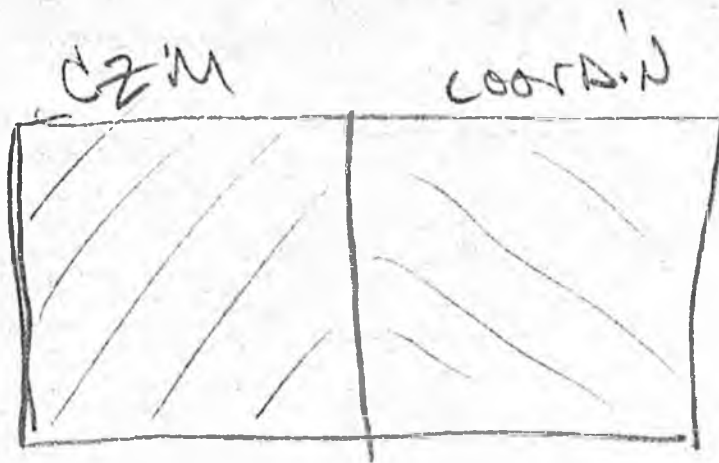


HB

28

File 2

~~Jeanette Thaler~~



Hidden Costs

Cost to Applicant ————— Legal time



Agency \$ for
product — science?

enforcement? —

#(→) 2.7 mill

(call John Pugh)

Coordinating Agency -

1977 - Coastal Policy Council -

Plans - Council -

1984 Amendment - scaled back the power
of the CPC!

BI petition -

Coastal Reserve

DGC -

→

examples of title 38 problems

subset - ?

1. Permit - coordinate

— DOLA - Litigation -

Coastal Management Policy Council -

— Autone Agency -

? APPLY to state land + water?
Constitution.

(98%) regional at levels!

How do you delegate final approval
to the regional levels.

FED. # flow to local Govts

NPDES
NonPoint Pollution

— Agency criteria —

DIANE

AcMP or DGS

DNR-FED \$

concentrate on the additional requirements w/ the Coastal Zone

- Chart with all permits - etc. - required
- white paper →

Dollars.

- Coastal Project Questionnaire -

DAVID CROSBY - 15 yrs working -
"ROGUE STAFFER"

[Does - DGS - HAVE STATUTORY POWER TO OVERCOME A
"ROGUE STAFFER"

delete AcMP - DGC - increase power of Agencies?
- increase costs problem with Federal Agencies??

should we add power - Authority to DGC?? - change its' boss -

Doug Mertz - AcMP assures local voice



Effects of CS/HB 28: An Overview
provided by the
Division of Governmental Coordination

COST TO REDUCE COASTAL ZONE OUTWEIGHS BENEFIT.

Section 2 of House Bill 28 eliminates the "zone of indirect influence" from the coastal zone.

- ❖ **The State is forced to invest in obsolete maps from 1977:** The original maps showing the zone of indirect influence were created with technology and information that is now 20 years old. They were intended to be modified by local plans.
- ❖ **Eleven districts must rewrite their plans, costing local governments time and money:** Eleven coastal districts will have to rewrite their coastal management plans, revising maps to show the reduced coastal zone boundary at a level of detail adequate for use by project applicants.
- ❖ **Plan revisions are rushed to meet a six-month deadline:** Six months is not enough time to achieve plan approval at the local or federal level.
- ❖ **The cost to shrink the coastal zone boundary exceeds any benefits:** The effect of the boundary change on State and local coastal management programs does not justify its cost or the redirection of personnel resources.
- ❖ **The number of consistency reviews may not decrease:** Districts will use the same arguments to originally justify their coastal zone boundary to request case-by-case review of projects proposed for now excluded areas.

- ❖ **To shrink the boundary, Alaska must now argue against the importance of salmon habitat.** Many districts that included the zone of indirect influence in their coastal zones did so to protect important salmon habitat. We must reverse our argument to win approval of this change. The Upper Kenai River is one of many important salmon rivers that will be excluded from the coastal zone.

COASTAL COMMUNITIES LOSE AN EFFECTIVE TOOL

Section 6 of House Bill 28 eliminates petitions to the Coastal Policy Council showing that a district plan is not being implemented, enforced, or complied with.

- ❖ **Petitions are extremely rare. Eliminating a rare process won't save money but will alienate coastal communities and the public:** Less than 0.5% of projects have been petitioned in the past five years. Despite the fact that they rarely use it, coastal communities and the public support the continued existence of this avenue of appeal.
- ❖ **Petitions assure communities that local programs are used.** Petitions provide communities with the opportunity to gain Coastal Policy Council support when their concerns are not being "fairly considered." The public gain access to the CPC when local programs are not being implemented, enforced, or complied with.
- ❖ **CPC oversight of district programs is eliminated:** The Coastal Policy Council is charged with overseeing the development and implementation of the ACMP. Petitions focus the CPC's awareness of defensible, useful coastal plans.
- ❖ **For controversial projects, the State's position in court is weakened by the loss of this chance to build upon the administrative record:** The petition process allows the State to review and, where necessary, strengthen its legal position before a controversial project ends up in court.
- ❖ **Federal approval of the State's program is jeopardized:** The federal OCRM, which approves Alaska's coastal program, requires the State to provide a process for appeals.

ALASKANS LOSE POWER.

Sections 1 and 5 of House Bill 28 prevent coastal districts or State agencies from writing stipulations based on Title 46.

- ❖ **The State's right to influence federal actions such as offshore oil and gas lease sales is threatened:** The federal Coastal Zone Management Act gives States the right to influence federal actions, such as offshore oil and gas lease sales and other federal

land management. The bill creates uncertainty as to whether, and how, Alaska could influence federal actions.

- ❖ **Federal Funding is jeopardized:** OCRM is unlikely to invest \$2.6 million annually in a program that makes no unique contribution to coastal management. Loss of federal dollars means a loss of income for coastal communities. At the very least, Alaska would need to write a new Environmental Impact Statement (a multi-year project) to justify these fundamental program changes to the federal government.
- ❖ **Loss of federal funds means the State loses its current project review process:** Federal funds contribute to the existing project review process provided by the Division of Governmental Coordination. General funds would be needed to support a replacement project management system.
- ❖ **Legal Costs Increased:** A new wave of litigation over whether a particular "coastal" stipulation is within an agency's or district's authority is likely.
- ❖ **Communities without Title 29 authority lose the ability to shape development projects that affect them:** Communities in the unorganized borough (known as Coastal Resource Service Areas, or CRSAs) lose the ability to shape development projects that affect them, since they do not have Title 29 authority.

The Alaska Coastal Management Program benefits a variety of groups

Alaskan Residents

- The opportunity to shape the present and future of our coastal communities.

Coastal Communities

- A voice in federal and state coast-related decision-making.
- Funding for coastal management and projects.
- Public notice of and formal standing in the state's review of proposed development projects.
- The community's need for a project becomes a factor in the state's review.

Coastal Developers

- Only one application package needs to be submitted to the Division of Governmental Coordination (DGC) for projects requiring more than one permit.
- DGC offers pre-application assistance which can in some cases speed up permit approvals.
- DGC coordinates processing of multi-permit applications in a predictable and timely way.
- DGC's review process clearly documents resolution of conflicts which can reduce litigation over the long term.
- Pre-approval for routine activities.

