

SENATE BILL NO. 361

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Introduced: 4/12/02

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to coordination of the application, review, decision, and appeal process**
2 **for certain project permits, leases, plans, notices, disposals, licenses, preferences, grants,**
3 **reservations, approvals, and sales; relating to the Alaska Coastal Policy Council and the**
4 **Alaska Coastal Management Program; relocating certain functions of the office of**
5 **management and budget to a statutorily created division of project assistance in the**
6 **Office of the Governor; repealing the Environmental Procedures Coordination Act; and**
7 **providing for an effective date."**

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

9 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
10 to read:

11 **PURPOSE.** It is the purpose of this Act to

12 (1) assist those who, to satisfy the requirements of state law, must obtain a
13 permit from one or more state agencies by establishing a procedure to coordinate the

1 administrative decision-making process;

2 (2) provide to the members of the public the opportunity to present their views
3 on proposed uses of the state's natural resources and related environmental concerns before
4 state agencies decide on applications for permits;

5 (3) provide a greater degree of certainty on permit requirements of the state
6 government to applicants for the use of the natural resources of the state;

7 (4) increase the coordination and efficiency of state agencies in their
8 administration of programs affecting the state's natural resources; and

9 (5) establish an opportunity for members of the public to obtain information
10 pertaining to requirements of state law that must be satisfied before undertaking a project in
11 this state.

12 * **Sec. 2.** AS 46 is amended by adding a new chapter to read:

13 **Chapter 41. Permit Coordination and Appeals.**

14 **Sec. 46.41.010. Applicability.** (a) Notwithstanding any other provisions of
15 regulation or statute relating to the processing of applications for licenses, permits, and
16 other authorizations described in (d) of this section, the procedures set out in this
17 chapter and in regulations adopted under this chapter are exclusive for the processing
18 of an application for one of those licenses, permits, and other authorizations, including
19 an application for the renewal or modification of one of those authorizations.
20 AS 46.41.050 - 46.41.090 do not apply to a modification that does not significantly
21 change the scope of a project or the effect of the project on coastal resources or uses or
22 on public resources, as determined by the permitting agency.

23 (b) If a proposed project, other than one described in (a) of this section,
24 requires a consistency review under AS 46.40.096(a)(1) or (3), the procedures set out
25 in this chapter and regulations adopted under this chapter are exclusive for making the
26 consistency review.

27 (c) Each state agency having jurisdiction to approve or deny an application for
28 a license, permit, or other authorization has the authority vested in it by law to make
29 that determination. Nothing in this chapter reduces that authority; the provisions of
30 this chapter modify only the procedures to be followed in the carrying out of that
31 authority.

1 (d) This chapter applies to licenses, permits, and other authorizations under
2 the following sections or provisions required to be obtained from a state agency before
3 constructing or operating a project in the state:

- 4 (1) AS 16.05.840;
- 5 (2) AS 16.05.870;
- 6 (3) AS 16.10.400;
- 7 (4) AS 16.20.010 - 16.20.162;
- 8 (5) AS 16.20.520 - 16.20.530;
- 9 (6) AS 16.40.100;
- 10 (7) AS 19.05.020;
- 11 (8) AS 19.25.010;
- 12 (9) AS 19.25.200;
- 13 (10) AS 27.19.030;
- 14 (11) AS 27.20.010;
- 15 (12) AS 27.21.060;
- 16 (13) AS 27.21.190;
- 17 (14) AS 27.21.200;
- 18 (15) AS 31.05.030;
- 19 (16) AS 38.05.020;
- 20 (17) AS 38.05.850;
- 21 (18) AS 38.05.035(b)(2), (3), (5), and (9);
- 22 (19) AS 38.05.068;
- 23 (20) AS 38.05.070;
- 24 (21) AS 38.05.073;
- 25 (22) AS 38.05.075;
- 26 (23) AS 38.05.082;
- 27 (24) AS 38.05.083;
- 28 (25) AS 38.05.087;
- 29 (26) AS 38.05.102;
- 30 (27) AS 38.05.110 - 38.05.115;
- 31 (28) AS 38.05.135 - 38.05.181;

- 1 (29) AS 38.05.205;
 2 (30) AS 38.05.250;
 3 (31) AS 38.05.255;
 4 (32) AS 38.05.600;
 5 (33) AS 38.05.810;
 6 (34) AS 38.05.820;
 7 (35) AS 38.05.825;
 8 (36) AS 38.05.850;
 9 (37) AS 38.05.870;
 10 (38) AS 38.05.872;
 11 (39) AS 38.35;
 12 (40) AS 38.95.075 - 38.95.080;
 13 (41) AS 41.15.050;
 14 (42) AS 41.21.020;
 15 (43) AS 45.50.235;
 16 (44) AS 46.03.020;
 17 (45) AS 46.03.100;
 18 (46) AS 46.03.320;
 19 (47) AS 46.03.740;
 20 (48) AS 46.04.030;
 21 (49) AS 46.14.130;
 22 (50) AS 46.15.035 - 46.15.040;
 23 (51) AS 46.15.120;
 24 (52) AS 46.17.010 - 46.17.070.

25 **Sec. 46.41.020. Expedited review.** (a) If a project, or all of the state and
 26 federal permits required by a project, appear on a list adopted by the division by
 27 regulation under (b) of this section, and if the project can meet any conditions
 28 specified in the list for the project or for the permits required for the project, that
 29 project is exempt from AS 46.41.050 - 46.41.090 and from the need for further review,
 30 including a consistency review under AS 46.40.096(a)(1) or (3). A permit application
 31 for an exempt project shall be submitted to the appropriate permitting agency. A

1 permit issued by a permitting agency for an exempt project is subject to the conditions
2 specified in the list adopted by regulation.

