

RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

BREAKFAST MEETING

Thursday, April 30, 2009

- 1) Call to order – Wendy Lindskoog, Sr. Vice President
- 2) Self Introductions
- 3) Headtable Introductions
- 4) Staff Report: Jason Brune, Executive Director
- 5) Program and Keynote Speaker:

Cruising for a bruising: Why cruise ships are leaving Alaska & what it means to Alaskans

Ralph Samuels, Vice President, Government and Community Relations, Holland America Line

Next Meeting: May 7: Bill Sheffield, Port Director, Port of Anchorage

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CND's Cruiseblogger

THURSDAY, APRIL 9, 2009

What's Wrong with Alaska's Thinking

Earlier this week, the Anchorage Daily News published an editorial that, while it's a valid opinion, it also shows the wrong thinking in Alaska that's threatening to destroy their entire tourism industry as they now know it.

The situation the opinion piece addresses is the legislature trying to set the standards for cruise ships' waste water emissions. More strict standards were mandated in the 2006 citizens' initiative (which also added the infamous \$50 tax among numerous other taxes and fees), but like everything else in the measure, it was left to the legislature to actually write the law (including the exact specifications) and implement it. According to the cruise lines, equipment with the technology to meet the standards that the state wants to set isn't even on the market yet, and once it is, it will take a couple of years to obtain it and get it installed.

The cruise lines have been working with the legislature to reach some sort of compromise and set some standards under which they can continue to operate. The mechanism the legislature seems to be now leaning toward is creating a panel which would study the ability of the cruise lines to meet the standards and the economic feasibility of it and have the panel report back in 2012 and 2014. Those dates seem to be in line with when the industry says the equipment will come onto the market and when they can get it installed.

The newspaper seems to be assuming that referring the issue to the panel for further study equates to the death of the idea. In the opinion piece, they say they want absolute deadlines set for those dates.

We see this as an example of the mindset in Alaska which could in the end destroy one of the state's most profitable sources of income and employment.

The major assumption this thinking has is that the state holds all the cards and the cruise industry will ultimately accept whatever

Cruise News Daily

For more than a decade Cruise News Daily has been providing daily news, features and commentary about the cruise industry to consumers and cruise line executives.

Our main website is at cruisenewsdaily.com

This blog supplements our daily e-mail newsletter with thoughts on other news coverage and industry items. The front page of Cruiseblogger is located at www.cnd-cruiseblogger.blogspot.com

We also post here summaries of our articles approximately ten days after they appear in CND, and occasionally the full text of CND articles as a sample of our coverage.

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conditions are placed upon their operation there. It is true that the state can dictate the conditions for cruise lines to operate there, but the fallacious part of the assumption is that the cruise industry will do whatever they need to do to continue to operate cruises to Alaska. If the state sets standards unreasonably high that it will be impossible or very difficult for the cruise industry to meet, they are a very mobile industry which can disappear almost overnight if necessary.

The thinking in Alaska that the ADN represents, forgets that cruise lines exist only to make money for their investors, and times have changed both in the cruise industry and in Alaska. Pricing for cruises is currently down, and the state has already added tremendously to the cost side of the equation in the Alaska market. As a result, there are now other markets where it's more profitable to operate cruises than in Alaska, and there are more opening all the time.

Yes, the cruise lines have assets on land in Alaska that they don't have elsewhere, but the cruise lines are demonstrating their willingness to walk away from those. Next year they are intentionally planning to operate them below capacity as they shrink the supply of cruise berths in the market in an effort to increase pricing. It's much easier today to envision the cruise industry leaving Alaska than it has ever been in the past.

The other part of the mindset that's wrong in Alaska is to not consider a certain degree of pollution by the cruise industry acceptable. It's great to aspire to zero pollution, but in reality Alaskans are already compromising those ideals for themselves. Alaskans are driving cars that are polluting the air, and their cities are putting waste into the water that are nowhere close to the standards they want to require of cruise ships because they know it's economically unfeasible to suddenly require their cars and cities to meet the same air and water standards.

With that in mind, they need to start thinking about there being some middle ground between the ideal they want and what's realistic for the cruise industry to meet at a cost they can afford and that the consumer will be willing to pay to come to Alaska. If Alaskans adhere to the ideal, instead of reality, that's OK, but they must also recognize that it seems they will also be facing a future without a cruise industry - and the economic benefits and jobs it brings to their state.

You can read the Anchorage Daily News editorial on the [ADN site](#), but you will have to scroll down after you click on the link.

This article originally appeared in the April 9, 2009, edition of [Cruise News Daily](#).

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Cruise rules

Keep it simple, senators

The cruise ship discharge bill passed by the House last week has a major flaw.

There's no deadline.

House Bill 134S gives the cruise industry more time to meet the strict standards voters demanded in approving a 2006 ballot initiative, but the measure has no guarantee cruise ships will ever have to meet those standards.

The bill requires interim and final reports (2012 and 2014) on the ability of the cruise lines to meet the pollution standards that voters approved. It creates an 11-member science advisory panel to help make those reports.

Members won't just look at technical and scientific questions; they'll also consider economic feasibility of tighter pollution controls.

Instead of directly killing the tougher standards voters demanded, the bill calls for more study. That's a classic diversionary tactic, which in this case could spare the cruise industry from having to meet the new rules.

The state Department of Environmental Conservation has concluded in a draft report that technology exists to allow cruise ships to meet strict, point-of-discharge pollution standards at reasonable costs.

Applying that technology will take time. The cruise lines should have that time. But not more than that time.

The Senate should amend the House bill to impose a deadline.

BOTTOM LINE: Cruise wastewater bill needs a deadline -- for compliance, not just reports.

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Robert Gibbs

THE WALL STREET JOURNAL

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TRAVEL | APRIL 24, 2009

Alaska Fights a Tourism Cold Front

Cruise lines and resorts offer steep discounts; missing a 'Palin effect'

By CANDACE JACKSON

(See Corrections & Amplifications item below.)

Travelers hunting for the biggest vacation bargains should look north, to America's last frontier.

In a travel industry rife with discounts, it's hard to beat the ones coming out of Alaska this year. Princess Cruises has a seven-day Alaskan cruise this spring for as little as \$299 a person, more than 30% off last year's comparable rate. Camp Denali and North Face Lodge, two wilderness resorts in the Alaska Range, are offering 25% off rooms and cabins, which start at \$1,425 a person for three nights, including meals, activities and use of fishing and other gear. Luxury cruise operator Regent Seven Seas Cruises, known for small, all-suite ships and balconied cabins, is offering 50% off nearly all Alaska itineraries, plus throwing in free excursions, such as dry-suit snorkeling in Sitka or a rainforest bike tour in Skagway, and free airfare from 22 U.S. cities.

Some travel companies were expecting a strong season for Alaska after Gov. Sarah Palin's turn in the presidential-campaign spotlight; local tourism marketers were hoping that a "Palin effect," plus Alaska's 50th anniversary of statehood in 2009, would lead to a big bump in tourism. But on the eve of the May-to-September peak tourism season, some hotels, cruise lines and tour operators in the state say reservations are down as much as 50% from last year.

"Our early season indicators were exciting," says Ron Peck, president of the Alaska Travel Industry Association, in Anchorage. Now he expects a 10% to 20% decline in leisure visitors. While other U.S. destinations are adjusting to the economic downturn by redirecting marketing efforts to nearby states, Alaska doesn't have that option. "Even if we got everybody from Yukon to come to Alaska it still wouldn't make a heck of a difference," Mr. Peck says of the neighboring Canadian territory, population about 30,000. "The bottom line is that we're projecting this season to be grim." The association is promoting all the new deals on a recently launched Web site, alaskashottesttraveldeals.com.

Alaskan resorts and cruises that were fully booked by this time last year are slashing rates and throwing in extra enticements, like free glacier tours and salmon bakes. Alaska Airlines is pitching in with a 15%-off special on flights from the lower 48 states to cities like Juneau, Ketchikan and Sitka. The Waterfall Resort, a 40-minute floatplane ride from Ketchikan, is offering free round-trip airfare on certain dates

from any Alaska Airlines gateway city, including Seattle and Chicago.

The Waterfall, a 28-year-old sports fishing lodge where guests can spot orcas while fishing for king salmon, halibut and red snapper, is usually 85% booked for summer by February; this year, there's still plenty of room. With overall bookings down by 30%, the resort is offering \$900 off rates that start at \$3,975 a person for three nights (including meals and fishing excursions but not airfare). In the past, "we haven't had to go to that extent," says Chuck Baird, the resort's director of marketing. In addition, the resort is lopping two weeks off its summer season, opening June 7 and closing Aug. 17.

Further north, the Knik River Lodge hopes to supplement lackluster summer bookings by attracting more day trippers. It is running more shuttle buses from nearby Anchorage and offering activities like dog-sledding tours over glaciers. The resort, with private cabins in a glacial valley, is offering a free tour of the Knik Glacier to guests staying at least two nights between May 15 and June 15. And it is running discounts such as 50% off the second and third nights for spring and summer stays booked by April 30.

Last summer, 1.7 million people visited Alaska, flat compared with 2007. But this year, responses to the annual tourism-marketing mailer, which featured Gov. Palin, were up 20%. At least one tour operator, Authentic Alaska Tours, has created a Sarah Palin-themed tour: Its one-hour "Wasilla Cultural History" tour explores the governor's former high school, Wasilla City Hall and snowmobiles used in the Iron Dog race her husband competes in.

Geri McCann, the tour-company owner, worked at a city museum in Wasilla while Gov. Palin was mayor and says she knows the Palins personally. "She put Wasilla on the map," Ms. McCann says. "If there's a market, I'm here to meet the need and give a positive impression of who she is." So far, she hasn't had any takers.

