

12000 SENATE RESOURCES

12001 SENATE RESOURCES

# Alaskan Shellfish Growers ASSOCIATION



March 15, 2005

**Representative Jim Elkins  
Room 416  
State Capitol  
Juneau, AK 99801**

**Dear Representative Elkins:**

This letter is to provide a strong endorsement of House Bill 198 and your efforts to seek resolution of the long-standing controversy over the siting of geoduck clam farms in Alaska.

The Alaskan Shellfish Growers Association (ASGA) has been trying to resolve this bitter controversy for the past eight years as it spilled over into the court system, halls of the Capitol and front pages of local newspapers. The industry, state regulators, policymakers, commercial fishermen and the court system have invested innumerable hours wrestling with the difficult issues involved, and we're delighted at the opportunity to put the issue to bed.

Since a decision by the Alaska Supreme Court last spring, ASGA has been working closely with commercial fishermen and the Murkowski Administration to fashion a compromise acceptable to all parties. The result of this cooperative work is HB 198, which has support from farmers, commercial fishermen, Departments of Fish and Game and Law, and Governor Frank Murkowski. While there are many issues upon which we'll continue to disagree, we all support the concepts contained in HB198.

The Department of Law has determined that the legislation does adequately address the issues raised by the Alaska Supreme Court in its 2004 decision. Some of the details wisely are left to be fleshed out in regulation, but ASGA thinks there is one more issue that is best decided by the legislature: the amount of compensation a farmer should pay for harvest of "standing stocks" of wild geoduck clams on the farmsite.

The new section HB 198 adds to AS 16.40.100 is designed to allow farmers to remove "standing stocks" from the farmsite, and provides that the farmer must pay "reasonable compensation" for any "excess wild stock." While we think it is appropriate that harvest of these "excess wild stocks" would result in a tax on the farmer, ASGA believes the amount of "fair compensation" is a legislative prerogative and not a decision to be made by fisheries managers.

We are preparing a proposed amendment to set an extraction tax rate on harvests of "excess wild stocks" of geoduck clams at 30 percent of the price paid fishermen during the most recent commercial fishery. This tax would be added to the Fisheries Business Tax rate of three percent paid by other harvesters. This combined tax rate would exceed the amount the state collects on Prudhoe Bay oil, including severance taxes, royalties and corporate income tax, and is several times higher than the amount paid by other

Rodger Painter • P.O. Box 20704 Juneau, AK 99802-0704 • Phone: (907) 463-3600  
Fax: (907) 586-1097 • Cell: (907) 957-0704 • email: [rodgerpainter@hotmail.com](mailto:rodgerpainter@hotmail.com)

harvesters.

Important to keep in mind is that the tax would affect only those situations where fisheries managers misjudged the amount of standing stocks on new farmsites and that new survey techniques supported by fishermen and farmers would help improve significantly the accuracy of these estimates.

Thank you for this opportunity to resolve this long-standing controversy. The major parties in this dispute are fully committed to setting aside past differences and working together on economic development strategies for Southeast Alaska.



Rodger Painter  
Vice President

c.c. Julie Decker, SARDFA  
Alan Austerman  
David Bedford  
ASGA Board of Directors

**A Joint Letter of Agreement between  
the Alaskan Shellfish Growers Association and  
the Southeast Alaska Regional Dive Fisheries Association**

**Dear Alaska Policymakers:**

The Alaskan Shellfish Growers Association (ASGA) and Southeast Alaska Regional Dive Fisheries Association (SARDFA) agree to the following package of statutory and regulatory changes to resolve long-standing controversies over how the state should deal with "standing stocks" of geoduck clams on aquatic farm sites.

Both organizations are committed to supporting the implementation of the provisions of the agreement, including the passage of legislation and adoption of regulations.

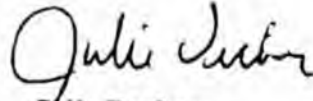
We urge quick action in approving the legislation and adopting the regulations necessary to carry out the agreement.

Sincerely,



**Rodger Painter**

**ASGA vice president**



**Julie Decker**

**SARDFA executive director**

## **Description of ASGA-SARDFFA Compromise**

The Alaskan Shellfish Growers Association (ASGA) and Southeast Alaska Regional Diver Fisheries Association (SARDFFA) have reached agreement on a package of statutory, regulatory and administrative actions to resolve the long-standing controversy of how to handle natural stocks of geoduck clams on new aquatic farm sites.

The agreement was reached in the wake of an Alaska Supreme Court decision that already has resulted in the closure of geoduck farming operations near Ketchikan and cast a legal cloud over most other existing littleneck and geoduck farming operations. Complicating the issue is that seed purchases by the closed geoduck operations are considered vital to the viability of the shellfish hatchery in Seward.

While this agreement was negotiated directly by divers and farmers, it also has been endorsed by the parties involved in the original lawsuit and the Murkowski Administration. Here are elements of the agreement.

### **How the "Standing Stock" Issue is Resolved**

The Supreme Court said current statutes do not provide the Alaska Department of Fish and Game clear authority to allocate any standing stocks of geoduck clams to aquatic farmers. While the decision was directed at geoducks, it has clear implications for other species, such as littleneck clams.

Statutes would be amended to allow aquatic farmers to select sites with "insignificant" amounts of wild stocks, essentially codifying an earlier superior court decision. This would be defined in statute as an amount less than what it would take to support a commercial fishery. ADF&G would further define what "insignificant" means in regulation.

### **How Existing Farms will be Affected**

Existing geoduck farms would be allowed to continue operations, but would have to meet the provisions of the new statute and accompanying regulations.

### **How the State Will Determine How Many Clams are on a Farm Site**

Population surveys will be conducted by the state or by the applicant with state oversight. The surveys will require a high confidence level to increase accuracy. The farmer will be required to pay for the surveys.

### **How Harvests of Standing Stocks will be Managed**

The agreement would define "insignificant" as less than 12,000 pounds of geoduck clams per farm site. Harvests by farmers would be "capped" at 12,000 pounds. If the amount of standing stocks exceeds the 12,000-pound cap, the farmer would be able to continue harvesting to clear the sites for future crops, but the "net proceeds" of such sales would go into the state general fund.

## SARDFA-ASGA Compromise

- 1. Insignificant populations of geoducks would be defined as 12,000 pounds or less.**

Legislation must provide ADF&G with the authority to allow farmers ability to harvest insignificant populations of wild stocks on farm sites. The language should be added to 16.40.100 Aquatic Farm and Hatchery Permits.

- 2. Harvest of standing stocks of geoducks would be limited to no more than 12,000 per farm site.**

This cap could be imposed by regulation as long as the language added to AS 16.40.100 gives ADF&G the ability to limit harvests by farmers.

- 3. In the event a site contains more than 12,000 pounds, the farmers would be allowed to harvest everything, but the net proceeds from anything over the cap would go to the state's general fund. In other words, the farmer would be allowed to harvest and sell the "overages," but would be required to give any sales proceeds over direct harvesting, transporting and processing expenses to the general fund.**

If net sales proceeds of overages are to flow into the state treasury, it will require some authorizing language in statute. While the funds could not be dedicated to support activities such as geoduck development programs, ASGA will work with SARDFA annually to ensure the legislature allocates the funds accordingly.

- 4. Surveys used to determine whether a proposed geoduck farm site contains 12,000 pounds of standing stocks would use a mid-point rather than lower bound estimate. This standard also should be applied to the commercial fishery.**

This is designed to increase the accuracy of the surveys and prevent the approval of sites with more than the 12,000-pound cap. This can be accomplished in regulation with no statutory changes necessary. However, it is uncertain whether ADF&G managers will agree to shift survey confidence levels for dive fishery management of geoducks. ADF&G deputy commissioner David Bedford did agree the department would work with SARDFA to study ways to improve survey accuracy.

- 5. Existing geoduck aquatic farm permit holders should be "grandfathered in, but should be held to the cap.**

The goal is to ensure existing permits would be valid, but permittees would be held to the 12,000-pound cap. Harvests that occurred prior to the legislation would not be counted toward the 12,000-pound limit.

SENATE BILL NO. 126

IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY SENATOR STEDMAN

Introduced: 3/2/05  
Referred: Judiciary, Resources

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to aquatic farming; and providing for an effective date."

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

3 \* Section 1. AS 16.40.100(b) is amended to read:

4 (b) A permit issued under this section authorizes the permittee, subject to the  
5 conditions of AS 16.40.100 - 16.40.199 and AS 17.20, to

6 (1) acquire, purchase, offer to purchase, transfer, possess, sell, and  
7 offer to sell stock and aquatic farm products that are used or reared at the hatchery or  
8 aquatic farm; and

9 (2) except as provided in (f) of this section, acquire ownership of,  
10 harvest, and, without further cultivation, sell an insignificant population that  
11 intended to be cultured at the site [. A PERSON WHO HOLDS A PERMIT  
12 UNDER THIS SECTION MAY SELL OR OFFER TO SELL SHELLFISH STOCK  
13 TO THE DEPARTMENT OR TO AN AQUATIC FARM OR RELATED  
14 HATCHERY OUTSIDE OF THE STATE].  
15

*Deleted*

ec. 2. AS 16.40.100(e) is amended to read:

(e) Upon the expiration or termination of a permit issued under this section, a person who holds a permit for an aquatic farming site where wild stocks of shellfish indigenous to the site are cultured shall, as a condition of the permit, restore the wild stock of shellfish, as consistent with sustained yield management of the wild stock, to the population level that existed on the site when the permit for the site was initially issued by the commissioner. A permit holder is not required to restore that portion of the wild stock of shellfish that was removed from an aquatic farming site by a common property fishery conducted after the issuance of the permit for the aquatic farming site.

\* Sec. 3. AS 16.40.100 is amended by adding a new subsection to read:

(f) If the wild stock of a shellfish species to be cultured at an aquatic farm site exceeds the amount determined by the department to be an insignificant population and if the commissioner determines in writing that removal from the site of that portion of the stock that exceeds an insignificant population would benefit the public and that removal of the stock by a person other than the permittee would unreasonably interfere with the operation of the aquatic farm, the commissioner may authorize the permittee to remove and sell the excess amount of the wild stock from the site, if the permittee pays reasonable compensation, as defined by the department, to the department for the harvest and sale of the excess wild stock. The department shall deposit the money received under this subsection into the general fund. The legislature may appropriate the money received under this section to the department for shellfish management and enhancement.

