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Cook
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CS FOR SENATE BILL NO. 4()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR OLSON

A BILL

FOR AN ACT ENTITLED

"An Act relating to the Alaska coastal management program; establishing the Alaska Coastal Policy Board; and providing for an effective date by repealing the effective date for the repeal of certain provisions relating to the Alaska coastal management program."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** AS 46.39 is amended by adding a new section to article 1 to read:

Sec. 46.39.005. Alaska Coastal Policy Board. (a) The Alaska Coastal Policy Board is created in the Department of Natural Resources. The board consists of

(1) five public members appointed by the governor, including one at-large member from any coastal district; one public member shall be appointed from each of the following regions:

(A) northwest Alaska, including, generally, the area of the North Slope Borough and the Northwest Arctic Borough; and the Bering Strait area, including, generally, the area of the Bering Strait regional educational

attendance area;

(B) southwest Alaska, including, generally, the area within the Lower Yukon, Lower Kuskokwim, and Southwest regional educational attendance areas and the Lake and Peninsula and Bristol Bay Boroughs; and the Kodiak-Aleutians area, including the Kodiak Island and area of the Aleutians East Boroughs and the area of the Aleutian, Adak, and Pribilof regional educational attendance areas;

(C) Upper Cook Inlet area, including the Municipality of Anchorage and the Matanuska-Susitna Borough; the Lower Cook Inlet area, including, generally, the Kenai Peninsula Borough; and the Prince William Sound area, including, generally, the area east of the Kenai Peninsula Borough to 141 West longitude; and

(D) Southeast Alaska, generally the area east of 141 West longitude;

(2) each of the following:

(A) the commissioner of environmental conservation;

(B) the commissioner of fish and game;

(C) the commissioner of natural resources; and

(D) the commissioner of commerce, community, and economic development.

(b) Each public member appointed by the governor under (a)(1) of this section serves a term of two years and until a successor is appointed and qualified. A public member may be reappointed.

(c) The board shall designate co-chairs, one of whom shall be selected from among the public members appointed under (a)(1) of this section and one from among the members designated in (a)(2) of this section.

(d) The governor shall appoint a permanent alternate for each member of the board. If a member of the board is unable to attend, the member shall advise the alternate, who may attend and act in the place of the member. The alternate for a commissioner serving under (a)(2) of this section shall be a deputy commissioner or the director of a division in the commissioner's department. The names of alternates

shall be filed with the board.

(e) Three public members and two designated members of the board constitute a quorum, but the board may delegate to one or more of its members the power to hold hearings. All decisions of the board shall be by a majority vote of the members present and voting.

(f) Members of the board or their alternates are entitled to per diem and travel expenses authorized by law for members of boards and commissions.

(g) Administrative support for the board shall be provided by the division in the department responsible for coastal and ocean management. The director of the division in the department responsible for coastal and ocean management, under direction of the co-chair designated by the board from the individuals listed in (a)(2) of this section, may contract with or employ persons as necessary to assist the board in carrying out the board's duties and responsibilities.

* **Sec. 2.** AS 46.39.010(a) is amended to read:

(a) The Department of Natural Resources shall render, on behalf of the state, all federal consistency determinations and certifications authorized by 16 U.S.C. 1456 (Sec. 307, Coastal Zone Management Act of 1972), and each conclusive state consistency determination when a project requires a permit, lease, or authorization **from the department or** from two or more state resource agencies.

* **Sec. 3.** AS 46.39.010(b) is amended to read:

(b) The department may adopt regulations **approved by the board** necessary to implement this chapter.

* **Sec. 4.** AS 46.39.030 is amended to read:

Sec. 46.39.030. Powers of the department and board. (a) The department may

(1) **with the approval of the board,** apply for and accept grants, contributions, and appropriations, including application for and acceptance of federal funds that may become available for coastal planning and management;

(2) contract for necessary services. [;]

(b) The board may

(1) [(3)] consult and cooperate with

(A) persons, organizations, and groups, public or private, interested in, affected by, or concerned with coastal area planning and management;

(B) agents and officials of the coastal resource districts of the state, and with [FEDERAL AND] state agencies concerned with or having jurisdiction over coastal planning and management;

(2) [(4)] take any reasonable action necessary to carry out the provisions of this chapter or AS 46.40.