With nearly two-thirds of visitors to Alaska spending at least one night on a cruise ship, the state's \$1.45 billion cruise industry is critically important to tourism. But operating in Alaska has become less profitable for cruise companies, as prices have come down. The average price of an Alaska cruise fell between 20% and 40% this year, says Tim Conder, a senior analyst with Wachovia Capital Markets -- a steeper drop than in other popular destinations. Last year, 7.5% of cruises world-wide were in Alaska, a share that is likely to shrink as the industry deploys ships to the Caribbean and other more-profitable regions.

The upshot is that some eye-popping discounts are available to Alaska as companies become motivated to fill ships. Cruise West is offering 25% off many departures, including a 12-night Coastal Odyssey trip aboard a 120-passenger ship, sailing through seaside rookeries with the chance to see sea lions and puffins; the undiscounted price is \$8,049, including meals, excursions and a \$200 on-board credit. Celebrity Cruises has a second-passenger-free promotion starting in May, effectively knocking 50% off the total cost. "If somebody's ever thought of taking a cruise, now is the best opportunity," says Dondra Ritzenthaler, Celebrity's senior vice president of sales.

Holland America has seven-day Alaska cruises starting at \$449 a person, and it is offering up to 50% off land tours, including one of Denali National Park and Preserve. The company has eased its booking rules, cutting nonrefundable cruise and tour deposits in half. "We know that it's a tougher decision for people this year," says Linda Springmann, vice president of Alaska marketing and sales.

Cruise operators say European bookings are lackluster, too, as Americans look to avoid air travel and stay close to home. Celebrity Cruises and Regent Seven Seas Cruises have similar discounts on some Mediterranean and Baltic Sea itineraries. Club Med is offering 50% off for the second guest at its all-

inclusive resorts in Europe booked by April 30.

For those who can't commit to Alaska this year, it's possible the slowdown -- and the discounts -- will continue next summer. Alaska Sea Adventures, a custom yacht charter company, has a \$500 discount off a handful of sailings this summer, like an eight-day whale watching trip in July, and it is extending the deal to 2010. "We're not seeing the number of inquiries for trips that we typically see," says Dennis Rogers, the company's owner and ship's captain. "Next year for us probably presents a bigger challenge."

Write to Candace Jackson at candace.jackson@wsj.com

Corrections & Amplifications

Skagway, Alaska, is the site of a cruise line's rainforest bike tour. In a previous version of this article, the city was misspelled Skagaway.

Printed in The Wall Street Journal, page W1

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Cruise company to move ship out of Alaska waters

\$50 HEAD TAX: Ceo says voter-approved fee is behind the shift.

By DAN JOLING

The Associated Press

(04/27/09 20:07:07)

A second cruise ship line has said it will shift a vessel destined for Alaska waters in 2010 to another location.

Miami-based Norwegian Cruise Line announced Monday its Norwegian Sun will operate in more profitable European waters in summer 2010. Company officials blamed Alaska's \$50 passenger fee for the decision.

"After carefully weighing the rising costs of deploying three ships in Alaska and taking into account the recently enacted legislation, in particular the \$50 head tax, we felt it was necessary to redeploy Norwegian Sun," said Kevin Sheehan, Norwegian Cruise Line's chief executive officer, in a statement. "Alaska is an incredible destination, but we are clearly seeing the impact of these changes in 2009, emphasized even more by this challenging economic environment."

Norwegian Cruise Line joins Royal Caribbean Cruises Ltd. in shifting a ship from Alaska waters for summer 2010. Royal Caribbean officials in January said they would move the Serenade of the Seas to another market. Regional Vice President Don Habeger of Juneau also said the 2006 ballot measure exacerbated the issue.

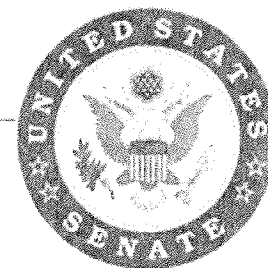
Carnival Corp., which owns Holland America Line and Princess Cruises, has also threatened to "pull capacity" out of Alaska.

The \$50 passenger fee was approved by Alaska voters in August 2006. The money must be spent on improving ports and harbors and other visitor services.

Gershon Cohen of Haines, one sponsor of the 2006 initiative, said the ship shift likely is more about profits than the head tax.

"They're redeploying ships in Europe because the American economy is falling apart and the middle class in America are not buying as many cruises and not spending as much money on board the ship as they have in the past," Cohen said. "It has nothing to do with the \$50 head tax."

NEWS FROM THE OFFICE OF
SENATOR LISA MURKOWSKI
United States Senate



MURKOWSKI INTRODUCES SEALASKA LAND SETTLEMENT BILL

Thursday, April 23, 2009

WASHINGTON, D.C. -- U.S. Sen. Lisa Murkowski, R-Alaska, today introduced a revised Sealaska land settlement proposal that is part of her Southeast Alaska initiative to aid the regional economy.

Southeast Alaska has been hard hit by the downturn in timber-related jobs. Last month, Murkowski introduced the first of two bills designed to stimulate the Southeast Alaska economy - the Southeast Alaska Timber Industry Retooling and Restructuring Act to help firms retool to maintain jobs in the region, and the Unrecognized Southeast Alaska Native Communities Recognition and Compensation Act to set up urban corporations for Natives in Ketchikan, Wrangell, Petersburg, Tenakee and Haines.

Joined by U.S. Sen. Mark Begich, D-Alaska, Murkowski today introduced legislation that would enable Sealaska Corporation, the regional Alaska Native Corporation for Southeast Alaska, to satisfy its remaining land entitlement under terms of the Alaska Native Claims Settlement Act. U.S. Rep. Don Young, R-Alaska, introduced a companion bill in the House of Representatives today.

The bill was first introduced by Young in 2007. Last year, Murkowski introduced a Senate version. The new bills represent changes made to reflect public comments and concerns with the previous bills. The Senate legislation was referred to the Senate Energy and Natural Resources Committee, where Murkowski is the ranking Republican member.

Estimates place Sealaska's remaining land entitlement at 65,000 acres to 85,000 acres. Murkowski's bill would permit Sealaska Corporation to select new acreage on and around Prince of Wales Island for timber development from a pool of about 78,000 acres; up to 5,000 acres of lands, called "Native Futures" sites, elsewhere in Southeast Alaska for non-timber economic development; and up to 3,600 acres for cultural and historic preservation. In return, Sealaska would be required to relinquish about 327,000 acres of land selections in roadless and more environmentally sensitive areas of the Tongass National Forest.

"This bill represents a number of changes from the legislation introduced last September in an effort to further reduce the timber acreages and to meet local concerns with how selections might affect small communities. Prince of Wales Island communities, for example, were deeply concerned that they would lose access for hunting, fishing and gathering on lands that are currently part of the Tongass National Forest, but would be transferred to Sealaska," said Murkowski. "This bill provides that conveyances of timberlands on Prince of Wales Island would be subject to the 'right of noncommercial public access for subsistence uses and recreational access' while protecting Sealaska from lawsuits."

"Sealaska has been waiting far too long to complete its land entitlement from the Alaska Native Claims Settlement Act," said Sen. Begich. "We need to move this legislation forward to finish the ANCSA entitlements but also to allow Sealaska and its shareholders to develop a sustainable economic future."

The legislation would reduce the economic development timber land selection pool to about 78,000 acres from 80,000 acres proposed last year. That would protect additional boat anchorages by preventing the harvest of timber in Shipley Bay on north Prince of Wales Island and at Cape Pole on southwest Kosciusko Island. It would eliminate Native Future Site selections at Lacy Cove on the northern tip of Chichagof Island near Elfin Cove.

The new bill would provide full public access across linear, sacred sites and provide historic trail conveyances near Yakutat and Kake. It would address the concerns of the Huna Indian Association by clarifying cooperative agreements for management of sacred sites in Glacier Bay. And it would eliminate language opposed by the U.S. Forest Service regarding funding of district ranger offices.

The bill, in general, would allow Sealaska to regulate access for public safety, cultural or scientific purposes, environmental

protection and uses incompatible with natural resource development. The bill also would exclude major roads on Prince of Wales Island from the lands that would be conveyed to Sealaska.

Sealaska has excluded certain lands around Sitka from the pool of lands it can select for "Native Futures" sites, in response to concerns expressed by the City and Borough of Sitka. Changes have also been made to the boundaries of some of the proposed land conveyances on Prince of Wales Island to accommodate local concerns.

New investment from Sealaska on lands made available through the legislation is hoped to provide a boost to the sagging Southeast Alaska economy. Murkowski noted that Prince of Wales Island suffers from unemployment rates in the range of 24 percent.

A June 2008 study by the McDowell Group, an economic consulting firm, noted that Sealaska was responsible for 580 jobs and approximately \$22 million of payroll in Southeast Alaska during 2007. In 2007 Sealaska spent \$41 million in support of its corporate and timber-related operations in Southeast Alaska, benefiting approximately 350 businesses and organizations in 19 Southeast Alaska communities.

Before introducing the legislation, Murkowski requested assurances from Sealaska that the benefits of the legislation would flow to the overall Southeast Alaska economy. In response, Sealaska Corporation Chairman Albert Kookesh and CEO Chris McNeil submitted a letter in which Sealaska promised to maintain its commitment to create jobs for residents of Southeast Alaska, sell timber at fair market value to local mills and local producers of wood products, collaborate with others to preserve the viability of the Southeast Alaska timber industry and work with Southeast Alaska communities and organizations on energy issues facing the region.

As part of her Southeast economic initiative, Murkowski also plans to introduce legislation in the near future that would increase federal funding for new ferries and terminals.



