

HCR

125

LETTER OF INTENT -- CSHCR 125

By the Community and Regional Affairs Committee

Testimony received by the Community and Regional Affairs Committee identified two provisions of regulations submitted by the Alaska Coastal Policy Council for which change is suggested. Both bear upon the desire of members of the committee to maintain the broadest possible opportunity for public participation in and understanding of the process of developing district and state coastal management programs. Specifically,

(1) in 6 AAC 85.120(b), it is the intent of the committee that, in addition to giving of notice of public hearing by newspaper advertisement, where no newspaper of general circulation exists within a community or region, general notice should be given by radio;

(2) in 6 AAC 85.140, it is the intent of the committee that broad public circulation through general notice or radio broadcast be given to recommendations of the Coastal Policy Council in its review of district programs, that the public at-large (rather than only those persons specifically served a written copy of the Council's recommendation) have opportunity to respond with written comments, and that the public at-large enjoy the opportunity to attend all subsequent sessions, including mediation sessions.

Language adopted by the Coastal Policy Council in each of sections cited complies with the letter of each underlying statute; the committee recommends reconsideration and change to more nearly accord with the spirit of public participation and understanding which is the basis of the coastal management program.

PART 6.  
ALASKA COASTAL POLICY COUNCIL

Chapter

- 80. Standards of the Alaska Coastal Management Program
- 85. Guidelines for District Coastal Management Programs

CHAPTER 80.  
STANDARDS OF THE ALASKA COASTAL MANAGEMENT PROGRAM

Article

- 1. Government process
- 2. Uses and activities
- 3. Resources and habitats
- 4. Areas which merit special attention
- 5. General provisions

ARTICLE 1.  
GOVERNMENT PROCESS

Section

- 10. Coverage of regulations
- 20. Public participation and information
- 30. Program management and coordination

6 AAC 80.010. COVERAGE OF REGULATIONS. (a) This title contains guidelines and standards for the use of and application by districts and state agencies in carrying out their responsibilities under the Alaska Coastal Management Act, AS 46.40, and AS 44.19.891 -- 44.19.894.

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(b) [Nothing in this chapter or in any district program may be construed as displacing or diminishing the authority of any state agency or local government with respect to resources in the coastal area.] Uses and activities conducted by state agencies in the coastal area shall be consistent with the applicable district program and the standards contained in this chapter. In authorizing uses or activities in the coastal area under its statutory authority, each state agency shall grant authorization if, in addition to finding that the use or activity complies with the agency's statutes and regulations, the agency finds that the use or activity is consistent with the applicable district program and the standards contained in this chapter.

(c) At a minimum, the Council will review this title annually.  
 Authority: AS 44.19.893  
 AS 46.40.040

6 AAC 80.020. PUBLIC PARTICIPATION AND INFORMATION. (a) The Council will provide adequate, effective, and continuing opportunities for public participation from the beginning of the Alaska Coastal Management Program. The Council will give notice of when and where opportunities for public participation will be provided before adoption of guidelines and standards, review and approval of district programs and amendments to district programs, and amendments to the Alaska Coastal Management Program.

(b) The Council will not approve a district program or significant amendment of a district program unless evidence of significant opportunities for public participation at the district level has been provided.

(c) The Council will make available to the public information and educational materials concerning coastal management, in understandable form, including

- (1) a guide for the development of district programs;
- (2) maps and narratives describing physical and biological characteristics to be used in establishing boundaries of coastal areas;
- (3) areas recommended for Council designation as areas which merit special attention;
- (4) maps showing the distribution and abundance of coastal fish and wildlife species with commercial, recreational, subsistence, or general ecological importance;
- (5) an identification of major data and information sources concerning coastal management;
- (6) a summary of information regarding coastal regions;
- (7) summaries of public hearings and workshops;
- (8) films and slide programs;
- (9) written material summarizing or explaining the Alaska Coastal Management Program; and
- (10) the Council's annual report to the legislature.

(d) At public meetings concerning the Alaska Coastal Management Program, the Council will insure that, where reasonably requested, translation into appropriate Native language is provided.

Authority: AS 44.19.893  
AS 46.40.040

6 AAC 80.030. PROGRAM MANAGEMENT AND COORDINATION. (a) The Office of Coastal Management is the designated lead agency for the Alaska Coastal Management Program. The Office of Coastal Management will

(1) present the staff position regarding matters before the Council;

(2) coordinate the activities of state agencies participating in the Alaska Coastal Management Program; and

(3) review state and federal actions for consistency with the Alaska Coastal Management Program, subject to Council review.

(b) The Council will initiate an interagency program of comprehensive resource management for each geographic region contained in AS 44.19.891(a)(1). Regional programs will

(1) assist the Council and districts in identifying uses of state concern<sup>1</sup> and developing management policies for these uses;

(2) provide resource, social, and economic information on a coordinated regional basis; and

(3) assist the Council and districts in identifying, avoiding, or minimizing existing or potential conflicts.

(c) Plans and recommendations developed as part of the regional program described in (b) of this section shall be transmitted to the district through the Office of Coastal Management. District planning efforts shall demonstrate review and consideration of these plans and recommendations. If the final district program proposed does not agree with the regional program plans and recommendations, the differences will be resolved by the Council.

(d) The Council will prepare a manual of standards for the management of land and water uses in the coastal area to assist in the development of district and state agency programs.

Authority: AS 44.19.893  
AS 46.40.040

1. "uses of state concern" is defined in AS 46.40.210(6).

ARTICLE 2.  
USES AND ACTIVITIES

## Section

- 40. Coastal development
- 50. Geophysical hazard areas
- 60. Recreation
- 70. Energy facilities
- 80. Transportation and utilities
- 90. Fish and seafood processing
- 100. Timber harvest and processing
- 110. Mining and mineral processing
- 120. Subsistence

6 AAC 80.040. COASTAL DEVELOPMENT. (a) In planning for and approving development in coastal areas, districts and state agencies shall give, in the following order, priority to

- (1) water-dependent uses and activities;
- (2) water-related uses and activities; and

(3) uses and activities which are neither water-dependent nor water-related for which there is no feasible and prudent inland alternative to meet the public need for the use or activity.

(b) The placement of structures and the discharge of dredge or fill material into coastal water shall, at a minimum, comply with Parts 320-323, Title 33, Code of Federal Regulations, Navigation and Navigable Waters.

Authority: AS 44.19.893  
AS 46.40.040

6 AAC 80.050. GEOPHYSICAL HAZARD AREAS. (a) Districts and state agencies shall identify known geophysical hazard areas and areas of high development potential in which there is a substantial possibility that geophysical hazards may occur.

(b) Development in areas identified under (a) of this section may not be approved by the appropriate state or local authority until siting, design, and construction measures for minimizing property damage and protecting against loss of life have been provided.

Authority: AS 44.19.893  
AS 46.40.040

6 AAC 80.060. RECREATION. (a) Districts shall designate areas for recreational use. Criteria for designation of areas of recreational use are:

(1) the area receives significant use by persons engaging in recreational pursuits or is a major tourist destination; or

(2) the area has potential for high quality recreational use because of physical, biological, or cultural features.

Authority: AS 44.19.893  
AS 46.40.040

6 AAC 80.070. ENERGY FACILITIES. (a) Sites suitable for the development of major onshore, nearshore, offshore, and OCS energy facilities shall be identified by the state in cooperation with districts.

*Who in state?*

(b) The siting and approval of major oil and gas facilities shall be based on the policies of the State of Alaska concerning the onshore and nearshore aspects of oil and gas development.

(c) Districts shall consider that the uses authorized by the issuance of state leases for mineral and petroleum resource extraction are specific uses of state concern. District programs and plans shall be consistent with such uses.

Authority: AS 44.19.893  
AS 46.40.040

6 AAC 80.080. TRANSPORTATION AND UTILITIES. (a) Transportation and utility routes and facilities in the coastal area shall be sited, designed, and constructed so as to be compatible with local community goals and desires as expressed in district programs and local comprehensive plans.

(b) Transportation and utility routes and facilities shall be sited inland from beaches and shorelines unless the route or facility is water-dependent or no feasible and prudent inland alternative exists to meet the public need for the route or facility.

Authority: AS 44.19.893  
AS 46.40.040

6 AAC 80.090. FISH AND SEAFOOD PROCESSING. Districts shall identify and may designate areas of the coast suitable for the location or development of facilities related to commercial fishing and seafood processing.

Authority: AS 44.19.893  
AS 46.40.040

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6 AAC 80.100. TIMBER HARVEST AND PROCESSING. (a) Commercial timber harvest activities in the coastal area shall be sited in areas where the management of reforestation, using the best available technology, will result in producing a sustained yield of merchantable timber unless the area is to be converted to a use other than timber harvest.

(b) Commercial timber harvest activities in the coastal area shall be conducted so as to meet the following standards:

(1) the location of facilities and the layout of logging systems shall be managed so as to minimize potential for adverse environmental impacts;

(2) assure unrestricted fish movement in coastal waters; and

(3) timber harvest and timber management activities shall be planned and implemented so as to protect streambanks and shorelines, prevent adverse impacts on fish resources and habitats, and minimize adverse impacts on wildlife resources and habitats as determined on a case-by-case basis by the Alaska Departments of Natural Resources, Environmental Conservation, and Fish and Game, districts, and appropriate federal agencies.

(c) Commercial timber transport, storage, and processing in the coastal area shall be conducted so as to meet the following standards:

(1) onshore storage of logs shall be encouraged where compatible with the objectives of the Alaska Coastal Management Program;

(2) sites for in-water dumping and storage of logs shall be selected and these activities conducted so as to minimize adverse effects on the marine ecosystem, minimize conflicts with recreational uses and activities, be safe from storms, and not constitute a hazard to navigation;

(3) roads for log transport and harvest area access shall be planned, designed, and constructed so as to minimize mass wasting, erosion, sedimentation, interference with drainage, and adequately maintained until such time as they are returned to their pre-road natural drainage pattern (put to bed); and

(4) stream crossings, including bridges and culverts, shall be kept to a minimum number, designed to withstand seasonal high water and flooding, and provide for unrestricted passage of fish.

(d) Upon the effective date of a regulation adopted under the authority of forest practices legislation establishing a standard corresponding to a standard in this section, the standard in this section will not be applicable.

Authority: AS 44.19.893  
AS 46.40.040

6 AAC 80.110. MINING AND MINERAL PROCESSING. (a) Mining and mineral processing in the coastal area shall be permitted, designed, and conducted so as to be compatible with the standards contained in this chapter, adjacent uses and activities, regional programs, statewide and national needs, district programs, and local comprehensive plans.

(b) Sand and gravel may be extracted from coastal waters, intertidal areas, barrier islands, and spits when there is no feasible and prudent alternative to coastal extraction which will meet the public need for the sand or gravel.

Authority: AS 44.19.893

AS 46.40.040

6 AAC 80.120. SUBSISTENCE. (a) Districts and state agencies shall recognize and assure opportunities for subsistence usage of coastal areas and resources.

(b) Districts shall identify areas in which subsistence is the dominant use of coastal resources.

(c) Districts may, after consultation with appropriate state agencies, Native corporations, and any other persons or groups, designate areas identified under (b) of this section as subsistence zones in which subsistence shall have priority over all non-subsistence uses and activities.

(d) Before a potentially conflicting use or activity may be authorized within areas designated under (c) of this section, a study of the possible adverse impacts of the proposed potentially conflicting use or activity upon subsistence usage shall be conducted and appropriate safeguards to assure subsistence usage shall be provided.

(e) Districts sharing migratory fish and game resources shall be required to submit compatible plans for habitat management.

Authority: AS 44.19.893

AS 46.40.040

### ARTICLE 3. RESOURCES AND HABITATS

#### Section

130. Habitats

140. Air, land, and water quality

150. Historic, prehistoric, and archaeological resources

6 AAC 80.130. HABITATS. (a) Habitats in the coastal area which are subject to the Alaska Coastal Management Program include

- (1) offshore areas;
- (2) estuaries;
- (3) wetlands and tideflats;
- (4) rocky islands and seacliffs;
- (5) barrier islands and lagoons;
- (6) exposed high energy coasts;
- (7) rivers, streams, and lakes; and
- (8) important upland habitat.

(b) The habitats contained in (a) of this section shall be managed so as to maintain or enhance the biological, physical, and chemical characteristics of the habitat which contribute to its capacity to support living resources.

(c) In addition to the standard contained in (b) of this section, the following standards apply to the management of the following habitats:

(1) manage offshore areas as a fisheries conservation zone so as to maintain or enhance the state's sport, commercial, and subsistence fishery;

(2) manage estuaries so as to assure adequate water flow, natural circulation patterns, nutrients, and oxygen levels, and avoid the discharge of toxic wastes, silt, and destruction of productive habitat;

(3) manage wetlands and tideflats so as to assure adequate water flow, nutrients, and oxygen levels and avoid adverse effects on natural drainage patterns, the destruction of important habitat, and the discharge of toxic substances;

(4) manage rocky islands and seacliffs so as to avoid the harassment of wildlife, destruction of important habitat, and the introduction of competing or destructive species and predators;

(5) manage barrier islands and lagoons so as to maintain adequate flows of sediments, detritus, and water, avoid the alteration or redirection of wave energy which would lead to the filling in of lagoons or the erosion of barrier islands, and discourage activities which would decrease the use of barrier islands by coastal species, including polar bears and nesting birds;

(6) manage high energy coasts by assuring the adequate mix and transport of sediments and nutrients and avoiding redirection of transport processes and wave energy; and

(7) manage rivers, streams, and lakes to protect natural vegetation, water quality, important fish or wildlife habitat, and natural water flow.

(d) Uses and activities in the coastal area which will not conform to the standards contained in (b) and (c) of this section may be allowed by the district or appropriate state agency providing the following are established:

(1) significant public need for the proposed use or activity;

(2) no feasible and prudent alternative to meet the public need for the proposed use or activity which would conform to the standards contained in (b) and (c) of this section; and

(3) all feasible and prudent steps to maximize conformance with the standards contained in (b) and (c) of this section will be taken.

(e) In applying this section, districts and state agencies may use appropriate expertise, including regional programs referred to in sec. 30(b) of this chapter.

Authority: AS 44.19.893  
AS 46.40.040

6 AAC 80.140. AIR, LAND, AND WATER QUALITY. Notwithstanding any other provision of this chapter, the statutes, regulations, and procedures of the Alaska Department of Environmental Conservation with respect to the protection of air, land, and water quality are incorporated into the Alaska Coastal Management Program and, as administered by that agency, constitute the components of the coastal management program with respect to those purposes.

Authority: AS 44.19.893  
AS 46.40.040

6 AAC 80.150. HISTORIC, PREHISTORIC, AND ARCHAEOLOGICAL RESOURCES. Districts and appropriate state agencies shall identify areas of the coast which are important to the study, understanding, or illustration of national, state, or local history or prehistory.

Authority: AS 44.14.893  
AS 46.40.040

ARTICLE 4.  
AREAS WHICH MERIT SPECIAL ATTENTION

## Section

## 160. Areas Which Merit Special Attention

6 AAC 80.160. AREAS WHICH MERIT SPECIAL ATTENTION. (a) Districts and appropriate state agencies shall recommend to the Council areas to be designated as areas which merit special attention.<sup>2</sup> Recommendations shall include the following information:

- (1) the basis or bases for designation pursuant to AS 46.40.210(1) or (b) of this section;
  - (2) a map showing the geographical location, surface area, and, where appropriate, bathymetry of the area;
  - (3) a description of the area which includes dominant physical and biological features;
  - (4) the existing ownership, jurisdiction, and management status of the area, including existing uses and activities;
  - (5) the existing ownership, jurisdiction, and management status of adjacent shoreland and sea areas, including existing uses and activities;
  - (6) present and anticipated conflicts among uses and activities within or adjacent to the area, if any; and
  - (7) a proposed management scheme, consisting of the following:
    - (A) a description of the uses and activities which will be considered proper and the uses and activities which will be considered improper with respect to land and water within the area;
    - (B) a summary or statement of the policies which will be applied in managing the area; and
    - (C) an identification of the authorities which will be used to implement the proposed management scheme.
- (b) In addition to the categories contained in AS 46.40.210(1), areas which merit special attention may include the following:
- (1) areas important for subsistence hunting, fishing, food gathering, and foraging;
  - (2) areas with special scientific values or opportunities, including those where ongoing research projects could be jeopardized by development or conflicting uses and activities; and
2. "areas which merit special attention" is defined in AS 46.40.210(1).

(3) potential estuarine or marine sanctuaries.

(c) Management schemes for areas which merit special attention shall preserve, protect, enhance, or restore the value or values for which the area was designated.

Authority: AS 44.19.893  
AS 46.40.040

ARTICLE 5.  
GENERAL PROVISIONS

Section  
170. Definitions

6 AAC 80.170. DEFINITIONS. In this chapter

(1) "barrier islands and lagoons" means depositional coastal environments formed by deposits of sediment offshore or coastal remnants which form a barrier of low-lying islands and bars protecting a salt-water lagoon with free exchange of water to the sea;

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(2) "coastal water" means those waters adjacent to shorelines which contain a measurable quantity of seawater, including sounds, bays, lagoons, bayous, ponds, and estuaries, and the living resources which are dependent on these waters;

(3) "Council" means the Alaska Coastal Policy Council;

(4) "district" means coastal resource district as defined in AS 46.40.210(2);

(5) "district program" means district coastal management program;

(6) "estuary" means a semi-closed, coastal body of water which has a free connection with the sea and within which seawater is measurably diluted with freshwater derived from land drainage;

(7) "exposed high-energy coasts" means open and unprotected sections of coastline with direct exposure to ocean generated wave impacts and usually characterized by coarse sand, gravel, boulder beaches, and well-mixed coastal waters;

(8) "facilities related to commercial fishing and seafood processing" include hatcheries and related facilities, seafood processing plants and support facilities, marine industrial and commercial facilities, and aquaculture facilities;

(9) "geophysical hazards" include potential flooding, tsunami run-up, landslides, snowslides, severe faults, and ice hazards;

(10) "mining and mineral processing" means the development of mineral resources extracted in tidal rivers, coastal waters, and on continental shelves of the open sea, and found in surface, subsurface, and aqueous deposits;

(11) "offshore areas" means submerged lands and waters seaward of the coastline;

(12) "rocky islands and seacliffs" means islands of volcanic or tectonic origin with rocky shores and steep faces, offshore rocks, capes, and steep rocky seafronts;

(13) "tideflats" means mostly unvegetated areas that are alternately exposed and inundated by the falling and rising of the tide;

(14) "transportation and utility routes and facilities" include power transmission lines, mineral slurry, oil and gas pipelines, land and marine corridors, railways, highways, roadways, air terminals, water and sewage transfer, and facilities required to operate and maintain them;

(15) "upland" means drainages, aquifers, and land, the use of which would have a direct and significant impact on coastal waters;

(16) "water-dependent" means a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body;

(17) "water-related" means a use or activity which is not directly dependent upon access to a water body, but which provides goods or services that are directly associated with water-dependence and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered; and

(18) "wetlands" includes both freshwater and saltwater wetlands; freshwater wetlands means those environments characterized by rooted vegetation which is partially submerged either continuously or periodically by surface freshwater with less than .5 parts per thousand salt content and not exceeding three meters in depth; saltwater wetlands means those coastal areas along sheltered shorelines characterized by halophytic hydrophytes and macroalgae extending from extreme low tide to an area above extreme high tide which is influenced by sea spray or tidally-induced watertable changes.

Authority: AS 44.19.893  
AS 46.40.040

CHAPTER 85.  
GUIDELINES FOR DISTRICT COASTAL MANAGEMENT PROGRAMSARTICLE 1  
PROGRAM ELEMENTS

## Section

- 10. Needs, objectives and goals
- 20. Organization
- 30. Boundaries
- 40. Resource inventory
- 50. Resource analysis
- 60. Subject uses
- 70. Proper and improper uses
- 80. Policies
- 90. Implementation
- 100. Public participation

6 AAC 85.010. NEEDS, OBJECTIVES, AND GOALS. Each district program shall include a statement of the district's overall coastal management needs, objectives, or goals, or the district's comprehensive land and resource use plan.

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.020. ORGANIZATION. Each district program shall include a description of the district program organization for coastal management. Budgetary and staff needs and, where appropriate, a schedule for necessary reorganization shall be included.

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.030. BOUNDARIES. (a) Each district program shall include a map of the boundaries of the coastal area within the district subject to the district program.

(b) Prior to Council approval of the district program, initial boundaries shall be based on Biophysical Boundaries of Alaska's Coastal Zone,<sup>1</sup> and shall include the zone of direct interaction and the zone of direct influence.

(c) Final boundaries of the coastal area subject to the district program may diverge from the initial boundaries if the final boundaries:

1. available from the Office of Coastal Management, Division of Policy Development and Planning, Office of the Governor.

(1) extend inland and seaward to the extent necessary to manage uses and activities that have or are likely to have a direct and significant impact on coastal waters; and

(2) include all transitional and intertidal areas, salt marshes, saltwater wetlands, islands, and beaches.

(d) Providing that the criteria contained in (c) of this section are met, final boundaries of the coastal area subject to the district coastal management program may be based on political jurisdiction, cultural features, planning areas, watersheds, topographic features, uniform setbacks, or the dependency of uses and activities on water access.

(e) The boundaries of the district shall be sufficiently compatible with those of adjoining areas to allow consistent administration of the Alaska Coastal Management Program.

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Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.040. RESOURCE INVENTORY. Each district program shall include a resource inventory which describes, in a manner, sufficient for program development and implementation:

(1) habitats contained in 6 AAC 80.130 that are found within and adjacent to the district;

(2) major cultural resources that are found within and adjacent to the district;

(3) major land and water uses and activities which are conducted within and adjacent to the district;

(4) major land and resource ownership and management responsibilities within and adjacent to the district; and

(5) major historic, prehistoric, and archaeological resources which are found within and adjacent to the district.

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.050. RESOURCE ANALYSIS. Each district program shall include a resource analysis which describes, in a manner sufficient for program development and implementation:

(1) significant anticipated changes in <sup>elements listed under</sup> sec. 40 of this chapter;

(2) an evaluation of the environmental capability and sensitivity of resources and habitats, including cultural resources, for land and water uses and activities; and

(3) an assessment of the present and anticipated needs and demands for coastal habitats and resources.

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.060. SUBJECT USES. Each district program shall include a description of the land and water uses and activities which are subject to the district program. The uses and activities contained in 6 AAC 80 shall, if applicable, be subject to the district program.

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.070. PROPER AND IMPROPER USES. Each district program shall include a description of the uses and activities, including uses of state concern, that will be considered proper and the uses and activities, including uses of state concern, that will be considered improper within the coastal area, including land and water use designations. This description shall be based on the district's statement of overall needs, objectives, or goals, or the district's comprehensive land and resource use plan, under sec. 10 of this chapter, and shall be consistent with the standards contained in ch. 80 of this title.

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.080. POLICIES. Each district program shall include a summary or statement of the policies that will be applied to land and water uses and activities subject to the district program and the process which will be used to determine whether specific proposals for land and water uses and activities will be allowed. It shall be the general policy of the district to approve specific proposals for uses and activities within areas designated for those uses and activities under sec. 70 of this chapter. Districts shall use existing means appropriate for the evaluation of specific proposals to the greatest extent feasible and prudent. Policies and procedures under this section shall be consistent with the standards contained in ch. 80 of this title and shall meet the following criteria:

(1) comprehensiveness, so as to apply to all uses, activities, and areas in need of management;

(2) specificity, so as to allow clear understanding of who will be affected by the district program, how they will be affected, and whether specific proposals for land and water uses and activities will be allowed; and

(3) enforceability, so as to insure implementation of and adherence to the district program.

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.090. IMPLEMENTATION. Each district program shall include a description of the methods and authorities which will be used to implement the district program. Methods and authorities must be adequate to insure program implementation and any additional methods or authorities which are required shall be specified. Methods and authorities include: land and water use plans; municipal ordinances and resolutions, including shoreline, zoning, and subdivision ordinances and building codes; state and federal statutes and regulations; capital improvements programs; the purchase, sale, lease, or exchange of coastal land and water resources; cooperative agreements; tax exemptions for non-development purchase of development rights; memoranda of understanding; and coordinated project or permit review procedures.

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.100. PUBLIC PARTICIPATION. Each district program shall include evidence of effective and significant opportunities for public participation in program development, under sec. 120 of this chapter.

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

## ARTICLE 2. GOVERNMENT PROCESS

### Section

- 110. Submittals to Council
- 120. Public involvement
- 130. Coordination and review
- 140. Council review

6 AAC 85.110. SUBMITTALS TO COUNCIL. (a) During program development, districts shall submit brief annual progress reports concerning program development to the Council

(b) Following adoption of the final program, districts shall submit brief annual progress reports concerning program implementation to the Council.

(c) All significant amendments to the district program shall be submitted to the Council for approval. The Office of Coastal Management will review proposed amendments to determine if Council approval is required. This determination is subject to Council review when requested by a Council member.

(d) Districts shall give conceptual approval to district programs and significant amendments to district programs prior to their submittal to the Council. The district program as approved by the Council becomes effective upon adoption by the district.

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.120. PUBLIC INVOLVEMENT. (a) No less than two public meetings shall be held within the district during program development to inform the public and receive comments concerning the program. A brief summary or report of the matters considered at the public meeting held under this subsection shall be prepared by the district, made available to the public, and retained for inclusion in the record file referred to in sec. 140(c) of this chapter.

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(b) At least 30 days before giving conceptual approval to the district program or significant amendment to the district program, the district shall give public notice of the proposed action by conspicuous advertisement in a newspaper of general circulation within the district. The notice must specify the time and place of a public hearing on the proposed action. The public hearing under this subsection may be held not sooner than 10 days after first publication of the notice. At the public hearing, each interested person shall be given the opportunity to present statements, arguments, or contentions, orally or in writing. Districts shall insure that, where reasonably requested, translation into appropriate Native language is provided. The district shall consider all relevant matter presented to it. A written transcript or electronic recording of the public hearing shall be submitted to the Council.

(c) In addition to the requirements of (b) of this section, districts shall provide publically advertised opportunities for public involvement in the development of all program elements contained in secs. 10 -- 100 of this chapter.

(d) Districts shall provide the public, in a timely manner and in understandable form, information explaining the district coastal management program, the requirements of public participation in program development, how and when the public may

participate in program development, what information is available, and where such information may be obtained.

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.130. COORDINATION AND REVIEW. Districts shall provide opportunities for coordination and review by federal, state, and local governmental agencies, including adjacent districts, and others with a significant interest in coastal resources or which are conducting or may conduct uses and activities that have or are likely to have a direct and significant impact on the district's coastal area.

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.140. COUNCIL REVIEW. (a) When a district program or significant amendment to a district program is given conceptual approval by the district, the program or amendment together with the transcript or recording of the public hearing held under sec. 120(b) of this chapter and all other material on which the district based its decision shall be submitted to the Council.

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b  
(b) Within 30 days of submission of the district program or amendment under (a) of this section, the Office of Coastal Management will issue a quasi-legislative recommendation. The recommendation may be based, in whole or in part, on matters not submitted by the district under (a) of this section. Any matters so used shall be identified in the recommendation. The recommendation will contain findings and conclusions based on this chapter, the standards contained in ch. 80 of this title, AS 46.40.060, and AS 46.40.070. The recommendation will be served on the district, the Council, and all persons who testified or submitted timely written statements at the public hearing held under sec. 120(b) of this chapter.

(c) A record file containing all matter submitted by the district under (a) of this section, the Office of Coastal Management's recommendation under (b) of this section, and all matters on which the recommendation was based will be maintained at the Office of Coastal Management and at a convenient location within the district.

(d) Within 30 days after service of the recommendation, any person served with the recommendation may serve upon the Council comments on the recommendation. Within 10 days after the deadline for serving comments on the Council under this subsection, the Office of Coastal Management may submit additional matter to the Council in response to the comments. All comments served and all additional matter submitted under this subsection will be placed in the record file.

(e) Within 20 days after the deadline for the Office of Coastal Management's submission of additional matter to the Council under (d) of this section, the Council will approve or disapprove the district program, in whole or in part. The Council's decision will contain findings and conclusions based on this chapter, the standards contained in ch. 80 of this title, AS 46.40.060, AS 46.40.070, and matter contained in the record file. The Council will, in its discretion, adopt the findings and conclusions of the Office of Coastal Management by reference. The Council will serve its decision under this subsection on the district, on all persons who submitted timely comments on the staff recommendation under (d) of this section, and place the decision in the record file.

(f) If the Council's decision under (e) of this section disapproves, in whole or in part, the district program, the decision will specify the date and location for the initial mediation session under AS 46.40.060(b). Mediation sessions will be held within the district and scheduled with due regard for the convenience of the participants. Any person served with the Council's decision under (e) of this section may attend mediation sessions.

(g) If the Council and district reach accord in mediation sessions held under (f) of this section, the Council will, within 20 days after reaching accord, serve its modified decision on the district, all persons who were served with the Council's decision under (e) of this section, and place the modified decision in the record file. The modified decision will contain findings and conclusions, based on the record file and additional matters adduced during mediation, necessary to demonstrate that the modified decision does not violate this chapter, the standards contained in ch. 80 of this title, AS 46.40.060, and AS 46.40.070.

(h) If the Council and the district do not reach an accord, the Council will, within 20 days after its determination that an impasse has been reached, set the matter for adjudicator hearing pursuant to AS 46.40.060(c). Notice of the hearing under AS 44.62.370(c) will be served on the district and all persons who were served with the Council's decision under (e) of this section. Any person served with notice of the hearing under this subsection may intervene as a party to the hearing.

Authority: AS 44.19.893

AS 46.40.030

AS 46.40.040

ARTICLE 3.  
GENERAL PROVISIONS

Section  
150. Definitions

6 AAC 85.150. DEFINITIONS. In this chapter

(1) "beaches" means the area affected by wave action directly from the sea;

(2) "coastal water" has the same meaning as in 6 AAC 80.170(2);

(3) "Council" means the Alaska Coastal Policy Council;

(4) "district" means coastal resource district as defined in AS 46.40.210(2);

(5) "district program" means district coastal management program;

(6) "islands" means bodies of land surrounded by water on all sides; interior portions of major islands may be excluded if uses of these lands do not cause direct and significant impacts on coastal waters;

(7) "saltwater wetlands" has the same meaning as that contained in 6 AAC 80.170(18); and

(8) "transitional and intertidal areas" means areas subject to periodic or occasional inundation by tides, as, for example, coastal floodplains, storm surge areas, tsunami and hurricane zones, and washover channels.

ALASKA  
STATE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

State Capitol

INTER-AGENCY ROUTING SLIP

TO: Annette

ATTN: \_\_\_\_\_

REMARKS: I think this should take care of the  
problem with respect to the CZM regs  
and their subsequent amendment by the  
Coastal Policy Council.

FROM: jc

DATE: 5/2



AS 46.40.080 is amended to read:

Sec. 46.40.080. EFFECTIVE DATE OF ALASKA COASTAL MANAGEMENT REGULATIONS AND PROGRAM. The Alaska coastal management regulations adopted under sec. 40 of this chapter, the coastal management program adopted by the council, and any additions, revisions, or amendments of those regulations or of the program, take effect upon adoption of a concurrent resolution of approval adopted by a majority of the members of each house of the legislature or by a vote of approval of a majority of the members of each house at the time the houses are convened in joint session to confirm executive appointments submitted by the governor.

## SUMMARY OF COUNCIL CHANGES TO FINAL DRAFT,

### ACMP GUIDELINES AND STANDARDS

This paper summarizes the major comments received from public hearings on the Hearing Draft of the Guidelines and Standards, and shows in a general way, how the Alaska Coastal Policy Council dealt with those comments. At its meeting on March 30 and 31, the Council was presented with a Staff Recommendations draft of the Guidelines. The Council used this and the hearing comments to produce their final guidelines which were then sent to the Legislature and the Attorney General in early April.

Since then, the Attorney General has examined the final guidelines and made a number of clerical and grammatical changes. A revised final draft is now available and attached which contains those changes.

#### HEARING COMMENTS

1. Guidelines are too vague, and could lead to interpretation problems. Conversely, others said that the guidelines were too strict and eliminated too many local options.
2. Unclear as to status of Guidelines, upon whom are they effective?
3. Timber harvest too strict.
4. All Standards (Art. 80.) sections contain undefined terms, or words which will be difficult to interpret.
5. Many sections contain redundant provisions.
6. Needs definitions.
7. Subsistence use needs more detail.

#### COUNCIL RESPONSE

The Council elected to retain more flexible language to protect local options. To protect from arbitrary interpretation, a careful review and approval procedure was devised and inserted at the end of Chapter 85.(85.140)

A new section, 80.010. was added to clarify the applicability of the guidelines.

This section has been slackened and reduced to allow more flexibility. (See 80.100)

All sections in Article 80 have been streamlined with interpretive words eliminated or replaced with court-tested phrases like "feasible and prudent".

A careful edit has eliminated this,

A definitions section has been added to the end of each of the two main chapters.

A substantial addition was provided for the subsistence section.

Legislative Intent - As part of the Resolution or separate  
Letter of Intent

In approving the guidelines and standards as part of the coastal management program, the Legislature does not abrogate its right to annul any regulations in the future as it sees fit.

General Comments on Final Draft of Coastal Management  
Guidelines and Standards

The final draft of the Guidelines and Standards was extensively rewritten during the Coastal Policy Council's meeting in Juneau March 30-31.

The revision was based essentially on the staff recommendations presented at the Council meeting. The recommendations were designed to reflect the comments and objections that had been made in regard to the previous draft through the public hearing process and written comments from the public.

In general, the final draft represents a shortened, less mandatory, and more forthcoming attitude towards economic activity than the earlier draft.

Two new sections were added: the first section on Coverage of the Regulations and additional sections on Definitions. These were added in response to public hearing comments.

Certain phraseology was either eliminated from the draft or rephrased in the interest of avoiding possible court tests. Phrases such as "to the maximum extent possible (or feasible)" have been eliminated. Mandatory language such as "districts shall avoid" or "actions shall not interfere with..." have also been modified

In place of phrases "to the maximum extent possible", the words "feasible and prudent" have been used extensively. The words "feasible and prudent" were chosen as preferable since they have been defined in federal court cases -- feasible meaning "technologically possible" and prudent meaning "economically and socially reasonable".

In place of wording such as "shall avoid" or "shall not interfere", new language such as "shall be managed so as to minimize potential for adverse impacts" has been substituted.

New flexibility has been put into the regulations under subsistence, for example, by using the phrasing "shall recognize and assure opportunities for subsistence usage" instead of the previous "shall assure subsistence" in an earlier draft. Districts are given the option of designating subsistence as the priority use in subsistence zones, but are not mandated to do so across the board as the earlier draft implied.

Attached are reference sheets to the sections of the Act pertaining to the guidelines and standards and definitions of "uses of state concern" and "areas which merit special attention."

Attachments

Annette Smith  
5/2/78

ALASKA COASTAL MANAGEMENT ACT

Sec. 46.35.040. DUTIES OF THE ALASKA COASTAL POLICY COUNCIL. Through the public hearing process and the recording of the minutes of the hearings, the Alaska Coastal Policy Council shall

(1) by regulation, adopt under the provisions of the Administrative Procedure Act (AS 44.62), within six months of the effective date of this Act, for the use of and application by coastal resource districts and state agencies for carrying out their responsibilities under this chapter, guidelines and standards for:

(A) identifying the boundaries of the coastal area subject to the district coastal management program;

*see p.3 (d)*  
(B) determining the land and water uses and activities subject to the district coastal management program;

(C) Developing policies applicable to the land and water uses subject to the district coastal management program;

(D) Developing regulations applicable to the land and water uses subject to the district coastal management program;

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

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

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

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

(3) undertake review and approval of district coastal management programs in accordance with this chapter;

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

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

## COASTAL MANAGEMENT ACT

### Definitions from the Act:

(1) AREA WHICH MERITS SPECIAL ATTENTION means a delineated geographic area within the coastal area which is sensitive to change or alteration and which, because of plans or commitments or because a claim on the resources within the area delineated would preclude subsequent use of the resources to a conflicting or incompatible use, warrants special management attention, or which, because of its value to the general public, should be identified for current or future planning, protection, or acquisition; these areas, subject to council definition of criteria for their identification, include:

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

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

(C) areas of substantial recreational value or opportunity;

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

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

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

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

COASTAL MANAGEMENT ACT

Definitions from the Act:

(6) USES OF STATE CONCERN means those land and water uses which would significantly affect the long-term public interest; these uses, subject to council definition of their extent, include:

(A) uses of national interest, including the use of resources for the siting of ports and major facilities which contribute to meeting national energy needs, construction and maintenance of navigational facilities and systems, resource development of federal land, and national defense and related security facilities that are dependent upon coastal locations;

(B) uses of more than local concern, including those land and water uses which confer significant environmental, social, cultural, or economic benefits or burdens beyond a single coastal resource district;

(C) the siting of major energy facilities or large-scale industrial or commercial development activities which are dependent on a coastal location and which, because of their magnitude or the magnitude of their effect on the economy of the state or the surrounding area, are reasonably likely to present issues of more than local significance;

(D) facilities serving statewide or inter-regional transportation and communication needs; and

(E) uses in areas established as state parks or recreational areas under AS 41.20 or as state game refuges, game sanctuaries or critical habitat areas under AS 16.20.

