

# ALASKA STATE LEGISLATURE

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## **CSSB 4 (CRA) – Coastal Management Programs**

Version 26-LS0019/R, January, 2009

STAFF: Tim Benintendi, 465-4989

### **SPONSOR STATEMENT**

In 2003, HB 191 instituted significant changes to the Alaska Coastal Management Program (ACMP). It unduly impacted local participation in development reviews and approvals affecting both state and federal actions in the coastal zone. Prior to 2003, the program was not felt to be significantly problematic. Currently, there are 28 management districts either approved, or under review for approval. For a list of current districts, see the Alaska Coastal Management Program website at (<http://alaskacoast.state.ak.us/district/html/progressfinal.htm>). To identify a community within a particular coastal district, see <http://alaskacoast.state.ak.us/explore/communityindex.pdf>.

The authority for a Consistency Review Process, used to implement the ACMP, is found at 11 AAC 110. This process reviews proposed development activities for conformity with state laws and regulations,, and district enforceable policies. 11 AAC 112 and 11 AAC 114 also apply. The governing statutes are AS 46.39 and AS 46.40. With the changes from 2003, regulations adopted by the Department of Natural Resources severely limited the ability of coastal districts to establish enforceable policies regarding the eventual effects of development on coastal resources and uses. So dramatic were the changes that the federal Office of Oceans and Coastal Resource Management formally reviewed state actions for compliance, and took two years to determine acceptance.

Since the 2003 changes, Alaska's coastal districts have dealt with controversy and delay by DNR where achieving suitable district management plans are concerned. Formerly, disputes over approval of district plans were resolved by the Coastal Policy Council. Disbanding the Council under HB 191 concentrated all decision-making power within DNR.

CSSB 4 (CRA) would establish the Alaska Coastal Policy Board within the Department of Natural Resources, and restore an authoritative role for local residents, one that was working acceptably prior to 2003. The new board would be much trimmer than the pre-2003 panel of seventeen members. Nine members would compose the new board, including five public members appointed by the governor. One of the five would be at-large from any of the coastal districts, and the others would be appointed from four defined regions: Northwest Alaska, Southwest Alaska, Upper Cook Inlet, and Southeast Alaska. Filling out the board membership

would be the commissioners of DEC, F&G, DNR, and CCED. DNR would continue to provide day-to-day management and support.

This bill would also reinstate locally-generated enforceable policies, streamline project reviews, provide Board approval of agency-generated regulations, provide for district management plan approvals, allow for receiving grants and other monies, and empower the Board with other authorities.

The primary thrust of CSSB 4 (CRA) is to return significant authority to local district residents by sharing power over the Alaska Coastal Management Program ,between them and the identified commissioners. Since 2003, all authority has rested solely with the Commissioner of the Department of Natural Resources.

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## **SECTIONAL ANALYSIS**

### **CSSB 4 (CRA) Coastal Management Programs**

Version 26-LS0019/ R, February 5, 2009

STAFF: Tim Benintendi, 465-4989

(Compared to SB 4)

**Section 1:** Establishes the ALASKA COASTAL POLICY BOARD, composed of five coastal district members and the commissioners of DNR, F&G, DEC, and COMMERCE. One co-chair will come from the district membership, and one co-chair from the commissioners. This board is smaller than the 17-member panel prior to the 2003 changes. Differences from SB 4 are: Added one district member, and added commissioner of CCED to Board.

**Section 2:** Clarifies that DNR coordinates all project consistency reviews for projects with only departmental permits or for projects that involve two or more other state resource agency permits. Not included in SB 4.

**Section 3:** Allows but does not mandate that regulations approved by the Board may be adopted by DNR. Same provision is in SB 4, Section 2.

**Section 4:** Establishes powers of the Board, including taking reasonable action to carry out provisions of AS 46.39 (administration) and AS 46.40 (ACMP). Same provision is in SB 4, Section 3.

**Section 5:** Provides for the Board to approve statewide ACMP standards and criteria, as developed by the department, for district plan approval.

**Section 6:** Defines "Board" in AS 46.39.900. Same provisions in SB 4, Section 5.

**Section 7:** Provides for approval of ACMP program changes by the Board. Same provisions in SB 4, Section 6.

**Section 8:** Adds "subsistence" to the list of values included in the ACMP objectives. Same provisions in SB 4, Section 7.

**Section 9:** Subsection (a) removes requirement for district enforceable policies to meet the statewide standards. Clarifies that district enforceable policies apply to all land and water issues subject to the plan. Removes requirement to describe proper and improper uses. Changes the term "areas meriting special attention" to "special management areas." Subsection (b) requires district enforceable policies to be clear and concise, either prescriptive (how to proceed toward goal) or performance-based (goal achievement by various methods), and stricter or more specific policy than state or federal laws. If stricter, support may include traditional, local knowledge. This section was not included in SB 4.

**Section 10:** Makes conforming changes for Board approval of ACMP regulations. Deletes language in AS 46.40.040(a)(2) – (5); moved to a new subsection (d). Compares to SB 4, Section 8, changing "areas of the coast that merit special attention," to "special management areas."

**Section 11:** Moves language deleted from Section 10, to a new section outlining responsibilities of the Board. Not included in SB 4.

**Section 12:** Makes conforming amendments to clarify that district plans must be approved by the Board. Not included in SB 4.

**Section 13:** Establishes the review and approval process for coastal district plans, including provisions for districts to work with DNR to resolve issues before the Board approves a plan. Allows districts to request mediation of the Board's decision. Not included in SB 4.

**Section 14:** Establishes criteria for Board approval of district plans and clarifies that district enforceable policies may not address matters pre-empted by state or federal laws. Rewritten from SB 4.

**Section 15:** Makes conforming changes for Board approval of ACMP regulations governing the consistency review and determination process. Same provision is in SB 4, Section 15.

**Section 16:** Changes the term "subsequent review" to the commonly used term "elevation" and clarifies that the three state resource agencies make the final decision on a project elevation. Modifies SB 4, Section 18, by allowing more autonomy for state resource agencies in preparing a consistency review and determination.

**Section 17:** Clarifies that aspects of an activity covered by a general or nationwide permit are excluded from a consistency review (rather than the entire activity). Same provision is in SB 4, Section 19.

**Section 18:** Makes conforming changes for Board approval of district enforceable policies. Same provision is in SB 4, Section 20.

**Section 19:** Allows for ACMP consistency reviews of projects inland of the coastal zone, if there would be direct and significant effects to coastal uses or resources. Clarifies that seismic survey activities in federal waters are subject to consistency reviews. Differences from SB 4, Section 21, are the inclusion of activities and impacts "inland from the coastal zone," in federal "waters," and "seismic survey activity" on the Outer Continental Shelf. DNR currently exempts this activity from review.

**Section 20:** Clarifies that categorically or generally consistent activities are for routine projects. From SB 4, Section 22 of this version, deletes a reference mandating Board approval.

**Section 21:** Exempts federal activities and federally-permitted projects from the 90-day consistency review time limit. Allows extension of the time limit for adjudication of coastal district permits. Differs from SB 4, Section 23 by adding language for a 30-day extension period for an affected coastal resource district to accommodate the adjudication process.

**Section 22:** Clarifies that the term "affected coastal resource district" includes districts with a publicly-reviewed draft plan or approved plan. Not included in SB 4.

**Section 23:** Requires an individual consistency review for each Outer Continental Shelf lease sale. Not included in SB 4. Would make each lease sale a separate consistency review.

**Section 24:** Gives the Board authority to act on a petition regarding non-implementation of a coastal district plan. Same provision is in SB 4, Section 24.

**Sections 25, 27, 28:** Make conforming amendments regarding Board action on a petition regarding non-implementation of a coastal district plan. Ties to Section 24. Same provisions are in SB 4, Sections 25, 27, 28.

**Section 26:** Provides that the Superior Courts have jurisdiction to enforce orders of the Board, as well as the department. Same provision is in SB 4, Section 26.

**Section 29:** Clarifies that a coastal resource service area (CRSA) may accept new matter submitted by a city or village into its coastal management plan. Not included in SB 4.

**Section 30:** Clarifies that municipalities are part of a CRSA unless they choose to be excluded. Not included in SB 4. There are currently no 3<sup>rd</sup> class boroughs in Alaska.

**Section 31:** Removes language about boroughs that do not exercise planning and zoning authority. Not included in SB 4.

**Section 32:** Makes a conforming amendment clarifying the board's role in coastal boundary changes. Same provision is in SB 4, Section 30.

**Section 33, 34:** Make conforming amendments regarding the Board's role in approving district plans and district enforceable policies. Same provisions are in SB 4, Sections 31, 32.

**Section 35:** Clarifies that the term "project" applies to federal activities and federally-permitted activities, including individual lease sales. Not included in SB 4.

**Section 36:** Adds new definitions for the terms "Board" and "special management areas." Definition of "special management areas" was not included in SB 4.

**Section 37:** Repeals the exemption for DEC permits from consistency reviews (eliminates DEC carve-out) (AS 46.40.040(b)–(c), not included in SB 4,

and AS 46.40.096(i)). Only this reference was included in SB 4.

Removes the requirement for re-submittal of district plans every 10 years (AS 46.40.050(a)). Not included in SB 4.

Removes the exemption of shallow gas projects from ACMP reviews (AS 46.40.205). Not included in SB 4.

Removes the definition for “areas meriting special attention” (AS 46.40.210(1)). Not included in SB 4.

