

Lisa McGuire /R10/USEPA/US

05/20/2008 11:54 AM

To lolympic@aol.com, aturtagirl@yahoo.com, nsigap@starband.net, march_runner@yahoo.com, king2rick@yahoo.com, ciugtaq@yahoo.com, hdangel@sitkatribе.org, jperkins@sitkatribе.org, billy@curyungtribe.com, sflensburg@bbna.com, eudinunez78@msn.com, dsigiugig@aol.com, ekenvr@starband.net, c_balluta@yahoo.com, bandrew@nushtel.com, renekka@starband.net, btrefon@kenaitze.org, chenegaenviro@hotmail.com, kellanak@yahoo.com, lemarc@pobox.mtaonline.net, vyeaton@yahoo.com, jmorris@kictribe.org, mikeb@apiai.org, nstc@starband.net, bmaracle@yritwc.com, luki2akelkok@yahoo.com, nonnie@nushtel.net, maracle.yritwc@gmail.com, cjohnson_pca@yahoo.com

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bcc

Subject Mixing zones update (4)

Dear all,

This is a brief update pertaining to Alaska's mixing zone regulation.

As you may remember, in 2003, Governor Murkowski issued Executive Order 107 (EO 107) which moved the division of Habitat and Restoration from the Alaska Department of Fish & Game (ADFG) to a new program, Office of Habitat Management and Permitting (OHMP) in the Alaska Department of Natural Resources (ADNR). The goal of EO 107 was to improve permitting efficiency by consolidating permitting functions within ADNR.

In 2008, Governor Sarah Palin issued an executive order (EO 114) that reverses EO 107 and restores OHMP to ADFG, effective July 1, 2008.

This action impacts Alaska's revised mixing zone regulation, which is currently before EPA for EPA's review. The regulation, proposed in 2005 and adopted by the State in 2006, cited ADNR's authority for several determinations regarding freshwater spawning areas. As a result of EO 114, all references to ADNR in the mixing zone regulation before us are changed to ADFG, and ADFG, not ADNR, will be involved in these determinations. Alaska's mixing zone regulation has been revised to reflect EO 114 (see attachment).

Please let me know if you have any questions

Lisa

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----- Forwarded by Lisa McGuire/R10/USEPA/US on 05/20/2008 11:37 AM -----



"Sonafrank, Nancy B (DEC)"
<nancy.sonafrank@alaska.gov>

05/19/2008 10:38 AM

To "Powell, James E (DEC)" <jim.powell@alaska.gov>, Lisa McGuire/R10/USEPA/US@EPA

cc

Subject FW: Mixing Zone Changes - Lt. Governor's Office Memo

Here is the memo from the Dept. of Law making the technical changes to the mixing zone regulations as a result of the Executive Order 107 moving OHMP back to the Dept. of Fish and Game.

From: Mendivil, Gary A (DEC)
Sent: Monday, May 19, 2008 9:27 AM
To: Sonafrank, Nancy B (DEC)
Subject: Mixing Zone Changes - Lt. Governor's Office Memo

Nancy -

Attached in PDF format is the memo from the Lt. Governor's Office regarding the OHMP changes from the reversal of Executive Order 107.

The changes to 18 AAC 70 start on the bottom of page and end on the top of page two...

From: noreply@dec.state.ak.us [<mailto:noreply@dec.state.ak.us>]
Sent: Monday, May 19, 2008 9:19 AM
To: Mendivil, Gary A (DEC)
Subject: JN-CPY-302 job

MEMORANDUM

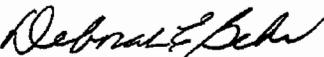
State of Alaska
Department of Law

To: Jason Hooley, AAC Coordinator
Lt. Governor's Office

Date: May 8, 2008

File No.:

Tel. No.: 465-3600


From: Deborah E. Behr
Chief Assistant Attorney General
and Regulations Attorney
Legislation and Regulations Section

Re: Revisor's changes to the Alaska
Administrative Code (AAC) to
reflect EO 114: 18 AAC 69.046; 18
AAC 70.240; 18 AAC 70.990; 18
AAC 75.325; 18 AAC 75.610; 18
AAC 75.620

Under the authority of the regulations attorney under AS 44.62.125(b), please forward to the publisher the revisor's changes to the Alaska Administrative Code (AAC) described below.

Effective July 1, 2008, Executive Order 114 transfers functions relating to the protection of fish habitat in rivers lakes, and streams from the Department of Natural Resources to the Department of Fish and Game. The following revisor's changes reflect the transfer of functions resulting from Executive Order 114.