Alaska Common Ground

Annual Meeting and Forum

Saturday, May 2nd, 2009, 10 am to 1 pm

Anchorage Senior Center

1300 East 19th Ave, Anchorage

Doors open at 9:30 am

Schedule of Events

9:30 am: Please join us for coffee, fruit and muffins

10:00 am: Annual Meeting

10:30 am: Forum: Hard Times and the Alaska Permanent Fund

Hard Times and the Alaska Permanent Fund

Moderated by Michael Carey

Panelists

- **Janie Leask** – President/CEO, First Alaskans Institute
- **Larry Persily** – Long-time Alaska journalist and former Deputy Commissioner at the Department of Revenue
- **Eric Wohlforth** – Former Chair of Alaska Permanent Fund Trustees and Former Alaska Commissioner of Revenue

- **The Principal:** What is the untouchable principal? Can we better protect it? How?
- **The Dividend:** Can the dividend be made more stable and predictable? How?
- **The Rest of the Earnings:** Should part of the earnings be available for public purposes? What are the alternatives?

Co-sponsored by: **League of Women Voters Anchorage, AARP, First Alaskans Institute, Resource Development Council of Alaska and Commonwealth North**

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2009 LEGISLATIVE WRAP-UP

May 5, 2009
Hilton Anchorage Hotel
Anchorage, Alaska



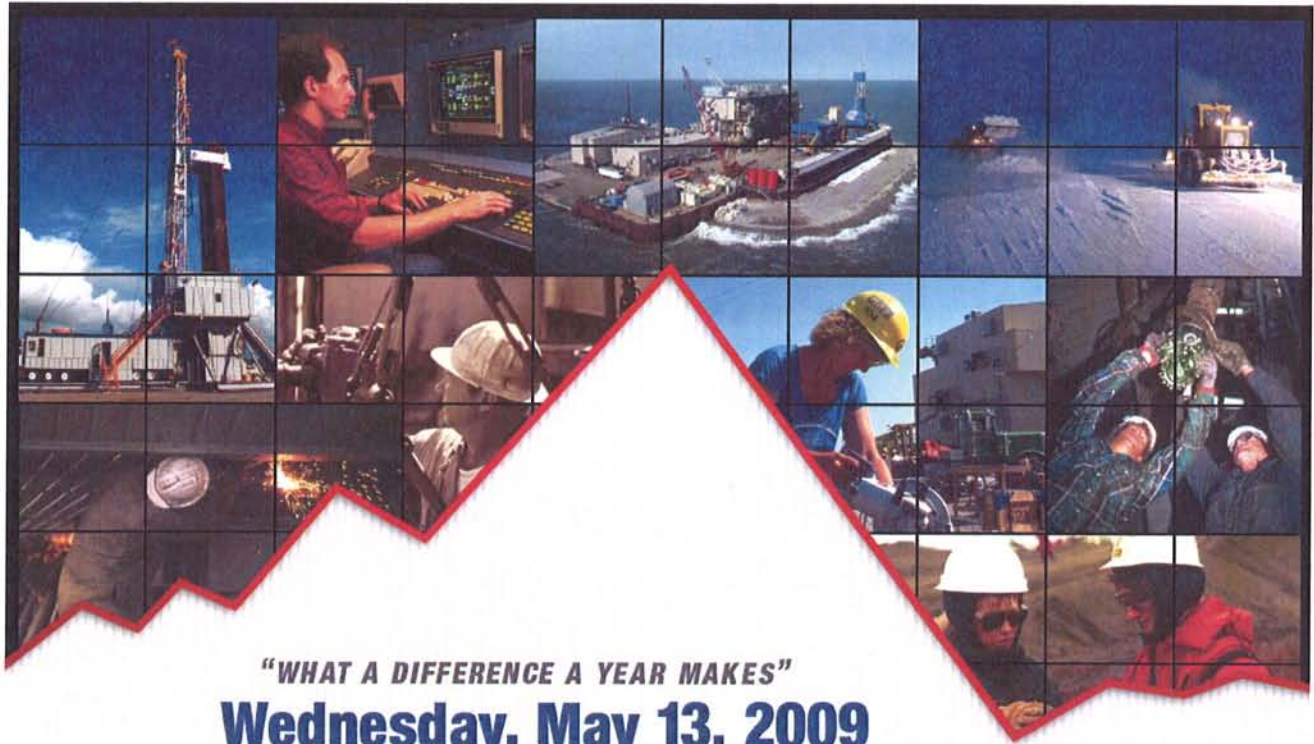
You are invited to hear an analysis of the first session of the 26th Alaska State Legislature from the perspective of the Alaska State Chamber of Commerce, key lawmakers and leaders of small and large business during this half-day event. We will discuss how business can impact the legislative process and review our priorities and positions. The event will run from 8:00 a.m. – 2:00 p.m. You may choose to attend the combined morning and luncheon sessions or choose to attend the keynote luncheon separately. You can register for the event at www.alaskachamber.com.

TUESDAY - MAY 5, 2009		PROGRAM INFO
7:30 am - 8:00 am	Registration & Continental Breakfast	<ul style="list-style-type: none"> • Session One - We will discuss progress made on our Legislative priorities and positions during the first session of the 26th Legislature. • Session Two - Enterprise Washington, Erin McCallum, Pres. • Session Three - Washington Business Week, Steve Hyer, Executive Director • Session Four - ExxonMobil, Craig Haymes, Production Manager <p>Lunch</p> <ul style="list-style-type: none"> • Moderator: Steve MacDonald from KTUU, Channel 2 • Panelist 1 • Panelist 2 • Panelist 3 • Panelist 4
8:00 am - 8:45 am	Summary of Priorities and Positions	
8:45 am - 9:00 am	Sponsored Break	
9:00 am - 10:00 am	Enterprise Washington	
10:00 am - 10:15 am	Sponsored Break	
10:15 am - 11:15 am	Washington Business Week	
11:30 am - 1:00 pm	Lunch: Political Pundit	
1:00 pm - 2:00 pm	ExxonMobil	
2:00 pm - 5:00 pm	Board Meeting	

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Board Meeting Refreshments	SOLD	<p>Alaska Airlines has extended a 10% discount off all published fares, excluding Hot Deals, for any Alaska Airlines flight to Anchorage, Alaska valid May 2nd through May 9th. To take advantage of this discount on flights from any US or Canadian Alaska Airlines or Horizon Air city to Anchorage, simply enter discount code ECCTA0015 when purchasing your tickets at www.alaskaair.com.</p> <p>Hilton Anchorage Hotel is offering a discounted room rate for attendees of \$149/night. Please call (800) 445-8667 and use the code ASC to receive this rate.</p>
Breakfast	\$1,500	
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Event	Member	Non-Member	<p>Legislation & Board Meeting: President/CEO, Wayne Stevens @ (907) 586-2010</p> <p>Program & Sponsorship: Meeting & Event Coordinator, Cheryl Eluska @ (907) 278-2727</p> <p>Registration & Payments: Administrative Accountant, Teri Engebretson @ (907) 586-2010</p> <p>Membership: Development Director, Mary Pignalberi, @ (907) 278-2733</p>
Wrap-Up Registration INCLUDES Lunch	\$95	\$115	
Luncheon ONLY	\$40	\$50	

Registration includes a \$25 non-refundable processing fee in the event of a cancellation. NO refunds after Friday, May 1, 2009.



"WHAT A DIFFERENCE A YEAR MAKES"
Wednesday, May 13, 2009

Save the Date



ALASKA OIL & GAS ASSOCIATION – ANNUAL LUNCHEON

"WHAT A DIFFERENCE A YEAR MAKES"

AOGA members will provide insight into how Alaska's oil and gas industry is responding to the dramatic changes over the past year.

**Alaska Oil and Gas Association
Annual Luncheon**

Wednesday, May 13, 2009

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\$30 per person/\$240 tables of 8

Doors open at 11:30
Luncheon begins at Noon

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Save the Date
Wednesday, May 13, 2009



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The Peg and Jules Tileston Award

**Awarded Jointly by the Alaska Conservation Alliance and
the Resource Development Council**

The Alaska Conservation Alliance and the Resource Development Council (RDC) both agree that economic development and environmental stewardship are not mutually exclusive goals. The Tileston award was created to acknowledge individuals and/or businesses that create solutions and innovations advancing both goals. The “Tileston Award” is named in honor of two long-time Alaskans, Peg and Jules Tileston, who worked on seemingly different sides of conservation and development issues but who always agreed “that if it is in Alaska, IT MUST BE DONE RIGHT!”

Opposites may attract, but it takes communication, patience, respect, and a healthy sense of humor to create a sustainable, lasting, and constructive relationship. Peg and Jules Tileston have these qualities in abundance. Married for 54 years and with three children, Peg and Jules learned how to balance their divergent perspectives successfully—and, in the process, develop a better definition of what’s “Right” for Alaska—by talking together, respectfully hearing what the other had to say, and finding common ground on which both could agree.

With such different career tracks and professional interests, an outside observer could wonder at the lasting success of Peg and Jules’s marriage. Jules studied biology, geology, and ecology as an undergraduate and graduate student, while Peg majored in physical education and history. After working with the Department of Interior leading the wild river studies in Alaska, Jules went on to serve as the Deputy State Director for Lands and Renewable Resources for the Bureau of Land Management, where, among other items, he was the BLM Lead for federal exploration of the National Petroleum Reserve-Alaska. At the same time, Peg was on the National Board of Directors for the Sierra Club, co-founded and served as board president of Trustees for Alaska, was one of the “founding mothers” of the Alaska Center for the Environment, and co-founded the Alaska Conservation Foundation. In the 1980s and ‘90s Jules worked with the Department of Interior during planning and construction of the Trans-Alaska Pipeline System and later served

as director of the Division of Mining and Water Management for the Alaska Department of Natural Resources. Meanwhile, Peg continued to serve on the ACE and ACF boards as well as the Alaska Women's Environmental Network steering committee, and started a weekly electronic calendar of conservation-related events called "What's Up." Questions on topics such as where and how mines should be permitted and the Trans-Alaska Gas System EIS process prompted spirited discussions. As the Tileston children agree, it made for interesting dinner table conversation. And yet in spite of—or perhaps because of—the Tileston's contradictory experiences and perspectives, the issues worked on by one were improved and advanced because of the other's input.

