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		slow.
25	In other states, the public does not have the right to use a section-line easement until the governing body decides a "highway" is needed and serves notice on the landowner. Why has Alaska circumvented the private property rights granted to other states' citizens?	It would be highly unusual for access easements to be closed to public use until government officials construct a highway. DNR does not know of any state using such a system, but it would not seem feasible unless the state already had a fully developed network of roads and railroads and no remaining public land to reach. Alaska is not in that status. If such a restrictive system were in place here, it would not only hamper access to public lands and resources, it would damage private property rights. Many landowners rely on informal roads or ORV trails on section-line easements to reach their property. They cannot be forced to wait for access until the government builds a major highway. (Alaska law defines "highway" very broadly, including a "trail" or "walk", and it does not matter who constructed it. AS 19.45.001(9).)
25	Form letter 2, comment 3: Section lines do not constitute a trail.	Under Alaska law, section-line easements may be used for trails. AS 19.10.010 reserves section-line easements for "highway" purposes. AS 19.45.001(9) defines "highway" to include not only highways but trails and walks.
25	The proposal is misleading, because it implies that there is a statutory basis for combining regulations on RS 2477 rights-of-way with regulations on section-line easements. This is not the case. These are two very distinct issues, with different history. A section-line easement may never have been used for access. If the proposed regulations are implemented, the result will be costly litigation.	Although it may not be common knowledge, all 66-foot-wide section-line easements are RS 2477 rights-of-way, and some 100-foot-wide section-line easements have 66-foot-wide RS 2477 easements "inside" them. RS 2477 rights-of-way could be accepted by two different ways: by a positive act of a public authority, which is how all section-line easements and some trail easements were accepted, or by public user, which is how other trail easements were accepted. Regardless of whether the RS 2477 right-of-way lies along a section line or a historic trail, the RS 2477 grant could be accepted only on unreserved, unappropriated federal land; it could be accepted only until December 1968, when all federal land in Alaska was reserved by PLO 4582, the "land freeze;" its management is subject to AS 19.30.400; AS 19.30.410 governs its vacation by a state agency; AS 29.35.090 prohibits its vacation by a municipality; and AS 19.45.001(9) defines its range of uses from a walkway to a primary highway. Whether it is currently used for access does not affect the public's legal right to use it for access.
25	Is DNR claiming RS 2477 rights-of-way along section lines on federal land that was "unreserved" at some point from 1866 to 1976, i.e. on most federal land in Alaska?	This regulation does assert an RS 2477 right-of-way along section lines that were surveyed while the land was open to RS 2477. Most federal land was not surveyed before being reserved or appropriated under the public land laws and mining laws.
25	On state land a section line must be surveyed and monumented before it can have a section-line easement. This has been the rule of surveyors for years and should not be changed; it will stand up in	This comment raises two separate issues. 1) DNR agrees that an existing easement whose location is uncertain needs to be surveyed prior to development. Survey helps to ensure that the trail construction, utility installation, etc., will not accidentally stray off the

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	court. The easement is "there," but must be surveyed before it can be used.	easement, trespassing against the landowner's property rights. 11 AAC 51.100 places this long-standing DNR policy in DNR's regulations for the first time. 2) DNR recognizes that surveyors typically believe that a section-line easement does not "attach" unless and until the section line is surveyed. DNR agrees that this conservative view is appropriate if the land was never state-owned. On such land, 11 AAC 51.025 asserts a section-line easement only if the land was surveyed while still open to RS 2477. But on state-owned land, DNR's land sale regulations as early as 1960 gave notice that the state would reserve a section-line easement, and its land sale decisions and land offering brochures in later years repeated this intention. This gave fair notice to those who staked state open-to-entry sites, remote parcels, and homesteads that their parcels would be subject to section-line easements; it was also a commitment to those stakers that section-line easements would be available for their access.
25	I do not want to lose my farm because of the proposed easement regulations. I am appalled the state would even consider the proposed change to section line easements with change of responsibility from the state to individuals. This means that I cannot even comply with federally proposed soil conservation efforts such as ditches and waterways.	The commenter's state patent (deed) specifically lists the section-line easements, as well as other public access and utility easements, to which the parcel is subject. However, the commenter misunderstands the regulations. DNR does not and could not propose to change the nature of a section-line easement. Section-line easements are legally open to public use. That was true before the commenter bought his farm from the state, and it still is, as clearly set out in state law and state court decisions. As for liability, the intent of 11 AAC 51.920 is to protect the commenter against it, not transfer responsibility to him: he and his wife are the "grantees" (owners) of the land. When planning soil conservation measures or improvements, the landowner must keep the easements in mind so that these measures do not obstruct access. If it is impossible to avoid the easement, the landowner could petition to relocate or vacate it.
25	The regulations should clarify that access along section lines is only for access to adjacent property, not for unrestricted public access.	DNR cannot establish such a policy because it would not be lawful, just as a town could not declare that its sidewalks are only for the use of the adjacent property owners. Section-line easements are open to access by the general public, regardless of whether they own adjacent property. Of course, this does not mean that the general public has a right to step off the easement without the private landowner's permission.
25	The state demands that the private landowner allow access on section-line easements across private property, yet makes the private property owner assume all liability. This means I cannot prevent trespass on my private property and makes me liable for any harm the public incurs.	The purpose of a section-line easement is to allow public access. By reserving the easement before the land passed into private ownership, the state retained the right to allow that use. State law is clear: The property owner never had the right to block public use of the easement. See *Anderson v. Edwards*, for example. For liability, see 11 AAC 51.920, which protects the landowner (the "grantee"). AS 09.65.200 also provides