my testimony telephonically or in person if need be. Please, help me save my business and the careers of those working for me.

Sincerely,



JEFF MARTIN
Owner
Muttley's Tattoo Clinic



Lakeland Wintersun Luczak-Peck
Hc33 Box 3050
Wasilla, AK 99654
(907) 357-4791

March 8, 2002

Vic Kohring,
State Representative
Alaska State Capitol, Room 24
Juneau, Alaska 99801

To whom it may concern:

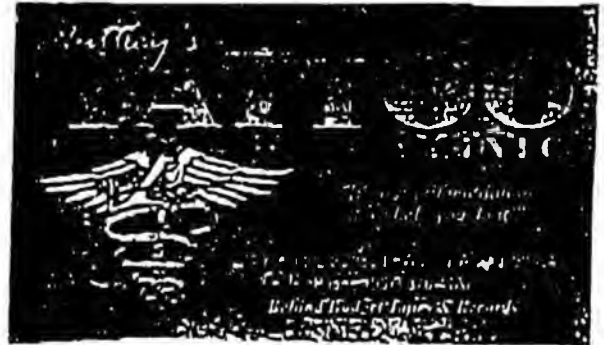
My name is Lakeland Wintersun Luczak-Peck, and I am an upcoming hopeful in the tattoo industry. I had recieved a package regarding House Bill #443 recently, and I noticed that if the bill does not pass, I may not begin my apprenticeship in the art of Tartoo. Currently I am employed by Jeff Martin of "Muttley's Tattoo Clinic" in Wasilla. It is my understanding that I need 12 to 24 consecutive months of training under a person with a valid practitioner's license. It is my concern that House Bill #443 is passed, so that my employer (who did not recieve his license renewal for '03, due to a technicality) may remain licensed for the duration of my apprenticeship. Personally I think it would be unfair to deny my training, especially after I have already put so much into this, thus far.

Sincerely,

Lakeland Wintersun Luczak-Peck
Muttley's Tattoo Clinic Employee

March 12, 2002

Vic Kohring
State Representative
State Capitol Building Rm 24
Juneau, Alaska 99801-1182



Dear Honorable Sirs,

Hello, my name is April Smiloff. I am writing in regards to House Bill 443. I support Bill 443. I have multiple reasons on why Bill 443 should be passed. May I ask you to take a little of your time to read over my letter of recommendation?

Tattoo and Body Piercing Regulations are in dire need, there is no denying that fact. There does need to be certain guidelines to Tattooing and Body Piercing; if not every ignorant person would practice in a very unsterile, unsafe environment.

The complicated job of regulating and writing these guidelines was dumped on the Board of Barbers and Hairdressers. We all know what happens when you start rolling a large stone down a hill without looking before you shove. I believe this has happened with Tattoo and Body Piercing regulations. It all happened very quickly, not all things were thought over thoroughly. It would take me too long to explain all of them. My point is that if you pass House Bill 443 this will give you a second glance down the hill. Therefore, the Board of Barbers and Hairdressers will have more time to think out thoroughly their law making.

In the hastiness that the Regulations have been handled so far, some people have not been properly contacted, or even had known about the proposed regulations, let alone known of the deadline. I hope these other concerned peoples have also had taken the time to write their recommendation, so you know I am not the only one.

I am able to do a telephone conferance during the hearing. If you have any questions please contact me. I thank you for taking the time to read my letter of recommendation in SUPPORTING HOUSE BILL 443.

