

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

6712 SENATE STATE AFFAIRS

116

HB 452 does provide additional protections to agencies in section 11. It makes preliminary investigation reports confidential during the agency review period.

Existing AS 24.55.180 requires the ombudsman to "*consult*" with the agency or person *before issuing a critical opinion* or report. Our regulations also ensure in misconduct complaints that the affected person have an opportunity to review our report *before* the involved agency sees it. Regulations set 30 days as being that normal period of review.

This fairly well sums up the areas that I believe Senator Kerttula could be having difficulties with. Again, this is very speculative on my part. I have offered to meet with him and discuss them with no success.

Thanks for your help.

Sincerely,

Duncan C. Fowler
Ombudsman

DCF:pjc

AMENDMENT

#1

OFFERED IN THE SENATE:

BY: RODEY

To: SCS CS SENATE BILL No. _____

HOUSE BILL No. 452 (Res)

PAGE: 3

LINE: 18

After "except" insert "personnel and"

HB

481

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER CS HB 481

SPONSOR Finkelstein

BILL TITLE Recycling

DATE REFERRED 4.6.90

HEARING SCHEDULED 4.20.90

FISCAL NOTE PREPARED ✓

SPONSOR CONTACTED ✓

INTERESTED PARTIES CONTACTED

✓ Bob Link - DOA

OTHER

SENATE COMMITTEE REPORT

DATE: 4/5/90

FURTHER: Finance

DATE TURNED INTO OFFICE: _____

State Affairs

Committee considered

CSHB 481 (FINANCE) AM

"An Act relating to state procurement of recycled paper and other products and to the state's use of paper; relating to the disposition of state property that is recyclable; establishing a waste reduction and recycling task force; and providing for an effective date."

and recommended:

- replace with _____ CS _____
 - or adopt _____ CS _____
 - attached amendment(s)
 - _____ letter of intent adopted
- same title
 - new title
 - technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

fiscal note(s) Adm. Serv. 4-11-90

zero fiscal note(s) _____

appropriation-no fiscal note

APPROVES PREVIOUS:

fiscal note(s) _____

zero fiscal note(s) Gov 3-12-90

Governor's bill w/fiscal note

SIGNING DO PASS:

Tim Kelly

OTHER RECOMMENDATIONS:

All Adams - No Rec

Pat Lambert do pass

Chair: Signature and Recommendation

Ten Key Components For A Successful Recycled Paper Purchasing Program

- ① **Standard Definition of Recycled Paper**

At a minimum, recycled paper should consist of 40% secondary fiber by weight of the paper, with no mill-generated waste counted as recycled content. Preferably it should also include 10% post-consumer content by weight.
- ② **Mandatory Procurement Price Preference of Not Less Than 10%**
- ③ **Extension of Preferential Procurement Regulations to All Printing Contracts as well as Paper Contracts**
- ④ **Extension of Preferential Procurement Regulations to All Local Governments and State-Funded Institutions**
- ⑤ **Establishment of Minimum 25% Target Procurement Goal, with Record-Keeping to Track Success of Program and Adjust Procurement Policies as Necessary**
- ⑥ **Mill or Vendor Certification of Recycled Content**
- ⑦ **Market Recycled Paper Availability to Users and Publicize Usage**
- ⑧ **Allow Recycled Paper to Bid for the Primary Contract, Not a Supplementary Contract, and Insure that Specifications Do Not Preclude Recycled Paper**
- ⑨ **Award Recycled Procurement Price Preference Item By Item**
- ⑩ **Clarify and Improve General Bid Process: Simplify bids, clarify instructions, allow adequate delivery times, have experts available to answer questions, make results of bidding available next day**

 **Conservatree Paper Company**

Since 1976 . . . The Leader in Quality Recycled Paper

Anch. Daily News Sat. April 7, 1990

Three House bills target recycling

By LARRY PERSILY
The Associated Press

JUNEAU — It appears this could be the year for trash in the House.

Members earlier this week approved three recycling and garbage bills by votes of 35-1, 37-1 and 31-0. A fourth bill passed Friday on a 24-8 vote.

They cover state purchases of recycled paper products, loans for community landfill improvements, and rewards for the best school recycling programs.

The issues may find similar support in the Senate, said Sen. Pat Pourchot, D-Anchorage, chairman of the State Affairs Committee.

"Probably the climate is better this year in the Senate to look at those things," Pourchot said Thursday. The bills' low costs increase their chances for Senate passage, he said.

House members devoted the most time to discussing a measure that would require state agencies to use recycled paper. House Bill 481, which passed 37-1 on Wednesday, would require

that 15 percent of all paper products purchased by the state must be made of recycled paper.

The requirement would increase to 25 percent in 1994.

Agencies would be exempt from the rule if they could not find the products they need made of recycled paper, or if the price were more than 10 percent higher than non-recycled products.

The General Services and Supply Division estimates the cost to state agencies at about \$30,000 a year for the higher-priced, recycled-paper products. It would increase to \$50,000 a year with the 25-percent use requirement in 1994.

State agencies spend an estimated \$2 million a year on paper products, not counting court system or university offices.

The measure also would require agencies to use both sides of a sheet of paper, when feasible.

The bill was sponsored by Rep. David Finkelstein, D-Anchorage.

Although Rep. Terry Mar-

tin, R-Anchorage, was unsuccessful in trying to amend the bill, he succeeded in amusing his colleagues by squeezing his three amendments on a single sheet of paper, rather than using separate sheets as usual.

The measure also would give bidders a 5 percent preference on state contracts for products using recycled materials, and would create a 12-member Waste Reduction and Recycling Task Force in the governor's office.

The only vote against the bill came from Rep. Dick Shultz, R-Tok, who said, "We don't need a law ... and we sure in hell don't need a task force."

There was no opposition Wednesday to House Bill 480, which would expand the state's clean water loan fund to include landfills and other waste-disposal programs.

House Bill 479 passed Monday with just a single "no" vote against a reward program for school recycling campaigns. The measure includes \$40,000 for the first year's rewards.

Original sponsor(s): REP. FINKELSTEIN, Menard, Navarre, Ulmer, Brown,
Boyer, Koponen, Boucher, Ellis, M.Davis, Swackhammer, Kubina, Goll

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

CS FOR HOUSE BILL NO. 481 (Finance) am

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to state procurement of recycled
7 paper and other products and to the state's use of
8 paper; relating to the disposition of state property
9 that is recyclable; establishing a waste reduction
10 and recycling task force; and providing for an effec-
11 tive date."

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

13 * Section 1. AS 36.30 is amended by adding a new section to article 1
14 to read:

15 Sec. 36.30.095. PROCUREMENT OF PAPER. Except as otherwise
16 required under AS 36.15.050 or AS 36.30.322 - 36.30.338, when a state
17 agency purchases paper, at least 15 percent of the quantity purchased
18 must be recycled paper unless the commissioner of the department in
19 which the agency is located makes a written finding that recycled
20 paper is not available for the purchase or that, after application of
21 the procurement preference under AS 36.30.339, the recycled paper is
22, more expensive than the nonrecycled paper. If the agency is not
23 located in a department, the procurement officer for the agency shall
24 make the written finding. If the agency is located in the Office of
25 the Governor, the governor shall make the written finding.

26 * Sec. 2. AS 36.30.095 is repealed and reenacted to read:

27 Sec. 36.30.095. PROCUREMENT OF PAPER. Except as otherwise
28 required under AS 36.15.050 or AS 36.30.322 - 36.30.338, when a state
29 agency purchases paper, at least 25 percent of the quantity purchased

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2 which the agency is located makes a written finding that recycled
3 paper is not available for the purchase or that, after application of
4 the procurement preference under AS 36.30.339, the recycled paper is
5 more expensive than the nonrecycled paper. If the agency is not
6 located in a department, the procurement officer for the agency shall
7 make the written finding. If the agency is located in the Office of
8 the Governor, the governor shall make the written finding.

9 * Sec. 3. AS 36.30.170(b) is amended to read:

10 (b) The procurement officer shall award a contract based on
11 solicited bids to the lowest responsive and responsible bidder after
12 an Alaska bidder preference of five percent, [AND] an Alaska products
13 preference as described in AS 36.30.322 - 36.30.338, and a recycled
14 products preference under AS 36.30.339 have been applied. In this
15 subsection, "Alaska bidder" means a person who

16 (1) holds a current Alaska business license;

17 (2) submits a bid for goods, services, or construction
18 under the name as appearing on the person's current Alaska business
19 license;

20 (3) has maintained a place of business within the state
21 staffed by the bidder or an employee of the bidder for a period of six
22 months immediately preceding the date of the bid;

23 (4) is incorporated or qualified to do business under the
24 laws of the state, is a sole proprietorship [,] and the proprietor is
25 a resident of the state, or is a partnership [,] and all partners are
26 residents of the state; and

27 (5) if a joint venture, is composed entirely of ventures
28 that qualify under (1) - (4) of this subsection.

29 * Sec. 4. AS 36.30 is amended by adding a new section to read:

1 ARTICLE 5A. PREFERENCE FOR RECYCLED PRODUCTS.

2 Sec. 36.30.339. PROCUREMENT PREFERENCE FOR RECYCLED PRODUCTS.

3 (a) In the evaluation of a bid or proposal for an agency procurement
4 of products, the agency shall decrease the bid or proposal by five
5 percent if the bid or proposal indicates that the products being
6 purchased will be recycled products.

*House
amendment*

7 (b) A decrease made under (a) of this section is in addition to
8 other preferences allowed for the procurement.

9 (c) The department shall establish the minimum percentage of
10 recycled content that will qualify a product as a recycled product
11 under (a) of this section.

12 * Sec. 5. AS 36.30.900 is amended to read:

13 Sec. 36.30.900. PRODUCT PREFERENCES [PREFERENCE FOR ALASKA
14 PRODUCTS]. This chapter does not modify AS 36.15.010 and 36.15.020
15 regarding preference for Alaska forest products, or AS 36.15.050 and
16 36.15.060 regarding preference for Alaska agricultural and fisheries
17 products, except as provided in AS 36.30.170(b) and (c) and 36.30.339.

18 * Sec. 6. AS 44.68.110 is amended to read: *Finance CS added this section.*

19 Sec. 44.68.110. DISPOSITION OF OBSOLETE OR SURPLUS STATE PROPER-
20 TY. The Department of Administration shall take possession of obso-
21 lete or surplus property of the state, including recyclable property,
22 for which there is no immediate or prospective use, except abandoned
23 or obsolete school buildings and other school property. It shall also
24 take possession of property, including recyclable property, remaining
25 in the control of a commission or board of the state government after
26 the commission or board stops functioning. The Department of Adminis-
27 tration shall sell, lease, license, or dispose of the property on the
28 terms it considers for the best interests of the state in conformance
29 with regulations adopted under AS 36.30 (State Procurement Code). In

1 this section, "recyclable property" means property that cannot be used
2 for its intended purpose in its present form, but that can be used to
3 create new property.

4 * Sec. 7. AS 44.99 is amended by adding a new section to read:

5 Sec. 44.99.020. USE OF PAPER. A state agency shall use both
6 sides of paper when feasible. In this section, "state agency" means a
7 department, institution, board, commission, division, authority,
8 public corporation, or other administrative unit of the executive,
9 legislative, or judicial branch of state government, including the
10 University of Alaska, the Alaska State Housing Authority, the Alaska
11 Railroad Corporation, and legislative committees.

12 * Sec. 8. WASTE REDUCTION AND RECYCLING TASK FORCE. (a) There is
13 established in the Office of the Governor the Waste Reduction and Recycling
14 Task Force.

15 (b) The task force consists of the governor, the commissioner of
16 administration, the commissioner of community and regional affairs, the
17 commissioner of environmental conservation, the commissioner of natural
18 resources, the commissioner of transportation and public facilities, one
19 person from the judicial branch appointed by the administrative director of
20 the judicial branch, one person from the legislative branch appointed by
21 the executive director of the legislative affairs agency, two persons from
22 the legislative branch appointed by the president of the senate, and two
23 persons from the legislative branch appointed by the speaker of the house
24 of representatives. If a task force member who is appointed by a presiding
25 officer of a house of the legislature is a legislator in the Sixteenth
26 Alaska State Legislature, but is not a legislator in the same house in the
27 Seventeenth Alaska State Legislature, the appointing authority for the task
28 force member may replace the task force member with another person. A
29 member of the task force may designate another person to represent the

1 member on the task force.

2 (c) The task force shall

3 (1) identify opportunities in state government to reduce waste,
4 increase the reuse and recycling of materials, and promote the purchase of
5 materials that are made of materials that have been recycled after consumer
6 use; and

7 (2) design plans to implement the opportunities identified in
8 (1) of this subsection.

9 (d) The task force shall submit to the legislature on or before
10 April 15 of 1991 and 1992, a report containing the opportunities identified
11 under (c)(1) of this section and the plans designed under (c)(2) of this
12 section.

13 (e) The task force shall terminate April 16, 1992.

14 * Sec. 9. Sections 1 and 3 - 5 of this Act apply to procurements that
15 begin on or after the effective date of secs. 1 and 3 - 5 of this Act.

16 * Sec. 10. Section 2 of this Act applies to procurements that begin on
17 or after July 1, 1994.

18 * Sec. 11. Section 2 of this Act takes effect July 1, 1994.

19 * Sec. 12. Section 8 of this Act takes effect immediately under AS 01.-
20 10.070(c).

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Administration
 Title: An Act relating to State procurement BRU: General Services and Supply
of recycled paper and other products . . .
 Sponsor: Finkelstein Components: Purchasing, Central Duplication
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.5	0	0	0	0	0
SUPPLIES	14.3	14.3	14.3	14.3	23.8	23.8
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	16.8	14.3	14.3	14.3	23.8	23.8
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	16.8	14.3	14.3	14.3	23.8	23.8
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	16.8	14.3	14.3	14.3	23.8	23.8

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 has a minimal impact on the purchasing activities of the Division of General Services and Supply, but is estimated to increase the contract cost paid for paper by Central Duplication and used by the executive branch. No impact is expected during FY 90. (See Attached Analysis)

Prepared by: Robert J. Link *RJL* Phone: 465-2250
 Division: General Services and Supply Date: 4/4/90
 Approved by Commissioner: Frank S. Baxter *Frank Baxter* Date: 4/11/90
 Agency: Department of Administration

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

CONTINUATION of FISCAL NOTE ANALYSIS

For HB 481

We have no way to be certain how much paper is purchased by all agencies this bill would cover. Based on annual consumption records for various writing and printing paper master contracts, we estimate approximately \$1.3 million is purchased per year by the executive branch through bid contracts. In general, we believe that copy paper, bond paper, and ruled tablet type paper accounts for about \$650,000. Laser and computer paper constitutes another \$650,000.