3 (b) State agencies shall propose to the division for adoption in regulation a list
4 of projects and permits that are to be exempt under this section, and the conditions that
5 must be met in order for the project or permit to be exempt. A project or permit may
6 be placed on the list if the project or the activity authorized by the permit, as limited
7 by any specified conditions, is

8 (1) unlikely to have a significant effect on coastal resources or uses or
9 on public resources; or

10 (2) of a type that is routinely approved by the permitting agency and
11 found to be consistent with applicable coastal management requirements.

12 **Sec. 46.41.030. Permit information centers.** The division shall establish
13 permit information centers in its regional locations and may enter into agreements
14 with other organizations and state agencies to establish and maintain permit
15 information centers in other locations to provide information to the public, in readily
16 understandable form, regarding the requirements of permits for projects in the state.
17 The division shall advise a permit applicant as to the proper coordinating agency under
18 AS 46.41.040.

19 **Sec. 46.41.040. Coordinating agency.** (a) Each proposed project subject to
20 this chapter has a coordinating agency as provided in (c) of this section.

21 (b) The coordinating agency shall facilitate the permit process. In carrying out
22 its coordination role, the coordinating agency shall seek to minimize delays and costs
23 to the permitting agencies and the applicant and to provide the public with a
24 meaningful opportunity to participate. Except as provided in (c) of this section, a state
25 agency acting as the coordinating agency under this chapter may not make a permit
26 decision. A state agency acting as a permitting agency shall make the decisions
27 relevant to its individual jurisdiction.

28 (c) The division is the coordinating agency under this chapter except that

29 (1) at the request of the head of a permitting agency, and with the
30 concurrence of the division, that permitting agency shall act as the coordinating
31 agency for a specific project or category of project;

1 (2) if a project requires one or more permits from only a single
2 permitting agency, that permitting agency shall act as the coordinating agency;

3 (3) for matters subject to AS 27.05.010, the Department of Natural
4 Resources shall act as the coordinating agency.

5 (d) The coordinating agency shall provide a project application to any person
6 requesting one. The coordinating agency shall provide information, forms,
7 instructions, and assistance in the completion of a project application under this
8 chapter to a person requesting assistance.

9 (e) The coordinating agency shall act as the public point of contact for the
10 processing of applications under this chapter and, with the concurrence of the
11 permitting agencies and in consultation with the applicant, shall establish a target
12 timeline for review of a project for which a project application is submitted under
13 AS 46.41.050.

14 **Sec. 46.41.050. Project application.** (a) A person proposing a project that
15 requires the issuance of a state permit or a consistency review under
16 AS 46.40.096(a)(1) or (3) shall submit a project application to the coordinating
17 agency. The project application must be on a form established by the division or in
18 another format agreed upon by the applicant and the permitting agencies. The project
19 application must contain sufficient information as to the location and the nature of the
20 project to enable a permitting agency to make its determination.

21 (b) Upon receipt of a completed project application, the coordinating agency
22 shall immediately forward a copy of the completed application to

23 (1) the permitting agencies;

24 (2) the resource agencies;

25 (3) the division;

26 (4) affected coastal resource districts if the project is subject to a
27 consistency review under AS 46.40.096(a)(1) or (3); and

28 (5) at the discretion of the coordinating agency, other governmental
29 entities with independent decision-making authority over the project.

30 (c) Upon receipt of a project application under (b) of this section, a permitting
31 agency shall determine whether adequate information has been submitted to initiate

1 review and shall inform the applicant, through the coordinating agency, if more
2 information is needed to initiate review of the application.

3 **Sec. 46.41.060. Withholding final permit.** If it appears that the applicant
4 does not own or control the land or water necessary for siting the project that is the
5 subject of the project application and if an application for ownership or control of the
6 land or water is not part of the project application, the permitting agencies may
7 proceed with review of the application under this chapter but may withhold any final
8 permit until the applicant has obtained ownership or control of the land or water
9 necessary for siting the project. In deciding whether to continue to process a project
10 application under this section, the permitting agencies shall determine whether
11 continuation would serve the fair and efficient administration of government.

12 **Sec. 46.41.070. Public notice and comment.** (a) When the permitting
13 agencies determine that a project application is adequate to initiate review, the
14 coordinating agency shall arrange for a consolidated public notice of the project. The
15 timing and manner of public notice and comment shall be reasonable, considering the
16 circumstances of the project application, and consistent with regulations adopted by
17 the division.

18 (b) The notice must

- 19 (1) contain a brief, general description of the proposed subject of
20 agency action;
- 21 (2) explain how more detailed information may be obtained;
- 22 (3) provide the name of the contact person for the coordinating agency;
- 23 (4) explain how the public may comment on the proposed project; and
- 24 (5) state the deadline for receipt of public comments.

25 **Sec. 46.41.080. Public meeting or hearing.** The coordinating agency or a
26 permitting agency designated by the coordinating agency may hold a public meeting
27 or hearing if considered appropriate by the coordinating agency or a permitting
28 agency. The public meeting or hearing shall be held jointly with local and federal
29 permitting entities with independent decision-making authority over the project. The
30 coordinating agency or designated permitting agency shall structure the meeting or
31 hearing in a manner that would facilitate meaningful public comment. The meeting or

1 hearing shall be conducted for the purpose of obtaining information for the assistance
 2 of the state agencies in their review of the project and not as a trial or adversarial
 3 proceeding.

4 **Sec 46.41.090. Decision.** (a) A permitting agency, in the performance of its
 5 responsibilities related to decision-making under this chapter, may request or receive
 6 additional information from an applicant and others before the public hearing and may
 7 request or receive additional information from an applicant after the public hearing.