M E M O

TO; Lisa                      FROM: Annette

May 1, 1978

SUBJECT: CZM Guidelines and Standards

I asked Murray Walsh of the Coastal Management Office to provide us with a one or two page summary of the major changes from the hearing draft of the guidelines to the final draft. Murray will also be here Wednesday morning to answer questions about the Guidelines. Mr. Allington also plans to attend.

Murray reported the Attorney General has made several changes in the final draft -- mostly clerical, he assures me. He expects to have the new final draft delivered to us tomorrow. I will distribute it to the members as soon as I get it.

Vivian Hegg of the League of Women Voters, paid a visit. She will be prepared to give testimony on the guidelines and standards on Wednesday. Her main concerns were that if the Legislature annulled some of the regulations, the Districts would be left at a disadvantage in developing their programs. She asked if there were problems areas if a letter of intent could accomplish the same purpose without annulling the regulations.

I can appreciate her point with regard to guidance for the local districts. However, I would be a bit concerned about the legal and political ramifications of a letter of intent to the effect that certain regulations need revision. Such a letter could be used as evidence in a suit for example. Better, a simple letter to the Council requesting revisions, though this is not as strong as outright annulment.

Ms Hegg also raised a possible problem with the guidelines and standards being accepted as part of the program and/or being approved by the full Legislature.

- 1) The Act does not state they are part of the program;
- 2) The Act does not state that they need approval by the Legislature;
- 3) Question of whether the Administrative Regulation Review Committee can review and recommend annulment of regulations once approved by the whole body;
- 4) What happens with future revisions and amendments to the regulations by the Council? Is Legislative approval needed before any changes can take effect?
- 5) Jack Chenoweth recommends clarifying the Act as to whether guidelines and standards will be part of the program or if not, how any future amendments to the regulations will be handled.

STATE  
of ALASKA

## MEMORANDUM

TO:  Annette Smith  
Administrative Assistant  
House Community and Regional  
Affairs Committee

DATE: May 1, 1978

FILE NO:

TELEPHONE NO:

FROM: Murray R. Walsh *MRW*  
Coordinator  
Alaska Coastal Management Program

SUBJECT: Summary of Changes to ACMP  
Guidelines and Standards

As you requested I have written a short summary of the major areas of change between the January 1978 Hearing Draft of the ACMP Guidelines and Standards. The revision as per the Attorney General's review is not available this afternoon, but will be sent to you as soon as possible.

cc: Ben Harding  
Senate Community and Regional  
Affairs Committee

SUMMARY OF COUNCIL CHANGES TO FINAL DRAFT,  
ACMP GUIDELINES AND STANDARDS

This paper summarizes the major comments received from public hearings on the Hearing Draft of the Guidelines and Standards, and shows in a general way, how the Alaska Coastal Policy Council dealt with those comments. At its meeting on March 30 and 31, the Council was presented with a Staff Recommendations draft of the Guidelines. The Council used this and the hearing comments to produce their final guidelines which were then sent to the Legislature and the Attorney General in early April.

Since then, the Attorney General has examined the final guidelines and made a number of clerical and grammatical changes. A revised final draft is now available and attached which contains those changes.

HEARING COMMENTS

COUNCIL RESPONSE

1. Guidelines are too vague, and could lead to interpretation problems. Conversely, others said that the guidelines were too strict and eliminated too many local options.

The Council elected to retain more flexible language to protect local options. To protect from arbitrary interpretation, a careful review and approval procedure was devised and inserted at the end of Chapter 85.(85.140)

2. Unclear as to status of Guidelines, upon whom are they effective?

A new section, 80.010. was added to clarify the applicability of the guidelines.

3. Timber harvest too strict.

This section has been slackened and reduced to allow more flexibility. (See 80.100)

4. All Standards (Art. 80.) sections contain undefined terms, or words which will be difficult to interpret.

All sections in Article 80 have been streamlined with interpretive words eliminated or replaced with court-tested phrases like "feasible and prudent".

5. Many sections contain redundant provisions.

A careful edit has eliminated this,

6. Needs definitions.

A definitions section has been added to the end of each of the two main chapters.

7. Subsistence use needs more detail.

A substantial addition was provided for the subsistence section.

STATE OF ALASKA  
THE LEGISLATURE

POUCHY - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3300

LEGISLATIVE AFFAIRS AGENCY

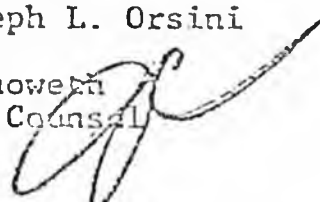
MEMORANDUM

March 28, 1978

SUBJECT: Opinion request: Review and approval of coastal management regulations

TO: Senator Joseph L. Orsini

FROM: John B. Chenoweth  
Legislative Council



Your March 27th request of Bill Berrier with respect to the scope of legislative review of pending coastal management regulations has been referred to me for reply.

The scope of legislative review of regulations embodying guidelines and standards applicable to the adoption and implementation of coastal management programs by municipalities and service areas does not appear to me to differ from the scope of review authorized for other agency regulations under AS 44.62.320: the Legislature may, by concurrent resolution, annul an agency-adopted regulation. Nothing requires the Legislature to act on this body of regulations as a single unit, though that is, of course, one means by which the Legislature may proceed.

I am aware of the contention that the regulations required to be adopted by the Coastal Policy Council are ineffective until approved by adoption of a concurrent resolution or by vote of the members at a joint session of the Legislature. The argument presumably rests on AS 46.40.080:

The Alaska coastal management program adopted by the council, and any additions, revisions, or amendments of the program, take effect upon adoption of a concurrent resolution by a majority of the members of each house of the legislature or by a vote of the majority of the members of each house at the time the houses are convened in joint session to confirm executive appointments submitted by the governor.

I cannot say that the section cited requires prior affirmative action of the council's regulations. Prior approval is mandated for "the coastal management program" and for "additions, revisions, and amendments of the [coastal management] program," which, in the context of the legislation (absent a definition of the term "program"), appears to include only the individual planning elements prepared by the municipalities and service areas. As AS 46.40 now reads, it is not certain that approval by the Legislature is a requisite to having the regulations take effect.

The Legislature may not directly rewrite or repromulgate administrative regulations. It may amend or repeal the underlying statutory authority, thereby necessitating review and repeal or revision of affected regulations.

Because prior legislative approval of the council submission is not required under the interpretation offered herein, your question regarding the propriety of approval followed by later legislative review (presumably for purposes of annulment of the regulation) is moot.

JBC:jpd

# STATE OF ALASKA

COASTAL POLICY COUNCIL

January 23, 1978

LOCAL MEMBERS:

Roger Allington,  
Northern Southeast,  
Co-Chairman  
Roger Lagerstrom,  
Bering Straits  
Donald Gilman,  
Lower Cook Inlet  
Eben Hopson,  
Northwest  
Malcolm "Pete" Isleib,  
Prince William Sound  
Stan Paulson,  
Southwest  
Robert Sanderson,  
Southern Southeast  
Lidia Selkregg,  
Upper Cook Inlet  
Betty Wallin,  
Kodiak-Aleutians


STATE MEMBERS:

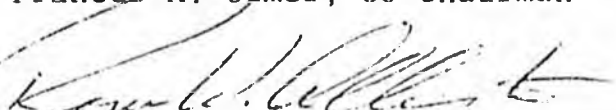
Frances Ulmer,  
Director of Policy  
Development &  
Planning,  
Co-Chairwoman  
Donald Harris,  
Commissioner of  
Transportation &  
Public Facilities  
Philip Hubbard,  
Commissioner of  
Commerce &  
Economic  
Development  
Robert LeResche,  
Commissioner of  
Natural Resources  
Lee McAnerney,  
Commissioner of  
Community &  
Regional Affairs  
Ernst Mueller,  
Commissioner of  
Environmental  
Conservation  
Ronald Skoog,  
Commissioner of  
Fish & Game

Pursuant to your interest in the Alaska Coastal Management Program we are sending you a copy of the proposed Guidelines and Standards as approved for public hearing by the Coastal Policy Council at their January 13th-14th meeting. Statewide public hearings have been scheduled from February 15th through March 4th as indicated on the hearing notice attached.

If you have any questions, please call the Office of Coastal Management at 465-3541.

Sincerely,

  
Frances A. Ulmer, Co-Chairman

  
Roger W. Allington, Co-Chairman



ALASKA  
COASTAL MANAGEMENT PROGRAM

NOTICE OF PROPOSED ADOPTION OF REGULATIONS

OF THE ALASKA COASTAL POLICY COUNCIL

Notice is hereby given that the Alaska Coastal Policy Council, under authority vested by AS 46.40.040(1) and AS 44.19.893(1), proposes to adopt regulations in Title 6, Part 5 of the Alaska Administrative Code to implement AS 46.40.040(1) and AS 44.19.893(1). These proposed regulations will constitute the guidelines and standards of the Alaska Coastal Management Program, for the use of and application by coastal resource districts and state agencies, and include comprehensive standards for the management of uses, activities, resources, and habitats in the coastal area and guidelines for the development of district coastal management programs.

The proposed regulations are organized as follows:

Chapter 80: Standards of the Alaska Coastal Management Program.

- Article 1: Government process.
- Article 2: Uses and activities.
- Article 3: Resources and habitats.
- Article 4: Areas which merit special attention.

Chapter 85: Guidelines for District Coastal Management Programs.

Notice is also given that any person interested may present oral or written statements or arguments relevant to the action proposed at hearings to be held at the following locations and times:

- Juneau 7:00 pm on Feb. 15 in the City-Borough Assembly Chambers.
- Kodiak 7:30 pm on Feb. 20 in the Borough Assembly Chambers.
- Sitka 7:00 pm on Feb. 20 in the Centennial Building.
- Barrow 7:30 pm on Feb. 20 in the North Slope Borough Building.
- Anchorage 7:00 pm on Feb. 22 in the Anchorage Historical and Fine Arts Museum.
- Nome 7:30 pm on Feb. 22 in the City Hall, Council Chambers.
- Unalaska 7:30 pm on Feb. 23 in the Unalaska School.
- Kotzebue 7:30 pm on Feb. 24 in the City Hall, Council Chambers.
- Cordova 7:30 pm on Feb. 28 in the Library Council Chambers.
- Dillingham 7:30 pm on Feb. 28 in the City Hall.
- Valdez 7:30 pm on Mar. 1 in the Council Chambers.
- Ketchikan 7:30 pm on Mar. 1 in the Council Chambers.
- Bethel 7:30 pm on Mar. 2 in the Courthouse/City Office Building, Council Chambers.
- Kenai 7:30 pm on Mar. 3 in the Kenai Peninsula Borough Building, Assembly Room.
- Homer 1:00 pm on Mar. 4 at the Homer Museum.

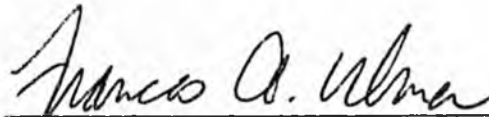
Copies of the proposed regulations may be obtained from municipal offices in the above listed locations or from the following address:

Coordinator  
Office of Coastal Management  
Division of Policy Development & Planning  
Pouch AP  
Juneau, Alaska 99811

Any person may file written statements or arguments relevant to the proposed action with the Coordinator, Office of Coastal Management, at the above address. Comments to be considered must be received at the above address on or before March 6, 1978.

The Alaska Coastal Policy Council may at any time after March 6, 1978 adopt the proposals substantially as described above without further notice.

DATED at Juneau, Alaska this 18 day of January, 1978.

A handwritten signature in cursive script, reading "Frances A. Ulmer", written over a horizontal line.

Frances A. Ulmer  
Co-Chairman  
Alaska Coastal Policy Council

# DRAFT

## TITLE 6. GOVERNOR'S OFFICE

### PART 5. ALASKA COASTAL POLICY COUNCIL.

#### Chapter

- 30. Standards of the Alaska Coastal Management Program
- 85. Guidelines for District Coastal Management Programs

#### CHAPTER 80.

#### STANDARDS OF THE ALASKA COASTAL MANAGEMENT PROGRAM

#### Article

- 1. Government process
- 2. Uses and activities
- 3. Resources and habitats
- 4. Areas which merit special attention

#### ARTICLE 1. GOVERNMENT PROCESS

#### Section

- 10. Public participation and information
- 20. Program management and coordination

6 AAC 80.010. PUBLIC PARTICIPATION AND INFORMATION. (a) The Council will provide adequate, effective, and continuing opportunities for public participation from the beginning in the Alaska Coastal Management Program. The Council will give notice of when and where opportunities for public participation will be provided before the adoption of guidelines and standards, the review and approval of district coastal management programs, and the review and approval or adoption of amendments, revisions, or additions to the Alaska Coastal Management Program.

(b) The Council will not approve a district coastal management program or any amendment, revision, or addition thereto unless evidence of significant opportunities for public participation at the district level has been provided.

(c) The Council will make available to the public information and educational materials concerning the Alaska Coastal Management Program in understandable form, including but not limited to the following:

- (1) a guide for the development of district coastal management programs;
- (2) comprehensive policies to guide the management of coastal uses and activities as they occur in specific coastal areas;

# DRAFT

(3) maps and narratives describing the physical and biological characteristics of coastal areas to be used in establishing boundaries;

(4) areas identified by state agencies and the public for Council designation as areas which merit special attention;

(5) a guide for the siting and development of major petroleum-related facilities in onshore and nearshore areas;

(6) an inventory of coastal fish and wildlife resources, with maps showing the location and range of species with commercial, recreational, or subsistence importance;

(7) an identification of major data and information sources concerning coastal management;

(8) a compilation and summary of information regarding coastal regions, including, where appropriate, a comprehensive list of issues and policies;

(9) summaries of public hearings and workshops;

(10) films and slide and tape programs;

(11) brochures, pamphlets, and tabloids summarizing and explaining the Alaska Coastal Management Program; and

(12) The Council's annual report to the legislature.

(d) At any public meeting concerning the Alaska Coastal Management Program, the Council will insure that, where necessary, translation into the appropriate Native language is provided.

6 AAC 80.020. PROGRAM MANAGEMENT AND COORDINATION. (a) The Office of Coastal Management, in its capacity as staff to the Council, shall be the designated lead agency for the Alaska Coastal Management Program. The Office of Coastal Management shall:

(1) present the official staff position regarding matters before the Council, including but not limited to the review and approval of district coastal management programs;

(2) apply for, receive, use, and distribute funds provided under all sections, except section 308, of the Coastal Zone Management Act of 1972, 16 USC 1451 et. seq., as amended, PL 94-370.

**DRAFT**

(3) coordinate the activities of state agencies participating in the Alaska Coastal Management Program and delegate tasks to a specific agency or agencies, as appropriate;

(4) determine the consistency of state actions with the Alaska Coastal Management Program, subject to Policy Council determination if requested by a Council member; and

(5) respond to federal agency determinations of the consistency of federal actions with the Alaska Coastal Management Program, subject to Policy Council response if requested by a Council member.

(b) The Council will identify and adopt management policies and practices for specific uses of state concern and areas of the coast where uses of state concern may be sited and managed.<sup>1</sup> The Council will direct the development of management policies and practices for uses of state concern by state agencies and coastal resource districts.

(c) The Council will initiate an interagency program of comprehensive resource management for each geographic region described in AS 44.19.891(a)(1). Regional programs shall be conducted to:

(1) assist the Council in identifying uses of state concern within specific areas of the coast and developing management policies and practices for these uses and areas;

(2) provide resource, social, and economic information on a coordinated regional basis as necessary for development and implementation of the Alaska Coastal Management Program; and

(3) assist the Council in identifying, avoiding, and minimizing existing or potential conflicts between coastal resource districts and state and national interests.

(d) The mechanics of coordinating district plans with state agency plans and recommendations developed as part of the regional program outlined in (c) of this section shall be as described herein. State agencies having jurisdiction within a district shall transmit their plans and recommendations to the district through the Coordinator of the Office of Coastal Management. District planning efforts shall demonstrate a review and consideration of state agency plans and recommendations. If the final district plan proposed does not agree with state agency plans and recommendations, the differences will be resolved by the Council

1. "Uses of state concern" is defined in AS 46.40.210(6).

# DRAFT

in accordance with this Title and the Alaska Coastal Management Act.

(e) The Council will prepare a manual of standards for the management of land and water uses in the coastal area to assist in the development of district and state agency plans.

## ARTICLE 2. USES AND ACTIVITIES

### Section

- 30. Offshore, shoreline, and waterfront development
- 40. Geophysical hazard areas
- 50. Recreation and tourism
- 60. Energy-related facilities
- 70. Transportation and utilities
- 80. Fishing and seafood processing
- 90. Timber harvest
- 100. Mining and mineral processing
- 110. Air, land, and water quality
- 120. Subsistence

6 AAC 80.030. OFFSHORE, SHORELINE, AND WATERFRONT DEVELOPMENT. (a) Development and activities related to development conducted in offshore, shoreline, and waterfront areas shall, to the greatest extent practicable, maintain and enhance:

- (1) the resource values and biological productivity of the coastal area;
- (2) access to coastal waters by the public;
- (3) the availability of sites for water-dependent or water-related uses and activities; and
- (4) the national and statewide interests in navigation.

(b) The provisions of 11 AAC 62.030, Protection of Fish and Game, shall apply to development and activities related to development in the coastal area.

(c) Dredging shall be conducted in a manner which minimizes bottom disturbance and adverse effects on mollusks, shellfish, marine and anadromous fish, marine birds and animals, and water quality.

(d) The placement of structures and the discharge of dredged or fill material into coastal waters, nontidal streams, lakes, and adjacent wetlands shall, as a minimum standard, be conducted

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pursuant to Parts 320-323, Title 33, Code of Federal Regulations, Navigation and Navigable Waters, and AS 16.05.870, Protection of Fish and Game.

(e) In planning for and approving uses and activities in shoreline and waterfront areas, coastal resource districts and state agencies shall give, in the following order, priority to:

- (1) water-dependent uses and activities;
- (2) water-related uses and activities; and
- (3) uses and activities which are neither water-dependent nor water-related for which there is no feasible inland location.

6 AAC 80.040. GEOPHYSICAL HAZARD AREAS. (a) Coastal resource districts and appropriate state agencies shall identify or cause to be identified geophysical hazard areas in the coastal area, including but not limited to areas of potential flooding, tsunami run-up, landslides, snowslides, earthquakes, subsidence, severe erosion, and ice hazards.

(b) Development and related activities in geophysical hazard areas may not be approved until siting, design, and construction measures for avoiding or minimizing potential loss of life and damage to property have been provided. In areas of severe hazard potential where siting, design, and construction measures may not be sufficient to avoid or minimize potential loss of life and damage to property, development and related activities shall be prohibited.

6 AAC 80.050. RECREATION AND TOURISM. (a) Coastal resource districts and appropriate state agencies shall identify areas of the coast which:

- (1) have been designated as a unit of a local, state, or national park, refuge, or wilderness system;
- (2) receive significant use by persons engaging in recreational pursuits or are major tourist destinations;
- (3) have a potential for high quality recreational use because of unique physical, biological, ecological, or cultural features;
- (4) are important for recreational use because of their proximity to population centers or transportation systems;
- (5) provide access to recreational resources;

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(6) are recognized for their scenic value;

(7) are listed or nominated for listing on the National Register of Historic Places; or

(8) are determined to be significant by the state historic preservation officer.

Areas so identified shall have as their dominant management value the protection and public use of the recreation, scenic, or heritage resource for which the area was identified and shall be managed consistently with that value.

(b) The development of recreation and tourism and facilities related to recreation and tourism in the coastal area shall be consistent with the preservation, protection, and enhancement of natural and cultural resources.

6 AAC 80.060. ENERGY-RELATED FACILITIES. Sites suitable for the development of major nearshore and onshore energy-related facilities shall be identified by the state in cooperation with coastal resource districts. The siting and approval of these facilities shall be based on the policies of the State of Alaska concerning the onshore and nearshore aspects of OCS development.<sup>2</sup> Coastal resource districts may use and apply these policies in the preparation of district coastal management programs.

6 AAC 80.070. TRANSPORTATION AND UTILITIES. (a) Transportation and utility routes and facilities in the coastal area shall, to the greatest extent practicable, be sited, designed, and constructed so as to:

(1) avoid adverse impacts on the resources and habitats identified in sec. 130 of this chapter;

(2) be compatible with adjacent uses and activities, local community goals and desires, and regional and statewide needs;

(3) combine more than one mode of transport or utility into common corridors;

(4) allow for the concurrent use of facilities; and

(5) maintain scenic values.

2. As adopted on 01/13/78 by the Alaska Coastal Policy Council; available from the Department of Community and Regional Affairs or the Office of Coastal Management.

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(b) Land based transportation and utility routes and corridors and air-related transportation facilities shall be sited upland from beaches and shorelines unless access to the water is a primary goal or requirement of the route, corridor, or facility and no feasible inland alternative exists.

(c) Water-based transportation and utility routes shall be sited and designed so as to minimize interference with uses and activities related to the harvest of marine plants and animals.

(d) Air-related transportation routes and facilities shall be sited, designed, and constructed so as to minimize interference with wildlife migration, nesting, and breeding provided that such placement does not interfere with safety.

(e) Traditional navigation and transportation routes and aides to navigation shall have high priority for shoreline and in-water locations.

(f) Transportation and utility routes and facilities include but are not limited to power transmission lines, mineral slurry, oil and gas pipelines, land and marine corridors, railways, highways, roadways, air terminals, water and sewage transfer, and facilities required to operate and maintain them.

6 AAC 80.080. FISHING AND SEAFOOD PROCESSING. (a) The offshore waters within the state's jurisdiction are designated a fisheries conservation zone and uses and activities conducted in this area shall be managed so as to maintain and enhance the Alaska sport and commercial fishery. In the management of this area, the State shall coordinate, as appropriate, with the North Pacific Fishery Management Council, the National Marine Fisheries Service, the U.S. Coast Guard, and other federal agencies responsible for implementation of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265, April 13, 1976).

(b) Coastal resource districts and appropriate state agencies shall identify sites suitable for the location or development of facilities related to commercial fishing and seafood processing. Criteria for the identification of these sites are:

(1) avoidance of adverse impacts on resources and habitats identified in sec. 130 of this chapter;

(2) adherence to all federal and state water quality standards;

(3) minimization of obstructions to navigation; and

(4) compatibility with adjacent uses and activities and community goals and desires.

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(c) Facilities related to commercial fishing and seafood processing include but are not limited to hatcheries and related facilities, seafood processing plants and support facilities, and marine industrial and commercial facilities.

6 AAC 80.090. TIMBER HARVEST. (a) Timber harvest is limited to areas where data and information indicate an absence of reforestation problems that would preclude that area from producing a sustained yield of merchantable timber unless the area is to be converted to a use other than timber harvest.

(b) Timber harvest and associated activities in the coastal area shall be conducted so as to meet the following standards:

(1) the location of facilities and the layout of logging systems shall not adversely impact sensitive areas and shall utilize land that has a minimum potential for water pollution and other adverse environmental impacts;

(2) blockage of and interference with fish movement and habitat in streams, lakes, wetlands, estuaries, and other bodies of water shall be avoided;

(3) shoreline management zones, including but not limited to buffer strips and riparian zones, shall be planned and established along all water courses, lake shores, and marine shorelines; the width of this zone shall be based on ability to withstand blowdown and prevent impacts on fish or wildlife resources as determined on a case-by-case basis by appropriate federal, state, and local expertise; resource values and environmental sensitivity shall determine whether and to what extent timber may be harvested from these zones;

(4) slash, logging debris, and other materials shall be treated so as to enhance reforestation, not constitute a fire hazard, and not interfere with wildlife and fish habitat; and

(5) minimal habitat to maintain game populations and key migratory routes shall be left in timber harvest areas.

(c) Timber transport, storage, and processing in the coastal area shall be conducted so as to meet the following standards:

(1) the onshore storage of logs shall be encouraged where compatible with other objectives of the Alaska Coastal Management Program;

(2) sites for the in-water dumping and storage of logs shall be selected and these activities shall be conducted

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so as to minimize adverse effects on the marine ecosystem, minimize conflicts with recreational uses and activities, be safe from storms, and not constitute a hazard to navigation;

(3) roads for log transport and harvest area access shall be planned, designed, and constructed so as to avoid mass wasting, minimize erosion, sedimentation, and interference with drainage, and adequately maintained for the entire period of timber processing or put to bed; and

(4) stream crossings, including bridges and culverts, shall be kept to a minimum number and designed to withstand seasonal high water and flooding and to prevent obstructions to the migration of anadromous and resident fish.

6 AAC 80.100. MINING AND MINERAL PROCESSING. (a) Mining and mineral processing in the coastal area, including but not limited to the development of mineral resources extracted in tidal rivers, coastal waters, and on continental shelves of the open sea, and found in surface, subsurface, and aqueous deposits, shall be sited, designed, and conducted so as to:

(1) avoid adverse impacts on the resources and habitats identified in sec. 130 of this chapter; and

(2) be compatible with adjacent uses and activities, local community goals and desires, and regional and statewide needs.

(b) Mining and mineral development in the coastal area shall conform to all applicable air and water quality standards and any rules, regulations, or statutes relevant to mining and mineral development conducted in coastal waters.

(c) Extraction of sand and gravel in the coastal area shall meet the following additional standards:

(1) all feasible alternatives, including upland alternatives, have been considered;

(2) extraction takes place only during that portion of the year when it will be least harmful to anadromous fish, marine fish, shellfish, mollusks, and marine birds and mammals affected by the extraction;

(3) extraction on marine beaches or offshore dune systems may not initiate or increase significant adverse erosion or deposition; and

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(4) sand or gravel may be removed from estuaries only in areas of active shoaling, provided the shoal is not critical marine habitat. Only the accreted material may be removed.

6 AAC 80.110. AIR, LAND AND WATER QUALITY. Coastal resource districts and state agencies shall use and apply all applicable provisions of 18 AAC, Environmental Conservation, to maintain high standards of air, land, and water quality in the coastal area.

6 AAC 80.120. SUBSISTENCE. Coastal resource districts and appropriate state agencies shall recognize and assure subsistence usage of coastal areas and resources.

## ARTICLE 3. RESOURCES AND HABITATS

### Section

#### 130. Resources and Habitats

6 AAC 80.130. RESOURCES AND HABITATS. (a) Natural resources and habitats in the coastal area that are subject to the Alaska Coastal Management Program include but are not limited to the following:

(1) offshore areas, including the submerged lands and waters seaward of the coastline extending to the continental shelf break;

(2) estuaries, including semi-enclosed bodies of water having an opening to the sea and containing greater than 0.5 ppt of salt, including but not limited to river mouths, deltas, fjords, inlets, bays, and tidewater glaciers;

(3) wetlands and tideflats, including lands shallowly submerged by water and characterized by vegetation complexes consisting primarily of sedges, rushes, and grasses; coastal wetlands are not strictly limited to the zone inundated by tides and are characterized by coastal marshes which generally have an extensive freshwater zone in the higher area and a tidally influenced saltwater zone in the lower area;

(4) rocky islands and seacliffs, including islands of predominantly volcanic or tectonic origin with rocky shores and steep faces, offshore rocks, capes, and steep rocky sea fronts;

(5) barrier islands and lagoons, including depositional coastal environments formed by deposits of sediments offshore which form a barrier of low-lying islands and bars protecting a salt-water lagoon with a free exchange of water to the sea;

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(6) exposed high energy coasts, including relatively featureless sections of the coastline with direct exposure to ocean generated wave impacts and usually characterized by mixed sand and gravel beaches and an active surf zone;

(7) rivers and lakes; and

(8) coastal uplands, including those upland areas having a direct or significant impact on the coastal area.

(b) Coastal resource districts and appropriate state agencies shall identify and plan for the management of the resources and habitats listed in (a) of this section. The following are the standards which apply to the management of these resources and habitats:

(1) offshore areas - maintain the capacity of offshore areas to support anadromous fish, marine fish, shellfish, marine birds, marine mammals, and supporting species;

(2) estuaries - maintain the capacity of estuaries to support anadromous fish, marine fish, migratory birds, marine birds, mammals and supporting species; maintain adequate water flows and oxygen levels where fish populations overwinter; prohibit the discharge of toxic wastes and materials into estuaries in the winter;

(3) wetlands and tideflats - maintain wetlands habitat for migratory birds, anadromous fish, big game, small mammals, and supporting species;

(4) rocky islands and seacliffs - maintain the availability and quality of rocky island and seacliff breeding habitat for marine mammals, seabirds, and supporting species; avoid harassment, pollution, or the introduction of unnatural predators;

(5) barrier islands and lagoons - maintain the flow of sediments and water; prevent the alteration or redirection of wave energy; prevent the filling in of lagoons or the destruction of barrier islands; discourage activities which may cause polar bears to avoid denning on barrier islands;

(6) exposed high energy coasts - avoid the dumping of materials toxic or harmful to marine life, including but not limited to larvae and juvenile stages of crabs, shrimp, and razor clams, marine fish, and supporting species;

(7) rivers and lakes - maintain the capacity of rivers and lakes to support anadromous fish, migratory birds, small mammals, big game, and supporting species; and

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(3) coastal uplands - maintain upland bird and big game populations.

ARTICLE 4. AREAS WHICH MERIT SPECIAL ATTENTION

Section

140. Areas Which Merit Special Attention

6 AAC 80.140. AREAS WHICH MERIT SPECIAL ATTENTION. (a) Coastal resource districts and appropriate state agencies shall recommend to the Council areas to be designated as areas which merit special attention.<sup>3</sup> Recommendations shall include the following information:

(1) the basis or bases for designation pursuant to AS 46.40.210(1) or (c) of this section;

(2) a map showing the geographical location, surface area and, where appropriate, bathymetry of the area;

(3) a description of the area which includes dominant physical and biological features;

(4) the existing ownership, jurisdiction, and management status of the area, including existing uses and activities;

(5) the existing ownership, jurisdiction, and management status of adjacent shoreland and sea areas, including existing uses and activities;

(6) present and anticipated conflicts among uses and activities within an adjacent to the area, if any;

(7) a proposed management scheme, consisting of the following:

(A) a description of the uses and activities which will be considered proper and the uses and activities which will be considered improper with respect to land and water within the area;

(B) a summary or statement of the policies which will be applied in managing the area; and

(C) an identification of the authorities which will be used to implement the proposed management scheme.

3. "Areas which merit special attention" is defined in AS 46.40.210(1).

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(b) The Council will designate and establish management schemes for areas which merit special attention. Approval of a district coastal management program which recommends designation of an area pursuant to (a) of this section constitutes a Council designation.

(c) In addition to the categories contained in AS 46.40.210(1), areas which merit special attention may include the following:

(1) areas important for subsistence hunting, fishing, food gathering, and foraging;

(2) areas with special scientific values or opportunities, including but not limited to those where ongoing research projects could be jeopardized by development or conflicting uses and activities; and

(3) potential estuarine or marine sanctuaries.

(d) Management schemes for areas which merit special attention shall preserve, protect, enhance, or restore the value or values for which the area was designated.

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## CHAPTER 85. GUIDELINES FOR DISTRICT COASTAL MANAGEMENT PROGRAMS

### Section

10. Program elements
20. Submittals to Council
30. Public involvement
40. Coordination and review

6 AAC 85.010. PROGRAM ELEMENTS. Each district coastal management program shall include the elements listed in this section.

(1) A statement of the district's overall needs, objectives, or goals, or the district's comprehensive land and resource use plan.

(2) A description of the district's administrative structure. This structure shall be sufficient for program development and implementation. Budgetary and staff needs, and, where appropriate, a schedule for reorganization shall be included.

(3) A map of the boundaries of the coastal area within the district which is subject to the district coastal management program.

(A) Prior to Council approval of the district program, interim boundaries shall be based on Biophysical Boundaries of Alaska's Coastal Zone<sup>1</sup> and shall include the zone of direct interaction and the zone of direct influence but shall exclude the zone of indirect influence.

(B) Final boundaries of the coastal area subject to the district coastal management program may diverge from the interim boundaries providing the final boundaries:

(i) extend inland and seaward to the extent necessary to manage uses and activities that have or are likely to have a direct and significant impact on the coastal ecosystem; and

(ii) include all transitional and intertidal areas, salt marshes, islands, and beaches.

1. Developed by the Alaska Department of Fish and Game, Marine Coastal Habitat Management Program, 1977; available from the Office of Coastal Management, Division of Policy Development and Planning.

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(C) Providing that the criteria contained in (B) of this subsection are met, final boundaries of the coastal area subject to the district coastal management program may be based on political jurisdiction, cultural features, planning areas, watersheds, topographic features, uniform setbacks, or the dependency of uses and activities on water access.

(D) The Council will insure that the boundaries of an approved district program are sufficiently compatible with those of adjoining areas to allow consistent administration of the Alaska Coastal Management Program.

(4) A resource inventory which describes, in a manner sufficient for program development and implementation, the following:

(A) resources and habitats identified in 6 AAC 80.130 that are found within and adjacent to the district;

(B) major cultural resources that are found within and adjacent to the district, including but not limited to demographic, historical, and financial resources, utilities, and major facilities;

(C) major land and water uses and activities that are conducted within and adjacent to the district; and

(D) major land and resource ownership and management within and adjacent to the district.

(5) A resource analysis which describes, in a manner sufficient for program development and implementation, the following:

(A) significant anticipated changes in (4)(A)-(D) of this section;

(B) an evaluation of the environmental capability and suitability of resources and habitats, including cultural resources, for land and water uses and activities;

(C) an assessment of the present and anticipated needs and demands for coastal resources;

(D) geophysical hazard areas identified pursuant to 6 AAC 80.040;

(E) areas related to recreation and tourism identified pursuant to 6 AAC 80.050;

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(F) sites suitable for the development of major nearshore and onshore energy related facilities identified pursuant to 6 AAC 80.060;

(G) sites suitable for the development of facilities related to fisheries enhancement and commercial fishing and seafood processing identified pursuant to 6 AAC 80.080;

(H) areas important for subsistence hunting, fishing, food gathering, and foraging, pursuant to 6 AAC 80.120.

(I) areas to be recommended for designation as areas which merit special attention pursuant to 6 AAC 80.140; and

(J) an assessment of present and anticipated power and economic development requirements, including but not limited to designation of areas or sites suitable for the development of uses, activities, and facilities, as deemed appropriate by the district.

Existing data and information, including but not limited to data and information listed in 6 AAC 80.010, shall be utilized to the greatest extent practicable in the preparation of the resource inventory and analysis. Appropriate state agencies shall assist coastal resource districts in preparing the resource inventory and analysis.

(6) A statement, list, or definition of the land and water uses and activities which are subject to the district coastal management program. The uses and activities contained in 6 AAC 80.030 - 6 AAC 80.120 shall, if applicable, be subject to the district coastal management program. A district coastal management program may consider uses and activities which are conducted outside of the district if these uses and activities have or could have a direct and significant impact on the district.

(7) A description of the uses and activities, including uses of state concern,<sup>2</sup> that will be considered proper and the uses and activities that will be considered improper with respect to the land and water within the coastal area. This description shall be based upon the district's statement of overall needs, objectives, or goals, or the district's comprehensive land and resource use plan, and shall be consistent with the standards of the Alaska Coastal Management Program contained in 6 AAC 80 and the Alaska Coastal Management Act.