State Agencies

- One point of entry for multi-permit coastal development applications.
- Coordinated review process and categorical approval for routine projects.
- Better prepared proposals due to pre-application assistance provided by the Division of Governmental Coordination (DGC) to coastal developers.
- Strengthened role in federal decision-making in the coastal zone.
- Joint public notices coordinated by DGC.

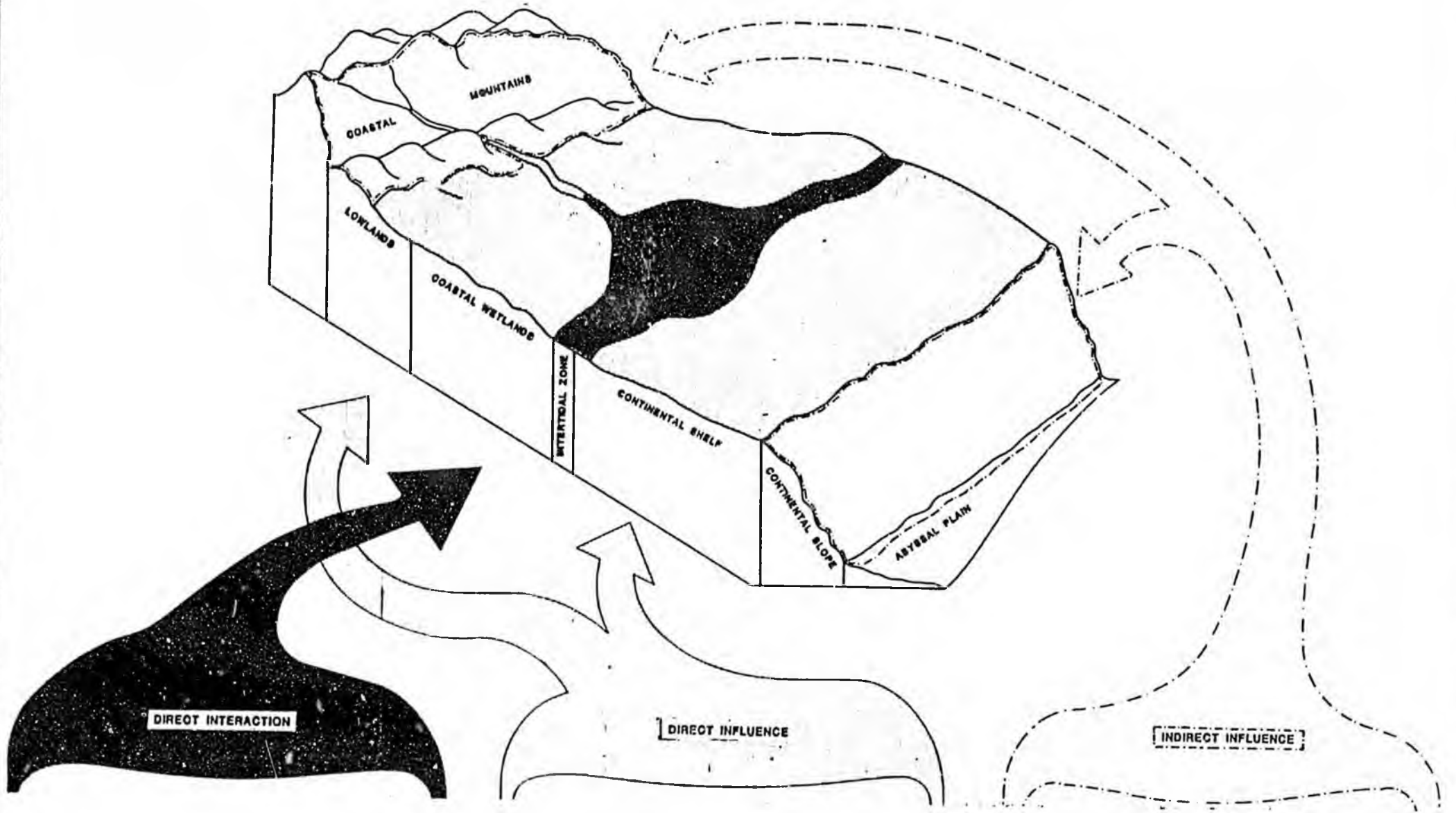
State of Alaska

- The right to require that federal actions proposed in the coastal zone must be consistent with approved state and local coastal management plans.
- Receipt of federal funding that supports coastal zone management and coordinated, streamlined review of coastal projects.

Federal Government

- A state coastal management program consistent with the federal Coastal Zone Management Act.

HB 225

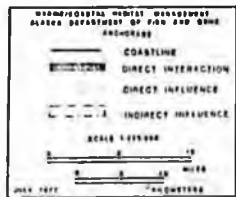


DEFINING ALASKA'S COASTAL ZONE

COASTAL BIOPHYSICAL BOUNDARIES

WESTERN GULF OF ALASKA

WESTERN KODIAK ISLANDS



Coastal Zone Boundaries
The biophysical boundaries of the coastal straits along the western Kodiak Islands coast are defined as follows:

Zone of Direct Interaction

A. Landward Limit
Landward, the extent of direct interaction between land and sea has been defined as the 100 m (328 ft) contour because it includes the majority of shoreline areas affected by normal tides and wave action as well as a sufficient margin for catastrophic impacts (e.g., seismic sea waves). This zone also includes the extent of tidal effect within river systems (e.g., the Karluk Strait), salt-water intrusion 1 m upstream during high tide.

B. Seaward Limit
Seaward, the extent of direct interaction between land and sea has been defined to include the subtidal large brown alga zone, which extends out to approximately the 100 m (328 ft) contour along steeply indented bays, headlands and coves, and the seaward limit of coastal marine freshwater strata within the numerous flood-tidal systems connecting the coast. This zone includes four-foot flooding and flooding areas for marine birds, mammals, and fish populations.

Zone of Direct Influence

A. Landward Limit
The landward limit of this zone has been defined along the 100 m (328 ft) contour. This line, hereafter referred to as the lower watershed of a stream, and represents a simplification in that it does not account for local variations in stream flow and stream channel morphology. In spring, large flows from snowmelt are largely concentrated above 100 m (328 ft) and move to the coastline where they grade as a jutting coastline and flow back up the coast. This gradient and its position is usually 1-2 km from the coastline and 1-2 km up stream along the coastline.

B. Seaward Limit
The seaward boundary of this zone for the narrow, submerged strait is a width of 100 m (328 ft). It is used to identify narrow straits for the marine current, and a 1 km zone, lower sea return and so forth which occur at lower sea in the near shore environment.

Zone of Indirect Influence

A. Landward Limit
The landward extent of this zone has been defined to include the boundary of coastal drainage, the coastal margin of permanent low tides, and mountain ridges. These physical features statistically influence coastal weather and hydrology.

B. Seaward Limit
The seaward limit of this zone encompasses all of Kodiak Strait. Physical land sea functions occurring within the strait are dominated by the frequency influence of such inlet outflow and the addition of freshwater from adjacent Kodiak drainage basins to the marine system.