Other types of paper products such as envelopes and janitorial total approximately .5 million.

For FY 91, 92, 93, and 94, Section 1 of this bill would require that 15 percent of all paper purchased to have recycled content, if available, and if the paper would not be more expensive than nonrecycled paper after application of a 10 percent preference. Section 2 of the bill will increase the quantity of paper requiring recycled content to 25 percent in FY 95 and thereafter.

Assumptions:

* Estimated annual cost of paper \$1,900,000

* FY 91-94 \$1,900,000 x 15% = \$285,000

If recycled paper is available and within 5 percent of nonrecycled, the cost impact of the product preference is estimated to be \$285,000 x 5% = \$14,250.

* FY 95 and beyond \$1,900,000 x 25% = \$475,000

If recycled paper is available and within 5 percent of nonrecycled, the cost impact of the product preference is estimated to be \$475,000 x 5% = \$23,750.

The increased cost to the State for purchase of paper with recycled content during the first four years of the preference at 15 percent recycled content is estimated to be \$14,250. Costs will increase to approximately \$23,750 per year beginning in FY 95. This preference could apply to other products beyond paper.

Section 4 of the bill will require the Department to develop the required amount of recycled content a product must have to qualify for the preference. The Department of General Services and Supply would enter into a consortium with other states through the National Association of State Purchasing Officials (NASPO) to commission ASTM to develop recycled paper specifications for states. Alaska's share of the one time cost would be \$2,500.

Section 6 of the bill will require State agencies to use both sides of paper when feasible. This should result in savings of paper, but there is no way to accurately predict the cost savings from the use of both sides of paper.

A S S U M P T I O N S
ANNUAL PAPER PRODUCT COSTS

	PRIOR YEAR COSTS	ESTIMATED ANNUAL COSTS
Xerox and Bond	\$425,000	\$600,000
Legal Pads	35,000	50,000
Pleading Paper	20,000	20,000
Computer Paper	204,000	300,000
Laser Paper	305,000	350,000
Card Stock	43,000	43,000
Envelopes	82,000	85,000
Janitorial	240,000	240,000
Food Service Paper	150,000	150,000
Boxes	20,000	25,000
	<hr/>	<hr/>
	\$1,569,000	\$1,863,000

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman
Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling



P.O. Box V
State Capitol
Juneau, Alaska 99811

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: Senate State Affairs Committee Members
FROM: Senator Pat Pourchot
RE: Friday, April 20 Committee Hearing
DATE: April 19, 1990

On Wednesday, April 20 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:

SB 206. An Act relating to intrastate competition in telecommunications; continuing the existence of the APUC; and providing for an effective date. Rescheduled for Monday, April 23

CSSB 319. An Act providing for the issuance of general obligation bonds in the amount of \$45,450,000 for purpose of paying the cost of hospital and medical facility construction, reconstruction, renovation and expansion of hospitals at Kodiak, Seward, Soldotna, Ketchikan and Unalaska; and providing for an effective date. This bill allows for issuance of general obligation bonds in the amount of \$45,450,000 if authorized by voters of the state in the next general election. The following hospital and medical facility projects are included in the bill: New Hospital for Kodiak: \$14,500,000, New Hospital for Seward: \$9,500,000, Renovation to existing hospital in Seward: \$1,200,000, Expansion and remodeling of hospital in Soldotna: \$16,200,000, Construction of a medical facility assistance facility in Unalaska: \$3,000,000.

SB 517. An Act relating to initiative and referendum elections in home rule municipalities. Postponed.

SK 20. Relating to Armenian Genocide. Sponsored by Senator Kerttula, Legislative Budget and Audit Committee, this resolution is a statement of condemnation of genocide in any form and serves as a memorial to the victims of the Armenian Genocide 75 years ago.

CS HB 481. An Act relating to state procurement of recycled paper and other products and to the state's use of paper; relating to the disposition of state property that is recyclable; establishing a waste reduction and recycling task force; and providing for an effective date. The basic provisions of the bill are to establish a 5% preference for recycled products in state procurement, to require 15% (rising to 25% in 1994) of all paper purchased by the state be recycled paper unless the agency finds that recycled paper is not available or is not within the recycled product

price preference, to create a Waste Reduction and Recycling Task Force of twelve members from all three branches of government to identify areas in state government where waste can be reduced and reuse of materials can be increased and to set a policy for state agencies of using both sides of a sheet of paper, where feasible. Further Referral: Finance House Vote: 37 Yeas 0 Nays.

CS HB 54. An Act expanding the authority of the Older Alaskans Commission to make grants for adult day care programs and family respite care services for frail older persons and other similarly disabled adults; and changing the categories of service that may be included in a service program for Older Alaskans. Sponsored by Representative Ellis, this bill would allow the Older Alaskans Commission (OAC) and its grantee providers to serve adults under the age of 60, if alternate funding to support the expanded service can be found. It also addresses the issue of expanding the respite and day care services for families with a "disabled" family member by allowing OAC to set fees for these services based on a sliding schedule formula, although no individual would be denied service if unable to pay. Further Referral: Finance. House Vote: 38 Yeas 0 Nays

CS HJR 65. Relating to taxation of certain student loans. This resolution was introduced by Representative Koponen in response to the IRS action in taxing students on the portion of their Alaska student loan which was discharged through the Alaska Student Loan forgiveness program. The resolution references the Legislature's assertion that the intent behind the forgiveness program was that it operate as a grant program and states that those who benefited from the student loan program were unaware of their tax liability. The resolution urges Congress to pass legislation allowing that portion of a student loan made by this state that qualifies for forgiveness to be excludable from gross income for purposes of federal income taxation. No further referral. House Vote: 35 Yeas 0 Nays.

CS HB 372. An Act relating to the Alaska marine highway system vessel replacement fund. Sponsored by Representative Ulmer, this bill would create a vessel replacement fund within the general fund and would allow the legislature to appropriate money for this fund from program receipts received from the AK. Marine Highway System and from settlement of the Dinkum Sands and Amerada Hess litigation. Further referral: Finance. House Vote: 39 Yeas 0 Nays.

CS HB 481
Paper Recycling

CS HB 481, Paper Recycling.

TO TESTIFY;

Representative Finkelstein
DOA: Bob Link

NOTES;

1. The ^{House} floor amendment is on Page 3, Line 4. It reduces the bid by 5% from the original 10% proposed by Finkelstein.

Costs for recycled paper are estimated to be 8-10% higher, therefore Finkelstein's original 10% bid reduction was more in line.

2. The Finance CS added Section 6, to allow private enterprise to compete for recycled materials instead of automatically providing materials to non-profits.

Alaska State Legislature

Legislative Research Agency



P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 163-3991
Fax: (907) 163-3351

February 21, 1990

MEMORANDUM

TO: Representative David Finkelstein

FROM: Linda J. Snow *LJSnow*
Legislative Analyst

RE: Availability of Recycled Paper
Research Request 90.237

You asked this agency to obtain information about the availability, comparative price, and quality of recycled paper.

Summary

Recycled paper products are currently less available and higher priced than virgin paper products. Demand for these products is growing however, and the industry is changing to meet this demand. Industry representatives anticipate a time lag of one to three years as new plants and facilities are built. Availability is expected to improve and price discrepancies to disappear as the industry responds to demand. The quality of recycled paper products has increased dramatically in the past few years, and nearly equals that of virgin paper products.

Availability

Recycled paper products are available to meet demand in most cases. The exception is bond and copy paper (office paper) made from recycled products. The reason for the shortage in office paper is threefold: first, not enough office paper is being recycled to use as raw material; second, very few paper mills have the ability to manufacture recycled paper; and third, very few plants have the ability to de-ink recycled paper. As the demand for recycled paper grows, these obstacles should diminish.

The federal government recently changed its procurement policy and now purchases recycled paper products (Sec. 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act). Many state governments have adopted this policy also.¹ A large supply of "waste paper"²

¹Personal communication with Ann Mattheis, Manager of Governmental Relations, American Paper Institute, Inc., February, 1990. Ms. Mattheis stated that 35 states have passed legislation requiring the use of recycled paper.

is readily available for use as raw material, but the supply of office paper "post-consumer waste"³ does not meet demand. As demand for post-consumer waste grows, recycling projects gain support. All major cities now participate, and curb-side collection projects are increasing in number.

Paper manufacturers are increasing their capacity to produce recycled paper products of all types. As a result of the demand, new mills able to produce recycled paper are being built or converted. (On April 1, 1990, Georgia Pacific will open a new recycled paper plant which will produce 1,200 new, 50 percent recycled products.)

Consumers of recycled office paper demand a bright white color, which is reproduced only through thorough de-inking. Plants are increasing their capacity to de-ink the recycled pulp.

Price Comparison

Currently, the price of high quality recycled office paper is higher than virgin office paper by about 8 to 13 percent.⁴ The premium exists because mills which produce recycled paper are smaller than virgin paper mills. Costs are incrementally lower in larger mills due to greater efficiency. As demand grows, recycled paper mills will become larger, and the premium should disappear or be substantially reduced. Ultimately, recycled paper should be less expensive to produce. In other forms (e.g., newsprint, paper towels) recycled paper products are currently less expensive than virgin paper products.

Quality Comparison

The quality of recycled paper has increased dramatically in recent years. Reports indicate that the quality of *most* recycled paper currently being produced is at least 95 percent as high as that of virgin paper. Minor complaints about lack of stiffness (body) and residual dust or lint have been reported, but there has also been praise for the opacity and registration (clearness of image) from recycled paper. Most manufacturers at least meet quality and content specifications laid out by the federal government in 40 CFR part 250 (Attachment A). The National Association of State Procurement Officers is currently developing standard specifications for state legislation,

²Paper scraps left over from the process of manufacturing paper products.

³Paper discarded after the consumer has used it.

⁴Personal communication, Susan Kinsella, Conservatree Paper Company, a major wholesale distributor of recycled paper products, February, 1990.

Representative Finkelstein
February 21, 1990
Page 3

which will likely resemble federal government specifications.⁵ These standard specification should be completed by year's end.

Other States' Experiences

According to Lee Cooper with the State of California, in that state, 18 to 25 percent of the state budget for paper products is used to buy recycled paper (with a cap of \$50,000). California regulations allow payment of a five percent premium to vendors for recycled paper, although a premium is not always paid. New York and New Jersey both allow a 10 percent bidder's preference for recycled paper products. Fifty percent of the paper products used by New York state are made from recycled materials.⁶

The State of Oregon has been purchasing recycled paper since 1977, according to Byron Thompson with their Department of General Services. At present, 78 percent of their copy and bond paper is recycled paper. They use recycled paper in their institutions also, such as paper towels, napkins, toilet paper, etc. Byron Thompson, a purchasing analyst for Oregon says there is no problem supplying their needs for copy paper, and course paper (paper towels, etc.), but a sufficient quantity of fine printing paper is sometimes difficult to obtain. Oregon offers a 5 percent preference to bidders with recycled products. If a vendor's price is higher than five percent, two contracts will be let, one for the less expensive virgin paper, and one for the recycled paper. Each state agency can then decide if they wish to pay the higher price for the recycled paper. Although a five percent premium may be paid for recycled paper, the actual premium is lower, because the state receives a payment equaling about three percent for the paper they themselves recycle.⁷ Attachment B discusses Oregon's recycling laws.

I hope this information has been helpful. If you need additional information, please feel free to contact this office.

Attachments

⁵Personal communication, Byron Thompson, Purchasing Analyst, Purchasing Division, Department of General Services, State of Oregon, February, 1990.

⁶Personal communication, Lee Cooper, Procurement Director, Office of Procurement, Department of General Services, State of California, February, 1990.

⁷Personal communication, Byron Thompson, Purchasing Analyst, Purchasing Division, Department of General Services, State of Oregon, February, 1990.

ATTACHMENT A

40 CFR, Part 250

**Guideline for Federal Procurement of Paper and
Paper Products Containing Recovered Materials**

near Waterways Experiment Station, P.O. Box 631, Vicksburg, Mississippi 39180.

§ 249.33 Date recommendations.

Certification of fly ash content should occur at the time of purchase of cement and concrete in accordance with the phasing-in recommendations in § 249.24 and §§ 249.30 through 249.32.

PART 250—GUIDELINE FOR FEDERAL PROCUREMENT OF PAPER AND PAPER PRODUCTS CONTAINING RECOVERED MATERIALS

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AUTHORITY: 42 U.S.C. 6912(a) and 6962.

SOURCE: 53 FR 23561, June 22, 1988 unless otherwise noted.

Subpart A—General

§ 250.1 Purpose.

(a) The purpose of this guideline is to assist procuring agencies in complying with the requirements of section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conserva-

tion and Recovery Act (RCRA), as amended, as that section applies to paper and paper products designated in § 250.2 of this part.

(b) This guideline contains recommendations for implementing the requirements of section 6002 of RCRA, including the revision of specifications and the establishment of an affirmative program for the procurement of paper and paper products containing recovered materials. The guideline also makes recommendations concerning solicitations for bids and estimation, certification, and verification procedures. In addition, the guideline sets dates for implementation.

(c) The Agency believes that adherence to the practices recommended in the guideline constitutes compliance with section 6002 of RCRA, as it relates to the purchase of paper and paper products containing recovered materials.

§ 250.2 Designation.

Under section 6002(e)(1) of RCRA, paper and paper products are designated as items which can be produced with recovered materials and whose procurement by procuring agencies will carry out the objectives of section 6002 of RCRA. As used in this guideline, the term "paper and paper products" does not include building and construction paper grades.