(8) A summary or statement of the policies and regulations that will be applied to the land and water uses and activities subject to the district coastal management program and the policies and procedures which will be used to determine whether

2. "Uses of state concern" is defined in AS 46.40.10(6).

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specific proposals for land and water uses and activities may be allowed. It shall be the general policy of the coastal resource district to approve specific proposals for land and water uses and activities which are consistent with the district coastal management program. Districts shall utilize existing forums and procedures appropriate for the determination of specific proposals to the greatest extent practicable, including but not limited to forums and procedures related to planning and zoning. Policies, regulations, and procedures shall be consistent with the standards of the Alaska Coastal Management Program contained in 6 AAC 80 and shall meet the following criteria:

(A) comprehensibility, so as to provide for all uses, activities, and areas in need of management;

(B) specificity, so as to allow clear understanding of who will be affected by the district coastal management program, how they will be affected, and whether specific proposals for land and water uses and activities may be allowed; and

(C) enforceability, so as to insure implementation of and adherence to the district coastal management program.

(9) A description of the methods and authorities that will be used to implement the district coastal management program. Methods and authorities must be adequate to insure program implementation. Additional methods and authorities which are required shall be specified. Methods and authorities may include but are not limited to land and water use plans, municipal ordinances and resolutions, including shoreline ordinances, zoning ordinances, subdivision ordinances, and building codes, state and federal statutes and regulations, capital improvements programs, the purchase, sale, lease, or exchange of coastal land and water resources, cooperative agreements, memoranda of understanding, and coordinated permit or project review procedures. Coastal resource districts may enter into cooperative management agreements with parties conducting uses or activities outside of the district in conformity with the Alaska Coastal Management Program and this Title.

(10) Evidence of effective and significant public involvement in program development, pursuant to sec. 030 of this chapter.

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6 AAC 85.020. SUBMITTALS TO COUNCIL. (a) During program development, coastal resource districts shall submit brief annual progress reports concerning program development to the Council.

(b) Following approval of the district coastal management program by the Council and adoption of the program by the district, coastal resource districts shall submit brief annual progress reports concerning program implementation to the Council. The Council will review annual progress reports to insure that the district is making adequate progress in complying with the Alaska Coastal Management Act, this Title, and the adopted district coastal management plan.

(c) All significant additions, amendments, and revisions to the district coastal management program shall be submitted to the Council. The Office of Coastal Management shall review proposed additions, amendments, and revisions to determine if Council approval is required. This determination is subject to review by the Council when requested by a council member.

(d) Coastal resource districts shall give conceptual approval to the district coastal management program and significant additions, amendments, and revisions to the district coastal management program prior to their submittal to the Council. Following Council approval, the district shall adopt the program, addition, amendment, or revision.

6 AAC 85.030. PUBLIC INVOLVEMENT. (a) At least two public meetings shall be held within the coastal resource district during coastal management program development to inform the public about and to solicit public comments concerning the program. A brief summary or report of the matters considered shall be prepared by the district and made available to the public following each meeting.

(b) At least 30 days before giving conceptual approval to the district coastal management program or significant additions, amendments, or revisions thereto, the coastal resource district shall give public notice of the proposed action. At least one public hearing shall be held during the period of the notice. At the public hearing, each interested person shall be given the opportunity to present statements, arguments, or contentions, orally or in writing. Districts shall insure that, where necessary, translation into the appropriate Native language is provided. The district shall consider all relevant matter presented to it. A written transcript, minutes, or an electronic recording of the public hearing shall be submitted to the Council as an element of the district coastal management program.

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(c) In addition to the requirements of (b) of this section, coastal resource districts shall provide opportunities for public involvement from the beginning in the development of all program elements.

(d) Coastal resource districts shall provide to the public, in a timely manner and in understandable form, information explaining the district coastal management program, the requirements of public participation in program development, how and when the public may participate in program development, and what information is available.

6 AAC 85.040. COORDINATION AND REVIEW. Coastal resource districts shall provide opportunities for coordination and review by federal, state and local governmental agencies and other parties with a significant interest in coastal resources within or adjacent to the district or which are conducting or may conduct uses and activities that have or are likely to have a direct and significant impact on the coastal resource district.

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--referred to in 6 AAC 80.060--

Policies of the State of Alaska Concerning  
the Onshore and Nearshore aspects of OCS Development<sup>1</sup>

Policy 1. Optimum location. The state shall ensure that the siting of major onshore and nearshore petroleum-related<sup>2</sup> facilities minimizes adverse environmental and social effects while satisfying industrial requirements. Where possible, siting decisions will not foreclose other land and water uses.

1a. Preliminary siting criteria. The state shall develop preliminary siting criteria for major nearshore and onshore petroleum-related facilities.<sup>3</sup> These criteria should consist of basic siting considerations that would capitalize on the public benefits of OCS development and reduce its adverse effects.

1b. Information needs for evaluating proposals. In order to adequately evaluate major development proposals, the state requires from developers at least the information listed in Table 5.2.<sup>4</sup>

Policy 2. Consolidation. Major petroleum-related facilities shall be consolidated to the maximum extent feasible unless consolidation produces greater adverse environmental or social consequences.

2a. Planning provisions. The state shall encourage industrial facility planning that allows for reasonable expansion and offers adequate assurance that other operators and necessary support industries could share the facility.

2b. Exceptions. Consolidation of onshore facilities shall be discouraged if the capacity of existing facilities cannot be expanded in an environmentally and socially acceptable way. Instances when this might occur include, but are not limited to, the following:

(1) Affected communities oppose the expansion of existing facilities.

1. As adopted by the Alaska Coastal Policy Council 01/13/78.
2. Major nearshore and onshore petroleum-related facilities include: a) marine service bases; b) air transport facilities; c) pipelines and rights-of-way; d) separation, treatment and storage facilities; e) LNG plants; f) transfer terminals related to petroleum production; g) concrete platform fabrication yards; h) refineries; and i) petrochemical plants.
3. Table 5.1, Appendix A.
4. Appendix B.

(2) Additional harbor activities would seriously jeopardize marine safety.

(3) Water supply is insufficient for future demand.

(4) Environmental protection measures (e.g., ballast treatment facilities and solid waste disposal sites) at existing facilities could not be expanded to handle new loads.

(5) Air and water quality problems would be compounded to a point where projected environmental degradation would exceed allowable air and water quality standards.

Policy 3. Compatibility. Industrial and commercial use of land shall be compatible with adjacent uses, projected community needs and high standards of environmental quality.

Policy 4. Concurrent use, reuse, conversion and removal. The state shall encourage the concurrent use of petroleum-related facilities for other economic or public uses if possible, the reuse or conversion of these facilities when no longer needed for petroleum-related activities, and the removal of the facility if it cannot be used for other purposes. The state shall further encourage reclamation and restoration of disturbed areas upon termination of active use.

4a. Study possibilities. The state shall investigate possibilities for concurrent use, reuse and conversion of petroleum-related facilities and incorporate these findings in state land use, economic and public facility planning.

4b. Lease stipulations. Where appropriate, the state will specify concurrent use, reuse, conversion or removal of facilities as stipulations on leases of state uplands, tidelands, submerged lands and shorelands. The state shall also require reclamation or restoration of disturbed areas upon termination of active use on these lands.

Policy 5. Protection of environmental quality. The state shall in all cases consider the effect of development upon: a) vulnerable or unique populations and habitats, b) renewable resources having a high commercial, recreational, cultural and/or aesthetic value, c) areas of high biological productivity and/or diversity, and d) areas of high development hazard. The effect of development on these features of the natural and human environment must be considered in determining optimum locations of development activities (Policy 1), appropriate design of facilities, and compatibility of the proposed development with maintenance of a high level of environmental quality (Policy 3).

5a. Sensitive areas. The state shall protect ecologically sensitive areas, including but not limited to: estuaries, wetlands river deltas, fish spawning grounds, intensive use habitat, bird nesting areas, waterfowl and shorebird staging areas, migration routes, wildlife wintering habitat, and sea mammal rookeries and hauling out grounds, by requiring environmentally acceptable technology or, if necessary, recommending alternate sites.

5b. Facility design. These state shall encourage design, construction, and operation of facilities to maintain a high level of environmental quality through, for example:

- (1) use of existing facilities and consolidation of new facilities;
- (2) minimizing dredge and fill, clearing, and other surface alteration;
- (3) use of environmentally safe technology;
- (4) adherence to Alaska's environmental protection laws and regulations pertaining to air quality, water use, water quality and solid waste disposal;
- (5) proper burial of submarine pipelines, particularly in trawling areas;
- (6) operation of helicopters at sufficient altitudes above seabird colonies and other noise-sensitive habitats to minimize disruption; and
- (7) reclamation or restoration of disturbed areas upon termination of active industrial use.

Policy 6. Shoreline development. The state shall encourage reservation of the shoreline for water dependent or water related uses.

Policy 7. Resident employment preferences. Alaskan residents shall receive preference for employment. Resident employment preference shall apply to retention as well as hiring.

7a. Voluntary agreements. The state will encourage the petroleum industry and related companies to adopt resident employment preference policies.

7b. Lease stipulation. As a stipulation on all state leases, the state will require that employment preference be given to Alaskan residents.

Policy 8. Manpower training. The state shall encourage manpower training programs that would qualify the existing resident labor force for jobs in the petroleum industry.

Policy 9. Public costs. Public costs resulting from OCS-related activities shall be shared by state and local governments, the federal government, the petroleum industry and other private developers.

Policy 10. Public facilities. The state shall promote full use of public facilities<sup>5</sup> while ensuring high standards of public service.

10a. New facilities. Before the state plans, funds or constructs new public facilities, they must be justified by the level of economic activity and stable population growth expected through at least the production phase of OCS development.

10b. Temporary facilities. The state shall encourage temporary means of expanding public facilities to handle increased demands of a temporary nature.

Policy 11. Public services. The state shall provide new or expanded public services<sup>6</sup> in a timely fashion.

Policy 12. Public information and opinion. Early in the OCS development process the state shall inform the public about OCS development and obtain public opinion on industrial growth and technological options.

12a. Attitudinal surveys and workshops. The state will encourage and participate in the dissemination of public information on OCS development and the conduct of attitudinal surveys and workshops early in the OCS development process.

12b. Local coastal management programs. The state will encourage the development of local coastal management programs in OCS-affected coastal communities. An approved local coastal management plan will be recognized as an expression of community views regarding industrial growth.

5. Public facilities include, but are not limited to, sewerage and water systems, ports, airports, roads, schools and hospitals.

6. Public services include, but are not limited to, education, health care, child care, planning, manpower training, social services, and the criminal justice system.

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12c. Orientation of non-resident employees. The state will encourage development companies to conduct orientation programs for non-resident employees on community values and the results of attitudinal surveys to minimize misunderstandings between temporary residents and permanent members of a community.

Policy 13. Local management. The state shall seek to strengthen local planning, fiscal and management roles, including human resources planning and program development. The state shall also offer assistance to communities in coping with the adverse effects of development.

13a. Technical assistance. The state will assist communities in directing growth according to local preferences. In rendering assistance, the state will emphasize consideration of state-wide, regional and minority interests.

13b. State land disposal. The state will to the maximum extent feasible lease, sell or exchange state land in the vicinity of existing communities: a) if such actions enhance local control over development and the site satisfies the state's siting criteria; and b) an approved municipal plan establishes the desirability of expansion onto state-owned parcels and provides for phased growth. Although local preference is a significant factor in deciding whether to lease, sell or exchange state land near existing communities, it is not the only factor. Additional considerations are specified in the Alaska Statutes and Administrative Code.

Policy 14. State-local coordination. Where a community makes a concerted effort to develop and act on its position regarding OCS development, the state shall adapt its actions (e.g. capital investments, leasing, permit issuance) to community preference to the extent that such actions also respect state-wide, regional and minority interests.

Policy 15. Coordination among state agencies. The state shall seek to coordinate at the outset the actions of all state agencies that must eventually act on major development proposals.

15a. Interagency review. The A-95 Clearinghouse should coordinate review of major state actions related to development of the outer continental shelf.

15b. Major state actions. The state shall establish a process through which all major state actions regarding OCS development are coordinated.

15c. Information exchange. The state shall establish a system for improving the transfer of information among state agencies and between them and the public.

Policy 16.. State-federal coordination. The state shall seek to coordinate state and federal development decisions.

16a. Pipeline transportation plan. The state should prepare a comprehensive plan regarding pipeline transportation and encourage the participation of appropriate federal agencies (e.g., FPG, ICC, BLM, Department of Transportation).

16b. Coastal management. The state's OCS policies will be incorporated into the state's coastal management program. When Alaska's coastal management program receives federal approval, these policies will significantly influence federal coastal decisions.

Policy 17. Cooperative management and development. The state shall seek to cooperate with landowners, developers and government agencies in the development and management of OCS-related onshore facilities.

## APPENDIX A

## TABLE 5.1

PRELIMINARY SITING CRITERIA  
FOR  
MARINE SERVICE BASES  
OIL TERMINALS  
LNG PLANTS

Onshore vs. offshore. Site facilities onshore until alternatives offshore are proven safe and environmentally acceptable.

Expansion. Select sites with sufficient acreage to allow for reasonable expansion of facilities. (1)

Infrastructure. If possible, site facilities where existing infrastructure (e.g., roads, docks, airstrips) is capable of satisfying industrial requirements. (1)

Navigational safety. Avoid harbors and shipping routes with reefs, shoals, drift ice, and other obstructions that might jeopardize safe navigation.

Site preparation. Select sites where development would entail minimal site clearing, dredging, and construction in productive wetlands, estuaries, deltas, and other sensitive areas. (1)

Tsunami. Site fuel, crude oil, and LNG storage tanks at elevations sufficiently above mean sea level to escape the highest tsunami run-up.

Pipelines. Align pipelines away from active faults and areas of subsidence.

Shipping routes. Site oil terminals so as to minimize the probability of oil spills affecting fishing grounds and spawning grounds.

Fire and explosion. Site fuel, crude oil and LNG storage and transfer areas downwind from populated areas to reduce the hazard of fire and explosion to human populations.

Resource protection. Site facilities so that unique environments and areas of particular scenic, recreational, and cultural value will be protected.

Water quality. Site facilities in areas of least biological productivity, diversity, and vulnerability, and where effluents and spills can be controlled or contained easily.

# DRAFT

Air quality. Site facilities where winds and air currents freely disperse pollutants, thereby reducing their concentrations.

Compatibility. Select sites designated for industrial purposes or well separated from residential, commercial, and institutional land uses, where industrial traffic will not pass through population centers, and vessel movements will not result in overcrowded harbors or interfere with fishing operations and equipment.

(1) Application of site preparation, expansion and infrastructure criteria requires basic information on harbor dimensions, acreage and infrastructure needs.

	SERVICE BASE	OIL TERMINAL	LNG PLANT
Harbor depth (ft. below MLLW)		-----	-----
Access channel	20	66	46
Turning basin	19	61	42
Berthing area	18	58	40
Turning Basin (diameter in ft.)	420-840	2,000-4,000	2,100-4,200
Level land near waterfront (ac.)	4-20 (1-2 berths) 63-88 (10 berths)	70-500	40-500
Infrastructure			
Airstrip (ft.)	5,000	5,000	5,000
Dock (ft.)	200-2,000	1,000	1,000
Road network connecting dock, airstrip and community	yes	yes	yes

## APPENDIX B

## TABLE 5.2

## INFORMATION NEEDS

1. Type of facility proposed, e.g., service base, marine terminal, LNG plant.
2. Location of all facilities and activities associated with or expected to be attracted to the proposed development, e.g., helicopter operations, construction camps, motels.
3. Description of proposed facility, e.g., acreage, site plans.
4. Expansion: probability of additional demand on the proposed facility in the future; provisions for expansion and sharing of the facility with other companies.
5. Schedule: proposed construction schedule and anticipated operational timetable over the life of the facility, e.g., type and level of seasonal activities, anticipated years of peak usage.
6. Land status and ownership of development site and other land affected by the proposal, e.g., private, public, unpatented, in litigation.
7. Management of the project, e.g., an oil company, a Native corporation, joint management.
8. Contractors and subcontractors for all or portions of the project.
9. Resource requirements: quantities and probable sources of power, water, gravel, and other materials.
10. Transport: frequency and routes of boat and aircraft movements and expected level of vehicular traffic in the region resulting from construction or operation of the facility.
11. Employment: anticipated number of persons to be employed by job description, tenure (permanent/temporary), and place of employment.
12. Population: approximate addition to the population of Alaska by place.
13. Public services: extent of need for and means of providing public services, e.g., roads, sewers, water, solid waste disposal, medical care, police and fire protection, and other health and social services
14. Environmental implications: potential environmental benefits,

## DRAFT

conflicts and mitigative measures, particularly concerning solid waste management and air and water quality.

15. Siting and design features to compensate for natural processes (e.g., floods, earthquakes, storms, erosion and sedimentation), to provide for safe and effective management of sewage and solid waste; and to minimize noise and visual impacts.
16. Economic implications, e.g., public cost and revenues resulting from the proposed project; potential conflicts with existing industry; anticipated expenditures by Alaska by place.
17. Social implications, e.g., training programs, local hiring policy, housing.
18. Arrangements for reducing environmental, economic, and social conflicts, e.g., traffic control systems, oil spill contingency plan, compensation plan.
19. Alternative sites for the required facilities and operations, and reasons for rejecting alternative sites.

# MEMORANDUM

# State of Alaska

TO: Rep. Lisa Rudd, Chairman  
Community and Regional Affairs  
Committee

DATE: 1 February 1978

FILE NO:

TELEPHONE NO:

FROM: Glenn Akins, Coordinator  
Alaska Coastal Management Program

SUBJECT: Guidelines & Standards

One of the questions I felt we could have answered better today was your concern about what "state" meant within the guidelines and standards.

The Alaska Coastal Management Act identifies specific tasks for the Department of Community and Regional Affairs (providing technical and financial assistance to the districts, consolidating service areas). All other tasks are to be carried out by other state agencies, coordinated by the Council and the "Office of Coastal Management". I would have preferred to use the "Division of Policy Development and Planning" in the guidelines and standards, but the Council wanted to single out OCM. In my opinion, OCM is not separate in any way from DPDP.

Many of the responsibilities in the guidelines and standards may be assigned to a specific state agency. We will have to do this in the management program document (to be submitted to the Department of Commerce in June). Some agency responsibilities are not clear to us now, however. We are due reports from three state agencies which will enable us to identify more clearly what agency will be responsible for each part of the guidelines and standards. But, at present, it is left to the Council, and its staff, to sort that out.

THE FOLLOWING PAGES WERE TREATED AS  
A UNIT IN THE ORIGINAL FILE.

State of Alaska  
Position on OCS-Related  
Onshore and Nearshore Activities

April 1977

The position in this report concerns state actions regarding onshore and nearshore activities associated with development of the outer continental shelf (OCS). It has been adopted for the Administration by the Coastal Management Policy Committee and the Governor. The policies are one component of the general policy base for the Alaska Coastal Management Program (ACMP). By virtue of their adoption, these policies are now the interim operating policies for the state and shall guide all state actions dealing with OCS-related onshore and nearshore activities until the full coastal management policy base is formulated and approved. Because of the immediate need for a unified state position on OCS-related onshore and nearshore activities, and because of the complexity and importance of the subject area, these policies have been developed in advance of the remainder of ACMP policy. Federal approval of ACMP under the provisions of Section 306 of the Coastal Zone Management Act of 1972 is scheduled for June of 1978. At this time, the OCS policies will take on added significance as they relate to federal coastal decisions on OCS matters.

The state's position regarding OCS-related onshore and nearshore activities consists of goals, findings, policies and procedures for carrying out the policies. Goals are broad statements of long-term end results the state wishes to achieve; findings are facts, observations and concerns specific to OCS-related onshore development; and policies are guidelines for state actions. The state's goals, findings and policies are presented under six headings: industrial facility planning, resource management, employment, public expenditures, local self-determination and coordination.

GOALS

1. INDUSTRIAL FACILITY PLANNING: Optimum location and efficient use of industrial facilities in terms of the public interest.
2. RESOURCE MANAGEMENT: Balanced development and protection of natural and human resources.
3. EMPLOYMENT: Increased employment opportunities for the resident labor force.
4. PUBLIC EXPENDITURES: A fiscally sound and equitable approach to public expenditures.
5. LOCAL SELF-DETERMINATION: Support of life-style preferences and local management of OCS-related activities.
6. COORDINATION: Timely, coordinated development decisions.

FINDINGS AND POLICIES

INDUSTRIAL FACILITY PLANNING

Findings

Public involvement in facility siting. Public involvement in the siting of industrial facilities is customarily triggered by specific development proposals. Waiting until a proposal is well developed reduces uncertainty regarding the location, design and operation of a facility. A firm proposal, however, tends to restrict public comment to the pros and cons of establishing a facility at a particular location, thereby foreclosing the option of siting the facility at an alternative site. A preferable approach to facility siting is to ensure protection of the public interest through early public assessment of potential development sites and later public scrutiny of specific proposals.

Information. Accurate assessments of oil and gas reserves, employment and demands on local resources such as water, electricity and sewage treatment are essential to planning for onshore activities. Notices of support activities (Stipulation 5) and development plans (OCS Order 15), required of all operators in the northern Gulf of Alaska, provide some of this information. There is, however, no mechanism for verifying this information. Furthermore, the notices of support activities and development plans are not made public in sufficient time to influence the planning that must be undertaken by state and local governments, and other affected parties. This information essentially reports on industrial planning that has already taken place. What is needed is advance information

about development options so that the public is involved early in the facility siting process.

Consolidation. In the strictest sense, consolidation refers to a) the development and operation of an industrial facility as a unit by a single company or group of companies (unitization) or b) the sharing of the same facility. Broadly, however, consolidation refers to the concentration of different industrial activities in a single location, as in an industrial park.

Consolidation of petroleum facilities offers several benefits. The greatest public advantage of consolidation is that the effects of development - visual, environmental, social and economic - are concentrated in the fewest different locations. Cost savings may be realized from reduced capital and operating expenditures and avoidance of delays in processing necessary permits. Fewer sites imply less complicated and less costly systems of monitoring and of providing basic services such as fire and police protection.

Incompatible land uses. Industrial activities may not be compatible with neighboring land uses. An important mechanism for ensuring compatibility with existing and projected land uses is zoning. Most local governments in Alaska can exercise zoning powers, as can the state in certain instances. These powers are not always exercised, however.

Concurrent use, reuse and conversion. In many Alaskan communities there is a need for better port facilities. With proper planning, concurrent use of industrial facilities for community purposes could alleviate such shortages. Service bases offer the greatest potential for concurrent use, particularly as a general cargo dock, because of a similarity of purpose and vessel size.

If a facility's operations are replaced by similar activities, only minor rehabilitation and structural alterations might be necessary. Many facilities including docks, fuel storage tanks, warehouses, outside storage yards, office buildings, onshore pipelines and repair shops could be reused in this manner.

The use of warehouses, office buildings and other structures for radically different activities such as seafood processing, tourism or recreation would require substantial interior redesign. If ultimate uses of facilities are anticipated and desired, siting decisions and arrangements for conversion could be made when the facility is first designed.

Reclamation or restoration. Specialized oil and gas facilities such as crude oil storage tanks and liquefaction plants usually are not directly reusable or easily converted. If no appropriate ultimate use is determined for these facilities, they should be removed and the site reclaimed or restored. Land disturbed temporarily by construction activities should also be reclaimed or restored. Since this will be costly, provisions for ensuring and financing site reclamation or restoration should be specified in stipulations to leases or permits.

## Policies

Policy 1. Optimum location. The state shall ensure that the siting of major onshore and nearshore petroleum-related facilities\* minimizes adverse environmental and social effects while satisfying industrial requirements. Where possible, siting decisions will not foreclose other land and water uses.

To ensure that the most suitable sites are chosen, the petroleum industry, government and the local communities must cooperate closely. An informed public must be involved early in the industrial siting process, before firm proposals are presented. A constructive way to influence industrial siting decisions would be for the public to develop and communicate its preliminary siting criteria. Later public scrutiny of specific proposals will be most efficient, thorough and equitable if the public also conveys its information needs.

1a. Preliminary siting criteria. The state shall develop preliminary siting criteria for major nearshore and onshore petroleum-related facilities. These criteria should consist of basic siting considerations that would capitalize on the public benefits of OCS development and reduce its adverse effects.

\*Major nearshore and onshore petroleum-related facilities include: a) marine service bases; b) air transport facilities; c) pipelines and rights-of-way; d) separation, treatment and storage facilities; e) LNG plants; f) transfer terminals related to petroleum production; g) concrete platform fabrication yards; h) refineries and i) petrochemical plants.

Preliminary siting criteria have been developed for service bases, oil terminals and LNG plants. They are listed in Table 5.1. These criteria were designed for the Gulf of Alaska, and reflect resource management concerns, consideration of the facilities likely to be built in the Gulf, and also specific conditions there such as earthquakes. As types of facilities, conditions and our understanding of OCS facility siting change, we can expect these preliminary siting criteria to change also.

1b. Information needs for evaluating proposals. In order to adequately evaluate major development proposals, the state requires from developers at least the information listed in Table 5.2.

TABLE 5.1

PRELIMINARY SITING CRITERIA  
FOR  
MARINE SERVICE BASES  
OIL TERMINALS  
LNG PLANTS

Onshore vs. offshore. Site facilities onshore until alternatives offshore are proven safe and environmentally acceptable.

Expansion. Select sites with sufficient acreage to allow for reasonable expansion of facilities. (1)

Infrastructure. If possible, site facilities where existing infrastructure (e.g., roads, docks, airstrips) is capable of satisfying industrial requirements. (1)

Navigational safety. Avoid harbors and shipping routes with reefs, shoals, drift ice, and other obstructions that might jeopardize safe navigation.

Site preparation. Select sites where development would entail minimal site clearing, dredging, and construction in productive wetlands, estuaries, deltas, and other sensitive areas. (1)

Tsunami. Site fuel, crude oil and LNG storage tanks at elevations sufficiently above mean sea level to escape the highest tsunami run-up.

Pipelines. Align pipelines away from active faults and areas of subsidence.

Shipping routes. Site oil terminals so as to minimize the probability of oil spills affecting fishing grounds and spawning grounds.

Fire and explosion. Site fuel, crude oil and LNG storage and transfer areas downwind from populated areas to reduce the hazard of fire and explosion to human populations.

Resource protection. Site facilities so that unique environments and areas of particular scenic, recreational, and cultural value will be protected.

Water quality. Site facilities in areas of least biological productivity, diversity and vulnerability, and where effluents and spills can be controlled or contained easily.

Air quality. Site facilities where winds and air currents freely disperse pollutants, thereby reducing their concentrations.

Compatibility. Select sites designated for industrial purposes or well separated from residential, recreational, commercial, and institutional land uses, where industrial traffic will not pass through population centers, and vessel movements will not result in overcrowded harbors or interfere with fishing operations and equipment.

Local acceptance. Site facilities at locations acceptable to local communities provided there is no overriding and opposing state-wide, regional or minority interest.

(1) Application of site preparation, expansion and infrastructure criteria requires basic information on harbor dimensions, acreage and infrastructure needs.

	SERVICE BASE	OIL TERMINAL	LNG PLANT
Harbor depth (ft. below MLLW)		-----	-----
Access channel	20	66	46
Turning basin	19	61	42
Berthing area	18	58	40
Turning Basin (diameter in ft.)	420-840	2,000-4,000	2,100-4,200
Level land near waterfront (ac.)	4-20 (1-2 berths) 63-88 (10 berths)	70-500	40-500
Infrastructure			
Airstrip (ft.)	5,000	5,000	5,000
Dock (ft.)	200-2,000	1,000	1,000
Road network connecting dock, airstrip and community	yes	yes	yes

TABLE 5.2

INFORMATION NEEDS

1. Type of facility proposed, e.g., service base, marine terminal, LNG plant.
2. Location of all facilities and activities associated with or expected to be attracted to the proposed development, e.g., helicopter operations, construction camps, motels.
3. Description of proposed facility, e.g., acreage, site plans.
4. Expansion: probability of additional demand on the proposed facility in the future; provisions for expansion and sharing of the facility with other companies.
5. Schedule: proposed construction schedule and anticipated operational timetable over the life of the facility, e.g., type and level of seasonal activities, anticipated years of peak usage.
6. Land status and ownership of development site and other land affected by the proposal, e.g., private, public, unpatented, in litigation.
7. Management of the project, e.g., an oil company; a Native corporation, joint management.

8. Contractors and subcontractors for all or portions of the project.
9. Resource requirements: quantities and probable sources of power, water, gravel and other materials.
10. Transport: frequency and routes of boat and aircraft movements and expected level of vehicular traffic in the region resulting from construction or operation of the facility.
11. Employment: anticipated number of persons to be employed by job description, tenure (permanent/temporary), and place of employment.
12. Population: approximate addition to the population of Alaska by place.
13. Public services: extent of need for and means of providing public services, e.g., roads, sewers, water, solid waste disposal, medical care, police and fire protection, and other health and social services.
14. Environmental implications: potential environmental benefits, conflicts and mitigative measures, particularly concerning solid waste management and air and water quality.
15. Siting and design features to compensate for natural processes (e.g., floods, earthquakes, storms, erosion and sedimentation); to provide for safe and effective management of sewage and solid waste; and to minimize noise and visual impacts.

16. Economic implications, e.g., public cost and revenues resulting from the proposed project; potential conflicts with existing industry; anticipated expenditures in Alaska by place.
17. Social implications, e.g., training programs, local hiring policy, housing.
18. Arrangements for reducing environmental, economic and social conflicts, e.g., traffic control systems, oil spill contingency plan, compensation plan.
19. Alternative sites for the required facilities and operations, and reasons for rejecting alternative sites.

Policy 2. Consolidation. Major petroleum-related facilities shall be consolidated to the maximum extent feasible unless consolidation produces greater adverse environmental or social consequences.

This policy means the state will discourage new onshore petroleum-related facilities as long as existing sites are capable of handling anticipated demand. The effects of consolidation may not always be desirable, however, so it is important to discuss exceptions to the basic policy.

2a. Planning provisions. The state shall encourage industrial facility planning that allows for reasonable expansion and offers adequate assurance that other operators and necessary support industries could share the facility.

2b. Exceptions. Consolidation of onshore facilities shall be discouraged if the capacity of existing facilities cannot be expanded in an environmentally and socially acceptable way. Instances when this might occur include, but are not limited to, the following:

- (1) Affected communities oppose the expansion of existing facilities.
- (2) Additional harbor activities would seriously jeopardize marine safety.
- (3) Water supply is insufficient for future demand.
- (4) Environmental protection measures (e.g., ballast treatment facilities and solid waste disposal sites) at existing facilities could not be expanded to handle new loads.
- (5) Air and water quality problems would be compounded to a point where projected environmental degradation would exceed allowable air and water quality standards.

Policy 3. Compatibility. Industrial and commercial use of land shall be compatible with adjacent uses, projected community needs and high standards of environmental quality.

As stated in the findings for this section, zoning is a major mechanism for ensuring compatibility. Under existing statutes, the state has the authority to zone the unorganized borough and land surrounding airports. It should use these authorities to ensure that major petroleum-related facilities and associated activities are compatible with other land and resource uses. In incorporated areas, the state should abide by local zoning ordinances.

Policy 4. Concurrent use, reuse, conversion and removal. The state shall encourage the concurrent use of petroleum-related facilities for other economic or public uses if possible, the reuse or conversion of these facilities when no longer needed for petroleum-related activities,

and the removal of the facility if it cannot be used for other purposes. The state shall further encourage reclamation and restoration of disturbed areas upon termination of active use.

In this policy the state acknowledges the contribution OCS-related onshore facilities could make to local and regional economies if planned with imagination and foresight. Provisions for long-term use of facilities should be included in initial stages of planning.

4a. Study possibilities. The state shall investigate possibilities for concurrent use, reuse and conversion of petroleum-related facilities and incorporate these findings in state land use, economic and public facility planning.

4b. Lease stipulations. Where appropriate, the state will specify concurrent use, reuse, conversion or removal of facilities as stipulations on leases of state uplands, tidelands, submerged lands and shorelands. The state shall also require reclamation or restoration of disturbed areas upon termination of active use on these lands.

## RESOURCE MANAGEMENT

### Findings

Coastal resources. The coastal regions of the state exhibit a great diversity and vitality of living and aesthetic resources which are important aspects of the character and economy of these regions. Marine mammals, fish, shellfish, terrestrial game mammals, furbearers, waterfowl and shorebirds abound along with forests, kelp and seagrass beds and a rich and complex understory of supporting plant and animal communities. Three classes of areas are particularly important in sustaining these resources - areas of high productivity, areas of high diversity, and areas of high vulnerability.

Estuaries, wetlands, shorelands, river deltas and intertidal zones are among the important features providing essential habitat in coastal regions. Maintaining the ecological integrity of these features is critical to preserving the value of coastal resources for commercial and subsistence use, recreational appreciation and scientific study, and for protecting the natural environment.

Demands upon renewable resources. Increasing and competing demands are placed upon coastal lands and waters of Alaska through industrial development, commerce, transportation, extraction of renewable and non-renewable resources, residential development, recreation and waste disposal. These demands necessarily alter to some degree the balance of coastal

ecological systems. Essential habitat may be physically lost, diversity and productivity reduced, and populations of mammals, fish, and birds disturbed.

Critical habitat. Some coastal resources have an inherent vulnerability that makes protection especially critical. Fish spawning and rearing grounds, bird nesting and staging areas, sea mammal rookeries and hauling out grounds, and wildlife wintering areas are among the well-defined and limited habitats the protection of which are essential to maintaining valued resource diversity and productivity. Both habitat requirements and resident populations at risk must be recognized in establishing critical areas.

Water supply. Service bases, oil terminals and LNG plants require dependable sources of fresh water in large quantities. Fresh water is used for domestic purposes, drilling, fire protection and cooling. Increased demand for fresh water in coastal areas raises concerns as to: a) potential impacts on ground and surface water such as lowering of the water table, saltwater intrusion and reduced stream flow; b) adverse effects on fish and wildlife if surface water sources are reduced below the minimum flow necessary to sustain them; and c) possible competition with municipal water systems and other users.

Saltwater could also be used for drilling and cooling. If seawater is withdrawn in large quantities, many marine organisms will be entrained upon intake and killed by pressure and temperature change or chemicals.

Waste disposal and water quality. Service bases, oil terminals and LNG plants also produce solid wastes and effluents that present special disposal problems. Solid wastes include contaminated drilling wastes, lubrication oils and waxes, oil sludges and chemical slurries that require disposal in a sanitary landfill. Sludges produced during storage and treatment of crude oil may contain heavy metals and hazardous chemicals.

Service bases, oil terminals and LNG plants will also discharge effluents into nearby waters. Liquid waste is produced from sewage treatment, ballast treatment and cooling water that is significantly warmer than the receiving waters into which it is discharged and often contains biocides and rust inhibitors. The chronic introduction of soluble hydrocarbons into receiving waters adjacent to ballast treatment facilities could impose a long-term toxic effect on sensitive marine organisms.

Hazardous wastes and effluents from OCS-related facilities raise serious concerns as to their proper disposal and subsequent effects on water quality, biota and human health. Proper management of hazardous wastes and effluents requires well designed sanitary landfill sites, effluent standards and monitoring systems.

Air quality. OCS-related activities will emit a number of pollutants that may cause air quality and related health and nuisance problems under unfavorable topographical and meteorological conditions. Major

emissions will include particulates and sulphur dioxide from tanker and shore facility combustion, dust from wind and traffic, and evaporation of hydrocarbons from fuel storage tanks and tankers.

### Policies

Policy 5. Protection of environmental quality. The state shall in all cases consider the effect of development upon: a) vulnerable or unique populations and habitats, b) renewable resources having a high commercial, recreational, cultural and/or aesthetic value, c) areas of high biological productivity and/or diversity, and d) areas of high development hazard. The effect of development on these features of the natural and human environment must be considered in determining optimum locations of development activities (Policy 1), appropriate design of facilities, and compatibility of the proposed development with maintenance of a high level of environmental quality (Policy 3).

5a. Sensitive areas. The state shall protect ecologically sensitive areas, including but not limited to: estuaries, wetlands, river deltas, fish spawning grounds, intensive use habitat, bird nesting areas, waterfowl and shorebird staging areas, migration routes, wildlife wintering habitat, and sea mammal rookeries and hauling out grounds, by requiring environmentally acceptable technology or, if necessary, recommending alternate sites.

