



February 22, 2000

The Honorable Don Young
Chairman, Committee on Resources
U.S. House of Representatives
Washington, D.C. 20515-6201

Dear Mr. Chairman:

Enclosed please find the views of the Department of Commerce on H.R. 3417, the "Pribilof Islands Transition Act". The Department strongly opposes H.R. 3417 in its present form. The Department would be pleased to work with the Committee to revise the legislation to address our serious concerns in a mutually acceptable manner.

The Department supports the stated purpose of H.R. 3417, which is "to complete the orderly withdrawal of the National Oceanic and Atmospheric Administration from the civil administration of the Pribilof Islands, Alaska." However, as explained in the detailed comments enclosed with this letter, the bill contains provisions that would be virtually certain to prevent attainment of the stated purpose.

The Department also is concerned that the bill authorizes substantial appropriations that are not requested in the President's budget. Appropriation of the amounts authorized would require budget offsets that would seriously impair other Departmental programs.

The Office of Management and Budget has advised the Department that there is no objection to the submission of this letter to the Congress from the standpoint of the Administration's program.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew J. Pincus", is written over a printed name.

Andrew J. Pincus

Enclosure

cc: The Honorable George Miller

**U.S. Department of Commerce Comments
on H.R. 3417, the "Pribilof Islands Transition Act"**

Section 1. Short Title. No comment.

Section 2. Purpose. The Department supports the stated purpose of H.R. 3417, which is to bring about the orderly withdrawal of the National Oceanic and Atmospheric Administration (NOAA) from its civil administration responsibilities on the Pribilof Islands, Alaska. However, as explained below, unless certain changes are made – particularly in Section 5 – the bill almost certainly will fail to make withdrawal possible.

Section 3. Financial Assistance for Pribilof Islands. Section 3 authorizes \$28 million in grants in fiscal years 2001 and 2002 to enable entities on the Pribilof Islands to upgrade or replace Federal infrastructure or facilities transferred to the grantee under the Fur Seal Act (FSA), or to "promote the development of a stable, self-sufficient, enduring, and diversified (Pribilovian) economy ... that is not dependent on sealing." The section also authorizes "such sums as may be necessary" for fiscal years 2000 and 2001 to assist the State of Alaska in developing new landfills on St. George and St. Paul.

The proposed authorizations are inconsistent with funding requests of the Administration's budget. Also, it is unlikely that landfill planning and design could be completed in time to determine what sums would be necessary to construct new landfills in order for funding to be provided during fiscal year 2001. If this provision is retained, it should authorize appropriations in fiscal year 2002.

Further, it is noted that the Department has no responsibility for development of new landfills on the Pribilof Islands. The Department cannot support this activity unless the legislation is amended to ensure that no liability will attach to the Department or NOAA by virtue of having provided assistance to the State of Alaska for this purpose. If this provision is retained, it should be amended by adding the following new sentence after "Statutes." on page 3, line 16:

"Neither the U.S. Department of Commerce nor the National Oceanic and Atmospheric Administration shall have any liability associated with or resulting from the planning for, designing of, construction of, or operation of any landfill as a consequence of having provided assistance to the State of Alaska under this paragraph."

Section 4. Disposal of Property. No comment.

Section 5. Termination of Responsibilities.

Subsection 5(b) addresses conveyance of property pursuant to section 205 of the FSA, and cleanup activities pursuant to section 3 of Public Law 104-91 and the "Two-Party Agreement" (TPA) executed January 26, 1996, between NOAA and the State of Alaska.

Subsection 5(b)(2)(B) should be stricken. It provides no clear definition of the scope of "cleanup required under section 3(a)" of Public Law 104-91 (P.L. 104-91) beyond what is required under the TPA, or what standards would govern any such work. Retaining this provision would only foster confusion and potentially delay or prevent attainment of the bill's stated purpose.

Subsection 5(b)(2)(D) should be stricken. This subsection imposes as a condition precedent for termination of the Secretary's obligations on the Pribilofs that the Secretary determine that "*all amounts authorized* under section 206(c)(1) of the Fur Seal Act, as amended by this Act, *have been appropriated and obligated.*" (Emphasis added.) We strongly oppose this provision because it presumes that the total amount of funding authorized under FSA 206(c)(1) will in fact be appropriated. Termination of the Department's obligations should not depend on a condition which may never be met, and over which the Department has no control.

Subsection 5(b)(3) addresses the ability of the Department and NOAA to seek financial contribution from "any Natives of the Pribilof Islands for costs or fees incurred by the Secretary of Commerce for actions taken pursuant to" the TPA between NOAA and the State of Alaska or section 3 of P.L. 104-91. While the Department supports the purpose of this provision, the following re-wording of subparagraph 5(b)(3)(B) is recommended for clarity:

"(B) Subparagraph (A) applies only to the cleanup of any wastes, dumps, debris, storage tanks, property, hazardous or unsafe conditions, and contaminants, including petroleum products and their derivatives, left by the National Oceanic and Atmospheric Administration on lands which it or its predecessor agencies abandoned, quitclaimed, or otherwise transferred or are obligated to transfer, to local entities or residents on the Pribilof Islands, Alaska, pursuant to the Fur Seal Act of 1966 (16 U.S.C. 1151 et seq.), as amended, or other applicable law –

“(i) where such cleanup actions occurred before the date of enactment of this Act, on property on the Pribilof Islands to which the Federal Government held title immediately before the enactment of this Act; or

“(ii) where such cleanup actions occurred before the date of transfer or conveyance by the Federal Government of property on the Pribilof Islands, for property that was transferred or conveyed before the date of enactment of this Act.”

Section 6. Technical and Clarifying Amendments. No comment.

Section 7. Authorization of Appropriations. This section authorizes appropriation of \$10 million per year for each of fiscal years 2001, 2002 and 2003, for the purpose of carrying out section 3 of P.L. 104-91. Of the amount authorized, up to \$2 million per year for each of the same fiscal years would be authorized to enable the State of Alaska to establish and capitalize a revolving loan fund to enable residents of the Pribilof Islands to "assess, respond, remediate, and monitor contamination from lead paint, asbestos, and petroleum from underground storage tanks that resulted from (NOAA) Administration of the Pribilof Islands under the (FSA)."

NOAA's experience with cleanup efforts pursuant to the TPA indicates that some additional amount of funds will be required to complete those efforts, over and above funds appropriated to date. However, until on-going site characterization work is completed, and the results of that work can be evaluated, it is not possible to predict with confidence the amount of additional funding that will be needed. The Department will provide the Committee with further information regarding additional funding needs as soon as site characterization evaluation results are available, which is estimated to be by mid-2000.