\* Sec. 4. AS 16.40.105 is amended to read:

**Sec. 16.40.105. Criteria for issuance of permits.** The commissioner shall issue permits under AS 16.40.100 on the basis of the following criteria:

(1) the physical and biological characteristics of the proposed farm or hatchery location must be suitable for the farming or the shellfish or aquatic plant proposed;

(2) the proposed farm or hatchery may not require significant alterations in traditional fisheries or other existing uses of fish and wildlife resources;

1 (3) the proposed farm or hatchery may not significantly affect  
2 fisheries, wildlife, or their habitats in an adverse manner; [AND]

3 (4) the proposed farm or hatchery plans and staffing plans must  
4 demonstrate technical and operational feasibility; and

5 (5) the proposed farm site may not include more than an  
6 insignificant population of a wild stock of a shellfish species intended to be  
7 cultured on the site. on the site,

8 \* Sec. 5. AS 16.40 is amended by adding a new section to read:

9 **Sec. 16.40.155. Records and reports confidential.** Records required by  
10 statute or by a regulation adopted by the department concerning aquatic farm stocks or  
11 production, prices, and harvests of aquatic farm products and wild stocks, and annual  
12 statistical reports of individual aquatic farms or hatcheries required by statute or by a  
13 regulation adopted by the department are confidential and may not be released by the  
14 department, except that the department may release the records and reports

15 (1) to the Department of Revenue and the Department of Natural  
16 Resources to assist the departments in carrying out their respective statutory  
17 responsibilities;

18 (2) as necessary to comply with a court order;

19 (3) provided by an aquatic farm or hatchery permit holder to the permit  
20 holder whose activity is the subject of the records or reports;

21 (4) regarding cumulative annual harvests of wild stocks at individual  
22 aquatic farm sites.

23 \* Sec. 6. AS 16.40.199 is amended by adding a new paragraph to read:

24 (9) "insignificant population" mean a population of shellfish that, in  
25 the determination of the commissioner, would not attract and support a commercial  
26 fishery for that species of shellfish and the harvest and sale of the shellfish would not  
27 result in significant alteration in traditional fisheries or other existing uses of fish and  
28 wildlife resources if the population were included within an aquatic farm site.

29 \* Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to  
30 read:

31 **APPLICABILITY.** Until expiration or termination of the permit, AS 16.40.105.

1 added by sec. 4 of this Act, does not apply to an aquatic farm permit issued under  
2 AS 16.40.100 before the effective date of this Act.

3 \* Sec. 8. This Act takes effect July 1, 2005.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: SB 126  
 (S) Publish Date: 3/24/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title: An act relating to aquatic RDU: Commercial Fisheries  
and providing for an effective date Component: Fisheries Development  
 Sponsor: Senator Bert Stedman  
 Requester: Senate Judiciary Committee Component No.: 1942

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

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Prepared by: Sarah Gilbertson  
 Division: Legislative Liaison  
 Approved by: Acting Commissioner Wayne Regelin  
 Agency: Alaska Department of Fish & Game

Phone: 465-6137  
 Date/Time: 3/21/05 10:32 AM  
 Date: 3/21/2005

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SJR 16  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title: "Supporting legislation before the United States Congress that reaffirms the right of the states..."  
 Sponsor: Senator Therriault  
 Requestor: Senate Resources  
 Dep: Affected: Legislature  
 BRU: Legislative Council  
 Component: Council and Subcommittees  
Session Expenses  
 Component No: 783

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

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-----------------------------	------------	------------	------------	------------	------------	------------

<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-------------------------------	------------	------------	------------	------------	------------	------------

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2004) cost: 0.0

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation has zero fiscal impact on the Legislative Affairs Agency.

Prepared by: Karla Schofield, Deputy Director Phone 465-6626  
 Division: Administrative Services Date/Time 4/1/05 9:04 AM  
 Approved by: Pamela Varni, Executive Director Date 4/1/2005  
 Agency: Legislative Affairs Agency

CS FOR HOUSE BILL NO. 198(RES)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 4/1/05  
Referred: Rules

Sponsor(s): REPRESENTATIVE ELKINS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to aquatic farming; and providing for an effective date."

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

3 \* Section 1. AS 16.40.100(b) is amended to read:

4 (b) A permit issued under this section authorizes the permittee, subject to the  
5 conditions of AS 16.40.100 - 16.40.199 and AS 17.20, to

6 (1) acquire, purchase, offer to purchase, transfer, possess, sell, and  
7 offer to sell stock and aquatic farm products that are used or reared at the hatchery or  
8 aquatic farm; and

9 (2) except as provided in (f) of this section, harvest and, without  
10 further cultivation, sell an insignificant population that may be present at the  
11 aquatic farm site of a wild stock of a shellfish species intended to be cultured at  
12 the site [. A PERSON WHO HOLDS A PERMIT UNDER THIS SECTION MAY  
13 SELL OR OFFER TO SELL SHELLFISH STOCK TO THE DEPARTMENT OR TO  
14 AN AQUATIC FARM OR RELATED HATCHERY OUTSIDE OF THE STATE].

15 \* Sec. 2. AS 16.40.100(c) is amended to read:

1 (c) Upon the expiration or termination of a permit issued under this section, a  
 2 person who holds a permit for an aquatic farming site where wild stocks of shellfish  
 3 indigenous to the site are cultured shall, as a condition of the permit, restore the wild  
 4 stock of shellfish, as consistent with sustained yield management of the wild stock, to  
 5 the population level that existed on the site when the permit for the site was initially  
 6 issued by the commissioner. A permit holder is not required to restore that  
 7 portion of the wild stock of shellfish that was removed from an aquatic farming  
 8 site by a common property fishery conducted after the issuance of the permit for  
 9 the aquatic farming site.

10 \* Sec. 3. AS 16.40.100 is amended by adding a new subsection, to read:

11 (f) If the wild stock of a shellfish species to be cultured at an aquatic farm site  
 12 exceeds the amount determined by the department to be an insignificant population  
 13 and if the commissioner determines in writing that removal from the site of that  
 14 portion of the stock that exceeds an insignificant population would benefit the public  
 15 and that removal of the stock by a person other than the permittee would unreasonably  
 16 interfere with the operation of the aquatic farm, the commissioner may authorize the  
 17 permittee to remove and sell the excess amount of the wild stock from the site, if the  
 18 permittee pays reasonable compensation, as defined by the department, to the  
 19 department for the harvest and sale of the excess wild stock. The department shall  
 20 deposit the money received under this subsection into the general fund. The  
 21 legislature may appropriate the money received under this section to the department  
 22 for shellfish management and enhancement.

23 \* Sec. 4. AS 16.40.105 is amended to read:

24 **Sec. 16.40.105. Criteria for issuance of permits.** The commissioner shall  
 25 issue permits under AS 16.40.100 on the basis of the following criteria:

26 (1) the physical and biological characteristics of the proposed farm or  
 27 hatchery location must be suitable for the farming or the shellfish or aquatic plant  
 28 proposed;

29 (2) the proposed farm or hatchery may not require significant  
 30 alterations in traditional fisheries or other existing uses of fish and wildlife resources;

31 (3) the proposed farm or hatchery may not significantly affect

1 fisheries, wildlife, or their habitats in an adverse manner; [AND]

2 (4) the proposed farm or hatchery plans and staffing plans must  
3 demonstrate technical and operational feasibility; and

4 (5) the proposed farm site may not include more than an  
5 insignificant population of a wild stock, on the site, of a shellfish species intended  
6 to be cultured.

7 \* Sec. 5. AS 16.40 is amended by adding a new section to read:

8 **Sec. 16.40.155. Records and reports confidential.** Records required by  
9 statute or by a regulation adopted by the department concerning aquatic farm stocks or  
10 production, prices, and harvests of aquatic farm products and wild stocks, and annual  
11 statistical reports of individual aquatic farms or hatcheries required by statute or by a  
12 regulation adopted by the department are confidential and may not be released by the  
13 department, except that the department may release the records and reports

14 (1) to the Department of Revenue and the Department of Natural  
15 Resources to assist the departments in carrying out their respective statutory  
16 responsibilities;

17 (2) as necessary to comply with a court order;

18 (3) provided by an aquatic farm or hatchery permit holder to the permit  
19 holder whose activity is the subject of the records or reports;

20 (4) regarding cumulative annual harvests of wild stocks at individual  
21 aquatic farm sites.

22 \* Sec. 6. AS 16.40.199 is amended by adding a new paragraph to read:

23 (9) "insignificant population" means a population of shellfish that, in  
24 the determination of the commissioner, would not attract and support a commercial  
25 fishery for that species of shellfish and the harvest and sale of the shellfish would not  
26 result in significant alteration in traditional fisheries or other existing uses of fish and  
27 wildlife resources if the population were included within an aquatic farm site.

28 \* Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to  
29 read:

30 **APPLICABILITY.** Until expiration or termination of the permit, AS 16.40.105,  
31 added by sec. 4 of this Act, does not apply to an aquatic farm permit issued under

- 1 AS 16.40.100 before the effective date of this Act.
- 2 \* **Sec. 8.** This Act takes effect July 1, 2005.

**SB**

**144**

SB 144 Supplemental Packet - 3/21/05

- Draft Committee Substitute: 6 pages
- #1 Fiscal Note: DEC: 1 page
- Revised Sectional Analysis: 2 pages
- Federal citations pertaining to SB 144: 8 pages

24-LS0677F  
Bullock  
3/21/05

**CS FOR SENATE BILL NO. 144(RES)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE RESOURCES COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): SENATE RESOURCES COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to regulations, definitions, and permits under the emission control**  
2 **permit program; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 **\* Section 1.** AS 46.14.130(b) is amended to read:

5 (b) Except for the owner and operator of a stationary source exempted under  
6 AS 46.14.120(e) or (f), the owner and operator of a stationary source shall obtain an  
7 operating permit from the department for [IF THE STATIONARY SOURCE]

8 (1) a major source [EMITS OR HAS THE POTENTIAL TO EMIT  
9 100 TPY OR MORE OF A REGULATED AIR POLLUTANT];

10 (2) a stationary source that [EMITS OR HAS THE POTENTIAL TO  
11 EMIT 10 TPY OR MORE OF A HAZARDOUS AIR POLLUTANT OR 25 TPY OR  
12 MORE, IN THE AGGREGATE, OF TWO OR MORE HAZARDOUS AIR  
13 POLLUTANTS;

14 (3)] contains an emission unit subject to federal new source

1 performance standards under 42 U.S.C. 7411 (Clean Air Act, sec. 111) or national  
2 emission standards for hazardous air pollutants issued under 42 U.S.C. 7412 (Clean  
3 Air Act, sec. 112); or

4 (3) [(4) CONTAINS] another stationary source designated by the  
5 federal administrator by regulation.

6 \* Sec. 2. AS 46.14.130 is amended by adding a new subsection to read:

7 (d) In this section, "major source" has the meaning given in 42 U.S.C.  
8 7661(2).