5b. Facility design. The state shall encourage design, construction, and operation of facilities to maintain a high level of environmental quality through, for example:

- (1) use of existing facilities and consolidation of new facilities;
- (2) minimizing dredge and fill, clearing, and other surface alteration;
- (3) use of environmentally safe technology;
- (4) adherence to Alaska's environmental protection laws and regulations pertaining to air quality, water use, water quality and solid waste disposal;
- (5) proper burial of submarine pipelines, particularly in trawling areas;
- (6) operation of helicopters at sufficient altitudes above seabird colonies and other noise-sensitive habitats to minimize disruption; and
- (7) reclamation or restoration of disturbed areas upon termination of active industrial use.

Policy 6. Shoreline development. The state shall encourage reservation of the shoreline for water dependent or water related uses.

This policy would reduce the disturbance of non-water dependent development on the sensitive coastal environment without preempting activities like shipping that require waterfront facilities. Storage tanks, processing facilities, offices and warehouses should be located at inland sites where feasible.

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This policy would reduce the disturbance of non-water dependent development on the sensitive coastal environment without preempting activities like shipping that require waterfront facilities. Storage tanks, processing facilities, offices and warehouses should be located at inland sites where feasible.

## EMPLOYMENT

### Findings

Temporary nature of oil industry employment. The temporary character of employment in the oil industry stems from the nature of oilfield development. This involves very intense activity in the early stages of development, a gradual decline over the following five to six years, and a fairly low level of activity for the remainder of the life of the field. Generally long-term employment is about one-fifth of peak employment.

Out-of-state labor. Oil companies and contractors are expected to recruit personnel for rigs, lay barges, bury barges and platforms from out-of-state. Labor for operating permanent platforms will probably be recruited locally.

Entry level jobs. An entry level job at a service base, oil terminal or LNG plant is likely to be a roustabout position. A roustabout is a general laborer. No particular training is necessary, but a high school diploma is preferred by most employers.

Construction. The largest labor force will be for construction of onshore facilities. The construction phase is expected to last approximately five years.

Long-term jobs. The need for permanent production and maintenance staff on platforms, and operating crews at service bases, oil terminals and LNG plants could provide long-term jobs for Alaskans.

Secondary employment. In addition to jobs directly created by oil companies and their contractors, there will be other jobs which result from the general increase in economic activity in the state. This secondary employment occurs mainly in the service and government sector in such categories as transportation, telecommunications, schools and medical care. Secondary employment is expected to be low and split between Anchorage and the other coastal communities.

Wages. Generally, the jobs created by OCS development will command high wages. If wages offered by local industries cannot compete favorably with those offered by the petroleum industry, part of the local labor force may be diverted. This could cause labor shortages in traditional local industries. If the local labor force is attracted to long-term jobs in the petroleum industry, the local economy will probably remain relatively stable despite the change in occupations. If, on the other hand, the dislocation is short-term, the resultant damage to traditional local industries may not be offset by new economic activity. For this reason, the state stands to benefit most from long-term employment for its residents.

Policies

Policy 7. Resident employment preferences. Alaskan residents shall receive preference for employment. Resident employment preference shall apply to retention as well as hiring.

Resident employment preference will produce the most stable long-term benefit to the state if residents are chosen for jobs with potential for long-term employment. At the present time, operating and maintenance crews on platforms and at service bases, oil terminals and LNG plants offer the greatest possibilities for long-term jobs.

7a. Voluntary agreements. The state will encourage the petroleum industry and related companies to adopt resident employment preference policies.

7b. Lease stipulation. As a stipulation on all state leases, the state will require that employment preference be given to Alaskan residents.

Policy 8. Manpower training. The state shall encourage manpower training programs that would qualify the existing resident labor force for jobs in the petroleum industry.

As a complement to the resident employment preference policy, manpower training should concentrate on skills needed for long-term jobs in the petroleum industry. The state should utilize available state services to the fullest extent possible to recruit and train Alaskan residents to fill these jobs.

## PUBLIC EXPENDITURES

### Findings

Overbuilding/underbuilding. Overbuilding public facilities is as detrimental to the state and its communities as is underbuilding. Overbuilding saddles the public with debts unmet by future revenues. Underbuilding may result in service standards falling below acceptable levels.

Population growth patterns. If oil is not found in commercial quantities, exploration on the outer continental shelf will cease within five years of the lease sale. Therefore, until a commercial discovery is made, virtually all OCS-related population growth should be considered temporary. Much of the peak in direct employment created by oilfield development is accounted for by construction workers who are mainly transients. This means that long-term additions to the population of Alaska will be considerably less than the peak, which will probably occur about five to ten years after the lease sale.

OCS-related public costs. Monitoring OCS development, reviewing project proposals, enforcement of regulations, environmental damage, changes in land values, and the provision of public services are all public costs of OCS development. Some of these costs must be incurred before there are sufficient revenues to finance them.

Shortcomings in existing revenue system. The Alaska Department of Revenue stated in its comments on the environmental impact statement for the northern Gulf OCS lease sale, "The State of Alaska acquires the vast majority of the liabilities associated with OCS development off its coast, but inadequate revenues to support that activity even assuming federal revenue sharing."

Since OCS leases involve tracts beyond the state's territorial boundaries, Alaska does not share in the bonuses or royalties they produce, and cannot tax oil and gas property on the outer continental shelf. The only federal revenues the state will receive will be coastal energy impact funds and limited federal grants such as Title IX Economic Development Assistance grants or the OCS supplement to the Coastal Zone Management grant.

Changes in federal revenue sharing arrangements and the extension of Alaska's taxing jurisdiction to the outer continental shelf would greatly alleviate the financial burden of OCS development on Alaska. The state has voiced its support of amendments to the OCS Lands Act that would authorize federal revenue sharing through taxation, royalties or bonuses.

Specific changes in the state's revenue system could also help. Two important areas that deserve attention are the current exemption of LNG plants and other petroleum facilities from the state's oil and gas property tax (AS 43.56) and the \$1,500 per capita limit on borough tax-raising ability.

## Policies

Policy 9. Public costs. Public costs resulting from OCS-related activities shall be shared by state and local governments, the federal government, the petroleum industry and other private developers.

Since development of the outer continental shelf is a federal initiative whose primary beneficiaries will be oil and gas consumers in the lower 48 states, the public costs of OCS development should not be paid by the State of Alaska alone, but rather should be shared as equitably as possible. Aside from modifications to the state's tax laws, public costs can be shared equitably through such means as increased federal revenue sharing, joint private-public funding of public facilities and services that will serve both industry and the public, and private funding all facilities and services not planned as part of long-term settlements.

Policy 10. Public facilities. The state shall promote full use of public facilities\* while ensuring high standards of public service.

This policy seeks to avoid overbuilding public facilities without allowing public service standards to fall below acceptable levels. The state can

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\* Public facilities include, but are not limited to, sewerage and water systems, ports, airports, roads, schools and hospitals.

apply this policy most directly through the planning, funding and construction of public works.

10a. New facilities. Before the state plans, funds or constructs new public facilities, they must be justified by the level of economic activity and stable population growth expected through at least the production phase of OCS development.

10b. Temporary facilities. The state shall encourage temporary means of expanding public facilities to handle increased demands of a temporary nature.

Policy 11. Public services. The state shall provide new or expanded public services\* in a timely fashion.

To predict fluctuations in demand for existing or new services the state should monitor change in communities. Information from frequent censuses and other methods of monitoring change should help the state channel public resources expeditiously.

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\* Public services include, but are not limited to, education, health care, child care, planning, manpower training, social services, and the criminal justice system.

## LOCAL SELF-DETERMINATION

### Findings

Changes in life style. Existing life styles, particularly those built on subsistence, will be difficult to preserve in the face of OCS oil and gas development. Subsistence is a way of life that relies directly on the land and its resources through hunting, gathering and fishing. Increased reliance on a cash economy and increased recreational pressure on fish and wildlife resources are factors that will further erode present life styles. Changes in community social and economic composition and patterns produce individual and community stress. Early, informed and unified efforts to influence the course of development are the most valuable tools at the disposal of communities to direct and control change and stress in the community.

New demands on local government. Onshore industrial development will place new demands on local governments. Local management capabilities may not be equal to the complex problems of OCS-related onshore activities.

Cost. Effective local management of OCS facilities is expensive. The Yak-Tat Kwaan, the village corporation for Yakutat, estimates that it has spent over \$200,000 developing and carrying out its plan for an industrial port facility on Monti Bay. Local government often relies on federal grants for planning funds. Most grants require a local match ranging from one-fifth to one-third of the total cost of the project. When a great deal of planning is required in a short period of time, it may be difficult for communities to finance their share of the cost.

Policies

Policy 12. Public information and opinion. Early in the OCS development process the state shall inform the public about OCS development and obtain public opinion on industrial growth and technological options.

Because of its complexity and uncertainty, it is difficult to accurately assess the implications of OCS activities for a community or region. Nonetheless, for the state to adapt its actions to community views (Policy 14) it is crucial that public sentiment be articulated on the basis of the best available information.

12a. Attitudinal surveys and workshops. The state will encourage and participate in the dissemination of public information on OCS development and the conduct of attitudinal surveys and workshops early in the OCS development process.

12b. Local coastal management programs. The state will encourage the development of local coastal management programs in OCS-affected coastal communities. An approved local coastal management plan will be recognized as an expression of community views regarding industrial growth.

12c. Orientation of non-resident employees. The state will encourage development companies to conduct orientation programs for non-

resident employees on community values and the results of attitudinal surveys to minimize misunderstandings between temporary residents and permanent members of a community.

Policy 13. Local management. The state shall seek to strengthen local planning, fiscal and management roles, including human resources planning and program development. The state shall also offer assistance to communities in coping with the adverse effects of development.

Through this policy the state intends to help local governments prepare themselves to meet the new demands that OCS development will place on them.

13a. Technical assistance. The state will assist communities in directing growth according to local preferences. In rendering assistance, the state will emphasize consideration of state-wide, regional and minority interests.

13b. State land disposal. The state will to the maximum extent feasible lease, sell or exchange state land in the vicinity of existing communities: a) if such actions enhance local control over development and the site satisfies the state's siting criteria; and b) an approved municipal plan establishes the desirability of expansion onto state-owned parcels and provides for phased growth. Although local preference is a significant factor in deciding whether to lease, sell or exchange state land near existing communities, it is not the only factor. Additional considerations are specified in the Alaska Statutes and Administrative Code.

## COORDINATION

### Findings

Lack of coordination. Presently decisions as to where and how development will take place are made by many different federal, state, local and private entities. Poor coordination among these parties causes needless confusion, wasted effort and delay.

State decisions. State agency actions that would affect OCS development range far beyond granting permits and leases, although these are two of the state's most significant authorities. Also included are land sales, land exchanges and capital investments.

Federal decisions. In addition to its substantial regulatory powers, the federal government plays a key role in OCS development in Alaska. It owns millions of acres of land, some of which could be used for onshore facilities or the extraction of building materials. It grants easements, the most important of which are pipeline rights-of-way. It also sets the lease sale schedule, conducts lease sales and promulgates offshore operating orders.

Local decisions. After the lease sales have been held and all necessary permits have been granted, local governments are typically left with the task of managing onshore industrial facilities. Local ordinances must be enforced, zoning regulations complied with, and public services provided.

## Policies

Policy 14. State-local coordination. Where a community makes a concerted effort to develop and act on its position regarding OCS development, the state shall adapt its actions (e.g., capital investments, leasing, permit issuance) to community preference to the extent that such actions also respect state-wide, regional and minority interests.

In this policy the state voices its intent to support community preferences. Recognizing that OCS development decisions will sometimes affect more than one community, the state must balance its support of local preferences against considerations of state-wide and regional interest. Furthermore, where there are different views expressed within a community the state must consider the effects of its actions on minority interests.

Policy 15. Coordination among state agencies. The state shall seek to coordinate at the outset the actions of all state agencies that must eventually act on major development proposals.

Early coordination of state actions helps the state make timely and appropriate decisions. Mechanisms for coordination can be easily established.

15a. Interagency review. The A-95 Clearinghouse should coordinate review of major state actions related to development of the outer continental shelf.

15b. Major state actions. The state shall establish a process through which all major state actions regarding OCS development are coordinated.

15c. Information exchange. The state shall establish a system for improving the transfer of information among state agencies and between them and the public.

Policy 16. State-federal coordination. The state shall seek to coordinate state and federal development decisions.

The state has been very active in its efforts to influence the OCS lease sale schedule. It should continue to comment on federal OCS activities and proposed legislation. As OCS development in Alaska progresses, it will become increasingly important for the state to cooperate closely with the federal government in the management of Alaska's land and resources.

16a. Pipeline transportation plan. The state should prepare a comprehensive plan regarding pipeline transportation and encourage the participation of appropriate federal agencies (e.g., FPC, ICC, BLM, Department of Transportation).

16b. Coastal management. The state's OCS policies will be incorporated into the state's coastal management program. When Alaska's coastal management program receives federal approval, these policies will significantly influence federal coastal decisions.

Policy 17. Cooperative management and development. The state shall seek to cooperate with landowners, developers and government agencies in the development and management of OCS-related onshore facilities.

Cooperative management and development agreements are constructive ways of coordinating the many different decisions that contribute to successful development. The state is willing to enter into cooperative management and development agreements and to manage its lands and resources accordingly.

### IMPLEMENTATION

The state's position on OCS-related onshore and nearshore activities will guide future state actions in this regard. As future events and new information warrant, the state will update its OCS policies.

The following actions are the most important means through which the state will implement its OCS policies.

1. Review of major federal and state actions. Reviewing major federal and state actions is an important way for the state to ensure that these governmental acts, and the private and public activities they affect, are in conformance with state policy. Of all the policy implementation measures at the state's disposal, this is perhaps the broadest because of the wide range of actions subject to state review. Implementation of all state OCS policies will be furthered through rigorous review of major federal and state actions. When the Alaska Coastal Management Program is approved by the federal government, state review of federal actions for conformance with state coastal policies will have even greater force than at present.

2. State planning and regulatory activities. The state is charged with a number of planning and regulatory responsibilities, including: 1) issuing permits and leases for such actions as water appropriation, tidelands use, sand and gravel extraction, and effluent discharge; 2) regulating land use surrounding airports and in the unorganized borough; and 3) preparing implementation plans for the Federal Water Pollution Control Act and Clean Air Act.

These planning and regulatory activities are forceful means of implementing the state's Industrial Planning policies (1-4), Resource Management policies (5-6), and Resident Employment preference policy (7).

3. State land selection and disposal. State lands are selected for many different reasons, including resource protection, resource development, and community expansion. As proprietor of a large portion of public lands, the state strongly influences the pattern of development through decisions to dispose of interest in state land. State land selection and disposal are important ways of implementing the state's Industrial Planning policies (1-4), Resource Management policies (5-6), and Local Management policy (13).

4. Allocation of state and federal resources. The state allocates not only its own fiscal and human resources, but also federal funds such as coastal energy impact funds and EDA grants. Implementation of the state's Manpower Training policy (8), Public Expenditures policies (9-11), and Local Self-Determination policies (12-13) will be accomplished only if adequate resources are channeled into needed public services (e.g., manpower training, health and social services, enforcement of regulations, and improving local management capabilities), and the costs of providing these services are borne equitably by industry, the federal government, and state and local government.

The following types of new legislation and administrative orders would improve the state's ability to implement its OCS policies.

1. Energy facility siting legislation that provides for a definition of energy facility, information disclosure, site identification, site selection, financing and administration. (See Alaska Department of Community and Regional Affairs, Concept of Major Energy Facility Planning Legislation (draft), 1976).
2. Expansion of the definition of taxable property under the oil and gas property tax (AS 43.56) to include oil refineries, gas processing plants, LNG facilities and petrochemical operations.
3. Legislation establishing a liability fund and procedures for compensating fishermen for lost and damaged equipment, lost time and other damages.
4. Enabling legislation that authorizes local governments to collect prepayment of taxes.
5. Administrative order or legislation establishing a single state office to provide applications for and information about permits and leases.
6. Administrative order authorizing state participation in joint federal-state surveillance of OCS activities.

THE PRECEDING PAGES WERE TREATED AS  
A UNIT IN THE ORIGINAL FILE.

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## TITLE 6. GOVERNOR'S OFFICE

### PART 5. ALASKA COASTAL POLICY COUNCIL.

#### Chapter

- 80. Standards of the Alaska Coastal Management Program
- 85. Guidelines for District Coastal Management Programs

#### CHAPTER 80.

#### STANDARDS OF THE ALASKA COASTAL MANAGEMENT PROGRAM

#### Article

- 1. Government process
- 2. Uses and activities
- 3. Resources and habitats
- 4. Areas which merit special attention

#### ARTICLE 1. GOVERNMENT PROCESS

#### Section

- 10. Public participation and information
- 20. Program management and coordination

6 AAC 80.010. PUBLIC PARTICIPATION AND INFORMATION. (a) The Council will provide adequate, effective, and continuing opportunities for public participation from the beginning in the Alaska Coastal Management Program. The Council will give notice of when and where opportunities for public participation will be provided before the adoption of guidelines and standards, the review and approval of district coastal management programs, and the review and approval or adoption of amendments, revisions, or additions to the Alaska Coastal Management Program.

(b) The Council will not approve a district coastal management program or any amendment, revision, or addition thereto unless evidence of significant opportunities for public participation at the district level has been provided.

(c) The Council will make available to the public information and educational materials concerning the Alaska Coastal Management Program in understandable form, including but not limited to the following:

(1) a guide for the development of district coastal management programs;

(2) comprehensive policies to guide the management of coastal uses and activities as they occur in specific coastal areas;

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(3) maps and narratives describing the physical and biological characteristics of coastal areas to be used in establishing boundaries;

(4) areas identified by state agencies and the public for Council designation as areas which merit special attention;

(5) a guide for the siting and development of major petroleum-related facilities in onshore and nearshore areas;

(6) an inventory of coastal fish and wildlife resources, with maps showing the location and range of species with commercial, recreational, or subsistence importance;

(7) an identification of major data and information sources concerning coastal management;

(8) a compilation and summary of information regarding coastal regions, including, where appropriate, a comprehensive list of issues and policies;

(9) summaries of public hearings and workshops;

(10) films and slide and tape programs;

(11) brochures, pamphlets, and tabloids summarizing and explaining the Alaska Coastal Management Program; and

(12) The Council's annual report to the legislature.

(d) At any public meeting concerning the Alaska Coastal Management Program, the Council will insure that, where necessary, translation into the appropriate Native language is provided.

6 AAC 80.020. PROGRAM MANAGEMENT AND COORDINATION. (a) The Office of Coastal Management, in its capacity as staff to the Council, shall be the designated lead agency for the Alaska Coastal Management Program. The Office of Coastal Management shall:

(1) present the official staff position regarding matters before the Council, including but not limited to the review and approval of district coastal management programs;

(2) apply for, receive, use, and distribute funds provided under all sections, except section 308, of the Coastal Zone Management Act of 1972, 16 USC 1451 et. seq., as amended, PL 94-370.

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(3) coordinate the activities of state agencies participating in the Alaska Coastal Management Program and delegate tasks to a specific agency or agencies, as appropriate;

(4) determine the consistency of state actions with the Alaska Coastal Management Program, subject to Policy Council determination if requested by a Council member; and

(5) respond to federal agency determinations of the consistency of federal actions with the Alaska Coastal Management Program, subject to Policy Council response if requested by a Council member.

(b) The Council will identify and adopt management policies and practices for specific uses of state concern and areas of the coast where uses of state concern may be sited and managed.<sup>1</sup> The Council will direct the development of management policies and practices for uses of state concern by state agencies and coastal resource districts.

(c) The Council will initiate an interagency program of comprehensive resource management for each geographic region described in AS 44.19.891(a)(1). Regional programs shall be conducted to:

(1) assist the Council in identifying uses of state concern within specific areas of the coast and developing management policies and practices for these uses and areas;

(2) provide resource, social, and economic information on a coordinated regional basis as necessary for development and implementation of the Alaska Coastal Management Program; and

(3) assist the Council in identifying, avoiding, and minimizing existing or potential conflicts between coastal resource districts and state and national interests.

(d) The mechanics of coordinating district plans with state agency plans and recommendations developed as part of the regional program outlined in (c) of this section shall be as described herein. State agencies having jurisdiction within a district shall transmit their plans and recommendations to the district through the Coordinator of the Office of Coastal Management. District planning efforts shall demonstrate a review and consideration of state agency plans and recommendations. If the final district plan proposed does not agree with state agency plans and recommendations, the differences will be resolved by the Council

1. "Uses of state concern" is defined in AS 46.40.210(6).

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in accordance with this Title and the Alaska Coastal Management Act.

(e) The Council will prepare a manual of standards for the management of land and water uses in the coastal area to assist in the development of district and state agency plans.

## ARTICLE 2. USES AND ACTIVITIES

### Section

- 30. Offshore, shoreline, and waterfront development
- 40. Geophysical hazard areas
- 50. Recreation and tourism
- 60. Energy-related facilities
- 70. Transportation and utilities
- 80. Fishing and seafood processing
- 90. Timber harvest
- 100. Mining and mineral processing
- 110. Air, land, and water quality
- 120. Subsistence

6 AAC 80.030. OFFSHORE, SHORELINE, AND WATERFRONT DEVELOPMENT. (a) Development and activities related to development conducted in offshore, shoreline, and waterfront areas shall, to the greatest extent practicable, maintain and enhance:

(1) the resource values and biological productivity of the coastal area;

(2) access to coastal waters by the public;

(3) the availability of sites for water-dependent or water-related uses and activities; and

(4) the national and statewide interests in navigation.

(b) The provisions of 11 AAC 62.030, Protection of Fish and Game, shall apply to development and activities related to development in the coastal area.

(c) Dredging shall be conducted in a manner which minimizes bottom disturbance and adverse effects on mollusks, shellfish, marine and anadromous fish, marine birds and animals, and water quality.

(d) The placement of structures and the discharge of dredged or fill material into coastal waters, nontidal streams, lakes, and adjacent wetlands shall, as a minimum standard, be conducted

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pursuant to Parts 320-323, Title 33, Code of Federal Regulations, Navigation and Navigable Waters, and AS 16.05.870, Protection of Fish and Game.

(e) In planning for and approving uses and activities in shoreline and waterfront areas, coastal resource districts and state agencies shall give, in the following order, priority to:

- (1) water-dependent uses and activities;
- (2) water-related uses and activities; and
- (3) uses and activities which are neither water-dependent nor water-related for which there is no feasible inland location.

6 AAC 80.040. GEOPHYSICAL HAZARD AREAS. (a) Coastal resource districts and appropriate state agencies shall identify or cause to be identified geophysical hazard areas in the coastal area, including but not limited to areas of potential flooding, tsunami run-up, landslides, snowslides, earthquakes, subsidence, severe erosion, and ice hazards.

(b) Development and related activities in geophysical hazard areas may not be approved until siting, design, and construction measures for avoiding or minimizing potential loss of life and damage to property have been provided. In areas of severe hazard potential where siting, design, and construction measures may not be sufficient to avoid or minimize potential loss of life and damage to property, development and related activities shall be prohibited.

6 AAC 80.050. RECREATION AND TOURISM. (a) Coastal resource districts and appropriate state agencies shall identify areas of the coast which:

- (1) have been designated as a unit of a local, state, or national park, refuge, or wilderness system;
- (2) receive significant use by persons engaging in recreational pursuits or are major tourist destinations;
- (3) have a potential for high quality recreational use because of unique physical, biological, ecological, or cultural features;
- (4) are important for recreational use because of their proximity to population centers or transportation systems;
- (5) provide access to recreational resources;

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- (6) are recognized for their scenic value;
- (7) are listed or nominated for listing on the National Register of Historic Places; or
- (8) are determined to be significant by the state historic preservation officer.

Areas so identified shall have as their dominant management value the protection and public use of the recreation, scenic, or heritage resource for which the area was identified and shall be managed consistently with that value.

(b) The development of recreation and tourism and facilities related to recreation and tourism in the coastal area shall be consistent with the preservation, protection, and enhancement of natural and cultural resources.

6 AAC 80.060. ENERGY-RELATED FACILITIES. Sites suitable for the development of major nearshore and onshore energy-related facilities shall be identified by the state in cooperation with coastal resource districts. The siting and approval of these facilities shall be based on the policies of the State of Alaska concerning the onshore and nearshore aspects of OCS development.<sup>2</sup> Coastal resource districts may use and apply these policies in the preparation of district coastal management programs.

6 AAC 80.070. TRANSPORTATION AND UTILITIES. (a) Transportation and utility routes and facilities in the coastal area shall, to the greatest extent practicable, be sited, designed, and constructed so as to:

- (1) avoid adverse impacts on the resources and habitats identified in sec. 130 of this chapter;
- (2) be compatible with adjacent uses and activities, local community goals and desires, and regional and statewide needs;
- (3) combine more than one mode of transport or utility into common corridors;
- (4) allow for the concurrent use of facilities; and
- (5) maintain scenic values.

2. As adopted on 01/13/78 by the Alaska Coastal Policy Council; available from the Department of Community and Regional Affairs or the Office of Coastal Management.

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(b) Land based transportation and utility routes and corridors and air-related transportation facilities shall be sited upland from beaches and shorelines unless access to the water is a primary goal or requirement of the route, corridor, or facility and no feasible inland alternative exists.

(c) Water-based transportation and utility routes shall be sited and designed so as to minimize interference with uses and activities related to the harvest of marine plants and animals.

(d) Air-related transportation routes and facilities shall be sited, designed, and constructed so as to minimize interference with wildlife migration, nesting, and breeding provided that such placement does not interfere with safety.

(e) Traditional navigation and transportation routes and aides to navigation shall have high priority for shoreline and in-water locations.

(f) Transportation and utility routes and facilities include but are not limited to power transmission lines, mineral slurry, oil and gas pipelines, land and marine corridors, railways, highways, roadways, air terminals, water and sewage transfer, and facilities required to operate and maintain them.

6 AAC 80.080. FISHING AND SEAFOOD PROCESSING. (a) The offshore waters within the state's jurisdiction are designated a fisheries conservation zone and uses and activities conducted in this area shall be managed so as to maintain and enhance the Alaska sport and commercial fishery. In the management of this area, the State shall coordinate, as appropriate, with the North Pacific Fishery Management Council, the National Marine Fisheries Service, the U.S. Coast Guard, and other federal agencies responsible for implementation of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265, April 13, 1976).

(b) Coastal resource districts and appropriate state agencies shall identify sites suitable for the location or development of facilities related to commercial fishing and seafood processing. Criteria for the identification of these sites are:

- (1) avoidance of adverse impacts on resources and habitats identified in sec. 130 of this chapter;
- (2) adherence to all federal and state water quality standards;
- (3) minimization of obstructions to navigation; and
- (4) compatibility with adjacent uses and activities and community goals and desires.

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(c) Facilities related to commercial fishing and seafood processing include but are not limited to hatcheries and related facilities, seafood processing plants and support facilities, and marine industrial and commercial facilities.

6 AAC 80.090. TIMBER HARVEST. (a) Timber harvest is limited to areas where data and information indicate an absence of reforestation problems that would preclude that area from producing a sustained yield of merchantable timber unless the area is to be converted to a use other than timber harvest.

(b) Timber harvest and associated activities in the coastal area shall be conducted so as to meet the following standards:

(1) the location of facilities and the layout of logging systems shall not adversely impact sensitive areas and shall utilize land that has a minimum potential for water pollution and other adverse environmental impacts;

(2) blockage of and interference with fish movement and habitat in streams, lakes, wetlands, estuaries, and other bodies of water shall be avoided;

(3) shoreline management zones, including but not limited to buffer strips and riparian zones, shall be planned and established along all water courses, lake shores, and marine shorelines; the width of this zone shall be based on ability to withstand blowdown and prevent impacts on fish or wildlife resources as determined on a case-by-case basis by appropriate federal, state, and local expertise; resource values and environmental sensitivity shall determine whether and to what extent timber may be harvested from these zones;

(4) slash, logging debris, and other materials shall be treated so as to enhance reforestation, not constitute a fire hazard, and not interfere with wildlife and fish habitat; and

(5) minimal habitat to maintain game populations and key migratory routes shall be left in timber harvest areas.

(c) Timber transport, storage, and processing in the coastal area shall be conducted so as to meet the following standards:

(1) the onshore storage of logs shall be encouraged where compatible with other objectives of the Alaska Coastal Management Program;

(2) sites for the in-water dumping and storage of logs shall be selected and these activities shall be conducted

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so as to minimize adverse effects on the marine ecosystem, minimize conflicts with recreational uses and activities, be safe from storms, and not constitute a hazard to navigation;

(3) roads for log transport and harvest area access shall be planned, designed, and constructed so as to avoid mass wasting, minimize erosion, sedimentation, and interference with drainage, and adequately maintained for the entire period of timber processing or put to bed; and

(4) stream crossings, including bridges and culverts, shall be kept to a minimum number and designed to withstand seasonal high water and flooding and to prevent obstructions to the migration of anadromous and resident fish.

6 AAC 80.100. MINING AND MINERAL PROCESSING. (a) Mining and mineral processing in the coastal area, including but not limited to the development of mineral resources extracted in tidal rivers, coastal waters, and on continental shelves of the open sea, and found in surface, subsurface, and aqueous deposits, shall be sited, designed, and conducted so as to:

(1) avoid adverse impacts on the resources and habitats identified in sec. 130 of this chapter; and

(2) be compatible with adjacent uses and activities, local community goals and desires, and regional and statewide needs.

(b) Mining and mineral development in the coastal area shall conform to all applicable air and water quality standards and any rules, regulations, or statutes relevant to mining and mineral development conducted in coastal waters.

(c) Extraction of sand and gravel in the coastal area shall meet the following additional standards:

(1) all feasible alternatives, including upland alternatives, have been considered;

(2) extraction takes place only during that portion of the year when it will be least harmful to anadromous fish, marine fish, shellfish, mollusks, and marine birds and mammals affected by the extraction;

(3) extraction on marine beaches or offshore dune systems may not initiate or increase significant adverse erosion or deposition; and

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(4) sand or gravel may be removed from estuaries only in areas of active shoaling, provided the shoal is not critical marine habitat. Only the accreted material may be removed.

6 AAC 80.110. AIR, LAND AND WATER QUALITY. Coastal resource districts and state agencies shall use and apply all applicable provisions of 18 AAC, Environmental Conservation, to maintain high standards of air, land, and water quality in the coastal area.

6 AAC 80.120. SUBSISTENCE. Coastal resource districts and appropriate state agencies shall recognize and assure subsistence usage of coastal areas and resources.

## ARTICLE 3. RESOURCES AND HABITATS

### Section

#### 130. Resources and Habitats

6 AAC 80.130. RESOURCES AND HABITATS. (a) Natural resources and habitats in the coastal area that are subject to the Alaska Coastal Management Program include but are not limited to the following:

(1) offshore areas, including the submerged lands and waters seaward of the coastline extending to the continental shelf break;

(2) estuaries, including semi-enclosed bodies of water having an opening to the sea and containing greater than 0.5 ppt of salt, including but not limited to river mouths, deltas, fjords, inlets, bays, and tidewater glaciers;

(3) wetlands and tideflats, including lands shallowly submerged by water and characterized by vegetation complexes consisting primarily of sedges, rushes, and grasses; coastal wetlands are not strictly limited to the zone inundated by tides and are characterized by coastal marshes which generally have an extensive freshwater zone in the higher area and a tidally influenced saltwater zone in the lower area;

(4) rocky islands and seacliffs, including islands of predominantly volcanic or tectonic origin with rocky shores and steep faces, offshore rocks, capes, and steep rocky sea fronts;

(5) barrier islands and lagoons, including depositional coastal environments formed by deposits of sediments offshore which form a barrier of low-lying islands and bars protecting a salt-water lagoon with a free exchange of water to the sea;

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(6) exposed high energy coasts, including relatively featureless sections of the coastline with direct exposure to ocean generated wave impacts and usually characterized by mixed sand and gravel beaches and an active surf zone;

(7) rivers and lakes; and

(8) coastal uplands, including those upland areas having a direct or significant impact on the coastal area.

(b) Coastal resource districts and appropriate state agencies shall identify and plan for the management of the resources and habitats listed in (a) of this section. The following are the standards which apply to the management of these resources and habitats:

(1) offshore areas - maintain the capacity of offshore areas to support anadromous fish, marine fish, shellfish, marine birds, marine mammals, and supporting species;

(2) estuaries - maintain the capacity of estuaries to support anadromous fish, marine fish, migratory birds, marine birds, mammals and supporting species; maintain adequate water flows and oxygen levels where fish populations overwinter; prohibit the discharge of toxic wastes and materials into estuaries in the winter;

(3) wetlands and tidflats - maintain wetlands habitat for migratory birds, anadromous fish, big game, small mammals, and supporting species;

(4) rocky islands and seacliffs - maintain the availability and quality of rocky island and seacliff breeding habitat for marine mammals, seabirds, and supporting species; avoid harassment, pollution, or the introduction of unnatural predators;

(5) barrier islands and lagoons - maintain the flow of sediments and water; prevent the alteration or redirection of wave energy; prevent the filling in of lagoons or the destruction of barrier islands; discourage activities which may cause polar bears to avoid denning on barrier islands;

(6) exposed high energy coasts - avoid the dumping of materials toxic or harmful to marine life, including but not limited to larvae and juvenile stages of crabs, shrimp, and razor clams, marine fish, and supporting species;

(7) rivers and lakes - maintain the capacity of rivers and lakes to support anadromous fish, migratory birds, small mammals, big game, and supporting species; and

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(8) coastal uplands - maintain upland bird and big game populations.

ARTICLE 4. AREAS WHICH MERIT SPECIAL ATTENTION

Section

140. Areas Which Merit Special Attention

6 AAC 80.140. AREAS WHICH MERIT SPECIAL ATTENTION. (a) Coastal resource districts and appropriate state agencies shall recommend to the Council areas to be designated as areas which merit special attention.<sup>3</sup> Recommendations shall include the following information:

(1) the basis or bases for designation pursuant to AS 46.40.210(1) or (c) of this section;

(2) a map showing the geographical location, surface area and, where appropriate, bathymetry of the area;

(3) a description of the area which includes dominant physical and biological features;

(4) the existing ownership, jurisdiction, and management status of the area, including existing uses and activities;

(5) the existing ownership, jurisdiction, and management status of adjacent shoreland and sea areas, including existing uses and activities;

(6) present and anticipated conflicts among uses and activities within an adjacent to the area, if any;

(7) a proposed management scheme, consisting of the following:

(A) a description of the uses and activities which will be considered proper and the uses and activities which will be considered improper with respect to land and water within the area;

(B) a summary or statement of the policies which will be applied in managing the area; and

(C) an identification of the authorities which will be used to implement the proposed management scheme.

3. "Areas which merit special attention" is defined in AS 46.40.210(1).

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(b) The Council will designate and establish management schemes for areas which merit special attention. Approval of a district coastal management program which recommends designation of an area pursuant to (a) of this section constitutes a Council designation.

(c) In addition to the categories contained in AS 46.40.210(1), areas which merit special attention may include the following:

(1) areas important for subsistence hunting, fishing, food gathering, and foraging;

(2) areas with special scientific values or opportunities, including but not limited to those where ongoing research projects could be jeopardized by development or conflicting uses and activities; and

(3) potential estuarine or marine sanctuaries.

(d) Management schemes for areas which merit special attention shall preserve, protect, enhance, or restore the value or values for which the area was designated.

**DRAFT***procedural  
steps*CHAPTER 85 GUIDELINES FOR DISTRICT COASTAL MANAGEMENT PROGRAMS

## Section

10. Program elements
20. Submittals to Council
30. Public involvement
40. Coordination and review

6 AAC 85.010. PROGRAM ELEMENTS. Each district coastal management program shall include the elements listed in this section.

(1) A statement of the district's overall needs, objectives, or goals, or the district's comprehensive land and resource use plan.

(2) A description of the district's administrative structure. This structure shall be sufficient for program development and implementation. Budgetary and staff needs, and, where appropriate, a schedule for reorganization shall be included.

(3) A map of the boundaries of the coastal area within the district which is subject to the district coastal management program.

(A) Prior to Council approval of the district program, interim boundaries shall be based on Biophysical Boundaries of Alaska's Coastal Zone<sup>1</sup> and shall include the zone of direct interaction and the zone of direct influence but shall exclude the zone of indirect influence.