§ 250.3 Applicability.

(a) This guideline applies to all paper and paper products purchased with appropriated Federal funds.

(b)(1) This guideline applies to all procuring agencies and to all procurement actions involving paper and paper products where the procuring agency purchases \$10,000 or more worth of one of these items during the course of a fiscal year, or where the cost of such items or of functionally equivalent items purchased during the preceding fiscal year was \$10,000 or more.

(2) This guideline applies to Federal agencies, to State or local agencies using appropriated Federal funds, and to persons contracting with any such agencies with respect to work performed under such contracts. Federal

agencies should note that the requirements of RCRA section 6002 apply to them whether or not appropriated Federal funds are used for procurement of items designated by EPA.

(3) The \$10,000 threshold applies to procuring agencies as a whole rather than to agency subgroups such as regional offices or subagencies.

(c) For purposes of the \$10,000 threshold, each item listed in each category below is considered to be functionally equivalent to every other item in the category:

- (1) All grades and types of xerographic/copy paper;
- (2) Newsprint;
- (3) All grades and types of printing and writing paper;
- (4) Corrugated and fiberboard boxes;
- (5) Folding boxboard and cartons;
- (6) Stationery, office papers (e.g., memo pads, scratch pads), envelopes, and manifold business forms including computer paper;
- (7) Toilet tissue, paper towels, facial tissue, paper napkins, dollies, and industrial wipers; and
- (8) Brown papers and coarse papers.

(d) Procurement actions covered by this guideline include:

(1) All purchases of paper and paper products made directly by a procuring agency or by any person contracting with any such agency with respect to work being performed under such contract, for example, contract printing; and,

(2) Indirect purchases of paper and paper products made by a procuring agency, such as purchasing resulting from Federal grants, loans, and similar forms of disbursements of monies that the procuring agency intended to be used for the procurement of paper or paper products.

(e) Purchases of paper and paper products that are unrelated or incidental to Federal funding, i.e., not the direct result of a Federal contract, grant, loan, funds disbursement, or agreement with a procuring agency, are not covered by this guideline.

§ 250.4 Definitions.

As used in this guideline, the following terms shall have the meaning indicated below:

(a) "Act" or "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 *et seq.*

(b) "Bleached papers" means paper made of pulp that has been treated with bleaching agents;

(c) "Bond paper" means a generic category of paper used in a variety of end use applications such as forms (see "form bond"), offset printing, copy paper, stationery, etc. In the paper industry, the term was originally very specific but is now very general.

(d) "Book paper" means a generic category of papers produced in a variety of forms, weights, and finishes for use in books and other graphic arts applications, and related grades such as tablet, envelope, and converting papers;

(e) "Brown papers" means papers usually made from unbleached kraft pulp and used for bags, sacks, wrapping paper, and so forth;

(f) "Coarse papers" means papers used for industrial purposes, as distinguished from those used for cultural or sanitary purposes;

(g) "Computer paper" means a type of paper used in manifold business forms produced in rolls and/or fan folded. It is used with computers and word processors to print out data, information, letters, advertising, etc. It is commonly called computer printout;

(h) "Corrugated boxes" means boxes made of corrugated paperboard, which, in turn, is made from a fluted corrugating medium pasted to two flat sheets of paperboard (linerboard); multiple layers may be used;

(i) "Cotton fiber content papers" means paper that contains a minimum of 25 percent and up to 100 percent cellulose fibers derived from lint cotton, cotton linters, and cotton or linen cloth cuttings. It is also known as rag content paper or rag paper. It is used for stationery, currency, ledgers, wedding invitations, maps, and other specialty papers;

(j) "Cover stock" or "Cover paper" means a heavyweight paper commonly used for covers, books, brochures, pamphlets, and the like;

(k) "Dish" means paper place mats used on food service trays in hospitals and other institutions;

(l) "Duplicator paper" means writing papers used for masters or copy sheets in the aniline ink or hectograph process of reproduction (commonly called spirit machines);

(m) "Envelopes" means brown, manila, padded, or other mailing envelopes not included with "stationery;"

(n) "Facial tissue" means a class of soft absorbent papers in the sanitary tissue group;

(o) "Federal agency" means any department, agency, or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including a government corporation, and the Government Printing Office;

(p) "Fiber or fiberboard boxes" means boxes made from containerboard, either solid fiber or corrugated paperboard (general term); or boxes made from solid paperboard of the same material throughout (specific term);

(q) "Folding boxboard" means a paperboard suitable for the manufacture of folding cartons;

(r) "Form bond" means a lightweight commodity paper designed primarily for business forms including computer printout and carbonless paper forms. (See manifold business forms);

(s) "Industrial wipers" means paper towels especially made for industrial cleaning and wiping;

(t) "Ledger paper" means a type of paper generally used in a broad variety of recordkeeping type applications such as in accounting machines.

(u) "Manifold business forms" means a type of product manufactured by business forms manufacturers that is commonly produced as marginally punched continuous forms in small rolls or fan folded sets with or without carbon paper interleaving. It has a wide variety of uses such as invoices, purchase orders, office memoranda, shipping orders, and computer printout;

(v) "Mill broke" means any paper waste generated in a paper mill prior to completion of the papermaking process. It is usually returned directly

to the pulping process. Mill broke is excluded from the definition of "recovered materials;"

(w) "Mimeo paper" means a grade of writing paper used for making copies on stencil duplicating machines;

(x) "Newsprint" means paper of the type generally used in the publication of newspapers or special publications like the *Congressional Record*. It is made primarily from mechanical wood pulps combined with some chemical wood pulp;

(y) "Office papers" means note pads, loose-leaf fillers, tablets, and other papers commonly used in offices, but not defined elsewhere;

(z) "Offset printing paper" means an uncoated or coated paper designed for offset lithography;

(aa) "Paper" means one of two broad subdivisions of paper products, the other being paperboard. Paper is generally lighter in basis weight, thinner, and more flexible than paperboard. Sheets 0.012 inch or less in thickness are generally classified as paper. Its primary uses are for printing, writing, wrapping, and sanitary purposes. However, in this guideline, the term paper is also used as a generic term that includes both paper and paperboard. It includes the following types of papers: bleached paper, bond paper, book paper, brown paper, coarse paper, computer paper, cotton fiber content paper, cover stock or cover paper, duplicator paper, form bond, ledger paper, manifold business forms, mimeo paper, newsprint, office papers, offset printing paper, printing paper, stationery, tabulating paper, unbleached papers, writing paper, and xerographic/copy paper.

(bb) "Paper napkins" means special tissues, white or colored, plain or printed, usually folded, and made in a variety of sizes for use during meals or with beverages;

(cc) "Paper product" means any item manufactured from paper or paperboard. The term "paper product" is used in this guideline to distinguish such items as boxes, dollies, and paper towels from printing and writing papers. It includes the following types of products: corrugated boxes, dollies, envelopes, facial tissue, fiberboard boxes, folding boxboard, industrial

wipers, paper napkins, paper towels, tabulating cards, and toilet tissue;

(dd) "Paper towels" means paper toweling in folded sheets, or in raw form, for use in drying or cleaning, or where quick absorption is required;

(ee) "Paperboard" means one of the two broad subdivisions of paper, the other being paper itself. Paperboard is usually heavier in basis weight and thicker than paper. Sheets 0.012 inch or more in thickness are generally classified as paperboard. The broad classes of paperboard are containerboard, which is used for corrugated boxes; boxboard, which is principally used to make cartons; and all other paperboard;

(ff) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.

(gg) "Practicable" means capable of being used consistent with: performance in accordance with applicable specifications, availability at a reasonable price, availability within a reasonable period of time, and maintenance of a satisfactory level of competition;

(hh) "Printing paper" means paper designed for printing, other than newsprint, such as offset and book paper;

(ii) "Procurement item" means any device, good, substance, material, product, or other item, whether real or personal property, that is the subject of any purchase, barter, or other exchange made to procure such item;

(jj) "Procuring agency" means any Federal agency, or any State agency or agency of a political subdivision of a State that is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract;

(kk) "Recovered materials" means waste material and by-products that have been recovered or diverted from solid waste, but such term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process. In the case of paper and

paper products, the term "recovered materials" includes:

(1) Postconsumer materials such as:

(i) Paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end usage as a consumer item, including: Used corrugated boxes, old newspapers, old magazines, mixed waste paper, tabulating cards, and used cordage, and,

(ii) All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste; and

(2) Manufacturing, forest residues, and other wastes such as:

(i) Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets) including envelope cuttings, bindery trimmings, and other paper and paperboard waste, resulting from printing, cutting, forming, and other converting operations; bag, box and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and

(ii) Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;

(iii) Fibrous by-products of harvesting, manufacturing, extractive, or wood-cutting processes, such as, straw, linters, bagasse, slash, and other forest residues;

(iv) Wastes generated by the conversion of goods made from fibrous material (e.g., waste rope from cordage manufacture, textile mill waste, and cuttings); and

(v) Fibers recovered from waste water that otherwise would enter the waste stream;

(ii) "Recyclable paper" means any paper separated at its point of discard or from the solid waste stream for utilization as a raw material in the manufacture of a new product. It is often called "waste paper" or "paper stock." Not all paper in the waste stream is recyclable; it may be heavily contaminated or otherwise unusable.

(iii) "Specification" means a detailed description of the technical re-

requirements for materials, products, or services that specifies the minimum requirement for quality and construction of materials and equipment necessary for an acceptable product. Specifications are generally in the form of a written description, drawings, prints, commercial designations, industry standards, and other descriptive references;

(nn) "State" means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

(oo) "Stationery" means writing paper suitable for pen and ink, pencil, or typing. Matching envelopes are included in this definition.

(pp) "Tabulating cards" means cards used in automatic tabulating machines; "Tabulating paper" means paper used in tabulating forms for use on automatic data processing equipment;

(qq) "Follet tissue" means a sanitary tissue paper. The principal characteristics are softness, absorbency, cleanliness, and adequate strength (considering easy disposability). It is marketed in rolls of varying sizes or in interleaved packages;

(rr) "Unbleached papers" means papers made of pulp that have not been treated with bleaching agents;

(ss) "Waste paper" means any of the following "recovered materials":

(1) Postconsumer materials such as:

(i) Paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end usage as a consumer item, including: Used corrugated boxes, old newspapers, old magazines, mixed waste paper, tabulating cards, and used cordage, and

(ii) All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste; and

(2) Manufacturing, forest residues, and other wastes such as:

(i) Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets) including: Enve-

lope cuttings, bindery trimmings, and other paper and paperboard waste, resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and;

(ii) Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;

(tt) "Writing paper" means a paper suitable for pen and ink, pencil, typewriter or printing;

(uu) "Xerographic/copy paper" means any grade of paper suitable for copying by the xerographic process (a dry method of reproduction).

Subpart B—Revisions and Additions to Paper and Paper Product Specifications

§ 250.10 Introduction.

This subpart offers guidance to Federal agencies that draft or review specifications for paper and paper products. As used in this subpart, the term "postconsumer recovered materials" refers to waste paper in the case of printing and writing papers and to recovered materials in the case of cotton fiber papers.

§ 250.11 Elimination of recovered materials exclusion.

By May 8, 1986, each Federal agency was required to assure that its specifications do not unfairly discriminate against the use of postconsumer recovered materials. At a minimum, except as provided in § 250.13 of this part, each Federal agency was required to:

(a) Revise those specifications, standards, and procedures that require that paper and paper products contain only virgin materials to eliminate this restriction; and

(b) Revise those specifications, standards, and procedures that prohibit using postconsumer recovered materials in paper and paper products to eliminate this restriction.

§ 250.12 Requirement of recovered materials content.

(a) Within one year of publication of this revised guideline, paper and paper product specifications must require the use of postconsumer recovered materials to the maximum extent possible without jeopardizing the intended end use of the paper or paper product.

(b) Specifications that are unnecessarily stringent for a particular end use and that bear no relation to function, such as brightness and whiteness for copy paper, should be revised in order to allow for a higher use of postconsumer recovered materials. Specifications that bear no relation to function should be revised according to the agency's established review procedure. In determining the relationship to function of existing specifications, Federal agencies should make maximum use of existing voluntary standards and research by organizations such as the American Society for Testing and Materials' Committees D6, D10, and F5; the Technical Association of the Pulp and Paper Industry; and the American Institute of Paper Chemistry.

§ 250.13 Exclusion of products containing recovered materials that do not meet reasonable performance standards.

(a) Notwithstanding the requirements of §§ 250.11 and 250.12 of this part, Federal agencies need not revise specifications to allow or require the use of postconsumer recovered materials if it can be determined that for technical reasons, for a particular end use, a product containing such materials will not meet reasonable performance standards.

(b) Any determination under this section should be documented by the drafting and reviewing agency and be based on technical performance information related to a specific item, not a grade of paper or type of product. Agencies should reference such documentation in subsequent solicitations for the specific item in order to avoid repetition of previously documented points.

§ 250.14 New specifications.

When paper or a paper product containing postconsumer recovered mate-

rials is produced... not previously available, specifications should be revised to allow use of such type or grade, or new specifications should be developed for such type or grade. EPA recommends that procuring agencies monitor new developments and use them to increase the use of postconsumer recovered materials as appropriate.

Subpart C—Affirmative Procurement Program

§ 250.20 General.

(a) Within one year after the date of publication of this revised guideline, procuring agencies which procure paper and paper products must establish an affirmative procurement program for such items. The program must meet the requirements of section 6002(l) of RCRA, including the establishment of a preference program; a promotion program; procedures for obtaining estimates and certification of postconsumer recovered materials content and for verifying the estimates and certifications; and an annual review and monitoring program. This subpart provides recommendations for implementing section 6002(l).

(b) As used in this subpart, the term "postconsumer recovered materials" refers to waste paper in the case of printing and writing grades and to recovered materials in the case of cotton fiber papers.

§ 250.21 Recovered materials preference program.

(a)(1) EPA recommends that procuring agencies establish minimum recovered materials content standards that assure that the postconsumer recovered materials content required is the maximum available without jeopardizing the intended end use of the item or violating the limitations of Section 6002(c)(1) (A) through (C) of the Act.