**CS FOR SENATE BILL NO. 4(CRA)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-SIXTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE**

**Offered: 2/6/09**

**Referred: Resources, Finance**

**Sponsor(s): SENATOR OLSON**

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act relating to the Alaska coastal management program; and establishing the**  
2   **Alaska Coastal Policy Board."**

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

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

5           **Sec. 46.39.005. Alaska Coastal Policy Board.** (a) There is created in the  
6    Department of Natural Resources the Alaska Coastal Policy Board. The board consists  
7    of the following:

8                   (1) five public members appointed by the governor, including one at-  
9    large member from any coastal district and four members from a list composed of at  
10   least three names from each region, nominated and submitted by the coastal districts  
11   of each region; one public member shall be appointed from each of the following  
12   regions:

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

1 area, including, generally, the area of the Bering Strait regional educational  
2 attendance area;

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

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

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

16 (2) each of the following:

17 (A) the commissioner of environmental conservation;

18 (B) the commissioner of fish and game;

19 (C) the commissioner of natural resources; and

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

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

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

28 (d) Each member of the board shall select one person to serve as a permanent  
29 alternate at meetings of the board. If a member of the board is unable to attend, the  
30 member shall advise the alternate, who may attend and act in the place of the member.  
31 The alternate for each public member appointed under (a)(1) of this section shall be

1 approved by the coastal districts in the region from which the public member was  
 2 appointed. The alternate for a commissioner serving under (a)(2) of this section shall  
 3 be a deputy commissioner or the director of a division in the commissioner's  
 4 department. The names of alternates shall be filed with the board.

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

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

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

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

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

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

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

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

27 **Sec. 46.39.030. Powers of the board [DEPARTMENT].** The board  
 28 [DEPARTMENT] may

29 (1) apply for and accept grants, contributions, and appropriations,  
 30 including application for and acceptance of federal funds that may become available  
 31 for coastal planning and management;

1 (2) contract for necessary services;

2 (3) consult and cooperate with

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

6 (B) agents and officials of the coastal resource districts of the  
7 state, and federal and state agencies concerned with or having jurisdiction over  
8 coastal planning and management;

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

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

12 **Sec. 46.39.040. Duties of the board [DEPARTMENT].** In conformity with  
13 16 U.S.C. 1451 - 1464 (Coastal Zone Management Act of 1972), as amended, the  
14 **board [DEPARTMENT]** shall

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

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

24 (3) assure continued provision of data and information to coastal  
25 resource districts to carry out their planning and management functions under the  
26 program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31                   (2) the development of industrial or commercial enterprises that are

1 consistent with the social, cultural, historic, economic, and environmental interests of  
2 the people of the state;

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

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

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

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

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

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

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

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

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

31 (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 special management areas; 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 any special management [, AND THE POLICIES THAT WILL BE APPLIED TO THE USE OF,] areas under [WITHIN] the district coastal management plan and enforceable policies that will be applicable within those special management areas [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,

(1) whether prescriptive or performance-based, are clear and concise as to the activities and persons affected by the policies and the requirements of the policies; and

(2) if stricter or more specific than state or federal statutes or regulations, are necessary, given local conditions, and are supported by scientific evidence or contemporary or traditional local knowledge sufficient to justify the policies [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, after approval 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

1 districts and state agencies for carrying out their responsibilities under this chapter,  
 2 statewide standards and district coastal management plan criteria for

3 (A) identifying the boundaries of the coastal area subject to the  
 4 Alaska coastal management program;

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

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

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

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

14 (F) designating and developing policies for special  
 15 management areas [THE USE OF AREAS OF THE COAST THAT MERIT  
 16 SPECIAL ATTENTION]; and

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

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

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

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

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

31 (6)] by regulation, establish a consistency review and determination or

1 certification process that conforms to the requirements of AS 46.40.096.

2 \* **Sec. 11.** AS 46.40.040 is amended by adding a new subsection to read:

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

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

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

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

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

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

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

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

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

29 (b) If a consensus between the division and the coastal resource district is  
30 reached, the division shall forward a recommendation to the commissioner, and the  
31 commissioner shall submit the recommendation to the board.

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

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

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

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

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

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

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

30 (g) An order of the board entered under (f) of this section is a final  
 31 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 statutes or regulations; 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 federal statutes or regulations if 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.

\* **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 **or inland of the coastal zone if the activities would cause direct and significant impacts to a coastal use or resource**; and

(2) activities on federal land **and water**, 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

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

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

3 (C) an activity permitted by a federal agency;

4 (2) are suspended

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

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

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

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

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

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

23 \* Sec. 23. AS 46.40.096 is amended by adding a new subsection to read:

24 (r) Notwithstanding any provision of this section, for federal agency activities  
 25 defined in 15 C.F.R. 930.31, including Outer Continental Shelf lease sales and  
 26 development projects, the department shall conduct a full consistency review and  
 27 provide its consistency response with respect to proposed uses or activities involved in  
 28 the project regardless of whether an earlier consistency review for a similar project has  
 29 been completed.

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

31 (b) A party that is authorized under (g) of this section may file a petition

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

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

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

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

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

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

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

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

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

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

31 (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 is amended to read:

**Sec. 46.40.190. Cooperative administration.** (a) A municipality [CITY] within the coastal area that is within [NOT PART OF] a coastal resource service area shall be included for purposes of this chapter within the [AN ADJACENT] coastal resource service area unless the municipality's [ITS] governing body, by resolution [ADOPTED BY A MAJORITY OF ITS MEMBERSHIP], chooses to exclude the municipality [CITY] from the [AN] adjacent coastal resource service area and a copy of the resolution is filed with the commissioner of commerce, community, and economic development.

(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

1 for the purpose. [A CITY THAT ELECTS TO BE EXCLUDED FROM AN  
 2 ADJACENT COASTAL RESOURCE SERVICE AREA UNDER (a) OF THIS  
 3 SECTION SHALL ENTER INTO A MUTUAL AGREEMENT FOR  
 4 COOPERATIVE OR JOINT ADMINISTRATION OF FUNCTIONS WITH THE  
 5 COASTAL RESOURCE SERVICE AREA BOARD FROM THE ADJACENT  
 6 COASTAL RESOURCE SERVICE AREA.]

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

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

10 (A) unified municipalities;

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

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

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

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

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

25 (4) "coastal zone" means the coastal water including land within and  
 26 under that water, and adjacent shoreland, including the water within and under that  
 27 shoreland, within the boundaries approved by the former Alaska Coastal Policy  
 28 Council and by the United States Secretary of Commerce under 16 U.S.C. 1451 - 1465  
 29 (Coastal Zone Management Act of 1972, as amended); "coastal zone" includes areas  
 30 added as a result of any boundary changes approved by the board [DEPARTMENT]  
 31 and by the United States Secretary of Commerce under 16 U.S.C. 1451 - 1465;

1 "coastal zone" does not include

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

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

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

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

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

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

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

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

16 (9) "project" means all activities that will be part of a proposed  
17 development **and includes all federal agency activities as defined in 15 C.F.R.**  
18 **930.31, including lease sales and development projects affecting a coastal use or**  
19 **resource;**

20 \* **Sec. 36.** AS 46.40.210 is amended by adding new paragraphs to read:

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

22 (14) "special management area" means a delineated geographic area  
23 within the coastal area that is sensitive to change or alteration and that, because of  
24 plans or commitments or because a claim on the resources within the area delineated  
25 would preclude subsequent use of the resources to a conflicting or incompatible use,  
26 warrants special management attention, or that, because of its value to the general  
27 public, should be identified for current or future planning, protection, or acquisition;  
28 these areas, subject to the board's definition of criteria for their identification, include:

29 (A) areas of unique, scarce, fragile or vulnerable natural  
30 habitat, cultural value, historical significance, or scenic importance;

31 (B) areas of high natural productivity or essential habitat for

1 living resources;

2 (C) areas of substantial recreational value or opportunity;

3 (D) areas where development of facilities is dependent upon  
4 the utilization of, or access to, coastal water;

5 (E) areas of unique geologic or topographic significance that  
6 are susceptible to industrial or commercial development;

7 (F) areas of significant hazard due to storms, slides, flooding,  
8 earthquakes, active faults, tsunamis, volcanoes, liquefaction, ice movement or  
9 snow avalanches, or erosion; and

10 (G) areas needed to protect, maintain, or replenish coastal land  
11 or resources, including coastal flood plains, aquifer recharge areas, beaches,  
12 and offshore sand deposits;

13 \* **Sec. 37.** AS 46.40.040(b), 46.40.040(c), 46.40.050(a), 46.40.096(i), 46.40.205, and  
14 46.40.210(1) are repealed.

**SENATE BILL NO. 4**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY SENATOR OLSON

Introduced: 1/21/09

Referred: Community and Regional Affairs, Resources, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1   **"An Act relating to the Alaska coastal management program; and establishing the**  
2   **Alaska Coastal Policy Board."**

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

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

5           **Sec. 46.39.005. Alaska Coastal Policy Board.** (a) There is created in the  
6    Department of Natural Resources the Alaska Coastal Policy Board. The board consists  
7    of the following:

8                   (1) four public members appointed by the governor from a list  
9    composed of at least three names from each region, nominated and submitted by the  
10   coastal districts of each region; one public member shall be appointed from each of the  
11   following regions:

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

1 attendance area;

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

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

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

15 (2) each of the following:

16 (A) the commissioner of environmental conservation;

17 (B) the commissioner of fish and game; and

18 (C) the commissioner of natural resources.