(B) Final boundaries of the coastal area subject to the district coastal management program may diverge from the interim boundaries providing the final boundaries:

(i) extend inland and seaward to the extent necessary to manage uses and activities that have or are likely to have a direct and significant impact on the coastal ecosystem; and

(ii) include all transitional and intertidal areas, salt marshes, islands, and beaches.

1. Developed by the Alaska Department of Fish and Game, Marine Coastal Habitat Management Program, 1977; available from the Office of Coastal Management, Division of Policy Development and Planning.

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specific proposals for land and water uses and activities may be allowed. It shall be the general policy of the coastal resource district to approve specific proposals for land and water uses and activities which are consistent with the district coastal management program. Districts shall utilize existing forums and procedures appropriate for the determination of specific proposals to the greatest extent practicable, including but not limited to forums and procedures related to planning and zoning. Policies, regulations, and procedures shall be consistent with the standards of the Alaska Coastal Management Program contained in 6 AAC 80 and shall meet the following criteria:

(A) comprehensibility, so as to provide for all uses, activities, and areas in need of management;

(B) specificity, so as to allow clear understanding of who will be affected by the district coastal management program, how they will be affected, and whether specific proposals for land and water uses and activities may be allowed; and

(C) enforceability, so as to insure implementation of and adherence to the district coastal management program.

(9) A description of the methods and authorities that will be used to implement the district coastal management program. Methods and authorities must be adequate to insure program implementation. Additional methods and authorities which are required shall be specified. Methods and authorities may include but are not limited to land and water use plans, municipal ordinances and resolutions, including shoreline ordinances, zoning ordinances, subdivision ordinances, and building codes, state and federal statutes and regulations, capital improvements programs, the purchase, sale, lease, or exchange of coastal land and water resources, cooperative agreements, memoranda of understanding, and coordinated permit or project review procedures. Coastal resource districts may enter into cooperative management agreements with parties conducting uses or activities outside of the district in conformity with the Alaska Coastal Management Program and this Title.

(10) Evidence of effective and significant public involvement in program development, pursuant to sec. 030 of this chapter.

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6 AAC 85.020. SUBMITTALS TO COUNCIL. (a) During program development, coastal resource districts shall submit brief annual progress reports concerning program development to the Council.

(b) Following approval of the district coastal management program by the Council and adoption of the program by the district, coastal resource districts shall submit brief annual progress reports concerning program implementation to the Council. The Council will review annual progress reports to insure that the district is making adequate progress in complying with the Alaska Coastal Management Act, this Title, and the adopted district coastal management plan.

(c) All significant additions, amendments, and revisions to the district coastal management program shall be submitted to the Council. The Office of Coastal Management shall review proposed additions, amendments, and revisions to determine if Council approval is required. This determination is subject to review by the Council when requested by a council member.

(d) Coastal resource districts shall give conceptual approval to the district coastal management program and significant additions, amendments, and revisions to the district coastal management program prior to their submittal to the Council. Following Council approval, the district shall adopt the program, addition, amendment, or revision.

6 AAC 85.030. PUBLIC INVOLVEMENT. (a) At least two public meetings shall be held within the coastal resource district during coastal management program development to inform the public about and to solicit public comments concerning the program. A brief summary or report of the matters considered shall be prepared by the district and made available to the public following each meeting.

(b) At least 30 days before giving conceptual approval to the district coastal management program or significant additions, amendments, or revisions thereto, the coastal resource district shall give public notice of the proposed action. At least one public hearing shall be held during the period of the notice. At the public hearing, each interested person shall be given the opportunity to present statements, arguments, or contentions, orally or in writing. Districts shall insure that, where necessary, translation into the appropriate Native language is provided. The district shall consider all relevant matter presented to it. A written transcript, minutes, or an electronic recording of the public hearing shall be submitted to the Council as an element of the district coastal management program.

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(c) In addition to the requirements of (b) of this section, coastal resource districts shall provide opportunities for public involvement from the beginning in the development of all program elements.

(d) Coastal resource districts shall provide to the public, in a timely manner and in understandable form, information explaining the district coastal management program, the requirements of public participation in program development, how and when the public may participate in program development, and what information is available.

6 AAC 85.040. COORDINATION AND REVIEW. Coastal resource districts shall provide opportunities for coordination and review by federal, state and local governmental agencies and other parties with a significant interest in coastal resources within or adjacent to the district or which are conducting or may conduct uses and activities that have or are likely to have a direct and significant impact on the coastal resource district.

Policies of the State of Alaska Concerning  
the Onshore and Nearshore aspects of OCS Development<sup>1</sup>

Policy 1. Optimum location. The state shall ensure that the siting of major onshore and nearshore petroleum-related<sup>2</sup> facilities minimizes adverse environmental and social effects while satisfying industrial requirements. Where possible, siting decisions will not foreclose other land and water uses.

1a. Preliminary siting criteria. The state shall develop preliminary siting criteria for major nearshore and onshore petroleum-related facilities.<sup>3</sup> These criteria should consist of basic siting considerations that would capitalize on the public benefits of OCS development and reduce its adverse effects.

1b. Information needs for evaluating proposals. In order to adequately evaluate major development proposals, the state requires from developers at least the information listed in Table 5.2.<sup>4</sup>

Policy 2. Consolidation. Major petroleum-related facilities shall be consolidated to the maximum extent feasible unless consolidation produces greater adverse environmental or social consequences.

2a. Planning provisions. The state shall encourage industrial facility planning that allows for reasonable expansion and offers adequate assurance that other operators and necessary support industries could share the facility.

2b. Exceptions. Consolidation of onshore facilities shall be discouraged if the capacity of existing facilities cannot be expanded in an environmentally and socially acceptable way. Instances when this might occur include, but are not limited to, the following:

(1) Affected communities oppose the expansion of existing facilities.

1. As adopted by the Alaska Coastal Policy Council 01/13/78.

2. Major nearshore and onshore petroleum-related facilities include: a) marine service bases; b) air transport facilities; c) pipelines and rights-of-way; d) separation, treatment and storage facilities; e) LNG plants; f) transfer terminals related to petroleum production; g) concrete platform fabrication yards; h) refineries; and i) petrochemical plants.

3. Table 5.1, Appendix A.

4. Appendix B.

(2) Additional harbor activities would seriously jeopardize marine safety.

(3) Water supply is insufficient for future demand.

(4) Environmental protection measures (e.g., ballast treatment facilities and solid waste disposal sites) at existing facilities could not be expanded to handle new loads.

(5) Air and water quality problems would be compounded to a point where projected environmental degradation would exceed allowable air and water quality standards.

Policy 3. Compatibility. Industrial and commercial use of land shall be compatible with adjacent uses, projected community needs and high standards of environmental quality.

Policy 4. Concurrent use, reuse, conversion and removal. The state shall encourage the concurrent use of petroleum-related facilities for other economic or public uses if possible, the reuse or conversion of these facilities when no longer needed for petroleum-related activities, and the removal of the facility if it cannot be used for other purposes. The state shall further encourage reclamation and restoration of disturbed areas upon termination of active use.

4a. Study possibilities. The state shall investigate possibilities for concurrent use, reuse and conversion of petroleum-related facilities and incorporate these findings in state land use, economic and public facility planning.

4b. Lease stipulations. Where appropriate, the state will specify concurrent use, reuse, conversion or removal of facilities as stipulations on leases of state uplands, tidelands, submerged lands and shorelands. The state shall also require reclamation or restoration of disturbed areas upon termination of active use on these lands.

Policy 5. Protection of environmental quality. The state shall in all cases consider the effect of development upon: a) vulnerable or unique populations and habitats, b) renewable resources having a high commercial, recreational, cultural and/or aesthetic value, c) areas of high biological productivity and/or diversity, and d) areas of high development hazard. The effect of development on these features of the natural and human environment must be considered in determining optimum locations of development activities (Policy 1), appropriate design of facilities, and compatibility of the proposed development with maintenance of a high level of environmental quality (Policy 3).

5a. Sensitive areas. The state shall protect ecologically sensitive areas, including but not limited to: estuaries, wetlands river deltas, fish spawning grounds, intensive use habitat, bird nesting areas, waterfowl and shorebird staging areas, migration routes, wildlife wintering habitat, and sea mammal rookeries and hauling out grounds, by requiring environmentally acceptable technology or, if necessary, recommending alternate sites.

5b. Facility design. These state shall encourage design, construction, and operation of facilities to maintain a high level of environmental quality through, for example:

- (1) use of existing facilities and consolidation of new facilities;
- (2) minimizing dredge and fill, clearing, and other surface alteration;
- (3) use of environmentally safe technology;
- (4) adherence to Alaska's environmental protection laws and regulations pertaining to air quality, water use, water quality and solid waste disposal;
- (5) proper burial of submarine pipelines, particularly in trawling areas;
- (6) operation of helicopters at sufficient altitudes above seabird colonies and other noise-sensitive habitats to minimize disruption; and
- (7) reclamation or restoration of disturbed areas upon termination of active industrial use.

Policy 6. Shoreline development. The state shall encourage reservation of the shoreline for water dependent or water related uses.

Policy 7. Resident employment preferences. Alaskan residents shall receive preference for employment. Resident employment preference shall apply to retention as well as hiring.

7a. Voluntary agreements. The state will encourage the petroleum industry and related companies to adopt resident employment preference policies.

7b. Lease stipulation. As a stipulation on all state leases, the state will require that employment preference be given to Alaskan residents.

Policy 8. Manpower training. The state shall encourage manpower training programs that would qualify the existing resident labor force for jobs in the petroleum industry.

Policy 9. Public costs. Public costs resulting from OCS-related activities shall be shared by state and local governments, the federal government, the petroleum industry and other private developers.

Policy 10. Public facilities. The state shall promote full use of public facilities<sup>5</sup> while ensuring high standards of public service.

10a. New facilities. Before the state plans, funds or constructs new public facilities, they must be justified by the level of economic activity and stable population growth expected through at least the production phase of OCS development.

10b. Temporary facilities. The state shall encourage temporary means of expanding public facilities to handle increased demands of a temporary nature.

Policy 11. Public services. The state shall provide new or expanded public services<sup>6</sup> in a timely fashion.

Policy 12. Public information and opinion. Early in the OCS development process the state shall inform the public about OCS development and obtain public opinion on industrial growth and technological options.

12a. Attitudinal surveys and workshops. The state will encourage and participate in the dissemination of public information on OCS development and the conduct of attitudinal surveys and workshops early in the OCS development process.

12b. Local coastal management programs. The state will encourage the development of local coastal management programs in OCS-affected coastal communities. An approved local coastal management plan will be recognized as an expression of community views regarding industrial growth.

5. Public facilities include, but are not limited to, sewerage and water systems, ports, airports, roads, schools and hospitals.

6. Public services include, but are not limited to, education, health care, child care, planning, manpower training, social services, and the criminal justice system.

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12c. Orientation of non-resident employees. The state will encourage development companies to conduct orientation programs for non-resident employees on community values and the results of attitudinal surveys to minimize misunderstandings between temporary residents and permanent members of a community.

Policy 13. Local management. The state shall seek to strengthen local planning, fiscal and management roles, including human resources planning and program development. The state shall also offer assistance to communities in coping with the adverse effects of development.

13a. Technical assistance. The state will assist communities in directing growth according to local preferences. In rendering assistance, the state will emphasize consideration of state-wide, regional and minority interests.

13b. State land disposal. The state will to the maximum extent feasible lease, sell or exchange state land in the vicinity of existing communities: a) if such actions enhance local control over development and the site satisfies the state's siting criteria; and b) an approved municipal plan establishes the desirability of expansion onto state-owned parcels and provides for phased growth. Although local preference is a significant factor in deciding whether to lease, sell or exchange state land near existing communities, it is not the only factor. Additional considerations are specified in the Alaska Statutes and Administrative Code.

Policy 14. State-local coordination. Where a community makes a concerted effort to develop and act on its position regarding OCS development, the state shall adapt its actions (e.g. capital investments, leasing, permit issuance) to community preference to the extent that such actions also respect state-wide, regional and minority interests.

Policy 15. Coordination among state agencies. The state shall seek to coordinate at the outset the actions of all state agencies that must eventually act on major development proposals.

15a. Interagency review. The A-95 Clearinghouse should coordinate review of major state actions related to development of the outer continental shelf.

15b. Major state actions. The state shall establish a process through which all major state actions regarding OCS development are coordinated.

15c. Information exchange. The state shall establish a system for improving the transfer of information among state agencies and between them and the public.

Policy 16.. State-federal coordination. The state shall seek to coordinate state and federal development decisions.

16a. Pipeline transportation plan. The state should prepare a comprehensive plan regarding pipeline transportation and encourage the participation of appropriate federal agencies (e.g., FPG, ICC, BLM, Department of Transportation).

16b. Coastal management. The state's OCS policies will be incorporated into the state's coastal management program. When Alaska's coastal management program receives federal approval, these policies will significantly influence federal coastal decisions.

Policy 17. Cooperative management and development. The state shall seek to cooperate with landowners, developers and government agencies in the development and management of OCS-related onshore facilities.

## APPENDIX A

## TABLE 5.1

PRELIMINARY SITING CRITERIA  
FOR  
MARINE SERVICE BASES  
OIL TERMINALS  
LNG PLANTS

Onshore vs. offshore. Site facilities onshore until alternatives offshore are proven safe and environmentally acceptable.

Expansion. Select sites with sufficient acreage to allow for reasonable expansion of facilities. (1)

Infrastructure. If possible, site facilities where existing infrastructure (e.g., roads, docks, airstrips) is capable of satisfying industrial requirements. (1)

Navigational safety. Avoid harbors and shipping routes with reefs, shoals, drift ice, and other obstructions that might jeopardize safe navigation.

Site preparation. Select sites where development would entail minimal site clearing, dredging, and construction in productive wetlands, estuaries, deltas, and other sensitive areas. (1)

Tsunami. Site fuel, crude oil, and LNG storage tanks at elevations sufficiently above mean sea level to escape the highest tsunami run-up.

Pipelines. Align pipelines away from active faults and areas of subsidence.

Shipping routes. Site oil terminals so as to minimize the probability of oil spills affecting fishing grounds and spawning grounds.

Fire and explosion. Site fuel, crude oil and LNG storage and transfer areas downwind from populated areas to reduce the hazard of fire and explosion to human populations.

Resource protection. Site facilities so that unique environments and areas of particular scenic, recreational, and cultural value will be protected.

Water quality. Site facilities in areas of least biological productivity, diversity, and vulnerability, and where effluents and spills can be controlled or contained easily.

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Air quality. Site facilities where winds and air currents freely disperse pollutants, thereby reducing their concentrations.

Compatibility. Select sites designated for industrial purposes or well separated from residential, commercial, and institutional land uses, where industrial traffic will not pass through population centers, and vessel movements will not result in overcrowded harbors or interfere with fishing operations and equipment.

(1) Application of site preparation, expansion and infrastructure criteria requires basic information on harbor dimensions, acreage and infrastructure needs.

	SERVICE BASE	OIL TERMINAL	LNG PLANT
Harbor depth (ft. below MLLW)		-----	-----
Access channel	20	66	46
Turning basin	19	61	42
Berthing area	18	58	40
Turning Basin (diameter in ft.)	420-840	2,000-4,000	2,100-4,200
Level land near waterfront (ac.)	4-20 (1-2 berths) 63-88 (10 berths)	70-500	40-500
Infrastructure			
Airstrip (ft.)	5,000	5,000	5,000
Dock (ft.)	200-2,000	1,000	1,000
Road network connecting dock, airstrip and community	yes	yes	yes

## APPENDIX B

## TABLE 5.2

## INFORMATION NEEDS

1. Type of facility proposed, e.g., service base, marine terminal, LNG plant.
2. Location of all facilities and activities associated with or expected to be attracted to the proposed development, e.g., helicopter operations, construction camps, motels.
3. Description of proposed facility, e.g., acreage, site plans.
4. Expansion: probability of additional demand on the proposed facility in the future; provisions for expansion and sharing of the facility with other companies.
5. Schedule: proposed construction schedule and anticipated operational timetable over the life of the facility, e.g., type and level of seasonal activities, anticipated years of peak usage.
6. Land status and ownership of development site and other land affected by the proposal, e.g., private, public, unpatented, in litigation.
7. Management of the project, e.g., an oil company, a Native corporation, joint management.
8. Contractors and subcontractors for all or portions of the project.
9. Resource requirements: quantities and probable sources of power, water, gravel, and other materials.
10. Transport: frequency and routes of boat and aircraft movements and expected level of vehicular traffic in the region resulting from construction or operation of the facility.
11. Employment: anticipated number of persons to be employed by job description, tenure (permanent/temporary), and place of employment.
12. Population: approximate addition to the population of Alaska by place.
13. Public services: extent of need for and means of providing public services, e.g., roads, sewers, water, solid waste disposal, medical care, police and fire protection, and other health and social services.
14. Environmental implications: potential environmental benefits,

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conflicts and mitigative measures, particularly concerning solid waste management and air and water quality.

15. Siting and design features to compensate for natural processes (e.g., floods, earthquakes, storms, erosion and sedimentation), to provide for safe and effective management of sewage and solid waste; and to minimize noise and visual impacts.
16. Economic implications, e.g., public cost and revenues resulting from the proposed project; potential conflicts with existing industry; anticipated expenditures by Alaska by place.
17. Social implications, e.g., training programs, local hiring policy, housing.
18. Arrangements for reducing environmental, economic, and social conflicts, e.g., traffic control systems, oil spill contingency plan, compensation plan.
19. Alternative sites for the required facilities and operations, and reasons for rejecting alternative sites.



ALASKA ASSOCIATION OF REALTORS<sup>®</sup>

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March 7, 1978

Frances A. Ulmer, Co-Chairman  
Alaska Coastal Policy Council  
Office of Coastal Management  
Division of Policy & Development & Planning  
Pouch AP  
Juneau, Alaska 99811

Dear Ms. Ulmer:

The Legislative Committee of the Alaska Association of REALTORS welcomes this opportunity to make a few general and specific comments regarding the proposed regulations concerning the Alaska Coastal Management program.

Under the Coastal Zone Management Act, the state is beginning to "engage in comprehensive land and water use planning in coastal areas..." or to put it in plain words, to institute additional controls on the use of land in the "coastal area."

Often in the drafting of statutory regulations and in the formulation of land use planning controls, many people in government feel that is not necessary or desirable to "dot all the i's and cross all the t's." This bureaucratic vagueness allows great leeway for administrative interpretation which may or may not be beneficial to the public and is greatly dependent upon the individual who is enforcing and defining the regulations.

In response to the notice of this hearing, we had hoped to be able to examine the proposed regulations and offer comments on those requirements that were to be placed on the various districts as they developed their individual management programs. In short, what could be required of the districts, how it was to be implemented and what areas were to be included. It would appear that the public is in a position of "waiting for the other shoe to drop" or perhaps "waiting for the sword to fall." GAAC 80.010 (c) the council will make available.... in understandable form.... (1) a guide for the development of district coastal management programs; (2) comprehensive policies.... (3) maps and narratives describing the physical and biological characteristics of coastal areas to be used in establishing boundaries.

GAAC 80.020(e) The council will prepare a manual of standards for the management of land and water uses in the coastal area to assist in the development of district and state agency plans.

It is our opinion that the above missing documents constitute the "standards and guidelines" mentioned in the notice for these public hearings and that without them neither the public, nor any legislative



review committee can fathom what the council will be requiring of the districts.

GAAC 80.040 Geophysical hazard areas. Who is to have the final say in the designation of these areas, a state agency, the local district government unit or the council? In the event that "development or related activities" are proposed in a hazard area, to whom does the owner apply for approval of his "siting, design and construction measures?"

#### Chapter 85

At this stage of the process we, and we're sure many others, hoped to be able to define what areas you are intending to control. In GAAC 85.010(3) (A), it states that the "interim boundaries shall be based on biophysical boundaries of Alaska's coastal zone and shall include the zone of direct interaction and the zone of direct influence", as shown on the referenced fish and game maps. In as much as these are only the interim boundaries, we will not go into detail on the amount of area that will be controlled by whatever standards, guidelines and policies you will be formulating in the future. We must make a comment on the fact that few people outside of the government are aware that within these interim boundaries lies the coastal city of Palmer, the major portion of the Anchorage Bowl (all land to the 1,000' contour level), the Susitna River basin up to and including Devil's Canyon, approximately 80% of all habitable land on the Kenai Peninsula, and what appears to be all the land on Kodiak Island with the exception of the mountain tops, etc. etc. etc.

GAAC 85.010(3) (B) (i) states that "final boundaries...may diverge from the interim boundaries providing the final boundaries: extend inland and seaward to the extent necessary to manage uses and activities that have or are likely to have a direct and significant impact on the coastal ecosystem". We find no definition section in the proposed regulations for any of the terms used in the regulations. "Coastal ecosystem" should be defined so that districts can be assured that their individual programs are encompassing those areas which the council feels should be controlled. The public is not served when a district adopts a program only to have it rejected by the council because it does not restrict uses in areas the council feels should be restricted, and equally important, the citizens within a district should be able to tell whether the proposed local program is more encompassing than that mandated by the council.

We feel that the council should look at defining regional areas where individual districts will impact the same coastal areas. A framework could be set up for coordination of individual district programs in the formative stage prior to each district approving a program and sending it to the council.

There is one change that we would propose that the council adopt. There appears to be an attempt lately to obtain public input and public involvement in government. Our proposed wording would enable the council and the districts to achieve more input from the affected public and would give the public due notice of actions which directly involve them. We suggest that GAAC 85,030(b) be amended by adding a new third and fourth sentence....

(3)

during the period of the notice. ANY PROPERTY OWNER WHOSE RIGHT TO USE OF HIS LAND WILL BE DIMINISHED BY ADOPTION OF THE PROGRAM, MUST BE INDIVIDUALLY NOTICED BY MAIL AT LEAST 14 DAYS PRIOR TO THE HEARING. THE NOTICE SHALL FULLY EXPLAIN THE DIMINUTION IN USE HE WILL SUFFER UPON ADOPTION OF THE PLAN, at the public....." Most governmental units notice individual property owners if a change in use of their or adjoining properties is proposed. If a person owns 80 acres on the banks of the Susitna River which he can subdivide now and upon adoption of the program he will not be allowed to subdivide, he should be informed prior to the action being taken. If a person has a 2½ acre homesite where he is now planning to build a home or cabin and the program would preclude construction, he should be told. If someone has a piece of land in Kodiak where, under existing ordinances he can develop a condominium project or apartment house and under the proposed district program he would be precluded from that construction, he should be made aware.

The council has developed very definitive policies concerning the off-shore and near shore aspects of OCS development and criteria in appendix A & B. In GAAC 80.090, timber harvest and GAAC 80.100 mining and mineral processing, there is much substance for those who are concerned in those areas to address. But as to the impact these regulations will have on the individual property owner, not concerned with oil, minerals or timber, they are sadly vague.

Sincerely,

ALASKA ASSOCIATION OF REALTORS

*Bob Arwezon*  
Bob Arwezon  
C.Z.M. Sub Committee  
Legislative Committee

cc: Senator Joseph L. Orsini  
Representative Lisa Rudd

BA:HW

ALASKA COASTAL POLICY COUNCIL  
Executive Office  
Star Building, Box 73 D  
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*Copy to Juneau*  
*to*

March 6, 1978

MAR 9 1978

Coordinator  
Office of Coastal Management  
Division of Policy Development and Planning  
Pouch AP  
Juneau, AK 99811

Re: Proposed Adoption of Regulations of the  
Alaska Coastal Policy Council

Gentlemen:

Our organization has briefly reviewed the proposed regulations and noted in particular the lack of time offered the general public for review and comment. The hearings commenced February 15th, were concluded on March 4th, and have a cut-off date of March 6th for comments to be considered. In other words, only two days have been provided from conclusion of the hearings to cessation of public input. The coordinators of the program have stressed the need for public participation, but in reality have not provided sufficient time for the public review and comment. We are, of course, aware of opportunities for early comment in public meetings held, for example, at Juneau, Kodiak, and Anchorage. Members of our association did attend the Juneau and Anchorage meetings, but quite frankly the issues were not well drawn, and the meetings were not well enough organized to provide for meaningful public comment.

The proposed regulations will have an immense and serious impact to the preservation, use, and development of all of Alaska's lands and resources. The non governmental working public will be tremendously affected by the impact of these regulations. We contend that under these circumstances, additional time for review of impacts and in-depth consideration of the guidelines is not only necessary, but a requisite of the federal requirements which provide funding for the programs.

Even without the time for a thorough review, we have noted what appears to be inconsistencies and omissions. These are explained briefly in subsequent paragraphs.

The guidelines will impact the environment and economic well being of interior Alaska due to effects, as examples, on transportation and water quality. Furthermore, because of the vague definition of Coastal Zone, some interior communities may be directly affected. However, no hearing notifications or other attempts have been made to advise interior communities of the regulations, or probable impacts. Because of this serious omission, we would question the propriety and possibly legality of approving the regulations at this time.

The guidelines do not contain a definition of terms. Although some terms are defined in the text, it is not certain if they apply generally. Many of the terms and phrases used in the guidelines are not adequately defined, could have dual meaning, thus be left open to misinterpretation. Examples of some of the terms requiring definition include (1) Coastal Zone; (2) Consistency; (3) Water-dependent; (4) Navigation, national and state-wide; (5) Navigation; (6) Minimization; and (7) subsistence. Many of these terms require definition to allow meaningful interpretation before impacts and implication of the guidelines can be assessed.

One of the purposes of the original legislation was to provide for participation of the local governing bodies in the planning and management of the Coastal Zone. The guidelines do not appear to adequately address this issue. Although it may be argued that local membership on the council satisfies this requirement, the extent of the region and dilution of local authority by other numbers mitigates local control. The guidelines should be more specific in defining local participation and how this interacts with state and federal jurisdictions, management, and control.

The guidelines refer to local agency control of the coastal region being vested with the Office of Coastal Management. However, the guidelines do not define responsibilities of this agency, or other state agencies concerned with land and resource management. A cursory review indicates that some 14 state agencies, 21 major federal agencies, all the organized boroughs, and numerous communities will be directly affected by various activities set forth in the guideline. However, the guidelines do not confirm any guideline methods for intergovernmental involvement. A review of this complex involvement is needed in order to meet the specificity alledged in the guidelines. Furthermore, agency responsibilities should be closely defined.

Environmental concerns and other attributes affecting development are referenced in the guidelines. But no mention is made to consideration of employment or economic well being. This omission has very serious implications insofar as both coastal and interior communities are concerned and constitutes a major deficiency of the guidelines.

The guidelines do not provide for timely administration or penalties for inordinate administrative delays by state and federal agencies. Administrative delays are historical in Alaska and must be avoided if local needs are to be satisfied. The guidelines should address this issue specifically.

We are certain many other unanswered questions will arise with comprehensive review of the guidelines. Again, however, additional time is needed to assess the impact of the guidelines and determine their compatibility with existing agency responsibilities, statutes, regulations, and policies.

We appreciate the opportunity of expressing our concerns, but again stress the shortness of time for public review and request a minimum 60-day extension prior to approval.

Sincerely,

C. C. Hawley

ams

cc Governor Jay Hammond  
Robert LeResche, Commissioner  
Lee McAnerney, Commissioner  
Senator Kay Poland  
Senator John Rader  
Senator Mike Colletta  
Senator John Butrovich  
Representative Alvin Osterback  
Representative Steve Cowper  
Representative Clark Gruening  
Representative Hugh Malone

# Borough raises objections over coastal zone draft

KODIAK DAILY

MIRROR

FEBRUARY 21, 1978

PAGE ONE

The borough has objected to language in the Alaska Coastal Management program standards which could be interpreted to leave ultimate control for coastal management in Juneau rather than in local areas.

Borough planner Harry Milligan objected forcefully at last night's public hearing on the final wording of the draft of the standards and guidelines, to language in the proposed document which would give the state the final say in several areas.

Several regulations which allowed for final "approval" by the state were cited.

"We want it clearly understood," Milligan said "that if a district prepares a plan which is consistent with guidelines, the council shall adopt that plan as submitted."

Alaska Coastal Policies Council associate planner Judith Anderegg of Juneau said in a telephone interview today "a lot of communities are concerned about this whole issue of state and local control in this act."

At the hearing last night Mrs. Anderegg did not respond to Milligan's objections, however, today she said some areas of the act are "too strongly worded in favor of state control."

She said there is a lot of room for local control explaining that the whole intent of the act and legislation is for local communities to do local planning.

Milligan said his reasoning behind the changes he suggested in the language of the final draft was "to take the politics out of the act."

During the meeting last night, which had a small attendance, was moderated by a panel including Mayor Betty Wallin, a member of the Alaska Coastal Policies Council; borough assemblyman Dr. Michael

Emmick, of Port Lions and Anderegg.

Mrs. Wallin, in response to an objection by Milligan to an item on subsistence in which he said more specificity was needed, told the gathering that the council was waiting to get more comments from the local areas before drafting a final policy on subsistence.

Ole Harder, a local fisherman, commented on subsistence that "it has to be so Fish and Game can shut it down if necessary. It should be left so the department can say no because the run cannot afford it."

Anderegg answered that "Fish and Game's authority would not be superceded by anything in these regulations."

Mrs. Anderegg, who also served on a moderating panel for the Juneau public hearing on the final draft, reports that both Kodiak and Juneau have offered "very helpful comments."

The staff feels that the communities are making very worthwhile comments," she said.

Dale Tubbs, a borough retained land management consultant, told the Mirror last week that the regulations as drafted, depending on how they're interpreted could take final control for coastal management out of the local areas and put them in Juneau.

"There's a battle going on now," Tubbs said, "and they're going to try and hold the control in Juneau."

Sen. Kay Poland, reached at her home in Juneau yesterday, commented, "If people are lazy, the bureaucracy will always take over."

Poland, D-Kodiak, said that she is on the regulation review committee for coastal management and "I'm sure  
(Continued on Page 2)

**Continued**

we'll be taking a look at them."

"Those regulations have not been adopted," Sen. Poland said. "They will also be looked at by the community and regional affairs committees in both the house and senate," she said.

The final drafts of the standards and guidelines will be given final review by the council at a meeting in Juneau on March 30 and 31, Mayor Wallin said.

All comments gleaned from the public hearings held in coastal communities throughout the state will be included in the draft before final consideration by the council, she said.

The coastal management guidelines and standards were developed by the state in compliance with a federal act relating to the management of coastal resources of the state.

The standards which are being drafted to include local suggestions from two series of public hearings, one series last fall to gather the public views and a second series, in progress now



## ALASKA HOUSE OF REPRESENTATIVES

### Community and Regional Affairs Committee

LISA RUDD, Chair

Pouch V, State Capitol  
Juneau, Alaska 99811  
(907) 465-3870

12 May 1978

TO: Community and Regional Affairs Committee Members  
FROM: Lisa Rudd, Chair *LR*  
RE: HCR 125 - Coastal Zone Management Regulations

I have asked that HCR 125 (approving coastal management guidelines and standards) be returned to our committee. I was not aware, at the time we approved the resolution, that the Attorney General's office review of the guidelines and standards had not been completed.

The Attorney General's office has now completed its review, and has made some changes in the regulations. Most of the changes are extremely minor (capitalizations and changes in word order, etc.), but one or two are more substantive. I would like the committee to review the changes.

Attached are the regulations, with the changes indicated in handwriting and underlining.

Also attached is a letter from the Coast Guard which I received after we passed out HCR 125. The committee may wish to address some of their concerns in the letter of intent.

We will meet on Wednesday, May 17th at 9:00 a.m. to reconsider HCR 125.



DEPARTMENT OF TRANSPORTATION  
UNITED STATES COAST GUARD

MAILING ADDRESS:

Commander (dpl)  
17th Coast Guard District  
P. O. Box 3-5000  
Juneau, Ak 99802  
(907) 586-7355

16000

1 MAY 1978

Honorable Lisa Rudd  
State of Alaska House of Representatives  
Pouch V  
Juneau, AK 99811

Dear Ms. Rudd:

The Coast Guard appreciates the opportunity to correspond with your committee concerning the 13 April 1978 Standards and Guidelines for Alaska's Coastal Management Program (ACMP). These Standards and Guidelines represent a considerable departure from the previous drafts on which the Coast Guard was allowed to comment. The Coast Guard feels that this version of the Standards and Guidelines is severely deficient in the areas of participation, specificity, and priority of uses.

Participation. The Office of Coastal Zone Management in Alaska has attempted to provide federal agencies with the opportunity to participate in the development of Alaska's program. Section 923.51 of the federal regulations requires, however, that the State "provide for federal agency input on a timely basis." The Coast Guard feels that the State has been deficient in this regard due to the shortness of time allowed for agency comments between successive drafts of the Standards and Guidelines. This is the sixth occasion in the last six months that the Coast Guard has commented on a different draft of this document. This rapidity of drafts has not allowed sufficient time for coordination between the various agencies of the Department of Transportation, nor the opportunity to carefully evaluate the content of the Program. Furthermore, this "final" version of the Standards and Guidelines was approved by the Council and submitted to the legislature without an opportunity for federal review, even though it differed substantially from previous drafts. Written comments have yet to be received by the Coast Guard addressing our stated concerns. The Coast Guard feels therefore that this past history of short lead times for response combined with the lack of formal feedback from the State does not meet the federal requirements for participation.

Section 306(c)(1) of the Coastal Zone Management Act requires federal agency participation in the development of the Program at an early stage in the process. The Coast Guard recommends that a provision for this participation be included in section 6 AAC 80.020 of the Standards.

The Coast Guard has commented on several occasions that a mechanism is needed for government participation at the district level in the development of the local plans. The Coast Guard is concerned that each district may develop its own mechanism for government participation and then cite compliance or non-compliance with this mechanism as evidence of government participation. Because the actual decision concerning adequacy of participation will be made at the State level by the Council, the Coast Guard feels that it is very important that a well developed State mechanism for participation be defined as part of the ACMP. If this accomplished, the process will not vary from district to district and all parties will have a clear understanding of their responsibilities and opportunities. It is therefore recommended that Section 85.100 be expanded to detail exactly when, where, and how government agencies will be allowed to participate in the development process.

#### Priority of Uses.

Section 923.13 of the federal regulations requires that the State must: "(1) Identify what constitute uses of regional benefit; and (2) identify those methods that shall be used to assure that unreasonable restrictions or exclusions of such uses by local land and water use regulations shall not occur." The Coast Guard finds no mention of regional benefit, national interest, or defense considerations in the Guidelines and Standards. National Defense, including Coast Guard functions and responsibilities such as search and rescue and fisheries enforcement, should be identified in Chapter 80, Article 2 of the Standards as an important priority use of the Coastal Zone. This priority provides the basis for regulating future land and water use, provides a common reference point for resolving potential conflicts, and is important for future acquisition of areas not presently controlled by the Coast Guard.

Section 6 AAC 80.080 of the Standards addresses water based transportation routes. Under the Ports and Waterways Safety Act of 1972, the Coast Guard is authorized to establish vessel traffic services in ports, harbors, and other waters subject to congested vessel traffic. Any district plans dealing with the management and control of vessel traffic should be coordinated with the Coast Guard to insure such plans are compatible with Coast Guard traffic control responsibilities. There is also considerable regional and national interest connected with transportation and these considerations should be mentioned in this section.

Specificity. The present Standards and Guidelines are lacking in specificity and substance and, as a result, the plans developed and implemented by the Alaska Coastal Resource Districts may vary so widely that the Coast Guard may be compelled to operate under as many as 50 different

plans within Alaska rather than under one plan which is implemented by various local government units. This situation would present an unacceptable burden on the Coast Guard and other federal agencies and is therefore considered a serious defect which must be remedied.

The Coast Guard feels that the Standards and Guidelines are deficient in the following areas concerning specificity:

a. The standards and criteria upon which decisions pursuant to the program will be based are not sufficiently specific to provide "(i) a clear understanding of the content of the program, especially in identifying who will be affected by the program and how, and (ii) a clear sense of direction and predictability for decision makers who must take actions pursuant to or consistent with the management program." These provisions are required by section 923.3(a)(2) of the Federal Coastal Zone Management Approval Regulations.