The conservation community and the development community stand to learn from the example set by the Tilestons. We will get further by working together starting early in the process; by engaging in open, honest, and—above all—respectful dialogue; and by identifying together the overarching vision of how a successful project can and should balance environmental conservation and responsible resource development.

The first annual Tileston Award was presented to the Alaska Board of Forestry in 2008. The Board advises the state's policy makers on forest practices issues and provides a forum for discussion and resolution of forest management issues on state lands. In 1990 the Board played a leading role in the adoption of major revisions to the Alaska Forest Resources and Practices Act (FRPA). The 1990 rewrite and subsequent revisions ensure that timber harvesting will be done in a manner that protects the water quality and fish habitat in the state's rivers and streams. In addition, regulations adopted pursuant to the FRPA establish best management practices for road construction and maintenance, and for timber harvesting.

Accomplishing this was not an easy task for the Board of Forestry but they worked through the various conflicting points of view to arrive at solutions that are in the best interest of the state, its forests, waterbodies, and fish and wildlife habitat.

As Alaskans we may occasionally disagree on how things should happen, but, like the Tilestons, we can all agree that if it is in Alaska, IT MUST BE DONE RIGHT.

Peg and Jules Tileston Award

A joint award of

***The Alaska Conservation Alliance
and
The Resource Development Council***

Nomination Form

*Nominations are due by May 15, 2009
For more information, visit www.tilestonaward.com*

Vision: Conservation and Business Working Together

Purpose: To recognize that economic development and environmental stewardship are not mutually exclusive goals. To encourage partnerships and solutions that fuse economics and environmentalism and make Alaska a place we wish to live.

Criteria: The following criteria will be used to determine award recipients

- 1) Crafted a solution to a resource management or development issue seen as a win by the development and conservation community
- 2) Designed a project to avoid, minimize or innovatively mitigate an environmental effect (impact or consequence) while maintaining its economic viability
- 3) Pioneered or advanced a technological solution to address a conservation concern

Project/Solution Name _____

Nominator's Name _____

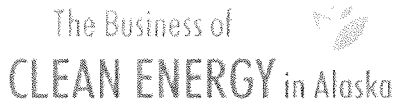
Description of Project/Solution (500 words max)

Explain how this project/solution benefits economic development in Alaska (250 words max).

Explain how this project/solution benefits conservation in Alaska (250 words max).

People, communities, corporations, and others directly and indirectly affected by this project/solution

(optional) Persons who can attest to economic and environmental benefits of this project/solution



The Business of Clean Energy in Alaska (BCEA) is a two-day conference showcasing the opportunity for Alaska to become a leader in Energy Efficiency (EE) and Renewable Energy (RE). The conference will focus on understanding the challenges and best practices in implementing an EE/RE infrastructure. Attendees will gain insight into the experiences of governments and businesses from around the country, as they relate to Alaska's unique potential.

Plenary panels of national and local experts will cover federal and state EE/RE initiatives, business investment, job creation and training, and manufacturing. Each panel will include three panelists and will conclude with 30 minutes of moderated discussion. The panel discussions will be videotaped and made available online following the conference.

MONDAY, MAY 18

7:00am Exhibit Hall Opens

7:00–8:00am Breakfast and Networking

8:00–8:15am Welcome:

- Chris Rose – Executive Director, *Renewable Energy Alaska Project (REAP)*, Anchorage AK

8:15–8:45am Keynote Presentation:

- Phaedra Ellis–Lamkins, CEO, *Green For All*, Oakland CA

9:00–10:30am The Obama Plan: National Trends In Energy Efficiency and Renewable Energy Infrastructure Development An overview of the federal plans to develop EE/RE infrastructure including transmission, job creation, research and development, coordination of federal agencies, and business and consumer incentives. Panelists will describe the progress of the administration to date, the goals moving forward, and what it means for Alaska.

- Dr. Dan Arvizu, Director, *National Renewable Energy Laboratory (NREL)*, Golden CO
- Ron Lehr, Consultant, *American Wind Energy Association (AWEA)*, Denver CO
- Steven Nadel, Executive Director, *American Council for an Energy Efficient Economy (ACEEE)*, Washington DC

10:45–12:15pm Attracting Energy Efficiency and Renewable Energy Businesses: Effective Policy and the Impact On the State's Economy A discussion of the means by which Alaska can attract EE/RE businesses to the state through policy design. Panelists will include policy design experts from states that have successfully implemented EE/RE policies.

- Lori Bird, Senior Analyst, *National Renewable Energy Laboratory (NREL)*, Golden CO
- Noah Long, *National Resource Defense Council (NRDC)*, San Francisco CA
- Thomas J. Tuffey, Director, *PennFuture Center for Energy Enterprise and Environment*, West Chester PA

12:15–1:30pm Lunch

1:30–3:00pm Industry Perspectives: Energy Efficiency and Renewable Energy Capital

Investments A look at the capital market for the EE/RE sector, the panel will include industry and investment experts who will discuss how policy incentives impact their business decisions.

- Ed Feo, Partner, *Milbank Tweed Hadley & McCloy, LLP*, Los Angeles CA
- Alan Kirn, Director, Renewable Energy Solutions, *Johnson Controls, Inc.*, St. Louis MO
- Dorthe Nielsen, Manager of Government Relations, *Vestas–American Wind Technology, Inc.*, Portland OR

3:15–4:45pm Energy Efficiency and Renewable Energy Jobs: National Trends and Alaskan

Opportunity A look at the challenges and opportunities for Alaska to attract talent, retrain its current workforce, and provide jobs for its underserved populations. Panelists will include experts on job training and higher education.

- F. Noel Perry, Founder, *Next 10*, Palo Alto CA
- Thomas White, Assistant Professor of Renewable Energy Engineering, *Oregon Institute of Technology*, Portland OR
- Scott Waterman, State Energy Programs Manager, *Alaska Housing Finance Corporation*, Anchorage AK

4:45–6:15pm Dinner and Networking

6:30 – 7:00pm Keynote Presentation:

- L. Hunter Lovins, President, *Natural Capitalism Solutions*, El Dorado Springs, CO

TUESDAY, MAY 19

8:00am Exhibit Hall Opens

8:00–9:15am Breakfast and Networking

9:30–11:00am Emerging Technologies and Their Impact On Alaska

Unlike any other place in the nation, Alaska can demonstrate new technologies and save consumers money at the same time because energy prices in rural communities are already so high. Harnessing hydrokinetic energy from waves, tides, and rivers is one of the most promising emerging technologies, and one for which Alaska has enormous potential. This panel will include a conversation on how Oregon has become a leader in hydrokinetics, hydrokinetic permitting issues and how Alaska can attract demonstration projects for emerging technologies to its rural communities. There will also be a discussion of how Alaska could become a leading marketer of emerging technologies to the two billion people on the planet who do not yet have any electricity at all.

- Gwen Holdmann, Director, *Alaska Center for Energy and Power (ACEP)*, Fairbanks AK
- Ann Miles, Director of the Division of Hydropower Licensing, Office of Energy Projects, *Federal Energy Regulatory Commission (FERC)*, Washington DC
- Dr. Bob Paasch, Director, *Northwest National Marine Renewable Energy Center (NNMRC)*, Corvallis OR

11:15–12:45pm The Alaska Permanent Fund: Has The Rainy Day Arrived? In the 1970s Alaska established the Alaska Permanent Fund to hold oil revenues in a “rainy day account.” As of January 2009, the Fund held \$27.9 billion dollars, making it one of the largest sovereign wealth funds in the world. In the past several years, other sovereign wealth funds have stated to invest in renewable energy projects. This panel will explore how other places are using their sovereign wealth funds to develop EE/RE infrastructure, and explore the possibilities of using the Alaska Permanent Fund to help secure the financing needed for Alaska-based projects.

- Hege Eliassen, Counselor of Financial Affairs, *Royal Norwegian Embassy*, Washington DC
- Pat Galvin, Commissioner, *Alaska Department of Revenue*, Juneau AK
- Lisa Hagerman, Director, More for Mission Campaign Resource Center, *Boston College Institute for Responsible Investment*, Chestnut Hill MA

12:45–2:00pm Lunch

2:00–3:30pm The Alaska State Budget: Diversifying Away From Oil Towards Energy Efficiency and Renewable Energy A discussion of Alaska’s dependency on oil revenues and an explanation of how other states are diversifying both their urban and rural economies through EE/RE investments.

- Scott Goldsmith Professor of Economics, Institute of Social and Economic Research, University of Alaska Anchorage, Anchorage AK
- Nancy Jackson, Executive Director, *Climate and Energy Project*, Lawrence KS
- Greg Wortham, Mayor, Sweetwater TX

3:45–5:45pm Creating an Energy Efficiency and Renewable Energy Vision and Road Map for Alaska’s Future Many states and nations have begun to develop vibrant EE/RE economies. This panel will highlight the challenges and best practices of other states and nations and focus on Alaska’s opportunity for building an energy strategy for the next 50 years. The panel will include 60 minutes of moderated discussion, including questions and feedback from the audience based on the take-aways from the conference and focus on the next steps in implementing an EE/RE infrastructure in Alaska.