During high tide, salt water enters and flows to various basins in the Karluk River drainage system. The Karluk River is located in the western Gulf of Alaska. The Karluk River drainage system is located in the western Gulf of Alaska. The Karluk River drainage system is located in the western Gulf of Alaska.

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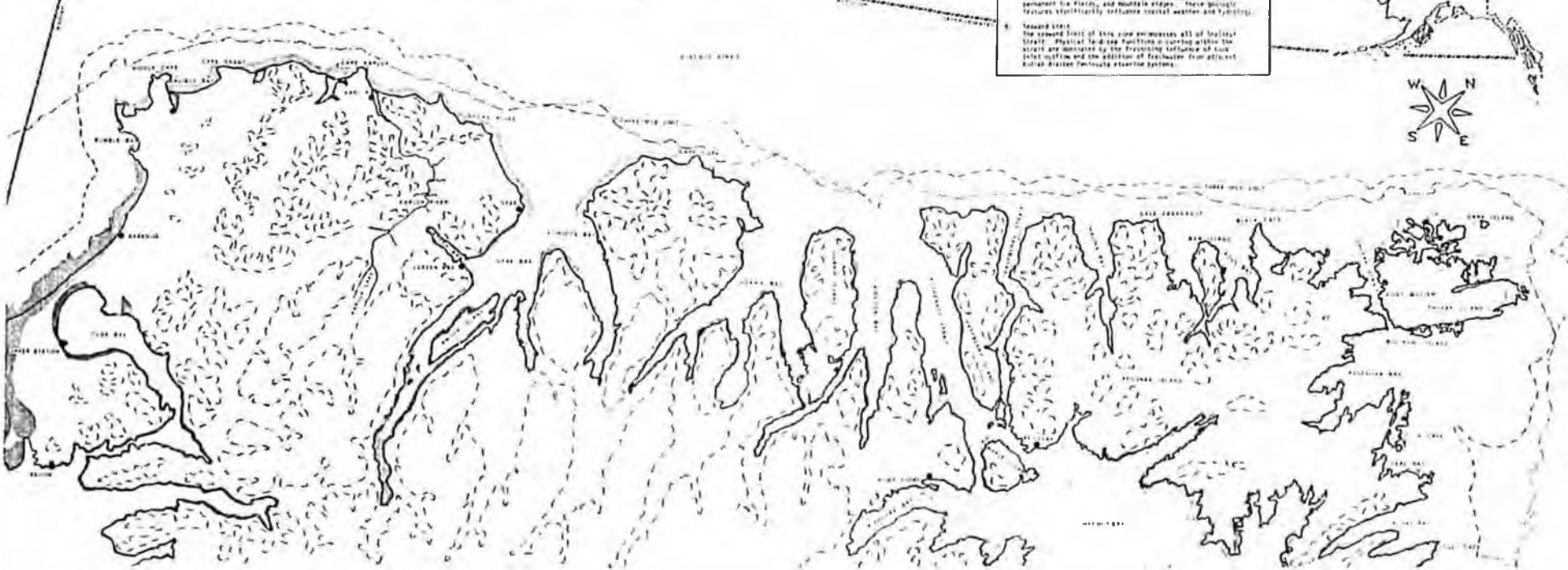
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KARLUK RIVER DRAINAGE
COASTAL LACUSTRINE SYSTEM

Coastal Description
The western coastline of the Kodiak Island group, like the western coast, exhibits a steep rugged profile. Extensive coastal dune and beach deposits are found in broad river valleys along the southwestern shoreline. These systems, extending large areas, are relatively long and unbroken. The northern coast is characterized by broad river valleys and exhibits many deep fjords and fiords. From northeast and south (100 to 200 m) and steep. The study area experiences dense fog cover, high precipitation, and cool temperatures which are associated with a coastal maritime climate. However, the abundance of fresh water patterns by the mountains creates an arid and semi-arid climate and large temperature extremes that is found on the western coast. The macroclimate regime at Kodiak Strait is highly complex reflecting a mix of highly variable and often extreme wind and wave conditions, relatively high tides, oceanic and tidal currents. The climate is the primary reason for the high level of the water in the strait. The freshwater marine waters dominate the strait particularly the with a corresponding condition of upper marine waters along the coast. The water level of the coastline is high along the coast, and the water level is generally higher in the strait, and the water level is generally higher in the strait.



With 30 of 32 coastal district management plans having received state and federal approval (and the remaining two districts expected to adopt the initial boundary), Alaska's final coastal zone boundary is almost complete.

This paper describes the biophysical, initial, and final inland boundaries, and how they were developed. Extensions of the coastal zone boundary for long distances inland by some districts were controversial. The state's approach to resolving boundary disputes is also described.

Biophysical Boundaries of Alaska's Coastal Zone

Alaska was charged with delineating the coastal zone for over 33,000 miles or over one third of the nation's coastline. The CZMA and implementing regulations allow states to base their coastal boundaries on biophysical considerations (OCZM 1975). The ACMP Final Environmental Impact Statement (OCZM and Office of Coastal Management 1979) summarizes how the federal boundary criteria were applied in Alaska:

"The federal boundary requirements call for definable geographic boundaries, but the main criterion for determining the boundary is non-geographic, that is, one must forecast likely uses, survey the nature of the coastal zone, and determine a boundary on the basis of a mix of the findings from these efforts. To have done this in detail for the entire 33,000 miles of Alaskan coastal waterfront would have been a massive and very expensive, undertaking.

The method which was used for determining the ACMP boundaries was to survey the general relationships between the marine environment and the terrestrial environment. These include geophysical relationships such as water flow, salt water intrusion, tidal actions, erosion, wave fetch, salt spray, flooding, storm and tsunami surges and run-up, ice movements, glacial activity and the like. The relationships also include biological links between the marine and terrestrial environments. These include habits and habitats of anadromous fish,⁴ polar bears, sea birds, marine mammals such as walrus and seals, and other animals and plants that have a unique relationship to the land/water area.

With all these relationships established, the method simply declares that an impact on these relationships could result in an 'impact on the coastal waters,' but [the] ACMP went further, and declared that an impact on

⁴ Anadromous fish, by definition, spend part of their life cycle in fresh and estuarine or marine waters. Examples of anadromous fish in Alaska include five species of Pacific salmon, steelhead trout, char, smelt, and some whitefish.

animals using the coastal waters, including anadromous fish, is part of the definition of impact on coastal waters."

In 1975, the ADF&G initiated a study to identify the biophysical boundaries of Alaska's coastal zone. Over a two and a half year period the department conducted an extensive information search of the biological and physical relationships of the marine and terrestrial environments (ADF&G 1979). Based on this evaluation, three zones of interaction were defined and mapped (ADF&G 1978). Those zones are generally described below.

Zone of Direct Interaction - The portion of the coastal area where physical and biological processes are a function of direct contact between land and sea. This zone extends landward to the limit of: waves, tides, storm surges, tsunami energy dissipation, coastal erosion, active calving of glaciers, critical shoreline habitats (seabird rookeries, marine mammal hauling out and pupping areas), and man-made structures along the shore that are directly impacted by the dynamics of oceanic processes.