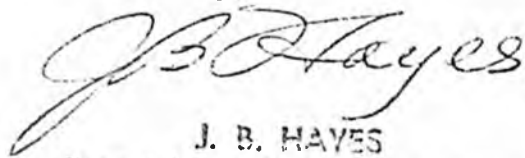
b. Section 923.12(a) requires the States to "develop policies and procedures by which uses determined to be subject to the management program will be permitted, conditioned, modified, and/or prohibited. These policies and procedures regarding management of uses and/or their impacts must be capable of effective implementation at the time of program approval." Alaska's section 6 AAC 85.070 and 6 AAC 85.080 delegates these functions to the districts. This creates a situation where each district's uses and policies may differ and is therefore not authorized under the federal regulations.

The effective implementation required under this section can not occur under Alaska's present Standards and Guidelines. If the State delegates the responsibilities of establishing uses and policies to the individual districts (85.070 and 85.080), and the district policies and uses are not submitted to NOAA with the ACMP (district plans will be developed later), it is impossible to implement meaningful management procedures regarding unknown uses and policies. It is therefore not clear what status the Program will have before the district plans are in place.

c. Section 923.12(e) of the Federal regulations states that "to the extent a state's government program policies are generalized, performance standards that will be used to enforce these policies will need to be sufficiently explicit and specific that persons affected by the management program will have a reasonable understanding of what uses would be permitted in which locations of the Coastal Zone and under what condition." The Coast Guard feels that the Standards are neither explicit nor specific and do not provide the required clear understanding as to what uses are permitted in any location.

The Coast Guard is very interested in coastal zone management and desires to work closely with the State of Alaska in implementing the ACMP. However, the mere opportunity to comment on the various stages of combined plan development when with the lack of response received concerning these comments, can not be considered real participation. The continued failure of the State to react to the concerns expressed herein is viewed as a matter of concern and is considered a serious continuing deficiency under the federal regulations. I am hopeful that these defects can be corrected before the ACMP is sent to NOAA, and am looking forward to continuing interaction with the State in coastal zone matters.

Sincerely,



J. B. HAYES

Rear Admiral, U. S. Coast Guard  
Commander Seventeenth Coast Guard District

Roger Allington, Co-Chairperson  
Alaska Coastal Policy Council  
Office of the Governor

May 8, 1978

J-99-074-78

AVRUM M. GROSS  
ATTORNEY GENERAL

Regulations re coast-  
al management guide-  
lines and standards  
(6 AAC 80 and 6 AAC 85)

By:

Arthur H. Peterson  
Assistant Attorney General  
and Regulations Attorney

We have reviewed these regulations in accordance with AS 44.62.050, and approve them for filing by the lieutenant governor. A duplicate original of this memorandum is being furnished the lieutenant governor, along with your regulations and related documents.

Under AS 44.62.125(b)(6), "waters" has been corrected to read "water" in 6 AAC 30.100(b)(2) and 6 AAC 30.900(7), and "must be" has been corrected to read "are" in 6 AAC 85.070.

We note that a "pre-final" version of these regulations was submitted to the legislature April 7, 1978 and that this final version was delivered to Representative Lisa Rudd May 4; the corrected page 15, but not the three corrections mentioned above, was delivered to her May 5. Representative Rudd's Community and Regional Affairs Committee has favorably reported HCR 125, approving these regulations, but neither house of the legislature has yet voted on the matter. This means that, although all requirements of the Administrative Procedure Act (AS 44.62) have now been met and the lieutenant governor may file these regulations, he will not be able to note the effective date in appropriate places (assuming the constitutionality of the effective-date precondition in AS 46.40.080 and assuming that the word "program" in that section means or includes these regulations). You should make certain that, as soon as the legislature completes action on the matter, this information is relayed to the lieutenant governor.

AHP/pjs

cc: Representative Lisa Rudd  
House Community & Regional Affairs Committee  
Alaska State Legislature

Roger Allington  
Alaska Coastal Policy Council  
May 8, 1973  
Page #2

cc: Senator Joe Orsini, Chairman  
Senate Community & Regional Affairs Committee  
Alaska State Legislature

Frances Ulmer, Co-Chairperson  
Alaska Coastal Policy Council  
Office of the Governor

PART 6.  
ALASKA COASTAL POLICY COUNCIL.

Chapter

- 80. Standards of the Alaska Coastal Management Program
- 85. Guidelines for District Coastal Management Programs

CHAPTER 80.  
STANDARDS OF THE ALASKA COASTAL MANAGEMENT PROGRAM.

Article

- 1. Government Process
- 2. Uses and Activities
- 3. Resources and Habitats
- 4. Areas Which Merit Special Attention
- 5. General Provisions

ARTICLE 1.  
GOVERNMENT PROCESS.

Section

- 10. Coverage of chapter <sup>[regulations]</sup>
- 20. Public participation and information
- 30. Program management and coordination

6 AAC 80.010. COVERAGE OF CHAPTER. <sup>[regulations]</sup> (a) This <sup>[title]</sup> chapter contains <sup>[guidelines]</sup> standards for the use of and application by districts and state agencies in carrying out their responsibilities under the Alaska Coastal Management Act (AS 46.40, and AS 44.19.891 -- 44.19.894).

(b) Nothing in this chapter or in any district program <sup>[may be construed]</sup> ~~dis-~~ places or diminishes the authority of any state agency or local government with respect to resources in the coastal area. Uses and activities conducted by state agencies in the coastal area must be consistent with the applicable district program and the standards contained in this chapter. In authorizing uses or activities in the coastal area under its statutory authority, each state agency shall grant authorization if, in addition to finding that the use or activity complies with the agency's statutes and regulations, the agency finds that the use or activity is consistent with the applicable district program and the standards contained in this chapter.

(c) At a minimum, the council will review this chapter <sup>[title]</sup> annually. (Eff. , Reg. )

Authority: AS 44.19.893  
AS 46.40.040

6 AAC 80.020. PUBLIC PARTICIPATION AND INFORMATION. (a) The council will provide adequate, effective, and continuing opportunities for public participation from the beginning of the Alaska coastal management program. The council will give notice of when and where opportunities for public participation will be provided before adoption of guidelines and standards, review and approval of district programs and amendments to district programs, and amendments to the Alaska coastal management program.

(b) The council will not approve a district program or significant amendment of a district program unless evidence of significant opportunities for public participation at the district level has been provided.

(c) The council will make available to the public information and educational materials concerning coastal management, in understandable form, including

- (1) a guide for the development of district programs;
- (2) maps and narratives describing physical and biological characteristics to be used in establishing boundaries of coastal areas;
- (3) areas recommended for council designation as areas which merit special attention;
- (4) maps showing the distribution and abundance of coastal fish and wildlife species with commercial, recreational, subsistence, or general ecological importance;
- (5) an identification of major data and information sources concerning coastal management;
- (6) a summary of information regarding coastal regions;
- (7) summaries of public hearings and workshops;
- (8) films and slide programs;
- (9) written material summarizing or explaining the Alaska coastal management program; and
- (10) the council's annual report to the legislature.

(d) At public meetings concerning the Alaska coastal management program, the council will insure that, when requested and reasonably necessary, translation into the appropriate Native language is provided. (Eff. , Reg. )

Authority: AS 44.19.893  
AS 46.40.040

*Where reasonably requested*

6 AAC 80.030. PROGRAM MANAGEMENT AND COORDINATION. (a) The Office of Coastal Management is the designated lead agency for the Alaska coastal management program. The Office of Coastal Management shall

(1) present the staff position regarding matters before the council;

(2) coordinate the activities of state agencies participating in the Alaska coastal management program; and

(3) review state and federal actions for consistency with the Alaska coastal management program, subject to council review.

(b) The council will initiate an interagency program of comprehensive resource management for each geographic region listed in AS 44.19.891(a)(1). Regional programs will

(1) assist the council and districts in identifying uses of state concern and developing management policies for these uses;

*footnote deleted*

(2) provide resource, social, and economic information on a coordinated regional basis; and

(3) assist the council and districts in identifying, avoiding, or minimizing existing or potential conflicts.

(c) Plans and recommendations developed as part of the regional program described in (b) of this section must be transmitted to the district through the Office of Coastal Management. District planning efforts must demonstrate review and consideration of these plans and recommendations. If the final district program proposed does not agree with the regional program plans and recommendations, the differences will be resolved by the council.

(d) The council will prepare a manual of standards for the management of land and water uses in the coastal area to assist in the development of district and state agency programs. (Eff. , Reg. )

Authority: AS 44.19.893  
AS 46.40.040

ARTICLE 2:  
USES AND ACTIVITIES.

Section

- 40. Coastal development
- 50. Geophysical hazard areas
- 60. Recreation
- 70. Energy facilities
- 80. Transportation and utilities
- 90. Fish and seafood processing
- 100. Timber harvest and processing
- 110. Mining and mineral processing
- 120. Subsistence

6 AAC 80.040. COASTAL DEVELOPMENT. (a) In planning for and approving development in coastal areas, districts and state agencies shall give, in the following order, priority to

- (1) water-dependent uses and activities;
- (2) water-related uses and activities; and
- (3) uses and activities which are neither water-dependent nor water-related for which there is no feasible and prudent inland alternative to meet the public need for the use or activity.

(b) The placement of structures and the discharge of dredged or fill material into coastal water must, at a minimum, comply with Parts 320-323, Title 33, Code of Federal Regulations (Vol. 42 of the Federal Register, pp. 37133--47 (July 19, 1977)). (Eff. , Reg. )

Authority: AS 44.19.893  
AS 46.40.040

6 AAC 80.050. GEOPHYSICAL HAZARD AREAS. (a) Districts and state agencies shall identify known geophysical hazard areas and areas of high development potential in which there is a substantial possibility that geophysical hazards may occur.

(b) Development in areas identified under (a) of this section may not be approved by the appropriate state or local authority until siting, design, and construction measures for minimizing property damage and protecting against loss of life have been provided. (Eff. , Reg. )

Authority: AS 44.19.893  
AS 46.40.040

*Properly placed form.*

6 AAC 80.060. RECREATION. Districts shall designate areas for recreational use. Criteria for designation of areas of recreational use are:

(1) the area receives significant use by persons engaging in recreational pursuits or is a major tourist destination; or

(2) the area has potential for high quality recreational use because of physical, biological, or cultural features.

(Eff. \_\_\_\_\_, Reg. \_\_\_\_\_)

Authority: AS 44.19.893  
AS 46.40.040

6 AAC 80.070. ENERGY FACILITIES. (a) Sites suitable for the development of major onshore, nearshore, offshore, and outer continental shelf energy facilities must be identified by the state in cooperation with districts.

(b) The siting and approval of major oil and gas facilities must be based on the policies of the State of Alaska concerning the onshore and nearshore aspects of oil and gas development.

(c) Districts shall consider that the uses authorized by the issuance of state leases for mineral and petroleum resource extraction are <sup>specific</sup> uses of state concern. District programs and plans must be consistent with those uses.

(Eff. \_\_\_\_\_, Reg. \_\_\_\_\_) [Such]

Authority: AS 44.19.893  
AS 46.40.040

6 AAC 80.080. TRANSPORTATION AND UTILITIES. (a) Transportation and utility routes and facilities in the coastal area must be sited, designed, and constructed so as to be compatible with local community goals and desires as expressed in district programs and local comprehensive plans.

(b) Transportation and utility routes and facilities must be sited inland from beaches and shorelines unless the route or facility is water-dependent or no feasible and prudent inland alternative exists to meet the public need for the route or facility. (Eff. \_\_\_\_\_, Reg. \_\_\_\_\_)

Authority: AS 44.19.893  
AS 46.40.040

6 AAC 80.090. FISH AND SEAFOOD PROCESSING. Districts shall identify and may designate areas of the coast suitable for the location or development of facilities related to commercial fishing and seafood processing. (Eff. \_\_\_\_\_, Reg. \_\_\_\_\_)

Authority: AS 44.19.893  
AS 46.40.040

6 AAC 80.100. TIMBER HARVEST AND PROCESSING. (a) Commercial timber harvest activities in the coastal area must be sited in areas where the management of reforestation, using the best available technology, will result in producing a sustained yield of merchantable timber unless the area is to be converted to a use other than timber harvest.

*drive for  
CONV. 6/2*

\* (b) Commercial timber harvest activities in the coastal area must be conducted so as to meet the following standards:

\* (1) the location of facilities and the layout of logging systems must be managed so as to minimize potential for adverse environmental impacts; *Meaningless - Needs definition see SB 59*

(2) unrestricted fish movement in coastal waters must be assured; and

(3) timber harvest and timber management activities must be planned and implemented so as to protect streambanks and shorelines, prevent adverse impacts on fish resources and habitats, and minimize adverse impacts on wildlife resources and habitats as determined on a case-by-case basis by the Alaska Departments of Natural Resources, Environmental Conservation, and Fish and Game, districts, and appropriate federal agencies.

(c) Commercial timber transport, storage, and processing in the coastal area must be conducted so as to meet the following standards:

(1) onshore storage of logs must be encouraged where compatible with the objectives of the Alaska coastal management program;

\* (2) sites for in-water dumping and storage of logs must be selected and these activities conducted so as to minimize adverse effects on the marine ecosystem, minimize conflicts with recreational uses and activities, be safe from storms, and not constitute a hazard to navigation;

\* (3) roads for log transport and harvest area access must be planned, designed, and constructed so as to minimize mass wasting, erosion, sedimentation, and interference with drainage, and must be adequately maintained until they are returned to their pre-road natural drainage pattern (put to bed); and

(4) stream crossings, including bridges and culverts, must be kept to a minimum number, designed to withstand seasonal high water and flooding, and must provide for unrestricted passage of fish.

(d) Upon the effective date of ~~the~~ regulations adopted under the authority of forest practices legislation establishing a standard corresponding to a standard in this section the standards in this section will not be applicable.

(Eff. , Reg. )

Authority: AS 44.19.893  
AS 46.40.040

*minimize  
timber operators  
need to  
check with  
each dept.  
no appeal*

*all have to agree*

*destroys  
SB 59 purpose  
private lands not incl.  
litigation*

*no more regs.,  
no more permits*

6 AAC 80.110. MINING AND MINERAL PROCESSING. (a) Mining and mineral processing in the coastal area must be permitted, designed, and conducted so as to be compatible with the standards contained in this chapter, adjacent uses and activities, regional programs, statewide and national needs, district programs, and local comprehensive plans.

(b) Sand and gravel may be extracted from coastal waters, intertidal areas, barrier islands, and spits, when there is no feasible and prudent alternative to coastal extraction which will meet the public need for the sand or gravel.  
(Eff. , Reg. )

Authority: AS 44.19.893  
AS 46.40.040

6 AAC 80.120. SUBSISTENCE. (a) Districts and state agencies shall recognize and assure opportunities for subsistence usage of coastal areas and resources.

(b) Districts shall identify areas in which subsistence is the dominant use of coastal resources.

(c) Districts may, after consultation with appropriate state agencies, Native corporations, and any other persons or groups, designate areas identified under (b) of this section as subsistence zones in which subsistence uses and activities have priority over all non-subsistence uses and activities.

(d) Before a potentially conflicting use or activity may be authorized within areas designated under (c) of this section, a study of the possible adverse impacts of the proposed potentially conflicting use or activity upon subsistence usage must be conducted and appropriate safeguards to assure subsistence usage must be provided.

(e) Districts sharing migratory fish and game resources must submit compatible plans for habitat management.  
(Eff. ; Reg. )

Authority: AS 44.19.893  
AS 46.40.040

### ARTICLE 3. RESOURCES AND HABITATS.

#### Section

130. Habitats

140. Air, land, and water quality

150. Historic, prehistoric, and archaeological resources

6 AAC 80.130. HABITATS. (a) Habitats in the coastal area which are subject to the Alaska coastal management program include

- (1) offshore areas;
- (2) estuaries;
- (3) wetlands and tideflats;
- (4) rocky islands and seacliffs;
- (5) barrier islands and lagoons;
- (6) exposed high energy coasts;
- (7) rivers, streams, and lakes; and
- (8) important upland habitat.

(b) The habitats contained in (a) of this section must be managed so as to maintain or enhance the biological, physical, and chemical characteristics of the habitat which contribute to its capacity to support living resources.

(c) In addition to the standard contained in (b) of this section, the following standards apply to the management of the following habitats:

(1) offshore areas must be managed as a fisheries conservation zone so as to maintain or enhance the state's sport, commercial, and subsistence fishery;

*Substituted for "manage" in beginning of sentence.*

(2) estuaries must be managed so as to assure adequate water flow, natural circulation patterns, nutrients, and oxygen levels, and avoid the discharge of toxic wastes, silt, and destruction of productive habitat;

(3) wetlands and tideflats must be managed so as to assure adequate water flow, nutrients, and oxygen levels and avoid adverse effects on natural drainage patterns, the destruction of important habitat, and the discharge of toxic substances;

(4) rocky islands and seacliffs must be managed so as to avoid the harassment of wildlife, destruction of important habitat, and the introduction of competing or destructive species and predators;

(5) barrier islands and lagoons must be managed so as to maintain adequate flows of sediments, detritus, and water, avoid the alteration or redirection of wave energy which would lead to the filling in of lagoons or the erosion of barrier islands, and discourage activities which would decrease the use of barrier islands by coastal species, including polar bears and nesting birds;

(6) high energy coasts must be managed by assuring the adequate mix and transport of sediments and nutrients and avoiding redirection of transport processes and wave energy; and

(7) rivers, streams, and lakes must be managed to protect natural vegetation, water quality, important fish or wildlife habitat and natural water flow.

(d) Uses and activities in the coastal area which will not conform to the standards contained in (b) and (c) of this section may be allowed by the district or appropriate state agency if the following are established:

*[PROVIDING]*

(1) ~~there is~~ a significant public need for the proposed use or activity; *inserted*

(2) there is no feasible and prudent alternative to meet the public need for the proposed use or activity which would conform to the standards contained in (b) and (c) of this section; and

(3) all feasible and prudent steps to maximize conformance with the standards contained in (b) and (c) of this section will be taken.

(e) In applying this section, districts and state agencies may use appropriate expertise, including regional programs referred to in sec. 30(b) of this chapter. (Eff. , Reg. )

Authority: AS 44.19.893  
AS 46.40.040

*no approval by legis.*

6 AAC 80.140. AIR, LAND, AND WATER QUALITY. Notwithstanding any other provision of this chapter, the statutes pertaining to and the regulations and procedures of the Alaska Department of Environmental Conservation with respect to the protection of air, land, and water quality are incorporated into the Alaska coastal management program and, as administered by that agency, constitute the components of the coastal management program with respect to those purposes. (Eff. ; Reg. )

Authority: AS 44.19.893  
AS 46.40.040

6 AAC 80.150. HISTORIC, PREHISTORIC, AND ARCHAEOLOGICAL RESOURCES. Districts and appropriate state agencies shall identify areas of the coast which are important to the study, understanding, or illustration of national, state, or local history or prehistory. (Eff. ; Reg. )

Authority: AS 44.14.893  
AS 46.40.040

ARTICLE 4.  
AREAS WHICH MERIT SPECIAL ATTENTION.

## Section

160. Areas which merit special attention

6 AAC 80.160. AREAS WHICH MERIT SPECIAL ATTENTION. (a) Districts and appropriate state agencies shall recommend to the council areas to be designated as areas which merit special attention. Recommendations must include the following information:

*footnote deleted*

- (1) the basis or bases for designation under AS 46.40.210(1) or (b) of this section;
  - (2) a map showing the geographical location, surface area and where appropriate, bathymetry of the area;
  - (3) a description of the area which includes dominant physical and biological features;
  - (4) the existing ownership, jurisdiction, and management status of the area, including existing uses and activities;
  - (5) the existing ownership, jurisdiction, and management status of adjacent shoreland and sea areas, including existing uses and activities;
  - (6) present and anticipated conflicts among uses and activities within or adjacent to the area, if any; and
  - (7) a proposed management scheme, consisting of the following:
    - (A) a description of the uses and activities which will be considered proper and the uses and activities which will be considered improper with respect to land and water within the area;
    - (B) a summary or statement of the policies which will be applied in managing the area; and
    - (C) an identification of the authority which will be used to implement the proposed management scheme.
- (b) In addition to the categories contained in AS 46.40.210(1), areas which merit special attention may include the following:
- (1) areas important for subsistence hunting, fishing, food gathering, and foraging;
  - (2) areas with special scientific values or opportunities, including those where ongoing research projects could be jeopardized by development or conflicting uses and activities; and

(3) potential estuarine or marine sanctuaries.

(c) Management schemes for areas which merit special attention must preserve, protect, enhance, or restore the value or values for which the area was designated.

(d) As used in this section, "areas which merit special attention" has the same meaning as in AS 46.40.210(1).  
(Eff. , Reg. )

*new section  
to replace footnote  
ref. on p.10.*

Authority: AS 44.19.893  
AS 46.40.040

ARTICLE 5.  
GENERAL PROVISIONS.

Section  
900. Definitions

6 AAC 80.900. DEFINITIONS. Unless the context indicates otherwise, in this chapter

(1) "barrier islands and lagoons" means depositional coastal environments formed by deposits of sediment offshore or coastal remnants which form a barrier of low-lying islands and bars protecting a salt-water lagoon with free exchange of water to the sea;

(2) "coastal water" means all water bodies in the coastal area, including wetlands and the intertidal area; *} changed*

(3) "council" means the Alaska Coastal Policy Council;

(4) "district" means a coastal resource district as defined in AS 46.40.210(2);

(5) "district program" means a district coastal management program;

(6) "estuary" means a semi-closed coastal body of water which has a free connection with the sea and within which seawater is measurably diluted with freshwater derived from land drainage;

(7) "exposed high-energy coasts" means open and unprotected sections of coastline with direct exposure to ocean generated wave impacts and usually characterized by coarse sand, gravel, boulder beaches, and well-mixed coastal water;

(8) "facilities related to commercial fishing and seafood processing" includes hatcheries and related facilities, seafood processing plants and support facilities, marine industrial and commercial facilities, and aquaculture facilities;

(9) "geophysical hazards" includes potential flooding, tsunami run-up, landslides, snowslides, severe faults, and ice hazards;

(10) "mining and mineral processing" means the development of mineral resources extracted in tidal rivers, coastal water, and on continental shelves of the open sea, and found in surface, subsurface, and aqueous deposits;

(11) "offshore areas" means submerged lands and waters seaward of the coastline;

(12) "rocky islands and seacliffs" means islands of volcanic or tectonic origin with rocky shores and steep faces, offshore rocks, capes, and steep rocky seafronts;

(13) "tideflats" means mostly unvegetated areas that are alternately exposed and inundated by the falling and rising of the tide;

(14) "transportation and utility routes and facilities" include power transmission lines, mineral slurry lines, oil and gas pipelines, land and marine corridors, railways, highways, roadways, air terminals, water and sewage transfer, and facilities required to operate and maintain the route or facility;

(15) "upland" means drainages, aquifers, and land, the use of which would have a direct and significant impact on coastal water;

(16) "uses of state concern" has the same meaning as in AS 46.40.210(6);

*New -- replaces footnote*

(17) "water-dependent" means a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body;

(18) "water-related" means a use or activity which is not directly dependent upon access to a water body, but which provides goods or services that are directly associated with water-dependence and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered;

(19) "wetlands" includes both freshwater and saltwater wetlands; "freshwater wetlands" means those environments characterized by rooted vegetation which is partially submerged either continuously or periodically by surface freshwater with less than .5 parts per thousand salt content and not exceeding three meters in depth; "saltwater wetlands" means those coastal areas along sheltered shorelines characterized by halophytic

Register

GOVERNOR'S OFFICE

6 AAC 80.900

hydrophytes and macroalgae extending from extreme low tide to  
an area above extreme high tide which is influenced by sea  
spray or tidally-induced watertable changes.  
(Eff. ; Reg. )

Authority: AS 44.19.893  
AS 46.40.040

CHAPTER 85.  
GUIDELINES FOR DISTRICT COASTAL MANAGEMENT PROGRAMS.

## Article

1. Program Elements
2. Government Process
3. General Provisions

ARTICLE 1  
PROGRAM ELEMENTS.

## Section

10. Coverage of chapter
20. Needs, objectives, and goals
30. Organization
40. Boundaries
50. Resource inventory
60. Resource analysis
70. Subject uses
80. Proper and improper uses
90. Policies
100. Implementation
110. Public participation

*NEW SECTION* → 6 AAC 85.010. COVERAGE OF CHAPTER. (a) This chapter contains guidelines for the use of and application by districts in carrying out their responsibilities under the Alaska Coastal Management Act (AS 46.40 and AS 44.19.891--894).

(b) At a minimum, the council will review this chapter annually. (Eff. \_\_\_\_\_, Reg. \_\_\_\_\_)

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.020. NEEDS, OBJECTIVES, AND GOALS. Each district program must include a statement of the district's overall coastal management needs, objectives, or goals, or the district's comprehensive land and resource use plan. (Eff. \_\_\_\_\_, Reg. \_\_\_\_\_)

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.030. ORGANIZATION. Each district program must include a description of the district program organization for coastal management. Budgetary and staff needs and, where appropriate, a schedule for necessary reorganization must be included. (Eff. \_\_\_\_\_, Reg. \_\_\_\_\_)

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.040. BOUNDARIES. (a) Each district program must include a map of the boundaries of the coastal area within the district subject to the district program. *(sheet)*

(b) *(Prints)* Before council approval of the district program, initial boundaries must be based on Biophysical Boundaries of Alaska's Coastal Zone (published by the Office of Coastal Management and the Alaska Department of Fish and Game, 1978, a copy of which is on file with the Office of the Lieutenant Governor, and which is available from the Office of Coastal Management) and must include the zone of direct interaction and the zone of direct influence. *formally a footnote*

(c) Final boundaries of the coastal area subject to the district program may diverge from the initial boundaries if the final boundaries:

(1) extend inland and seaward to the extent necessary to manage uses and activities that have or are likely to have a direct and significant impact on marine coastal water; and

(2) include all transitional and intertidal areas, salt marshes, saltwater wetlands, islands, and beaches.

(d) If the criteria in (c) of this section are met, final boundaries of the coastal area subject to the district program may be based on political jurisdiction, cultural features, planning areas, watersheds, topographic features, uniform setbacks, or the dependency of uses and activities on water access. *coastal mgmt*

(e) The boundaries of the district must be sufficiently compatible with those of adjoining areas to allow consistent administration of the Alaska coastal management program.  
(EEF. , Reg. )

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.050. RESOURCE INVENTORY. Each district program must include a resource inventory which describes, in a manner sufficient for program development and implementation:

(1) habitats listed in 6 AAC 80.130 that are found within or adjacent to the district;

(2) major cultural resources that are found within or adjacent to the district;

(3) major land and water uses and activities which are conducted within or adjacent to the district;

(4) major land and resource ownership and management responsibilities within or adjacent to the district; and

(5) major historic, prehistoric, and archaeological resources which are found within or adjacent to the district.  
(Eff. , Reg. )

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.060. RESOURCE ANALYSIS. Each district program must include a resource analysis which describes, in a manner sufficient for program development and implementation:

(1) significant anticipated changes in the matters identified under sec. 50 of this chapter;

(2) an evaluation of the environmental capability and sensitivity of resources and habitats, including cultural resources, for land and water uses and activities; and

(3) an assessment of the present and anticipated needs and demands for coastal habitats and resources. (Eff. , Reg. )

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.070. SUBJECT USES. Each district program must include a description of the land and water uses and activities which are subject to the district program. The uses and activities mentioned in ch. 80 of this title, ~~if applicable~~, if applicable, ~~be~~ subject to the district program. (Eff. , Reg. )

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.080. PROPER AND IMPROPER USES. Each district program must include a description of the uses and activities, including uses of state concern, that will be considered proper, and the uses and activities, including uses of state concern, that will be considered improper within the coastal area, including land and water use designations. This description must be based on the district's statement of overall needs, objectives, or goals, or the district's comprehensive land and resource use plan, under sec. 20 of this chapter, and must be consistent with the standards contained in ch. 30 of this title. (Eff. , Reg. )

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

ARTICLE 2.  
GOVERNMENT PROCESS.

*Remembered*  
Section

- 120. Submittals to council
- 130. Public involvement
- 140. Coordination and review
- 150. Council review

6 AAC 85.120. SUBMITTALS TO COUNCIL. (a) During program development, districts shall submit brief annual progress reports concerning program development to the council.

(b) Following adoption of the final program, districts shall submit brief annual progress reports concerning program implementation to the council.

(c) All significant amendments to the district program must be submitted to the council for approval. The Office of Coastal Management shall review proposed amendments to determine if council approval is required. This determination is subject to council review when requested by a council member.

(d) Districts shall give conceptual approval to district programs and significant amendments to district programs before <sup>prints</sup> their submission to the council. The district program as approved by the council becomes effective upon adoption by the district. (Eff. , Reg. )

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.130. PUBLIC INVOLVEMENT. (a) No less than two public meetings must be held within the district during program development to inform the public and receive comments concerning the program. A brief summary or report of the matters considered at the public meeting held under this subsection must be prepared by the district, made available to the public, and retained for inclusion in the record file referred to in sec. 150(c) of this chapter.

(b) At least 30 days before giving conceptual approval to the district program or significant amendment to the district program, the district shall give public notice of the proposed action by conspicuous advertisement in a newspaper of general circulation within the district. The notice must specify the time and place of a public hearing on the proposed action. The public hearing under this subsection may be held not sooner than 10 days after publication of the notice. At the public hearing, each interested person must be given the opportunity to present statements, arguments, or contentions,

orally or in writing. Districts shall insure that, where reasonably requested, translation into the appropriate Native language is provided. The district shall consider all relevant matter presented to it. A written transcript or electronic recording of the public hearing must be submitted to the council.

(c) In addition to the <sup>298!</sup> requirements of (b) of this section, districts shall provide publically advertised opportunities for public involvement in the development of all program elements contained in secs. 20 -- 110 of this chapter.

(d) Districts shall provide the public, in a timely manner and in understandable form, information explaining the district coastal management program, the requirements of public participation in program development, how and when the public may participate in program development, what information is available, and where that information may be obtained.  
(Eff. , Reg. )

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

6 AAC 85.140. COORDINATION AND REVIEW. Districts shall provide opportunities for coordination and review by federal, state, and local governmental agencies, including adjacent districts, and other persons with a significant interest in coastal resources or who are conducting or may conduct uses and activities that have or are likely to have a direct and significant impact on the district's coastal area.  
(Eff. , Reg. )

Authority: AS 44.19.892  
AS 46.40.030  
AS 46.40.040

6 AAC 85.150. COUNCIL REVIEW. (a) When a district program or significant amendment to a district program is given conceptual approval by the district, the program or amendment, together with the transcript or recording of the public hearing held under sec. 130(b) of this chapter and all other material on which the district based its decision, must be submitted to the council.

*gover - legis deleted!*  
(b) Within 30 days after submission of the district program or amendment under (a) of this section, the Office of Coastal Management shall issue its recommendation. The recommendation may be based, in whole or in part, on matters not submitted by the district under (a) of this section. Any matters so used must be identified in the recommendation and placed in the record file under (c) of this section. The recommendation must contain findings and conclusions based on this chapter, the standards contained in ch. 80 of this title, AS 46.40.060, and AS 46.40.070. The recommendation must be served on the

district, the council, and all persons who testified or submitted timely written statements at the public hearing held under sec. 130(b) of this chapter.

(c) A record file containing all matter submitted by the district under (a) of this section, the Office of Coastal Management's recommendation under (b) of this section, and all matters on which the recommendation was based must be maintained at the Office of Coastal Management and at a convenient location within the district.

(d) Within 30 days after service of the recommendation, any person served with the recommendation may serve upon the council comments on the recommendation. Within 10 days after the deadline for serving comments on the council under this subsection, the Office of Coastal Management may submit additional matter to the council in response to the comments. All comments served and all additional matter submitted under this subsection will be placed in the record file.

(e) Within 20 days after the deadline for the Office of Coastal Management's submission of additional matter to the council under (d) of this section, the council will approve or disapprove the district program, in whole or in part. The council's decision will contain findings and conclusions based on this chapter, the standards contained in ch. 80 of this title, AS 46.40.060, and AS 46.40.070. (The council's findings and conclusions will be based upon matters contained in the record file.) The council will, in its discretion, adopt the findings and conclusions of the Office of Coastal Management by reference. The council will serve its decision under this subsection on the district and on all persons who submitted timely comments on the staff recommendation under (d) of this section, and will place the decision in the record file.

(f) If the council's decision under (e) of this section disapproves, in whole or in part, the district program, the decision will specify the date and location for the initial mediation session under AS 46.40.060(b). Mediation sessions will be held within the district and will be scheduled with due regard for the convenience of the participants. Any person served with the council's decision under (e) of this section may attend mediation sessions.

(g) If the council and district reach accord in mediation sessions held under (f) of this section, the council will, within 20 days after reaching accord, serve its modified decision on the district and all persons who were served with the council's decision under (e) of this section, and will place the modified decision in the record file. The modified decision will contain findings and conclusions, based on the record file and additional matters adduced during mediation, necessary to demonstrate that the modified decision does not violate this chapter, the standards contained in ch. 80 of this title, AS 46.40.060, or AS 46.40.070.

*will be contained  
in same sentence.  
Now a separate  
sentence*

(h) If the council and the district do not reach an accord, the council will, within 20 days after its determination that an impasse has been reached, set the matter for an adjudicatory hearing under AS 46.40.060(c). Notice of the hearing under AS 44.62.370(c) will be served on the district and all persons who were served with the council's decision under (e) of this section. Any person served with notice of the hearing under this subsection may intervene as a party to the hearing.  
(Eff. \_\_\_\_\_, Reg. \_\_\_\_\_)

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

ARTICLE 3.  
GENERAL PROVISIONS.

Section  
900. Definitions

6 AAC 85.900. DEFINITIONS. Unless the context indicates otherwise, in this chapter

(1) "beaches" means the area affected by wave action directly from the sea;

*new word*

(2) "marine coastal water" means water adjacent to shorelines which contains a measurable quantity of seawater, including sounds, bays, lagoons, bayous, ponds and estuaries, and the living resources which are dependent on these bodies of water;

*Taken from 6 AAC 80.170(2)*

(3) "council" means the Alaska Coastal Policy Council;

(4) "district" means a coastal resource district as defined in AS 46.40.210(2);

(5) "district program" means a district coastal management program;

*expected*

(6) "islands" means bodies of land surrounded by water on all sides; interior portions of major islands may be excluded from the coastal area, if uses of these islands do not cause direct and significant impacts on coastal waters;

(7) "saltwater wetlands" has the same meaning as that contained in 6 AAC 80.900(19); and

(8) "transitional and intertidal areas" means areas subject to periodic or occasional inundation by tides, including coastal floodplains, storm surge areas, tsunami and hurricane zones, and washover channels. (Eff. \_\_\_\_\_, Reg. \_\_\_\_\_)

Authority: AS 44.19.893  
AS 46.40.030  
AS 46.40.040

Roger Allington, Co-Chairperson  
Alaska Coastal Policy Council  
Office of the Governor

May 8, 1978

J-99-074-78

AVRUM M. GROSS  
ATTORNEY GENERAL

Regulations re coastal  
management guide-  
lines and standards  
(6 AAC 80 and 6 AAC 85)

By:

Arthur H. Paterson  
Assistant Attorney General  
and Regulations Attorney

We have reviewed these regulations in accordance with AS 44.62.060, and approve them for filing by the lieutenant governor. A duplicate original of this memorandum is being furnished the lieutenant governor, along with your regulations and related documents.

Under AS 44.62.125(j)(6), "waters" has been corrected to read "water" in 6 AAC 80.100(b)(2) and 6 AAC 80.900(7), and "must be" has been corrected to read "are" in 6 AAC 85.070.

We note that a "pre-final" version of these regulations was submitted to the legislature April 7, 1978 and that this final version was delivered to Representative Lisa Rudd May 4; the corrected page 15, but not the three corrections mentioned above, was delivered to her May 5. Representative Rudd's Community and Regional Affairs Committee has favorably reported HCR 125, approving these regulations, but neither house of the legislature has yet voted on the matter. This means that, although all requirements of the Administrative Procedure Act (AS 44.62) have now been met and the lieutenant governor may file these regulations, he will not be able to note the effective date in appropriate places (assuming the constitutionality of the effective-date precondition in AS 46.40.080 and assuming that the word "program" in that section means or includes these regulations). You should make certain that, as soon as the legislature completes action on the matter, this information is relayed to the lieutenant governor.