- Charles Kubert, Project Director, *Clean Energy States Alliance*, Montpelier VT
- Rachel Shimshak, Director, *Renewable Northwest Project*, Portland OR

5:45–7:00pm Cash Bar & Appetizers

Early Registration Ends Friday, May 8, 2009

Only \$225 per Registrant – includes 5 meals per attendee

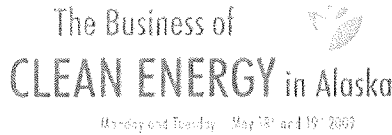
Visit our website at <http://www.bceaconference.com> for more information or to register, or contact: REAP

308 G Street, Suite 207

Anchorage, AK 99501

PH: 907.929.7770 FX: 907.929.1646

caren@realaska.org



**The Business of Clean Energy in Alaska:
Bringing the Last Frontier to the Cutting Edge
Monday and Tuesday - May 18th & 19th 2009
Dena'ina Civic and Convention Center**

Conference Registration Form

First Name _____ Last Name _____

Title _____ Organization _____

Email _____

Phone Number _____ Fax Number _____

Address _____

City _____ State _____ Zip _____

Additional Registrants:

First Name _____ Last Name _____

Title _____ Organization _____

First Name _____ Last Name _____

Title _____ Organization _____

Please mark appropriate area (registration includes 5 meals per attendee)

Early Registration (postmarked by May 8, 2009) \$225 x _____ attendees

Late Registration (received by May 15, 2009) \$300 x _____ attendees

Total \$ _____

Method of payment:

Check# _____ CC# _____ EXP _____ CSC _____

Billing Address _____

City _____ State _____ Zip _____

Signed _____

MAIL OR FAX TO:

REAP · 308 G STREET, SUITE 207 · ANCHORAGE, AK · 99501

PH: 907.929.7770

FX: 907.929.1646



NEWS RELEASE
April 29, 2009

Contact: Ben Park, 748-7919

APEX Award Recipients for 2009

Chugach School District and Southcentral Foundation have been selected as the 2009 APEX Excellence Award recipients by Alaska Performance Excellence. This award represents the highest level of recognition that an Alaska organization can receive for performance excellence.

Chugach School District (CSD), located in Southcentral Alaska, including most of the Prince William Sound coastline and islands, has been pursuing educational excellence since 1994 when leadership and stakeholders came together to face the realization that the quality of education in the district had deteriorated to the point that the district earned the dubious distinction of lowest achievement in the state. Today CSD is a leader in education reform and innovation, having developed a model that is based on shared leadership and vision, a continuous improvement cycle and a highly effective standards-based instructional design. CSD has a total of 44 employees, the majority of staff delivering and facilitating instruction to 253 students in grades Pre-K to 12 through community schools located in traditional Alaska native coastal villages (Tatitlek and Chenega Bay) and the seaport of Whittier, students served through the Extension School Program by teachers based in Valdez, Fairbanks and Anchorage, and a variable-term residential program known as Voyage to Excellence that serves all Chugach students as well as those from other partner districts throughout Alaska.

Southcentral Foundation (SCF) is an Alaska Native non-profit health care organization established in 1982 under the tribal authority of Cook Inlet Region, Inc. (CIRI), one of thirteen Alaska Native regional corporations created by Congress in 1971. SCF provides a wide range of health and human services to Alaska Native and American Indian people living in Southcentral Alaska. SCF has grown dramatically in the past 27 years—the workforce from fewer than 12 to about 1,400 employees, the operating budget from \$3 million to \$181 million. While managing nearly three decades of exponential growth, SCF has distinguished itself as one of the nation's leading care providers for Alaska Native and American Indian people. SCF is improving the health and social conditions of Alaska Natives, while enhancing their culture, and empowering individuals and families to take charge of their lives. Innovations include the nation's first fetal alcohol syndrome prevention program and health care industry best practices such as its fully integrated primary care system and organization-wide transparency.

PAGE 2 of 2
APEX Award Recipients for 2009

Each of these organizations underwent a rigorous evaluation, by APEX Examiners, Judges, and Board Members to confirm that they are truly role model organizations. The Panel of Judges included: Joe Alexander, Associate Dean, Massey Graduate School of Business, Belmont University, Nashville, Tennessee; Jason Brune, Executive Director, Resource Development Center, Anchorage; Randall Burns, Executive Director, Alaska Small Hospital Performance Improvement Network, Anchorage; Dr. Jim Evans, Director TQM Center, University of Cincinnati; Dr. Steve Hagedorn, Mayo Clinic, Rochester, Minnesota; and Dr. Patricia Martinez, Chief Quality Officer, Alaska Native Tribal Health Consortium, Anchorage.

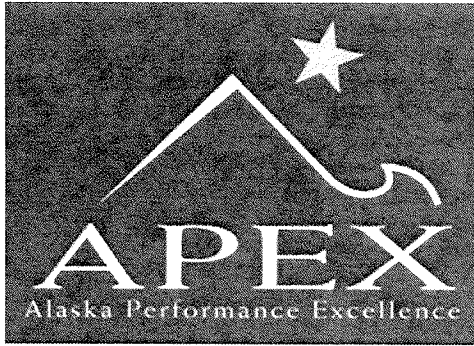
The two awards will be presented at a dinner open to the public at the downtown Anchorage Hilton on May 21st. Online registration is available at www.akapex.com.

APEX is a new program dedicated to recognizing Alaska organizations demonstrating world-class performance. It is a forum in which organizations from all corners of the public sector can learn from the successes of others. Participation in APEX provides:

- Improved results
- Accelerated improvement and productivity
- Better relationships with customers, employees, and stakeholders
- Increased organizational learning and development
- Recognition for achieving performance excellence for organizations in Alaska

APEX is funded by the University of Alaska Foundation through charitable contributions from BP and ConocoPhillips. APEX is a partner program of the Alaska Small Business Development Center. Special thanks to Foraker Group for their help in crafting the start-up and sustainment strategy for APEX.

The APEX web site is located at: www.akapex.com.



The Alaska Quest for Excellence Conference

May 21, 2009: Anchorage Downtown Hilton

Alaska Performance Excellence (APEX) is proud to announce its 2009 Quest for Excellence Conference and Award Presentation. The Day of Celebration begins with two workshops highlighting the valuable impact the national and state quality programs will have on an organization. Both will emphasize the Baldrige Criteria for Performance Excellence: Leadership, Strategic Planning, Customer and Market Focus, Measurement and Knowledge Management, Workforce Focus, Process Management and Results. **Leaders of Alaska organizations won't want to miss this opportunity to learn how to make their company a high performing, world-class organization!**

The day ends with a relaxing reception and enticing dinner recognizing the 2009 APEX Award Winners. *Keynote address to be given by Dr. David Spong.*

Workshop #1:

Dr. E. David Spong will present "What is Baldrige and Why is it Important?" Dr. Spong is a Board Member for the Baldrige Foundation and is President-Elect of the American Society for Quality.

Workshop #2:

Mr. Joe Muzikowski will present, "The Ins and Outs of Writing an APEX Application." Mr. Muzikowski serves as a consultant for manufacturing, service and healthcare organizations that are using Baldrige principles for quality improvement.

Workshop #1: 9:00 am – 4:30 pm
Workshop #2: 9:00 am – 4:30 pm
Reception: 5:00 pm
Dinner: 6:00 pm

Cost

Workshop #1: \$150
Workshop #2: \$100
Reception/Dinner: \$65
\$520 for table of 8

For more information and to register, visit www.akapex.com

Resource Development Council Action Alert: Energy Development on the Outer Continental Shelf

Overview:

The Obama administration intends to develop a new offshore energy plan for the nation over the next six months. Interior Secretary Ken Salazar is seeking input on where and how his department should move forward in developing the traditional and renewable energy resources of the Outer Continental Shelf (OCS). Four public hearings were recently held across the nation, including Anchorage in April where over 600 people from across the state were in attendance.

Specifically, the Interior Secretary is seeking comments on all aspects of the “Draft Proposed Program,” including energy development and economic and environmental issues in OCS areas. The new offshore energy program will likely emphasize renewable energy, with some new oil and gas development in certain areas.

Non-development interests have launched a nationwide effort to convince Secretary Salazar that no OCS development should occur off Alaska’s coast. How RDC members and their associates and friends respond to this challenge could well determine Alaska’s economic course for decades to come. A recent study by Northern Economics and the University of Alaska Anchorage reveals that OCS development has the potential to sustain Alaska’s economy for generations.

Requested action:

Although the comment period has been extended to September 21st, please submit comments early and encourage your associates and friends to also do so. RDC members should reflect on experiences and facts unique to their own personal situation. Obviously, a secure supply of reasonably priced energy affects the economics of domestic mining, transportation, aviation, construction, commercial fishing and other resource development activity. The multitude of jobs these industries provide Alaskans drives our economy. Brief personalized comments from our members will go a long way in showing the Secretary the importance we place on “doing it right” in Alaska.

In your comments, specifically support the Draft Proposed Plan covering the period 2010-2015 and encourage the Minerals Management Service to provide for a seamless transition to new oil and gas leasing programs in the future that will expand access to the nation’s OCS energy resources.

How to comment:

Please reference “**2010-2015 Oil and Gas Leasing in the Outer Continental Shelf**,” in your comments and include your name and return address. You may submit your comments using one of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>

Under the tab “More Search Options,” click “Advanced Docket Search,” then select “Minerals Management Service” from the agency drop-down menu, then click the submit button. In the Docket ID column, select MMS-2008-OMM-0045 to submit public comments and to view related materials on the DPP and select MMS-2008-OMM-0046 to submit public comment and to view materials on the Notice of Intent to Prepare an EIS.