Zone of Direct Influence - The portion of the coastal zone landward of the zone of direct interaction which is closely affected and influenced by the proximity between land and sea. The zone includes, for example: areas where coastal plant communities are directly affected by the saltness, high precipitation, or moderate temperatures of the ocean (e.g., wet tundra, marshes, Sitka spruce-hemlock forest), areas used by shorebirds nesting and feeding in coastal wetlands, reaches of streams and rivers used by beluga whales or harbor seals for feeding, and rivers and streams used for migration and spawning by anadromous fish.

Zone of Indirect Influence - This zone extends landward to the limit of influence of land/sea biological and physical processes. In some situations this zone includes entire coastal watersheds which support stream habitats for spawning, overwintering, and rearing anadromous fish, and watersheds which control the physical and chemical nature of estuaries.

These zones were presented to the ACPC for their consideration during establishment of Alaska's initial coastal zone boundary for the state.

Initial Coastal Zone Boundary and District Boundary Review Guidelines

Duties of the ACPC under Section 46.40.040 include the identification of an initial or interim coastal zone boundary for the state. Section 304(1) of the federal act requires, in part, that the coastal zone "extend inland from the shorelines only to the extent necessary to control shorelands, the use of which have a direct and significant impact on the coastal waters." Based on this requirement, the council adopted the biophysical zones of direct interaction and


MEMORANDUM

STATE OF ALASKA
Office of the Governor
Division of Governmental Coordination

TO: Representative Bill Hudson
Co-Chair, House Resources Committee

DATE: May 9, 1997

THRU: Pat Pourchot
Legislative Director
Office of the Governor

FROM: Diane Mayer 
Director
Governmental Coordination

TELEPHONE: 907-465-8800

FAX: 907-465-3075

E-MAIL: diane_mayer@gov.state.ak.us

SUBJECT: Support of the Alaska Coastal Management Program

Cities and boroughs throughout Alaska have submitted formal letters and resolutions in response to HB28 which called for repeal of the Alaska Coastal Management Program. Their collective response is a powerful statement of support for this important program.

I am forwarding these community statements to be sure that you have the complete set of responses.

Attachments

**NORTH SLOPE BOROUGH PLANNING COMMISSION
RESOLUTION 97-02
A RESOLUTION OF THE NORTH SLOPE PLANNING COMMISSION
OPPOSING ALASKA STATE HOUSE BILL 28, AN ACT TO REPEAL THE
ALASKA COASTAL MANAGEMENT PROGRAM**

WHEREAS, the Alaska Coastal Management Program (ACMP) provides the North Slope Borough with an opportunity to have an equal footing with State and Federal agencies in development issues on the North Slope of Alaska; and

WHEREAS, the ACMP, through the North Slope Borough's Coastal Management Program, has been a practical tool to protect the subsistence resources available to North Slope Borough residents; and

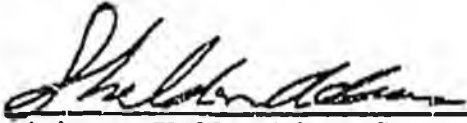
WHEREAS, the ACMP is the only tool available to the North Slope Borough to effectively petition the Federal government for deferral and deletion of areas proposed for offshore oil and gas leasing that would interfere with Bowhead Whale migration East of Barrow and Kaktovik; and


WHEREAS, the loss of the ACMP by the adoption of Alaska State House Bill 28 would significantly impact the North Slope Borough's ability to protect subsistence resources within its coastal areas.

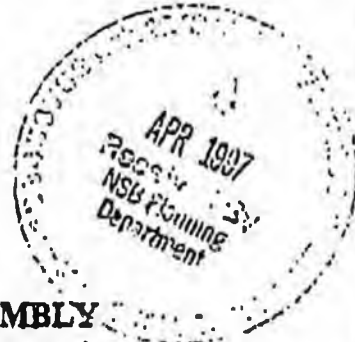
NOW THEREFORE BE IT RESOLVED THAT: The North Slope Borough Planning Commission, by this resolution, hereby opposes the passage of Alaska State House Bill 28.

Pass and approved by a duly constituted quorum of the North Slope Borough Planning Commission this 27th day of March, 1997.

INTRODUCED: March 27, 1997
ADOPTED: March 27, 1997


Chairman, Sheldon Adams, Sr.
3/27/97
Date

ATTEST:

Commission Clerk, George Tagarook
3/27/97
Date



**NORTH SLOPE BOROUGH
RESOLUTION NO. 21-97**

**A RESOLUTION OF THE NORTH SLOPE BOROUGH ASSEMBLY
OPPOSING ALASKA STATE HOUSE BILL 28, AN ACT TO
REPEAL THE ALASKA COASTAL MANAGEMENT PROGRAM**

WHEREAS, the Alaska Coastal Management Program (ACMP) provides the North Slope Borough with an opportunity to have an equal footing with State and Federal agencies in development issues on the North Slope of Alaska; and

WHEREAS, the ACMP, through the North Slope Borough's Coastal Management Program, has been a practical tool to protect the subsistence resources available to North Slope Borough residents; and

WHEREAS, the ACMP is the only tool available to the North Slope Borough to effectively petition the Federal government for deferral and deletion of areas proposed for offshore oil and gas leasing that would interfere with Bowhead Whale migration East of Barrow and Kaktovik; and

WHEREAS, the loss of the ACMP by the adoption of the Alaska State House Bill 28 would significantly impact the North Slope Borough's ability to protect subsistence resources within its coastal areas.

NOW THEREFORE BE IT RESOLVED THAT: The North Slope Borough Assembly, by this resolution, hereby opposes the passage of Alaska State House Bill 28.

Pass and approved by a duly constituted quorum of the North Slope Borough Assembly this 1st day of April, 1997.

INTRODUCED: April 1, 1997

ADOPTED: April 1, 1997

Molly Pederson
Molly Pederson, President

ATTEST:
Alice K. Ekowana
Alice K. Ekowana, Borough Clerk

4-7-97
Date

Date
Benjamin P. Nageak
Benjamin P. Nageak, Mayor
4/4/97
Date

Submitted by: Assemblymembers WCHLFORTH, Abney,
Begich, Carson, Clementson, Meyer, Murdy, Von
Gemmingen
Prepared by: Assembly Office
For reading: April 8, 1997

ANCHORAGE, ALASKA
AR NO. 97- 75

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY OPPOSING HOUSE
BILL 28 WHICH WOULD REPEAL THE ALASKA COASTAL MANAGEMENT
PROGRAM

WHEREAS, the Anchorage Assembly has reviewed the contents of House Bill 28 sponsored by State Representative Therriault, which would repeal the Alaska Coastal Management program (ACMP); and

WHEREAS, the ACMP has been in existence since 1979 and has been widely viewed as a valuable service and effective voice for coastal communities; and

WHEREAS, the ACMP provides an opportunity and voice for coastal communities to participate in decisions affecting their areas; helps to facilitate and streamline the review and approval of proposed development projects in coastal areas; requires cooperation among those involved in the development of coastal resources; brings regulators and applicants together to resolve project issues; and encourages early consultation among communities, industry, Native and private interests, agencies and the public; and

WHEREAS, the ACMP operates according to strict agency action regulations assuring timely responses to developers while at the same time providing resolution of issues among State agencies and local governments in a rapid manner.