AHP/pjg

cc: Representative Lisa Rudd  
House Community & Regional Affairs Committee  
Alaska State Legislature

Roger Allington  
Alaska Coastal Policy Council  
May 8, 1973  
Page #2

cc: Senator Joe Orsini, Chairman  
Senate Community & Regional Affairs Committee  
Alaska State Legislature

Francis Ulmer, Co-Chairperson  
Alaska Coastal Policy Council  
Office of the Governor

MEMORANDUM

May 15, 1973

SUBJECT: Annulment of regulations affecting the state's coastal management program: SCR 103

TO: Senator Joseph L. Orsini, Chairman  
Senate Community and Regional Affairs Committee

FROM: John B. Chenoweth, Legislative Counsel

You have asked whether favorable action by the Legislature on a resolution approving regulations adopted by the Coastal Policy Council and filed with the Lieutenant Governor precludes subsequent annulment of any provision of those regulations. The Department of Law has provided you a memorandum opinion answering the question in the negative, and, though the basis for this opinion differs, I would agree with the conclusion reached in the memorandum from Mr. Peterson, the Assistant Attorney General.

Earlier, this Agency provided you an opinion concluding that the legislature need not give formal approval to the regulations adopted by the Coastal Policy Council as a condition of their taking effect. By that earlier opinion we suggest that legislative approval of the regulations presented adds nothing to their stature as guidelines and standards for the program. To give effect to the proposed regulations, all the Council is legally required to do is comply with those general provisions of the state's Administrative Procedure Act relating to preparation and adoption of regulations. Prior legislative approval not being specifically required, there is nothing to suggest that the Legislature may not review and disapprove a regulation of the Coastal Policy Council in the manner provided by AS 44.62.320.

JBC:hjd

The legislature has been informed  
by the Attorney General's Office of  
the State of Alaska that it will  
have

must only approve or reject the  
Coastal Management Regulations 6 AAC 80.010  
et seq and 6 AAC 85.010 et seq. The  
legislature has also been informed that  
unless these regulations are approved  
by this session of the legislature  
that there will be severe problems will  
result in the ability of the state and  
local governments to receive funds  
with which to develop plans to cope  
with problems in the coastal zone.  
The legislature is very dissatisfied  
with 6 AAC 80.100 because it  
is unclear as to what results is  
really intended and because its  
language is so over-broad ~~it~~

~~working with the~~  
~~on the~~  
~~copy of the~~ However since  
the legislature may not amend this  
section and since it is important  
to ~~the~~ approve these regulations  
in some form now, regulations 6 AAC 80.010

COASTAL ZONE MANAGEMENT

*and approved  
by the  
legislature*

~~Regulation 6 AAC 80.050 et. seq. are approved subject to the following comments and reservations.~~ It is the intent of the Legislature that Section 6 AAC 80.100 should not place additional burdens on the forest products industry until such time as additional or amended regulations can be adopted. It is also the intent of the Legislature that a Forest Practices Act adopted by the Legislature in the future shall set forth requirements and regulations governing forestry operations in coastal zone management areas and shall be in substitute of regulations set forth in 6 AAC 80.100. The Legislature recommends and, if such proposed regulations are adopted by the Council, hereby approves the following regulation in place of 6 AAC 80.100 as submitted to it:

6 AAC 80.100. TIMBER HARVEST AND PROCESSING.

(a) Commercial timber harvesting in the coastal area shall be conducted so as to meet the following standards:

(1) the facilities shall be located and logging operations conducted so as to minimize long term adverse environmental impacts;

(2) minimize impact on fish movement in coastal waters; and

(3) timber harvest and timber regeneration activities shall be implemented so as to protect streambanks and shorelines, minimize adverse impacts on fish resources and habitats, and minimize adverse long term impacts on wildlife resources and habitats.

(b) Commercial timber transport, storage, and processing in the coastal area shall be conducted so as to meet the following standards:

(1) onshore storage of logs shall be encouraged where compatible with the objectives of the Alaska Coastal Management Program;

(2) sites for in-water dumping and storage of logs shall be selected and these activities conducted so as to minimize adverse impacts on the marine ecosystem, minimize conflicts with recreational uses and activities, be safe from storms, and not constitute a hazard to navigation;

(3) roads for log transport and harvest area access shall be designed and constructed so as to minimize mass wasting, erosion, sedimentation, interference with drainage, and <sup>be</sup>adequately maintained until such time as they are returned to their pre-road natural drainage pattern (put to bed); and

(4) stream crossing, including bridges and culverts, shall be kept to a minimum number, designed to withstand seasonal high water and flooding, and provide for ~~unrestricted~~ passage of fish.

(c) Upon the effective date of a Forestry Practices Act the coastal zone regulations will not be applicable *for timber harvesting and other forest practices.*

(d) Nothing in the coastal zone regulations shall prevent timber harvesting on private land, provided such harvesting meets the standards set forth in this section, ~~until additional regulations are adopted.~~

What probs.  
Encourage re-evaluation of  
entire section  
Re-define "adverse envir. impacts"  
reappraise - "potential"



DEPARTMENT OF TRANSPORTATION  
UNITED STATES COAST GUARD

MAILING ADDRESS:

Commander (dp1)  
17th Coast Guard District  
P. O. Box 3-5000  
Juneau, Ak 99802  
(907) 586-7355

16000

1 MAY 1978

Honorable Lisa Rudd  
State of Alaska House of Representatives  
Pouch V  
Juneau, AK 99811

Dear Ms. Rudd:

The Coast Guard appreciates the opportunity to correspond with your committee concerning the 13 April 1978 Standards and Guidelines for Alaska's Coastal Management Program (ACMP). These Standards and Guidelines represent a considerable departure from the previous drafts on which the Coast Guard was allowed to comment. The Coast Guard feels that this version of the Standards and Guidelines is severely deficient in the areas of participation, specificity, and priority of uses.

Participation. The Office of Coastal Zone Management in Alaska has attempted to provide federal agencies with the opportunity to participate in the development of Alaska's program. Section 923.51 of the federal regulations requires, however, that the State "provide for federal agency input on a timely basis." The Coast Guard feels that the State has been deficient in this regard due to the shortness of time allowed for agency comments between successive drafts of the Standards and Guidelines. This is the sixth occasion in the last six months that the Coast Guard has commented on a different draft of this document. This rapidity of drafts has not allowed sufficient time for coordination between the various agencies of the Department of Transportation, nor the opportunity to carefully evaluate the content of the Program. Furthermore, this "final" version of the Standards and Guidelines was approved by the Council and submitted to the legislature without an opportunity for federal review, even though it differed substantially from previous drafts. Written comments have yet to be received by the Coast Guard addressing our stated concerns. The Coast Guard feels therefore that this past history of short lead times for response combined with the lack of formal feedback from the State does not meet the federal requirements for participation.

Section 306(c)(1) of the Coastal Zone Management Act requires federal agency participation in the development of the Program at an early stage in the process. The Coast Guard recommends that a provision for this participation be included in section 6 AAC 80.020 of the Standards.

The Coast Guard has commented on several occasions that a mechanism is needed for government participation at the district level in the development of the local plans. The Coast Guard is concerned that each district may develop its own mechanism for government participation and then cite compliance or non-compliance with this mechanism as evidence of government participation. Because the actual decision concerning adequacy of participation will be made at the State level by the Council, the Coast Guard feels that it is very important that a well developed State mechanism for participation be defined as part of the ACMP. If this accomplished, the process will not vary from district to district and all parties will have a clear understanding of their responsibilities and opportunities. It is therefore recommended that Section 85.100 be expanded to detail exactly when, where, and how government agencies will be allowed to participate in the development process.

#### Priority of Uses.

Section 923.13 of the federal regulations requires that the State must: "(1) Identify what constitute uses of regional benefit; and (2) identify those methods that shall be used to assure that unreasonable restrictions or exclusions of such uses by local land and water use regulations shall not occur." The Coast Guard finds no mention of regional benefit, national interest, or defense considerations in the Guidelines and Standards. National Defense, including Coast Guard functions and responsibilities such as search and rescue and fisheries enforcement, could be identified in Chapter 80, Article 2 of the Standards as an important priority use of the Coastal Zone. This priority provides the basis for regulating future land and water use, provides a common reference point for resolving potential conflicts, and is important for future acquisition of areas not presently controlled by the Coast Guard.

Section 6 AAC 80.080 of the Standards addresses water based transportation routes. Under the Ports and Waterways Safety Act of 1972, the Coast Guard is authorized to establish vessel traffic services in ports, harbors, and other waters subject to congested vessel traffic. Any district plans dealing with the management and control of vessel traffic should be coordinated with the Coast Guard to insure such plans are compatible with Coast Guard traffic control responsibilities. There is also considerable regional and national interest connected with transportation and these considerations should be mentioned in this section.

Specificity. The present Standards and Guidelines are lacking in specificity and substance and, as a result, the plans developed and implemented by the Alaska Coastal Resource Districts may vary so widely that the Coast Guard may be compelled to operate under as many as 50 different

plans within Alaska rather than under one plan which is implemented by various local government units. This situation would present an unacceptable burden on the Coast Guard and other federal agencies and is therefore considered a serious defect which must be remedied.

The Coast Guard feels that the Standards and Guidelines are deficient in the following areas concerning specificity:

a. The standards and criteria upon which decisions pursuant to the program will be based are not sufficiently specific to provide "(i) a clear understanding of the content of the program, especially in identifying who will be affected by the program and how, and (ii) a clear sense of direction and predictability for decision makers who must take actions pursuant to or consistent with the management program." These provisions are required by section 923.3(a)(2) of the Federal Coastal Zone Management Approval Regulations.

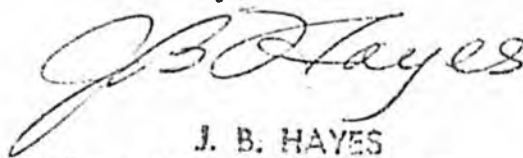
b. Section 923.12(a) requires the States to "develop policies and procedures by which uses determined to be subject to the management program will be permitted, conditioned, modified, and/or prohibited. These policies and procedures regarding management of uses and/or their impacts must be capable of effective implementation at the time of program approval." Alaska's section 6 AAC 85.070 and 6 AAC 85.080 delegates these functions to the districts. This creates a situation where each district's uses and policies may differ and is therefore not authorized under the federal regulations.

The effective implementation required under this section can not occur under Alaska's present Standards and Guidelines. If the State delegates the responsibilities of establishing uses and policies to the individual districts (85.070 and 85.080), and the district policies and uses are not submitted to NOAA with the ACMP (district plans will be developed later), it is impossible to implement meaningful management procedures regarding unknown uses and policies. It is therefore not clear what status the Program will have before the district plans are in place.

c. Section 923.12(e) of the Federal regulations states that "to the extent a state's government program policies are generalized, performance standards that will be used to enforce these policies will need to be sufficiently explicit and specific that persons affected by the management program will have a reasonable understanding of what uses would be permitted in which locations of the Coastal Zone and under what condition." The Coast Guard feels that the Standards are neither explicit nor specific and do not provide the required clear understanding as to what uses are permitted in any location.

The Coast Guard is very interested in coastal zone management and desires to work closely with the State of Alaska in implementing the ACMP. However, the mere opportunity to comment on the various stages of combined plan development when with the lack of response received concerning these comments, can not be considered real participation. The continued failure of the State to react to the concerns expressed herein is viewed as a matter of concern and is considered a serious continuing deficiency under the federal regulations. I am hopeful that these defects can be corrected before the ACMP is sent to NOAA, and am looking forward to continuing interaction with the State in coastal zone matters.

Sincerely,



J. B. HAYES

Rear Admiral, U. S. Coast Guard  
Commander Seventeenth Coast Guard District

# STATE OF ALASKA

## COASTAL POLICY COUNCIL

### LOCAL MEMBERS:

Roger Allington,  
Northern Southeast,  
Co-Chairman  
Roger Fagerstrom,  
Eering Straits  
Donald Gilman,  
Lower Cook Inlet  
Eben Hopson,  
Northwest  
Malcolm "Pete" Isleib,  
Prince William Sound  
Stan Paukan,  
Southwest  
Robert Sanderson,  
Southern Southeast  
Lidia Selkregg,  
Upper Cook Inlet  
Betty Wallin,  
Kodiak-Aleutians

### STATE MEMBERS:

Frances Ulmer,  
Director of Policy  
Development &  
Planning,  
Co-chairwoman  
Donald Harris,  
Commissioner of  
Transportation &  
Public Facilities  
Phillip Hubbard,  
Commissioner of  
Commerce &  
Economic  
Development  
Robert LeResche,  
Commissioner of  
Natural Resources  
Lee McAnerney,  
Commissioner of  
Community &  
Regional Affairs  
Ernst Mueller,  
Commissioner of  
Environmental  
Conservation  
Ronald Skoog,  
Commissioner of  
Fish & Game

The Honorable Hugh Malone  
Alaska State House of Representatives  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Malone:

The Coastal Policy Council met in Juneau May 4 and 5 to discuss a number of issues which we have had to ignore to date while developing and refining the guidelines and standards which were submitted to you in early April.

One of the issues discussed is coastal management in the unorganized borough. Staff prepared a series of thorny questions to stimulate discussion (see attached). Not surprisingly few of the questions were answered and several more were identified. However, the Council did reach consensus on several policy positions, two of which require legislative action for implementation.

The Council adopted the attached resolution supporting that provision of HCSSB 338 which extends the time for consolidation of coastal resource service areas.

The Council also requests funding from the Legislature to assist those areas of the unorganized borough which wish to engage in the organization and planning efforts associated with initial development of a district coastal management plan. The Council received testimony from a number of individuals, including Dan Branch (AVCP), John Shively (NANA), Ralph Amouaka (Aleutian/Pribilof), and George Allen (Rural Cap) indicating that although there are groups in the unorganized borough interested in assisting the organization of districts to do coastal planning, no resources currently exist for those groups to do the necessary travel, communication and education which would be essential. As you are aware, the Alaska Coastal Management Act provides that coastal planning must be done by local resource districts except in extreme situations when the Council may direct such planning. In the unorganized borough resource district planning can be accomplished only through the formation of a resource service area. Many areas want and/or need the benefits of coastal resource planning but need assistance in organizing a service area.

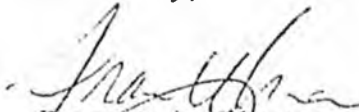


The Honorable Hugh Malone  
May 12, 1978  
Page 2

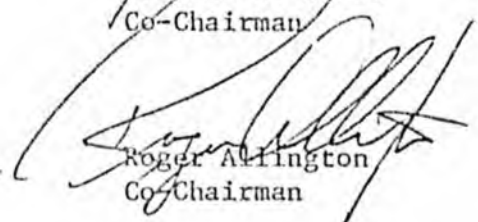
The Council made the policy decision that it would be desirable to assist those areas which are interested in organizing, and moved to request the Free Conference Committee on the Budget to consider an appropriation of \$500,000 to be used for pass through monies for organization efforts by local, public and native groups.

We understand that the lateness of the session and other funding priorities may preclude an appropriation for this purpose at this time. However, we feel it deserves your consideration.

Sincerely,



Frances A. Ulmer  
Co-Chairman



Roger Allington  
Co-Chairman

cc: Free Conference Committee: Senator John Rader  
Senator John G. Sackett  
Senator George H. Hohman  
Representative Steve Cowper  
Representative Clark Gruening  
Representative E. J. Haugen

Senator Joseph L. Orsini  
Senator Kay Poland  
Representative Lisa Rudd

# STATE OF ALASKA

## COASTAL POLICY COUNCIL

May 11, 1978

### LOCAL MEMBERS:

Roger Allington,  
Northern Southeast,  
Co-Chairman  
Roger Fagerstrom,  
Bering Straits  
Donald Gilman,  
Lower Cook Inlet  
Eben Hopson,  
Northwest  
Malcolm "Pete" Isleib,  
Prince William Sound  
Stan Paukan,  
Southwest  
Robert Sanderson,  
Southern Southeast  
Lidia Selkregg,  
Upper Cook Inlet  
Betty Wallin,  
Kodiak-Aleutians

Honorable Joe Orsini  
Chairman, Senate Community and  
Regional Affairs Committee  
Alaska State Legislature  
Pouch V  
State Capitol  
Juneau, Alaska 99811

Dear Senator Orsini:

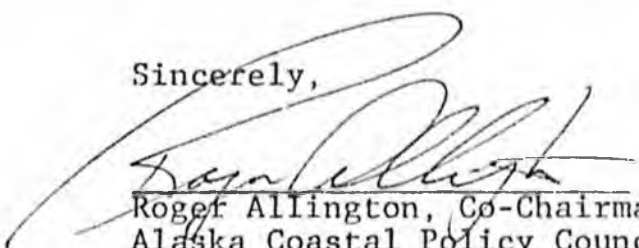
Thank you for the copies of the letter sent to you  
by the U.S. Coast Guard on May 1, 1978.


The Office of Coastal Management has examined that  
letter in detail at our request, and has prepared  
the attached response.

We have reviewed OCM's response and generally concur  
with it. Please advise us if you should receive any  
additional communications of this type, and we will  
be pleased to respond again.

We appreciate the opportunity to comment on this  
matter, and we are at your disposal for any future  
discussions on the ACMP Guidelines and Standards

Sincerely,

  
Roger Allington, Co-Chairman  
Alaska Coastal Policy Council

  
Frances A. Ulmer, Co-Chairman,  
Alaska Coastal Policy Council



ALASKA  
COASTAL MANAGEMENT PROGRAM

May 10, 1978

OFFICE OF COASTAL MANAGEMENT.

Staff Response

To

May 1, 1978 Letter From

Admiral Hayes to Senator Joe Orsini.

We believe that the concerns expressed by the Coast Guard reflect a basic misunderstanding of the legal status of the guidelines and standards within the Alaska Coastal Management Program.

While the Coast Guard cites several sections of the guidelines and standards, federal Coastal Zone Management Act, and federal approval regulations in their letter, we can find no place in which the Alaska Coastal Management Act was cited. The guidelines and standards, as regulations, were never intended to stand alone from the statute under which they were promulgated. They can only be understood as implementing, interpreting, or making specific, but in no event repeating, the Alaska Act. See Drafting Manual for Administrative Regulations (State of Alaska Legislative Affairs Agency, 1976).

I. PARTICIPATION

The first major concern raised in the letter concerns "Participation". The problem cited here is lack of "a

It was, at all times, the intent of the Council to include federal agencies in the definition of the term "public". We believe that the above sections satisfy the concerns raised by the Coast Guard regarding participation.

Additionally, 6 AAC 85.130 specifically requires that "Districts shall provide opportunities for coordination and review required by federal...agencies..." ( This would apply both before and after program approval).

6 AAC 85.140, provides that any party who participated in the district public hearing shall be served with and allowed the opportunity to comment on staff recommendations concerning the approval of district programs by the Council, as well as be served with the Council's decision, and allowed to attend mediation sessions. In the event of an adjudicatory hearing between the Council and a district, any such person may intervene as a party.

The internal guidelines of the Alaska Coastal Policy Council, adopted by the Council in March, 1978, contain other relevant provisions, as follows:

"(1) Opportunities shall be provided for participation of federal agencies in the development, review and approval of all parts of the Alaska Coastal Management Program. Notice of Council meetings, public hearings, and other Council activities shall be provided to allow federal agency review and comment on the guidelines and standards, district programs, and any changes or additions to the Alaska Coastal Management Program. Considerable opportunities for review of Alaska's coastal program will be provided, by the State and by the federal Office of Coastal Zone Management, after the program is submitted to the Secretary of Commerce for approval under the provisions of Section 306 of the federal Coastal Zone Management Act of 1972, as amended.

(2) The Council shall provide coastal districts with a specific listing of state and federal agencies having interests, expertise and responsibilities concerning coastal resources, habitats, and development.

(3) Detailed procedures for federal consultation and consistency shall be contained in the management program document to be submitted to the Secretary of Commerce in mid-1978..."

## II. PRIORITY OF USES

The second major concern cited by the Coast Guard is the failure of the guidelines and standards to "mention...regional benefit, national interest, or defense considerations". (p. 2).

This comment has apparently resulted directly from a failure by the Coastal Guard to consider the provisions of the Alaska Coastal Management Act in conjunction with the guidelines and standards.

6 AAC 85.070 requires each district program to "include a description of the uses and activities, including uses of state concern, that will be considered proper, and the uses and activities, including uses of state concern, that will be considered improper within the coastal area, including land and water use designations."

The definitions of the term "uses of state concern" is contained in AS 46.40.210(6) and includes "(A) uses of national interest, including...navigational facilities...and national defense and related security facilities..." and "(B) uses of more than local concern...".

In reviewing district programs, the Council is required to find that the district program does not "arbitrarily or unreasonably restrict or exclude uses of state concern". AS 46.40.060. The following section of the Act, AS 46.40.070(c), contains detailed criteria for making this finding.

In addition, the Council has specifically provided that the interagency (state) regional planning team "assist the Council and districts in identifying uses of state concern and developing management policies for these uses". 6 AAC 80.030(b)(3).

### III. SPECIFICITY

The third major concern expressed by the Coast Guard is that "the present Standards and Guidelines are lacking in specificity and substance and, as a result, the plans developed and implemented by Alaska Coastal Resource Districts (sic) may vary so widely that the Coast Guard may be compelled to operate under as many as 50 different plans within Alaska rather than under one plan which is implemented by various local government units." (pps. 2 -- 3).

This concern suggests a misunderstanding of the federal (306) approval regulations as well as the Alaska Coastal Management Act.

Proposed federal Coastal Zone Management Approval regulation 923.42 concerns the "technique of control" which a state chooses to exercise its coastal management program. One such technique is "direct state control". Under this

technique, the state controls land and water uses through "direct state land and water use planning and regulation." This would, in fact, result in "one plan" statewide. However, the technique chosen by the State of Alaska, and reflected in the Alaska Coastal Management Act, is "local implementation". Under this technique, the state sets basic standards or criteria, while the local governments prepare local programs. Given the diversity and independence of communities in Alaska, any other plan would be unacceptable.

In our opinion, the Alaska Act and guidelines and standards provide the minimum amount of uniformity required for an implementable coastal management program while allowing the maximum amount of local discretion. The standards to be applied by the Council concerning uses of state concern, referred to above, provide the assurance to the Coast Guard and other federal agencies that they will not, in fact, have their functions impaired by local programs. Coordination can be assured if the Coast Guard will keep abreast of district program development and Council review of those programs.

This office understands that the Coast Guard, or any other federal agency, may have difficulty in monitoring the development of district programs. We have always responded to those concerns by committing the Office of Coastal Management and the Department of Community and Regional Affairs to assist in every way possible to assure adequate federal input to local programs (see Council's Internal Guidelines, above).

We will transmit information on national interests to the districts, provide districts with lists of contact people in federal agencies, inform federal agencies of pending events at the district level, send federal agencies' drafts of district materials when they are available, and, mount special efforts to involve federal agencies in the Council review of district programs. All of these services will be set forth in detail in the ACMP program document, but we do not believe that reporting these services in the Guidelines and Standards is appropriate.

The Coast Guard letter discusses a number of specific examples in which the guidelines and standards are allegedly not sufficiently specific (p. 3). The issue of improper delegation of authority from the Council to the districts is raised. In more than one case, the Coast Guard alleges non-compliance with federal regulations.

With respect to these matters, we would note that the State of Alaska Department of Law has determined, in approving the regulations under AS 44.62.060, that they meet basic "legality" and "constitutionality" requirements, and hence do not constitute an improper delegation. The basic philosophy of decentralization and maximum district control was decided by the legislature when it enacted the Alaska Coastal Management Act. The guidelines reflect this.

#### IV. TOO RAPID DEVELOPMENT

Finally, the Coast Guard notes the rapid pace at which the guidelines and standards were developed, and the lack of time on their part for adequate coordination and review

(p. 1). Parties who have been involved in the development of the guidelines and standards since the inception of the Council in September, 1977 are cognizant of this problem. Both the Alaska Coastal Management Act and the federal program approval requirements have had the effect of making time of the essence. During the six months in which it had to work on the guidelines and standards, the OCM staff distributed, according to the Coast Guard, six drafts for comment; this was done in an effort to maximize participation and coordination, not impair it. At some point, the comments had to end and a draft had to be submitted to the legislature. This was done in early April.

We would also note that the Hearing Draft, which preceded the final draft sent to the legislature, was made available to the Coast Guard in late January. The formal comment period ended in early March (nearly 60 days after publication). Another three weeks elapsed from the time of closing the formal comment period to the actual Council meeting at which the Hearing Draft was revised into the final Draft. The Coast Guard attended that meeting. The Council dealt with each section of the Guidelines and Standards individually, and provided an opportunity for public comment on each section as it came up for Council consideration. The Coast Guard made no effort to comment in this framework, although this was the appropriate time and place to bring up specific points to the Council.

We would note that the first section of the guidelines

and standards, 6 AAC 80.010, requires the Council to review the regulations annually. This reflects the Council's desire to continue refining and improving the guidelines and standards, in cooperation with the Coast Guard and all other interested parties, and its awareness that the version adopted in April is not cast in stone.

The Coast Guard did provide written comments on the January hearing draft of the guidelines and standards. We have not made individual replies to these comments or to any others since the final guidelines and standards themselves constitute our best response. The Coast Guard's comments were used along with dozens of others to prepare the final guidelines and standards that were sent to the legislature. We will respond to the individual comments as time permits, but given the shortness of time remaining, we feel that our primary duty is to prepare the ACMP program document and other tasks related to transmission of the final guidelines and standards to the legislature.

#### V. SUMMARY

Time continues to be of the essence. The Alaska Coastal Management Program is in its fourth year of program development. It must receive program approval from NOAA this year or it will be ineligible for further development funding. Any changes in the guidelines and standards at this point would require APA review and legislative approval, an impossibility before the legislature adjourns this summer. The effect of pressing for such changes at this time would not result in a correction of defects before submittal to NOAA, but rather result in a scuttling of the Alaska Coastal Management Program.

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY

*F. Curran*  
*May 16, 1978*

R. E. ROBERTSON (1985-1986)  
F. O. EASTAUGH  
J. B. BRADLEY  
W. G. RUDDY  
L. B. JACOBSON  
P. B. BAKER (ANCHORAGE)  
M. T. THOMAS  
L. J. BARKER (ANCHORAGE)  
J. F. CLARK  
P. M. HOFFMAN  
J. P. TANGEN  
L. G. SERRY (ANCHORAGE)  
C. R. RICH (ANCHORAGE)  
D. A. HOLBROOK  
J. D. MILLER (ANCHORAGE)  
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OF COUNSEL  
M. E. MONAGLE

May 16, 1978

The Honorable Joseph L. Orsini  
Chairman, Senate Community & Regional  
Affairs Committee  
Pouch V  
Juneau, Alaska 99811

Dear Senator Orsini:

Thank you for your letter to me of May 3, 1978 regarding the Coastal Management Regulations. I have specifically reviewed proposed section 6 AAC 80.100 dealing with timber harvest and processing. Due to the press of other business, most notably D-2 Legislation in Congress, I have not had an opportunity to focus on the Coastal Zone Regulations until now.

At ALP we have assumed that passage of SB-59, the Forest Practice Act, would supercede the Coastal Zone regulations. Upon reviewing 6 AAC 80.100 (d) we are not so sure. That section provides that Forest Practices legislation would be substituted for the Coastal Zone Management Act when the Forest Practices legislation is passed. An additional proviso of that subsection, however, requires that the Forest Practices Act establish a standard "corresponding to a standard in this section". A fast check of the Forest Practices Act shows that it will not establish such corresponding standards. Indeed, the Coastal Zone Regulations will establish much higher standards and, therefore, there will be no substitution. We find this to be a most alarming situation.

May 16, 1978

Hence, this will be a somewhat detailed letter dealing with a number of problems in the timber area.

1. Section 6 AAC 80.100 requires the siting of timber harvest activities in areas "where the management of reforestation, using the best available technology will result in producing a sustained yield of merchantable timber". There does not appear to be a definition of "sustained yield" in the Act. The Federal government has used the words "sustained yield", (as appear in the Multiple Use Sustained Yield Act of 1960) to mean non-declining yield. More recently, in 1976 in the National Forest Management Act, the long standing Forest Service interpretation of Multiple Use Sustained Yield Act was incorporated into law. Were there to be any lawsuit on this, it would seem to me that a Court would use the Federal definition to interpret the words "sustained yield".

If "sustained yield" means non-declining yield it will make it impossible for many Native corporations to operate. Testimony before the Natural Resources Committee, on the Forest Practices Act indicated that. Accordingly, the requirement in the proposed draft of S.B. 59 that timber harvesting be limited to areas that would produce a "sustained yield" of merchantable timber was deleted from that Act. (Compare draft of S.B. 59 Section 41.17.040(b)(1) with CSSB 59 Section 41.17.060(b). Accordingly, even though ALP does not operate on private land, we would urge that subsection (a) be eliminated entirely.

The reason for suggesting elimination is that reforestation is not the business of the Coastal Zone Management Act. What that Act is attempting to insure is that activities in the coastal region are done in a sound environmental way. That is, its purpose is protection of the environment, not reforestation. Accordingly, it is inappropriate for Subsection (a) to be included in these regulations.

2. Subsection (b)(2) requires an assurance of unrestricted fish movement in coastal waters. It would therefore appear that any causeway built in connection with a log dump, and perhaps even wet log storage areas would be

May 16, 1978

prohibited. Accordingly, we would recommend that the words "assure unrestricted" be deleted and that the words "minimize restriction of" be inserted instead. This would seem to achieve the desired result without unreasonably burdening the timber industry.

3. Subsection (b)(3) has the potential for stopping the entire timber industry in coastal Alaska. It requires that timber harvesting be conducted in a way to "prevent adverse impacts on fish resources and habitats". It may be impossible to do this, depending, of course, on what is meant by "adverse impacts". "Adverse impacts" is not defined in the regulations, and therefore will mean what a Court says it means. What are adverse impacts? No one really seems to know. There is concern for example that long-range, low-level amounts of sedimentation impact fish. We cannot disprove that this is so. Therefore, any group citing this fact could halt any timber operation in coastal Alaska. We would most strongly urge that the word "prevent" be deleted and that the word "minimize" be substituted in lieu thereof. This would make it consistent with impacts on wildlife or resources and their habitats.

Further, we would suggest that the words "minimize adverse impacts" be defined. The definition should be drafted so as not to prohibit logging where adequate streamside mitigation measures are utilized. Adequate streamside mitigation measures include presently accepted practices in Southeastern Alaska, as required in the Southeast Area Guides put out by the Forest Service.

In any event, please be assured that we are extremely concerned about this section and urge you to mitigate its clear possibility for great damage to the industry.

4. So that the definition for "minimize adverse impacts" is consistent throughout we would suggest that the word "effects" in the third line of Subsection (c)(2) be deleted, and the word "impacts" be substituted therefore.

5. Subsection (d) also should be altered. The words "establishing a standard corresponding to a standard

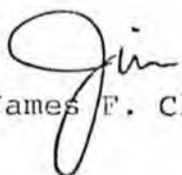
The Honorable Joseph L. Orsini  
Page Four

May 16, 1978

in this section" should be deleted entirely. The Forest Practices Act should be the sole vehicle for determining what are and what are not appropriate forest practices. Operators should not be faced with dual sets of regulations emanating from different agencies of the State government. One of the principal reasons why we have worked so hard at ALP for the Forest Practices Act is to eliminate the nightmare of several State agencies using overlapping procedural requirements to regulate the same things. The words which we suggest for deletion would have just that effect. As the section is presently written a court somewhere would have to determine whether or not a standard in the Forest Practices Act was similar to that required in the Coastal Zone Management Act. This simply should not be allowed to happen.

Thank you again for providing us with a copy of these regulations, and the opportunity to respond. I am taking this opportunity to forward them to representative Lisa Rudd, who is Chairman of the House Community and Regional Affairs Committee for her consideration as well.

Yours very truly,

  
James F. Clark

JFC/pc

cc: Senator Robert Ziegler  
Senator Kay Poland  
Senator Pete Meland  
Senator Bill Sumner  
Representative Lisa Rudd  
Mr. Clarence Kramer  
Mr. David Wolfe  
Mr. Pete Huberth  
Mr. Roger Allington  
Mr. Don Finney  
Mr. Sam Demmert  
Mr. Les Anderson

MARK G. COPELAND\*  
DAVID WOLF

\*ALSO ADMITTED IN OREGON

LAW OFFICES OF  
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May 23, 1978

OREGON OFFICE

3500 FIRST NATIONAL TOWER  
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J. DAVID BENNETT  
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THOMAS M. LANDYE  
DIARMUID F. O'SCANLAIN  
DONALD H. PEARLMAN

RANDALL L. DUNN  
ROBERT B. HOPKINS  
RICHARD L. SADLER

Representative Lisa Rudd  
House of Representatives  
State Capitol Building  
Juneau, Alaska 99801

Re: Coastal Zone Regulations

Dear Lisa:

Thank you very much for your interest in the concerns of our clients Yak-Tat Kwaan, Inc. and Koncor Forest Resource Management Co. We very much appreciate the meeting you set up concerning the Coastal Zone Regulations. At that meeting we submitted what we thought would be a better version of 6 AAC 80.100 along with some ideas for a letter of intent for the legislature. At that meeting you proposed that certain sections of 6 AAC 80.100 be deleted leaving other sections in for approval by the legislature. I indicated that under the practical constraints on every one, since the legislature does not seem to either have the power or is willing to challenge the opinion of the Attorney General that it does not have the power to amend the regulations, your proposal is the best one at this time. As we mentioned at the meeting, we still have problems with 6 AAC 80.100(b)(1) because it seems to refer to potential adverse environmental impacts as opposed to actual adverse environmental impacts. This will put a tremendous burden on the timber industry to show that they will not cause "potential" adverse environmental impacts. As I know you realize, it is very difficult to prove that you will not cause a potential adverse environmental impact and it was my understanding that you were going to refer to this problem in a letter of intent or instruction to the Alaska Coastal Policy Council with suggestions that it be corrected. Also we are concerned with the use of the word "planned" in 6 AAC 80.100 (c)(3), which is a section which you indicated you are going to recommend that the legislature approve. We hope that the council will see fit to delete this word in the future. As I indicated,

Page two  
Lisa Rudd  
May 23, 1978

our concern is that the regulations will be used to examine the management process of someone in the timber industry as opposed to being only concerned with the design and construction of roads. Fran Ulmer indicated that my concern was totally misplaced and that there was no intention to get into determining how a company involved in the timber industry would be managed. Therefore, there should be no problem in the deletion of the word "planned." I hope this will be contained in your recommendation to the Alaska Coastal Policy Council.

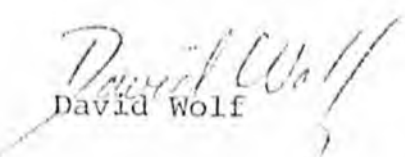
Also I indicated to you and to Murray Walsh that my clients still preserve their right to appear before the Council to make suggestions concerning any new regulations or changes in these regulations as they deem appropriate and that I did not expect to have them told at such time that our willingness to go along with the regulations with your changes because of the practical problems faced by the legislature should be deemed as somehow an acceptance that these regulations are in the best form possible.

Enclosed is a copy of my letter to Joe Orsini which transmits a copy of this letter to him. Because of Joe's birthday party last Friday, I did not have a chance to speak with him at length and told him that I would send him a copy of my letter to you, along with a letter to him concerning these regulations.

Again, thank you for your interest in the problems of these regulations and I hope that your suggestions as to how to solve the problems in the timber harvest and processing part of the regulations will be accepted by your committee and by the legislature.

Sincerely yours,

KEANE, HARPER, PEARLMAN AND  
COPELAND

  
David Wolf

DW/arm  
cc: Yak-Tat Kwaan, Inc.  
Koncor Forest Resource Management Co.

MARK G. COPELAND\*  
DAVID WOLF  
\*ALSO ADMITTED IN OREGON

LAW OFFICES OF  
KEANE, HARPER, PEARLMAN AND COPELAND

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THOMAS M. LANDYE  
THOMAS F. O'SCANNLAIN  
DONALD H. PEARLMAN

RANDALL L. DUNN  
ROBERT B. HOPKINS  
RICHARD L. SADLER

May 23, 1978

The Honorable Joseph L. Orsini  
Chairman, Senate Community & Regional  
Affairs Committee

Pouch V  
Juneau, Alaska 99811

Re: Coastal Zone Regulations

Dear Joe:

Thank you for the few minutes you had to spend with me last Friday.