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

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

25 (d) Each member of the board shall select one person to serve as a permanent  
26 alternate at meetings of the board. If a member of the board is unable to attend, the  
27 member shall advise the alternate, who may attend and act in the place of the member.  
28 The alternate for each public member appointed under (a)(1) of this section shall be  
29 approved by the coastal districts in each region. The alternate for a designated member  
30 serving under (a)(2) of this section shall be a deputy commissioner of the department  
31 or the director of a division in the department. The names of alternates shall be filed

1 with the board.

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

6 (f) Members of the board or their alternates are entitled to per diem and travel  
7 expenses authorized for members of boards and commissions under AS 39.20.180.

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

14 \* **Sec. 2.** AS 46.39.010(b) is amended to read:

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

17 \* **Sec. 3.** AS 46.39.030 is amended to read:

18 **Sec. 46.39.030. Powers of the board [DEPARTMENT].** The board  
19 [DEPARTMENT] may

20 (1) apply for and accept grants, contributions, and appropriations,  
21 including application for and acceptance of federal funds that may become available  
22 for coastal planning and management;

23 (2) contract for necessary services;

24 (3) consult and cooperate with

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

28 (B) agents and officials of the coastal resource districts of the  
29 state, and federal and state agencies concerned with or having jurisdiction over  
30 coastal planning and management;

31 (4) take any reasonable action necessary to carry out the provisions of

1 this chapter or AS 46.40.

2 \* **Sec. 4.** AS 46.39.040 is amended to read:

3 **Sec. 46.39.040. Duties of the board [DEPARTMENT].** In conformity with  
4 16 U.S.C. 1451 - 1464 (Coastal Zone Management Act of 1972), as amended, the  
5 **board [DEPARTMENT]** shall

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

9 (2) [ESTABLISH CONTINUING COORDINATION AMONG  
10 STATE AGENCIES TO FACILITATE THE DEVELOPMENT AND  
11 IMPLEMENTATION OF THE ALASKA COASTAL MANAGEMENT PROGRAM;  
12 IN CARRYING OUT ITS DUTIES UNDER THIS PARAGRAPH, THE  
13 DEPARTMENT SHALL INITIATE AN INTERAGENCY PROGRAM OF  
14 COMPREHENSIVE COASTAL RESOURCE PLANNING FOR EACH  
15 GEOGRAPHIC REGION OF THE STATE;

16 (3)] assure continued provision of data and information to coastal  
17 resource districts to carry out their planning and management functions under the  
18 program.

19 \* **Sec. 5.** AS 46.39.900 is amended to read:

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

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

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

25 \* **Sec. 6.** AS 46.40.010 is amended to read:

26 **Sec. 46.40.010. Development of Alaska coastal management program.** (a)  
27 The **Alaska Coastal Policy Board** [DEPARTMENT] shall approve, in accordance  
28 with this chapter, **program changes to** the Alaska coastal management program.

29 (b) The **board** [DEPARTMENT] may approve the Alaska coastal  
30 management program for a portion or portions of the coastal area before approving the  
31 [COMPLETE] program **changes** under (a) of this section. Portions of the program

1 approved under this subsection shall be incorporated into the Alaska coastal  
2 management program.

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

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

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

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

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

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

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

18 \* **Sec. 7.** AS 46.40.020 is amended to read:

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

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

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

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

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

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

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

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

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

12 \* **Sec. 8.** AS 46.40.040(a) is amended to read:

13 (a) Except as provided in [(b) OF THIS SECTION AND] AS 41.17, the  
 14 department shall, with approval by the board,

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

19 (A) identifying the boundaries of the coastal area subject to the  
 20 Alaska coastal management program;

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

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

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

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

30 (F) designating and developing policies for the use of areas of  
 31 the coast that merit special attention; and

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

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

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

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

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

15 (6)] by regulation, establish a consistency review and determination or  
 16 certification process that conforms to the requirements of AS 46.40.096.

17 \* **Sec. 9.** AS 46.40.040(b) is amended to read:

18 (b) AS 46.03, AS 46.04, AS 46.09, AS 46.14, and the regulations adopted  
 19 under those statutes constitute the exclusive enforceable policies of the Alaska coastal  
 20 management program for those purposes. For those purposes only,

21 (1) the issuance of permits, certifications, approvals, and  
 22 authorizations by the Department of Environmental Conservation establishes  
 23 consistency with the Alaska coastal management program for those activities of a  
 24 proposed project subject to those permits, certifications, approvals, and authorizations;

25 (2) for a consistency review of an activity that does not require a  
 26 Department of Environmental Conservation permit, certification, approval, or  
 27 authorization because the activity is a federal activity or the activity is located on  
 28 federal land or the federal outer continental shelf, consistency with AS 46.03,  
 29 AS 46.04, AS 46.09, and AS 46.14 and the regulations adopted under those statutes  
 30 shall be established on the basis of whether the Department of Environmental  
 31 Conservation finds that the activity satisfies the requirements of those statutes and

1 regulations; before making a finding under this paragraph, the Department of  
 2 Environmental Conservation shall provide notice and an opportunity for public  
 3 comment.

4 \* **Sec. 10.** AS 46.40.040 is amended by adding new subsections to read:

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

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

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

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

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

16 (e) To the extent that AS 46.03, AS 46.04, AS 46.09, and AS 46.14 and the  
 17 regulations adopted under those statutes do not address a potential effect on coastal  
 18 resources or uses, the coordinating agency shall review all project activities to ensure  
 19 that air or water discharges are consistent with statewide standards and the enforceable  
 20 policies of the coastal resource district.

21 \* **Sec. 11.** AS 46.40.050 is amended to read:

22 **Sec. 46.40.050. Submission of district plans by coastal resource districts.**

23 (a) A coastal resource district must review and resubmit its coastal management plan  
 24 for reapproval every 10 years after its approval by the board [DEPARTMENT] under  
 25 AS 46.40.060.

26 (b) Within 30 months after certification of the organization of a new coastal  
 27 resource district, the coastal resource district shall complete and submit to the board  
 28 [DEPARTMENT] a proposed district coastal management plan. If, after receipt of a  
 29 written request for extension from the coastal resource district, the board  
 30 [DEPARTMENT] considers an extension proper, the board [DEPARTMENT] may  
 31 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. 12.** AS 46.40.060 is amended to read:

**Sec. 46.40.060. Review and approval [BY THE DEPARTMENT].** (a) If, upon submission of a district coastal management plan for approval, the **board** [DEPARTMENT] finds that the plan meets the provisions of this chapter and the statewide standards and district plan criteria adopted by the **board** [DEPARTMENT] and does not arbitrarily or unreasonably restrict or exclude uses of state concern, the **board** [DEPARTMENT] may approve the district coastal management plan, or may approve portions of the district plan that meet those requirements.

(b) If the **board** [DEPARTMENT] finds that a district coastal management plan is not approvable or is approvable only in part under (a) of this section, **the board** [IT] shall direct that deficiencies in the plan submitted by the coastal resource district be mediated. In mediating the deficiencies, the **board** [DEPARTMENT] may call for one or more public hearings in the district. The **board** [DEPARTMENT] shall meet with officials of the coastal resource district in order to resolve differences.

(c) If, after mediation, the differences have not been resolved **and mutually agreed to by the coastal resource district and the board, the board shall call for a public hearing and shall resolve the differences in accordance with AS 44.62 (Administrative Procedure Act). After the public hearing,** the **board** [DEPARTMENT] 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** [ADOPTED] by the **board** [DEPARTMENT];

(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.

(d) The superior courts of the state have jurisdiction to enforce orders of the **board** [DEPARTMENT] entered under (c) of this section.

\* **Sec. 13.** AS 46.40.070 is amended to read:

1                   **Sec. 46.40.070. Requirements for board [DEPARTMENT] review and**  
 2                   **approval.** (a) The **board** [DEPARTMENT] shall approve a district coastal  
 3 management plan submitted for review and approval if

4                   (1) the district coastal management plan meets the requirements of this  
 5 chapter and the statewide standards and district plan criteria **in regulations** adopted by  
 6 the department **with approval by the board**; and

7                   (2) the enforceable policies of the district coastal management plan

8                   (A) are clear and concise as to the activities and persons  
 9 affected by the policies, and the requirements of the policies;

10                   (B) use precise [, PRESCRIPTIVE,] and enforceable language  
 11 **that is either prescriptive or performance-based**; and

12                   (C) do not address a matter regulated or authorized by state or  
 13 federal law unless the enforceable policies relate specifically to a matter of  
 14 local concern; for purposes of this subparagraph, "matter of local concern"  
 15 means a specific coastal use or resource within a defined portion of the  
 16 district's coastal zone, that is

17                   (i) demonstrated as sensitive to development;

18                   (ii) not adequately addressed by **a specific** state or  
 19 federal law; and

20                   (iii) of **special** [UNIQUE] concern to the coastal  
 21 resource district as demonstrated by local usage or scientific evidence.

22                   (b) A decision by the **board** [DEPARTMENT] under this section shall be  
 23 given within 90 days after submission of the district coastal management plan to the  
 24 **board** [DEPARTMENT].

25                   \* **Sec. 14.** AS 46.40.070 is amended by adding a new subsection to read:

26                   (c) A coastal resource district enforceable policy may address an effect on any  
 27 coastal use or resource and may not be required to be associated with a particular area  
 28 designation.

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

30                   (a) The department shall, **with approval of the board**, by regulation,  
 31 establish a consistency review and determination process that conforms to the

1 requirements of this section.