Sincerely,

April Smiloff

March 14, 2002
Attention Vic Kohring
State representative

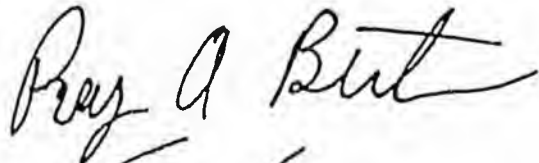
Bill #443

Dear committee,

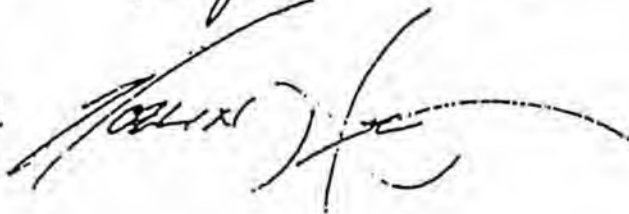
My name is Ray Bilodeau I am owner and operator of Dragon Ray's Tattoos in Anchorage, AK I also operate Dragon Ray's West of Boise, ID. I was unable to meet the July deadline due to working out of state, I would appreciate the opportunity to make application for licensing in AK, so I would support your bill #443 and would like to testify at the hearing. I also had to at high expense to myself relocate one of my Tattoo artist Noelin Wheeler to my shop in Boise because of the fast deadline that would not let him complete time apprenticeing if your bill works he would be able to return to Alaska where his family is and work in my shop. I also would be able to operate my own shop, and it would untie my hands to let me operate my business without limits and options. Please contact me for any further information at 1 208 887 7651 or 1 208 571 2447 we both would like the opportunity to testify at the committee.

3/14/02

Ray A BILODEAU



Noelin WHEELER



SENATE COMMITTEE REPORT

DATE: 4/18/02

FURTHER: Finance

DATE TURNED IN TO OFFICE: 4/26/02

Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 443(L&C)
HB 443 TATTOOING AND BODY PIERCING

"An Act retroactively extending the application and licensing deadlines and amending the effective date of certain provisions relating to regulation of persons who practice tattooing and permanent cosmetic coloring or body piercing; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

- Senate Bill:**
 same title
 new title
- House Bill:**
 same title
 technical title
 new: SCR # _____

NFW FISCAL NOTE(S):

| Department | Date | Fiscal | Zero | FN# |
|------------|---------|--------|------|-----|
| DEC | 4/19/02 | ✓ | | 2 |
| | | | | |
| | | | | |
| | | | | |

PREVIOUS FISCAL NOTE(S):

| Department | Date | Fiscal | Zero | FN# |
|------------|---------|--------|------|-----|
| DEC | 7/24/02 | ✓ | | 1 |
| | | | | |
| | | | | |
| | | | | |

APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | Do PASS | Do NOT PASS | No REC | AMEND |
|---------------------------------|---------|-------------|--------|-------|
| <i>[Signature]</i> | | | ✓ | |
| <i>[Signature]</i> | | | x | |
| <i>[Signature]</i> | | | ✓ | |
| | | | | |
| | | | | |
| CHAIR: <i>[Signature]</i> | | | / | |

MEMO TO FILE

DATE: April 26, 2002

TO: Finance Committee

BILL/RES. NO.: **HB 443 TATTOOING AND BODY PIERCING**

ATTENTION: Heidi, Vicki
Senate Secretary's Office

This bill/resolution has not yet received a **do pass** recommendation.

Please leave this note in the file.

Thank you.

HB

447

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

RECORDED
MAY 10 2002
SENATE FINANCE

DATE: 5/9/02

FURTHER:

DATE TURNED IN TO OFFICE: 10 May 2002

Finance Committee considered HOUSE BILL NO. 447

HB 447 COMMERCIAL FISHING & AGRICULTURE BANK INTEREST RATE

"An Act relating to the interest rates that may be charged on loans by the Commercial Fishing and Agriculture Bank."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

| Department | Date | Fiscal | Zero | FN# |
|------------|------|--------|------|-----|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

PREVIOUS FISCAL NOTE(S):

| Department | Date | Fiscal | Zero | FN# |
|------------|--------|--------|------|-----|
| DCED | 7/2/02 | | ✓ | #1 |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | DO PASS | DO NOT PASS | No REC | AMEND |
|---------------------------------|---------|-------------|--------|-------|
| <i>Lester Green</i> | | | — | |
| <i>Allen C. ...</i> | ✓ | | | |
| <i>James H. ...</i> | 4 | | | |
| <i>W. ...</i> | X | | | |
| <i>Samuel Wilber</i> | | | ✓ | |
| <i>Greg D. ...</i> | ✓ | | | |
| COCHAIR: <i>[Signature]</i> | | | ✓ | |
| COCHAIR: <i>[Signature]</i> | | | ✓ | |

MAY 10 2002

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 447
(H) Publish Date: 4/4/02

Revision Date/Time (Note if correction):
Title Interest Rates on CFAB loans
Sponsor Representative Mulder
Requester House Labor & Commerce
Dept. Affected: DCED
BRU Banking Securities & Corporations (115)
Component Banking Securities & Corporations
Component No. 1233

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2003 | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2002) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This legislation has no fiscal impact on the operations of this division.