NOW, THEREFORE, the Anchorage Municipal Assembly resolves:

Section 1: That the Assembly opposes House Bill 28.

Section 2: That, at a minimum, the bill should be referred additionally to the House Community and Regional Affairs Committee for consideration.

PASSED AND APPROVED by the Anchorage Municipal Assembly this ____ day
of _____, 1997.

ATTEST:

Municipal Clerk

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To	S. Brook	From	Made T
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Phone #	Asbly. passed	Phone #	
Fax #		Fax #	

RESOLUTION 97-22

A RESOLUTION OF THE CITY COUNCIL OF HOMER, ALASKA OPPOSING HOUSE BILL 28, WHICH WOULD REPEAL THE ALASKA COASTAL MANAGEMENT PROGRAM AND DISESTABLISH THE ALASKA COASTAL POLICY COUNCIL.

WHEREAS, the Council has reviewed the contents of House Bill 28 sponsored by Representative Therriault, which will would repeal the Alaska Coastal Manager Program (ACMP); and

WHEREAS, the ACMP provides an opportunity and voice for coastal communities to participate in decisions affecting their areas; and

WHEREAS, the ACMP provides local governments and citizens with a more equitable share of government authority when dealing with state and federal agencies; and

WHEREAS, the ACMP helps facilitate and streamline the review and approval of proposed development projects in coastal areas; and

WHEREAS, the ACMP has been in existence since 1979 and has been widely viewed as a valuable service and effective voice for coastal communities; and

WHEREAS, the Kenai Peninsula Borough receives annual funding to support local coastal planning efforts through federal pass-through funds and state grants and during the FY 93-97, the Kenai Peninsula Borough Coastal District has received approximately \$521,500 for plan implementation and special projects; and

WHEREAS, these projects include the Kenai River 309 Study and the A.M.S.A. Plan for Pt. Graham/Nanwalek and 323 projects coordinated by State of Alaska, Division of Governmental coordination within the Kenai Peninsula Borough Coastal District, most of which assist the private sector in resolving project conflict (see attachment); and

WHEREAS, as the area continues to grow and the economy continues to diversify, coastal zone management will become more important in directing that growth and diversification.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Homer, Alaska opposes House Bill 28, which would repeal the Alaska Coastal Management Program and disestablish the Alaska Coastal Policy Council; and

OFFICE OF GOVERNMENTAL
DIVISION OF
GOVERNMENTAL COORD.

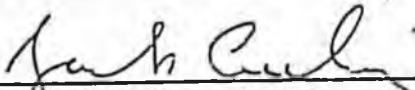
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Page 2
Resolution 97-15
City of Homer
ACMP

BE IT FURTHER RESOLVED that copies of this Resolution be sent to the Governor Knowles, Speaker of the House Phillips, Senator Torgerson, Representative Therriault, and the Coastal Policy Council.

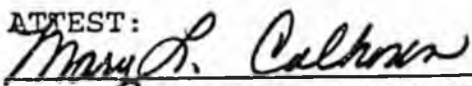
PASSED AND ADOPTED by the City Council of Homer, Alaska this 10th day of March, 1997.

CITY OF HOMER



JACK CUSHING, MAYOR

ATTEST:



MARY J. CALHOUN, CITY CLERK

Fiscal impact relates to pass through funds.

Sponsor: Administrator

CITY AND BOROUGH OF SITKA

RESOLUTION NO. 97-870

A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF SITKA, ALASKA SUPPORTING THE ALASKA COASTAL MANAGEMENT PROGRAM AND OPPOSING HB 28 TO REPEAL THE PROGRAM

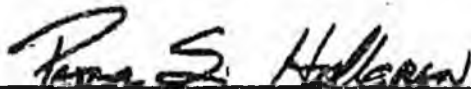
- WHEREAS,** the Sitka District Coastal Management Program has been an extremely effective opportunity for both citizens and the Municipality of the City and Borough of Sitka to have a strong local voice in decision-making affecting our coastal zone since its adoption in 1981; and
- WHEREAS,** developing the Sitka Coastal Program was a major citizen-based effort that encompassed long-range planning for the entire community and a site-specific determination of the major recreation and subsistence use areas in the entire Sitka Coastal District; and
- WHEREAS,** having gained state and federal approval of the Plan means state and federal agencies must recognize and be consistent with the local coastal Management policies, which has been of immense benefit to Sitka; and
- WHEREAS,** the Sitka Coastal Program has provided often the only opportunity for direct citizen involvement in setting policies which will permit appropriate development while at the same time protecting the resources our citizens most value; and
- WHEREAS,** the primarily federal dollars which fund the Alaska Coastal Management Program have provided hundreds of thousands of dollars over time to Sitka to fund staff and projects to permit Sitka to actively participate in the Coastal Management Program, to provide daily assistance to the public and agencies, and to comment on and facilitate permit reviews; and
- WHEREAS,** Sitka does not have automatic zoning and regulatory presence throughout its entire 4,710 square miles, and the Coastal Program provides the only involvement available to the Municipality for much development outside the zoned Sitka road system; and
- WHEREAS,** the Alaska Division of Governmental Coordination has been of great

assistance to the City and Borough of Sitka recently to resolve agency conflicts with the permitting of two of its own large development projects, the Sitka Lightering Facility and the Sitka Water Export Project, and generally has provided a valuable project planning and coordination tool through the ACMP process,

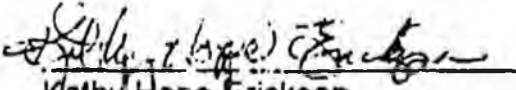
NOW, THEREFORE, BE IT RESOLVED by the Assembly of the City and Borough of Sitka, Alaska opposes HB 28 to repeal the Alaska Coastal Management Program.

BE IT FURTHER RESOLVED that the Assembly of the City and Borough of Sitka, Alaska supports the Alaska Coastal Management Program and wishes to continue to be an active participant in the program.

PASSED AND APPROVED by the Assembly of the City and Borough of Sitka, Alaska on this 11th day of March, 1997.


Peter S. Hallgren, Mayor

ATTEST:


Kathy Hope Erickson
Municipal Clerk

**NORTHWEST ARCTIC BOROUGH
RESOLUTION 97-07**

A RESOLUTION OF THE NORTHWEST ARCTIC BOROUGH ASSEMBLY OPPOSING HOUSE BILL 28, WHICH WOULD REPEAL THE ALASKA COASTAL MANAGEMENT PROGRAM AND DISESTABLISH THE ALASKA COASTAL POLICY COUNCIL

WHEREAS: the Assembly has reviewed the contents of House Bill 28 sponsored by Representative Therriault, which bill would repeal the Alaska Coastal Management Program(ACMP); and

WHEREAS: the ACMP provides an opportunity and voice for coastal communities to participate in decisions affecting their areas; and

WHEREAS: the ACMP provides local governments and citizens with a more equitable share of government authority when state and federal agencies; and

WHEREAS: the ACMP helps to facilitate and streamline the review and approval of proposed development projects in coastal areas; and

WHEREAS: ACMP has been in existence since 1979 and has been widely viewed as a valuable service and effective voice for coastal communities; and

WHEREAS: the borough receives annual federal ACMP pass-through funds to support local coastal planning efforts and has also received \$20,000 year to facilitate permitting for projects in the Northwest Arctic Borough.