Mail:

Ms. Renee OrrChief, Leasing Division
Minerals Management Service, MS 4010
381 Elden Street
Herndon, VA 20170-4817

Points to consider:

- Access to Alaska's OCS resources may be a key element in the economic feasibility of the proposed natural gas pipeline from the North Slope to the Lower 48, one of President Obama's Top 5 Green Energy Priorities. Additional gas reserves beyond those already discovered are needed to make the project economic.
- Access to the OCS has the potential to sharply increase throughput in the trans-Alaska oil pipeline, which is currently operating at one-third capacity.
- For every barrel of oil America refuses to develop domestically, it will have little choice but to import an equal amount from overseas – where weaker environmental regulations often apply.
- A comprehensive energy plan for the nation must include Alaska, which accounts for over 30 percent of the nation's technically recoverable oil and gas resources.
- According to the federal government, more than 86 billion barrels of oil and 420 trillion cubic feet of natural gas lie undeveloped off U.S. shores in the OCS. That amounts to enough energy to replace 50 years worth of OPEC oil.
- A recent report issued by the Interior Department shows that these undeveloped reserves of the OCS represent about four times America's proven reserves of oil and natural gas.
- Based on USGS and MMS assessments, 50 percent of undiscovered oil resources and 36 percent of undiscovered natural gas resources lie offshore.
- The Alaska OCS is an important future source of U.S. energy supply with an estimated 27 billion barrels of oil and 132 trillion cubic feet of natural gas potentially in place. By comparison, total production from the North Slope since 1977 has been approximately 15.5 billion barrels.
- The Chukchi Sea is considered the nation's most prolific, unexplored offshore basin in North America.
- OCS development has an outstanding safety and environmental record spanning decades in Cook Inlet, the Gulf of Mexico, the North Sea and elsewhere.
- In Alaska, over 77 percent support OCS development. Nationwide, 61 percent of Americans support new offshore oil and gas development.
- Oil and gas production can occur in a responsible manner under a strong regulatory system, seasonal operating restrictions as needed, and mitigation measures to avoid conflicts with other resource and subsistence users.
- The OCS has the potential to sustain Alaska's economy for generations, sharply increase Alaska oil and gas production, create tens of thousands of new jobs and generate hundreds of billions of dollars in federal, state and local government revenues.
- According to a recent University of Alaska study, OCS production could provide an annual average of 35,000 jobs for 50 years and \$72 billion in new payroll.
- Sharing federal royalty payments from production in federal waters with coastal states and local communities is critical, as it significantly benefits local governments, promotes national economic interests and generates additional, new federal revenues by increasing state and local participation. Such sharing facilitates a closer partnership among federal, state and local agencies.
- Given demand for energy will rise as the economy recovers, America must continue to pursue new oil and gas development, even as the nation slowly transitions to the new energy sources of the future.
- Even under the most optimistic projections, petroleum products and natural gas are projected to account for almost 65 percent of domestic energy consumption in 2025 – requiring continued development of domestic oil and gas resources.
- Increased emphasis on renewable energy should not preclude or require less oil and gas development. America needs more of both to reduce its reliance on foreign oil.

For additional information on the hearing: <http://www.doi.gov/ocs/>

Institute for Energy Research: http://www.instituteforenergyresearch.org/contact_form/

To view selected OCS testimony from Anchorage hearing: <http://www.akrdc.org/issues/oilgas/ocs>

To view RDC OCS Newsletter: <http://www.akrdc.org/newsletters/>

To view AOGA OCS Newsletter: <http://www.aoga.org/>

Deadline for comments: September 21, 2009

for existing non-emergency stationary compression ignition engines greater than 500 brake horsepower that are located at major sources, based on a new review of these engines following the first RICE NESHAP rulemaking in 2004. In addition, EPA proposed to amend the previously promulgated regulations regarding operation of stationary RICE during periods of startup, shutdown and malfunction.

Shortly after publication of the proposed rule, several industry groups formally requested that EPA extend the comment period of the proposed rule. They indicated that an extended comment period was necessary due to the complexities of the proposed regulation and the large number of existing sources that are potentially affected. Furthermore, the request letters mention that the proposed regulation has far-reaching impacts on industrial stakeholders and that those impacts cannot be properly evaluated in the 60-day comment period provided by the proposal.

The letters requesting an extension to the comment period can be found in the docket. EPA is hereby extending the comment period, which was set to end on May 4, 2009, to June 3, 2009.

List of Subjects 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 8, 2009.

Elizabeth Craig,

Acting Assistant Administrator.

[FR Doc. E9-8483 Filed 4-13-09; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 090224232-9334-02]

RIN 0648-AX50

Endangered and Threatened Species: Advance Notice of Proposed Rulemaking to Designate Critical Habitat for Cook Inlet Beluga Whales

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking; request for information.

SUMMARY: We, the National Marine Fisheries Service (NMFS), will be designating critical habitat for the endangered Cook Inlet beluga whale (*Delphinapterus leucas*) under the Endangered Species Act (ESA). The designation will involve areas within Cook Inlet, Alaska. This advance notice of proposed rulemaking (ANPR) identifies issues for consideration and evaluation and solicits comments regarding these issues.

DATES: Comments and information regarding the suggested designation process and areas being considered for designation may be sent to NMFS (See **ADDRESSES**) by May 14, 2009.

ADDRESSES: Comments may be sent to Chief, Protected Resources Division, NMFS, P.O. Box 21668, Juneau, AK, 99802-1668.

FOR FURTHER INFORMATION CONTACT: Brad Smith, (907-271-3023) or Kaja Brix (907-586-7235).

SUPPLEMENTARY INFORMATION:

Rulemaking Background

We are responsible for determining whether species, subspecies, or distinct population segments (DPSs) are threatened or endangered and for designating critical habitat for them under the ESA (16 U.S.C. 1531 *et seq.*). To be considered for listing under the ESA, a group of organisms must constitute a "species" which is defined in section 3 to include "any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature." We consider a group of organisms to be a DPS for purposes of ESA listing when it is both discrete from other populations and significant to the species to which it belongs (61 FR 4722; February 7, 1996). We found the Cook Inlet beluga whale population segment to be reproductively, genetically, and physically discrete from the four other known beluga populations in Alaska, and significant because it is in a unique ecological setting for the taxon, and its loss would result in a significant gap in the taxon's range. Following completion of a Status Review of the Cook Inlet beluga whale under the ESA, we published a proposed rule to list this DPS as an endangered species on April 20, 2007. We subsequently extended the date for final determination on the proposed action by 6 months, until October 20, 2008, as provided for by the ESA (section 4(b)(6)(B)(i)). A Final Rule to list the Cook Inlet beluga whale as an endangered species was published on October 22, 2008.

Critical Habitat

Section 4(b)(2) of the ESA requires us to designate critical habitat for threatened and endangered species "on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impact, of specifying any particular area as critical habitat." This section grants the Secretary of Commerce (Secretary) discretion to exclude any area from critical habitat if he determines "the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat." The Secretary's discretion is limited, as he may not exclude areas that "will result in the extinction of the species."

The ESA defines critical habitat under section 3(5)(A) as: "(i) the specific areas within the geographical area occupied by the species, at the time it is listed . . . , on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed . . . upon a determination by the Secretary that such areas are essential for the conservation of the species."

Once critical habitat is designated, section 7 of the ESA requires Federal agencies to ensure they do not fund, authorize, or carry out any actions that will destroy or adversely modify that habitat. This requirement is in addition to the section 7 requirement that Federal agencies ensure their actions do not jeopardize the continued existence of listed species.

Issues for Consideration and Evaluation

Section 4(a)(3) of the ESA requires us to designate critical habitat for threatened and endangered species. We are currently in the information-gathering phase, compiling information to propose critical habitat for the Cook Inlet beluga whale. Sections 3, 4(a), and 4(b) of the ESA suggest a number of questions the agency should consider when designating critical habitat:

- What areas were occupied by the species at the time of listing?
- What physical and biological features are essential to the species' conservation?
- Are those essential features ones that may require special management considerations or protection?
- Are there any areas outside those currently occupied that are "essential for conservation?"

- What are the benefits to the species of critical habitat designation?
- What economic and other relevant impacts would result from a critical habitat designation?
- What is the appropriate geographic scale for weighing the benefits of exclusion and benefits of designation?
- Will the failure to designate any particular area as critical habitat result in the extinction of the species?

Answering these questions involves a variety of biological and economic considerations. To ensure that we have the best scientific data available, we are issuing this ANPR to solicit information before issuing a proposed rule. During the information-gathering phase, we are seeking public input and information (see "Information Solicited" below) and will gather and analyze the best available scientific data to inform critical habitat designations. We will then initiate rulemaking with the publication of a proposed designation of critical habitat, opening a period for public comment and the opportunity for public hearings.

Cook Inlet Beluga Whale Biology and Habitat Use

The beluga whale is a small, toothed whale in the family Monodontidae, a family it shares with only the narwhal. Belugas are also known as "white whales" because of the white coloration of the adults. The beluga whale is a northern hemisphere species, ranging primarily over the Arctic Ocean and some adjoining seas, where it inhabits fjords, estuaries, and shallow water in Arctic and subarctic oceans. Five distinct stocks of beluga whales are currently recognized in Alaska: Beaufort Sea, eastern Chukchi Sea, eastern Bering Sea, Bristol Bay, and Cook Inlet. The Cook Inlet population is numerically the smallest of these, and is the only one of the five Alaskan stocks occurring south of the Alaska Peninsula in waters of the Gulf of Alaska.