(2) EPA recommends that procuring agencies set their minimum content levels at the highest levels that meet the statutory requirements but no lower than the levels shown in Table 1.

TABLE 1. EPA RECOMMENDED MINIMUM CONTENT STANDARDS OF SELECTED PAPERS AND PAPER PRODUCTS

	Minimum percentage of recovered materials	Minimum percentage of postconsumer recovered materials	Minimum percentage of waste paper ¹
Newsprint		40	
High grade bleached printing and writing papers			
Offset printing			50
Memo and duplicator paper			50
Writing (stationery)			50
Office paper (e.g. note pads)			50
Paper for high speed copiers			(¹)
Envelopes			50
Form bond including computer paper and carbonless			(¹)
Book papers			50
Bond papers			50
Ledger			50
Cover stock			50
Cotton fiber papers	25		
Tissue products			
Toilet tissue		20	
Paper towels		40	
Paper napkins		30	
Facial tissue		5	
Diapers		40	
Industrial wipes		0	
Unbleached packaging			
Corrugated boxes		35	
Fiber boxes		35	
Brown papers (e.g. bagg)		5	
Recycled paperboard			
Recycled paperboard products including folding cartons		80	
Pad backing		90	

¹ Waste paper is defined in Section 250.4 and refers to specified postconsumer and other recovered materials.
² EPA found insufficient production of these papers with recycled content to assure adequate competition.

(3) Minimum content standards should be reviewed annually based on procurement experiences, including data compiled on postconsumer recovered materials content, as recommended in § 250.23(c) of this part.

(b) The recommendations in paragraphs (a) (1) and (2) of this section, as well as any other affirmative procurement program that an agency may adopt, are subject to the following limitations provided in section 6002(c)(1) of RCRA:

(1) Maintenance of a satisfactory level of competition;

(2) Availability within a reasonable period of time;

(3) Ability to meet the performance specifications in the invitation for bids;

(4) Availability at a reasonable price.

(c) Procuring agencies should make determinations regarding competition and availability in accordance with the

Federal Acquisition Regulation (FAR), 48 CFR Ch. 1 *et seq.*

§ 250.22 Promotion program.

EPA recommends that procuring agencies consider all possible promotional methods including the following:

(a) A special notation prominently displayed in any paper or paper product procurement solicitation or invitation to bid.

(b) A statement in each paper specification defining "postconsumer recovered materials," "waste paper," or "recovered materials," as applicable, as they are defined in § 250.4 of this part.

(c) A brief statement in advertisements of bids describing the preference program. Such advertisements should be placed in the *Commerce Business Daily* and periodicals commonly read by vendors of paper and

paper products containing postconsumer recovered materials.

(d) Catalog listings of available products (such as GSA's Office Supplies) indicating which paper or paper product contains postconsumer recovered materials.

(e) Discussion of the preference program at bidders' conferences or similar meetings of potential bidders.

(f) Announcements in recycling journals, trade magazines, and procurement publications.

§ 250.23 Estimates, certification, and verification.

(a) Agencies must require vendors to estimate the total percentage of postconsumer recovered material in paper and paper products supplied them.

(b) Agencies must require vendors to certify the minimum postconsumer recovered materials to be used in the performance of a contract.

(c) There must be reasonable verification procedures for estimates and certifications, e.g., the procuring agency may state in solicitations for bids that, in the case of a bidder's protest, all estimates and certifications will be subject to audits of mill records.

(d) For each paper or paper product procured, agencies should maintain the following records:

(1) The percentage of postconsumer recovered materials in the products procured or offered;

(2) Comparative price information on competitive procurements;

(3) The quantity of each item procured over a fiscal year;

(4) The availability of the paper and paper products to procuring agencies;

(5) Type of performance tests conducted, together with the categories of paper or paper products containing postconsumer recovered materials that failed the tests; the percentage of total virgin products and products containing postconsumer recovered materials, respectively, that failed each test; and the nature of the failure;

(6) Agency experience with the performance of the procured products.

§ 250.24 Annual review and monitoring.

(a) Each procuring agency must conduct an annual review and monitoring

of the effectiveness of its affirmative procurement program.

(b) EPA recommends that the annual review include the following items:

(1) An estimate of the quantity of paper and paper products purchased containing postconsumer recovered materials and the total quantity of paper and paper products purchased.

(2) A review of the variation between estimates and certifications of postconsumer recovered materials content in paper and paper products purchased during the year. If the variations are significant, procuring agencies should determine whether minimum content standards can be introduced or raised without causing a long-term increase in price.

(c) Procuring agencies should prepare a report on their annual review and monitoring of the effectiveness of their procurement programs and make the report available to the public. The report should contain the following information:

(1) If the case-by-case approach is being used, a demonstration that they procure paper and paper products containing postconsumer recovered materials to the maximum extent practicable. The basis for this determination should be a review of the data compiled on recovered materials content, price, availability, and performance, as well as a comparison of estimates and certifications provided by the vendors.

(2) If the minimum content standards approach is being used, a determination of whether the minimum content standards in use should be raised, lowered, or remain constant for each item. The basis for these determinations should be a review of the data compiled on postconsumer recovered materials content, price, availability, and performance, as well as a comparison of estimates and certifications provided by the vendors.

(3) Documentation of specification revisions made during the year.

§ 250.25 Implementation.

(a) Procuring agencies must complete specification revisions in accordance with RCRA section 6002(d)(2) and development of affirmative pro-

Part 252

curement programs in accordance with RCRA section 6002(i) within one year from the date of publication of this revised guideline.

(b) Procuring agencies must begin procurement of paper and paper products containing postconsumer recovered materials in compliance with RCRA section 6002, one year from the date of publication of this revised guideline.

PART 252—GUIDELINE FOR FEDERAL PROCUREMENT OF LUBRICATING OILS CONTAINING RE-REFINED OIL

Subpart A—General

- Sec.
- 252.1 Purpose.
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- 252.3 Applicability.
- 252.4 Definitions.

Subpart B—Specifications

- 252.10 Revisions.
- 252.11 Recommendations.

Subpart C—Affirmative Procurement Program

- 252.20 General.
- 252.21 Preference program.
- 252.22 Promotion program.
- 252.23 Estimates, certification, and verification.
- 252.24 Annual review and monitoring.
- 252.25 Implementation.

AUTHORITY: 42 U.S.C. 6912(a) and 6962.

SOURCE: 53 FR 24715, June 30, 1988, unless otherwise noted.

Subpart A—General

§ 252.1 Purpose.

(a) The purpose of this guideline is to assist procuring agencies in complying with the requirements of section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (RCRA or the Act), as amended, 42 U.S.C. 6962, as that section applies to procurement of lubricating oils containing re-refined oil.

(b) This guideline contains recommendations for use in implementing the requirements of section 6002, in-

40 CFR Ch. I (7-1-89 Edition)

cluding revision of specifications, purchasing activities, and procurement.

(c) The Agency believes that adherence to the recommendations in the guideline constitutes compliance with section 6002. However, procuring agencies may adopt other types of procurement programs consistent with section 6002.

§ 252.2 Designation.

EPA designates lubricating oils as items which are or can be produced with recovered materials (re-refined oil) and whose procurement by procuring agencies will carry out the objectives of section 6002 of RCRA. For purposes of this designation, "lubricating oils" means engine lubricating oils, hydraulic fluids, and gear oils, excluding marine and aviation oils.

§ 252.3 Applicability.

(a)(1) This guideline applies to all procuring agencies and to all procurement actions involving lubricating oils where the procuring agency purchases \$10,000 or more worth of one of these items during the course of a fiscal year, or where the cost of such items or of functionally equivalent items purchased during the preceding fiscal year was \$10,000 or more. For purposes of the \$10,000 threshold, all lubricating oils are considered to be "functionally equivalent."

(2) This guideline applies to Federal agencies, to State or local agencies using appropriated Federal funds, and to persons contracting with any such agencies with respect to work performed under such contracts. Federal agencies should note that the requirements of RCRA section 6002 apply to them whether or not appropriated Federal funds are used for procurement of items designated by EPA.

(3) The \$10,000 threshold applies to procuring agencies as a whole rather than to agency subgroups such as regional offices or subagencies.

(b) The term "procurement actions" includes purchases made directly by a procuring agency and purchases made by any person directly in support of work being performed for a procuring agency (e.g., by a contractor).

Environmental Protection Agency

(c) This guideline does not apply to purchases which are not the direct result of a contract, grant, loan, funds disbursement, or agreement with a procuring agency.

§ 252.4 Definitions.

As used in this guideline:

(a) "Act" or "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 *et seq.*

(b) "Engine lubricating oils" means petroleum-based oils used for reducing friction in engine parts.

(c) "Federal agency" means any department, agency, or other instrumentality of the Federal Government; any independent agency or establishment of the Federal Government including any Government corporation; and the Government Printing Office.

(d) "Gear oils" means petroleum-based oils used for lubricating machinery gears.

(e) "Hydraulic fluids" means petroleum-based hydraulic fluids.

(f) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, Federal agency, State, municipality, commission, political subdivision of a State, or any interstate body.

(g) "Practicable" means capable of being used consistent with: Performance in accordance with applicable specifications, availability at a reasonable price, availability within a reasonable period of time, and maintenance of a satisfactory level of competition.

(h) "Procurement item" means any device, good, substance, material, product, or other item, whether real or personal property, which is the subject of any purchase, barter, or other exchange made to procure such item.

(i) "Procuring agency" means any Federal agency, or any State agency or agency of a political subdivision of a State which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract.

(j) "Re-refined oils" means used oils from which the physical and chemical contaminants acquired through previ-

ATTACHMENT B

Recycling Efforts of the Oregon State Government
Memorandum to Linda Snow from Byron Thompson
State of Oregon, dated February 20, 1990



Department of General Services

1225 FERRY STREET SE, SALEM, OREGON 97310

February 20, 1990

State of Alaska
Legislative Research Agency
P. O. Box "Y"
Juneau, AK. 99811

Attn: Ms. Linda Snow

***** TRANSMITTAL MEMO *****	
TO: <u>LINDA SNOW</u>	NO. OF PAGES <u>4</u>
DEPT: <u>ALASKA</u> FAX #: <u>907-586-5351</u>	
FROM: <u>John P. DeGroot</u> PHONE: <u>(503) 373-1467</u>	
CO: <u>ALASKA</u> FAX #: <u>(503) 373-7210</u>	
Post-It and Fax Transmittal memo 7671	

Ref: Recycling efforts of the Oregon State Government.

Dear Linda Snow,

Thank you for your interest in the recycling efforts of the Oregon State Government. The Purchasing Division is pleased to pass along information on the laws and policies of the State of Oregon requiring state agencies to increase use of recyclable and reusable products to reduce reliance on incineration and landfilling.

The State of Oregon's first recycling bills were introduced in the 1973 Legislature under the administration of Governor Tom McCall and became effective in 1975. Looking toward the 1990's, the State of Oregon government is as excited and committed to its policy advocating recycling, as in the 1970's, and in many ways, even more so.

The State of Oregon has, in existence, a number of statutes and administrative rules covering the purchase of products containing recovered resources which are condensed and outlined below:

ORS 279.733:

"The use of recovered resources and recycled material in state agency purchasing; All state agencies purchasing supplies, materials, equipment or personal services shall: (1) Utilize recovered resources or recycled materials. (2) Provide incentives in all procurement specifications issued by them for the maximum use of recovered resources and recycled materials. (3) Develop purchasing practices which assure purchase of materials which are recycled or which may be recycled or reused when discarded. (4) Establish management practices which minimize the volume of solid waste generated by them by limiting the amount of materials consumed and discarded. (5) Use and require persons with whom they contact to use, to the maximum extent recycled paper."

ORS 279.735:

"Establishes rules for recycling and reusing solid waste: (1) Establishes procedures for the separation of solid waste generated by state agencies which can be recycled or reused. (2) Establishes a system for the collection of solid waste generated by state agencies which can be recycled or reused. (3) Establishes state agencies compliance (4) Allows the Governor to exempt any state agency if he determines it to be of paramount interest of the state."

ORS 279.739:

"Establishes preference to recycled materials by public agencies; Notwithstanding provisions of law requiring a public agency to enter into contracts with the lowest responsible bidder, any public agency charged with the purchase of materials and supplies for any public use may, in its discretion, give preference to the purchase of materials and supplies manufactured from recycled materials if the public good will be served and the price of the recycled material does not exceed by more than five percent the lowest bid or prices quoted by person and manufacturing concerns offering nonrecycled materials."

ORS 279.729:

"The Department of General Services shall prescribe standards and specifications for paper used by state agencies that shall require the highest percentage possible of the total of the paper purchased by the department in any fiscal year be recycled paper or paper in the same grade most nearly meeting the definition of recycled paper."

The department shall make available, through its purchasing procedure, in all grades where it can be obtained, recycled paper or that paper in the same grade most nearly meeting the definition of recycled paper."

ORS 279.731:

- "(1) 'Post-consumer waste' means a finished material which would normally be disposed of as solid waste.
- (2) 'Recycled paper' means a paper product with not less than:
- (a) Fifty percent of its total weight consisting of secondary waste materials; or
 - (b) Twenty-five percent of its total weight consisting of post-consumer waste.
- "(3) 'Secondary waste materials' means fragments of products or finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic value, and includes post-consumer waste, but does not include mill bricke, wood slabs, chips, sawdust or other wood residue from a manufacturing process." (emphasis added)

OAR 125-30-030:

"Paper which contains significant quantities of recycled materials will be made available to state agencies in all grades where it can be obtained. When the cost of available recycled paper does not exceed by more than 5% the cost of the same quality paper containing little or no recycled material, the purchase and use of recycled paper by state agencies will be mandatory."

In the 1989 legislative session laws were passed to prohibit purchase or use of nonbiodegradable and nonrecyclable food packaging

ORS 468.967:

"Defines state agencies in ORS 468.967 to 468.969 to mean any state officer, department, board, commission or court created by the Constitution or statutes of this state, including the Legislative Assembly, its committees, officers and employees."