NOW THEREFORE BE IT RESOLVED, by the Northwest Arctic Borough:

Section 1. The Northwest Arctic Borough opposes House Bill No. 28 and any other effort to diminish the effectiveness of the ACMP .

Section 2. The Borough respectfully urges the sponsor of House Bill No. 28 to withdraw the bill.

Section 3. If the bill is not withdrawn, the Borough respectfully urges that it be referred to a subcommittee of the House Resources Committee for further analysis and recommendation.

RESOLUTION 97-07
PAGE 2

Section 4. The Clerk shall distribute copies of this resolution to the Northwest Arctic Legislative Delegation.

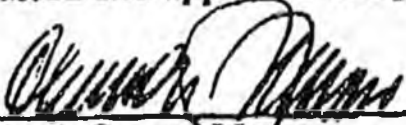
Section 5. Effective Date. This resolution shall be effective immediately upon adoption.

Passed and adopted this 25th day of February 1997.



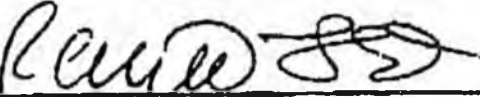
Andy Baker, President

Passed and approved this 25th day of February 1997.



Chuck Greene, Mayor

Signed and attested this 25th day of February 1997.



Paulette Lambert, CMC
Borough Clerk

ATTESTED:

Presented by: Mayor & Assembly
Introduced: 02/10/97
Drafted by: G.L./J.R.C.

RESOLUTION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 1852

A Resolution Opposing House Bill 28, Which Would Repeal the Alaska Coastal Management Program and Disestablish the Alaska Coastal Policy Council.

WHEREAS, the Assembly has reviewed the contents of House Bill 28 sponsored by Representative Therriault, which bill would repeal the Alaska Coastal Management Program (ACMP), and

WHEREAS, the ACMP provides an opportunity and voice for coastal communities to participate in decisions affecting their areas, and

WHEREAS, the ACMP provides local governments and citizens with a more equitable share of government authority when dealing with state and federal agencies, and

WHEREAS, the ACMP helps to facilitate and streamline the review and approval of proposed development projects in coastal areas, and

WHEREAS, the ACMP has been in existence since 1979 and has been widely viewed as a valuable service and effective voice for coastal communities, and

WHEREAS, the city and borough receives annual federal ACMP pass-through funds to support local coastal planning efforts and has also received over \$70,000 in recent years to facilitate permitting for large mining projects and to enable off-site wetlands mitigation as an implementation component of the Juneau Wetlands Management Plan;

NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. The City and Borough of Juneau opposes House Bill No. 28 and any other effort to diminish the effectiveness of the ACMP.

Section 2. The Assembly respectfully urges the sponsor of House Bill No. 28 to withdraw the bill.

Section 3. If the bill is not withdrawn, the Assembly respectfully urges that it be referred to a subcommittee of the House Resources Committee for further analysis and recommendation.

Section 4. The Clerk shall distribute copies of this resolution to the Juneau Legislative Delegation.

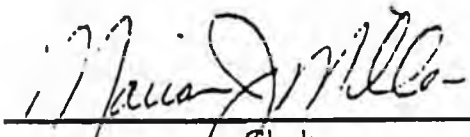
Section 5. Effective Date. This resolution shall be effective immediately upon adoption.

Adopted this 10th day of February, 1997.



Mayor

Attest:



Clerk

Post-It [®] Fax Note	7671	Date	2/18/97	# of pages	2
To	Gabrielle HaKerke	From	Free Co		
Co /Dept		Co	CBT		
Phone #		Phone #	586-5278		
Fax #	445-3075	Fax #			

445-3075



CITY OF PETERSBURG

P.O. BOX 329 • PETERSBURG, ALASKA 99833

TELEPHONE (907) 772-4511

TELECOPIER (907) 772-3759

February 6, 1997

Lorraine Marshall, Project Review Coordinator
 Division of Governmental Coordination
 P.O. Box 110030
 Juneau, AK 99811-0030

OFFICE OF GOVERNMENTAL COORDINATION
 DIVISION OF GOVERNMENTAL COORDINATION
 97 FEB - 6 PM 3:39

Dear Ms. Marshall:

I am writing at your request to express my strong support for legislative continuance of the DGC review process to determine consistency with the Alaska Coastal Management Program.

Our experience with the Cabin Creek Water Project, which underwent two reviews and will soon require another, has convinced me that both municipal and state administrations gain tremendous efficiencies through the coordinated review process. In terms of time and money, notwithstanding the frustration which would surely result, I can only imagine how cumbersome it would be to deal with each required departmental review separate and apart from one another.

As happened with our project, it is entirely probable that a stipulation from one department may directly contradict that of another. If we had not been dealing with a coordinated process, a situation of that sort would have created further time delays and other expenses which might have actually prevented the project from moving forward. Fortunately, the DGC was there to offer timely and effective intervention. The Division's ability to get all the parties together quickly and to facilitate tension filled discussion towards a positive solution is an absolutely necessary to insure effective coastal management reviews.

If I can be of further assistance, please do not hesitate to let me know.

Sincerely,

Linda Snow
 City Manager



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT
Silver Spring, Maryland 20910

Diane Mayer
Director
Division of Governmental Coordination
P.O. Box 110030
Juneau, AK 99811-0165

FEB 17 1998

Dear Ms. Mayer:

I understand that there are going to be hearings this week regarding House Bill 28, which modifies the Alaska Coastal Management Program (ACMP). The Office of Ocean and Coastal Resource Management (OCRM) is the lead federal agency for implementing the state/federal partnership established under the Coastal Zone Management Act (CZMA). Under the CZMA, OCRM reviews and approves changes to state coastal management programs in accordance with the criteria of the CZMA and its implementing regulations. Thus, OCRM has a direct interest in proposed changes to the ACMP.

We are constantly working with states to improve and refine their coastal management programs, and Alaska has a solid record of assessing and revising the ACMP. There are, however, a few issues of concern raised by the proposed legislation. Of most immediate concern is the proposal to modify the coastal zone boundary. The existing boundary was set as part of district program development, and represents extensive issue and resource analyses, public involvement, and negotiation between this office and the State and coastal districts. In many cases, the boundary was the most difficult issue to resolve during district program development. Nonetheless, working together, we were successful in establishing a boundary that met State and local needs as well as CZMA requirements. Any changes to the agreed upon district boundaries should be accomplished through a similar process of analysis, public involvement, and negotiation. In any case, at a minimum, a state's coastal zone boundary must encompass all areas necessary to control uses which have direct and significant impacts on coastal waters.

We also have concerns regarding the proposed elimination of the petition process. Petitions provide an administrative appeal opportunity for citizens of coastal districts. This administrative process provides a non-judicial and relatively efficient mechanism for resolving local concerns. The State and coastal districts have recognized the need to improve the petitions aspect of the ACMP, and OCRM would support appropriate changes. In fact, simplifying governmental procedures is one of the objectives of the CZMA. We believe that the focus should remain on simplifying and improving the process, not eliminating it.



