

Division of Agriculture
Director's Finding and Decision
Management and Oversight of the Alaska Grown Certification Program

Purpose:

To address management and oversight of the Alaska Grown Certification Program and provide for a smooth transition from the existing program to an improved program with statutory language and regulations.

Background:

The Division of Agriculture (Division) launched the statewide Alaska Grown agricultural products certification program in 1986. Designed to highlight and promote farm products in the marketplace, the Alaska Grown program was and has continued to be a success.

For the past two decades the Alaska Grown program has grown significantly. Over 400 people have successfully applied to participate in the agriculture products certification program. The Alaska Grown logo (logo) can be seen on agricultural products in grocery stores, at farmers markets, in restaurants, and many other locations throughout the State.

Early in the program and as part of its marketing efforts, the Division authorized the Alaska Farmers & Stockgrowers to sell promotional items bearing the Alaska Grown logo (including t-shirts and hats) at various venues. This was done in an effort to raise the awareness of the program and remind people to buy Alaska Grown agriculture products whenever possible.

The promotional products component of the program also has grown and several organizations have been authorized to sell Alaska Grown promotional products over the years. Historically the Division has not required its authorized licensees to pay any fee or royalty to the Division, although as the exclusive owner of the logo the Division is expected to protect against sales of unauthorized promotional merchandise or other unauthorized use of the logo.

Considerations:

1. The Division has received the official federal Certificate of Registration for the Alaska Grown certification mark from the U.S. Patent and Trademark Office. Since 1986 the Division also has held the State Registration on the logo.
2. As part of its overall plan to improve the program, the Division will request receipt authority during the 2011 budget cycle to allow the Division to receive and expend a commission, royalty, and/or fee from future promotional merchandise vendors. The funds will be utilized to address protecting the logo against trademark infringement; if funds are set to lapse due to there being no infringing use, funds will then be used in

existing promotional programs, including but not limited to the Cooperative Marketing Program grants, statewide Fair sponsorships, etc.

3. The Division anticipates a statutory language change during the 2010 Legislative Session that will expressly add the Alaska Grown program to the duties and responsibilities of the Commissioner of the Department of Natural Resources and allow for the establishment of an Alaska Grown receipts account in the state treasury for commissions received from promotional item sales and licensing fees received from both the agriculture products producers and the non-profit organizations. The legislature may then appropriate money deposited into the Alaska Grown Program receipts account for implementation of the state Alaska Grown Program by the Division.

Discussion:

- As Alaska Grown promotional items have become more and more popular, additional vendors have sought the Division's permission to sell the promotional items.
- Two of the authorized licensees, the Mat Su Chapter of the Farm Bureau and the Statewide FFA, have expanded their sales to include sales at many retail outlets throughout the State.
- Unauthorized vendors have become more and more prevalent, forcing the Division to spend additional funds on policing and protecting the mark.

Finding and Decision:

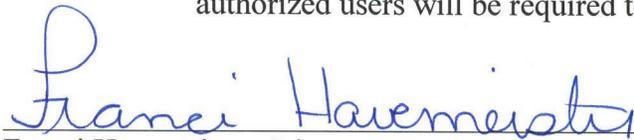
The Division's intent is to strengthen and improve the promotional products component of the Alaska Grown program by implementing significant changes and providing more clarification.

Based on the above *I find it is in the State's best interest to protect the Alaska Grown certification mark while making the transition from the current program to one addressed in Statutory Language.* Therefore it is my decision to:

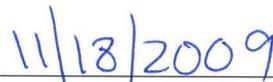
1. Terminate all permission to existing authorized promotional licensees to sell Alaska Grown promotional items after December 31, 2010, which will require that all existing authorized licensees and any retail sellers to whom they have wholesaled items to eliminate their current stock of promotional items by such date. No sale of any Alaska Grown promotional item, either by an existing licensee or associated retailer, shall be permitted or allowed after December 31, 2010.
2. Authorized promotional licensees shall put all of their associated retail vendors on written notice of this change by no later than December 15, 2009 and provide

the Division of Agriculture with a copy of the written notice. A secondary notification is required on September 30, 2010, again with a copy provided to the Division. Issuance of a 2011 promotional license will be jeopardized if a retail vendor of a current authorized licensee does not stop sales of Alaska Grown promotional merchandise by December 31, 2010.

3. Release an official Request for Proposal for a contract soliciting a single vendor for the production of all authorized Alaska Grown promotional items on January 15, 2011, and prepare for the contract to be in place with the selected vendor so that wholesale sales to Division licensed non-profits can commence on May 3, 2011.
4. After April 1, 2011, allow Alaska agriculture non-profits to enter into a two-year written license agreement (with the option to renew for a fee - for an additional two years) with the Division for direct sales of promotional merchandise with the following restrictions:
 - No wholesale sales from the licensed non-profits to any retail vendor or outlet will be allowed or approved.
 - No regional restrictions will be placed on the licensed non-profits.
 - No web-based or internet sales by licensed non-profits will be allowed.
 - No sublicensing of sales to any retail vendor or outlets by licensed non-profits will be allowed.
5. Manage the Alaska Grown Certification Program as outlined in the policy document dated November 18, 2009. No changes to the agriculture products program will be enforced until 2011, when the new program will be launched with a new application, a new license agreement and a licensing fee. All current authorized users will be required to reapply to the program.



Franci Havemeister, Director



Date