* **Sec. 5.** AS 46.39.040 is amended to read:

Sec. 46.39.040. Duties of the board [DEPARTMENT]. In conformity with 16 U.S.C. 1451 - 1464 (Coastal Zone Management Act of 1972), as amended, the board [DEPARTMENT] shall

(1) approve [DEVELOP] statewide standards for the Alaska coastal management program [,] and criteria for the preparation and approval of district coastal management plans developed by the department in accordance with AS 46.40;

(2) establish continuing coordination among state agencies to facilitate the development and implementation of the Alaska coastal management program; in carrying out its duties under this paragraph, the department shall initiate an interagency program of comprehensive coastal resource planning for each geographic region of the state;

(3) ensure [ASSURE] continued provision of data and information to coastal resource districts to carry out their planning and management functions under the program.

* **Sec. 6.** AS 46.39.900 is amended to read:

Sec. 46.39.900. Definitions [DEFINITION]. In this chapter, unless the context requires otherwise,

(1) "board" means the Alaska Coastal Policy Board established in AS 46.39.005;

(2) "department" means the Department of Natural Resources.

* **Sec. 7.** AS 46.40.010 is amended to read:

Sec. 46.40.010. Development of Alaska coastal management program. (a)

The Alaska Coastal Policy Board [DEPARTMENT] shall approve, in accordance with this chapter, program changes to the Alaska coastal management program.

(b) The board [DEPARTMENT] may approve the Alaska coastal management program for a portion or portions of the coastal area before approving the [COMPLETE] program changes under (a) of this section. Portions of the program approved under this subsection shall be incorporated into the Alaska coastal management program.

(c) The Alaska coastal management program shall be reviewed by the board [DEPARTMENT] and, when appropriate, revised to

(1) add newly approved district coastal management plans [,] or revisions and amendments to the Alaska coastal management program;

(2) integrate newly approved district coastal management plans [,] or revisions and amendments of district coastal management plans [,] with existing approved plans and with plans developed by state agencies;

(3) add new or revised state statutes, policies, regulations, or other appropriate material;

(4) evaluate [REVIEW] the effectiveness [OF IMPLEMENTATION] of district coastal management plans; and

(5) consider new information acquired by the state and coastal resource districts.

(d) All reviews and revisions shall be in accordance with the statewide standards and district plan criteria adopted under AS 46.40.040.

* **Sec. 8.** AS 46.40.020 is amended to read:

Sec. 46.40.020. Objectives. The Alaska coastal management program shall be consistent with the following objectives:

(1) the use, management, restoration, and enhancement of the overall quality of the coastal environment;

(2) the development of industrial or commercial enterprises that are consistent with the social, cultural, historic, economic, and environmental interests of the people of the state;

(3) the orderly, balanced utilization and protection of the resources of the coastal area consistent with sound conservation and sustained yield principles;

(4) the management of coastal land and water uses in such a manner that, generally, those uses that [WHICH] are economically or physically dependent on a coastal location are given higher priority when compared to uses that [WHICH] do not economically or physically require a coastal location;

(5) the protection and management of significant historic, cultural, natural, subsistence, and aesthetic values and natural systems or processes within the coastal area;

(6) the prevention of damage to or degradation of land and water reserved for their natural and subsistence values as a result of inconsistent land or water usages adjacent to that land;

(7) the recognition of the need for a continuing supply of energy to meet the requirements of the state and the contribution of a share of the state's resources to meet national energy needs; and

(8) the full and fair evaluation of all demands on the land and water in the coastal area.

* **Sec. 9.** AS 46.40.030 is amended to read:

Sec. 46.40.030. Development of district coastal management plans. (a) Coastal resource districts shall develop and adopt district coastal management plans in accordance with the provisions of this chapter. The plan adopted by a coastal resource district shall be based on [UPON] a municipality's existing comprehensive plan or a new comprehensive resource use plan or comprehensive statement of needs, policies, objectives, and standards governing the use of resources within the coastal area of the district. The plan must meet the [STATEWIDE STANDARDS AND] district plan criteria adopted under AS 46.40.040 and must include

(1) a delineation within the district of the boundaries of the coastal area subject to the district coastal management plan;

(2) a statement, list, or definition of the land and water uses and activities subject to the district coastal management plan;

(3) a statement of policies to be applied to all [THE] land and water

uses subject to the district coastal management plan as well as policies that apply only to an area that merits special attention; and

(4) [A DESCRIPTION OF THE USES AND ACTIVITIES THAT WILL BE CONSIDERED PROPER AND THE USES AND ACTIVITIES THAT WILL BE CONSIDERED IMPROPER WITH RESPECT TO THE LAND AND WATER WITHIN THE COASTAL AREA; AND

(5)] a designation of an area that merits special attention under [, AND THE POLICIES THAT WILL BE APPLIED TO THE USE OF AREAS WITHIN] the district coastal management plan and enforceable policies that must be applicable within an area that merits special attention [RESOURCE DISTRICT THAT MERIT SPECIAL ATTENTION].

(b) In developing enforceable policies in its coastal management plan under (a) of this section, a coastal resource district shall ensure that the enforceable policies are

(1) clear and concise as to the activities and persons affected by the policies and the requirements of the policies

(2) necessary given local conditions; and

(3) supported by evidence, including scientific or local knowledge, if the policies are more specific than state or federal statutes or regulations [MEET THE REQUIREMENTS OF AS 46.40.070 AND MAY NOT DUPLICATE, RESTATE, OR INCORPORATE BY REFERENCE STATUTES AND ADMINISTRATIVE REGULATIONS ADOPTED BY STATE OR FEDERAL AGENCIES].

* **Sec. 10.** AS 46.40.040(a) is amended to read:

(a) Except as provided in [(b) OF THIS SECTION AND] AS 41.17, the department shall, by regulations approved by the board,

(1) [BY REGULATION,] adopt under the provisions of AS 44.62 (Administrative Procedure Act) for the use of and application by coastal resource districts and state agencies for carrying out their responsibilities under this chapter, statewide standards and district coastal management plan criteria for

(A) identifying the boundaries of the coastal area subject to the

Alaska coastal management program;

(B) determining the land and water uses and activities subject to the Alaska coastal management program;

(C) developing policies applicable to the land and water uses subject to the Alaska coastal management program;

(D) developing regulations applicable to the land and water uses subject to the Alaska coastal management program;

(E) developing policies and procedures to determine whether specific proposals for the land and water uses or activities subject to the Alaska coastal management program shall be allowed;

(F) designating and developing policies for areas that merit special attention [THE USE OF AREAS OF THE COAST THAT MERIT SPECIAL ATTENTION]; and

(G) measuring the progress of a coastal resource district in meeting its responsibilities under this chapter;

[(2) DEVELOP AND MAINTAIN A PROGRAM OF TECHNICAL AND FINANCIAL ASSISTANCE TO AID COASTAL RESOURCE DISTRICTS IN THE DEVELOPMENT AND IMPLEMENTATION OF DISTRICT COASTAL MANAGEMENT PLANS;

(3) UNDERTAKE REVIEW AND APPROVAL OF DISTRICT COASTAL MANAGEMENT PLANS IN ACCORDANCE WITH THIS CHAPTER;

(4) INITIATE A PROCESS FOR IDENTIFYING AND MANAGING USES OF STATE CONCERN WITHIN SPECIFIC AREAS OF THE COAST;

(5) DEVELOP PROCEDURES OR GUIDELINES FOR CONSULTATION AND COORDINATION WITH FEDERAL AGENCIES MANAGING LAND OR CONDUCTING ACTIVITIES POTENTIALLY AFFECTING THE COASTAL AREA OF THE STATE;

(6) BY REGULATION,] establish a consistency review and determination or certification process that conforms to the requirements of AS 46.40.096.

* **Sec. 11.** AS 46.40.040 is amended by adding new subsections to read:

(d) Except as provided in AS 41.17, the board shall

(1) develop and maintain a program of technical and financial assistance to aid coastal resource districts in the development and implementation of district coastal management plans;

(2) undertake review of and, after public hearing, approve district coastal management plans in accordance with this chapter;

(3) initiate a process for identifying and managing uses of state concern within specific areas of the coast;

(4) develop procedures or guidelines for consultation and coordination with federal agencies managing land or conducting activities potentially affecting the coastal area of the state;

(e) Regulations adopted by the department under this section for district plan criteria may not require designation of areas as a precondition for the establishment of a coastal resource district enforceable policy.

* **Sec. 12.** AS 46.40.050(b) is amended to read:

(b) Within 30 months after certification of the organization of a new coastal resource district, the coastal resource district shall complete and submit to the **board** [DEPARTMENT] a proposed district coastal management plan. If, after receipt of a written request for extension from the coastal resource district, the **board** [DEPARTMENT] considers an extension proper, the **board** [DEPARTMENT] may grant an extension to a date that is within 54 months after certification of the results of the coastal resource district's organization. A request under this subsection must include the reasons for the extension.

* **Sec. 13.** AS 46.40.060 is repealed and reenacted to read:

Sec. 46.40.060. Review and approval. (a) A coastal resource district shall submit its district coastal management plan for review by the department. The division in the department responsible for coastal and ocean management shall attempt to reach a consensus with a coastal resource district concerning any changes required to comply with the district plan criteria approved by the department and the board.

(b) If a consensus between the division and the coastal resource district is reached, the division shall forward a recommendation to the commissioner, and the

commissioner shall submit the recommendation to the board.

(c) If a consensus between the division and the coastal resource district is not reached, the division shall forward a recommendation to the commissioner with an explanation of the reasons for its recommendation and, if applicable, offer recommended changes to the district coastal management plan that would meet the district plan criteria. The coastal resource district may request that the commissioner reconsider the division's recommendation before the commissioner submits the recommendation to the board.

(d) If, after receiving the commissioner's recommendation, the board finds that the district coastal management plan meets the provisions of this chapter and the district plan criteria adopted by the department, the board may approve the district coastal management plan or may approve portions of the district coastal management plan that meet those requirements.

(e) If the board finds that a district coastal management plan is not approvable or is approvable only in part under (d) of this section, the board shall direct the department to meet with officials of the coastal resource district to resolve differences. If requested by a coastal resource district, the board shall direct that deficiencies in the district coastal management plan submitted by the coastal resource district be resolved through mediation conducted by a neutral third party. During mediation, the board may call for one or more public hearings in the district.

(f) If, after mediation, the differences have not been resolved and mutually agreed to by the coastal resource district and the board, the board shall enter findings and, by order, may require

(1) that the district coastal management plan be amended to satisfy the provisions of this chapter or meet the statewide standards and district plan criteria approved by the board;

(2) that the district coastal management plan be revised to accommodate a use of state concern; or

(3) any other action be taken by the coastal resource district, as appropriate.

(g) An order of the board entered under (f) of this section is a final

administrative order that the coastal resource district may appeal to the superior court under AS 44.62 (Administrative Procedure Act). The attorney general, at the request of the board, may file an action in superior court to enforce an order issued under (f) of this section.

* **Sec. 14.** AS 46.40.070 is repealed and reenacted to read:

Sec. 46.40.070. Requirements for board review and approval. (a) The board shall approve a district coastal management plan submitted for review and approval if the

(1) district coastal management plan meets the requirements of this chapter and the district plan criteria adopted by the department; and

(2) enforceable policies of the district coastal management plan

(A) do not duplicate, restate, or incorporate by reference state or federal statutes or regulations;

(B) are not preempted by federal or state law; and

(C) do not arbitrarily or unreasonably restrict a use of state concern.

(b) In (a)(2)(B) of this section, an enforceable policy of the district coastal management plan is preempted by

(1) federal statutes or regulations when the United States Congress expressly declares that local law or regulation is preempted if the United States Congress demonstrates the intent to occupy the field exclusively or if there is an actual conflict between federal and local law or regulation;

(2) state law if it is prohibited by express legislative direction or direct conflict with a state statute or regulation, or where a local law or regulation substantially interferes with the effective functioning of a state statute or regulation or the underlying purposes of a state statute or regulation.

* **Sec. 15.** AS 46.40.096(a) is amended to read:

(a) The department shall, by regulation **approved by the board**, establish a consistency review and determination process that conforms to the requirements of this section.

* **Sec. 16.** AS 46.40.096(d) is amended to read:

(d) In preparing a consistency review and determination for a proposed project, the reviewing entity shall

(1) request consistency review comments for the proposed project from state resource agencies, affected coastal resource districts, and other interested parties as determined by regulation adopted by the department;

(2) prepare proposed consistency determinations;

(3) coordinate elevations [SUBSEQUENT REVIEWS] of proposed consistency determinations prepared under (2) of this subsection; an elevation [A SUBSEQUENT REVIEW] of a proposed consistency determination under this paragraph

(A) is limited to a review by state resource agencies [THE DEPARTMENT];

(B) may occur only if requested by

(i) the project applicant;

(ii) a state resource agency; or

(iii) an affected coastal resource district; and

(C) shall be completed by the resource agencies [DEPARTMENT] within 45 days after the initial request for subsequent review under this paragraph;

(4) render the final consistency determination and certification.

* **Sec. 17.** AS 46.40.096(g) is amended to read:

(g) The reviewing entity shall exclude from the consistency review and determination process for a project

(1) an aspect of an activity that

[(A)] is specifically authorized under a general or nationwide permit that has previously been determined to be consistent with the Alaska coastal management program; [OR

(B) IS SUBJECT TO AUTHORIZATION BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION UNDER THE REQUIREMENTS DESCRIBED IN AS 46.40.040(b);]

(2) activities excluded from a consistency review under AS 41.17; and

(3) the issuance of an authorization or permit issued by the Alaska Oil and Gas Conservation Commission.

* **Sec. 18.** AS 46.40.096(k) is amended to read:

(k) Except as provided in (g) of this section, AS 41.17, [AS 46.40.040(b),] and AS 46.40.094, the scope of a consistency review of a project, once triggered under (j) of this section, is limited to activities that are located within the areas described in (l) of this section and that either are subject to a state resource agency permit, lease, authorization, approval, or certification or are the subject of a coastal resource district enforceable policy approved by the **board** [DEPARTMENT] under this chapter. The scope of a consistency review subject to 16 U.S.C. 1456 is determined under 16 U.S.C. 1456 and 15 C.F.R. Part 930.

* **Sec. 19.** AS 46.40.096(l) is amended to read:

(l) The regulations adopted under (a) of this section apply, as authorized by 16 U.S.C. 1456(c), to

(1) activities within the coastal zone; and

(2) activities on federal land, including the federal outer continental shelf, that would affect any land or water use or natural resource of the state's coastal zone; for purposes of this paragraph, those activities consist of any activity on the federal outer continental shelf, **including seismic survey activity**, and any activity on federal land that are within the geographic boundaries of the state's coastal zone notwithstanding the exclusion of federal land in 16 U.S.C. 1453(1).

* **Sec. 20.** AS 46.40.096(m) is amended to read:

(m) As part of the regulations adopted under (a) of this section, the department shall establish a list of permits, certifications, leases, approvals, and authorizations issued by a state resource or federal agency that will trigger a consistency review under (j) of this section. In addition, the department shall establish in regulation categories and descriptions of uses and activities that, for purposes of evaluating consistency with the Alaska coastal management program, are determined to be categorically consistent or generally consistent after the inclusion of standard alternative measures. These categories of uses and activities must be as broad as possible so as to minimize the number of **routine** projects that must undergo an

individualized consistency review under this section.

* **Sec. 21.** AS 46.40.096(o) is amended to read:

(o) The time limitations in (n) of this section

(1) do not apply to a consistency review involving

(A) the disposal of an interest in state land or resources;

(B) an activity proposed by a federal agency; or

(C) an activity permitted by a federal agency;

(2) are suspended

(A) from the time a review schedule is modified in response to [THE REVIEWING ENTITY DETERMINES THAT THE APPLICANT HAS NOT ADEQUATELY RESPONDED IN WRITING WITHIN 14 DAYS AFTER THE RECEIPT OF] a written request from the reviewing entity for additional information, until the time the reviewing entity determines that the applicant has provided an adequate written response;

(B) during a period of time requested by the applicant;

(C) during the period of time a consistency review is undergoing a subsequent review under (d)(3) of this section;

(D) for 30 days if requested by an affected coastal resource district exercising authority under AS 29 to accommodate the adjudication process of an authorization issued by a coastal resource district pending the results of the adjudication.

* **Sec. 22.** AS 46.40.096(q)(1) is amended to read:

(1) "affected coastal resource district" means a coastal resource district with a publicly reviewed draft or approved plan in which a project is proposed to be located or that [WHICH] may experience a direct and significant impact from a proposed project;

* **Sec. 23.** AS 46.40.096 is amended by adding new subsections to read:

(r) Notwithstanding any provision of this section, for federal agency activities defined in 15 C.F.R. 930.31, including Outer Continental Shelf lease sales and development projects, the department shall conduct a full consistency review and provide its consistency response with respect to proposed uses or activities involved in

the project regardless of whether an earlier consistency review for a similar project has been completed.

(s) Regulations adopted by the department under this section may not require that a draft permit be prepared before the initiation of the consistency review.

* **Sec. 24.** AS 46.40.100(b) is amended to read:

(b) A party that is authorized under (g) of this section may file a petition showing that a district coastal management plan is not being implemented. A petition filed under this subsection may not seek review of a proposed or final consistency determination regarding a specific project. On receipt of a petition, the **board** [DEPARTMENT], after giving public notice in the manner required by (f) of this section, shall convene a hearing to consider the matter. A hearing called under this subsection shall be held in accordance with regulations adopted under this chapter. After **the** hearing, the **board** [DEPARTMENT] may order that the coastal resource district or a state resource agency take any action with respect to future implementation of the district coastal management plan that the **board** [DEPARTMENT] considers necessary, except that the **board** [DEPARTMENT] may not order that the coastal resource district or a state agency take any action with respect to a proposed or final consistency determination that has been issued.

* **Sec. 25.** AS 46.40.100(c) is amended to read:

(c) In determining whether an approved district coastal management plan is being implemented by a coastal resource district that exercises zoning authority or controls on the use of resources within the coastal area or by a state resource agency, the **board** [DEPARTMENT] shall find in favor of the district or the state resource agency, unless the **board** [DEPARTMENT] finds a pattern of nonimplementation.

* **Sec. 26.** AS 46.40.100(e) is amended to read:

(e) The superior courts of the state have jurisdiction to enforce lawful orders of the **board and the** department under this chapter.

* **Sec. 27.** AS 46.40.100(f) is amended to read:

(f) Upon receipt of a petition under (b) of this section, the **board** [DEPARTMENT] shall give notice of the hearing at least 10 days before the scheduled date of the hearing. The notice must

(1) contain sufficient information in commonly understood terms to inform the public of the nature of the petition; and

(2) indicate the manner in which the public may comment on the petition.

* **Sec. 28.** AS 46.40.100(h) is amended to read:

(h) If the **board** [DEPARTMENT] finds a pattern of nonimplementation under (c) of this section, the **board** [DEPARTMENT] may order a coastal resource district or a state resource agency to take action with respect to future implementation of the district coastal management plan that the **board** [DEPARTMENT] considers necessary to implement the district coastal management plan. The **board's** [DEPARTMENT'S] determination under (c) of this section and any order issued under this subsection shall be considered a final administrative order for purposes of judicial review under AS 44.62.560.

* **Sec. 29.** AS 46.40.180(b) is amended to read:

(b) If a city or village within a coastal resource service area fails to approve a portion of the district coastal management plan prepared and submitted for approval under (a) of this section, the governing body shall advise the coastal resource service area board of its objections to the proposed plan and suggest alternative elements or components for inclusion in the district coastal management plan. New matter submitted by a city or village that meets the [STATEWIDE STANDARDS AND] district plan criteria adopted under this chapter **may** [SHALL] be accepted **by the district** and the district coastal management plan modified accordingly. If a city or village fails to provide objections and suggested alternatives within the time limits established in this section, the coastal resource service area board may adopt the district coastal management plan as initially offered.