9 \* Sec. 3. AS 46.14.140(a) is amended to read:

10 (a) The department shall adopt regulations to address substantive and  
11 procedural elements of the emission control permit program established under this  
12 chapter that are not addressed in statute, except elements that relate only to the internal  
13 management of the department and do not affect the public or govern the way the  
14 department deals with the public. The regulations must be reasonable and adequate,  
15 and provide flexibility in the operation of a stationary source consistent with 42 U.S.C.  
16 7401 - 7671q (Clean Air Act), as amended, and applicable federal regulations. Except  
17 for regulations concerning minor permits required under AS 46.14.130(c), the  
18 regulations must include

19 (1) a standard permit application form that meets the requirements of  
20 federal regulations adopted under 42 U.S.C. 7661a(b) (Clean Air Act, sec. 502(b));

21 (2) monitoring, record keeping [RECORDKEEPING], and reporting  
22 requirements for facilities that are subject to AS 46.14.130(b), which must comply  
23 with the requirements established for state operating permit programs in 40 C.F.R.  
24 70.6, but which may be modified to take into account this state's unique conditions;

25 (3) procedures for preparation and submission of a monitoring,  
26 reporting, and quality assurance plan and, if required, a compliance schedule  
27 describing how a permitted stationary source will comply with the applicable  
28 requirements of this chapter;

29 (4) procedures for

30 (A) specifying when permit applications and renewal requests  
31 are to be submitted;

1 (B) specifying the time duration for department review of  
2 permit applications;

3 (C) processing and reviewing an application;

4 (D) providing public notice, including opportunity for public  
5 comment and hearing; and

6 (E) issuing permits, including procedures for issuing permits  
7 for temporary operations or open burn activities;

8 (5) reasonable standard permit conditions, including conditions for

9 (A) emission standards and limitations;

10 (B) monitoring, record keeping, and reporting for facilities  
11 subject to AS 46.14.130;

12 (C) inspection and entry;

13 (D) certification of corporate or other business organization  
14 reports;

15 (E) annual certification of compliance;

16 (F) excess emission or process deviation reporting; and

17 (G) equipment malfunctions and emergencies;

18 (6) fees and procedures for collecting fees;

19 (7) provisions addressing late payment or nonpayment of fees, which  
20 may include assessment of penalties and interest or refusal to issue, amend, modify, or  
21 renew an air quality control permit;

22 (8) the duration of permits;

23 (9) procedures for modifying or amending a permit that provide  
24 flexibility in the operation of the stationary source, including procedures to allow  
25 changes to a permitted stationary source without requiring a permit modification,  
26 consistent with the purposes of this chapter and with 42 U.S.C. 7401 - 7671q (Clean  
27 Air Act);

28 (10) reasonable provisions for renewing, reopening, revoking and  
29 reissuing, and terminating a permit consistent with the purposes of this chapter and 42  
30 U.S.C. 7401 - 7671q (Clean Air Act);

31 (11) provisions allowing for physical or operational limitations that

1 will reduce a stationary source's emissions to levels below those that would make the  
2 stationary source subject to part or all of AS 46.14.120 and 46.14.130;

3 (12) provisions authorizing stationary source operation while a permit  
4 application is pending, consistent with 42 U.S.C. 7661b(d) (Clean Air Act, sec.  
5 503(d));

6 (13) provisions for ensuring that compliance with an operating permit  
7 issued under this chapter will be considered to be compliance with 42 U.S.C. 7661a  
8 (Clean Air Act, sec. 502) and other provisions of state or federal law specifically  
9 provided for by the department consistent with 42 U.S.C. 7401 - 7671q (Clean Air  
10 Act) and regulations adopted under state and federal law; [AND]

11 (14) provisions allowing for certification of inspectors who evaluate  
12 compliance with the terms and conditions of a permit, order, regulation, or other  
13 provision of law authorized under this chapter; and

14 (15) definitions of terms incorporating applicable definitions in 42  
15 U.S.C. 7401 - 7671q (Clean Air Act), as amended, and applicable federal  
16 regulations, to the extent that those definitions are not inconsistent with this  
17 chapter.

18 \* Sec. 4. AS 46.14.255(b) is amended to read:

19 (b) If a permittee has failed to pay a fee imposed under AS 46.14.240 -  
20 46.14.250, a penalty, assessment, or damage award imposed under AS 46.03.760(e) or  
21 46.03.790 for a violation of this chapter, or interest imposed under (a) of this section,  
22 the department may, after 30 days' written notice to the permittee, revoke a minor  
23 permit, refuse to issue or renew permits requested by the permittee, or refuse to  
24 amend or modify a permit when the amendment or modification is requested by the  
25 permittee.

26 \* Sec. 5. AS 46.14.280(a) is amended to read:

27 (a) After 30 days' written notice to the permittee, the department  
28 (1) may terminate, modify, or revoke and reissue a construction, [OR]  
29 operating, or minor permit if the department finds that  
30 (A) the permit was obtained by misrepresentation of material  
31 fact or by failure of the owner and operator to disclose fully the facts relating

1 to issuance of the permit;

2 (B) the permittee has violated this chapter, a regulation, a  
3 judicial or administrative order, or a material term or condition of a permit,  
4 approval, or acceptance issued under this chapter; or

5 (C) the permittee has failed to construct or modify a stationary  
6 source within the time period specified in a construction permit, if any,  
7 required under AS 46.14.130(a);

8 (2) may modify, or revoke and reissue a construction, operating, or  
9 minor permit if the department finds that

10 (A) the permit contains a material mistake; or

11 (B) there has been a material change in the quantity or type of  
12 air pollutant emitted from the stationary source; or

13 (3) shall reopen a permit issued under this chapter

14 (A) based on a determination of the federal administrator or the  
15 department that the permit must be revised to comply with 42 U.S.C. 7401 -  
16 7671q (Clean Air Act) and regulations adopted under 42 U.S.C. 7401 - 7671q  
17 [THEREUNDER]; or

18 (B) to incorporate changes in law, or to impose equivalent  
19 emission limitations, that become applicable after the permit is issued if the  
20 permit is issued to a major [STATIONARY] source and has a remaining  
21 duration of three or more years; the department shall make revisions allowed  
22 under this subparagraph as soon as practicable, but, regarding a change in law,  
23 not [NO] later than 18 months after the change in law takes effect; the  
24 department may not reopen the permit of a major [STATIONARY] source  
25 under this subparagraph if the change in law is not effective until after the date  
26 that the permit expires.

27 \* Sec. 6. AS 46.14.990(11) is amended to read:

28 (11) "emission unit" has the meaning given in 40 C.F.R. 51.166(b) )  
29 or 40 C.F.R. 70.2, depending on the context in which the term is used [40 C.F.R.  
30 51.166(b)];

31 \* Sec. 7. AS 46.14.990(27) is amended to read:

1

(27) "stationary source" has the meaning given in 40 C.F.R. 51.166(b)

2

or 40 C.F.R. 70.2, depending on the context in which the term is used;

3

\* **Sec. 8.** AS 46.14.990(18) is repealed.

4

\* **Sec. 9.** This Act takes effect July 1, 2005.

SB 144

# FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB144  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Environmental Conservation  
Title Emission Control Program Permits/Regs RDU Air Quality  
Component Air Quality  
Sponsor Senate Resources  
Requester Senate Resources Component No. 2061

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
-------------------------------	------------	------------	------------	------------	------------	------------

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

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

**ANALYSIS:** (Attach a separate page if necessary)  
  
This bill will not have a financial impact on the Air Permits Program. The cost to administer the program remains unchanged.

Prepared by: John Kuterbach, Air Permits Program Manager Phone (907) 465-5103  
Division Air Quality Date/Time 3/18/05 11:00 AM  
Approved by: Kurt Fredriksson, Acting Commissioner Date 3/18/2005  
Agency Environmental Conservation

# ALASKA STATE LEGISLATURE



Official Business

## SENATE RESOURCES COMMITTEE

Senator Tom Wagoner, Chair

State Capitol, Room 427

Juneau, AK 99801-1182

Phone: (907) 465-4907 Fax: (907) 465-4779

Senator Ralph Seekins, Vice-Chair

Senator Ben Stevens

Senator Kim Elton

Senator Fred Dyson

Senator Bert Stedman

Senator Gretchen Guess

---

### Sectional Analysis

#### SB 144 EMISSION CONTROL PROGRAM PERMITS/REGS

SB 144 makes technical changes to the state air permits program needed for consistency with federal requirements. The bill also expands the department's authority to ensure payment of program fees.

**Sec. 1.** The first section of the bill better defines who needs a Clean Air Act Title V operating permit by using federal terminology. In AS 46.14.130(b)(1)&(2), the federal term "major source" is added and use of the term "stationary source" changed to more closely track the terminology used by CAA Title V to describe categories needing permits. Together with adoption of the federal definition of "major source" in section 2, these changes ensure that the state program will meet the minimum federal requirements needed for program approval by EPA. The current state program omits certain groups of stationary sources required to have a Title V permit under federal law.

**Sec. 2.** The second section adopts the federal definition of "major source" contained in CAA section 501 for purposes of AS 46.14.130. This change ensures that the state's operating permit program applies to all categories of sources enumerated under Title V of the CAA.

**Sec. 3.** Section three adds a new subsection AS 46.14.140(a)(15) directing DEC to use applicable definitions of the CAA or EPA implementing regulations when adopting air emission permit program regulations. This is a continuation of the department's effort to have our state air permit programs mirror their federal counterparts.

**Sec. 4.** Section four authorizes DEC to revoke a permit if necessary to secure payment of program fees or penalties awarded by the court for violations of state law. Currently AS 46.14.255(b) gives DEC leverage to stop work on permit applications or to refuse to issue a permit or permit change. However under the new minor permit program some permits will be continuous and, unless the permittee needs a permit modification, the statute as currently written cannot be used to compel payment after the permit is issued. Similarly, with the standard operating permit term of five years, there may be significant periods of time during which the department is not working on a permit renewal or other permit change for a given permittee. The addition of permit revocation authority will enhance the department's ability to obtain payment in those circumstances.

**Sec. 5.** Section five corrects the phrase "major stationary source" to read "major source" in AS 46.14.255(a) and makes other stylistic changes.

**Sec. 6.** Section six amends the definition of "emissions unit" to enable the department to use either of two federal definitions of the term as the context requires. The federal construction and operating permit programs use different definitions of the term for these respective permit programs. This amendment enables the state permit programs to more closely mirror the federal counterparts.

**Sec. 7.** Section seven substitutes a CAA definition for the term "stationary source" in lieu of EPA's regulatory definition for the Title I permit program. The CAA and EPA's implementing regulations use different definitions of the term "stationary source" depending upon the CAA program.

**Sec. 8.** Section eight repeals the statutory definition of the term "modification." The term "modification" has various definitions in the CAA and EPA implementing regulations. Adopting the applicable definition by regulation is less cumbersome and better enables the department to promulgate regulations mirroring the federal programs.