ORS 468.968:

"Prohibition against purchase or use of nonbiodegradable and nonrecyclable food packaging. (1) A state agency may not purchase any product to be used for packaging food if the product is composed of material that is not either biodegradable or recyclable through an existing effective recycling program. (2) A vendor who leases space from a state agency shall not sell food in, or use for food packaging any product containing or composed of material that is not either biodegradable or recyclable through an existing, effective recycling program. (3) Notwithstanding subsections 1 and 2 of this section, the Environmental Quality Commission may exempt specific products from the requirements if the applicant for the exemption demonstrates: (a) There is no acceptable alternative for the product; and (b) Compliance would cause undue hardship."

ORS 468.969:

"Standards for determining effective recycling programs. The Department of Environmental Quality shall establish percentages of plastic material that must be recycled before a recycling program is considered an effective recycling program. In establishing the percentages the department: (1) Shall establish percentages for each different type of plastic resin. (2) Shall require that at least 15 percent of each plastic resin type be recycled statewide in 1992. (3) May not establish a required percentage of more than 75 percent before December 31, 1999."

Some of the accomplishments of these laws and good faith effort by Purchasing Division staff are shown as follows:

Sale of Discard Paper

The State of Oregon began seriously getting into recycling its office paper in December 1979, through joint cooperative efforts with a private qualified rehabilitation workshop, Garten Foundation. State employees sort recyclable paper at their work stations from nonrecyclable trash. Custodial employees

collect the recyclable paper for pickup by Garten Foundation employees. Garten pays a percentage to the state, based on the Official Board Market price, San Francisco Northern Region, for paper collected by the State.

In 1988, Garten Foundation collected over 1,152 tons of paper for recycling from State office buildings. Some examples of benefits were:

1. The contract for collecting the paper provides for full-time employment for 35 mentally disabled people who sort papers by type.
2. For every ton of paper collected and recycled three cubic yards of landfill was saved. The state saved 3,456 cubic yards of landfill.
3. For every ton of paper recycled, 17 average-size trees are spared. By selling its discard paper to a recycler, the lives of 19,584 trees were spared in 1988, that would otherwise be cut down and processed into paper products.
4. For every ton of paper recycled into reusable products 60 pounds of air pollutants are not discharged into the earth's atmosphere. In 1988, by recycling 1,152 tons of paper discarded in State government offices, our atmosphere has been saved from 69,120 pounds of air pollutants being released.
5. In the same year, 3,362,880 kilowatt hours of electricity was saved by State of Oregon government's contract to recycle its discard paper.
6. Individual state agencies are paid a portion of the money from recyclers, based on the percent of acceptably sorted discard paper.

The State's recycler estimates that 60 to 65% of state government's waste paper is now being recycled. In a joint effort between the State and recyclers to increase this percentage, a pilot program is being conducted at the State's largest medical university to find ways to recycle food service waste paper products and used paper towels from lavatories.

Copier Paper

Not only does the State of Oregon sell its discarded paper, it buys recycled paper. Oregon statute gives a 5% preference to bidders offering recycled paper. Since January 1988, the State has had a contract to purchase recycled paper for mandatory use in copiers by State Agencies. Prior to awarding the contract, the awarded paper was tested and approved by the State Printer, and later tested by the Oregon State University Forestry Laboratory, and a third time by an independent laboratory. The tests revealed some areas needed improvement, such as excessive dark spots in the paper, and brightness tested at only 80%, where the virgin xerographic paper tested at 85%. The supplier has since reduced the spotting in the paper to a satisfactory level and brought the brightness up to between 80 to 83%. In the first couple of months into the contract, problems were experienced with paper curling and jamming in high speed copiers. After investigation it was decided to use the recycled paper in office copiers while allowing agencies to purchase virgin paper for use in the high speed copiers where the recycled was found to perform unacceptably. Since January 1988, state government has purchased \$1,252,535 of this recycled paper, compared to only \$349,365 worth of the virgin paper, which shows that 78% of xerographic paper purchased by the state was recycled.

A secondary benefit to the State is that the cost of the recycled paper has been favorable to the customer, dropping faster than the price of virgin paper in the 1989, making its use cost effective.

Printing Paper and Envelopes

Purchases of recycled printing paper by the State-operated printing plants constitute approximately 13% of its total paper budget, excluding copier paper and envelopes.

Of the envelopes purchased by state agencies during the last eight years, more than half have been recycled. In the most recent year, state agencies have purchased \$92,152 worth of envelopes through price agreements awarded by State.

Purchasing Division was nearly successful at awarding to a contractor providing all envelopes made from recycled materials on its most recent 1989 bid, but the cost of the recycled group of clasp-type envelopes exceeded the 5% price preference. As the purchase of recycled envelopes are encouraged regardless of price differential, 55% of the envelopes purchased by the state in 1989 were made from recycled materials.

The State continues its efforts to increase market availability of recycled paper in the procurement process through joint efforts between the state and political subdivisions, by making available its price agreements to political subdivisions and coordinating piggy-backed orders when feasible. The State encourages its paper vendors to take measures to make an appreciable impact in the recycled market by aggressively marketing their papers, and increasing availability and reducing the size of minimum orders, and taking all measures to foster a cooperative business climate between government and industry.

Recycled Oil

In 1983, the State of Oregon's Purchasing Division, through its Federal Surplus Program, pioneered with the Federal Government a program to recover waste or used aircraft and automotive oils for use as fuel to create steam and heat for Oregon institutions, such as Port of Portland and the Klamath Falls Rural School Districts. The project initially required some minor modifications to existing heating plants to meet the federal environmental EPA and DEQ clean air standards. Over the 87-89 biennium 2,500,000 gallons of federal oil was delivered to Oregon locations at 30 cents per gallon, compared to an average 80 cents for new heating fuel in the same period. This saved the state \$1,250,000 in one year. The future for expanding this program to other agencies where applicable looks bright, as the supply of used oil is currently abundant.

Plastics News

In January 1989, the State of Oregon adopted a rule effectively banning the purchase and use of polystyrene foam products in food service areas of state government and by vendors having food service contracts with the state. The rule was adopted after public hearing in November 1988, and technically mandates the purchase of biodegradable or recyclable products for food service and food service packaging when available. On August 5, 1989, signed House Bill 2854 into law which prohibits the purchase of polystyrene food packaging products by state agencies and prohibits the use of polystyrene foam food packaging products by vendors leasing space from state agencies. The effective date of the law is January 1, 1990.

The Purchasing Division is pleased to forward the above information regarding our recycling programs and laws. If we can be of further assistance in this regard, please feel free to call on us.



Byron Thompson
Purchasing Analyst
Purchasing Division
Phone: (503) 373-1467

3887F/ByT

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF ADMINISTRATION

DIVISION OF GENERAL SERVICES AND SUPPLY

P.O. BOX C
JUNEAU, ALASKA 99811-0210
PHONE: (907) 465-2250

May 2, 1990

The Honorable Steve Frank
Alaska State Senator
P.O. Box V
Juneau, AK 99811

Dear Senator Frank:

I would like to address expressed concerns regarding HB 481 and the use of recycled paper. The bill does not mandate that the State immediately stop using virgin paper and start using recycled paper. It starts the State in the direction of using recycled products including paper. The bill provides for outs in cases where use of recycled products is too expensive. The goals for usage provide for phasing in the use of recycled paper up to a goal of 25% in four years. The bill recognizes that recycled paper will not serve every purpose through the use of the goals and by allowing us to write the definition of paper.

We plan to write the definition broadly to include paper products with recycled content which are already readily available such as paper towels and boxes as well as those less available such as xerographic bond.

There have been expressed concerns that recycled paper is not being produced which meets every need. Since the bill has goals which phase in, its passage would not require us to cancel existing purchasing constraints or to start using paper products which didn't work as required.

Presently recycled paper costs more than virgin paper. Printing equipment and duplicators are designed to work best with virgin paper. If demand remains the same, so will the status quo. If the demand increases, production of recycled paper and machines designed to handle it will also increase. Eventually economies of scale should reduce prices. Many

states have or are passing recycled paper legislation which will in turn increase demand and production. The federal government will require usage of recycled paper by agencies receiving federal funds. Passage of HB 481 would increase Alaska's demand in a reasonable fashion.

Sincerely,



Robert J. Link
Director

RJL/tlc

cc: Frank S. Baxter
Commissioner
Department of Administration

Representative David Finkelstein
Alaska State Legislature

HB

482

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER HB482

SPONSOR Koponen

BILL TITLE Extends date, AK. St. Fire Comm.

DATE REFERRED 3.22.90

HEARING SCHEDULED

FISCAL NOTE PREPARED

SPONSOR CONTACTED

INTERESTED PARTIES CONTACTED

OTHER

House extends state panel that never was

EMPIRE 3.22.90

By LARRY PERSILY

THE ASSOCIATED PRESS

The Alaska State Fire Commission has no members, no budget and has never held a meeting. But that didn't stop the House from voting Wednesday to extend the commission's life through 1994.

Supporters said the commission is needed and deserves a chance to work. It is charged with establishing a state master plan for fire prevention and coordinating fire-related programs.

The commission is required by law to hold quarterly meetings, but has never met since it was created four years ago. House Bill 482 would reduce its costs by requiring only a single meeting each year, said Rep. Niilo Koponen, D-Fairbanks and the bill's prime sponsor.

Perhaps a lower price tag

would help the commission get started, Koponen said.

The House approved \$58,500 for commission travel, a full-time staff assistant and other expenses. The bill passed 38-2 and will move to the Senate.

The commission's predecessor was the state Task Force on Fire Prevention and Control, which was established by the Legislature in 1980. The task force was terminated in 1983, but reappeared in 1984 for 120 days, Koponen said.

The 1984 task force recommended creation of a permanent commission, which the Legislature approved in 1986. Lawmakers provided the new commission with \$180,000.

But Gov. Bill Sheffield blocked the money during the state's 1986

Please turn to Panel, Page 8

Panel...

Continued from Page 1
budget crisis. He did not appoint any members to the commission and it never met, Koponen said.

The 1987-88 Legislature tried but failed to find any money for the commission, which continued to exist only on paper. It will cease to exist as of June 30 unless the Senate agrees with the House action to extend the commission.

Reps. Lyman Hoffman, D-Bethel, and Eileen MacLean, D-Barrow, voted against the bill extend-

ing the commission.

"We have too many boards and commissions," Hoffman said.

While Hoffman said he has nothing against the commission, he suggested that dropping it would constitute a good start at cutting the state budget.

Supporters said the commission is needed to coordinate all elements of fire service in the state, including code compliance, firefighter training, education and insurance.

4.790 T.E.

The latest joke from Juneau

MOST NEWS out of Juneau is depressing. But not all of it.

We got great amusement the other day from the report that the House has voted to extend for another year the life of the Alaska State Fire Commission.

We had forgotten there was such a thing, if we ever knew in the first place. But that's all right. The commission has no members. The law says it must meet four times a year — but there has never been a commission meeting. And the law authorizing this needless and useless thing has been on the books for four years.

Nobody has missed it at all.

But undaunted by all that, the House voted to renew the commission for another four years — but only on a semi-annual basis this time around.

Not only that, the House bill authorizes \$58,500 to fi-

nance travel by commission members and to pay for a full-time staff assistant.

The comedy of it all is that this thing sailed through the House on a 38-2 vote.

Why? Well, supporters said the commission really is needed — and that it can do a job promoting fire safety, or something like that.

THE WHOLE thing is a joke. It would be just another way to spend money and to get some political friends appointed to a commission.

Bless Democratic Reps. Lyman Hoffman of Bethel and Eileen MacLean of Barrow, the only House members with the common sense to vote against this. "We have too many boards and commissions," Mr. Hoffman said.

If we're lucky, the Senate will agree, and this nonsensical bit of business can be confined to the trash can where it belongs.

ALASKA STATE FIREFIGHTERS ASSOCIATION

P.O. Box 34324
Juneau, Alaska 99803-4324

HB #82
HJR 65

March 25, 1990

Editor
Juneau Empire
3100 Channel Drive
Juneau, Alaska 99801

Dear Editor,

Your March 23 editorial jeered the Alaska House of Representatives for extending the Alaska Fire Commission. We believe that in this instance the legislators deserved cheers not jeers for their action.

The Alaska Fire Commission has existed in name only from its inception because funding was deleted from the budget. Without funding the Commission went unappointed. The problems that the Fire Commission was created to deal with have not gone away.

The Task Force on Fire Prevention and Control reported "The Commission is needed because no single agency of state government represents all elements of the fire service which includes code compliance, plans review, fire training, public fire education, insurance, wildlands fires, aviation and marine firefighting, local fire departments, industrial fire brigades and more.... Those elements of the Fire Service represented by state level programs are administered through decisions made in the context of individual programs and departmental goals rather than with regard to the entire fire service, resulting in little coordination among state fire-related programs, and even less coordination between state programs and federal agencies, local governments and private industry.

Alaska holds the dubious distinction of having the highest fire death rate in the United States. The U.S. has the highest fire death among industrialized nations. The Fire Commission is intended to address this problem.

New Federal standards applying to training and equipment for firefighting, hazardous materials handling and disaster response are upon us, but no coordinated effort is being made to meet these federally mandated standards. If the Exxon Valdez did nothing else, it should have taught us the importance of coordination between agencies. The Fire Commission would correct this situation.

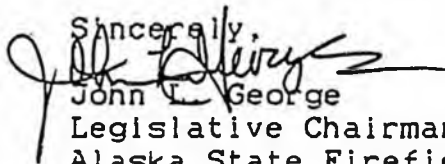
Without a centralized agency to deal with fire issues, fire departments throughout the state are on their own to determine their equipment and training needs and to meet their perceived needs in any way they can. In the past, this

has resulted in totally inappropriate equipment purchases. In some cases the State purchased fire trucks for the bush without regard for training, warm storage or adequate roads for equipment to respond to fires. As a result, more than one fire truck rests useless and abandoned where it was offloaded from the barge. No State agency has ever been responsible for reviewing fire departments needs. Many rural departments do not have the necessary expertise to determine their own needs and they have nowhere to turn for advice. The Fire Commission would review needs and make recommendations for appropriate equipment and training based on the needs and conditions of the area.