* **Sec. 30.** AS 46.40.190(b) is amended to read:

(b) This chapter does not restrict or prohibit cooperative or joint administration of functions between a municipality and a coastal resource service area organized under the provisions of this chapter upon initiation of a mutual agreement for the purpose. [A CITY THAT ELECTS TO BE EXCLUDED FROM AN ADJACENT COASTAL RESOURCE SERVICE AREA UNDER (a) OF THIS

SECTION SHALL ENTER INTO A MUTUAL AGREEMENT FOR COOPERATIVE OR JOINT ADMINISTRATION OF FUNCTIONS WITH THE COASTAL RESOURCE SERVICE AREA BOARD FROM THE ADJACENT COASTAL RESOURCE SERVICE AREA.]

* **Sec. 31.** AS 46.40.210(2) is amended to read:

(2) "coastal resource district" means each of the following that contains a portion of the coastal area of the state:

(A) unified municipalities;

(B) organized boroughs of any class that exercise planning and zoning authority;

(C) home rule and first class cities of the unorganized borough [OR WITHIN BOROUGHES THAT DO NOT EXERCISE PLANNING AND ZONING AUTHORITY];

(D) second class cities of the unorganized borough [, OR WITHIN BOROUGHES THAT DO NOT EXERCISE PLANNING AND ZONING AUTHORITY,] that have established a planning commission, and that, in the opinion of the commissioner of commerce, community, and economic development, have the capability of preparing and implementing a comprehensive district coastal management plan under AS 46.40.030;

(E) coastal resource service areas established and organized under AS 29.03.020 and AS 46.40.110 - 46.40.180;

* **Sec. 32.** AS 46.40.210(4) is amended to read:

(4) "coastal zone" means the coastal water including land within and under that water, and adjacent shoreland, including the water within and under that shoreland, within the boundaries approved by the former Alaska Coastal Policy Council and by the United States Secretary of Commerce under 16 U.S.C. 1451 - 1465 (Coastal Zone Management Act of 1972, as amended); "coastal zone" includes areas added as a result of any boundary changes approved by the **board** [DEPARTMENT] and by the United States Secretary of Commerce under 16 U.S.C. 1451 - 1465; "coastal zone" does not include

(A) those lands excluded under 16 U.S.C. 1453(1); or

(B) areas deleted as a result of any boundary changes by the

board [DEPARTMENT] in conformance with 16 U.S.C. 1451 - 1465;

* **Sec. 33.** AS 46.40.210(7) is amended to read:

(7) "district coastal management plan" means a plan developed by a coastal resource district, including enforceable policies of that plan, setting out policies and standards to guide public and private uses of land and water within that district and approved by the **board** [DEPARTMENT] as meeting the requirements of this chapter and the regulations adopted under this chapter;

* **Sec. 34.** AS 46.40.210(8) is amended to read:

(8) "enforceable policy" means a policy established by this chapter or approved by the **board** [DEPARTMENT] as a legally binding policy of the Alaska coastal management program applicable to public and private activities;

* **Sec. 35.** AS 46.40.210(9) is amended to read:

(9) "project" means all activities that will be part of a proposed development **and includes all federal agency activities as defined in 15 C.F.R. 930.31, including lease sales and development projects affecting a coastal use or resource, and proposed rules that alter uses of the coastal zone;**

* **Sec. 36.** AS 46.40.210 is amended by adding a new paragraph to read:

(13) "board" has the meaning given in AS 46.39.900;

* **Sec. 37.** AS 46.40.040(b), 46.40.040(c), 46.40.050(a), 46.40.096(i), and 46.40.205 are repealed.

* **Sec. 38.** Sections 1 - 13 and 18, ch. 31, SLA 2005, are repealed.

* **Sec. 39.** Section 22, ch. 31, SLA 2005, is repealed.