2 \* **Sec. 16.** AS 46.40.096(b) is amended to read:

3 (b) If a consistency review is not subject to AS 46.39.010 because the project  
4 for which a consistency review is made requires a permit, lease, or authorization from  
5 only one state resource agency, that state resource agency shall coordinate the  
6 consistency review of the project. The state resource agency shall coordinate the  
7 consistency review according to the requirements of the regulations adopted by the  
8 department with approval of the board under this section.

9 \* **Sec. 17.** AS 46.40.096(c) is amended to read:

10 (c) The regulations adopted by the department with approval of the board  
11 under this section must include provisions for public notice and provide the  
12 opportunity for public comment. The regulations adopted under this subsection may  
13 make distinctions relating to notice based upon differences in project type, anticipated  
14 effect of the project on coastal resources and uses, other state or federal notice  
15 requirements, and time constraints. However, a notice given under this subsection  
16 must contain sufficient information, expressed in commonly understood terms, to  
17 inform the public of the nature of the proposed project for which a consistency  
18 determination is sought, and must explain how the public may comment on the  
19 proposed project.

20 \* **Sec. 18.** AS 46.40.096(d) is amended to read:

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

23 (1) request consistency review comments for the proposed project  
24 from state resource agencies, affected coastal resource districts, and other interested  
25 parties as determined by regulation adopted by the department with approval of the  
26 board;

27 (2) prepare proposed consistency determinations;

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

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

3 (B) may occur only if requested by

4 (i) the project applicant;

5 (ii) a state resource agency; or

6 (iii) an affected coastal resource district; and

7 (C) shall be completed by the department with concurrence of  
8 other resource agencies within 45 days after the initial request for subsequent  
9 review under this paragraph;

10 (4) render the final consistency determination and certification.

11 \* **Sec. 19.** AS 46.40.096(g) is amended to read:

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

14 (1) an aspect of an activity that

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

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

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

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

24 \* **Sec. 20.** AS 46.40.096(k) is amended to read:

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

1 U.S.C. 1456 and 15 C.F.R. Part 930.

2 \* **Sec. 21.** AS 46.40.096(*l*) is amended to read:

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

5 (1) activities within the coastal zone; and

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

12 \* **Sec. 22.** AS 46.40.096(*m*) is amended to read:

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

23 \* **Sec. 23.** AS 46.40.096(*o*) is amended to read:

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

25 (1) do not apply to a consistency review involving

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

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

28 (C) an activity permitted by a federal agency;

29 (2) are suspended

30 (A) from the time a review schedule is modified in response  
31 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.

\* **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 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 46.40.210(1) is amended to read:

(1) "area **that** [WHICH] merits special attention" means a delineated geographic area within the coastal area **that** [WHICH] is sensitive to change or alteration and **that** [WHICH], because of plans or commitments or because a claim on the resources within the area delineated would preclude subsequent use of the resources to a conflicting or incompatible use, warrants special management attention, or **that** [WHICH], because of its value to the general public, should be identified for current or future planning, protection, or acquisition; these areas, subject to the **board's** [DEPARTMENT'S] definition of criteria for their identification, include [:]

(A) areas of unique, scarce, fragile, or vulnerable natural habitat, cultural value, historical significance, or scenic importance;

(B) areas of high natural productivity or essential habitat for living resources;

(C) areas of substantial recreational value or opportunity;

(D) areas where development of facilities is dependent upon

1 the utilization of, or access to, coastal water;

2 (E) areas of unique geologic or topographic significance **that**  
3 [WHICH] are susceptible to industrial or commercial development;

4 (F) areas of significant hazard due to storms, slides, floods,  
5 erosion, or settlement; and

6 (G) areas needed to protect, maintain, or replenish coastal land  
7 or resources, including coastal flood plains, aquifer recharge areas, beaches,  
8 and offshore sand deposits;

9 \* **Sec. 30.** AS 46.40.210(4) is amended to read:

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

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

19 (B) areas deleted as a result of any boundary changes by the  
20 **board** [DEPARTMENT] in conformance with 16 U.S.C. 1451 - 1465;

21 \* **Sec. 31.** AS 46.40.210(7) is amended to read:

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

27 \* **Sec. 32.** AS 46.40.210(8) is amended to read:

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

31 \* **Sec. 33.** AS 46.40.210 is amended by adding a new paragraph to read:

- 1 (13) "board" has the meaning given in AS 46.39.900.
- 2 \* **Sec. 34.** AS 46.40.096(i) is repealed.

# FISCAL NOTE

**STATE OF ALASKA**  
**2009 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: **CSSB 4 (CRA)**  
 () Publish Date: \_\_\_\_\_

Identifier (file name): **SB004CS(CRA)-DNR-DCOM-02-02-09** Dept. Affected: Natural Resources  
 Title An Act relating to the Alaska Coastal Management Program. RDU Resource Development  
 Component Coastal and Ocean Management  
 Sponsor Sen. Donny Olson  
 Requester Senate Community and Regional Affairs Committee Component Number 2680

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information					
	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
<b>OPERATING EXPENDITURES</b>							
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	82.0	0.0	82.0	82.0	82.0	82.0	82.0
Contractual	80.0	0.0	30.0	30.0	30.0	30.0	30.0
Supplies	3.0	0.0	3.0	3.0	3.0	3.0	3.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>165.0</b>	<b>0.0</b>	<b>115.0</b>	<b>115.0</b>	<b>115.0</b>	<b>115.0</b>	<b>115.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	165.0	0.0	115.0	115.0	115.0	115.0	115.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Interagency Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>165.0</b>	<b>0.0</b>	<b>115.0</b>	<b>115.0</b>	<b>115.0</b>	<b>115.0</b>	<b>115.0</b>

Estimate of any current year (FY2009) cost: 0.0

**POSITIONS**

Full-time	0	0	0	0	0	0	0
Part-time	0	0	0	0	0	0	0
Temporary	0	0	0	0	0	0	0

**ANALYSIS:** (Attach a separate page if necessary)

CSSB 4(CRA) will have the following fiscal impact:

1. Travel - It is expected that the Coastal Policy Board (CPB) will need to meet at least four times annually to fulfill the obligations and provide the services outlined in CSSB 4 (CRA). Travel (including air, hotel, and per diem) for appointed members, designated members, and state agency staff is included.
2. Contractual - In order to re-write the guiding regulations, DNR must secure contractual services for the promulgation and final Department of Law review of the regulations (FY 2010 only). In addition, contractual services for the CPB meetings must be procured, and will be an annual expense.
3. Supplies - The CPB meetings will require some level of supplies for ensuring the members have proper materials.

Prepared by: Randy Bates, Director Phone 465-8797  
 Division Coastal and Ocean Management Date/Time February 2, 2009  
 Approved by: Tom Irwin, Commissioner Date February 2, 2009  
Natural Resources

## FISCAL NOTE

STATE OF ALASKA  
2009 LEGISLATIVE SESSION

BILL NO. CSSB 4 (CRA)

### ANALYSIS CONTINUATION

4. Although not contemplated above as an additional expense, it is expected that coastal districts will choose to revise, amend, and seek approval for their coastal district plans. No funding is included in this fiscal note for Coastal District Plan revisions. DNR does not typically set aside any funding for plan revisions.

# FISCAL NOTE

**STATE OF ALASKA**  
**2009 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB 4  
 () Publish Date: \_\_\_\_\_

Identifier (file name): SB4-DEC-CO-1-30-09  
 Title: Coastal Management Program  
 Sponsor: Senator Olson  
 Requester: Senate Community and Regional Affairs Committee  
 Dept. Affected: Dept. of Environmental Conservation  
 RDU: Administration  
 Component: Office of the Commissioner  
 Component Number: 633

## Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information					
OPERATING EXPENDITURES	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Personal Services	86.8		86.8	86.8	86.8	86.8	86.8
Travel	12.5		12.5	12.5	12.5	12.5	12.5
Contractual	10.4		10.4	10.4	10.4	10.4	10.4
Supplies	6.9		0.5	0.5	0.5	0.5	0.5
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>116.6</b>	<b>0.0</b>	<b>110.2</b>	<b>110.2</b>	<b>110.2</b>	<b>110.2</b>	<b>110.2</b>

<b>CAPITAL EXPENDITURES</b>							
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<b>CHANGE IN REVENUES ( )</b>							
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## FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts	116.6	0.0	110.2	110.2	110.2	110.2	110.2
<b>TOTAL</b>	<b>116.6</b>	<b>0.0</b>	<b>110.2</b>	<b>110.2</b>	<b>110.2</b>	<b>110.2</b>	<b>110.2</b>

Estimate of any current year (FY2009) cost: 0.0

## POSITIONS

Full-time							
Part-time	0.5	0.5	0.5	0.5	0.5	0.5	0.5
Temporary							

## ANALYSIS: (Attach a separate page if necessary)

This legislation amends Alaska statutes related to the Alaska Coastal Management Program (ACMP). The bill requires that the Department of Environmental Conservation process its permits in accordance with the ACMP coastal consistency review procedures where permits are currently processed independent from those procedures. The increased work load for existing staff is estimated at one-half of the salary cost of a Range 19 position.

In addition to increasing the effort required to process a permit, the changes require a new half-time position to serve as ACMP lead for DEC with responsibility for internal and external coordination of ACMP matters. The fiscal note reflects the personnel and support costs of a new, part-time (0.5 FTE, Range 20) position to serve as DEC's ACMP Program Coordinator. First-year costs include one-time supply costs that are not reflected in subsequent years.