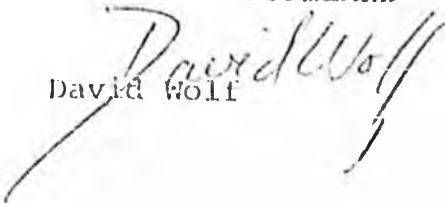
Enclosed is a copy of my letter to Lisa, which I said I would send to you.

The content of Lisa's proposal is not clear in my letter to Lisa. It was my understanding that Lisa's suggestion was that certain sections of the timber harvest and processing regulations in the Coastal Zone Regulation be deleted. These sections were 6 AAC 80.100(a), (b), (2)(b), (3), (c)(4), and (d). This will leave sections 6 AAC 80.100(b)(1), and (c)(1) through (3).

As you can tell from my letter to Lisa our attitude toward this proposal is that it seems the best political compromise at this time and we hope to be able to clean up the rest of the problems when new regulations are reviewed again by the Coastal Zone Council.

Sincerely yours,

KEANE, HARPER, PEARLMAN AND  
COPELAND

  
David Wolf

DW/arm  
cc: Lisa Rudd  
Sam Demmert  
Les Anderson

# TELEGRAM

~~BOONVILLE~~ ALASKA COMMUNICATIONS, INC.

PHONE: 846-8440

BUREAU, ALASKA 99801

#

02088 NL ANCHORAGE AK 60 05-15 250P ADT

PMS REP LISA RUDD CHAIRMAN OF COMMUNITY AND REG. AFFAIRS

JUN

JUST LEARNED PROPOSED COASTAL ZONE REGULATIONS REWRITE SB59  
MORE ADVERSLY TO PRIVATE LAND OWNERS THAN SB59 IS ITSELF.  
ON BEHALF OF YAK-TAT KWAAN INC., AND KONCOR FORST RESEARCH  
MANAGEMENT COMPANY WHICH IS A JOINT VENTURE OF THREE VILLAGE  
COPORATION IN THE KONIAG REGION-OUZINKIE NATIVE CORPORATION,  
NATIVES OF KODIAK INC, AND LEISNOE INC., WE REQUEST TIME FOR  
REVIEW AND COMMENT.

DAVID WOLF, ATTORNEY FOR

KONCOR FOREST RESEARCH MANAGEMENT CO. AND YAK-TAT KWAAN INC.

COMMITTEE REPORT

HOUSE

5/12/78

FURTHER: \_\_\_\_\_

Date: 5-24-78

Mr. Speaker:

The Committee on C & RA has had HCR 125

Approving regulations adopted by the Alaska Coastal Policy Council.  
a second time  
under consideration /and (a majority of the committee) (the committee reports it back as follows)

- ( ) recommends it do pass                      ( ) recommends it do not pass
- ( ) recommends it do pass with attached amendment(s)
- (X) recommends it be replaced with CS for HCR 125

and \_\_\_\_\_ ( ) new title                      (X) same title

(X) AND attaches a Letter of Intent                      ( ) New Fiscal Note

( ) reports it back without recommendation

( ) and recommends it be referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING DO PASS:

P. Cole Do Pass

Merle A. Smith DO PASS

Eric Rudd " "

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

OTHER RECOMMENDATIONS:

Peter Linn NO REC

Yield Anderson Do Not Pass

Tom Kelly No Rec

D. Smith No Rec

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Eric Rudd

Chairman



# ALASKA HOUSE OF REPRESENTATIVES

## Community and Regional Affairs Committee

LISA RUDD, Chair

LETTER OF INTENT - - CSHCR 125

Pouch V, State Capitol  
Juneau, Alaska 99811  
(907) 465-3870

By the Community and Regional Affairs Committee

Testimony received by the Community and Regional Affairs Committee identified three sections of the regulations submitted by the Alaska Coastal Policy Council for which change is suggested. The first two sections bear upon the desire of the members of the committee to maintain the broadest possible opportunity for public participation in the understanding of the process of developing district and state coastal management programs. Specifically,

(1) in 6 AAC 85.120(b), it is the intent of the committee that, in addition to giving of notice of public hearing by newspaper advertisement, where no newspaper of general circulation exists within a community or region, general notice should be given by radio;

(2) in 6 AAC 85.140, it is the intent of the committee that broad public circulation through general notice or radio broadcast be given to recommendations of the Coastal Policy Council in its review of district programs, that the public at-large (rather than only those persons specifically served a written copy of the Council's recommendations) have opportunity to respond with written comments, and that the public at-large enjoy the opportunity to attend all subsequent sessions, including mediation sessions.

Language adopted by the Coastal Policy Council in each of the sections cited complies with the letter of each underlying statute; the committee recommends reconsideration and change to more nearly accord with the spirit of public participation and understanding which is the basis of the coastal management program.

The third section of the regulations of concern to the committee is the standards for timber harvest and processing in the coastal area, 6 AAC 801100. The committee finds the language and intent of this section to be confusing and potentially detrimental to the development of timber harvest and processing in the coastal portions of the state.

Rather than disapprove the entirety of the section, leaving no standards for interim guidance to state agencies and local districts, the committee has chosen to disapprove only the paragraphs which give rise to confusion and protest, leaving those paragraphs which state broad policies for timber harvest and processing activity. They will serve as a guide for coastal management districts in the formulation of their respective programs, and to demonstrate to the federal government that the Coastal Policy Council is attempting to meet the threshold requirements of applicable federal laws in order to gain the benefits of federal program approval, federal financial assistance, and, most significantly, federal consistency with the state program ultimately adopted.

It is the intent of the committee, with respect to the timber harvest and processing section under review, that the Coastal Policy Council review the entire section and resubmit a comprehensive standard for consideration and approval by the next Legislature. A comprehensive policy statement should, at minimum,

- (1) Define the term "sustained yield" if the Council determines that "sustained yield" is an appropriate standard for timber harvest in coastal areas,
- (2) Eliminate absolute terminology with regard to the environmental impacts of timber harvest activity or define the term "adverse environmental impacts" to mitigate the absolute terminology;
- (3) Clarify the relationship between this section and a future Alaska forest practices act;
- (4) Establish a process for coordinating the efforts of the various state departments and federal agencies which have jurisdiction in the area of timber harvest and processing.

---

LISA RUDD, CHAIR  
HOUSE CS&RA COMMITTEE

6 AAC 80.100. TIMBER HARVEST AND PROCESSING. (a) Commercial timber harvest activities in the coastal area must be sited in areas where the management of reforestation, using the best available technology, will result in producing a sustained yield of merchantable timber unless the area is to be converted to a use other than timber harvest.

✓ (b) Commercial timber harvest activities in the coastal area must be conducted so as to meet the following standards:

✓ (1) the location of facilities and the layout of logging systems must be managed so as to minimize potential for adverse environmental impacts;

[Assure]  
✓ (2) unrestricted fish movement in coastal waters must be assured; and

(3) timber harvest and timber management activities must be planned and implemented so as to protect streambanks and shorelines, prevent adverse impacts on fish resources and habitats, and minimize adverse impacts on wildlife resources and habitats as determined on a case-by-case basis by the Alaska Departments of Natural Resources, Environmental Conservation, and Fish and Game, districts, and appropriate federal agencies.

✓ (c) Commercial timber transport, storage, and processing in the coastal area must be conducted so as to meet the following standards:

✓ (1) onshore storage of logs must be encouraged where compatible with the objectives of the Alaska coastal management program;

✓ (2) sites for in-water dumping and storage of logs must be selected and these activities conducted so as to minimize adverse effects on the marine ecosystem, minimize conflicts with recreational uses and activities, be safe from storms, and not constitute a hazard to navigation;

✓ (3) roads for log transport and harvest area access must be planned, designed, and constructed so as to minimize mass wasting, erosion, sedimentation, and interference with drainage, and must be adequately maintained until they are returned to their pre-road natural drainage pattern (put to bed); and

(4) stream crossings, including bridges and culverts, must be kept to a minimum number, designed to withstand seasonal high water and flooding, and must provide for unrestricted passage of fish.

(d) Upon the effective date of a regulation adopted under the authority of forest practices legislation establishing a standard corresponding to a standard in this section, the standard in this section will not be applicable.

(Eff. , Reg. )

Authority: AS 44.19.893  
AS 46.40.040

*Example: Paragraphs Approved*

GOVERNOR'S OFFICE

Register

6 AAC 80.100.

6 AAC 80.100. TIMBER HARVEST AND PROCESSING. (a)  
Commercial timber harvest activities in the coastal area  
must be conducted so as to meet the following standards:

- (1) The location of facilities and the layout of logging systems must be managed so as to minimize potential for adverse environmental impacts;

(b) Commercial timber transport, storage, and processing in the coastal area must be conducted so as to meet the following standards:

- (1) Onshore storage of logs must be encouraged where compatible with the objectives of the Alaska coastal management program;
- (2) Sites for in-water dumping and storage of logs must be selected and these activities conducted so as to minimize adverse effects on the marine ecosystem, minimize conflicts with recreational uses and activities, be safe from storms, and not constitute a hazard to navigation;
- (3) Roads for log transport and harvest area access must be planned, designed, and constructed so as to minimize mass wasting, erosion, sedimentation, and interference with drainage, and must be adequately maintained until they are returned to their pre-road natural drainage pattern (put to bed).

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY

A PROFESSIONAL CORPORATION

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C. R. RICH (ANCHORAGE)  
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T. A. SOFO  
W. R. HULEN (ANCHORAGE)  
D. E. CUADRA (ANCHORAGE)

OF COUNSEL  
M. E. MONAGLE

May 16, 1978

The Honorable Joseph L. Orsini  
Chairman, Senate Community & Regional  
Affairs Committee  
Pouch V  
Juneau, Alaska 99811

Dear Senator Orsini:

Thank you for your letter to me of May 3, 1978 regarding the Coastal Management Regulations. I have specifically reviewed proposed section 6 AAC 80.100 dealing with timber harvest and processing. Due to the press of other business, most notably D-2 Legislation in Congress, I have not had an opportunity to focus on the Coastal Zone Regulations until now.

At ALP we have assumed that passage of SB-59, the Forest Practice Act, would supercede the Coastal Zone regulations. Upon reviewing 6 AAC 80.100 (d) we are not so sure. That section provides that Forest Practices legislation would be substituted for the Coastal Zone Management Act when the Forest Practices legislation is passed. An additional proviso of that subsection, however, requires that the Forest Practices Act establish a standard "corresponding to a standard in this section". A fast check of the Forest Practices Act shows that it will not establish such corresponding standards. Indeed, the Coastal Zone Regulations will establish much higher standards and, therefore, there will be no substitution. We find this to be a most alarming situation.

May 16, 1978

Hence, this will be a somewhat detailed letter dealing with a number of problems in the timber area.

1. Section 6 AAC 80.100 requires the siting of timber harvest activities in areas "where the management of reforestation, using the best available technology will result in producing a sustained yield of merchantable timber". There does not appear to be a definition of "sustained yield" in the Act. The Federal government has used the words "sustained yield", (as appear in the Multiple Use Sustained Yield Act of 1960) to mean non-declining yield. More recently, in 1976 in the National Forest Management Act, the long standing Forest Service interpretation of Multiple Use Sustained Yield Act was incorporated into law. Were there to be any lawsuit on this, it would seem to me that a Court would use the Federal definition to interpret the words "sustained yield".

If "sustained yield" means non-declining yield it will make it impossible for many Native corporations to operate. Testimony before the Natural Resources Committee, on the Forest Practices Act indicated that. Accordingly, the requirement in the proposed draft of S.B. 59 that timber harvesting be limited to areas that would produce a "sustained yield" of merchantable timber was deleted from that Act. (Compare draft of S.B. 59 Section 41.17.040(b)(1) with CSSB 59 Section 41.17.060(b). Accordingly, even though ALP does not operate on private land, we would urge that subsection (a) be eliminated entirely.

The reason for suggesting elimination is that reforestation is not the business of the Coastal Zone Management Act. What that Act is attempting to insure is that activities in the coastal region are done in a sound environmental way. That is, its purpose is protection of the environment, not reforestation. Accordingly, it is inappropriate for Subsection (a) to be included in these regulations.

2. Subsection (b)(2) requires an assurance of unrestricted fish movement in coastal waters. It would therefore appear that any causeway built in connection with a log dump, and perhaps even wet log storage areas would be

May 16, 1978

prohibited. Accordingly, we would recommend that the words "assure unrestricted" be deleted and that the words "minimize restriction of" be inserted instead. This would seem to achieve the desired result without unreasonably burdening the timber industry.

3. Subsection (b)(3) has the potential for stopping the entire timber industry in coastal Alaska. It requires that timber harvesting be conducted in a way to "prevent adverse impacts on fish resources and habitats". It may be impossible to do this, depending, of course, on what is meant by "adverse impacts". "Adverse impacts" is not defined in the regulations, and therefore will mean what a Court says it means. What are adverse impacts? No one really seems to know. There is concern for example that long-range, low-level amounts of sedimentation impact fish. We cannot disprove that this is so. Therefore, any group citing this fact could halt any timber operation in coastal Alaska. We would most strongly urge that the word "prevent" be deleted and that the word "minimize" be substituted in lieu thereof. This would make it consistent with impacts on wildlife or resources and their habitats.

Further, we would suggest that the words "minimize adverse impacts" be defined. The definition should be drafted so as not to prohibit logging where adequate streamside mitigation measures are utilized. Adequate streamside mitigation measures include presently accepted practices in Southeastern Alaska, as required in the Southeast Area Guides put out by the Forest Service.

In any event, please be assured that we are extremely concerned about this section and urge you to mitigate its clear possibility for great damage to the industry.

4. So that the definition for "minimize adverse impacts" is consistent throughout we would suggest that the word "effects" in the third line of Subsection (c)(2) be deleted, and the word "impacts" be substituted therefore.

5. Subsection (d) also should be altered. The words "establishing a standard corresponding to a standard

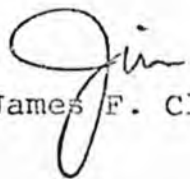
The Honorable Joseph L. Orsini  
Page Four

May 16, 1978

in this section" should be deleted entirely. The Forest Practices Act should be the sole vehicle for determining what are and what are not appropriate forest practices. Operators should not be faced with dual sets of regulations emanating from different agencies of the State government. One of the principal reasons why we have worked so hard at ALP for the Forest Practices Act is to eliminate the nightmare of several State agencies using overlapping procedural requirements to regulate the same things. The words which we suggest for deletion would have just that effect. As the section is presently written a court somewhere would have to determine whether or not a standard in the Forest Practices Act was similar to that required in the Coastal Zone Management Act. This simply should not be allowed to happen.

Thank you again for providing us with a copy of these regulations, and the opportunity to respond. I am taking this opportunity to forward them to representative Lisa Rudd, who is Chairman of the House Community and Regional Affairs Committee for her consideration as well.

Yours very truly,

  
James F. Clark

JFC/pc

cc: Senator Robert Ziegler  
Senator Kay Poland  
Senator Pete Meland  
Senator Bill Sumner  
Representative Lisa Rudd  
Mr. Clarence Kramer  
Mr. David Wolfe  
Mr. Pete Huberth  
Mr. Roger Allington  
Mr. Don Finney  
Mr. Sam Demmert  
Mr. Les Anderson

# STATE OF ALASKA

## COASTAL POLICY COUNCIL

### LOCAL MEMBERS:

Roger Allington,  
Northern Southeast,  
Co-Chairman  
Roger Fagerstrom,  
Bering Straits  
Donald Gilman,  
Lower Cook Inlet  
Eben Hopson,  
Northwest  
Malcolm "Pete" Isleib,  
Prince William Sound  
Stan Paukan,  
Southwest  
Robert Sanderson,  
Southern Southeast  
Lidia Selkregg,  
Upper Cook Inlet  
Betty Wallin,  
Kodiak-Aleutians

### STATE MEMBERS:

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Transportation &  
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Lee McAnerney,  
Commissioner of  
Community &  
Regional Affairs  
Ernst Mueller,  
Commissioner of  
Environmental  
Conservation  
Ronald Skoog,  
Commissioner of  
Fish & Game

The Honorable Hugh Malone  
Alaska State House of Representatives  
Pouch V  
Juneau, Alaska 99811

Dear Mr. Malone:

The Coastal Policy Council met in Juneau May 4 and 5 to discuss a number of issues which we have had to ignore to date while developing and refining the guidelines and standards which were submitted to you in early April.

One of the issues discussed is coastal management in the unorganized borough. Staff prepared a series of thorny questions to stimulate discussion (see attached). Not surprisingly few of the questions were answered and several more were identified. However, the Council did reach consensus on several policy positions, two of which require legislative action for implementation.

The Council adopted the attached resolution supporting that provision of HCSSB 338 which extends the time for consolidation of coastal resource service areas.

The Council also requests funding from the Legislature to assist those areas of the unorganized borough which wish to engage in the organization and planning efforts associated with initial development of a district coastal management plan. The Council received testimony from a number of individuals, including Dan Branch (AVCP), John Shively (NANA), Ralph Amouaka (Aleutian/Pribilof), and George Allen (Rural Cap) indicating that although there are groups in the unorganized borough interested in assisting the organization of districts to do coastal planning, no resources currently exist for those groups to do the necessary travel, communication and education which would be essential. As you are aware, the Alaska Coastal Management Act provides that coastal planning must be done by local resource districts except in extreme situations when the Council may direct such planning. In the unorganized borough resource district planning can be accomplished only through the formation of a resource service area. Many areas want and/or need the benefits of coastal resource planning but need assistance in organizing a service area.



ALASKA  
COASTAL MANAGEMENT PROGRAM

# STATE OF ALASKA

## COASTAL POLICY COUNCIL

May 11, 1978

### LOCAL MEMBERS:

Roger Allington,  
Northern Southeast,  
Co-Chairman  
Roger Fagerstrom,  
Bering Straits  
Donald Gilman,  
Lower Cook Inlet  
Eben Hopson,  
Northwest  
Malcolm "Pete" Isleib,  
Prince William Sound  
Stan Paukan,  
Southwest  
Robert Sanderson,  
Southern Southeast  
Lidia Selkregg,  
Upper Cook Inlet  
Patty Wallin,  
Kodiak-Aleutians

Honorable Joe Orsini  
Chairman, Senate Community and  
Regional Affairs Committee  
Alaska State Legislature  
Pouch V  
State Capitol  
Juneau, Alaska 99811

Dear Senator Orsini:

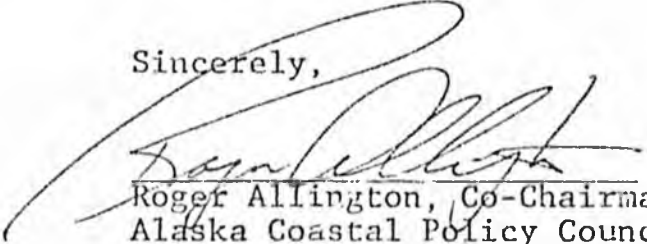
Thank you for the copies of the letter sent to you  
by the U.S. Coast Guard on May 1, 1978.


The Office of Coastal Management has examined that  
letter in detail at our request, and has prepared  
the attached response.

We have reviewed OCM's response and generally concur  
with it. Please advise us if you should receive any  
additional communications of this type, and we will  
be pleased to respond again.

We appreciate the opportunity to comment on this  
matter, and we are at your disposal for any future  
discussions on the ACMP Guidelines and Standards

Sincerely,

  
Roger Allington, Co-Chairman  
Alaska Coastal Policy Council

  
Frances A. Ulmer, Co-Chairman,  
Alaska Coastal Policy Council



ALASKA  
COASTAL MANAGEMENT PROGRAM

May 10, 1978

OFFICE OF COASTAL MANAGEMENT.

Staff Response

To

May 1, 1978 Letter From  
Admiral Hayes to Senator Joe Orsini.

We believe that the concerns expressed by the Coast Guard reflect a basic misunderstanding of the legal status of the guidelines and standards within the Alaska Coastal Management Program.

While the Coast Guard cites several sections of the guidelines and standards, federal Coastal Zone Management Act, and federal approval regulations in their letter, we can find no place in which the Alaska Coastal Management Act was cited. The guidelines and standards, as regulations, were never intended to stand alone from the statute under which they were promulgated. They can only be understood as implementing, interpreting, or making specific, but in no event repeating, the Alaska Act. See Drafting Manual for Administrative Regulations (State of Alaska Legislative Affairs Agency, 1976).

I. PARTICIPATION

The first major concern raised in the letter concerns "Participation". The problem cited here is lack of "a

... mechanism for public participation at the district level in the development of local plans." (p. 1). The Coast Guard requests that 6 AAC 85.100 be "expanded to detail exactly when, where, and how government agencies will be allowed to participate in the development process". (p. 2).

We believe that a thorough reading of the guidelines and standards will provide this guidance.

6 AAC 85.120 requires that each district hold no less than two public meetings during the course of program development. The purpose of these meetings is to "inform the public and receive comments concerning the program". Reports of these meetings must be kept in a public file. 85.120(a).

The same section then requires each district to hold a formal public hearing before giving conceptual approval to a district program. At the hearing, "each interested person" is given the opportunity to comment, orally or in writing. A transcript or recording of this meeting must be sent to the Council. 85.120(b).

In addition, districts are required to "provide publicly advertised opportunities for public involvement in the development of all program elements...". 85.120(c).

The district is required to "provide the public, in a timely manner and in understandable form, information explaining the district coastal management program, the requirements of public participation in program development, how and when the public may participate in program development, what information is available, and where such information be obtained". 85.120(d).

It was, at all times, the intent of the Council to include federal agencies in the definition of the term "public". We believe that the above sections satisfy the concerns raised by the Coast Guard regarding participation.

Additionally, 6 AAC 85.130 specifically requires that "Districts shall provide opportunities for coordination and review required by federal...agencies..." ( This would apply both before and after program approval).

6 AAC 85.140, provides that any party who participated in the district public hearing shall be served with and allowed the opportunity to comment on staff recommendations concerning the approval of district programs by the Council, as well as be served with the Council's decision, and allowed to attend mediator sessions. In the event of an adjudicatory hearing between the Council and a district, any such person may intervene as a party.

The internal guidelines of the Alaska Coastal Policy Council, adopted by the Council in March, 1978, contain other relevant provisions, as follows:

"(1) Opportunities shall be provided for participation of federal agencies in the development, review and approval of all parts of the Alaska Coastal Management Program. Notice of Council meetings, public hearings, and other Council activities shall be provided to allow federal agency review and comment on the guidelines and standards, district programs, and any changes or additions to the Alaska Coastal Management Program. Considerable opportunities for review of Alaska's coastal program will be provided, by the State and by the federal Office of Coastal Zone Management, after the program is submitted to the Secretary of Commerce for approval under the provisions of Section 306 of the federal Coastal Zone Management Act of 1972, as amended.

(2) The Council shall provide coastal districts with a specific listing of state and federal agencies having interests, expertise and responsibilities concerning coastal resources, habitats, and development.

(3) Detailed procedures for federal consultation and consistency shall be contained in the management program document to be submitted to the Secretary of Commerce in mid-1978..."

## II. PRIORITY OF USES

The second major concern cited by the Coast Guard is the failure of the guidelines and standards to "mention...regional benefit, national interest, or defense considerations". (p. 2).

This comment has apparently resulted directly from a failure by the Coastal Guard to consider the provisions of the Alaska Coastal Management Act in conjunction with the guidelines and standards.

6 AAC 85.070 requires each district program to "include a description of the uses and activities, including uses of state concern, that will be considered proper, and the uses and activities, including uses of state concern, that will be considered improper within the coastal area, including land and water use designations."

The definitions of the term "uses of state concern" is contained in AS 46.40.210(6) and includes "(A) uses of national interest, including...navigational facilities...and national defense and related security facilities..." and "(B) uses of more than local concern..."

In reviewing district programs, the Council is required to find that the district program does not "arbitrarily or unreasonably restrict or exclude uses of state concern". AS 46.40.060. The following section of the Act, AS 46.40.070(c), contains detailed criterial for making this finding.

In addition, the Council has specifically provided that the interagency (state) regional planning team "assist the Council and districts in identifying uses of state concern and developing management policies for these uses". 6 AAC 80.030(b)(3).

### III. SPECIFICITY

The third major concern expressed by the Coast Guard is that "the present Standards and Guidelines are lacking in specificity and substance and, as a result, the plans developed and implemented by Alaska Coastal Resource Districts (sic) may vary so widely that the Coast Guard may be compelled to operate under as many as 50 different plans within Alaska rather than under one plan which is implemented by various local government units." (pps. 2 -- 3).

This concern suggests a misunderstanding of the federal (306) approval regulations as well as the Alaska Coastal Management Act.

Proposed federal Coastal Zone Management Approval regulation 923.42 concerns the "technique of control" which a state chooses to exercise its coastal management program. One such technique is "direct state control". Under this

technique, the state controls land and water uses through "direct state land and water use planning and regulation." This would, in fact, result in "one plan" statewide. However, the technique chosen by the State of Alaska, and reflected in the Alaska Coastal Management Act, is "local implementation". Under this technique, the state sets basic standards or criteria, while the local governments prepare local programs. Given the diversity and independence of communities in Alaska, any other plan would be unacceptable.

In our opinion, the Alaska Act and guidelines and standards provide the minimum amount of uniformity required for an implementable coastal management program while allowing the maximum amount of local discretion. The standards to be applied by the Council concerning uses of state concern, referred to above, provide the assurance to the Coast Guard and other federal agencies that they will not, in fact, have their functions impaired by local programs. Coordination can be assured if the Coast Guard will keep abreast of district program development and Council review of those programs.

This office understands that the Coast Guard, or any other federal agency, may have difficulty in monitoring the development of district programs. We have always responded to those concerns by committing the Office of Coastal Management and the Department of Community and Regional Affairs to assist in every way possible to assure adequate federal input to local programs (see Council's Internal Guidelines, above).

We will transmit information on national interests to the districts, provide districts with lists of contact people in federal agencies, inform federal agencies of pending events at the district level, send federal agencies' drafts of district materials when they are available, and, mount special efforts to involve federal agencies in the Council review of district programs. All of these services will be set forth in detail in the ACMP program document, but we do not believe that reporting these services in the Guidelines and Standards is appropriate.

The Coast Guard letter discusses a number of specific examples in which the guidelines and standards are allegedly not sufficiently specific (p. 3). The issue of improper delegation of authority from the Council to the districts is raised. In more than one case, the Coast Guard alleges non-compliance with federal regulations.

With respect to these matters, we would note that the State of Alaska Department of Law has determined, in approving the regulations under AS 44.62.060, that they meet basic "legality" and "constitutionality" requirements, and hence do not constitute an improper delegation. The basic philosophy of decentralization and maximum district control was decided by the legislature when it enacted the Alaska Coastal Management Act. The guidelines reflect this.

#### IV. TOO RAPID DEVELOPMENT

Finally, the Coast Guard notes the rapid pace at which the guidelines and standards were developed, and the lack of time on their part for adequate coordination and review

(p. 1): Parties who have been involved in the development of the guidelines and standards since the inception of the Council in September, 1977 are cognizant of this problem. Both the Alaska Coastal Management Act and the federal program approval requirements have had the effect of making time of the essence. During the six months in which it had to work on the guidelines and standards, the CCM staff distributed, according to the Coast Guard, six drafts for comment; this was done in an effort to maximize participation and coordination, not impair it. At some point, the comments had to end and a draft had to be submitted to the legislature. This was done in early April.

We would also note that the Hearing Draft, which preceded the final draft sent to the legislature, was made available to the Coast Guard in late January. The formal comment period ended in early March (nearly 60 days after publication). Another three weeks elapsed from the time of closing the formal comment period to the actual Council meeting at which the Hearing Draft was revised into the final Draft. The Coast Guard attended that meeting. The Council dealt with each section of the Guidelines and Standards individually, and provided an opportunity for public comment on each section as it came up for Council consideration. The Coast Guard made no effort to comment in this framework, although this was the appropriate time and place to bring up specific points to the Council.

We would note that the first section of the guidelines

and standards, 6 AAC 80.010, requires the Council to review the regulations annually. This reflects the Council's desire to continue refining and improving the guidelines and standards, in cooperation with the Coast Guard and all other interested parties, and its awareness that the version adopted in April is not cast in stone.

The Coast Guard did provide written comments on the January hearing draft of the guidelines and standards. We have not made individual replies to these comments or to any others since the final guidelines and standards themselves constitute our best response. The Coast Guard's comments were used along with dozens of others to prepare the final guidelines and standards that were sent to the legislature. We will respond to the individual comments as time permits, but given the shortness of time remaining, we feel that our primary duty is to prepare the ACMP program document and other tasks related to transmission of the final guidelines and standards to the legislature.

#### V. SUMMARY

Time continues to be of the essence. The Alaska Coastal Management Program is in its fourth year of program development. It must receive program approval from NOAA this year or it will be ineligible for further development funding. Any changes in the guidelines and standards at this point would require APA review and legislative approval, an impossibility before the legislature adjourns this summer. The effect of pressing for such changes at this time would not result in a correction of defects before submittal to NOAA, but rather result in a scuttling of the Alaska Coastal Management Program.

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May 16, 1978

The Honorable Joseph L. Orsini  
Chairman, Senate Community & Regional  
Affairs Committee  
Pouch V  
Juneau, Alaska 99811

Dear Senator Orsini:

Thank you for your letter to me of May 3, 1978 regarding the Coastal Management Regulations. I have specifically reviewed proposed section 6 AAC 80.100 dealing with timber harvest and processing. Due to the press of other business, most notably D-2 Legislation in Congress, I have not had an opportunity to focus on the Coastal Zone Regulations until now.

At ALP we have assumed that passage of SB-59, the Forest Practice Act, would supercede the Coastal Zone regulations. Upon reviewing 6 AAC 80.100 (d) we are not so sure. That section provides that Forest Practices legislation would be substituted for the Coastal Zone Management Act when the Forest Practices legislation is passed. An additional proviso of that subsection, however, requires that the Forest Practices Act establish a standard "corresponding to a standard in this section". A fast check of the Forest Practices Act shows that it will not establish such corresponding standards. Indeed, the Coastal Zone Regulations will establish much higher standards and, therefore, there will be no substitution. We find this to be a most alarming situation.

May 16, 1978

Hence, this will be a somewhat detailed letter dealing with a number of problems in the timber area.

1. Section 6 AAC 80.100 requires the siting of timber harvest activities in areas "where the management of reforestation, using the best available technology will result in producing a sustained yield of merchantable timber". There does not appear to be a definition of "sustained yield" in the Act. The Federal government has used the words "sustained yield", (as appear in the Multiple Use Sustained Yield Act of 1960) to mean non-declining yield. More recently, in 1976 in the National Forest Management Act, the long standing Forest Service interpretation of Multiple Use Sustained Yield Act was incorporated into law. Were there to be any lawsuit on this, it would seem to me that a Court would use the Federal definition to interpret the words "sustained yield".

If "sustained yield" means non-declining yield it will make it impossible for many Native corporations to operate. Testimony before the Natural Resources Committee, on the Forest Practices Act indicated that. Accordingly, the requirement in the proposed draft of S.B. 59 that timber harvesting be limited to areas that would produce a "sustained yield" of merchantable timber was deleted from that Act. (Compare draft of S.B. 59 Section 41.17.040(b)(1) with CSSB 59 Section 41.17.060(b). Accordingly, even though ALP does not operate on private land, we would urge that subsection (a) be eliminated entirely.

The reason for suggesting elimination is that reforestation is not the business of the Coastal Zone Management Act. What that Act is attempting to insure is that activities in the coastal region are done in a sound environmental way. That is, its purpose is protection of the environment, not reforestation. Accordingly, it is inappropriate for Subsection (a) to be included in these regulations.

2. Subsection (b)(2) requires an assurance of unrestricted fish movement in coastal waters. It would therefore appear that any causeway built in connection with a log dump, and perhaps even wet log storage areas would be

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prohibited. Accordingly, we would recommend that the words "assure unrestricted" be deleted and that the words "minimize restriction of" be inserted instead. This would seem to achieve the desired result without unreasonably burdening the timber industry.

3. Subsection (b)(3) has the potential for stopping the entire timber industry in coastal Alaska. It requires that timber harvesting be conducted in a way to "prevent adverse impacts on fish resources and habitats". It may be impossible to do this, depending, of course, on what is meant by "adverse impacts". "Adverse impacts" is not defined in the regulations, and therefore will mean what a Court says it means. What are adverse impacts? No one really seems to know. There is concern for example that long-range, low-level amounts of sedimentation impact fish. We cannot disprove that this is so. Therefore, any group citing this fact could halt any timber operation in coastal Alaska. We would most strongly urge that the word "prevent" be deleted and that the word "minimize" be substituted in lieu thereof. This would make it consistent with impacts on wildlife or resources and their habitats.

Further, we would suggest that the words "minimize adverse impacts" be defined. The definition should be drafted so as not to prohibit logging where adequate streamside mitigation measures are utilized. Adequate streamside mitigation measures include presently accepted practices in Southeastern Alaska, as required in the Southeast Area Guides put out by the Forest Service.

In any event, please be assured that we are extremely concerned about this section and urge you to mitigate its clear possibility for great damage to the industry.

4. So that the definition for "minimize adverse impacts" is consistent throughout we would suggest that the word "effects" in the third line of Subsection (c)(2) be deleted, and the word "impacts" be substituted therefore.

5. Subsection (d) also should be altered. The words "establishing a standard corresponding to a standard

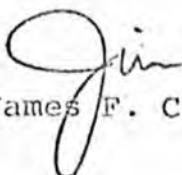
The Honorable Joseph L. Orsini  
Page Four

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in this section" should be deleted entirely. The Forest Practices Act should be the sole vehicle for determining what are and what are not appropriate forest practices. Operators should not be faced with dual sets of regulations emanating from different agencies of the State government. One of the principal reasons why we have worked so hard at ALP for the Forest Practices Act is to eliminate the nightmare of several State agencies using overlapping procedural requirements to regulate the same things. The words which we suggest for deletion would have just that effect. As the section is presently written a court somewhere would have to determine whether or not a standard in the Forest Practices Act was similar to that required in the Coastal Zone Management Act. This simply should not be allowed to happen.

Thank you again for providing us with a copy of these regulations, and the opportunity to respond. I am taking this opportunity to forward them to representative Lisa Rudd, who is Chairman of the House Community and Regional Affairs Committee for her consideration as well.

Yours very truly,

  
James F. Clark

JFC/pc

cc: Senator Robert Ziegler  
Senator Kay Poland  
Senator Pete Meland  
Senator Bill Sumner  
Representative Lisa Rudd  
Mr. Clarence Kramer  
Mr. David Wolfe  
Mr. Pete Huberth  
Mr. Roger Allington  
Mr. Don Finney  
Mr. Sam Demmert  
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May 23, 1978

Honorable Joseph L. Orsini, Chairman  
Senate Community & Regional Affairs  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

Dear Senator Orsini:

We have just recently been made aware of possible problems in the Coastal Zone Management Regulations concerning Section 6AAC 80.100 dealing with timber harvest and processing.

We had assumed that passage of SB-59, the Forest Practices Act, would take precedent over the Coastal Zone regulations. However, we are now concerned over the opposition given to SB-59 and do not see in this Bill the wording that would allow it to supersede the Coastal Zone regulations.

We are aware of the late date and the fact that the Senate is only in the position of pass or not pass on the regulations. What we would propose, would be an acceptance of the regulations in principle but a request to the Coastal Zone Council that they amend the regulations such that they do not exceed the requirements of the Forest Practices Act.

As we have previously expressed to you, our hope in getting a Forest Practices Act was to pull together the various State requirements and reduce the duplication of regulations and repetitive permits faced by timber operators.



**Louisiana-Pacific Corporation**

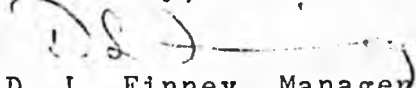
Honorable Joseph L. Orsini

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May 23, 1978

Any attention you can give to this problem will be appreciated.

Sincerely,

  
D. L. Finney, Manager  
Forestry & Government Affairs

hr

cc: Senator R. Ziegler  
Senator K. Poland  
Senator H. Meland  
Representative L. Rudd