8 (b) Each permitting agency shall review the project application and public
 9 comments concerning the agency's permits and shall forward a draft decision
 10 regarding the agency's permits, as described under AS 46.40.010(d) and
 11 46.40.096(a)(3), that are requested in or related to the application to the coordinating
 12 agency. The draft permit decision must include a copy of any draft permits and
 13 related stipulations and a brief justification for the agency's draft decision.

14 (c) Each affected coastal resource district shall forward its opinion as to
 15 whether the project is consistent with applicable Alaska coastal management program
 16 requirements to the coordinating agency. The opinions of consistency may be based
 17 on adoption of specific stipulations, which must be contained in one or more of the
 18 draft permit decisions and must include a brief justification for the stipulation.

19 (d) The coordinating agency shall provide copies of all draft permit decisions
 20 and opinions of consistency to each resource agency, permitting agency, and affected
 21 coastal resource district. The permitting agencies that are also resource agencies shall
 22 determine whether the project is consistent with applicable Alaska coastal
 23 management program requirements. The coordinating agency shall facilitate the
 24 agencies' determination as necessary.

25 (e) Each permitting agency shall prepare and shall forward to the coordinating
 26 agency the permitting agency's final permit decision. The final permit decision shall
 27 include a copy of any draft permits and related stipulations and a brief justification for
 28 the agency's final permit decision.

29 (f) The coordinating agency shall issue the final project decision of the
 30 permitting agencies in one document that contains

31 (1) a statement of intent to deny or issue the permits requested in the

1 application;

2 (2) copies of the final permit decisions;

3 (3) a statement as to whether the proposed project is consistent or
4 inconsistent with the Alaska coastal management program, if applicable; if the Alaska
5 coastal management program consistency statement is based on a stipulation, that
6 stipulation must be specifically described in the consistency statement by reference to
7 the related permit for a proposed project described in AS 46.40.096(a)(1) or (3);

8 (4) a statement of reasons for the denial if the application is denied;

9 (5) an explanation of how to file an appeal and the deadline for filing
10 the appeal.

11 (g) The coordinating agency shall send a summary of the final project decision
12 to each person who participated in the process and shall post a notice of the final
13 project decision on the Alaska Online Public Notice System (AS 44.62.175). The
14 summary of the final project decision must indicate where a complete copy of the
15 decision may be reviewed and explain how to file an appeal and the deadline for filing
16 the appeal.

17 (h) If applicable, a permit or consistency statement requested in the project
18 application shall be issued not less than five working days after the notice of the final
19 project decision is posted on the Alaska Online Public Notice System.

20 (i) An aggrieved person may make a request in writing for a stay pending
21 appeal of the issuance of a

22 (1) permit from the head of the permitting agency; or

23 (2) consistency statement from the heads of the permitting agencies
24 that are also resource agencies.

25 **Sec. 46.41.100. Administrative appeal.** (a) A person, including an affected
26 coastal resource district, aggrieved by a final project decision under AS 46.41.090 or
27 by a final agency decision may appeal the decision by filing a notice of appeal with
28 the coordinating agency within 30 days after the later of (1) posting of the notice of
29 the final project decision on the Alaska Online Public Notice System, or (2) issuance
30 of the final agency decision. Failure to timely file a notice of appeal constitutes a
31 waiver of the person's right to a review of the final project decision or final agency

1 decision.

2 (b) The notice of appeal must specify the decision being appealed, contain a
3 clear and concise statement of the basis for the appeal, including the specific
4 provisions of the permits or consistency statement being challenged, and contain the
5 name and mailing address of the appellant.

6 (c) The coordinating agency shall distribute the notice of appeal to the
7 appropriate agency representatives as determined under (g) of this section. The
8 agency representatives for each point on appeal shall decide within five working days
9 of receiving the notice of appeal whether the point raises a reasonable issue of fact or
10 law material to the final project decision or final agency decision. If a timely notice of
11 appeal raises an issue of fact or law material to the final project decision or final
12 agency decision, the agency representatives shall notify the coordinating agency, and
13 the coordinating agency shall accept the appeal for consideration.

14 (d) The appellant, permittee, permitting agency staff and, if the appeal
15 involves a consistency review, an affected coastal resource district and the staff of a
16 permitting agency that is also a resource agency, are parties as of right in the appeal.
17 Other persons may seek to intervene by motion to the coordinating agency.

18 (e) Notwithstanding AS 44.62.330, procedures for an appeal under this
19 chapter need not conform to AS 44.62.330 - 44.62.630 (Administrative Procedure
20 Act). The agency representatives for an appeal shall structure the proceedings in a
21 manner that facilitates fair and efficient decision making and that is consistent with
22 general appeal procedures adopted by the division in regulation.

23 (f) The coordinating agency shall, with the assistance of the permitting
24 agencies whose decisions are being appealed, prepare the record on appeal. The
25 record on appeal must consist of

- 26 (1) the project application or permit application;
27 (2) public comments;
28 (3) material supplied to the coordinating, permitting, and resource
29 agencies by the applicant;
30 (4) other information used by the permitting agency as a basis for its
31 decision; and

1 (5) the final project decision or final agency decision.

2 (g) An appeal of a final project decision or final agency decision shall be
3 heard and decided by agency representatives as follows:

4 (1) regarding a permit, by the head of the relevant permitting agency;
5 and

6 (2) regarding a consistency statement, by the heads of the relevant
7 permitting agencies that are also resource agencies.

8 (h) An agency representative for an appeal may appoint a hearing officer as
9 the agency representative's designee. The hearing officer may be an independent
10 hearing officer, a subordinate of the agency representative within the relevant agency,
11 or, with the approval of the head of another state agency, an employee of that other
12 state agency. A hearing officer may be appointed under this section to serve as the
13 designee for more than one agency representative.