Your editorial incorrectly stated that \$58,500 was appropriated for commission travel. This amount is the total funding for staff, equipment, supplies, communications, printing and travel for the commission. The Task Force felt that the Fire Commission was "the best mechanism for assuring a greater return from existing dollars spent by state-level fire protection programs, and as a means to assure change in the future resulting in decreased fire losses for Alaska."

Cheers to the legislators who voted to extend the Alaska Fire Commission and to fund it's operation. They have the foresight and determination to deal with a problem that has been largely ignored in the past. Cheers not jeers for efficiency in the fire service.

Sincerely,



John T. George

Legislative Chairman

Alaska State Firefighters Association

Alaska State Legislature
Representative Niilo Koponen

Item 3
cc

Pouch V
Juneau, Alaska 99811
(907) 465-4992

House District 21

119 N. Cushman, Suite 207
Fairbanks, Alaska 99701
(907) 456-8172

S P O N S O R S T A T E M E N T

H B 4 8 2

HB 482 would extend the Alaska State Fire Commission until 1994, rather than allowing it to sunset this year. It does, however, amend AS 44.44.120 to decrease the cost and increase coordination with fire services in Alaska.

Chapter 157, SLA 1980 established a Task Force on Fire Prevention and Control to: 1) identify fire loss problems in Alaska; 2) identify agencies involved in fire protection activities; 3) recommend modifications to improve the state's fire protection system; and 4) provide documentation to assist agencies in meeting their responsibilities. The Task Force was to submit their final report to the governor and legislature by January 1, 1983. This Task Force was not funded for their third year and terminated June 30, 1983.

A second Task Force was established in 1984 with the same objectives and given 120 days to finish their work. The second Task Force issued a report in December, 1984 detailing eight major areas of concern: 1) fire education and public awareness; 2) fire service training; 3) capital projects; 4) arson; 5) code enforcement; 6) emergency medical services; 7) wildlands fire protection; and 8) interagency planning, coordination and consolidation. Within the last category the Task Force recommended creating a State Fire Commission as a broad based policy setting group to provide direction and coordination of all the fire-related programs.

In 1986 the Alaska State Fire Commission was established (AS 44.41.100-.130) to: 1) develop a state master plan for fire prevention and provide coordination for fire-related programs; 2) establish policy guidelines for agencies with fire protection programs; 3) adopt regulations as necessary; 4) make recommendations for fire-related programs; and 5) report to the governor and legislature when requested. There was a fiscal note of \$180,000.00 funded with the bill establishing the Commission. Due to the revenue shortfall during FY 87, Governor Sheffield recommended that the funding for the Commission be eliminated, and the Commission did not begin its activities.

The Fifteenth Legislature attempted to fund the legislation through a separate account into which a tax on fire insurance premiums would be deposited. Although this device is used in most other states, it was not acceptable to the Alaska Legislature, and the responsibility for providing direction and coordination of fire-related programs was not addressed.

HB 482 cuts the number of required meetings to one a year (although others may be called in emergency). That meeting is to be coordinated with the annual meeting of the Alaska Fire Chiefs Association. Typically, the Alaska Fire Fighters Association, Fire Insurers, the Insurance Services Organization, municipal officials responsible for fire services and building codes, and etc. all meet at the same time and place or attend one or another of the above mentioned meetings. All members of the proposed Fire Commission should therefore be at the joint conference. Testimony on policy guidelines for fire protection programs, proposed regulations, the state fire protection master plan and all matters falling within the purview of the Commission can be taken up at that time. The Commission can have a short meeting at the close of the conference to make needed policy decisions.

From those proceedings, the single staff member of the commission can, under the direction of the State Fire Marshall, prepare the needed reports to the governor and the legislature. That same staff assistant, will, during the year, maintain contact with the fire and rescue services statewide. Interim meetings of the board for the purpose of discussing regulations, budget and other matters, can be held by teleconference and/or computer network, alleviating the expense and time of travel.

NK.dm

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Extend Alaska State Fire
Commission
Sponsor: Koponen
Requestor: Koponen

Agency Affected: Public Safety
BRU: Commissioner's Office
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	37.0	37.0	37.0	37.0	0	0
TRAVEL	12.0	12.0	12.0	12.0	0	0
CONTRACTUAL	8.4	8.4	8.4	8.4	0	0
SUPPLIES	1.1	1.1	1.1	1.1	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	58.5	58.5	58.5	58.5	0	0
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	58.5	58.5	58.5	58.5	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL	58.5	58.5	58.5	58.5	-0-	-0-

POSITIONS:

FULL-TIME	1	1	1	1	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Personnel - Admin Asst 1; Travel & Per diem for 1 meeting, 1 conference, 1 hearing for staff, 9 members and 5 ex officios; Contractual- communications (4.0), printing & advertising (4.0), subscriptions (.4); supplies (1.1).

Prepared by: House State Affairs Phone: 465-4963
Division: _____ Date: Feb 27, 1990

Approved by Commissioner: *W. A. Bruch* Brucher, Chair Date: Feb 27, 1990
Agency: _____

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

HB

483

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER HB 483

SPONSOR Hoffman

BILL TITLE Village Public Safety Officer as Peace Officer

DATE REFERRED 3.13.90

HEARING SCHEDULED

FISCAL NOTE PREPARED

SPONSOR CONTACTED

INTERESTED PARTIES CONTACTED

Capt. Glen Godfry - 269-5647



Alaska State Legislature

Please enter into the record my testimony to the Senate State Affairs
committee name

see on HB483 dated 04-18-90
bill/subject

This bill would define 185 VRS's throughout the State of Alaska, funded by the Alaska State Legislature as "Peace Officers". They have been considered this since the inception of the program in 1979.

VRS's are extensions and honors for our Alaska State Troopers. These important role models, both men and women, are on the front line providing law enforcement, fire protection, emergency trauma techniques and search and rescue services. Hence is their motto "Fire Troopers' Last Frontier".

Their training is specifically designed ~~to~~ ^{for} VRS's only by the Alaska State Troopers. This bill would not promote them to a higher class as Alaska State Troopers include them ~~to~~ ^{as} Peace Officers as all they are full police officers all alike.

They have accommodated the needs of public and preserved the peace for the State, Alaska.

Signed Josie Stiles Cox

Testifier Kawerak, Inc

Representing (Optional)

Pouch 948, Nome, AK 99762

Address

(907) 443-5231

Phone No.

pk
21
Tom Bille
Supports
this
bill.

HOUSE COMMITTEE REPORT

2/22

(7)

Date Referred: February 7, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: _____

The STATE AFFAIRS Committee considered:

HB 483

HOUSE BILL NO. 483

VILLAGE PUBLIC SAFETY OFFICERS

"An Act amending the definition of 'peace officer' in the Alaska Statutes to include village public safety officers."

RECOMMENDATIONS:

- be replaced with _____ the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____ fiscal note(s) _____
- zero fiscal note _____ zero fiscal note(s) _____
- zero with analysis Pub. Safety zero fn/. nalysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

<u>Wayne Hanley</u> HANLEY			
<u>Tom Menard</u> MENARD			
<u>Paul Flakelstein</u> FLAKELSTEIN			
<u>W.D. Boocher</u> BOUCHER			

W.D. Boocher

Chairman's Signature

HOUSE COMMITTEE REPORT

Bob

(11)

Date Referred: February 22, 1990

FURTHER REFERRALS:

Date of Committee Action: 3/2/90

The FINANCE Committee considered:

HB 483

HOUSE BILL NO. 483

VILLAGE PUBLIC SAFETY OFFICERS

"An Act amending the definition of 'peace officer' in the Alaska Statutes to include village public safety officers."

RECOMMENDATIONS:

- be replaced with _____ the same title a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:
(Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) Public Safety 2/22/90
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:
(Check approp. column)

Do Not Pass No Rec Amend

Hoffman

Larson

BROWN

KOPINEN

LUMBER

BARNES

SHULTZ

PHILLIPS

_____ Rieger		<input checked="" type="checkbox"/>	

Hoffman
Chairman's Signature

Larson

HB 483, Amending the definition of 'peace officer' to include village public safety officer (VPSO)

April 18, 1990

NOTIFIED; *indicates will testify

*Representative Hoffman

*Captain Glenn Godfry: Department of Public Safety

Sally Smith: Division of Retirement and Benefits

Bristol Bay Corp

Tanana Chiefs Council

NOTES;

1. I requested a response from Sally Smith on the reference to State Death Benefits in the DPS fiscal note. Sally is concerned about this bill passing, she wants to make sure that the VPSOs cannot join the retirement system, especially since they are paid for with state funds. There is some confusion on this issue as there is another bill, HB 525, Macleans bill that would bring the VPSOs into the retirement system. Hoffman objects to Macleans bill.

Further Referral - Rules

House Vote - 34 Yeas

0 Nays

STATE OF ALASKA



LYMAN F. HOFFMAN
CO-CHAIRMAN
HOUSE FINANCE COMMITTEE

P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3706

HOUSE OF REPRESENTATIVES

DISTRICT 25

- AKIACHAK
- AKIAK
- ATMAUTLUAK
- BETHEL
- CHIEFORNAK
- EKK
- GOODNEWS BAY
- KASIGLUK
- KIPNUK
- KONGIGANAK
- KWETHLUK
- KWIGILLINGOK
- MEKORYUK
- NAPAKIAK
- NAPASKIAK
- NEWTOK
- NIGHTMUTE
- NUNAPITCHUK
- OSCARVILLE
- PLATINUM
- QUINHAGAK
- TOKSOOK BAY
- TUNTUTULIAK
- TUNUNAK

MEMORANDUM

TO: Senator Pat Pourchot
Chairman, Senate State Affairs Committee

FROM: Representative Lyman Hoffman *Lyman*
Co-Chairman, House Finance Committee

DATE: March 15, 1990

SUBJ: House Bill 483

I have introduced House Bill 483, "An Act amending the definition of 'peace officer' in the Alaska Statutes to include village public safety officers", because these young men and women are on the front line providing law enforcement, fire protection, and search and rescue services in rural Alaska.

VPSOs are important role models for the residents, especially children, of villages. To have a relative or local resident apply, leave home, work toward, and graduate from the Sitka Trooper Academy and then go home as a Village Public Safety Officer to keep the "peace" is a proud accomplishment. It must be realized that VPSOs replace the perception of villagers that 'peace officers' are not just troopers who usually come to the villages only when something really bad happens in the community. VPSOs are extensions of our Alaska State Troopers, we should believe in them by recognizing them as 'peace officers'.

Though the Alaska State Troopers do provide direct oversight of the VPSO corps, a single VPSO is assigned to any given village at one time. These dedicated individuals are expected to work a forty-hour week, and at any time without after-hours compensation, are expected by the residents of their assigned village and supervisors to keep the "peace". Overtime pay is not the issue on this legislation, it is to recognize the Village Public Safety Officers as 'peace officers'.

As is true elsewhere in our society, insurance and the liability costs associated with VPSOs are high and are the responsibility of the non-profits. The Alaska State Troopers have contracted with the non-profits generally holding the State harmless from liability for the negligent actions of the VPSOs. It is not entirely clear that the current contract language would fully protect the State given the decisions of the Alaska Supreme Court which limit the ability of the State to shift liability to State contractors. Insurance costs are negotiated as a reimbursable item within the Trooper/non-profits contracts, with last year's contract limited to \$800 per VPSO. In today's dynamic insurance market, this limit may be liveable one year, but totally inadequate the next year. Non-profits experience insurance cost fluctuations as much as a 100% on an annual basis, so it is difficult to assess the direction and amount of these insurance costs. However, if the non-profits could participate in the State Risk Management pool, the State could directly control insurance costs and assure the lowest coverage cost state-wide.

The intent of this legislation is to rightfully identify VPSOs as 'peace officers' and that VPSO contractors may be allowed to participate in the State Risk Management pool.

If there are any questions concerning this proposed legislation, please contact my office at your earliest opportunity.

Thank you.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Village Public Safety Officers
Added to Definition of Peace Officer
Sponsor: Representative Hoffman, etc.
Requestor: House State Affairs

Agency Affected: Public Safety
BRU: Alaska State Troopers
Component: Detachments

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER/PROG RCPT						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

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)

No fiscal impact anticipated.

Prepared by: Francis C. Allan
Division: Alaska State Troopers
Approved by Commissioner: J.A.H. English
Agency: Department of Public Safety

Phone: 269-5691
Date: 02/14/90
Date: 2-20-90
Page 1 of 1

2/21/90

Item 4

BILL NO: HB 483

DATE: February 20, 1990

TITLE: Including Village Public Safety Officers in the Definition of a Peace Officer

CONTACT: Capt. Glenn Godfrey
Alaska State Troopers
269-5647

DEPARTMENT OF PUBLIC SAFETY
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This legislation adds Village Public Safety Officers (VPSO) to the definition of "peace officer" and makes minor technical changes to existing law. This change would clarify the authority of VPSOs who are called upon to take enforcement actions. It would also improve the eligibility of VPSOs for federal and state death benefits payable to law enforcement officers killed in the line of duty.

The Department of Public Safety supports this legislation.

Arthur English
for Arthur English
Commissioner

STATE OF ALASKA



LYMAN F. HOFFMAN
CO-CHAIRMAN
HOUSE FINANCE COMMITTEE

P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3706

HOUSE OF REPRESENTATIVES

DISTRICT 25

AKIACHAK
AKIAK
ATMAUTLUAK
BETHEL
CHEFORNAK
EEK
GOODNEWS BAY
KASIGLUK
KIPNUK
KONGIGANAK
KWETHLUK
KWIGILLINGOK
MEKORYUK
NAPAKIAK
NAPASKIAK
NEWTOK
NIGHTMUTE
NUNAPITCHUK
OSCARVILLE
PLATINUM
QUINHAGAK
TOKSOOK BAY
TUNTUTULIAK
TUNUNAK

MEMORANDUM

TO: Senator Pat Pourchot
Chairman, Senate State Affairs Committee

FROM: Representative Lyman Hoffman *Lyman*
Co-Chairman, House Finance Committee

DATE: March 15, 1990

SUBJ: Request for a public hearing on HB 483

I respectfully request the scheduling of House Bill 483, "an Act amending the definition of 'peace officer' in the Alaska statutes to include village public safety officers" for a public hearing before the Senate State Affairs Committee at your earliest convenience.