Prepared by: Franklin T. Elder, Director Phone 907-465-2521
Division: Banking Securities & Corporations Date/Time 3/27/02 5:29 PM
Approved by: Deborah B. Sedwick, Commissioner Date 3/27/2002
Agency: Department of Community & Economic Development



REPRESENTATIVE ELDON MULDER

DISTRICT 23 - MULDOON & FORT RICHARDSON

ALASKA STATE LEGISLATURE

HOUSE OF REPRESENTATIVES

"PROUD TO BE A MULDOONER"



SPONSOR STATEMENT

HOUSE BILL 447

An Act relating to interest rates that may be charged on loans by the Commercial Fishing and Agriculture Bank

House Bill 447 addresses an inequity in Alaska Statute 45.45 that inhibits the ability of the Alaska Commercial Fishing and Agriculture Bank (CFAB) to serve it's mandated purpose of granting loans for Alaskan small business enterprises.

Like most states, Alaska has what is commonly called a "usury law"; a limitation on the rate of interest for certain types of loans – usually small loans. AS45.45.010 defines a small loan as one under \$25,000 and establishes a maximum annual fixed interest rate for such loans of 5.0 percent above the Twelfth Federal Reserve District discount rate.

In Alaska, conventional lending institutions - including commercial banks and credit unions – are allowed to select whether they use the interest rate identified in the federal law or the rate identified in state law by reason of Federal pre-emptive provisions. This approach is referred to as the "most favored lender" doctrine. Because of CFAB's organizational structure as a cooperative bank, it is the only Alaskan institutional lender subject to AS45.45 and by law, cannot charge "too much" interest. In reality, any interest collected in excess of its needs is credited back to its member-borrowers.

In the past, the commercial fishing community has not generated significant demands for small loans. However, because limited entry permits have recently begun trading in a \$20,000 - \$40,000 range, there is a much greater need for small loans. CFAB's subjectivity to the existing statute along with a period of the lowest financial market rates in over twenty years, renders it unable to make significant numbers of small loans to Alaskan residents, opening the potential for a drastic shift of permit ownership demographics.

The basic purpose of HB447 is to ensure that CFAB is able to continue serving its Alaskan member-borrowers in an efficient manner and equitably compete with other lending institutions servicing their unique market.

HB447 Talking Points

- An Act relating to interest rates that may be charged on loans by the Commercial Fishing and Agriculture Bank
- House Bill 447 addresses a problem in Alaska Statute 45.45 that inhibits the ability of the Alaska Commercial Fishing and Agriculture Bank (CFAB) to serve its mandated public purpose of granting loans for Alaskan small business enterprises.
- Like most states, Alaska has what is commonly called a "usury law"; a limitation on the rate of interest for certain types of loans – usually small loans. AS45.45.010 defines a small loan as one under \$25,000 and establishes a maximum annual fixed interest rate for such loans of 5.0 percent above the Twelfth Federal Reserve District discount rate.
- Three factors that brought the issue for CFAB to the surface and demanded a resolution:
 - Lowest Federal Reserve discount rate in recent history... 1¾% (existing statute allows a max of a fixed 6¾%)
 - Limited entry permit prices have recently begun trading in a \$20,000 - \$40,000 range, there is a much greater need for small loans (in the past CFAB rarely dealt in this loan market)
 - Recent Bank Examiner's Report highlighting the issue, warning that if the cap remains, it may lead to erosion of earnings for CFAB
- The basic purposes of HB447 is to ensure that CFAB is able to continue serving its Alaskan member-borrowers in an efficient manner and equitably compete with other lending institutions servicing their unique market.
- The fiscal note from the director of Banking Securities and Corporations states there is no fiscal impact to the state.