**Sec. 9.** Provides for an effective date of July 1, 2005.

Sec. 7661. Definitions

As used in this subchapter--

(1) Affected source

The term "affected source" shall have the meaning given such term in subchapter IV-A of this chapter.

(2) Major source

The term "major source" means any stationary source (or any group of stationary sources located within a contiguous area and under common control) that is either of the following:

- (A) A major source as defined in section 7412 of this title.
- (B) A major stationary source as defined in section 7602 of this title or part D of subchapter I of this chapter.

#1) MAJOR SOURCE  
Pg. 2; Sec. 2

SB 144

Sec. 7412. Hazardous air pollutants

## (a) Definitions

For purposes of this section, except subsection (r) of this section--

## (1) Major source

The term "major source" means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. The Administrator may establish a lesser quantity, or in the case of radionuclides different criteria, for a major source than that specified in the previous sentence, on the basis of the potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors

#1 \* MAJOR SOURCE  
Supplemental  
Pg. 2, Sec. 2

(j) Except as otherwise expressly provided, the terms "major stationary source" and "major emitting facility" mean any stationary facility or source of air pollutants which directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant (including any major emitting facility or source of fugitive emissions of any such pollutant, as determined by rule by the Administrator).

# 1 B MAJOR SOURCE

MAJOR stationary source

Pg 2. Sec 2

#2 Pg. 4 line 14

refers to entire CLEAN  
AIR ACT = not copied

#3 Pg. 5, line 16 = refers  
to entire CLEAN AIR ACT  
not copied.

(7) Emissions unit means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an electric utility steam generating unit as defined in paragraph (b)(30) of this section. For purposes of this section, there are two types of emissions units as described in paragraphs (b)(7)(i) and (ii) of this section.

(i) A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date such emissions unit first operated.

(ii) An existing emissions unit is any emissions unit that does not meet the requirements in paragraph (b)(7)(i) of this section. A replacement unit, as defined in paragraph (b)(32) of this section, is an existing emissions unit.

#4 EMISSION UNIT

pg. 5, Sec. 6

Emissions unit means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act. This term is not meant to alter or affect the definition of the term "unit" for purposes of title IV of the Act.

# 5

EMISSION UNIT

Ps. 5, Sec 6

(5) Stationary source means any building, structure, facility, or installation

[[Page 208]]

which emits or may emit a regulated NSR pollutant.

# 6 Stationary Source

pg. 6 Line 2

(40 CFR, 51.166.(b)(5))

Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. Where such meaning is clear from the context, "State" shall have its conventional meaning. For purposes of the acid rain program, the term "State" shall be limited to authorities within the 48 contiguous States and the District of Columbia as provided in section 402(14) of the Act.

Stationary source means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under section 112(b) of the Act.

Whole program means a part 70 permit program, or any combination of partial programs, that meet all the requirements of these regulations and cover all the part 70 sources in the entire State. For the purposes of this definition, the term "State" does not include local permitting authorities, but refers only to the entire State, Commonwealth, or Territory.

[57 FR 32295, July 21, 1992, as amended at 66 FR 59166, Nov. 27, 2001]

Effective Date Note: At 69 FR 31505, June 3, 2004, Sec. 70.2 was amended by amending by redesignating paragraphs (7) through (12) of the definition of "applicable requirement" as paragraphs (8) through (13) and adding a new paragraph (7) effective July 6, 2004. For the convenience of the user, the added text is set forth as follows:

Sec. 70.2 Definitions.

\* \* \* \* \*

Applicable requirement \* \* \*

(7) Any standard or other requirement under section 126(a)(1) and (c) of the Act;

\* \* \* \* \*

# 7 Stationary Source  
Pg. 6 : 40 CFR 70.2

(5) Stationary source means any building, structure, facility, or installation

[[Page 208]]

which emits or may emit a regulated NSR pollutant.

# 6 Stationary Source

pg. 6 Line 2

(40 CFR, 51.166.(b)(5))

**SB 144 Packet – materials**

- Sponsor Statement – 1 page
- Sectional Analysis – 1 page
- DEC letter 2-01-05 re: minor permits (3 pages)
- Bill - 6 pages
- Fiscal Note: not yet received, will be handed out on Monday.

# ALASKA STATE LEGISLATURE



Official Business

## SENATE RESOURCES COMMITTEE

Senator Tom Wagoner, Chair

State Capitol, Room 427

Juneau, AK 99801-1182

Phone: (907) 465-4907 Fax: (907) 465-4779

Senator Ralph Seekins, Vice-Chair

Senator Ben Stevens

Senator Kim Elton

Senator Fred Dyson

Senator Bert Stedman

Senator Gretchen Guess

---

### Sponsor Statement

#### SB 144 - EMISSION CONTROL PROGRAM PERMITS/REGS

As part of Governor Murkowski's permit reform initiative, the 23<sup>rd</sup> Alaska Legislature passed CS HB 160 (Fin) in 2003. This law streamlined Alaska's air permitting by making the State's air permit rules mirror federal requirements.

However, in adopting the regulations to implement the new statute, the Department of Environmental Conservation (DEC) found several places where the statute did not meet federal requirements. If unaddressed, these deficiencies would prevent federal approval of Alaska's permit programs, and could jeopardize State primacy for these programs.

This bill makes technical changes to address certain specific deficiencies and to ensure continued State primacy in air permitting. It adopts federal definitions to ensure the State's program is consistent with federal law, and repeals definitions not needed in statute. For needed terms that are not defined in statute, the bill directs the department to define them in regulation consistent with federal law.

One change proposed by the bill is not required by federal law, but is needed to ensure a solvent program. The air permit program is funded entirely by user fees. This bill would give DEC the authority to revoke a permit for failure to pay valid fees.

# STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

**DEPT. OF ENVIRONMENTAL CONSERVATION  
DIVISION OF AIR QUALITY  
DIRECTOR'S OFFICE**

555 Cordova Street  
Anchorage, AK 99501-2617  
PHONE: (907) 269-7634  
FAX: (907) 269-3098  
TDD/TTY: (907) 269-7511  
<http://www.state.ak.us/dec/>

February 1, 2005

Roscoe G. Bicknell  
Bicknell Inc  
AEDCO All Mix Asphalt Plant  
PO Box 33517  
Juneau, AK 99803-3517

Re: Proposed Legislation That May Interest You

Dear Mr. Bicknell:

As you know, the Department of Environmental Conservation recently revised its air quality permitting rules. Some facilities that previously required a Title V operating permit will now require only a minor source permit. Unlike the Title V permits which terminate and are subject to renewal every five years, many of these minor source permits do not require renewal. Department records indicate that one or more of your facilities may fall into this category.

The department is seeking a change in law to create a fee collection tool applicable to minor source operators. The purpose of this letter is to make you aware of our legislative proposal and to explain the logic and need for it. The new permits will continue to be fee-based and the department will continue to issue billings for applicable permit fees, send reminders for late fees, and review fee appeals as it has in the past. These collection efforts have been successful for the great majority of fee payers. While rare, the department has had to refuse to work on permit renewals for a few permittees in order to encourage payment of past due fees. Since the new minor permits do not need renewal, the department believes it needs a means to encourage payment of any long overdue fee billings.

We are seeking to have legislation introduced this session to allow the department to revoke a minor permit for non-payment of fees. The legislation will provide protections for the permittee. Revoking a minor permit would only occur when all other efforts to collect undisputed fees or work out a payment schedule have failed. For fees subject to dispute, if a fee appeal has been submitted, the permit could not be revoked until the dispute is resolved.

We believe this added authority benefits the vast majority of permittees by helping to ensure that all permittees pay their allocated share. Because the air permit functions are almost exclusively funded through user fees, any accumulated bad debt will eventually result in all other permittees paying a higher fee. We believe it's in everyone's best interest to avoid this situation.

If you have any questions about this legislation or believe this legislative proposal has serious problems, please call me at (907) 269-7634 or John Kuterbach, the air permits program manager, at (907) 465-5103.

Sincerely,



Tom Chapple  
Director

"Clean Air"

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

# ALASKA STATE LEGISLATURE



Official Business

## SENATE RESOURCES COMMITTEE

**Senator Tom Wagoner, Chair**

State Capitol, Room 427

Juneau, AK 99801-1182

Phone: (907) 465-4907 Fax: (907) 465-4779

Senator Ralph Seekins, Vice-Chair

Senator Ben Stevens

Senator Kim Elton

Senator Fred Dyson

Senator Bert Stedman

Senator Gretchen Guess

---

### **Sponsor Statement**

#### **SB 144 - EMISSION CONTROL PROGRAM PERMITS/REGS**

As part of Governor Murkowski's permit reform initiative, the 23<sup>rd</sup> Alaska Legislature passed CSHB 160 (Fin) in 2003. This law streamlined Alaska's air permitting by making the State's air permit rules mirror federal requirements.

However, in adopting the regulations to implement the new statute, the Department of Environmental Conservation (DEC) found several places where the statute did not meet federal requirements. If unaddressed, these deficiencies would prevent federal approval of Alaska's permit programs, and could jeopardize State primacy for these programs.

This bill makes technical changes to address certain specific deficiencies and to ensure continued State primacy in air permitting. It adopts federal definitions to ensure the State's program is consistent with federal law, and repeals definitions not needed in statute. For needed terms that are not defined in statute, the bill directs the department to define them in regulation consistent with federal law.

One change proposed by the bill is not required by federal law, but is needed to ensure a solvent program. The air permit program is funded entirely by user fees. This bill would give DEC the authority to revoke a permit for failure to pay valid fees.

# ALASKA STATE LEGISLATURE



Official Business

## SENATE RESOURCES COMMITTEE

Senator Tom Wagoner, Chair

State Capitol, Room 427

Juneau, AK 99801-1182

Phone: (907) 465-4907 Fax: (907) 465-4779

Senator Ralph Seekins, Vice-Chair

Senator Ben Stevens

Senator Kim Elton

Senator Fred Dyson

Senator Bert Stedman

Senator Gretchen Guess

---

### Sectional Analysis

#### SB 144 - EMISSION CONTROL PROGRAM PERMITS/REGS

**Sec. 1.** This section better defines who needs a Clean Air Act Title V operating permit by using federal terminology. In AS 46.14.130(b)(1)&(2), the federal term "major source" is added and use of the term "stationary source" changed to more closely track the terminology used by CAA Title V to describe categories needing permits. Together with adoption of the federal definition of "major source" in section 2, these changes ensure that the state program will meet the minimum federal requirements needed for program approval by EPA. The current state program omits certain groups of stationary sources required to have a Title V permit under federal law.