Attached please find a memorandum outlining my reasons for introducing this legislation. Also included, the Department of Public Safety fiscal note/position paper and the House State Affairs and Finance Committee reports.

If there are any questions concerning HB 483 or this memorandum, feel free to contact my office at your earliest opportunity.

Thank you.



KAWEDAK, INC.

P.O. BOX 948 • NOME, ALASKA 99762

(907) 443-5231

SERVING THE
VILLAGES OF:

BREVIQ MISSION
COUNCIL
DIOMEDE
ELIM
GAMBELL
GOLOVIN
KOYUK
NOME
SAVOONGA
SHAKTOOLIK
SHISHMAREF
SOLOMON
STEBBINS
ST. MICHAEL
TELLER
UNALAKLEET
WALES
WHITE MOUNTAIN

March 26, 1990

Senator Pat Pourchot
Alaska State Legislature
P.O. Box V (MS3100)
Juneau, Alaska 99811

Dear Senator Pourchot:

SUBJECT: HOUSE BILL NO. 483

It is to my understanding that you are responsible for scheduling the hearing on HB483. I am writing to request and encourage you to do this soon. Our organization is in full support of this bill and we would like to see it be acted upon and passed.

This bill would define the 125 Village Public Safety Officers (VPSO's), throughout the State of Alaska and funded by the Alaska State Legislature, as "Peace Officers." They have been considered this since the inception of the program in 1979. These important role models, both men and women, are on the front line providing law enforcement, fire protection, emergency trauma technics and search and rescue services. Hence is their moto, "First Responders, Last Frontier."

VPSO's are extensions of our Alaska State Troopers and we should believe in them by including them into the Alaska Statutes. They currently are not defined and have never been defined in the statutes. They have become of vital importance since they provide a difficult and critical service to many residents of Alaska.

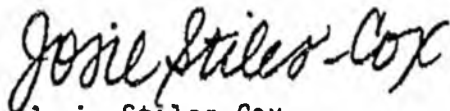
They have accommodated the needs of public safety and have preserved the peace for the State of Alaska and its people. They should be recognized for those accomplishments by being defined and included in the Alaska Statutes by the Alaska State Legislature.

Senator Pat Pourchot
Page Two
March 26, 1990

Your efforts will be greatly appreciated. Should you need additional information, we are here to assist you in any way. Thanks for your time.

Respectfully,

KAWERAK, INC.

A handwritten signature in cursive script that reads "Josie Stiles-Cox".

Josie Stiles-Cox
VPSO Program Director

Tanana Chiefs Conference, Inc.

122 First Avenue
Fairbanks, Alaska 99701-4897
(907) 452-8251
Fax (907) 451-8936

March 26, 1990

Senator Pat Pourchot, Chairman
State Affairs Committee
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, AK 99811

Dear Senator Pourchot:

Tanana Chiefs Conference, Inc. (TCC) supports HB 483, a bill which would amend the definition of Peace Officer in the Alaska Statutes.

This amendment would include the Village Public Safety Officers (VPSO). At the present time, Village Public Safety Officers are not defined in the Alaska Statutes and therefore do not have many of the laws and regulations that protect them from liability, nor do they have benefits that are presently accorded other State Trooper and police forces of other Alaska governmental agencies. There are presently eighteen (18) VPSO positions in our region. TCC's VPSO officers assume many of the same risks and activities that State Troopers do. In fact, the risks may be more dangerous because we are the initial contact when trouble begins at the village level.

It is of the highest priority to us that this bill becomes law. We would appreciate your Committee scheduling this bill as soon as possible. Thanking you in advance for your favorable consideration to House Bill 483.

Sincerely,

TANANA CHIEFS CONFERENCE, INC.

Alfred Ketzler, Sr.
Alfred Ketzler, Sr., Director
Native Services

Daisy Stevens
Daisy Stevens
V.P.S.O. Coordinator

BRISTOL BAY NATIVE ASSOCIATION
P. O. BOX 310
DILLINGHAM AK 99576
(907) 842-5257

March 26, 1990

Senator Pat Pourchot
Rm. 504, Capital
P.O. Box V
Juneau AK 99811

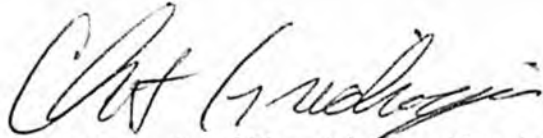
Dear Senator,

It is my understanding that you have not scheduled House Bill 483 yet. This bill is very important to the VPSO program and to the Bristol Bay region. I believe that it definitely deserves your attention this session. If it hasn't already been scheduled, please do what you can to see that it is scheduled soon.

Thank you for your time.

Sincerely,

BRISTOL BAY NATIVE ASSOCIATION



Charles T. (Chuck) Grediagin, VPSO Coordinator

NOT STATE EMPLOYEES

HR 483

Operationally - no affect
Retirement and Retirement

> GOVERNMENT EMPLOYEES

STATE

> Grants to Native Corporation

buy into state plan on behalf
of employee. using STATE \$

> (Possible VETO material)

> Fiscal Note - misleading

GODFREY 125 WSO

> 10 Non-Prof CONTRACTS with Native

Corporate =
STATE \$

Technically and legally non-profit

> DEATH BENEFIT... example

Now - any law enforcement in U.S.
can receive upwards of \$100,000.
from Fed. Government. NO STATE
INVOLVEMENT

Authority
Challenges

Attorneys are challenging authority

H B

493

CS HR 493. An Act relating to reemployment rights for members of the state's organized militia. Sponsored by Representative Kubina, this bill would allow reemployment rights to AK National Guard, AK Naval Militia and AK State Militia members who are called to state active duty by the Governor. It would require an employer to grant a leave of absence to a member of the organized militia and upon release from active duty, allow that person to return to their former position or a comparable position. CSHB 493 also requires the employee to meet certain deadlines for reporting back to work after completing active duty.

CS HB 493

4.9.90

KELLY: small business worried about
reemployment but ^{Kelly} now supports
this bill

FAIKS: NEED?

KUBINA: Instances

FAIKS: Louisiana — 80% - 90% call out

KUBINA: 220 people — average call 9 days.
Exxon Valdez

FAIKS: Problem?

Jeff Morrison: NO one has lost a job.
Negotiations have gone to assure
return.

Other states/MD - Louis - Carolina -

SENATE COMMITTEE REPORT

DATE: 3/23/90

FURTHER:

DATE TURNED INTO OFFICE: _____

State Affairs

Committee considered

CSHB 493 (L&C)

"An Act relating to reemployment rights for members of the state's organized militia."

and recommended:

[] replace with _____ CS _____
[] or adopt _____ CS _____

[] same title
[] new title
[] technical title change (HB only)

[] attached amendment(s)
[] _____ letter of intent adopted

[] do pass

[] do not pass

[] no recommendation

[X] individual recommendations

[] further referral to _____

ATTACHES NEW FISCAL NOTE(S):
Dept/Date:

[] fiscal note(s) _____

[] zero fiscal note(s) _____

[] appropriation-no fiscal note

APPROVES PREVIOUS:

Dept/Date:

[] fiscal note(s) _____

[] zero fiscal note(s) DOA 2-20-90
Det Labor 2-14-90
DmVA 2-12-90

[] Governor's bill w/fiscal note

SIGNING DO PASS:

Tom Kelly

OTHER RECOMMENDATIONS:

Jim Fark No Rec.

Chair: Signature and Recommendation

**DEPARTMENT OF MILITARY
AND VETERANS AFFAIRS**

OFFICE OF THE ADJUTANT GENERAL

Administrative & Support
Services Division
P.O. Box L
Juneau, AK 99811

March 9, 1990

The Honorable Gene Kubina
Alaska State Representative
P.O. Box V
Juneau, AK 99811

Dear Representative Kubina,

In the discussions concerning HB493, concerning reemployment rights for members of the state militia, several questions have come up which you have requested me to address. This letter will attempt to answer those questions for you.

1. Should there be a time limit applied to the time that a person is on state active duty before they lose the reemployment rights addressed in HB493?

The department believes that the existence of a time limit would not serve a useful purpose. Militia members who are called to state active duty, and whose return to employment would be protected by this bill, are rotated in and out of their state active duty when possible to prevent their being gone from their routine employment any longer than necessary. In a few instances, the skills of certain individuals or groups of individuals (e.g. helicopter pilots) are such that such rotation is not possible or may be severely restricted. However, in all instances, the call of members to state active duty is needed to respond to an emergency situation (e.g. the Exxon Valdez), and members are only called up for as long as the emergency situation exists. In the unforeseen occurrence of a situation requiring extensive periods of state active duty, we do not believe it would be in the best interest of the state and the communities that are benefitting from the militia call-up to have the members concerned about whether or not they had a job when the emergency was over. There is no limit on the call-up time for the federal reemployment rights when members of the National Guard are called up for federal emergency duty, and we believe that the state should follow suit when protecting its militia members when called up for state emergency duty.

2. What happens if a member is called up to state active duty from a seasonal job (e.g. construction), and the seasonal job is not there when his emergency service is over?

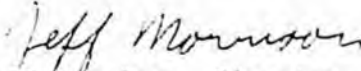
An employer would not be required to create a job that did not exist because of the seasonal nature of the employment. However, the member would be eligible to return to his job at the start of the next season as if he had not been absent for the state active duty, and would not suffer any loss of seniority for his time away from the job. This specific case would probably be addressed in the regulations to be adopted by the Department of Labor as authorized on page 2, lines 14-15 of HB 493.

2. What are the likely penalties that would be levied against employers who violate the reemployment rights to be enacted by HB493?

On page 2 of HB493, lines 17-19, the bill authorizes the Department of Labor to order reinstatement and payment of back pay if appropriate. This would not be the first action taken in the event a member was denied reemployment, and would only be used as a last resort. The first steps in regaining employment for a militia member who was denied a return to his former place of work would be: 1) the member's commanding officer and other military officers in the member's chain of command would call on the employer and attempt to convince the employer to reinstate the militia member; 2) a representative from the Employer's Support of the Guard and Reserve (ESGR) would talk to the employer; 3) a representative from the Department of Labor, Division of Labor Standards and Safety would talk to the employer. Only when all attempts to convince the employer to comply with the law have proved fruitless would the Department of Labor issue an order of reinstatement and back pay. If an employer contested the order, he would be able to appeal the action under the Administrative Adjudication section of the Administrative Procedure Act (A.S. 44.62.330-630). If an appeal were not filed in a timely manner, the Department of Labor has the authority under A.S. 44.62.590 to file in superior court, where an employer could be found in contempt of court for failure to comply with the order issued by the Department of Labor. The Department of Military and Veterans Affairs certainly hopes that these events never come to pass, but the law does have teeth to ensure the reemployment rights if needed.

I hope this information has been helpful in addressing some of the concerns raised about this bill. I will be present during the hearing in House Finance Committee on March 14 to attempt to answer any other questions that may be raised.

Sincerely,


Jeff Morrison, Director

cc: COL Joseph Beans, Deputy Commissioner, DMVA
Tom Stuart, Director, Labor Standards and Safety, Department of Labor
Eileen Plate, Legislative Liaison, Department of Labor
Bob Evans, Deputy Chief of Staff, Office of the Governor
Kathleen Strasbaugh, Assistant Attorney General, Department of Law
David Otto, Director of Personnel, Department of Administration
Sioux Plummer, Legislative Liaison, Department of Administration

FISCAL NOTE

REQUEST:

Revision Date: February 12, 1990
 Title: An Act relating to employment rights for the organized militia.
 Sponsor: Rep. Kubina
 Requestor: _____

Agency Affected: DMVA
 BRU: _____
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)
 This bill will have no fiscal impact on DMVA

Prepared by: Jeff Morrison, Director Phone: 465-1600
 Division: Administrative & Support Services, DMVA Date: 2/12/90
 Approved by Commissioner: MG John Schaeffer Date: 2/12/90
 Agency: Department of Military & Veterans Affairs

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act relating to
re-employment rights for members*
 Sponsor: Kubina, Larsen, et. al.
 Requestor: _____

Agency Affected: Department of Administration
 BRU: Division of Personnel

Components: _____

*of the states organized militia.

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

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 not have a fiscal impact on the Division of Personnel.

Prepared by: David K. F. Otto *DKFO*
 Division: Personnel

Phone: 465-4430
 Date: 2/15/90

Approved by Commissioner: Frank S. Baxter *Frank Baxter*
 Agency: Department of Administration

Date: 2/20/90

Distribution (by preparer) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

POSITION PAPER

HB 493

Summary of Bill: The proposed legislation would allow reemployment rights to members of the organized militia who are called to State Active Duty by the Governor. The organized militia consists of the Alaska National Guard, the Alaska Naval Militia, and the Alaska State Militia (also known as the Alaska State Defense Force). State Active Duty is used by the Governor to activate the militia for State purposes such as state-declared disasters (i.e., not declared by the President) or civil disturbances, and is authorized by A.S. 26.05.070. Reemployment rights for National Guard and Naval Militia members who are called to federal service or who are training for their military jobs are protected by federal legislation. Under provisions of the bill, the Department of Labor will enforce the reemployment rights by appropriate regulations for all but state employees. The Department of Administration will enforce the reemployment rights for state employees.

Impact of Bill on Department of Military and Veterans Affairs: There will be no administrative impact on DMVA as a result of passage of this bill. However, we expect that the members of the organized militia will be very appreciative of the fact that their civilian jobs will be secure for them in the event that they are called to state active duty.

Departmental Position on Bill: The department strongly supports this bill.

