

ALASKA STATE LEGISLATURE

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TO: Senator Kevin Meyer, Chair
Legislative Budget & Audit Committee

A handwritten signature in cursive script, appearing to read "Donald Olson".

FROM: Senator Donald Olson
District T

Chapter 31, SLA 2005, section 22 contains a July 2011 sunset provision for the Alaska Coastal Management Program (ACMP). However, as I understand it, the way it is written will not trigger an audit of the program prior to its sunset. By means of this letter, I am requesting an audit of this program to provide the Legislature with information it will need during its 2011 consideration of extension of the ACMP. The Committee will also need to direct the Division of Legislative Audit to give this audit sufficient priority so that the final audit report can be available by the beginning of the next legislative session.

AS 44.66.050(c) identifies 11 items which can be considered in an audit prior to the sunset of a program. In addition to items (4), (5), (6), (9), and (10) of that list, I would appreciate special attention to the following areas:

Coastal District Enforceable Policies

- Have ACMP regulations at 11 AAC 112 and 114 gone beyond legislative authority and intent by restricting the ability of coastal districts to establish meaningful local policies?
- Have the designated area requirements restricted the ability of coastal districts to establish enforceable policies for subsistence uses and habitat?
- Is DNR properly implementing the requirement in AS 46.40.070(a)(2)(C) which states that policies shall address a matter of local concern, including the requirement that policies only address matters not adequately addressed by state or federal law?

Statewide Standards

- Do the 2004 changes made to the statewide standards in 11 AAC 112 restrict the ability to meet objectives of the ACMP laid out in AS 46.40.020?

DEC Carve-Out

- How has the DEC carve-out affected the scope of ACMP reviews for on-shore projects, off-shore projects in state waters and federal offshore projects in the OCS?
- Is the DEC carve-out being implemented in accordance with legislative intent?

Under the current program it appears there are no statutory provisions for public review of the DEC consistency finding for reviews where DEC does not have a permit, such as Outer Continental Shelf (OCS) reviews. When HB 191 was going through the legislative process in 2003, I cannot find where there was any discussion of elimination of public review of the DEC ACMP consistency findings for projects in the OCS.

Public Process

- Why is the ACMP not being operated under an open and transparent process?
- I have also been informed that DNR has refused requests by coastal districts to add their consultants to distribution lists for project review documents once a project review is initiated. What is the public purpose behind this decision?

There are no tapes or minutes of all the meetings that have been held over the past several years. I believe prior to 2003, meetings were routinely taped so that other interested parties had the ability to find out what happened at these public meetings.

Agency and District Participation

- How have the 2003 changes to the ACMP statutes affected the ability for state resource agencies and coastal districts to participate meaningfully in the program? Specifically, how has elimination of the Coastal Policy Council and movement of the program from the Office of the Governor to the Alaska Department of Natural Resources (DNR) affected participation in the program and decision making?
- Have the 2003-2004 changes to the ACMP affected the consensus building aspects of the program identified in the 1994 legislative audit?
- Is the DNR the appropriate agency to administer the ACMP?

The 1994 legislative audit found that the former Division of Governmental Coordination, located in the Governor's Office, provided an "objective centralized oversight and coordination function for all state agencies" (p. 12).

States' Rights

- Have the changes to the ACMP statutes and regulations diminished states' rights provided by the federal Coastal Zone Management Act?

The 1994 legislative audit found that there are no other programs that guarantee the state or local coastal districts a "seat at the table" during reviews of federal projects and federally-permitted projects.

I appreciate the committee's consideration of this audit request.