

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

**BY THE SENATE FINANCE COMMITTEE**

**Offered: 4/14/10**

**Referred: Rules**

**Sponsor(s): SENATOR OLSON**

**A BILL**

**FOR AN ACT ENTITLED**

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

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

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

7 **Sec. 46.39.005. Alaska Coastal Policy Board.** (a) The Alaska Coastal Policy  
8 Board is created in the Department of Natural Resources. The board consists of  
9 (1) five public members appointed by the governor, including one at-  
10 large member from any coastal district; one public member shall be appointed from  
11 each of the 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;

18 (C) the commissioner of natural resources; and

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

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

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

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

1 shall be filed with the board.

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

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

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

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

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

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

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

29 (2) contract for necessary services. [;]

30 **(b) The board may**

31 **(1)** [(3)] consult and cooperate with

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

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

7 **(2)** [(4)] take any reasonable action necessary to carry out the  
8 provisions of this chapter or AS 46.40.

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

10 **Sec. 46.39.040. Duties of the board [DEPARTMENT].** In conformity with  
11 16 U.S.C. 1451 - 1464 (Coastal Zone Management Act of 1972), as amended, the  
12 **board** [DEPARTMENT] shall

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 **(2) necessary given local conditions; and**

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

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

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

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

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

1 Alaska coastal management program;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 commissioner shall submit the recommendation to the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (2) prepare proposed consistency determinations;

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

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

13 (B) may occur only if requested by

14 (i) the project applicant;

15 (ii) a state resource agency; or

16 (iii) an affected coastal resource district; and

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

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

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

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

24 (1) an aspect of an activity that

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

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

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

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

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

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

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

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

15 (1) activities within the coastal zone; and

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

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

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

1 individualized consistency review under this section.

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

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

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

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

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

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

8 (2) are suspended

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (A) unified municipalities;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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