Approved: _____ Date: 3/1/70

MG John W. Schaeffer

BRIMFROST 01/18-02/04

31 individuals called out

shortest call out 1 day

longest call out 6 days

average call out 3.5 days

Total active duty pay \$9,739.33

Average pay per individual \$314.71

COLD WEATHER EMERGENCY 01/30-02/12

4 individuals called out

shortest call out 5 days

longest call out 7 days

average call out 6.5 days

total active duty pay \$2,468.54

average pay per individual \$617.14

PETERS CREEK TRAIL 06/12-09/29

8 individuals called out

shortest call out 8 days

longest call out 39 days

average call out 11.3 days

total active duty pay \$26,246.30

average pay per individual \$3,280.35

EXXON VALDEZ OIL SPILL 03/23-06/10

222 individuals called out

shortest call out 1 day

longest call out 75 days

average call out 9 days

total active duty paid \$180,910.44

average pay per individual \$814.91

Alaska Statutes

Title 26. Military Affairs and Veterans.

Military Code of Alaska (§§ 26.05.010, 26.05.224, 26.05.228, 26.05.260, 26.05.265)
Veterans (§ 26.10.080)
Veterans Loans (§§ 26.15.040, 26.15.060)
Alaska Disaster Act (§ 26.23.230)

Chapter 05. Military Code of Alaska.

Section

260. Pay and allowances

265. Reenlistment bonus

Alaska militia established

Retirement benefits

Accounting and investment

26.05.010. Alaska militia established. (a) The militia of the state consists of all able-bodied citizens of the United States and all able-bodied persons who have declared their intention to become citizens of the United States, who reside in the state, who are at least 17 years of age, and who are eligible for military service under the laws of the United States or this state.

The militia is divided into two classes:

(1) the organized militia, consisting of the Alaska National Guard, the Alaska Naval Militia, and the Alaska State Militia, and

(2) the unorganized militia, consisting of all qualified persons available for service but not serving in the organized militia.

The adjutant general may, by regulation, prescribe the maximum age for eligibility in the militia. (§ 2 ch 150 SLA 1955; am § 1 ch 144 SLA 1968; am § 1 ch 141 SLA 1972; am § 1 ch 5 SLA 1987)

History of amendments. — The 1987 amendment in subsection (a) substituted "at least 17 years of age, and who

are eligible" for "and who are between the ages of 17 and 59 years, inclusive, and are eligible"; and added subsection (c).

26.05.224. Retirement benefits. (a) An active member of the Alaska National Guard, or a former member who was an active member on or after January 1, 1969, or a member of the Alaska Naval Militia on or after July 1, 1980, is eligible for a retirement pension (1) upon voluntary retirement from the Alaska National Guard or Alaska Naval Militia after a total of 20 years or more of satisfactory

H B

511

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER

SPONSOR

BILL TITLE

DATE REFERRED

HEARING SCHEDULED

FISCAL NOTE PREPARED

SPONSOR CONTACTED

INTERESTED PARTIES CONTACTED

OTHER

SENATE COMMITTEE REPORT

DATE: 4/20/90

FURTHER: Finance

DATE TURNED INTO OFFICE: _____

State Affairs Committee considered CSHB 511 (SA) am

Special appropriation: dividend fund

and recommended:

- replace with _____ CS _____ same title
- or adopt _____ CS _____ new title
- attached amendment(s) technical title change (HB only)
- _____ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

APPROVES PREVIOUS:

fiscal note(s) _____ Dept/Date: _____

fiscal note(s) _____ Dept/Date: _____

zero fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Ag Adams

Spink

D. Paul Lopez

Chair: Signature and Recommendation



Alaska State Legislature

House of Representatives
COMMITTEE ON STATE AFFAIRS

MEMORANDUM

To: Senate State Affairs Committee Members

From: Representative H.A. "Red" Boucher, Chair *Red*
House State Affairs Committee

Subject: HB 511 - \$1.5 Million Reimbursement to the Dividend Fund.

Date: April 25 1990

The **Commission on the Future of the Permanent Fund** found, through considerable public testimony, that the public objected to the use of Dividend funds to pay for general government programs such as the Violent Crimes Compensation Fund, the Sex Offender Treatment Program and Felon Gate Money.

The intent of HB 511 is to reimburse the people of Alaska for those deductions made from their Dividend Checks in 1989. To accomplish this reimbursement, HB 511 makes an immediate appropriation from the General Fund to the Dividend Fund of \$1.5 million.

Background

In 1988, the legislature passed CSHB 245 which denied a dividend check to incarcerated felons. The Superior Court ruled in July of 1989 that withholding felon's dividend checks was unconstitutional, and until the issue could be resolved on appeal, the Court placed those Dividend checks in a trust fund.

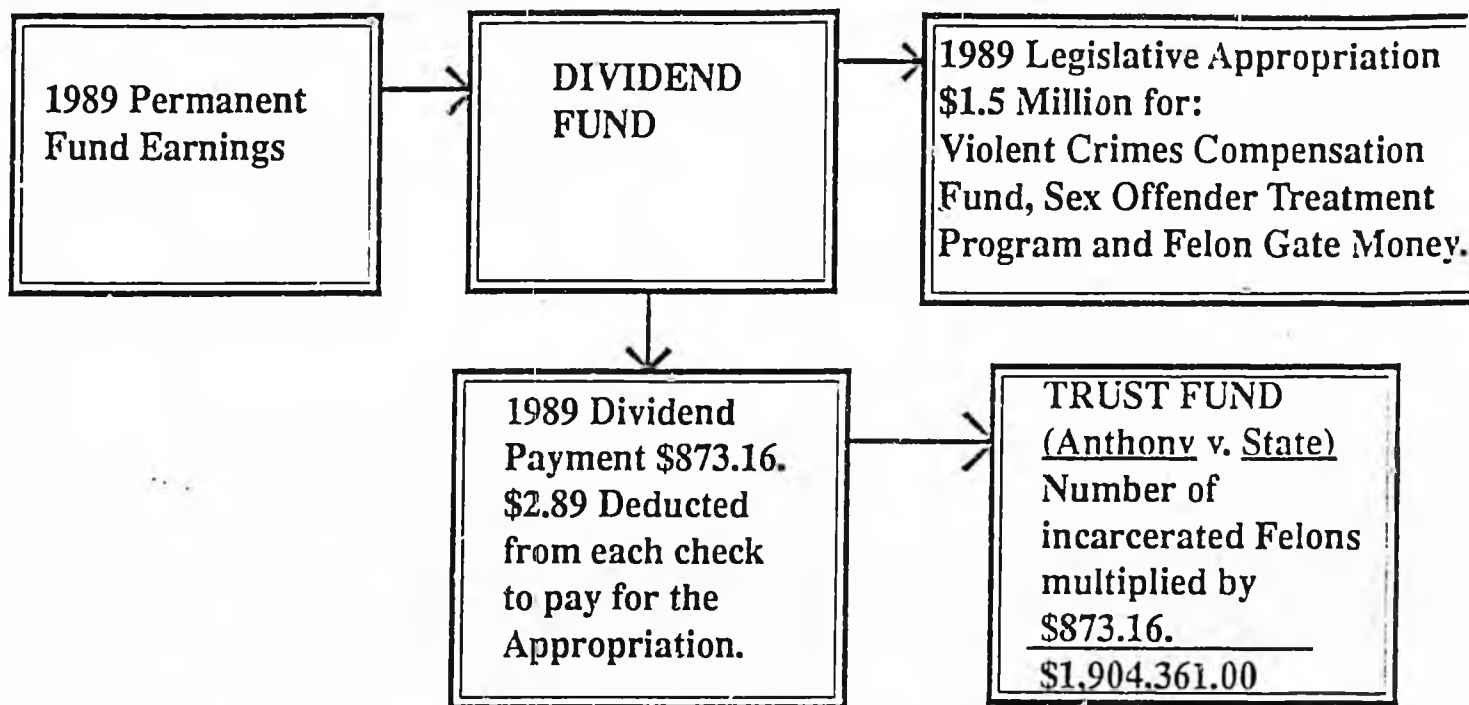
If the state wins the appeal, the Dividend Fund will receive the trust money back. Resolution of this case, however, may not occur until after the 1990 checks are distributed. HB 511 ensures that the 1990 dividend checks are credited for the amount deducted in 1989.

If the state wins the appeal, \$1.5 million of the trust money plus interest will be deposited in the General Fund. The balance of the trust money would be deposited in the Dividend Fund. If the State

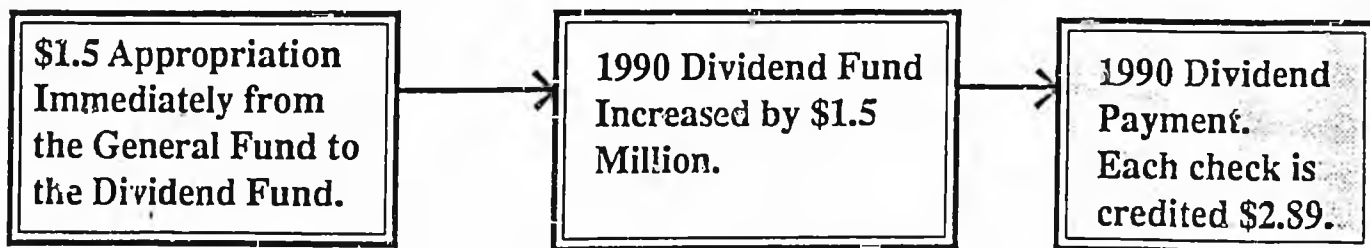
Supreme Court upholds the ruling of the Superior Court, the felons will receive a 1989 dividend check from the Trust Fund.

A summary of HB 511 and the disposition of the trust funds is attached.

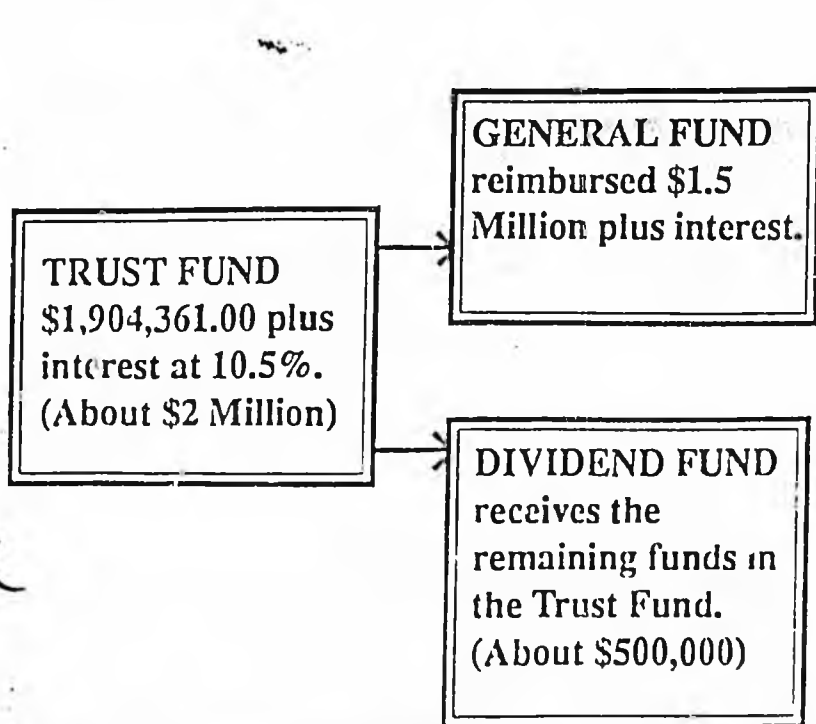
Figure 1: House Bill 511-\$1.5 Million Appropriation to the Dividend Fund



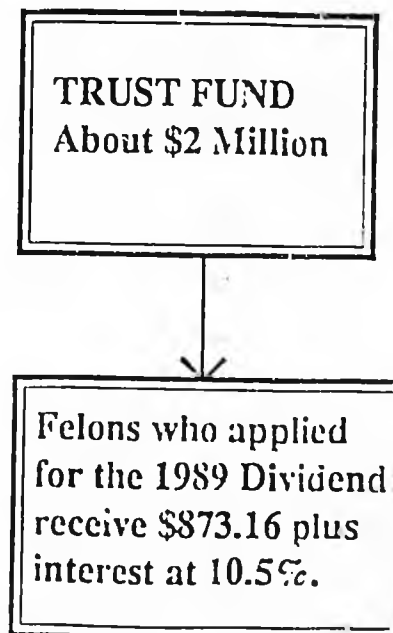
HOUSE BILL 511 - What it does.



Alternative #1 (State wins appeal.)



Alternative #2 (Felons win appeal.)



HB 511, \$1.5 mil appropriation to Dividend fund.

TO TESTIFY:

Representative Boucher

NOTES;

Please see next two pages.

Sponsor: Boucher + 31
House Vote: 39 Yeas 0 Nays

- In 1988, legislature passed CSHB 245 which denied dividends to incarcerated felons
- The legislature appropriated \$1.5 million of that dividend money to pay for Violent Crimes Compensation Fund, Sex Offender Treatment Program, and Felon Gate Money
- Superior Court (Anthony v. State) ruled withholding those checks was unconstitutional

Until the issue can be resolved on appeal, the Court placed the dividend money (\$2.0 million) in a trust fund (\$873.16 X # of felons)

- HB 511 would appropriate, from the General Fund, \$1.5 million back to the Dividend Fund
- That money will appear as a credit on each 1990 dividend check (about \$2.89)
- You should note that the House amended this bill to clarify the disposition of interest earnings on the money in the trust; page 2, lines 28-29, and page 3, line 1.

After "Act", page 2, line 28

Added "plus the actual interest accrued on that amount from the effective date of sec. 3 of this Act until the effective date of this section"

Point: UNDER THE CONDITION THE STATE WINS

Interest earned, from the time money was placed in the Trust to the time money is appropriated to the general fund, will go to the Dividend Fund

Interest earned, after that point to when the case is resolved in favor of the state, will go to the General Fund

Point: IF THE STATE LOSES

If the state loses, interest accrued in the Trust would go to the felons

Q: What happens if the state wins on appeal?

A: If the state wins on appeal, \$1.5 million + interest will repay the General Fund, and \$500,000 will go to the Dividend Fund