Background points:

- In Alaska, conventional lending institutions – including commercial banks and credit unions – are allowed to select whether they use the interest rate identified in federal statute or the rate identified in state law by reason of Federal pre-emptive provisions
- This approach is referred to as the “Most Favored Lender Doctrine”
- CFAB is not allowed to make that selection, because of its unique organizational structure established in Alaska statute
- CFAB is the only Alaskan institutional lender subject to AS45.45
- This change in statute levels the playing field
- Because of CFAB’s organizational structure as a cooperative bank, any interest collected in excess of its needs is credited back to its member-borrowers
- CFAB is the only private lender (vs. State’s Div of Investment) w/statutory authority to make a loan to purchase a LE permit *and* secure that loan with an enforceable lien on the permit itself
- CFAB’s subjectivity to the existing statute along with a period of the lowest financial market rates in over twenty years, renders it unable to make significant numbers of small loans to Alaskan residents, opening the potential for a drastic shift of permit ownership demographics
- Since CFAB’s funding costs, and most operating expenses, are variable, CFAB could not bear the risk of establishing a large volume of low-yielding, fixed rate loans in its portfolio
- Result of not changing the statute is that CFAB would have to choose to not make loans to small Alaskan businesses because it would adversely affect their profitability and thus the member-borrowers they serve

BANK EXAMINER'S REPORT

Management/Administration

99999

Management and the board of directors/trustees are evaluated against all factors necessary to operate the institution in a safe and sound manner and their ability to identify, measure, monitor, and control the risks of the institution's activities. Consideration is given to the level and quality of oversight and support provided by management and the board; compliance with regulations and statutes; ability to plan for and respond to risks that may arise from changing business conditions or initiation of new products or services; accuracy, timeliness, and effectiveness of management information and risk monitoring systems; adequacy of and compliance with internal policies and controls; adequacy of audit and internal control systems; responsiveness to recommendations from auditors and supervisory authorities; reasonableness of compensation policies and avoidance of self-dealing; demonstrated understanding and willingness to serve the legitimate banking needs of the community; management depth and succession; the extent that management is affected by or susceptible to dominant influence or concentration of authority; and the overall performance of the institution and its risk profile.

CFAB continues to be operated in a sound manner. During the last legislative session, management was successful in amending current law to gain new lending authority for activities related to tourism or natural resource extraction. Since the passage of this legislation, management has originated seven loans totaling \$2,905M. Management intends to enter these new lending markets cautiously, in order to judge the effectiveness of all guidelines and policies that either have been or are in the process of being developed.

Over the next year, CFAB will undergo a substantial management change with the anticipated retirement of two essential personnel. The chief lender is retiring from the institution after almost 18 years with the institution. The president is also planning to retire after more than 17 years with the institution. These two individuals were primarily responsible for rebuilding CFAB during the mid-80's recession. It will be a significant event for the institution to find eligible candidates as replacements, but even more significant is the loss in institutional knowledge. Prior to his retirement, the president would like to resolve important issues that are obstacles to CFAB's continued operation. One of the issues relates to the state usury law under AS 45.45.010, which subjects CFAB to an interest rate cap. Because of deterioration in the fishing industry, CFAB has experienced a decrease in loan amounts, to the point where they may fall under \$25,000. Because the usury law limits the interest rate to five percentage points above the 12th Federal Reserve discount rate on loan amounts of \$25M or less, CFAB may find itself subject to this limitation. If the cap remains, it may lead to erosion of earnings for CFAB.

The board has also changed since the last examination. Two new members, Dan Farren and Susan Springer, were elected during the last annual meeting. The board minutes indicate the board members are active in a wide range of issues that affect the institution's operation.


New policies have been adopted since the last examination. These policies address appointment of management during emergencies, fixed asset expenditures, and a CoBank borrowing resolution. Insurance and bond coverage appear satisfactory.



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May 2, 2002

Edward E. Crane
President

TO: Senate Resources Committee
FROM: Ed Crane 
SUBJ: HB 447

For ease of reference, we call HB 447 a "CFAB bill," and I have testified that "CFAB wants it." But in reality CFAB is simply the aggregation of the interests of its present and future owners who comprise the limited segment of the public it was created and mandated to serve.

Through its statute (at AS 44.81.041) CFAB is mandated by the legislature to be, and to operate as, a cooperative. Every borrower becomes an investor and owner of CFAB. And any and every benefit or advantage that results from CFAB operations is a benefit or advantage to those owners – not to anyone else. We are all paid salaries at CFAB – there are no bonus plans, no stock options, no profit-sharing!