Prepared by: Marit Carlson-VanDort Phone: 465-5065  
 Division: Commissioner's Office Date/Time: 2/2/09 12:00 AM  
 Approved by: Dan Easton Date: 2/3/2009  
Deputy Commissioner

# North Slope Borough

## OFFICE OF THE MAYOR

P.O. Box 69  
Barrow, Alaska 99723  
Phone: 907 852-2611 or 0200  
Fax: 907 852-0337 or 2595  
email: edward.itta@north-slope.org

*Edward S. Itta, Mayor*



February 3, 2009

Senator Donny Olson  
Alaska State Legislature  
State Capitol, Room 514  
Juneau, Alaska 99801

Sent by fax: \_\_\_\_\_

**RE: SB 4 Alaska Coastal Management Program**

Dear Senator Olson:

Thank you for pre-filing SB 4 about the Alaska Coastal Management Program (ACMP). I understand the Senate Community and Regional Affairs Committee will be considering adopting a committee substitute similar to the version of this bill in the House. The North Slope Borough (Borough) supports the committee substitute because it will restore meaningful local involvement in the ACMP, implement checks and balances and streamline project reviews.

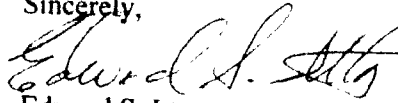
The Borough appreciates the sections of the proposed committee substitute that clarify the ability of coastal districts to establish enforceable policies, especially the provisions in AS 46.40.030 and 070. While the 2003 legislative changes to the ACMP allowed coastal districts to establish policies for matters not adequately addressed by state or federal law, many of our proposed enforceable policies were denied on the basis that they addressed an agency's authority. We made an extra effort to focus our proposed policies on matters that were not addressed by existing laws, but still they were denied.

The committee substitute for SB 4 would restore checks and balances to the ACMP by establishing the Coastal Policy Board. This body would represent coastal districts and state agencies. It would be responsible for approving changes to ACMP regulations, amendments to coastal district programs and overall grant programs. This body is similar to the former Coastal Policy Council except that it has fewer members and it is not responsible for project consistency reviews. Restoring the responsibility for project elevations to the three state resource agencies will ensure these agencies have a seat at the table.

The Borough also supports the sections of the proposed committee substitute that streamline project reviews. The ACMP used to be an effective program that resolved issues among local, state and federal agencies, but changes to the program statutes and regulations reduced its effectiveness. Bringing the Alaska Department of Environmental Conservation back into the consistency review process will bring air and water quality issues back into ACMP project reviews. Likewise, allowing coastal districts to have meaningful policies will encourage their participation in the coordinated consistency review process. These changes will streamline project reviews because issues can be resolved early in the process by all parties. The changes will also encourage permitting agencies to ensure their permit stipulations are compatible and reasonable.

Again, the North Slope Borough thanks you for introducing SB 4, and I look forward to testifying on this bill as it moves through the committee process.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward S. Itta". The signature is fluid and cursive, with the first name "Edward" being more prominent.

Edward S. Itta  
Mayor

cc     Johnny Aiken, NSB Director Planning & Community Services  
       Karla Kolash, NSB Mayor's Office  
       Andy Mack, NSB Mayor's Office

# NORTHWEST ARCTIC BOROUGH

P.O. Box 1110

Kotzebue, Alaska 99752

(907) 442.2500 or (800) 478.1110

Fax: (907) 442.3740 or 2930

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February 3, 2009

Honorable Senator Donny Olson

Capitol, Room 514

Juneau, Alaska 99811

Honorable Representative Reggie Joule

Capitol, Room 502

Juneau, Alaska 99801

**Re: SB 4 and HB 74 Alaska Coastal Management Program**

Dear Senator Olson and Representative Joule:

The Northwest Arctic Borough (NWAB) would like to thank you for the introduction of SB 4 and HB 74 on the Alaska Coastal Management Program (ACMP). On behalf of the Borough, I would like to address the substance of HB 74 because we understand the Senate Community and Regional Affairs Committee will consider adoption of the provisions of HB 74 into a senate committee substitute.

The NWAB supports the proposed legislation that would restore the ability of coastal districts to effectively participate in the program and establish meaningful policies under the ACMP; therefore providing valuable local input to development that happens in a very large and unique state. Another important provision in the bills would establish a board made of Alaskans to oversee the major aspects of ACMP as a publicly funded program. The proposed board would jointly represent state agencies and local coastal districts thereby restoring effective public engagement in the ACMP.

Currently, only the Alaska Department of Natural Resources (DNR) as a single agency makes all coastal management decisions. This has proved to be very one-sided and frustrating. For example, as you may know, during 2008 the NWAB attempted mediation with DNR to improve the decisions regarding our coastal management plan. Unfortunately, the mediation ended in an impasse with the majority of the proposed plan flat out denied. According to the

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Fax: (907) 442.3740 or 2930

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ACMP now, our only re-course for a fair review is again to go back to the DNR commissioner for re-consideration of a decision that has already been made by the commissioner and his staff. As you can see, the ability to obtain a third party review that involves the public is not possible under the current program, and the new provisions in this bill will help prevent such a future problematic situation and provide state staff the clear criteria and direction for approval of coastal district policies with involvement of the coastal policy board.

The NWAB also supports the addition of subsistence to the ACMP objectives in AS 46.40.020. Until changes made by the Murkowski Administration, the ACMP has been an effective tool balancing resource development and protection of our coastal resources that support healthy subsistence. It is very important that Alaskans have the ability to propose local policies that demonstrate the real life connection of people and communities to coastal areas and actually reflect the close relationship Alaskan residents have to this land, the coastal zones and our valuable subsistence way of life. For the NWAB, the ability to cooperatively work with developers and the state to address subsistence impacts is the primary reason for participating in the ACMP so that development honors our long-time and permanent Alaskans lifestyles.

We also support provisions in the bill that would bring activities covered by the Alaska Department of Environmental Conservation back into the ACMP consistency review process. Impacts to air and water quality also affect habitat and subsistence, and it makes sense to address these issues together in a consolidated format during a single consistency.

The NWAB encourages responsible development of our natural resources. We recognize the economic importance of development in providing new revenues to fund local public services and facilities, and to provide steady employment opportunities in rural areas. However, it is important that local coastal districts have a role in voicing valid concerns and potential impacts to subsistence and other coastal uses and resources - all to ensure that we are doing resource development the right way.

In closing, these bills restore a meaningful role for coastal districts to facilitate effective future development opportunities. I appreciate your interest in improving the ACMP, and I look

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## NORTHWEST ARCTIC BOROUGH

P.O. Box 1110

Kotzebue, Alaska 99752

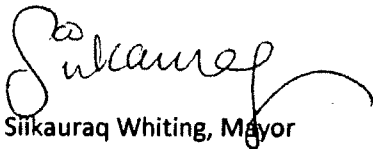
(907) 442.2500 or (800) 478.1110

Fax: (907) 442.3740 or 2930

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forward to working with you during this legislative session. Please contact me or Ukallaysaaq Tom Okleasik if you have any questions about our proposed plan at (907) 442-2500.

Sincerely,



Siikauraq Whiting, Mayor

Cc: Ukallaysaaq Tom Okleasik, Planning Director  
Alagialq Grant Hildreth, Deputy Planning Director  
Kill'aq John Chase, Community Planner & Coastal Area Specialist

February 18, 2009

MEMO TO: Administrator Jim Dinley  
Mayor and Assembly

FROM: Marlene Campbell, Government Relations Director  
(and Coastal Management Coordinator)

SUBJECT: Resolution Supporting Revisions to Alaska Coastal Management Program

Your approval or modification of proposed Resolution 2009-32 is requested to affirm CBS support for "legislation to enable Alaska's Coastal Communities To More Effectively Participate in the Alaska Coastal Management Program (ACMP)". There are several bills (HB 74, SB 4, and possibly others) being considered by the Legislature which could help rebuild the ACMP.

When House Bill 191 substantially changed the ACMP in 2003, all coastal plans had to be rewritten. Sitka lost more than half of its enforceable policies which must be considered in coastal consistency reviews and other proposals for projects within the City and Borough of Sitka. Sitka's Coastal Plan has been a model of effective coastal management since it was first approved in 1981. The Sitka Plan's 1989 major amendment was even more specific, with enforceable policies which permitted the City and Borough of Sitka and the Sitka community to have a "seat at the table" in management decision making on uses and activities in Sitka's coastal zone.

This local "due deference" has almost entirely been lost since the forced revision of Sitka's program approved in April, 2007. Other changes such as not permitting policies relating to air or water quality and removing the Department of Environmental Conservation (DEC) from the ACMP process have greatly reduced coastal communities' ability to comment. The movement of the Alaska Coastal Management Program from the Governor's office to the Department of Natural Resources Division of Coastal and Ocean Management has proved damaging to the former positive relationship the coastal communities enjoyed with the former Alaska Division of Governmental Coordination. DNR's mission as manager of the development and use of Alaska's natural resources is inconsistent with the protection and public use of those same resources for which the ACMP previously provided a balanced perspective.

The attached petition discusses some key issues which from Alaska's Coastal Management Program coordinators' perspectives would help restore some of the major losses of the ACMP and greatly improve Sitka's ability to comment on Coastal Management permits and activities. Sitka's program has since its inception supported active involvement in the ACMP, and the proposed legislation will permit Sitka to have "standing" to comment on ACMP issues which is now not possible for the most part. Since the specific bills addressing these issues could change, the resolution supports the key provisions rather than just certain bills.

If there are questions please contact Marlene Campbell at 747-1855 ([campbell@cityofsitka.com](mailto:campbell@cityofsitka.com) e-mail).

**CITY AND BOROUGH OF SITKA**

**RESOLUTION 2009-32**

**A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF SITKA,  
ALASKA, SUPPORTING LEGISLATION TO ENABLE ALASKA'S COASTAL  
COMMUNITIES TO MORE EFFECTIVELY PARTICIPATE IN THE ALASKA  
COASTAL MANAGEMENT PROGRAM (ACMP)**

WHEREAS, the "streamlined ACMP process" which resulted from the passage of House Bill 191 in 2003, and its implementation by regulations and statutory amendments, forced the complete revision of all Alaska Coastal Management Plans in Alaska, including Sitka's; and

WHEREAS, as a result, Sitka lost more than half of its enforceable policies (the only section of coastal plans which had standing to be considered as part of the ACMP review process for permits and management decision-making affecting coastal communities), and those policies remaining were so restricted as to be virtually un-usable in coastal comments; and

WHEREAS, there has been an increasing, widespread effort to revise the ACMP to help coastal Alaskan communities regain a "seat at the table" in management decision making affecting Alaska's coastal zone, and reign in the Department of Natural Resources which is charged with managing the State's resources but now also makes all coastal management decisions on developing those same resources; and

WHEREAS, prior to the ACMP's revisions, the Sitka Coastal Management Program had been a model of effective coastal management, allowing the Sitka community to have due deference and protect local resources and activities while permitting responsible development; and

WHEREAS, House Bill 74 sponsored by Representative Joule and Senate Bill 4 sponsored by Senator Olson are being considered by the Alaska Legislature, and this legislation could help restore a meaningful role for coastal municipalities such as Sitka in the ACMP, including the following key provisions (among others):

- Establishes Alaska Coastal Policy Board with 5 public members representing coastal districts and 5 commissioners of resource agencies to make ACMP policy decisions.
- Establishes duties of the Board to approve ACMP standards and criteria for district plans.
- Adds subsistence to the list of resources included in the ACMP objectives.
- Restores local plan ability to write meaningful enforceable policies by enabling policies to be either prescriptive or performance-based, stricter or more specific than state or federal laws, and clarifies policies apply to all land and water uses subject to the plan.
- Eliminates the "DEC carve-out" exempting DEC permits from consistency reviews.
- Allows ACMP consistency reviews of projects inland of the coastal zone if there would be direct and significant impacts to coastal uses or resources;
- Permits meaningful local participation in the ACMP through expanded enforceable policies

47           addressing a wide range of coastal uses.

NOW, THEREFORE, BE IT RESOLVED that the Assembly of the City and Borough of Sitka, Alaska, supports the revision of the Alaska Coastal Management Program to restore these key provisions and permit the City and Borough of Sitka to better manage its coastal zone per the Alaska State Constitution's provision for maximum local self-government.

PASSED AND APPROVED by the Assembly of the City and Borough of Sitka, Alaska, on this twenty-fourth day of February, 2009.

\_\_\_\_\_  
Scott McAdams, Mayor

ATTEST:

\_\_\_\_\_  
Colleen Ingman, MMC  
Municipal Clerk

**CS Senate Bill 4 (CR&A)**  
**Alaska Coastal Management Program (ACMP)**  
**HIGHLIGHTS**  
**January 26, 2009**

**Streamlines Project Reviews and District Plan Approvals**

- Brings DEC permits back into the coordinated ACMP project review process
  - Eliminates need for a separate DEC review to determine ACMP consistency
  - Reduces confusion with current process about scope of ACMP review
- Promotes interagency cooperation and issue resolution
  - Encourages coordination of municipal Title 29 permitting with the ACMP process
    - Meaningful district policies will encourage local participation and resolution of issues during the state-coordinated ACMP review<sup>1</sup>
  - Reduces chances for conflicting permit conditions (federal, state and local permits)
  - Encourages early resolution of project issues
- Allows coastal districts to have performance-based enforceable policies<sup>2</sup>

**Restores Checks and Balances**

- Establishes streamlined Coastal Policy Board (CPB)
  - The 9-member CPB represents coastal districts, DNR, DEC, ADF&G, and DCCED<sup>3</sup>
  - Board provides guidance on 3 matters by approving:
    - 1) District coastal plans, 2) Grant programs, & 3) ACMP regulations
  - DNR retains day-to-day management of all ACMP matters
  - DNR retains responsibility for project consistency reviews
- Involves all 3 state resource agencies in project elevations (pre-decision appeals)
- Allows districts to keep their existing plan (no requirement to amend plan as in 2003 legislation)
- Encourages districts to resolve issues with DNR before their plan is reviewed by the CPB

**Restores Traditional Role of Coastal Districts**

- Allows districts to establish local enforceable policies that do not conflict with state or federal law or address matters preempted by state or federal agencies
- Restores intent of the ACMP
  - Original 1977 Alaska Coastal Management Act emphasized role of local coastal districts
  - The 2004 Murkowski Administration ACMP regulations conflicted with 2004 legislation by eliminating ability to establish district enforceable policies for matters not adequately addressed by state or federal law

**Restores States' Rights**

- Reinstates provisions eliminated by the 2003 legislation to assert state rights
  - Allows extension of the 90-day review limit for reviews with federal permits
  - Allows review of projects inland of the coastal zone if there are coastal effects
  - Allows for review of individual oil and gas lease sales in federal OCS waters

<sup>1</sup> Before the 2003 ACMP changes, less than 1% of projects were appealed.

<sup>2</sup> Performance-based policies are preferred by industry (rather than policies that prescribe a specific action)

<sup>3</sup> The former Coastal Policy Council was originally a 17-member body that had responsibility for project reviews.

# Alaska Coastal Management Program



## Program Goals and Objectives

The Alaska Coastal Management Program (ACMP) oversees the responsible development of coastal uses and resources, federal activities within the coastal zone, and activities on the Outer Continental Shelf.

## ACMP Structure and Organization

The ACMP is a voluntary State program, authorized by the Coastal Zone Management Act of 1972, as amended. The Division of Coastal and Ocean Management (DCOM), within the Department of Natural Resources, is the lead agency for the ACMP. Several State departments and agencies participate in the implementation of the ACMP. In addition, several coastal municipalities and service areas (collectively known as coastal districts) voluntarily participate in the implementation of the ACMP. This structure and organization of State agencies and coastal districts provides for a networked implementation scheme designed to comprehensively manage coastal uses and resources.

The primary tool used to implement the ACMP is the consistency review process at 11 AAC 110. Through this process, proposed resource development activities are reviewed for consistency and compliance with the State's coastal management program which includes State laws, State standards, and district enforceable policies.

## Value of ACMP

Having a federally-approved coastal management program allows the State the opportunity to:

- Balance the need for economic investment and development in coastal areas with the need to protect and manage the uses and resources of coastal areas
- Act as the State's liaison to federal agencies (1) conducting/permitting activities within the State's coastal area and the Outer Continental Shelf; (2) involving federal laws/initiatives that effect development of the coastal zone, waters, uses or resources of the State
- Act as the department's lead on issues affecting or addressing the coastal waters affecting the State
- Apply State ACMP enforceable policies to federal agency activities
- Provide project applicants with a single point of contact for the State's review of resource development permit applications
- Incorporate coastal district input and knowledge for reasoned decisions

## Key FY 2008 and FY 2009 Priorities and Needs

- Educate and train participants on implementation of ACMP
- Re-evaluate the ACMP Statutes (AS 46.39 and 40) and Regulations (11 AAC 110, 112, 114), so to strengthen the ACMP as a State program
- Implement the approved Coastal Impact Assistance Program (CIAP) and act as the liaison between the federal government and the State of Alaska

A Program of the  
Division of Coastal and  
Ocean Management



"The Alaska Coastal Management Program provides stewardship for Alaska's rich and diverse coastal resources to ensure a healthy and vibrant Alaskan coast that efficiently sustains long-term economic and environmental productivity."



ALASKA DEPARTMENT OF NATURAL RESOURCES · DIVISION OF COASTAL AND OCEAN MANAGEMENT ·  
JUNEAU OFFICE: 302 GOLD ST, SUITE 202, PO BOX 111030 · JUNEAU, AK 99811-1030 · T: 907.465.3562 · F: 907.465.3075  
ANCHORAGE OFFICE: 550 W 7TH AVE., SUITE 705 · ANCHORAGE, AK 99501-3559 · T: 907.269.7470 · F: 907.269.3981  
WWW.ALASKACOAST.STATE.AK.US

## Alaska Coastal Management Program



### Key 2008 Calendar Year Accomplishments

- In June 2008, DNR/DCOM initiated a series of workshops to review the current ACMP statutes (AS 46.39 and 46.40) and regulations (11 AAC 110, 112, and 114). The purpose of the re-evaluation is to strengthen the ACMP as a State program, that will benefit applicants and the public in the coordinating project reviews and that will enhance coastal district participation regarding activities occurring in the coastal area and on the outer continental shelf.
- DNR is currently revising the list of expedited consistency reviews using the ABC List. This revision was initiated to meet the legislative intent of identifying and broadening categories of activities subject to the expedited consistency review process. AS 46.40.096(m) SB 102 (2005) requires that DNR establish in regulation the state resource agency permits and federal permits that would trigger a consistency review. The ABC List categorizes development activities in the Coastal Zone according to expected levels of impact on uses and resources in the Zone. The last time the ABC List was substantively amended was in 1995. The current revision initiative will clarify the review process for certain resource development projects that are "de minimis" in nature or that are routine and can be made consistent with standard alternative measures. By updating the ABC List and developing new expedited consistency reviews for routine activities, DNR expects to reduce the workload for State agencies and coastal districts.
- In September 2008, the federal Minerals Management Service approved the State of Alaska Coastal Impact Assistance Program (CIAP) plan, making Alaska eligible to receive approximately \$9.7 million in federal funds under the CIAP initiative. Due to an increase in OCS revenue off the coast of Alaska, the state's portion of CIAP funds will increase by more than \$53 million in the next two fiscal years. DCOM is currently working on amending the CIAP plan to reflect Alaska's new allocation. A portion of the funds will go to 8 municipalities that are within 200 nautical miles of OCS development, and a portion will be offered to State agencies and the public through a competitive grant process.
- During the 2008 calendar year, nine more coastal district plans went into effect, bring the total of approved coastal district management plans to 25.
- During the 2008 calendar year, DCOM performed 262 coordinated or expedited consistency reviews, issued 415 No Additional Reviews and 29 Single Agency Reviews for resource development projects within the coastal zone.