14 (i) The costs of an independent hearing officer shall be borne by the state
15 agency whose head designated the hearing officer. The state agency may recover the
16 costs from an appellant if the appellant does not prevail regarding that agency's permit
17 decision or consistency statement.

18 (j) To facilitate joint appeal hearings, the coordinating agency may enter into a
19 cooperative agreement with another governmental entity that has independent
20 decision-making authority over the project that is the subject of the appeal.

21 (k) Each agency representative, or hearing officer if one is appointed, for an
22 appeal shall rule on the admission of evidence or other procedural matters relating to
23 the point on appeal heard by that individual.

24 (l) The final decision on the merits of an appeal shall be made by the agency
25 representative or representatives for the appeal. If a hearing officer is appointed under
26 (h) of this section, the hearing officer shall make a recommendation to the agency
27 representative.

28 (m) The coordinating agency shall consolidate all of the decisions of the
29 agency representatives for the appeal into one final decision. The coordinating agency
30 shall distribute a copy of the final decision on appeal to each party to the appeal and, if
31 the appeal resulted in a change to an original final project decision or final agency

1 decision, post a notice and summary of the final decision on appeal on the Alaska
 2 Online Public Notice System. Permits or consistency statements resulting from the
 3 appeal shall be issued within five working days after distribution of the final decision
 4 on appeal under this subsection.

5 (n) A final decision on appeal under this section is a final administrative order
 6 subject to AS 44.62.560 and 44.62.570.

7 (o) In this section, "final agency decision" means a permitting agency's
 8 decision regarding a permit for a project exempted under AS 46.41.020.

9 **Sec. 46.41.110. Fees.** An applicant for a permit other than a permit for a
 10 project exempted under AS 46.41.020 shall pay any fees established in accordance
 11 with AS 37.10.050 - 37.10.058 that are applicable to the application for or issuance of
 12 the permit to the coordinating agency. The coordinating agency shall collect the fees,
 13 account for and deposit the revenue, and forward all related records to the appropriate
 14 state agency.

15 **Sec. 46.41.120. Conflicts and compliance with federal requirements.** (a)
 16 If, regarding a project application, a provision of this chapter is found to be in conflict
 17 with an applicable federal requirement regarding the allocation of federal money to the
 18 state, the federal requirement controls, to the extent of the conflict, regarding that
 19 application.

20 (b) To the extent necessary to comply with procedural requirements of federal
 21 law relating to permit systems operated by the state, the coordinating agency, with the
 22 concurrence of the affected permitting agencies, may modify the notice, timing,
 23 hearing, and related procedural matters provided in this chapter.

24 (c) If necessary to comply with federal requirements regarding federal
 25 consistency determinations or certifications under 16 U.S.C. 1456(c), the division
 26 shall serve as the point of contact for federal consistency determinations or
 27 certifications for a particular proposed project. The coordinating agency, as
 28 determined under AS 46.41.040, remains responsible for all other aspects of the
 29 project's coordination.

30 **Sec. 46.41.130. Regulations.** The division shall adopt regulations to
 31 implement the provisions of this chapter, including regulations that provide various

1 general appeal procedures that allow the agency representatives for an appeal under
2 this chapter to select and apply procedures appropriate to the particular appeal.

3 **Sec. 46.41.140. Consistency determinations for phased uses and activities.**

4 (a) The provisions of this section apply to a use or activity for which a consistency
5 determination is required if

6 (1) at the time the proposed use or activity is initiated, there is
7 insufficient information to evaluate and render a consistency determination for the
8 entirety of the proposed use or activity;

9 (2) the proposed use or activity is capable of proceeding in discrete
10 phases based on developing information obtained in the course of a phase; and

11 (3) each subsequent phase of the proposed use or activity is subject to
12 discretion to implement alternative decisions based on the developing information.

13 (b) If a use or activity is authorized or developed in discrete phases and each
14 phase will require decisions relating to a permit, lease, or authorization for that
15 particular phase, the agency responsible for the consistency determination for the
16 particular phase

17 (1) may, in its discretion, limit the consistency review to that particular
18 phase if

19 (A) the agency or another state agency must carry out a
20 subsequent consistency review and make a consistency determination before a
21 later phase may proceed; and

22 (B) the responsible agency conditions its consistency
23 determination for that phase on a requirement that a use or activity authorized
24 in a subsequent phase be consistent with the Alaska coastal management
25 program;

26 (2) shall, when the consistency review is limited under (1) of this
27 subsection, conduct the consistency review for the particular phase and make the
28 consistency determination based on

29 (A) applicable statutes and regulations;

30 (B) the facts pertaining to a use or activity for which the
31 consistency determination is sought that are

1 (i) known to the responsible state agency or made a part
2 of the record during the consistency review; and

3 (ii) material to the consistency determination; and

4 (C) the reasonably foreseeable, significant effects of the use or
5 activity for which the consistency determination is sought;

6 (3) shall, when the consistency review is limited under (1) of this
7 subsection, describe in the consistency determination the reasons for its decision to
8 make the consistency determination for the use or activity in phases.

9 (c) In this section, "agency responsible for the consistency determination"
10 means the coordinating agency under AS 46.41.040.

11 **Sec. 46.41.990. Definitions.** Unless provided otherwise, in this chapter,

12 (1) "affected coastal resource district" means a coastal resource
13 district, as defined in AS 46.40.210,

14 (A) in which a project is proposed to be located; or

15 (B) that may experience a direct and significant effect from a
16 proposed project;

17 (2) "appeal" means a request for appeal or reconsideration of an
18 agency permitting decision or consistency statement;

19 (3) "consistency review" has the meaning given in AS 46.40.210;

20 (4) "consistency statement" means

21 (A) the findings of the permitting agency after a consistency
22 review, together with any necessary stipulations, conditions, or modifications
23 to the proposed project specifically described by reference to the related permit
24 as defined in this section or described in AS 46.40.096(a)(3);

25 (B) a response to a federal consistency certification or
26 determination authorized under 16 U.S.C. 1456(c) (Coastal Zone Management
27 Act of 1972);

28 (5) "coordinating agency" means the agency designated under
29 AS 46.41.040;

30 (6) "division" means the division of project assistance in the Office of
31 the Governor (AS 44.19.153);

1 (7) "local government" means a city or borough, including a unified
2 municipality;

3 (8) "permit" means a license, permit, or other authorization described
4 in AS 46.41.010(d);

5 (9) "permitting agency" means a state agency with responsibility for

6 (A) issuance of a permit, as defined in this section, sought for a
7 particular proposed project;

8 (B) issuance of a permit described in AS 46.40.096(a)(3)
9 sought for a particular proposed project; or

10 (C) coordinating the review of a federal consistency
11 determination or certification under AS 46.40.096(a)(1) for a particular
12 proposed project;

13 (10) "person" means an individual, a municipal, public, or private
14 corporation, or other entity, and includes a state agency, a local government, and a
15 department, agency, or instrumentality of the executive, legislative, or judicial
16 branches of the federal government;

17 (11) "process," "processing," and "processing of applications" includes
18 all steps and procedures followed in the course of reviewing and making a decision
19 regarding a project application under this chapter and includes a best interest finding
20 required for a permit under AS 38.05.035(e);

21 (12) "project" means a use or activity for which one or more permits,
22 or a consistency determination under AS 46.40.096(a)(1) or (3), are required before
23 construction or operation, and includes a use or activity that may be authorized in
24 discrete phases for purposes of consistency review under AS 46.41.140;

25 (13) "resource agency" means the

26 (A) Department of Environmental Conservation;

27 (B) Department of Fish and Game; or

28 (C) Department of Natural Resources;

29 (14) "state agency" includes a local or regional air quality control
30 authority established under AS 46.14.400;

31 (15) "working days" means all calendar days except Saturdays,

1 Sundays, and days on which state offices are closed.

2 * **Sec. 3.** AS 38.05.035(e) is amended to read:

3 (e) Upon a written finding that the interests of the state will be best served, the
4 director may, with the consent of the commissioner, approve contracts for the sale,
5 lease, or other disposal of available land, resources, property, or interests in them. In
6 approving a contract under this subsection, the director need only prepare a single
7 written finding. In addition to the conditions and limitations imposed by law, the
8 director may impose additional conditions or limitations in the contracts as the director
9 determines, with the consent of the commissioner, will best serve the interests of the
10 state. The preparation and issuance of the written finding by the director are subject to
11 the following:

12 (1) with the consent of the commissioner and subject to the director's
13 discretion, for a specific proposed disposal of available land, resources, or property, or
14 of an interest in them, the director, in the written finding,

15 (A) shall establish the scope of the administrative review on
16 which the director's determination is based, and the scope of the written
17 finding supporting that determination; the scope of the administrative review
18 and finding may address only reasonably foreseeable, significant effects of the
19 uses proposed to be authorized by the disposal;

20 (B) may limit the scope of an administrative review and finding
21 for a proposed disposal to

22 (i) applicable statutes and regulations;

23 (ii) the facts pertaining to the land, resources, or
24 property, or interest in them, that the director finds are material to the
25 determination and that are known to the director or knowledge of which
26 is made available to the director during the administrative review; and

27 (iii) issues that, based on the statutes and regulations
28 referred to in (i) of this subparagraph, on the facts as described in (ii) of
29 this subparagraph, and on the nature of the uses sought to be authorized
30 by the disposal, the director finds are material to the determination of
31 whether the proposed disposal will best serve the interests of the state;

1 and

2 (C) may, if the project for which the proposed disposal is
3 sought is a multiphased development, limit the scope of an administrative
4 review and finding for the proposed disposal to the applicable statutes and
5 regulations, facts, and issues identified in (B)(i) - (iii) of this paragraph that
6 pertain solely to the disposal phase of the project when

7 (i) the only uses to be authorized by the proposed
8 disposal are part of that phase;

9 (ii) the disposal is an oil and gas disposal and, before
10 the next phase of the project may proceed, public notice and the
11 opportunity to comment are provided under regulations adopted by the
12 department unless the project is subject to a consistency review under
13 AS 46.40 and public notice and the opportunity to comment are
14 provided under AS 46.41.070 [AS 46.40.096(c)];

15 (iii) the department's approval is required before the
16 next phase of the project may proceed; and

17 (iv) the department describes its reasons for a decision
18 to phase;

19 (2) the director shall discuss in the written finding prepared and issued
20 under this subsection the reasons that each of the following was not material to the
21 director's determination that the interests of the state will be best served:

22 (A) facts pertaining to the land, resources, or property, or an
23 interest in them other than those that the director finds material under (1)(B)(ii)
24 of this subsection; and

25 (B) issues based on the statutes and regulations referred to in
26 (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this
27 subsection;

28 (3) a written finding for an oil and gas lease sale under AS 38.05.180 is
29 subject to (g) of this section;

30 (4) a contract for the sale, lease, or other disposal of available land or
31 an interest in land is not legally binding on the state until the commissioner approves

1 the contract, but if the appraised value is not greater than \$50,000 in the case of the
 2 sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or
 3 interest in land, the director may execute the contract without the approval of the
 4 commissioner;

5 (5) public notice requirements relating to the sale, lease, or other
 6 disposal of available land or an interest in land for oil and gas proposed to be
 7 scheduled in the five-year oil and gas leasing program under AS 38.05.180(b), except
 8 for a sale under (6)(F) of this subsection, are as follows:

9 (A) before a public hearing, if held, or in any case not less than
 10 180 days before the sale, lease, or other disposal of available land or an interest
 11 in land, the director shall make available to the public a preliminary written
 12 finding that states the scope of the review established under (1)(A) of this
 13 subsection and includes the applicable statutes and regulations, the material
 14 facts and issues in accordance with (1)(B) of this subsection, and information
 15 required by (g) of this section, upon which the determination that the sale,
 16 lease, or other disposal will serve the best interests of the state will be based;
 17 the director shall provide opportunity for public comment on the preliminary
 18 written finding for a period of not less than 60 days;

19 (B) after the public comment period for the preliminary written
 20 finding and not less than 90 days before the sale, lease, or other disposal of
 21 available land or an interest in land for oil and gas, the director shall make
 22 available to the public a final written finding that states the scope of the review
 23 established under (1)(A) of this subsection and includes the applicable statutes
 24 and regulations, the material facts and issues in accordance with (1) of this
 25 subsection, and information required by (g) of this section, upon which the
 26 determination that the sale, lease, or other disposal will serve the best interests
 27 of the state is based;

28 (6) before a public hearing, if held, or in any case not less than 21 days
 29 before the sale, lease, or other disposal of available land, property, resources, or
 30 interests in them other than a sale, lease, or other disposal of available land or an
 31 interest in land for oil and gas under (5) of this subsection, the director shall make

1 available to the public a written finding that, in accordance with (1) of this subsection,
 2 sets out the material facts and applicable statutes and regulations and any other
 3 information required by statute or regulation to be considered upon which the
 4 determination that the sale, lease, or other disposal will best serve the interests of the
 5 state was based; however, a written finding is not required before the approval of

6 (A) a contract for a negotiated sale authorized under
 7 AS 38.05.115;

8 (B) a lease of land for a shore fishery site under AS 38.05.082;

9 (C) a permit or other authorization revocable by the
 10 commissioner;

11 (D) a mineral claim located under AS 38.05.195;

12 (E) a mineral lease issued under AS 38.05.205;

13 (F) an exempt oil and gas lease sale under AS 38.05.180(d) of
 14 acreage subject to a best interest finding issued within the previous 10 years or
 15 a reoffer oil and gas lease sale under AS 38.05.180(w) of acreage subject to a
 16 best interest finding issued within the previous 10 years, unless the
 17 commissioner determines that substantial new information has become
 18 available that justifies a supplement to the most recent best interest finding for
 19 the exempt oil and gas lease sale acreage and for the reoffer oil and gas lease
 20 sale acreage; however, for each oil and gas lease sale described in this
 21 subparagraph, the director shall call for comments from the public; the
 22 director's call for public comments must provide opportunity for public
 23 comment for a period of not less than 30 days; if the director determines that a
 24 supplement to the most recent best interest finding for the acreage is required
 25 under this subparagraph,

26 (i) the director shall issue the supplement to the best
 27 interest finding not later than 90 days before the sale;

28 (ii) not later than 45 days before the sale, the director
 29 shall issue a notice describing the interests to be offered, the location
 30 and time of the sale, and the terms and conditions of the sale; and

31 (iii) the supplement has the status of a final written best

1 interest finding for purposes of (i) and (l) of this section;

2 (G) a shallow gas lease authorized under AS 38.05.177 in an
3 area for which leasing is authorized under AS 38.05.177;

4 (H) a surface use lease under AS 38.05.255;

5 (I) a permit, right-of-way, or easement under AS 38.05.850;

6 (7) the director shall include in

7 (A) a preliminary written finding, if required, a summary of
8 agency and public comments, if any, obtained as a result of contacts with other
9 agencies concerning a proposed disposal or as a result of informal efforts
10 undertaken by the department to solicit public response to a proposed disposal,
11 and the department's preliminary responses to those comments; and

12 (B) the final written finding a summary of agency and public
13 comments received and the department's responses to those comments.

14 * **Sec. 4.** AS 41.17.085(a) is amended to read:

15 (a) An operator may apply through the commissioner for permits required by
16 other state agencies to operate on forest land, which applications may be forwarded to
17 the commissioner of environmental conservation for procedures under AS 46.35 **or**
18 **AS 46.41**. The commissioner shall notify the operator of the action taken.

19 * **Sec. 5.** AS 41.21.492(b) is amended to read:

20 (b) Nothing in AS 41.21.491 - 41.21.495 affects the responsibilities of

21 (1) the Department of Fish and Game, the Board of Fisheries, or the
22 Board of Game under AS 16 and AS 41.99.010;

23 (2) the Department of Environmental Conservation under AS 46.03; or

24 (3) state agencies and municipalities under **AS 46.40.096 and**
25 **46.40.100** [AS 44.19.145(a)(11) AND AS 46.40.100].

26 * **Sec. 6.** AS 41.21.504(b) is amended to read:

27 (b) Nothing in AS 41.21.500 - 41.21.514 affects the applicability of

28 (1) AS 41.99.010 and AS 16 regarding the responsibilities of the
29 Department of Fish and Game or the Board of Fisheries or the Board of Game;

30 (2) AS 46.03 regarding the responsibilities of the Department of
31 Environmental Conservation; or

1 (3) AS 46.40.096 and 46.40.100 [AS 44.19.145(a)(11) AND
2 AS 46.40.100] regarding the responsibilities of state agencies and municipalities.

3 * **Sec. 7.** AS 41.23.420(d) is amended to read:

4 (d) The provisions of AS 41.23.400 - 41.23.510 do not affect the authority of

5 (1) the Department of Fish and Game, the Board of Fisheries, the
6 Board of Game, or the Department of Community and Economic Development under
7 AS 08.54, AS 16, or AS 41.99.010;

8 (2) the Department of Environmental Conservation under AS 46.03; or

9 (3) state agencies and municipalities under AS 46.40.096 and
10 46.40.100 [AS 44.19.145(a)(11) AND AS 46.40.100].

11 * **Sec. 8.** AS 44.19 is amended by adding a new section to read:

12 **Article 6A. Division of Project Assistance.**

13 **Sec. 44.19.153. Division of project assistance.** (a) There is established in
14 the Office of the Governor the division of project assistance.

15 (b) The division of project assistance is administered by a director who is
16 appointed by, and serves at the pleasure of, the governor.

17 (c) The director of project assistance shall employ personnel as necessary to
18 carry out the relevant provisions of AS 44.19.155 - 44.19.162 and AS 46.41.

19 * **Sec. 9.** AS 44.19.155(a) is amended to read:

20 (a) There is created in the Office of the Governor the Alaska Coastal Policy
21 Council. The council consists of the following:

22 (1) nine public members appointed by the governor from a list
23 consisting [COMPRISED] of at least three names from each region, nominated by the
24 municipalities of each region; a nominee [THE NOMINEES] shall be a [THE] mayor,
25 a [OR] member of the assembly or council of a municipality, or a member of a
26 coastal resource service area board (AS 46.40.140); one public member shall be
27 appointed from each of the following general regions:

28 (A) northwest Alaska, including, generally, the area of the
29 North Slope Borough and the Northwest Arctic Borough;

30 (B) Bering Strait [STRAITS], including, generally, the area of
31 the Bering Strait [STRAITS] regional educational attendance area;

1 (C) southwest Alaska, including, generally, the area within the
2 Lower Yukon, Lower Kuskokwim, and Southwest regional educational
3 attendance areas and the Lake and Peninsula and Bristol Bay Boroughs;

4 (D) Kodiak-Aleutians, including the area of the Kodiak Island
5 and Aleutian East Boroughs and the Aleutian, Adak, and Pribilof regional
6 educational attendance areas;

7 (E) Upper Cook Inlet, including the Municipality of Anchorage
8 and the Matanuska-Susitna Borough;

9 (F) Lower Cook Inlet, including, generally, the area within the
10 Kenai Peninsula Borough;

11 (G) Prince William Sound, including, generally, the area east of
12 the Kenai Peninsula Borough to 141 W. longitude;

13 (H) northern Southeast Alaska, including the area southeast of
14 141 W. longitude and north of 57 N. latitude, including the entirety of the City
15 and Borough of Sitka; and

16 (I) southern Southeast Alaska, including that portion of
17 southeastern Alaska not contained within the area described in (H) of this
18 paragraph;

19 (2) each of the following:

20 (A) the director of the division of project assistance [OFFICE
21 OF MANAGEMENT AND BUDGET];

22 (B) the commissioner of community and economic
23 development;

24 (C) the commissioner of environmental conservation;

25 (D) the commissioner of fish and game;

26 (E) the commissioner of natural resources; and

27 (F) the commissioner of transportation and public facilities.

28 * **Sec. 10.** AS 44.19.162 is amended to read:

29 **Sec. 44.19.162. Council staff.** The council shall use the staff of the division
30 of project assistance [OFFICE OF COASTAL MANAGEMENT WITHIN THE
31 OFFICE OF MANAGEMENT AND BUDGET] in discharging its powers and duties.

1 The **director** [COORDINATOR] of the **division** [OFFICE OF COASTAL
 2 MANAGEMENT, UNDER THE DIRECTION OF THE COUNCIL CO-CHAIR
 3 WHO IS SELECTED FROM AMONG THE MEMBERS DESIGNATED IN
 4 AS 44.19.155(a)(2),] may contract with or employ personnel or consultants **as** [THE
 5 COORDINATOR CONSIDERS] necessary to carry out the powers and duties of the
 6 council.

7 * **Sec. 11.** AS 44.62.175(a) is amended to read:

8 (a) The lieutenant governor shall develop and supervise the Alaska Online
 9 Public Notice System, to be maintained on the state's site on the Internet. The
 10 lieutenant governor shall prescribe the form of notices posted on the system by state
 11 agencies. The Alaska Online Public Notice System must include

12 (1) notices of proposed actions given under AS 44.62.190(a);

13 (2) notices of state agency meetings required under AS 44.62.310(e),
 14 even if the meeting has been held;

15 (3) notices of solicitations to bid issued under AS 36.30.130;

16 (4) notices of state agency requests for proposals issued under
 17 AS 18.55.255, 18.55.320; AS 36.30.210; AS 37.05.316; AS 38.05.120; and
 18 AS 43.40.010;

19 (5) executive orders and administrative orders issued by the governor;

20 (6) written delegations of authority made by the governor or the head
 21 of a principal department under AS 44.17.010;

22 (7) the text or a summary of the text of a regulation or order of repeal
 23 of a regulation for which notice is given under AS 44.62.190(a), including an
 24 emergency regulation or repeal regardless of whether it has taken effect;

25 (8) notices required by AS 44.62.245(b) regarding an amended version
 26 of a document or other material incorporated by reference in a regulation;

27 (9) a summary of the text of recently issued formal opinions and
 28 memoranda of advice of the attorney general;

29 (10) a list of vacancies on boards, commissions, and other bodies
 30 whose members are appointed by the governor; [AND]

31 (11) in accordance with AS 39.52.240(h), advisory opinions of the

1 attorney general; **and**

2 **(12) notices regarding project decisions under AS 46.41.090 and**
 3 **46.41.100.**

4 * **Sec. 12.** AS 46.03.020(11) is amended to read:

5 (11) after consultation with other state agencies and local government
 6 officials, identify and propose for addition or deletion, by regulation, other licenses,
 7 permits, or authorizations for which the provisions of AS 46.35 **or AS 46.41** are
 8 applicable;

9 * **Sec. 13.** AS 46.03.880 is amended to read:

10 **Sec. 46.03.880. Applicability of the Administrative Procedure Act.** Except
 11 as otherwise specifically provided in this chapter, AS 44.62 (Administrative Procedure
 12 Act) governs the activities and the proceedings of the department. **Notwithstanding**
 13 **AS 44.62.330(a)(44), adjudicatory hearing procedures to review permit decisions**
 14 **under AS 46.03, AS 46.04, or AS 46.14 need not conform to AS 44.62.330 -**
 15 **44.62.630.**

16 * **Sec. 14.** AS 46.40.096 is repealed and reenacted to read:

17 **Sec. 46.40.096. Consistency reviews and determinations.** (a) A
 18 consistency review is required for any activity or use that will be located in the coastal
 19 zone or that could affect land or water uses or natural resources of the coastal zone and
 20 that

21 (1) is subject to consistency review under 16 U.S.C. 1456 (sec. 307 of
 22 the Coastal Zone Management Act);

23 (2) is a function performed by or on behalf of a state resource agency
 24 in the exercise of its statutory responsibilities, other than those described in (1) or (3)
 25 of this subsection; or

26 (3) requires one or more state resource agency permits.

27 (b) A consistency review of an activity or use subject to (a)(1) or (3) of this
 28 section shall be coordinated as provided in AS 46.41.

29 (c) A consistency review of an activity or use subject to (a)(2) of this section
 30 shall be conducted as part of the agency's implementation of its statutory
 31 responsibilities.

1 * **Sec. 15.** AS 46.40.100 is repealed and reenacted to read:

2 **Sec. 46.40.100. Compliance and enforcement.** (a) Municipalities and state
3 agencies shall administer land and water use regulations or controls in conformity with
4 district coastal management programs approved by the council and the legislature and
5 in effect.

6 (b) In order to carry out its authority under AS 46.40.010 to review district
7 coastal management programs, the council may hear petitions brought by affected
8 persons concerning the compatibility of enforceable policies of a district coastal
9 management program with other enforceable local requirements.

10 * **Sec. 16.** AS 46.40.210 is amended by adding a new paragraph to read:

11 (9) "permit" means a permit, lease, or other authorization, initiated by
12 an applicant, that is necessary to conduct an activity or use that will be located in the
13 coastal zone or that could affect land or water uses or natural resources of the coastal
14 zone; "permit" does not include state-initiated lease sales, resource disposal programs,
15 planning or classification activities, or transfers of title to land or an interest in land.

16 * **Sec. 17.** AS 44.19.145(a)(11); 44.19.152(3); 44.19.152(4); AS 46.35.010, 46.35.020,
17 46.35.030, 46.35.040, 46.35.050, 46.35.060, 46.35.070, 46.35.080, 46.35.090, 46.35.100,
18 46.35.110, 46.35.120, 46.35.130, 46.35.140, 46.35.150, 46.35.160, 46.35.170, 46.35.200,
19 46.35.210; AS 46.40.040(6), 46.40.094, and 46.40.210(6) are repealed.

20 * **Sec. 18.** The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 **TRANSITION: REGULATIONS.** The division of project assistance, established by
23 sec. 8 of this Act, shall solicit a list of projects and permits described in AS 46.41.020(b),
24 enacted by sec. 2 of this Act, from state agencies. Notwithstanding sec. 21 of this Act, and
25 after consultation with the resource agencies as defined in AS 46.41.990, enacted by sec. 2 of
26 this Act, the division of project assistance may immediately proceed to adopt regulations as
27 described in AS 46.41.020 and 46.41.130, enacted by sec. 2 of this Act. The regulations take
28 effect as provided in AS 44.62 (Administrative Procedure Act). The lieutenant governor shall
29 notify the revisor of statutes of the effective date of the regulations.

30 * **Sec. 19.** The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 TRANSITION: PENDING MATTERS; RECORDS. (a) Except as provided in (b) of
2 this section, matters that would be affected by a provision of this Act and that are pending
3 completion by or before a state agency on the effective date established under sec. 21 of this
4 Act shall continue to completion as though this Act had not taken effect.

5 (b) Matters that would be affected by a provision of this Act and that are pending
6 completion by or before the office of management and budget on the effective date
7 established under sec. 21 of this Act shall be completed by the division of project assistance,
8 established by sec. 8 of this Act. Other than the change in responsible state agency, the
9 matters shall be completed in accordance with the applicable statutes and regulations as they
10 existed on the day before the effective date established under sec. 21 of this Act. In
11 completing the matters, the division of project assistance may implement and enforce
12 applicable regulations adopted by the office of management and budget.

13 (c) Records of the administrative unit of the office of management and budget
14 assigned the responsibility for functions addressed by this Act shall be transferred to the
15 division of project assistance.

16 * **Sec. 20.** Sections 1, 8, and 18 of this Act take effect January 1, 2003.

17 * **Sec. 21.** Sections 2 - 7, 9 - 17, and 19 of this Act take effect on the effective date of
18 regulations adopted under sec. 18 of this Act to implement AS 46.41.020, enacted by sec. 2 of
19 this Act.