A detailed description of the biology of the Cook Inlet beluga whale may be found in the Proposed Listing Rule (72 FR 19854; April 20, 2007). Belugas generally occur in shallow, coastal waters, and while some populations make long seasonal migrations, Cook Inlet belugas reside in Cook Inlet year round. Data from satellite tagged whales documented that Cook Inlet belugas concentrate in the upper Inlet at rivers and bays in the summer and fall, and then tend to disperse into deeper waters moving to mid Inlet locations in the winter. The Traditional Ecological Knowledge (TEK) of Alaska Natives and systematic aerial survey data document a contraction of the summer range of

Cook Inlet belugas. While belugas were once abundant and frequently sighted in the lower Inlet during summer, they are now primarily concentrated in the upper Inlet. This constriction is likely a function of a reduced population seeking the highest quality habitat that offers the most abundant prey, most favorable feeding topography, the best calving areas, and the best protection from predation. An expanding population would likely use the lower Inlet more extensively.

While mating is assumed to occur sometime between late winter and early spring, there is little information available on the mating behavior of belugas. Most calving in Cook Inlet is assumed to occur from mid-May to mid-July (Calkins, 1983), although Native hunters have observed calving from April through August (Huntington, 2000). Alaska Natives described calving areas as the northern side of Kachemak Bay in April and May, off the mouths of the Beluga and Susitna rivers in May, and in Chickaloon Bay and Turnagain Arm during the summer (Huntington, 2000). The warmer waters from these freshwater sources may be important to newborn calves during their first few days of life (Katona *et al.*, 1983; Calkins, 1989). Surveys conducted from 2005 to 2007 in the upper Inlet by LGL, Inc., documented neither localized calving areas nor a definitive calving season, since calves were encountered in all surveyed locations and months (April-October) (McGuire *et al.*, 2008). The warmer, fresher coastal waters may also be important areas for belugas' seasonal summer molt.

Cook Inlet belugas are opportunistic feeders and feed on a wide variety of prey species, focusing on specific species when they are seasonally abundant. Eulachon (locally referred to as hooligan or candlefish) is an important early spring food resource for beluga whales in Cook Inlet, as evidenced by the stomach of a beluga hunted near the Susitna River in April 1998 that was filled exclusively with eulachon (NMFS unpubl. data). These fish first enter the upper Inlet in April, with two major spawning migrations occurring in the Susitna River in May and July. The early run is estimated at several hundred thousand fish and the later run at several million (Calkins, 1989).

In the summer, as eulachon runs begin to diminish, belugas rely heavily on several species of salmon as a primary prey resource. Beluga whale hunters in Cook Inlet reported one whale having 19 adult king salmon in its stomach (Huntington, 2000). NMFS (unpubl. data) reported a 14 foot 3 inch

(4.3 m) male with 12 coho salmon, totaling 61.5 lbs (27.9 kg), in its stomach.

The seasonal availability of energy-rich prey such as eulachon, which may contain as much as 21 percent oil (Payne *et al.*, 1999), and salmon are very important to the energetics of belugas (Abookire and Piatt, 2005; Litzow *et al.*, 2006). Native hunters in Cook Inlet have stated that beluga whale blubber is thicker after the whales have fed on eulachon than in the early spring prior to eulachon runs. In spring, the whales were described as thin with blubber only 2–3 inches (5–8 cm) thick compared to the fall when the blubber may be up to 1 ft (30 cm) thick (Huntington, 2000). Eating such fatty prey and building up fat reserves throughout spring and summer may allow beluga whales to sustain themselves during periods of reduced prey availability (e.g., winter) or other adverse impacts by using the energy stored in their blubber to meet metabolic needs. Mature females have additional energy requirements. The known presence of pregnant females in late March, April, and June (Mahoney and Shelden, 2000; Vos and Shelden, 2005) suggests breeding may be occurring in late spring into early summer. Calves depend on their mother's milk as their sole source of nutrition, and lactation lasts up to 23 months (Braham, 1984), though young whales begin to consume prey as early as 12 months of age (Burns and Seaman, 1986). Therefore, the summer feeding period is critical to pregnant and lactating belugas. Summertime prey availability is difficult to quantify. Known salmon escapement numbers and commercial harvests have fluctuated widely throughout the last 40 years; however, samples of harvested and stranded beluga whales have shown consistent summer blubber thicknesses.

In the fall, as anadromous fish runs begin to decline, belugas again return to consume the fish species found in nearshore bays and estuaries. This includes cod species as well as other bottom-dwellers such as Pacific staghorn sculpin and flatfishes, such as starry flounder and yellowfin sole. This change in diet in the fall is consistent with other beluga populations known to feed on a wide variety of food. Pacific staghorn sculpin are commonly found nearshore in bays and estuaries on sandy substrate (Eschmeyer *et al.*, 1983). Flatfish are typically found in very shallow water and estuaries during the warm summer months and move into deeper water in the winter as coastal water temperatures cool (though some

may occur in deep water year-round) (Morrow, 1980).

The available information indicates that Cook Inlet belugas move throughout much of the Inlet in the winter months. They concentrate in deeper waters in mid Inlet past Kalgin Island, with occasional forays into the upper Inlet, including the upper ends of Knik and Turnagain Arms. While the beluga whales move into the mid to lower Inlet during the winter, ice cover does not appear to limit their movements. Their winter distribution does not appear to be associated with river mouths, as it is during the warmer months. The spatial dispersal and diversity of winter prey likely influence the wider beluga winter range throughout the mid Inlet.

There is obvious and repeated use of certain habitats by Cook Inlet beluga whales. Intensive aerial abundance surveys conducted in June and July since 1993 have consistently documented high use of Knik Arm, Turnagain Arm, Chickaloon Bay and the Susitna River delta areas of the upper Inlet. The high use of these areas by belugas is further supported by data from satellite tagging studies.

We considered habitat type and value in our 2008 Cook Inlet Beluga Conservation Plan (NMFS, 2008). That document stratified Cook Inlet into three regions based upon patterns of beluga habitat use, labeling them as valuable habitat types 1, 2, and 3. Type 1 habitat encompasses habitats with intensive beluga use from spring through fall, and which are important foraging and nursery habitats. Type 1 habitat includes all of Cook Inlet northeast of a line drawn from 3 miles southwest of the Beluga River across to Point Possession. Type 2 habitat is based on less concentrated spring and summer beluga use, and known fall and winter use areas. Type 2 habitat is located south of Type 1 habitat and north of a line at 60.2500 north latitude. It also extends south along the west side of the Inlet following the tidal flats into Kamishak Bay around to Douglas Reef, and includes an isolated section within Kachemak Bay. Type 3 habitat encompasses the remaining portions of their range in Cook Inlet; the southern boundary is an opening into the Gulf of Alaska approximately 85 km across from Cape Douglas to Elizabeth Island. Type 1 habitat is believed to be the most valuable of the three habitat types based on the frequency of use and its importance as feeding and calving habitats.

Areas Occupied by the Species at the Time of Listing

The ESA specifies that critical habitat is that habitat occupied by the species "at the time it is listed" (ESA section 3(5)(A)(i)). The range of Cook Inlet belugas has been previously defined as the waters of the Gulf of Alaska north of 58 °N. and freshwater tributaries to these waters based on then-available scientific data (65 FR 34590, May 31, 2000; MMPA Sec. 216.15(g); 76 FR 62919, Oct. 22, 2008). There are few beluga sightings in the Gulf of Alaska outside Cook Inlet. In the 1970s and 1980s, beluga sightings occurred across much of the northern and central parts of Cook Inlet, but in the 1990s the summer distribution narrowed to primarily the northernmost portions of Cook Inlet. More of the Inlet was used by beluga whales during the spring, summer, and fall during the 1970s and 1980s than is presently used. However, because sightings continue to occur over the described range, we consider the present range of this DPS to be occupied habitat. The present range of the listed Cook Inlet beluga is limited to Cook Inlet waters north of a line from Cape Douglas to Cape Elizabeth.

Critical Habitat Boundaries

NMFS' ESA regulations relevant to describing a geographical area and "specific areas" state that "each critical habitat will be defined by specific limits using reference points and lines as found on standard topographic maps of the area" (50 CFR 424.12). These regulations require that we also identify the state(s), county(ies), or other local governmental units within which all or part of the critical habitat is located. However, the regulations note that such political units typically would not constitute the boundaries of critical habitat. In addition, the regulations state that ephemeral reference points (e.g., trees, sand bars) shall not be used in defining critical habitat.

We seek the best scientific information available to make the designations as precise as practicable. During the information-gathering phase, we are seeking information that will allow us to map specific areas, using reference points and lines as found on standard nautical charts and topographic maps, that (1) are currently occupied by the species and (2) contain essential physical and biological features.

We have limited information on the distribution and occurrence of Cook Inlet beluga whales within tributary waters of Cook Inlet. Traditional Knowledge of Alaska Native hunters

tells us these whales have occurred several miles up the Susitna and Beluga Rivers in past years, and whales have been observed above tidewater in the Knik River at Turnagain Arm. We seek more information on habitat in estuaries and freshwater as well as marine areas.

Physical and Biological Features Essential for Conservation

As described in ESA section 3(5)(A)(i), we will assemble the best available information to identify those "specific areas within the geographical area occupied by the species at the time it is listed . . . on which are found those physical or biological features . . . (I) essential to the conservation of the species and (II) which may require special management considerations or protection." Joint NMFS/FWS regulations for listing endangered and threatened species and designating critical habitat at section 50 CFR 424.12(b) state that the agency "shall consider those physical and biological features that are essential to the conservation of a given species and that may require special management considerations or protection" (also referred to as "Essential Features" or "Primary Constituent Elements"). Pursuant to the regulations, such requirements include, but are not limited to the following: (1) Space for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and generally (5) habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species. These regulations go on to emphasize that the agency shall focus on essential features within the specific areas considered for designation. These features "may include, but are not limited to, the following: roost sites, nesting grounds, spawning sites, feeding sites, seasonal wetland or dryland, water quality or quantity, geological formation, vegetation type, tide, and specific soil types."