Federal tax law for cooperatives requires CFAB to treat each borrower-owner alike with respect to the annual allocations of its margins (the cooperative term for "profits"). Within the constraints of AS 45.45.010(b) CFAB cannot do that for small loans without forcing subsidization by all other borrower-owners, since those small loans do not produce margins.

In the final analysis, the message of HB 447 is, "Here's a piece of CFAB's public purpose it has been unable, and remains unable, to serve. It hasn't mattered much in the past, but today's circumstances are such that it's likely to be a much more meaningful void. CFAB can fill that void if HB 447 becomes law."

Like most states, Alaska has what is commonly called a "usury law"; a limitation on the rate of interest for certain types of loans – usually small loans. Alaska Statute 45.45.010 defines a small loan as one under \$25,000 and establishes a maximum annual fixed interest rate for such loans of 5.0 percent above the Twelfth Federal Reserve District discount rate (currently 1.75 percent).

"Usury" is a term whose meanings and connotations have changed over the years. There are a number of Biblical references, generally favorable, to usury. Over the ensuing thousands of years, though, societies and governments have determined and decreed that the term refers to interest rates which are unrealistic, unconscionable, or unlawful. Webster's New World Dictionary (Second College Edition) recognizes this change of meaning by defining the word as, "the act or practice of lending money at interest, now specifically, at a rate of interest that is excessive or unlawfully high."

The philosophies underlying usury laws are protective in nature. The Alaska Supreme Court, in a 1971 case, expressed that usury laws are designed to protect the necessitous borrower. They recognize that those whose needs and means are modest may often have the least flexibility, the fewest alternative sources of credit, and the fewest tools with which to bargain. The callous – but basically realistic – expression, "The poor pay more!" perhaps has no clearer application than may be found in the loan-sharking practices visited upon blue-collar communities, and even small businesses, in many parts of the United States. It is difficult to find arguments against these intents and philosophies; on the other hand, one may question the effects of the arbitrary manner in which the limits are set.

In Alaska, conventional lending institutions are not actually subject to the usury statute. A company whose principal business is the granting of small loans may organize under the Alaska Small Loans Act (AS 06.20), which effectively substitutes other, more liberal, interest rate limitations for that established by the usury statute. A few years ago, there were 18 to 20 such companies in Alaska; today there are apparently almost none. The vast majority of lending institutions – including commercial banks and credit unions – are effectively exempt from state usury statutes by reason of the pre-emptive provisions of Federal laws and regulations. There are a handful of other lenders, primarily private mortgage companies, who do not make loans under \$25,000 as a matter of policy and who

therefore are not affected by the usury statute. Of the two lenders who operate directly and primarily within CFAB's mandated market, one - Northwest Farm Credit Services - is subject to Federal laws which preempt Alaska's usury statute, while the other - the state's own Division of Investments - appears to enjoy a sovereignty exemption. Even those storefront enterprises that offer check-cashing services and "payday loans" to a clientele consisting largely of "necessitous borrowers" are beyond the reach of AS 45.45.010!

It appears that CFAB is the only corporate or institutional lender which is subject to Alaska's usury statute. Paradoxically, CFAB is also the only lender in Alaska which, by definition, cannot charge or collect "too much" interest!

CFAB is structured as, and operates as, a cooperative corporation as mandated by its governing statute. Its owners are its customers, and its customers are its owners; these customer-owners are known as "members." The interest rates charged to members are based on projections of CFAB's own borrowing costs and operating expenses. At the end of each fiscal year, excess income ("net margins," in cooperative parlance) is returned to members through a mechanism called a patronage refund. Over the past ten years, CFAB has returned over 16% of its gross interest income to members in this manner and has added another 2% of that gross income to the equity pool owned by the aggregate membership. Effectively, every borrowing member - large or small - is dealt with by CFAB on an "at cost" basis regardless of the interest rate paid.