**Sec. 2.** This adopts the federal definition of "major source" contained in CAA section 501 for purposes of AS 46.14.130. This change ensures that the state's operating permit program applies to all categories of sources enumerated under Title V of the CAA.

**Sec. 3.** This adds a new subsection AS 46.14.140(a)(15) directing DEC to use applicable federal CAA definitions when adopting air emission permit program regulations. This is a continuation of the effort to have our state air permit programs mirror their federal counterparts. **[Note EPA uses "recordkeeping" as a single word- See 40 CFR 71.6]**

**Sec. 4.** This authorizes DEC to revoke a permit if necessary to secure payment of program fees or penalties awarded by the court for violations of state law. Currently AS 46.14.255(b) gives DEC leverage to stop work on permit applications or to refuse to issue a permit or permit change. However under the new minor permit program some permits will be continuous and, unless the permittee needs a permit modification, the statute as currently written cannot be used to compel payment after the permit is issued. Similarly, with the standard operating permit term of five years, there may be significant periods of time during which the department is not working on a permit renewal or other permit change for a given permittee. The addition of permit revocation authority will enhance the department's ability to obtain payment in those circumstances.

**Sec. 5.** This corrects the phrase "major stationary source" to read "major source" in AS 46.14.255(a) and makes other stylistic changes.

# STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

**DEPT. OF ENVIRONMENTAL CONSERVATION  
DIVISION OF AIR QUALITY  
DIRECTOR'S OFFICE**

555 Cordova Street  
Anchorage, AK 99501-2617  
PHONE: (907) 269-7634  
FAX: (907) 269-3098  
TDD/TTY: (907) 269-7511  
<http://www.state.ak.us/dec/>

February 1, 2005

Roscoe G. Bicknell  
Bicknell Inc  
AEDCO All Mix Asphalt Plant  
PO Box 33517  
Juneau, AK 99803-3517

Re: Proposed Legislation That May Interest You

Dear Mr. Bicknell:

As you know, the Department of Environmental Conservation recently revised its air quality permitting rules. Some facilities that previously required a Title V operating permit will now require only a minor source permit. Unlike the Title V permits which terminate and are subject to renewal every five years, many of these minor source permits do not require renewal. Department records indicate that one or more of your facilities may fall into this category.


The department is seeking a change in law to create a fee collection tool applicable to minor source operators. The purpose of this letter is to make you aware of our legislative proposal and to explain the logic and need for it. The new permits will continue to be fee-based and the department will continue to issue billings for applicable permit fees, send reminders for late fees, and review fee appeals as it has in the past. These collection efforts have been successful for the great majority of fee payers. While rare, the department has had to refuse to work on permit renewals for a few permittees in order to encourage payment of past due fees. Since the new minor permits do not need renewal, the department believes it needs a means to encourage payment of any long overdue fee billings.

We are seeking to have legislation introduced this session to allow the department to revoke a minor permit for non-payment of fees. The legislation will provide protections for the permittee. Revoking a minor permit would only occur when all other efforts to collect undisputed fees or work out a payment schedule have failed. For fees subject to dispute, if a fee appeal has been submitted, the permit could not be revoked until the dispute is resolved.

We believe this added authority benefits the vast majority of permittees by helping to ensure that all permittees pay their allocated share. Because the air permit functions are almost exclusively funded through user fees, any accumulated bad debt will eventually result in all other permittees paying a higher fee. We believe it's in everyone's best interest to avoid this situation.

If you have any questions about this legislation or believe this legislative proposal has serious problems, please call me at (907) 269-7634 or John Kuterbach, the air permits program manager, at (907) 465-5103.

Sincerely,

  
Tom Chapple  
Director

"Clean Air"

## MINOR GENERAL PERMITS

Project ID	Facility Name/Location	Responsible Party	Address	City	State	Zip
113GP301	Wasilla Asphalt Plant	AAA Valley Gravel	PO Box 876418	Wasilla	AK	99687-2453
7320P301	Sitka Asphalt Plant	Aggregate Construction Inc	401 Granite Creek Rd	Sitka	AK	99815
021AC008	Alaska Complete Tank SRU	Alaska Complete Tank	2700 Huffman Rd	Anchorage	AK	99516
391GP301	AEDCO Asphalt Plant	Alaska Roadbuilders	44482 Frontier Ave	Soldotna	AK	99669
392GP901	OP9 Crusher	Alaska Roadbuilders	44482 Frontier Ave	Soldotna	AK	99669
393GP301	Adm Drum Mix Asphalt Plant	Alaska Roadbuilders	44482 Frontier Ave	Soldotna	AK	99669
341GP302	AEDCO All Mix Asphalt Plant	Bicknell Inc	PO Box 33517	Juneau	AK	99803-3517
626GP301	AEDCO All Mix Asphalt Plant	Bicknell Inc	PO Box 33517	Juneau	AK	99803-3517
783GP301	SE Paving Wylie 3140	Bicknell Inc	PO Box 33517	Juneau	AK	99803-3517
332GP302	AESCO Madsen DM7228 Drum	Brechan Enterprises Inc	2705 Mill Bay Rd	Kodiak	AK	99615
794GP901	Near Island Crusher	Brechan Enterprises Inc	2705 Mill Bay Rd	Kodiak	AK	99615
795GP901	Bella Plata Crusher	Brechan Enterprises Inc	2705 Mill Bay Rd	Kodiak	AK	99615
479GP301	Asphalt Plant	Brice Incorporated	PO Box 70668	Fairbanks	AK	99707-0668
775GP902	Brice Crusher	Brice Incorporated	PO Box 70668	Fairbanks	AK	99707-0668
400GP302	Builders Asphalt Plant	Builders Services Inc	PO Box 809	Homer	AK	99603
212GP301	Asphalt Plant	COLASKA Inc	240 W 68th Ave	Anchorage	AK	99518
246GP301	AEDCO 60" Drum Plant	COLASKA Inc	240 W 68th Ave	Anchorage	AK	99518
247GP301	Aster Super Six Pack	COLASKA Inc	240 W 68th Ave	Anchorage	AK	99518
248GP301	CMI Plant A248	COLASKA Inc	240 W 68th Ave	Anchorage	AK	99518
423GP301	AEDCO 42" Drum Plant	COLASKA Inc	240 W 68th Ave	Anchorage	AK	99518
424GP301	CMI 2500 Plant	COLASKA Inc	240 W 68th Ave	Anchorage	AK	99518
498GP301	Cedar Rapids Asphalt Plant	COLASKA Inc	240 W 68th Ave	Anchorage	AK	99518
347GP301	Eagle River Asphalt Plant	Emulsion Products	20130 New England Dr	Eagle River	AK	99577
097GP301	Sealand Pit Asphalt Plant	Exclusive Landscaping & Paving Inc	PO Box 58136	Fairbanks	AK	99711-0136
312GP301	Stansteel Asphalt Plant	H & H Contractors	PO Box 60610	Fairbanks	AK	99706
848GP901	Hamilton GP9 Crusher	Hamilton Construction LLC	465 Pease Rd	Burlington	WA	98233
219GP301	Drum Mix Asphalt Plant	Harris Sand & Gravel Inc	PO Box 6	Valdez	AK	99686
597GP301	Pioneer Drum Mix Asphalt Plant	Harris Sand & Gravel Inc	PO Box 6	Valdez	AK	99686
800GP901	Valdez Crusher	Harris Sand & Gravel Inc	PO Box 6	Valdez	AK	99686
412GP301	CMI UVM-250	Herndon & Thompson LLC	PO Box 1548	Seward	AK	99664
832GP901	Wrangell Airport Quarry Crusher	Kiewit Pacific Company	PO Box 1769	Vancouver	WA	98668-1769
338GP301	Knik Asphalt Plant	Knik Construction	PO Box 3757	Seattle	WA	98124
611GP902	Seward Crusher	Metro Inc	2701 Seward Hwy	Seward	AK	99664
170GP301	X551 CMI Hot Plant	North Star Paving & Construction	265 Wilson Lane	Soldotna	AK	99669
776GP301	NuVuk Asphalt Plant	NuVuk Construction LLC	5300 A St	Anchorage	AK	99518
366GP301	Fairbanks Asphalt Plant	Paving Products Inc	PO Box 80430	Fairbanks	AK	99708
596GP301	AESCO MADSEN DM Asphalt Plant	Pruha Corporation	2193 Viking Dr	Anchorage	AK	99501
616GP301	CMI Asphalt Plant	Pruha Corporation	2193 Viking Dr	Anchorage	AK	99501
799GP901	QS&G Crusher Palmer	Pruha Corporation	2193 Viking Dr	Anchorage	AK	99501
801GP301	ASTEC Drum Mix Asphalt Plant	Pruha Corporation	2193 Viking Dr	Anchorage	AK	99501
346GP301	AEDCO Asphalt Plant	Secon Inc	PO Box 32159	Juneau	AK	99803-2159
357GP301	Stansteel 3000 Asphalt Batch Plant	Secon Inc	PO Box 32159	Juneau	AK	99803-2159
358GP301	Stansteel TM50	Secon Inc	PO Box 32159	Juneau	AK	99803-2159
788GP902	Secon Crusher Ketchikan	Secon Inc	PO Box 32159	Juneau	AK	99803-2159
615GP301	Boeing Asphalt Plant Anchorage	SKW Eskimos Inc	PO Box 92479	Anchorage	AK	99509-2479
204GP401	Soil Remediation Unit	Soil Processing Inc	207 E Northern Lights Blvd Ste 103A	Anchorage	AK	99503
401GP301	Movable Facility	Tagish Construction	PO Box 1306	Haines	AK	99827
X150	Tesoro Asphalt Plant	Tesoro Alaska Petroleum	PO Box 3369	Kenai	AK	99611-3369
792GP401	TPS Technologies SRU Cold Plant	TPS Technologies Inc	7400 E McDonalds Dr Ste 3-123	Scottsdale	AZ	85250
175GP301	Central Paving Products Hot Plant	Wildier Construction	11301 Lang St	Anchorage	AK	99515

1770P301	X700 Barber Green Hot Plant	Wilder Construction	11301 Lang St	Anchorage	AK	99515
1780P301	X400 Cedar Rapids Hot Plant	Wilder Construction	11301 Lang St	Anchorage	AK	99515
1920P301	Pioneer Batch Plant	Wilder Construction	11301 Lang St	Anchorage	AK	99515
4410P901	X800 Portable Crusher	Wilder Construction	11301 Lang St	Anchorage	AK	99515
4420P901	X900 Portable Crusher	Wilder Construction	11301 Lang St	Anchorage	AK	99515

# ALASKA STATE LEGISLATURE



Official Business

## SENATE RESOURCES COMMITTEE

Senator Tom Wagoner, Chair

State Capitol, Room 427

Juneau, AK 99801-1182

Phone: (907) 465-4907 Fax: (907) 465-4779

Senator Ralph Seekins, Vice-Chair

Senator Ben Stevens

Senator Kim Elton

Senator Fred Dyson

Senator Bert Stedman

Senator Gretchen Guess

---

### Sectional Analysis

#### SB 144 EMISSION CONTROL PROGRAM PERMITS/REGS

SB 144 makes technical changes to the state air permits program needed for consistency with federal requirements. The bill also expands the department's authority to ensure payment of program fees.