### ACMP State Contact

Randy Bates, Director - DCOM, T: 907.465.8797, F: 907.465.3075  
E-mail: [randy.bates@alaska.gov](mailto:randy.bates@alaska.gov)



ACMP Originally Approved:  
**1979**

Coastal Population in 1979:  
**330,960**

Coastal Population in 2004:  
**538,332**

Miles of Coastline:  
**44,500**

CZMA Funds:  
**\$2,503,000**

State and Other  
Matching Funds:  
**\$1,967,000**

Total:  
**\$4,470,000**



ALASKA DEPARTMENT OF NATURAL RESOURCES · DIVISION OF COASTAL AND OCEAN MANAGEMENT  
JUNEAU OFFICE: 302 GOLD ST, SUITE 202, PO BOX 111030 · JUNEAU, AK 99811-1030 · T: 907.465.3562 · F: 907.465.3075  
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[WWW.ALASKACOAST.STATE.AK.US](http://WWW.ALASKACOAST.STATE.AK.US)



Roger D. (Dale) Summerlin  
Vice President  
Health, Safety & Environment

P.O. Box 100360  
Anchorage, AK 99510-0360  
Phone 907 263 4682  
Fax 907 263 4438

February 4, 2009

The Honorable Donald Olson  
Chairman, Senate Committee on Community & Regional Affairs  
Alaska State Legislature  
Alaska State Capitol, Room 514  
Juneau, Alaska 99801

**VIA FAX TO (907) 465-4821  
& Next Day UPS Delivery**

RE: Proposed Senate Bill No. 4  
An Act Relating to the Alaska Coastal Management Program (ACMP)  
Establishment of the Alaska Coastal Policy Board  
State Statutes AS 46.39 and AS 46.40

Dear Senator Olson:

ConocoPhillips Alaska, Inc. (CPAI) has prepared this formal response to proposed Senate Bill No. 4, an act relating to the Alaska Coastal Management Program (ACMP) and establishment of an Alaska Coastal Policy Board, and offers the following comments for your consideration.

**Retention of the Current Program**

CPAI has been, and remains, a supporter of the centralized ACMP process which resulted from the passage of House Bill (HB) 191 in 2003 and was later implemented by regulations and statutory amendments. In 2003, the Alaska Legislature concluded that "the Alaska coastal management program (ACMP) is intended to function with a minimum of delay and avoid regulatory confusion, costly litigation, and uncertainty regarding the feasibility of new investment." In addition, the legislature stated that statewide standards "be clear, and concise and provide the needed predictability as to the application, scope, and timing of the consistency review process of the program."

Proposed changes in Senate Bill (SB) No. 4 would allow districts to restrict selected activities within their coastal district; these activities will undoubtedly involve uses of state concern and/or may involve matters already adequately addressed by existing regulatory programs. Decision-making authority concerning the management and use of state resources vests with the State.

The current program's approach eliminates enforceable policies which may be conflicting between coastal districts, state, and federal agencies, and which could result in a loss of

Page 2  
February 4, 2009

conformity of district policies that currently exists in the ACMP program. The existing statewide standards provide clear and concise predictability to the ACMP process. Coastal districts are still afforded the ability to propose enforceable policies that conform to the district plan approval criteria and requirements outlined in 46.40.040 and 46.40.070; or those that are not duplicative, restate existing state or federal policies, and do not redefine, replace, or otherwise modify existing standards. From an applicant's perspective, the retention of the centralized ACMP will provide applicants with assurances of an efficient permitting process.

**Elimination of the Alaska Department of Environmental Conservation (ADEC) Carve Out (AS 46.40.040 and 46.40.096)**

CPAI believes the ADEC carve out should be retained in its present form and the carve out should not be eliminated from the ACMP program. CPAI believes there is significant misunderstanding by many stakeholders on this matter. Approvals for air, water, and C-Plan permits require public notice and public comment periods which allow for public input. The public notice and comment periods for these permits were not negatively affected by carving out the ADEC permits. Timelines associated with these approval processes are at least six months in duration, far longer than the existing 50- to 90-day ACMP coordination process. In addition, the timelines for public participation do not align with the intent or the process of the ACMP program which is one of thoughtful timely coordination and decision-making.

Eliminating the ADEC carve out will re-introduce conflicting regulatory mandates between ADEC and the ACMP process, and will delay the start of the consistency review process. Adequate public participation and opportunities for review by coastal districts is provided in the existing program. Adequate environmental protection is being provided by ADEC, regardless of whether or not their approvals are part of a consistency review process.

In closing, as we look at the substantial nature of the changes proposed in SB 4, we ask the question: Why? Since the passage of HB 191, have resource development projects been permitted by the state where a coastal district's input and concerns have not been accommodated? Is this change going to help motivate resource development projects in this state? We suggest that the current program is working as intended and changes are neither necessary nor desirable.

Sincerely,



Roger D. (Dale) Summerlin

cc: All Legislators

**Division of Coastal and Ocean Management**  
**CZMA fund summary**  
 State Fiscal Year 2008 (federal FY 2007)

<b>Section 306- Program Implementation</b>		<b>Federal Funds</b>	<b>State Funds (match)</b>	<b>Total</b>	<b>Notes</b>
<i>Requires 1:1 Match</i>					
DCOM Admin/Implementation of program		\$769,500.00	\$1,214,500.00	\$1,983,999.00	DCOM overmatches federal funds to make up for coastal district match (see below)
Coastal District Plan Development and Implementation		\$710,000.00	\$265,000.00	\$975,000.00	DCOM meets the additional match requirements of \$445,000.00
State Agency Implementation		\$487,500.00	\$487,500.00	\$975,000.00	State agencies meet required 1:1 match
<b>Total 306 Funds</b>		<b>\$1,967,000.00</b>	<b>\$1,967,000.00</b>	<b>\$3,933,999.00</b>	

<b>Section 309 - Result in Program Change</b>		<b>Federal</b>	<b>State Funds (match)</b>	<b>Total</b>	<b>Notes</b>
<i>No Match Required</i>					
DCOM Publications/Communications		\$103,248.00	\$0.00	\$103,248.00	Outreach & Education
Competitive Grants		\$272,000.00	\$0.00	\$272,000.00	Coastal districts and state agencies compete for funds to make a program change or implement a change to the ACMP
Information Tech		\$97,759.00	\$0.00	\$97,759.00	Business Information System for DNR
Coastal Nonpoint Source Pollution		\$62,993.00	\$0.00	\$62,993.00	Sub-Awarded out to District(s)
<b>Total 309 Funds</b>		<b>\$536,000.00</b>	<b>\$0.00</b>	<b>\$536,000.00</b>	

# Which Coastal District is Your Community In?

CITY	DISTRICT	CITY	DISTRICT
Adak .....	Aleutians West CRSA	Chignik Lagoon ...	Lake and Peninsula Borough
Akhiok .....	Kodiak	Chignik Lake .....	Lake and Peninsula Borough
Akiachak .....	Ceñaliulriit CRSA	Chugiak .....	Anchorage
Akiak .....	Ceñaliulriit CRSA	Clam Gulch .....	Kenai Peninsula
Akutan .....	Aleutians East	Clark's Point .....	Bristol Bay CRSA
Alakanuk .....	Ceñaliulriit CRSA	Coffman Cove .....	None*
Aleknagik .....	Bristol Bay CRSA	Cohoe .....	Kenai Peninsula
Alexander Creek .....	Mat-Su Borough	Cold Bay .....	Aleutians East
Ambler .....	Northwest Arctic	Cooper Landing .....	Kenai Peninsula
Amchitka .....	Aleutians West CRSA	Cordova .....	Cordova
Anaktuvuk Pass .....	North Slope Borough	Council .....	Bering Straits CRSA
Anchor Point .....	Kenai Peninsula	Craig .....	Craig
Anchorage .....	Anchorage	Cube Cove .....	None*
Angoon .....	Angoon	Deadhorse .....	North Slope Borough
Aniak .....	Ceñaliulriit CRSA	Deering .....	Northwest Arctic
Atka .....	Aleutians West CRSA	Dillingham .....	Bristol Bay CRSA
Atmautluak .....	Ceñaliulriit CRSA	Diomedes .....	Bering Straits CRSA
Atkasuk .....	North Slope Borough	Dora Bay .....	None*
Attu .....	Aleutians West CRSA	Douglas .....	Juneau
Barrow .....	North Slope Borough	Dutch Harbor .....	Aleutians West CRSA
Bethel .....	Bethel	Eagle River .....	Anchorage
Big Lake .....	Mat-Su Borough	Edna Bay .....	None*
Bird Creek .....	Anchorage	Eek .....	Ceñaliulriit CRSA
Brevig Mission .....	Bering Straits CRSA	Egegik .....	Lake and Peninsula Borough
Buckland .....	Northwest Arctic	Ekuk .....	Bristol Bay CRSA
Candle .....	Northwest Arctic	Ekwok .....	Bristol Bay CRSA
Cape Chiniak .....	None*	Elfin Cove .....	None*
Cape Pole .....	None*	Elim .....	Bering Straits CRSA
Cape Yakataga .....	None*	Elmendorf AFB .....	Anchorage
Chefornak .....	Ceñaliulriit CRSA	Emmonak .....	Ceñaliulriit CRSA
Chenega Bay .....	None*	English Bay .....	Kenai Peninsula
Chevak .....	Ceñaliulriit CRSA	Excursion Inlet .....	None*
Chickaloon .....	Mat-Su Borough	Eyak .....	Cordova
Chignik .....	Lake and Peninsula Borough	False Pass .....	Aleutians East
Chignik Bay .....	Lake and Peninsula Borough	Fortuna Ledge .....	Ceñaliulriit CRSA

\*Note: "None" means a coastal community not within a coastal district.