Until very recently, CFAB's unique subjectivity to AS 45.45.010 has been viewed as a minor annoyance. The capital requirements of commercial fishing, as a generality, have not generated significant demands for small loans. As a rule - although absence of a firm policy permitted exceptions on a case-by-case basis - CFAB has discouraged small loans except to established members. Even those latter loans were limited to relatively short terms. Since CFAB's funding costs, and some operating expenses, are variable, CFAB could not bear the risk of establishing a large volume of low-yielding, fixed rate, loans in its portfolio with the potential for subsidization by other borrowing members during periods of higher or increasing interest rates or other costs. In addition, many of the origination and administration costs are essentially the same for a \$20,000 loan as for a \$120,000 loan.

At the present time, however, a convergence of factors has created a difficult scenario for CFAB and potential new members and, more importantly, a very real threat to the public purpose established for CFAB by the Alaska Legislature.

CFAB is the only private lender with the statutory authority to make a loan to purchase a limited entry permit and to secure that loan with an enforceable lien on the permit itself. Since CFAB serves only Alaska residents, this authority has proven a significant boon to those residents wishing to enter a fishery. On the other hand, when permits for many fisheries commanded transaction prices of \$150,000 to \$200,000 or so (a not uncommon range) a non-resident wishing to purchase a permit needed to possess some combination of cash and other lienable assets equal to or in excess of the purchase price in order to secure financing from some lender other than CFAB. This has been a significant, but probably incalculable, factor in maintaining a high level of resident participation in Alaska's fisheries.

In recent years, however, many fisheries' economics have changed. Today limited entry permits in some of Alaska's largest fisheries (in terms of participant numbers) are trading in a \$25,000-\$40,000 range. It has suddenly become much more feasible for the legendary "Seattle dentist" to simply obtain a low-cost home equity loan in order to buy an Alaska limited entry permit. Moreover, an increasing number of those residents who received "original issue" limited entry permits are reaching retirement age and seeking the opportunity to exit their respective fisheries. Several Seattle-based permit brokers, whose interests lie in facilitating transactions rather than in supporting public policy, have indicated an awareness of these factors. The immediate future appears to hold the potential for a drastic shift of permit ownership demographics!

At the same time, CFAB is effectively immobilized by a trio of irreconcilable factors: (1) A period of the lowest financial market rates -- specifically, the discount rate of the Federal Reserve Bank of San Francisco -- in its 21-year history; (2) Its subjectivity to AS 45.45.010; and (3) Its fiduciary duty to existing member-owners.

This is most certainly not a matter of intent by any party. Much legislative energy has been focused on CFAB over the years, not only through the originating efforts of

the 1978, 1979, and 1980 Legislatures, but in the many ensuing actions to address the unexpected or unintended anomalies which are probably inherent to the creation and existence of a truly one-of-a-kind instrument of public policy. While this appears to be one of the most threatening such anomalies to manifest itself, it is also probably one of the easiest to correct!

SENATE COMMITTEE REPORT

DATE: 4/9/02

FURTHER: Finance

DATE TURNED IN TO OFFICE: 5/2/02

Resources Committee considered **HOUSE BILL NO. 447**

HB 447 COMMERCIAL FISHING & AGRICULTURE BANK INTEREST RATE

"An Act relating to the interest rates that may be charged on loans by the Commercial Fishing and Agriculture Bank."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

| Department | Date | Fiscal | Zero | FN# |
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PREVIOUS FISCAL NOTE(S):

| Department | Date | Fiscal | Zero | FN# |
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| DCED | 3/27/02 | | ✓ | 1 |
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APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | Do PASS | Do NOT PASS | No REC | AMEND |
|---------------------------------|---------|-------------|--------|-------|
| <i>Adrian I. Taylor</i> | ✓ | | | |
| <i>Ben Jones</i> | | | | |
| <i>Greg White</i> | | | | |
| | | | | |
| | | | | |
| CHAIR: <i>Adrian I. Taylor</i> | | | | |

SB 55 Sign-In

NAME: Gene Daw Subject/Bill No: 55
Co./Dept./Title: Legislative Dir Post 559 Phone: 586-3814
Address: 6420 20995 Juncu VFW Zip: 99802
Do you wish to testify? Yes No Respond To Questions

NAME: GARY BERRY Subject/Bill No: 55
Co./Dept./Title: American Legion Phone: 463-2662
Address: 9050 N Douglas Hwy Zip: 99801
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions