

**CS FOR HOUSE BILL NO. 243(CRA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 3/27/08

Referred: Resources, Finance

Sponsor(s): REPRESENTATIVES JOULE, Edgmon

**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 by law for members of boards and commissions.

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

1 the coastal resource district's organization. A request under this subsection must  
2 include the reasons for the extension.

3 \* **Sec. 12.** AS 46.40.060 is amended to read:

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

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

17 (c) If, after mediation, the differences have not been resolved **and mutually**  
18 **agreed to by the coastal resource district and the board, the board shall call for a**  
19 **public hearing and shall resolve the differences in accordance with AS 44.62**  
20 **(Administrative Procedure Act). After the public hearing,** the **board**  
21 [DEPARTMENT] shall enter findings and, by order, may require

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

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

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

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

31 \* **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**

1 HAS NOT ADEQUATELY RESPONDED IN WRITING WITHIN 14 DAYS  
 2 AFTER THE RECEIPT OF] a written request from the reviewing entity for  
 3 additional information, until the time the reviewing entity determines that the  
 4 applicant has provided an adequate written response;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 \* **Sec. 29.** AS 46.40.210(1) is amended to read:

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

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

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

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

31 (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.