**Sec. 1.** The first section of the bill better defines who needs a Clean Air Act Title V operating permit by using federal terminology. In AS 46.14.130(b)(1)&(2), the federal term "major source" is added and use of the term "stationary source" changed to more closely track the terminology used by CAA Title V to describe categories needing permits. Together with adoption of the federal definition of "major source" in section 2, these changes ensure that the state program will meet the minimum federal requirements needed for program approval by EPA. The current state program omits certain groups of stationary sources required to have a Title V permit under federal law.

**Sec. 2.** The second section adopts the federal definition of "major source" contained in CAA section 501 for purposes of AS 46.14.130. This change ensures that the state's operating permit program applies to all categories of sources enumerated under Title V of the CAA.

**Sec. 3.** Section three adds a new subsection AS 46.14.140(a)(15) directing DEC to use applicable definitions of the CAA or EPA implementing regulations when adopting air emission permit program regulations. This is a continuation of the department's effort to have our state air permit programs mirror their federal counterparts.

**Sec. 4.** Section four authorizes DEC to revoke a permit if necessary to secure payment of program fees or penalties awarded by the court for violations of state law. Currently AS 46.14.255(b) gives DEC leverage to stop work on permit applications or to refuse to issue a permit or permit change. However under the new minor permit program some permits will be continuous and, unless the permittee needs a permit modification, the statute as currently written cannot be used to compel payment after the permit is issued. Similarly, with the standard operating permit term of five years, there may be significant periods of time during which the department is not working on a permit renewal or other permit change for a given permittee. The addition of permit revocation authority will enhance the department's ability to obtain payment in those circumstances.

**Sec. 5.** Section five corrects the phrase "major stationary source" to read "major source" in AS 46.14.255(a) and makes other stylistic changes.

**Sec. 6.** Section six amends the definition of "emissions unit" to enable the department to use either of two federal definitions of the term as the context requires. The federal construction and operating permit programs use different definitions of the term for these respective permit programs. This amendment enables the state permit programs to more closely mirror the federal counterparts.

**Sec. 7.** Section seven substitutes a CAA definition for the term "stationary source" in lieu of EPA's regulatory definition for the Title I permit program. The CAA and EPA's implementing regulations use different definitions of the term "stationary source" depending upon the CAA program.

**Sec. 8.** Section eight repeals the statutory definition of the term "modification." The term "modification" has various definitions in the CAA and EPA implementing regulations. Adopting the applicable definition by regulation is less cumbersome and better enables the department to promulgate regulations mirroring the federal programs.

**Sec. 9.** Provides for an effective date of July 1, 2005.

**SB**

**163**

**SB 163 Materials List**

- Sponsor Statement: 1 page
- Sectional Analysis: 1 page
- Bill: 5 pages
- Fiscal Note: DNR: 1 page

NOTE: Have not received fiscal note from DOR, will be handed out at meeting.

# ALASKA STATE LEGISLATURE



Official Business

## SENATE RESOURCES COMMITTEE

Senator Tom Wagoner, Chair

State Capitol, Room 427

Juneau, AK 99801-1182

Phone: (907) 465-4907 Fax: (907) 465-4779

Senator Ralph Seekins, Vice-Chair

Senator Ben Stevens

Senator Kim Elton

Senator Fred Dyson

Senator Bert Stedman

Senator Gretchen Guess

---

### Sponsor Statement

#### **SB 163: Cook Inlet Oil & Gas Credit**

The Senate and House Resources Committees held a joint committee meeting in Kenai in February 2005.

The purpose of the meeting was to receive testimony from individuals and companies doing oil and/or natural gas business in the Cook Inlet basin. The committee heard comments and suggestions on methods to improve the business conditions in the oil and natural gas industry.

One of those suggestions was the need to revise the exploration incentive credits that were passed in 2003 for the Cook Inlet basin.

The Cook Inlet basin differs substantially from other areas of the state and subsequently warrants this approach. It was the first area of the state to be explored and then developed for oil and gas production. As a result, it has some of the oldest fields in Alaska and most of the currently producing platforms are declining annually. With few exceptions, drilling an exploration well that is "outside" the existing 3-mile limitation effectively exempted the entire Cook Inlet basin from any credits.

This bill remedies that situation but at the same time, requires the commissioner to review information submitted by the explorer within a 60-day time frame and further, limits the maximum credits allowed to not exceed \$20,000,000.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB163-DNR-O&G-04-12  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
 Title: Cook Inlet Oil & Gas Tax Credit RDU: Resource Development  
 Component: Oil and Gas Development  
 Sponsor: Senate Resources  
 Requester: Senate Resources Component No: 439

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

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill would allow the Dept. of Revenue to grant an oil and gas production tax credit for Cook Inlet exploration wells located within 3-miles of a previous well if the DNR Commissioner determines that the well tests a distinctly separate exploration target (hydrocarbon trap).

SB 163 would require DNR to make a technical determination of whether an exploration well constitutes a distinctly separate exploration target. The Division of Oil and Gas is staffed in part by highly specialized technical experts schooled and experienced in the areas of petroleum geology, geophysics, and engineering who make similar determinations for other incentives under Title 38. Any technical analysis and staff costs would be absorbed by the current budget.

Prepared by: Mark D. Myers, Director Phone: 269-8800  
 Division: Oil and Gas Date/Time: 4/12/2005  
 Approved by: Tom Irwin, Commissioner Date: 4/12/2005  
 Agency: Natural Resources

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services  
Department of Education & Early Development  
State of Alaska

# ALASKA STATE LEGISLATURE



Official Business

## SENATE RESOURCES COMMITTEE

**Senator Tom Wagoner, Chair**

State Capitol, Room 427

Juneau, AK 99801-1182

Phone: (907) 465-4907 Fax: (907) 465-4779

Senator Ralph Seekins, Vice-Chair

Senator Ben Stevens

Senator Kim Elton

Senator Fred Dyson

Senator Bert Stedman

Senator Gretchen Guess

---

---

### Sponsor Statement

#### **SB 163: Cook Inlet Oil & Gas Credit**

The Senate and House Resources Committees held a joint committee meeting in Kenai in February 2005.

The purpose of the meeting was to receive testimony from individuals and companies doing oil and/or natural gas business in the Cook Inlet basin. The committee heard comments and suggestions on methods to improve the business conditions in the oil and natural gas industry.

One of those suggestions was the need to revise the exploration incentive credits that were passed in 2003 for the Cook Inlet basin.

The Cook Inlet basin differs substantially from other areas of the state and subsequently warrants this approach. It was the first area of the state to be explored and then developed for oil and gas production. As a result, it has some of the oldest fields in Alaska and most of the currently producing platforms are declining annually. With few exceptions, drilling an exploration well that is "outside" the existing 3-mile limitation effectively exempted the entire Cook Inlet basin from any credits.

This bill remedies that situation but at the same time, requires the commissioner to review information submitted by the explorer within a 60-day time frame and further, limits the maximum credits allowed to not exceed \$20,000,000.

# ALASKA STATE LEGISLATURE



Official Business

## SENATE RESOURCES COMMITTEE

Senator Tom Wagoner, Chair

State Capitol, Room 427

Juneau, AK 99801-1182

Phone: (907) 465-4907 Fax: (907) 465-4779

Senator Ralph Seekins, Vice-Chair

Senator Ben Stevens

Senator Kim Elton

Senator Fred Dyson

Senator Bert Stedman

Senator Gretchen Guess

---

### Sectional Analysis

#### **SB 163: Cook Inlet Oil & Gas Credit**

- Sec. 1:** Extends the dates of the 2003 incentive credits legislation out to 2010 for the Cook Inlet basin.
- Sec. 2:** Provides language that allows exploration wells in the Cook Inlet to be within the 3-mile limit, subject to review and approval by the commissioner. This provide a 20% credits.
- Sec. 3:** Provides language that decreases the 25-mile boundary limit to 10 miles for the Cook Inlet basin. This provides a 20% credit.
- Sec. 4:** Requires the commissioner to evaluate the explorer's claim for a 29% credit (within 3-mile) within 60 days of receipt of the information.
- Sec. 5:** Provides language that caps the exploration credits in the Cook Inlet to a maximum of \$20,000,000.
- Sec 6:** Language that provides a definition to "Cook Inlet basin" and references the definition currently provided in another statute.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number \_\_\_\_\_  
 Bill Version SB163-DNR-O&G-04-12-  
 ( ) Publish Date \_\_\_\_\_

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Natural Resources  
 Title Cook Inlet Oil & Gas Tax Credit RDU Resource Development  
 Component Oil and Gas Development  
 Sponsor Senate Resources  
 Requester Senate Resources Component No 439

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

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill would allow the Dept. of Revenue to grant an oil and gas production tax credit for Cook Inlet exploration wells located within 3-miles of a previous well if the DNR Commissioner determines that the well tests a distinctly separate exploration target (hydrocarbon trap)

SB 163 would require DNR to make a technical determination of whether an exploration well constitutes a distinctly separate exploration target. The Division of Oil and Gas is staffed in part by highly specialized technical experts schooled and experienced in the areas of petroleum geology, geophysics, and engineering who make similar determinations for other incentives under Title 38. Any technical analysis and staff costs would be absorbed by the current budget.

Prepared by Mark D. Myers, Director Phone 269-8800  
 Division Oil and Gas Date/Time 4/12/2005  
 Approved by Tom Irwin, Commissioner Date 4/12/2005  
 Agency Natural Resources

1  
2  
3  
4  
5  
6  
7  
8  
9

(k) In this section.

(1) "Cook Inlet production" means oil or gas production from the Cook Inlet sedimentary basin, as that term is defined by regulation adopted to implement AS 38.05.180(f)(4);

(2) "Cook Inlet prospect" means a location within the Cook Inlet sedimentary basin, as that term is defined by regulation adopted to implement AS 38.05.180(f)(4);

(3) "explorer" means a person who, in exploring for new oil or gas reserves, incurs expenditures.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 163  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue 04  
 Title: Cook Inlet Oil & Gas Tax Credit RDU: Tax and Treasury  
 Component: Tax  
 Sponsor: Senate Resources  
 Requester: Senate Resources Component No.: 2476

**Expenditures/Revenue:** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>	**	**	**	**	**	**
-------------------------------	----	----	----	----	----	----

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	*	*	*	*	*	*

Estimate of any current year (FY2005) cost: 00

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

Discussion

This bill builds on the AS 43 55 025 exploration credit that was passed into law in 2003, by creating rules tailored to Cook Inlet conditions. The original credit expires in 2007, and for Cook Inlet prospects, this bill extends the eligibility to 2010. Specifically the bill creates the following conditions:

- Section 1 AS 43 55 025 (b) makes "Cook Inlet prospects" where work is performed on or after July 1, 2005, and before July 1, 2010 eligible for the AS 43 55 025 credit.

