

**Rogers, David**

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**From:** Rogers, David  
**Sent:** Monday, November 15, 1999 1:53 PM  
**To:** St.Clair, Tina  
**Subject:** Conceptual Outline

## **TEN POINT CONCEPTUAL PROPOSAL**

### **A NEW AND IMPROVED ALASKA WATER PERMITTING PROGRAM**

**1. INDIVIDUAL PERMITS:** Individual permits (i.e. Federal 401 certifications and State wastewater discharge individual permits; depending on circumstances) would be required for activities that involve significant health, environmental or economic issues. The department would use its discretion based on general weighting criteria and other factors.

**Issue:** Mechanics? Formal point ranking system necessary?

#### **2. GENERAL PERMITS/PERMITS BY RULE:**

a. Other classes of activities (subject to federal and state permitting requirements) that tend to involve standard conditions or similar environmental issues would be regulated under a general permit/certification type system that would rely on general stipulations, performance standards, best management practices and other guidelines to regulate and control discharges to water. Certifications for NPDES and Corps permits not covered in #1 and #2 above would be waived.

**Issue:** Are there activities subject to state wastewater permitting requirements which don't fit into categories

#1 or #2 a? If yes, how do we handle these categories - individual permits; universal stipulations?

b. The system could provide even greater flexibility for specified "diminimus" activities which have minimal environmental or health impacts.

c. This would be coupled with an aggressive field monitoring program to ensure compliance with water quality standards and resolve problems.

d. Advance notice of intent to operate would be required in all or most cases.

e. Annual compliance certifications also would be required.

**Issue:** Devil is in the details. More discussion of this at the meeting.

**Issue:** Will EPA adopt a parallel general permitting system within a reasonable period of time?

**Issue:** This effort is will take some time and money to develop and will require close collaboration with EPA and the Corps - Source of front end financing?

**Issue:** Public notice and technical concerns regarding mixing zones, ZOD's and site specific criteria.

**3. EXCEPTIONS TO GENERAL PERMIT RULE:** The new program would include a mechanism for:

- a. Requiring an individual permit for activities otherwise subject to general permit rules that raise significant and unanticipated site specific issues; *already there*
- b. Requiring some applicants to seek explicit approval for coverage under this general permit; and *??*
- c. Allowing applicants to request individual permits in lieu of operating under a general permit. *already there*

**4. OPPORTUNITY TO PROPOSE NEW GENERAL PERMIT CATEGORIES:**

- a. Current practice would continue - Any citizen or business could request that specific categories of activities that share similar environmental issues be regulated under the general permit type system described above. *- In Regs!*
- b. This request could be initiated by submitting to DEC a proposed general permit for these activities that contains the proposed standard conditions. If the proposal is accepted by DEC after agency and public review this new class of activities would no longer require an individual permit. *In Regs!*

**5. CONSOLIDATION AND COORDINATION OF EFFORTS:**

- a. The new program would eventually include consolidated permits.
- b. Better interagency coordination regarding permit processing, inspections and monitoring and other to be identified means to increase efficiency would be program hallmarks.

**6. ADMINISTRATIVE EXTENSIONS:** Expired or expiring permits *(and certifications)* could be administratively extended for good cause (e.g. permits in the backlog with no significant changes in the activity; unavoidable delays in processing for one reason or another; state cert expires but federal permit is administratively extended by EPA).

**Issue:** Statutory change may be necessary.

## 7. CORE PERMITTING TEAM AND CONTRACTORS:

- a. The core permitting team for these functions is defined as \_\_\_\_ FTE's who would serve as project leaders. The department would use contractors as necessary to augment this team, subject to meeting internal and union contract requirements.
- b. The means and methods of hiring those contractors would also be left to the department's discretion and could vary depending on circumstances.

## 8. FUNDING:

- a. The program would be funded by a combination of general funds and permit maintenance fees. Costs would be equitably allocated between costs born by applicants and permittees and costs born by the public.

**Issue:** Devil is in the details. Options/variations include: Annual fees; Fixed fees; Negotiated fees; Hourly fees (which will require additional administrative support); Project Agreements; Emission fees; and Combinations thereof.

**Issue:** Fees for general permits? How to assess and when to collect?

9. **DISPUTES:** There would be a review mechanism to deal with fee and other disputes.

## 10. NPDES PRIMACY:

- a. The Working Group would formally endorse the concept of primacy and recommend that current staff at DEC undertake a feasibility study by beginning preliminary discussions with EPA to better define the terms and conditions of a transfer of power from the federal government to the state and the associated development and operating costs. The Easton Report would serve as a starting point for further analysis and discussions with EPA.
- b. DEC would report its findings to the Working Group, the Knowles Administration and the Legislature. If primacy still makes sense DEC would then develop a strategic path to primacy that is realistic and affordable.

**Issue:** Funding for Phase II of program development?

- Some intermediate steps?
- Went toward Easton's next step
- Define AK Specific needs -