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All changes to federally-approved coastal management programs must be submitted to OCRM for review and approval. This provides an opportunity to insure that a state's program continues to meet the requirements established under the CZMA. The process for reviewing program changes is described at 15 CFR 923 Subpart H. Substantial changes to boundaries and authorities are specifically identified as two of the more significant types of program changes that would be subject to the amendment process described at 15 CFR 923.81 - 83. As part of the process, we must make a determination as to whether the state program, as amended, would still constitute an approvable program as defined under section 306(d) of the CZMA.

Please contact me at 301/713-3121 if you have any questions regarding these comments. We look forward to continuing to work with you to improve the ACMP.

Sincerely,



William C. Millhouser
Pacific Regional Manager
Coastal Programs Division

OPTIONAL FORM 98 (7-80)

FAX TRANSMITTAL	
# of pages 2	
From	DIADZ/GABRIELLE JOHN
Dept./Agency	
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Fax #	907-445-3075
NSN 7540-01-317-7350 5022-101 GENERAL SERVICES ADMINISTRATION	

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET
DIVISION OF GOVERNMENTAL COORDINATION

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February 18, 1998

The Honorable Gene Therriault
State Capitol
Juneau, AK 99801

Re: Proposed CS for House Bill 28, Work Draft "E"

Dear Representative Therriault:

In response to your request, and on behalf of the Division of Governmental Coordination and the State resource agencies, we submit this response to the committee substitute for House Bill 28, Work Draft "E."

Several modifications proposed in Work Draft "E" would harm Alaska's thirty-five coastal districts, from the North Slope Borough to the Ketchikan Gateway Borough. We strongly support local involvement in State and federal land management decisions through the Alaska Coastal Management Program (ACMP), and oppose changes to the ACMP that would reduce this involvement.

The ACMP is governed by the Coastal Policy Council (CPC), which consists of nine elected officials from coastal communities and seven members of the Governor's Cabinet. The CPC recently completed an assessment of the ACMP, providing the Division of Governmental Coordination (DGC) with many recommendations for improvement. The DGC is implementing these recommendations. However, Work Draft "E" differs substantially from assessment directives, reducing local influence in State and federal land management decisions in Alaska's coastal zone. The Administration cannot support changes that are not acceptable to Alaska's coastal communities.

The specific effects of the provisions in Work Draft "E" are anticipated to be as follows.

Reducing the Coastal Zone Boundary to Exclude the Zone of Indirect Influence

The Alaska Coastal Management Program gives local governments the power to affect State and federal land management decisions in the coastal zone. This power is important to coastal districts and their citizens, because so much of Alaska is under State and federal control. We oppose the provision of Work Draft "E" that would force districts to reduce their coastal zones. This provision would cut coastal districts out of the process of managing important areas that support the livelihoods of local citizens. The State must support the efforts of local governments in selecting their own coastal zone boundaries.

In developing their district plans, eleven districts included the zone of indirect influence within their coastal zone boundaries. They won this right against considerable federal resistance over several years. Each district that exercised this right did so for a different reason (specific information for each district is given in Attachment 1). The most common reason was concern over salmon, a resource vital to subsistence, sport, and commercial fisheries statewide.

Protecting habitat that supports Alaska's fisheries has always been a central goal of coastal management. Salmon are a coastal resource -- this fact is obvious when mature salmon are gathered up from the sea. It is less obvious when salmon deposit eggs in their home rivers, well inland from the sea. But Alaska's fishermen know that what happens to salmon eggs in an anadromous stream directly affects commercial fisheries. Important anadromous streams in the zone of indirect influence, such as the Upper Kenai River, were chosen for inclusion in the coastal zone because district resource inventories proved that these habitats either directly support fish and wildlife or perform important functions which enable fish and wildlife to thrive in the Kenai River system. Districts that rely on fishing should be able to influence the management of anadromous rivers, even if the headwaters are on federally managed land.

Section 7 of CS/HB28E would force districts that included the zone of indirect influence within their coastal zone boundaries to pursue expensive amendments to their coastal management plans within six months. Maps would need to be researched and redrawn to the level of detail necessary to accurately delineate each new boundary. Boundary descriptions would have to be substantially revised. A plan revision involving the coastal zone boundary typically requires significant staff time from districts, the DGC, State agencies, the CPC, and the federal government. And the result of this change -- weakened

local governments with reduced power to affect federal land management decisions that directly affect the State's fisheries – surely would not justify the cost of this effort.

Prohibiting Coastal Districts from Incorporating by Reference Statutes and Regulations Adopted by State Agencies

We support the change proposed in Section 3 of CS/HB28E, prohibiting coastal districts from adopting State statutes and regulations by reference. The CPC has made the same recommendation, directing districts not to incorporate State agency regulations by reference in district enforceable policies. This guidance was given to districts in a recent publication, "Drafting Principles for Enforceable Policies." The publication lists eleven "drafting principles" that teach districts how to write useful policies. Drafting Principle 9 instructs districts to "supplement existing State and federal laws, not repeat them."

In 1997, "Drafting Principles for Enforceable Policies" was given to every coastal district. Subsequent district plan revisions now incorporate the drafting principles. The CPC has also told districts that "due deference" will not be presumed where existing district programs incorporate State law. Section 3 of CS/HB28E is welcome because it would provide a strong statutory foundation for the CPC's policy directives.

Preventing a District or State Agency from Stipulating to a Matter for Which the Agency or District Does Not Otherwise Exercise Authority

We believe that, as currently drafted, Section 5 of Work Draft "E" would have no effect other than to cause confusion. During consistency review, districts and State agencies may stipulate to matters related to coastal uses, activities, and habitats. The authority to make such stipulations is granted to districts and State agencies by ACMP regulations at 6 AAC 80. This authority is based in part on AS 46.40.040, which says that the Coastal Policy Council must write regulations "for the use of and application by coastal resource districts and State agencies in carrying out their responsibilities under this chapter." Additional authorities are granted at AS 46.40.100 and AS 46.40.200. The authorities granted by the Legislature to districts and State agencies through the ACMP would not be changed by Section 5, which says "a state agency or coastal resource district may not stipulate to a matter or subject for which the agency or district may not by law exercise authority...". Districts and State agencies do exercise authority and responsibility related to coastal uses, activities and habitats by law – that law is the ACMP.

To construe Section 5 as limiting local governments and State agencies to their own enabling authorities – for example, confining districts to the scope of their Title 29 powers – is to read beyond the current version of CS/HB28. However, if Section 5 is intended to achieve this end, then rather than modifying the ACMP, such a change would effectively dismantle the program. In essence, it would mean that the ACMP does not, of itself, authorize districts or State agencies to write stipulations. A program that grants no authority has no purpose. It is highly unlikely that the federal government would look favorably on program amendments or continue granting \$2.6 million per year to the Alaska Coastal Management Program, if stipulations governing coastal uses, activities, and habitats could no longer be written. We oppose the current version of Section 5, since it has no purpose or effect. We strongly oppose any further amendments that would undermine the authority of the ACMP.

Eliminating the Petition Process

In 1994, the Legislature revised AS 46.40.100(b) to improve the petition process. The revision instituted a standard of “fair consideration” of comments during a consistency review. As part of the subsequent program assessment, the CPC also recommended other ways to improve the petition process. This includes combining procedures to eliminate redundant avenues of appeal, and empowering a subcommittee of the CPC to hear and decide petitions. The petition process offers a limited but useful avenue for involvement by local citizens and coastal districts, and should remain available to those who believe that a district program “is not being implemented, enforced or complied with” (AS 46.40.100(b)). The petition process can be improved, but should not be eliminated.