Prepared by: Dan Dickinson & Greg Bidwell Phone: 269-6620  
 Division: Tax Division Date/Time: 4/13/05 9:14 AM  
 Approved by: Jerry Burnett, Special Assistant to the Commissioner Date: 4/13/2005  
 Agency: Department of Revenue

## FISCAL NOTE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. SB 163

### ANALYSIS CONTINUATION

- Section 2 AS 43 55.025(c)(2) adds sub (A) and sub (B) which means that for a Cook Inlet prospect the well must be 3 miles from any other well, with all distances measured as the horizontal distance between exploration targets, except that the exploration well that is located within 3 miles of a well drilled for oil and gas qualifies if commissioner of natural resources determines the prospect to be a distinctly separate exploration target.
- Section 3 (d)(2) is amended so that for a Cook Inlet prospect to qualify the exploration well must be located not less than 10 miles outside the outer boundary, as delineated on July 1, 2003, of any unit that is under a plan of development (outside of Cook Inlet 25 miles are required)
- Section 4(f)(5) establishes a limit on total Exploration production tax credits for Cook Inlet under these rules of \$20 million.
- Section 5 (k) (1) "Cook Inlet production" means oil or gas production from the Cook Inlet sedimentary basin, as that term is defined by regulation adopted to implement AS 38 05 180(f)(4).
- Section 5 (k)(2) "Cook Inlet prospect" means a location within the Cook Inlet sedimentary basin, as that term is defined by regulation adopted to implement AS 38 05 180 (f)(4).

\*\*Effect on Revenues is indeterminate based on both how much the credit is used (thought that is capped at \$20 million dollars), and the success of the exploration.

This bill will allow wells drilled in the Cook Inlet after July, 2007 (and before July, 2010) to qualify for the exploration credit. In addition, wells can be within three miles of another well and qualify for a 20% deduction if DNR finds the well is targeting a separate exploration target. Wells can also qualify for 20% if they are between 10 and 25 miles from a producing unit. (The old standard of 25 miles from a producing unit would have been virtually impossible to meet in the Cook Inlet). Under this standard virtually every exploration well would qualify for at least a 20% credit.

DOR believes that the Cook Inlet remains a prospective enough basin to justify enough exploration to reach the \$20 million limit between 2006 and 2010. There were 10 exploration wells drilled in both 2002 and 2003. These wells, though more expensive than wells in the onshore lower-48, are less expensive than the remote wildcat wells in Northern Alaska. They tend to be shallow (around 6,000 feet) and be gas exploration wells (70% of the wells drilled in 2002 and 2003 were for gas). DOR estimates that at least \$30 million is being spent on exploration in the Cook Inlet per year currently, and that all of that expenditure will at least qualify for the 20% credit. If 2005 and 2006 expenditures are claimed in fiscal year 2007, then the State will provide \$12 million in credits in that year, and \$6 million the following year (FY 2008). The \$20 million cap will be reached in the FY2009.

Some additional language will need to be crafted either in the bill or in our implementing regulations to clarify how the \$20 million cap works. The process for qualifying for the credit is a multi-step process involving at least two agencies, and subject to appeal. Thus if the last applicant to cross a certain line gets the last dollar, that line needs to be clearly defined.

Cook Inlet discoveries are economic at smaller field sizes than similar discoveries on the North Slope. Oil finds should be economic at 50 million barrels and gas finds of 50 bcf. Just one such find should more than repay the cost of the credit.

Operating Expenditures. The department views this as an extension of current programs, and thus will require no increment above the baseline division funding.

**SB**

**164**

# ALASKA STATE LEGISLATURE

## SESSION

State Capitol, Rm 30  
Juneau, Alaska 99801-1182  
(907) 465-3873 Phone  
(907) 465-3922 Fax  
(877) 463-3873 Toll Free  
Senator\_Bert\_Stedman@legis.state.ak.us



## INTERIM

50 Front Street  
Ketchikan, AK 99901-6442  
Phone (907) 225-8088  
Fax (907) 225-0713

**SENATOR BERT K. STEDMAN**

---

## **SPONSOR STATEMENT SB 164**

**“An Act relating to the salmon product development tax credit; providing for an effective date by amending an effective date in sec. 7, ch. 57, SLA 2003; and providing for an effective date.”**

Senate Bill 164 extends the deadline for salmon processors to receive a salmon product development tax credit. Under current law (AS 43.75.035), processors can claim the credit only for property first placed into service by the end of this calendar year (December 31, 2005). SB 164 would give processors three more years (until December 31, 2008) to claim the credit. The legislation also clarifies what types of items are eligible for the tax credit, to more effectively achieve the legislature's goal of encouraging Alaska's seafood processors to develop innovative value-added salmon products.

In 2003, the legislature passed and the Governor signed legislation that allows processors to claim a credit on the tax liability on new equipment they have purchased to add value to salmon using innovative processing techniques. The bill (HB 90) that became this law was proposed by the Joint Legislative Salmon Industry Task Force, and was part of an effort by Alaska's elected leaders and the fishing industry to create incentives for the industry to take investment risks and produce new salmon products that add value to our salmon. It has worked: a number of processors have taken advantage of this tax credit. SB 164 extends the deadline for applying for the credit for another three years, to the end of 2008. In addition, the bill defines the kind of investment that qualifies for the credit, making it clear that processors should be producing new, innovative salmon products in order to benefit from this program. The legislation has been drafted in consultation with the Tax Division of the Department of Revenue, incorporating lessons learned in the first two years of administering the credit, to ensure that management and enforcement are efficient and effective.

Senate Bill 164 is supported by many Alaskan salmon processors and fishermen as a valuable tool in improving the quality and net worth of our wild salmon.

*Contact: Tim Barry, Aide to Senator Bert Stedman at (907) 465-3873*

DISTRICT A

Ketchikan • Sitka • Petersburg • Wrangell

## Southeast Alaska Fishermen's Alliance

9369 North Douglas Highway  
Juneau, AK 99801



Phone 907-586-6652

Fax 907-586-5648 E-mail: seafa@gci.net

April 7, 2005

Senator Wagner  
Senate Resources  
Alaska State Legislature  
Juneau, AK 99801

Support for SB 164

The Southeast Alaska Fishermen's Alliance supports SB 164, which would provide a tax credit to encourage the industry to invest in new value-added salmon products and salmon utilization. This tax credit has existed the last two years and has helped many processors and direct marketers by providing a tax break for expensive machinery that updates and adds value to our salmon resources.

It is important for the salmon industry to look at investments that will help change the products that we offer in the marketplace to meet current consumer demands. We need to produce more convenient food products such as filleting, meal ready products and we need technology that will help use the lower quality, lower value salmon in a form rather than offering it in the marketplace as frozen, headed and gutted fish.

This legislation was originally discussed and supported by the Salmon Industry Task Force, processors and fishing associations as a way to help the salmon industry move forward. The work towards modernizing our processing plants is not finished and the tax credit will help to continue to encourage innovation and thinking outside of the traditional means.

The Southeast Alaska Fishermen's Alliance is a non-profit membership based fishing organization representing our members involved in the salmon, crab, shrimp and longline fisheries of Southeast Alaska. Please feel free to call us regarding commercial fishing issues if we may be of any help to you or your staff.

Sincerely,

Kathy Hansen  
Executive Director

CC: Senator Stedman, UFA, Seafood Producer Co-op, Sitka Sound Seafoods, Moonah Cold Storage, Alaska Glacier Seafoods.

# OCEAN BEAUTY

SEAFOODS, INC.

April 7, 2005

Senator Bert Stedman  
Alaska State Capital, Room 30  
Juneau, AK 99801-1182

RE: *Senate Bill 164*

Dear Senator Stedman:

I am pleased to advise you of Ocean Beauty Seafoods, Inc. support of **Senate Bill 164**, which relates to a salmon product tax credit for the production of value-added salmon.

Do not hesitate to contact me, if I can provide additional information on this matter.

Sincerely,

*Mark Palmer*

Mark Palmer  
Executive Vice-President

Cc: Tim Barry, Office of Senator Bert Stedman  
Reed Stoops



# UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 110  
Juneau, Alaska 99801-1172  
(907) 586-2820  
(907) 463-2546 Fax  
E-Mail: [ufa@ufa-fish.org](mailto:ufa@ufa-fish.org)  
[www.ufa-fish.org](http://www.ufa-fish.org)

April 12, 2005

Senator Thomas Wagoner, Chair  
Senate Resources Committee  
Alaska State Legislature  
State Capitol (Mail Stop 3100)  
Juneau AK 99801-1182

Dear Senator Wagoner,

United Fishermen of Alaska (UFA) supports Senate Bill 164 regarding salmon product development tax credits for value-added equipment.

In 2003, the Joint Legislative Salmon Industry Task Force introduced and passed ITB 90. UFA supported this effort at that time as a way to help processors make necessary transition in product development efforts, towards products that can better compete in the changed global salmon markets. Many of these efforts have paid off in new products that are competing successfully in the marketplace. According to the USDA Agricultural Statistics Service, imports of salmon products to the U.S. declined in 2004, for the first time since 1992. UFA feels that the multi-faceted efforts of the Alaska State Legislature, Administration and federal support combined with fishermen and processors are making progress in securing our foothold in the US market while also increasing our salmon exports.

SB 164, with its specific emphasis on tax credits for equipment that adds value to salmon products, is one part of the formula that can result in a positive return on investment to the state. The state and communities will benefit through increased raw fish taxes based on the ex-vessel price to fishermen, if processors raise ex-vessel prices commensurate with the increased wholesale prices they are seeing from these combined efforts.

We appreciate the consideration of the Senate Resources Committee and encourage support of Senate Bill 164.

Sincerely,

Mark Vinsel  
Executive Director

# INDUSTRY POSITION PAPER

ON

## CSHB19(FIN)

**Date:** April 14, 2005  
**Prepared by:** Kenneth J Perry  
**Contact Information:** (907) 344-2538 [mail@paratex-pp.com](mailto:mail@paratex-pp.com)  
2440 E 88<sup>th</sup> Ave., Suite A Anchorage, AK 99507

**On behalf of:** PARATEX Pied Piper Pest Control  
The Alaska Pesticide Applicators Group  
NPMA - National Pest Management Association (Proxy)  
(Pest Management World-Wide trade Group)  
RISE - Responsible Industry for a Sound Environment (Consultation)  
(Chemical Manufacturers US Trade Group)

**(NOTE:** Requests for clarification on some issues by the sponsors and ADEC have not been forthcoming. Comments below are based on the appearance of the document currently before the Senate Resources Committee.)