CITY	DISTRICT
Ft. Richardson .....	Anchorage
Funter Bay .....	None*
Gambell .....	Bering Straits CRSA
Girdwood .....	Anchorage
Golovin .....	Bering Straits CRSA
Goodnews Bay .....	Ceñaliulriit CRSA
Gravina Island .....	Ketchikan
Gustavus .....	None*
Haines .....	Haines
Halibut Cove .....	Kenai Peninsula
Happy Valley .....	Kenai Peninsula
Hawkins Island .....	None*
Hinchinbrook Island .....	None*
Hobart Bay .....	None*
Hollis .....	None*
Homer .....	Kenai Peninsula
Hoonah .....	Hoonah
Hooper Bay .....	Ceñaliulriit CRSA
Hope .....	Kenai Peninsula
Houston .....	Mat-Su Borough
Hydaburg .....	Hydaburg
Igiugig .....	Lake and Peninsula Borough
Iliamna .....	Lake and Peninsula Borough
Indian .....	Anchorage
Ivanof Bay .....	Lake and Peninsula Borough
Juneau .....	Juneau
Kachemak .....	Kenai Peninsula
Kake .....	Kake
Kaktovik .....	North Slope Borough
Kalgin Island .....	Kenai Peninsula
Karluk .....	Kodiak
Kasaan .....	None*
Kasigluk .....	Ceñaliulriit CRSA
Kasilof .....	Kenai Peninsula
Kenai .....	Kenai Peninsula
Ketchikan .....	Ketchikan
Kiana .....	Northwest Arctic
King Cove .....	Aleutians East
King Salmon .....	Bristol Bay Borough

CITY	DISTRICT
Kipnuk .....	Ceñaliulriit CRSA
Kivalina .....	Northwest Arctic
Klawock .....	Klawock
Klukwan .....	None*
Kobuk .....	Northwest Arctic
Kodiak .....	Kodiak
Kokhanok .....	Lake and Peninsula
Kokhanok Bay .....	Lake and Peninsula
Koliganek .....	Ceñaliulriit CRSA
Kongiganak .....	Ceñaliulriit CRSA
Kotlik .....	Ceñaliulriit CRSA
Kotzebue .....	Northwest Arctic
Koyuk .....	Bering Straits CRSA
Kuiu Island .....	None*
Kupreanof .....	None*
Kwethluk .....	Ceñaliulriit CRSA
Kwigillingok .....	Ceñaliulriit CRSA
Labouchere Bay .....	None*
Lake Louise .....	Mat-Su Borough
Larsen Bay .....	Kodiak
Levelock .....	Lake and Peninsula
Long Island .....	None*
Lower Kalskag .....	Ceñaliulriit CRSA
Manokotak .....	Bristol Bay CRSA
Marshall .....	Ceñaliulriit CRSA
Mekoryuk .....	Ceñaliulriit CRSA
Metlakatla .....	None*
Meyers Chuck .....	None*
Moose Pass .....	Kenai Peninsula
Mountain Village .....	Ceñaliulriit CRSA
Mt. Edgecumbe .....	Sitka
Naknek .....	Bristol Bay Borough
Nanwalek .....	Kenai Peninsula
Napakiak .....	Ceñaliulriit CRSA
Napaskiak .....	Ceñaliulriit CRSA
Naukati .....	None*
Nelson Lagoon .....	Aleutians East
New Stuyahok .....	Bristol Bay CRSA
Newhalen .....	Lake and Peninsula

\*Note: "None" means a coastal community not within a coastal district.

CITY	DISTRICT
Newtok .....	Ceñaliulriit CRSA
Nightmute .....	Ceñaliulriit CRSA
Nikiski .....	Kenai Peninsula
Nikolski .....	Aleutians West CRSA
Ninilchik .....	Kenai Peninsula
Noatak .....	Northwest Arctic
Nome .....	Nome
Nondalton .....	Lake and Peninsula
Noorvik .....	Northwest Arctic
Nuiqsut .....	North Slope Borough
Nunapitchuk .....	Ceñaliulriit CRSA
Old Harbor .....	Kodiak
Oscarville .....	Ceñaliulriit CRSA
Ouzinkie .....	Kodiak
Palmer .....	Mat-Su Borough
Pedro Bay .....	Lake and Peninsula Borough
Pelican .....	Pelican
Pennock Island .....	Ketchikan
Perryville .....	Lake and Peninsula Borough
Petersburg .....	Petersburg
Pilot Point .....	Lake and Peninsula Borough
Pilot Station .....	Ceñaliulriit CRSA
Pitkas Point .....	Ceñaliulriit CRSA
Platinum .....	Ceñaliulriit CRSA
Point Baker .....	None*
Point Hope .....	North Slope Borough
Point Lay .....	North Slope Borough
Polk Inlet .....	None*
Port Alexander .....	None*
Port Alsworth .....	Lake and Peninsula
Port Armstrong .....	None*
Port Clarence .....	Bering Straits CRSA
Port Graham .....	Kenai Peninsula
Port Heiden .....	Lake and Peninsula Borough
Port Lions .....	Kodiak
Port Moller .....	Aleutians East
Port Protection .....	None*
Portage .....	Anchorage
Post Lake .....	Mat-Au Borough

CITY	DISTRICT
Prudhoe Bay .....	North Slope Borough
Quinhagak .....	Ceñaliulriit CRSA
Red Mountain .....	Kenai Peninsula
Ridgeway .....	Kenai Peninsula
Rowan Bay .....	None*
Russian Mission .....	Ceñaliulriit CRSA
Sand Point .....	Aleutians East
Savoonga .....	Bering Straits CRSA
Sawmill Bay .....	None*
Saxman .....	Ketchikan
Scammon Bay .....	Ceñaliulriit CRSA
Security Bay .....	None*
Selawik .....	Northwest Arctic
Seldovia .....	Kenai Peninsula
Seward .....	Kenai Peninsula
Shaktolik .....	Bering Straits CRSA
Sheep Mountain .....	Mat-Su Borough
Sheldon Point .....	Ceñaliulriit CRSA
Shemya AFS .....	Aleutians West CRSA
Shishmaref .....	Bering Straits CRSA
Shungnak .....	Northwest Arctic
Sitka .....	Sitka
Skagway .....	Skagway
Skwentna .....	Mat-Su Borough
Soldotna .....	Kenai Peninsula
South Naknek .....	Bristol Bay Borough
Squaw Harbor .....	Aleutians East
St. George Island .....	None*
St. Mary's .....	Ceñaliulriit CRSA
St. Michael .....	Bering Straits CRSA
St. Paul .....	St. Paul
Stebbins .....	Bering Straits CRSA
Sterling .....	Kenai Peninsula
Sunrise .....	None*
Sutton .....	Mat-Su Borough
Talkeetna .....	Mat-Su Borough
Tatitlek .....	None*
Tazlina .....	None*
Teller .....	Bering Straits CRSA

\*Note: "None" means a coastal community not within a coastal district.

CITY	DISTRICT
Tenakee Springs .....	None*
Thorne Bay .....	Thorne Bay
Tin City .....	Bering Straits CRSA
Togiak .....	Bristol Bay CRSA
Toksook Bay .....	Ceñaliulriit CRSA
Tolstoi Bay .....	None*
Trapper Creek .....	Mat-Su Borough
Tuluksak .....	Ceñaliulriit CRSA
Tuntutuliak .....	Ceñaliulriit CRSA
Tununak .....	Ceñaliulriit CRSA
Tutka Bay .....	Kenai Peninsula
Twin Hills .....	Bristol Bay CRSA
Two Moon Bay .....	None*
Tyonek .....	Kenai Peninsula
Ugashik .....	Lake and Peninsula
Umiat .....	North Slope Borough
Unakwik Inlet .....	None*
Unalakleet .....	Bering Straits CRSA
Unalaska .....	Aleutians West CRSA
Ungalik .....	Bering Straits CRSA

CITY	DISTRICT
Valdez .....	Valdez
Wainwright .....	North Slope Borough
Wales .....	Bering Straits CRSA
Wasilla .....	Mat-Su Borough
Whale Pass .....	None*
White Mountain .....	Bering Straits CRSA
Whittier .....	Whittier
Willow .....	Mat-Su Borough
Wrangell .....	Wrangell
Yakutat .....	Yakutat

For more information contact:

The Alaska Coastal Management Program  
Juneau — 907- 465-3075  
Anchorage — 907-269-7470

\*Note: "None" means a coastal community not within a coastal district.