1. Please make the following changes to 18 AAC 69.046(c)(5)(A)(i):

-- In 18 AAC 69.046(c)(5)(A)(i), change "11 AAC 195.010(a)" to "5 AAC 95.011"

-- In the editor's note following 18 AAC 69.046, change "Department of Natural Resources in 11 AAC 195.010" to "Department of Fish and Game in 5 AAC 95.011"

-- Following the existing editor's note after 18 AAC 69.046, add an additional editor's note to read:

Editor's note: As of Register 186 (July 2008), and acting under AS 44.62.125(b)(6), the regulations attorney made a technical change to 18 AAC 69.046(c)(5)(A)(i) and the editor's note to reflect Executive Order 114 (2008). Executive Order 114 transferred functions related to protection of fish habitat in rivers, lakes, and streams from the Department of Natural Resources to the Department of Fish and Game.

2. Please make the following changes in 18 AAC 70.240:

-- In 18 AAC 70.240(g)(1),

-- delete "with the Department of Natural Resources, or"

-- delete "if the spawning area is within a specific area"

- In 18 AAC 70.240(g)(3) and (4), and (j)(2),
 - change "Department of Natural Resources" to "Department of Fish and Game" in three appearances
 - change "AS 41.14" to "AS 16.05.871 - 16.05.901" in two appearances
 - change "11 AAC 195.010" to "5 AAC 95.011" in three appearances

- In 18 AAC 70.240(j)(3),
 - change "Department of Natural Resources" to "Department of Fish and Game" in two appearances

- After 18 AAC 70.240, add an editor's note to read:

Editor's note: As of Register 186 (July 2008), and acting under AS 44.62.125(b)(6), the regulations attorney made a technical change to 18 AAC 70.240(g) and (j), to reflect Executive Order 114 (2008). Executive Order 114 transferred functions related to protection of fish habitat in rivers, lakes, and streams from the Department of Natural Resources to the Department of Fish and Game.

3. Please make the following changes to 18 AAC 70.990:

- In 18 AAC 70.990(2), change "11 AAC 195.010" to "5 AAC 95.011"

- After 18 AAC 70.990, add an additional editor's note to read:

Editor's note: As of Register 186 (July 2008), and acting under AS 44.62.125(b)(6), the regulations attorney made technical changes to the definition of "anadromous" in 18 AAC 70.990, to reflect Executive Order 114 (2008). Executive Order 114 transferred functions related to protection of fish habitat in rivers, lakes, and streams from the Department of Natural Resources to the Department of Fish and Game.

4. Please make the following changes to 18 AAC 75.325:

In 18 AAC 75.325(k),

- after "Department of Fish and Game under" insert "AS 16.05.871(a) or"
- after the second reference to "AS 16.20" delete "or the deputy commissioner of natural resources under AS 41.14.870"

- After 18 AAC 75.325, add an additional editor's note to read:

Editor's note: As of Register 186 (July 2008), and acting under AS 44.62.125(b)(6), the regulations attorney made technical changes to 18 AAC 75.325(k), to reflect Executive Order 114 (2008). Executive Order 114 transferred functions related to protection of fish habitat in rivers, lakes, and streams from the Department of Natural Resources to the Department of Fish and Game.

Jason Hooley, AAC Coordinator, Lt. Governor's Office
Re: Revisor's changes to the Alaska Administrative Code (AAC)
to reflect EO 114 (18 AAC)

May 8, 2008
Page 3

5. Please make the following changes to 18 AAC 75.610:

-- In 18 AAC 75.610(a)(1)(B), change "AS 41.14.870(a)" to AS 16.05.871(a)"

-- After 18 AAC 75.610, add an additional editor's note to read:

Editor's note: As of Register 186 (2008), and acting under AS 44.62.125(b)(6), the regulations attorney made technical changes to 18 AAC 75.610(a)(1)(B), to reflect Executive Order 114 (2008). Executive Order 114 transferred functions related to protection of fish habitat in rivers, lakes, and streams from the Department of Natural Resources to the Department of Fish and Game.

6. Please make the following changes to 18 AAC 75.620:

-- In 18 AAC 75.620(a)(1)(E), change "AS 41.14.870(a)" to AS 16.05.871(a)"

-- After 18 AAC 75.620, add an additional editor's note to read:

Editor's note: As of Register 186 (2008), and acting under AS 44.62.125(b)(6), the regulations attorney made technical changes to 18 AAC 75.620(a)(1)(E), to reflect Executive Order 114 (2008). Executive Order 114 transferred functions related to protection of fish habitat in rivers, lakes, and streams from the Department of Natural Resources to the Department of Fish and Game.

Thank you for your assistance, and please contact me if you have additional questions.

DEB:pvv

cc: Gary Mendivil, Regulations Contact, Dept. of Environmental Conservation
Melanie Lesh, Regulations Contact, Dept. of Natural Resources
Kerry M. Howard, Exec. Dir., Office of Habitat Mgmt & Permitting, Dept. of Natural Resources
Steve Mulder, Supervising Attorney, Environmental Section
John Baker, Assistant Attorney General, Anchorage
Cam Leonard, Assistant Attorney General, Fairbanks
Kevin Saxby, Assistant Attorney General, Anchorage