**Section 1** (Page 1 Lines 5-7) Add Sub-Paragraph 78 to AS 37.05.146(c)

"Licensing of pesticide applicators" -- ADEC does not currently license applicators, it merely certifies them.

**Section 2** (Page 2 Lines 11-12) Add Paragraph G to AS 37.10.058(2)

ADEC will lose its authority to regulate non-registered pesticides and broadcast chemicals.

**Section 3** (Page 3 Lines 4-7) Add Subparagraphs 9 & 10 to AS 44 46 025 (a)

**Paragraph #9** First, as stated above, by this language ADEC will lose its authority to regulate non-registered pesticides and broadcast chemicals. As for an industry response, we repeat again that we have no objection to a reasonable fee for registration in the \$25 per year range. If you compare the registration costs in other states to the product sales volumes in those states, and then extrapolate that with volume of sales in Alaska, you will see that this is a generous offer. AND, with the lack of substantive written clarification on what will be exempted and what the final charge will be, as well as leaving a huge cap figure in place, it is in fact capricious in nature. Also, it is unconscionable to derive such a fee by merely deciding to double or triple the department budget and then divide that figure among the registrants. The only way I can see the manufacturers getting behind a

registration fee is if there is new legislation limiting their exposure to extremist intervention by enacting a State preemption on pesticide regulation and perhaps a public notification registry program, items they HAVE supported by appropriate fees in other states.

**Paragraph #10** As stated above, **ADEC** does not currently license applicators, it merely certifies them. As for a \$25 fee, most applicators have stated they have no objection to reasonable fees for their certification, but object strongly to the anti-pesticide tone of this legislation and the financial attack on the manufacturers whose products they so value. As a result, if passed many "courtesy or convenience" certifications currently on file will not be renewed or replaced.

**Section 4** (Page 3 Lines 9-10) Add Paragraph E to AS 44.46.025

First of all, how can this be enforced or influenced unless someone is willing to take the State to court and test it out. Given the small amount of income generated by pesticide sales in Alaska, it is cheaper just to drop the request to register. Additionally, this language is already violated in lines 4&5 (Section 3) above it. It is not "reasonable" to ask the manufacturers to pay the entire pesticide division (Alaska) budget AND double it as well! And the method of determining the fee (double the budget and divide by X) is not "reasonable" either.

**Section 5** (Page 3 Lines 20-21) Add Subsection 4 to AS 46 03 320 (a)

It needs to be clarified that **ADEC** is *ALREADY* registering pesticides, it has been doing so for years now. Does this mean that they have been acting illegally heretofore? Lawmakers need to be aware of this because all this bill seeks to do in reality (as far as registering pesticides) is add a fee, yet the cost of collecting that fee is estimated in the fiscal notes to be a doubling of the division budget.

**Section 6**

(Page 3 Line 24) Add Sentence to AS 46 03 320 (b)

The "temporary license waiver" as written here is in direct violation of Federal Law (EPA).

(Page 3 Lines 26-27) Add Sentence to AS 46 03 320 (b)

A new class of certification, as this addition creates, cannot be initiated without making the change in 18 AAC 90.300(c) as well.

**Section 7** (Page 4 Lines 1-10) Add Paragraphs C & D to AS 46.03.320

This thorny issue of deciding when and where "notification" and "posting" (two separate terms) should be implemented is best left to the regulators to decide based on their knowledge and expertise. The best course that this Legislature could follow is to imitate the 41 states with State pesticide regulation preemption and the majority of the 21 states with notification laws who use a notification registry to meet the "right-to-know" objectives you seek.

The requirements of this paragraph as originally written have been so diluted by exemptions at this point as to make them almost meaningless. All that is left is the "common areas" inside of apartment buildings over 4 units (very seldom is pesticide applied in these areas - most applications are to the units themselves and Tenant/Landlord law already requires notification), "government offices and facilities" and "plazas parks sports fields". And what is left is still very hard to interpret ie: "common areas"?; Which governments (Federal, State, Borough, Municipal, Tribal...)?; Who's parks and plazas?

**Section 8** (Page 4 Line 11) Establish Effective Date

No Comments (Honest, I don't!)



# ICICLE

April 15, 2004

Senator Thomas Wagoner, Chair  
Senate Resources Committee  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, Alaska 99801-1182

RE: SB 164 Extending salmon product development tax credit

Dear Senator Wagoner and Committee Members,

I wish to express our support for SB 164, an act that would extend the salmon product development tax credit program through 2008.

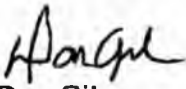
We utilized the salmon product development tax credit program in 2003 for the purchase of equipment that allows us to produce salmon roe (ikura) that is packaged using a modified atmosphere. These products have a much longer shelf life because they are not subject to oxidation and the formation of bacteria. In this form, the product has higher customer acceptance and can be available over a longer period of time to consumers.

In 2004, we used the salmon utilization tax credit program to install new equipment in the salmon meal and oil production plant at our Seward facility. The new equipment has enabled us to run more pounds of salmon through our facility, make products from salmon parts that would normally be part of our waste stream, and produce salmon oil with a higher quality and value than we were able to previously. In addition, it has allowed us to be more aggressive in purchasing salmon, opened up opportunities that would not have been available to us previously, and more fully utilize everything we purchase. This resulted in benefits for our company, our salmon fleet, the hatcheries, the community of Seward and the State of Alaska.

Properly applied, the salmon product development and utilization tax credit program is beneficial and can provide the incentive to make needed capital improvements a rational choice during economically challenging times.

I encourage your support of SB 164 and respectfully request you consider including tax credits for salmon meal and oil production equipment.

Sincerely,  
ICICLE SEAFOODS, INC.

  
Don Giles  
President & CEO

**ICICLE SEAFOODS, INC.**

4019-21<sup>st</sup> Avenue West • Seattle, WA 98199

P.O. Box 79003 • Seattle, WA 98119 • Tel: 206-282-0988 • Fax: 206-282-7222

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 14, 2005

**SUBJECT:** Sectional summary of SB 164, An Act relating to the salmon product development tax credit (Work Order No. 24-LS0589\I)

**TO:** Senator Bert Stedman  
Attn: Tim Barry

**FROM:** George Utermohle *GU*  
Legislative Counsel

You have requested a sectional summary of SB 164, an Act relating to the salmon product development tax credit.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill amends AS 43.75.035(b) to extend until December 31, 2008, the period during which new property may be first placed into service to qualify for the salmon product development tax credit.

Section 2 of the bill amends AS 43.75.035(i)(3) by modifying the definition of "qualified investment" to further describe the kinds of tangible personal property that may qualify for the salmon product development tax credit.

Section 3 of the bill amends AS 43.75.035(i) by adding a definition of "value-added salmon product."

Section 4 of the bill amends sec. 7, ch. 57, SLA 2003 by delaying the repeal of the salmon product development tax credit until January 1, 2012.

Section 5 of the bill provides that the bill takes effect on the day after the bill becomes law.

GU:jad  
05-206.jad

== SB 164 ==

Inlet Fish Producers, Inc.  
PO Box 114  
Kenai, Alaska 99611  
(907) 283-9275  
FAX (907) 283-4097  
April 14, 2005

Senator Bert Stedman  
State Capitol  
Juneau, Alaska

Re Senate Bill 164

Dear Senator Stedman:

Our company is very much in support of Senate Bill 164 which will amend and extend the salmon product development tax credit.

The salmon industry is changing very rapidly. Our fishery in Cook Inlet is dominated by sockeye salmon. Until the past two years, our primary markets were always in Japan. We are now finding that a majority of our sockeye salmon are sold in the US domestic market. In order to sell fish into our own domestic market place, we have to produce a product that responds to the needs of our marketplace.

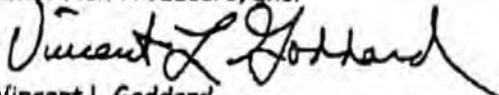
The American consumer wants to buy salmon in the form of trimmed boneless salmon fillets or portion cuts. In order to produce this product, we are required to make significant new investments in fillet equipment, trimming lines, pinbone machines, vacuum packing equipment, etc.

We are a mid-sized salmon company and we are completely Alaska-owned and headquartered in Alaska. We have already used the current tax credit law to make significant new investments, but we need a longer timeframe in which to complete the transformation of our plant and production facilities. The extension of this tax credit for three years will be extremely vital to our business and our ability to respond to these very positive changes in the salmon market.

Therefore, we very strongly support Senate Bill 164 and urge that it be approved during this session of the legislature.

Sincerely,

Inlet Fish Producers, Inc.



Vincent L. Goddard  
President

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 164  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue 04  
 Title Salmon Product Development Tax Credit RDU Tax and Treasury  
 Component Tax  
 Sponsor Sen. Stedman  
 Requester Sen Resources Component No. 2476

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>			<b>(1,000.0)</b>	<b>(1,500.0)</b>	<b>(1,000.0)</b>	<b>(500.0)</b>
-------------------------------	--	--	------------------	------------------	------------------	----------------

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

See page 2

Prepared by: Chuck Harlamert Phone 465-2320  
 Division: Tax Division Date/Time 4/13/05 12:37 PM  
 Approved by: Tom Boutin, Deputy Commissioner Date 4/13/2005  
 Agency: Revenue

**FISCAL NOTE**

**STATE OF ALASKA  
2005 LEGISLATIVE SESSION**

**BILL NO. SB 164**

---

**ANALYSIS CONTINUATION**

The bill extends the existing credit for investment in processing equipment used to produce value-added salmon products by three years through 2008. The credit is the result of legislative recommendations of the Joint Legislative Salmon Task Force and was designed to encourage in-state processing of salmon beyond heading and gutting and the development of value-added salmon products in the state. Credits may be applied against tax in the year generated and the three subsequent years. Use of the credit in any tax year is limited to one half of the fisheries business tax on salmon that is processed in the state.

Based on credit claims for the most recent tax year (2004) we project investments generating \$1.5 million of credits in each of the three tax years 2006-2008. These credits will be applied against tax only after pre-existing credits have been used or expired. We project that the credits arising under this bill will be used against fisheries business tax liabilities for 2008-2010 to reduce receipts during FY08-FY11.

The bill also clarifies the definitions of qualified investment and value-added salmon products. These clarifications will improve taxpayer's ability to make investment decisions and avoid unanticipated liabilities.