We seek information on the identification of these essential features for purposes of identifying critical habitat.

Special Management Considerations or Protection

Coupled with the identification of essential features, during the information-gathering phase we seek input on whether the above essential features may require special

management considerations or protection. For example, unrestricted passage and access between habitats within upper Cook Inlet may require management of this waterway for projects that have the potential to disrupt passage, such as dams or causeways. Similarly, essential prey species such as king salmon may require special management to ensure long-term viability and to prevent overharvest. We will document the special management considerations and protection associated with the essential features and relate these to the factors affecting the species and/or critical habitat during formal rulemaking (see "Schedule and Contents of Rulemaking").

Areas Outside the Geographical Area Occupied by the Species

Section 3(5)(A)(ii) of the ESA defines critical habitat to include specific areas outside the geographical area occupied by the species only if the Secretary determines them to be essential for the conservation of the species. Section 3(3) of the ESA defines conservation as "the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary." NMFS' ESA regulations at 424.12(e) state that the agency "shall designate as critical habitat areas outside the geographical area presently occupied by a species only when a designation limited to its present range would be inadequate to ensure the conservation of the species." We would thus include areas outside the occupied geographical area only if areas within the occupied geographical area were not adequate to support conservation. We seek information on the adequacy of the currently occupied habitat to support conservation of the Cook Inlet beluga DPS, and whether areas that are unoccupied might be "essential for conservation."

Determining Economic and Other Relevant Impacts

Section 4(b)(2) of the ESA requires that the Secretary, in deciding to designate critical habitat, consider economic impacts, impacts to national security, and any other relevant impacts of such designation. We seek information relating to any of these impacts.

The ESA gives the Secretary discretion to exclude any area from critical habitat if the benefits of such exclusion outweigh the benefits of specifying the area as part of the critical habitat. During the information-gathering phase, we seek information

regarding the benefits of excluding particular areas from the critical habitat designation and the benefits of including each such area as part of the critical habitat designation. We seek information that would allow us to monetize these effects to the extent practicable, as well as information on qualitative impacts to these effects. We also seek input on what approaches would allow us to determine if excluding a particular area from designation will result in the extinction of the species.

Determining Conservation Value

We seek information on the conservation value of potential critical habitat, based on the quality and quantity of the essential feature(s). We also seek input on the best methods for evaluating the conservation value of potential critical habitat areas. We are interested in information relevant to monetizing the conservation value of an area, to the extent useful measurement can be made, and/or to ranking the conservation benefits in an ordinal manner, if full monetization is not practicable.

The Appropriate Geographic Scale for Weighing the Benefits of Exclusion and Benefits of Inclusion

Cook Inlet is a vast region occupying a variety of habitat types and human presence. Much of it is undeveloped, while portions of the Inlet are adjacent to the most populated areas of the State. Consideration of areas for exclusion presents a problem of scale, wherein we wish to maintain the ecological perspective of important habitat for Cook Inlet beluga whales while allowing meaningful distinction between areas to be evaluated under section 4(b)(2).

In some cases, it may be useful to consider habitat units at a finer scale, for example, along the Municipality of Anchorage's waterfront on lower Knik Arm. We seek input on the scale to be used in this analysis for the balancing test.

Information Solicited

Past critical habitat designations have generated considerable public interest. Therefore, we believe it is important to engage the public early and often in the rulemaking process. This ANPR is a key first step, and we encourage all interested parties to submit comments regarding the issues raised in this notice.

In accordance with agency regulations at 50 CFR 424.13, we will consult as appropriate with affected states, interested persons and organizations, other affected Federal agencies, and, in

cooperation with the Secretary of State, with the country or countries in which the species concerned are normally found or whose citizens harvest such species from the high seas. Data reviewed may include, but are not limited to, scientific or commercial publications, administrative reports, maps or other graphic materials, information received from experts, and comments from interested parties.

Specific data needs include:

(1) Information on the past and current numbers and distribution of Cook Inlet beluga whales;

(2) Information describing the habitat type and quality of marine, estuarine, and freshwater habitats for all Cook Inlet beluga whales;

(3) Within areas occupied by Cook Inlet beluga whales, information regarding the physical and biological features that are essential to the conservation of this DPS;

(4) Any special management considerations or protection currently associated with essential physical and biological features within areas occupied by Cook Inlet beluga whales, such as any land use management plan, a state statute, a municipal ordinance, or other binding local enactment;

(5) Any specific areas within the range of Cook Inlet beluga whales that may not qualify for critical habitat designation because they lack essential physical or biological features or may not require special management consideration or protections;

(6) Any specific areas outside the area occupied by Cook Inlet beluga whales that are essential for their conservation;

(7) Any specific areas that should be excluded from critical habitat designation because the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat;

(8) Any current or planned activities in the range of Cook Inlet beluga whales and their possible impacts on areas that may qualify as critical habitat;

(9) Any economic or other relevant impacts that may result from designating critical habitat, regardless of whether those impacts are attributable co-extensively to other causes, in particular those impacts affecting small entities;

(10) Other benefits of excluding or designating a specific area as critical habitat; and

(11) Potential peer reviewers for proposed critical habitat designations, including persons with biological and economic expertise relevant to the designations.

As described in a joint NMFS/FWS policy on ESA information standards

published on July 1, 1994 (59 FR 34271), we will rely on the best and most comprehensive technical information available; gather and impartially evaluate information that disputes official positions; document evaluation of information; use, retain, and reference primary and original sources of information; and conduct management-level review of documents to verify and assure the quality of the science used to make the critical habitat designations. We will review all comments and information resulting from this ANPR prior to making any proposed designations and will include such documents in our public record. The public may review information submitted by contacting NMFS (see **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT**) or via the internet at <http://www.fakr.noaa.gov/>.

Dated: April 7, 2009.

James W. Balsiger,

*Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

[FR Doc. E9-8519 Filed 4-13-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 090224231-9594-01]

RIN 0648-AX54

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; State Waters Exemption

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to allow an exemption from the minimum twine-top mesh size for vessels issued Federal scallop permits and fishing exclusively in State of Maine (ME) waters. In addition, the state waters exemption would provide an exemption from scallop days-at-sea (DAS) for limited access DAS scallop vessels, provided the vessel owner declares that the vessel will fish exclusively in ME state waters. The scallop fishery regulations specify that a state may be eligible for a state waters exemption if it has a scallop fishery and a scallop conservation program that does not jeopardize the biomass and fishing mortality/effort limit objectives of the

Atlantic Sea Scallop Fishery Management Plan (FMP). The regulations further state that the Regional Administrator, Northeast Region, NMFS (RA), shall determine which states meet those criteria and shall authorize the exemption for such states by publishing a rule in the **Federal Register**.

DATES: Comments must be received by 5 p.m., local time, on May 14, 2009.

ADDRESSES: Documents supporting this action, including ME's request for the exemption, Amendment 11 to the FMP, and Framework 19 to the FMP, are available upon request from Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930.

You may submit comments, identified by 0648-AX54, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.
- Fax: (978) 281-9135, Attn: Peter Christopher.
- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on Maine State Waters Exemption."

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Peter Christopher, Policy Analyst, 978-281-9288; fax 978-281-9135.

SUPPLEMENTARY INFORMATION:

Background

Amendment 11 to the FMP (Amendment 11), implemented on June 1, 2008 (73 FR 20090, April 14, 2008), includes a comprehensive new management program for the general category scallop fleet. Amendment 11 created a Northern Gulf of Maine Scallop Management Area (NGOM Area) that includes a total allowable catch (TAC), gear restrictions, and a possession limit for the NGOM Area that are more restrictive than previous

regulations for the area. Under Amendment 11, NMFS determined that the exemptions for ME, New Hampshire (NH), and Massachusetts (MA), should be suspended, pending submission of additional information from those states regarding their state waters fisheries and the potential effects of allowing state waters exemptions under the Amendment 11 scallop regulations. In response, ME requested a state waters exemption and provided background information on the State's current scallop fishery management measures, the potential state waters scallop fishery, and information regarding potential new measures that the State was developing at the time.

The scallop fishery regulations at 50 CFR 648.54(c) specify that a state may be eligible for the state waters exemption if it has a scallop fishery and a scallop conservation program that does not jeopardize the biomass and fishing mortality/effort limit objectives of the FMP. The regulations further state that the RA shall determine which states meet those criteria and shall publish a rule in the **Federal Register**, in accordance with the Administrative Procedure Act, to provide the exemption for such states.

Based on the information submitted, NMFS has preliminarily determined that ME state waters qualify for the state waters exemption program under the FMP. The majority of ME's scallop fishery restrictions are either equally or more restrictive than Federal scallop fishing regulations. The exception is that ME allows vessels to use a minimum mesh size of 5.5-in (14-cm) twine tops on scallop dredges, while the Federal regulations require a 10-in (25.4-cm) minimum twine-top mesh size. The state waters exemption would therefore allow an exemption from the 10-in (25.4-cm) minimum twine-top mesh size. In addition, the state waters exemption would provide an exemption from scallop DAS for limited access DAS scallop vessels, but would not exempt such vessels from any other Federal restrictions other than the minimum twine-top mesh size as noted above. To fish under the exemption, owners of scallop vessels would be required to declare their intent to fish exclusively in ME state waters, subject to more restrictive state measures if applicable. Vessels with Federal Incidental Catch scallop permits would still be confined to the 40-lb (18-kg) limit under Federal regulations. The target total allowable catch was set at 50,000 lb (22,680 kg) for these vessels based partly on the very low possession limit. Allowing these vessels to harvest

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