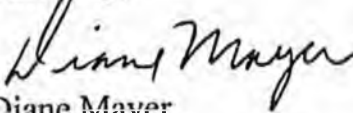
Section 6 of CS/HB28E would eliminate the process of petitioning a district program or proposed consistency determination. The following characteristics of the petition process should be noted. First, petitions are rare. To put this in perspective: the State made approximately 700 consistency determinations in Fiscal Year 1997. Only twelve determinations have been petitioned since inception of the ACMP in 1979. Since the Legislature revised the petition standard in 1994, just six consistency determinations have been petitioned. Second, the CPC approves district coastal management plans as one of its duties. Having to respond to petitions focuses the CPC’s attention on approving defensible, useful plans. Finally, the petition process allows CPC members to review the record on a given consistency review, and to direct a coordinating agency to strengthen it (where necessary). This improves the State’s position if a decision is taken to court.

Representative Gene Therriault
February 18, 1998
Page 5

Summary

The Division of Governmental Coordination and the State resource agencies appreciate the opportunity to work with your office on issues of importance to the Alaska Coastal Management Program. If you have any questions about this response, please do not hesitate to call.

Sincerely,



Diane Mayer
Director

Enclosure

cc: Coastal Districts
Coastal Legislators
Commissioner John Shively, DNR
Commissioner Frank Rue, DFG
Commissioner Michele Brown, DEC
Mike Abbott, Office of the Governor
Pat Pourchot, Office of the Governor

ATTACHMENT 1

ANALYSIS OF THE POTENTIAL EFFECTS OF THE PROPOSED COMMITTEE SUBSTITUTE FOR HB 28, WORK DRAFT "E" ON DISTRICT COASTAL ZONE BOUNDARIES

If Alaska's coastal zone is amended to change coastal zone boundaries, such that no district could encompass the zone of indirect influence, what would the effects be?¹

Coastal districts presently may extend their coastal zone boundaries landward "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" (6 AAC 85.040). This includes the zones of direct interaction (e.g., beaches), direct influence (e.g., coastal wetlands), and indirect influence (e.g., salmon streams to their headwaters). A proposed change to AS 46.40.030 would limit the coastal zone boundary to include only the zones of direct interaction and direct influence.

When the Alaska Coastal Management Program first began, the coastal zone was set at the outer boundary of the zone of direct influence, excluding the zone of indirect influence. As each district wrote its own coastal management plan, it chose whether to accept the original coastal zone boundaries or to extend them to include the zone of indirect influence. In order to include the zone of indirect influence, each district had to show that activities within this zone could have a direct and significant impact on coastal waters. It showed this fact by gathering information about the zone of indirect influence in its resource inventory and analysis. The State of Alaska and the federal government decided, based on evidence presented in the resource inventory and analysis, whether the zone of indirect influence was properly included within the district's coastal zone. Those districts that prevailed did so because they had provided enough information to show that the final boundary encompassed uses and activities that could have a direct and significant impact on coastal waters.

Relevant federal regulations at 15 CFR 923.82 provide that a State's program is not approvable if it excludes areas "the management of which is necessary to control uses with direct and significant impacts on coastal waters." Federal law provides that an unapprovable program is "subject to withdrawal of program approval and withdrawal of administrative funding." (15 CFR 923.82(b)(3)). The State of Alaska will have a difficult time explaining why areas that were so important to districts that the districts and the

¹ Sources for information about coastal zone boundaries include: AS 46.40.030, 6 AAC 85.040, FEIS for the ACMP page 109 and following, "Biophysical Boundaries of Alaska's Coastal Zone," "Coastal Zone Boundaries of Alaska," and the 1995 public hearing draft of Alaska's Coastal Clean Water Plan. This document is based heavily on "Biophysical Boundaries of Alaska's Coastal Zone," 1991, as amended by current information.

State were willing to spend several years fighting for their inclusion in the ACMP, are no longer important to include in the coastal zone.

If the change goes forward, what are the likely effects to coastal districts? Of the thirty-five coastal districts in the Alaska Coastal Management Program, eleven districts include the zone of indirect influence in their coastal zone boundaries. Their reasons are as varied as the coastal districts themselves. Some districts include the zone of indirect influence to encompass a resource important to local residents, such as salmon that support subsistence, commercial, or recreational fisheries. Other districts include this zone to extend local influence over a use or activity that might affect coastal resources: a mining operation such as the Red Dog Mine would be a good example of this.

In every case, the district chose to include the zone of indirect influence as a result of local decisions and determinations regarding the delicate balance between responsible development of resources and maintenance of local coastal uses and activities.

Expanding the coastal zone boundary extended local influence over State and federal activities; for this reason, it is central to district interests. Reducing the coastal zone of eleven of Alaska's coastal districts will reduce local involvement in State and federal land management decisions in local areas.

The following table describes in brief the decisions made by those districts that included the zone of indirect influence in their coastal zone boundaries. This information is presented in more detail following the table.

District and Date of Plan Adoption	Description of Zone of Indirect Influence	Rationale for Including Zone of Indirect Influence
Aleutians East Borough (1992)	The zone of indirect influence extends inland from the 200-foot elevation contour along the northern Alaska Peninsula coast and inland from the 1,000-foot elevation contour along the southern Alaska Peninsula shoreline.	Desire to effectively manage uses and activities that have or are likely to have direct impacts on marine coastal waters and the populations of anadromous fish dependent on those waters.
Bering Straits (1989)	The zone of indirect influence encompasses watersheds in highly mineralized areas above the 200-foot contour, uniform setbacks from marine coastal shoreline in bluff areas, and uniform setbacks along anadromous fish streams.	Desire to manage uses and activities that could affect anadromous fish habitat.

Bristol Bay Borough (1987)	The zone of indirect influence encompasses important upland habitat forming the upper drainage of King Salmon Creek and Paul's Creek; the ridge between Naknek Lake and the Naknek River, which drains into prime salmon spawning areas; and uplands that drain into Kvichak Bay, an important anadromous fish migration route.	Desire to include areas that directly influence salmon and salmon habitat, and to conform to the Borough's political jurisdiction boundary.
Bristol Bay CRSA (1987)	The zone of indirect influence encompasses the upper reaches of all water bodies designated in the <i>Catalog of Waters Important for Spawning, Rearing, and Migration of Anadromous Fish</i> , plus a one-mile corridor from the ordinary high water (OHW) mark on each bank. It also includes all tributaries of these water bodies, plus a 200-foot corridor from OHW.	Desire to protect salmon, vital to the commercial and subsistence economy of the region.
Kenai Peninsula Borough (1990)	The zone of indirect influence is between the 400-foot and the 1000-foot elevation contours. It also includes all islands in the district. It captures habitat along the upper Kenai River, Kenai Lake, portions of the watersheds of Fox River Flats State Critical Habitat Area and Tustamena Lake, and areas around Beluga Lake. Places where timberline extends above the 1000-foot contour in the area of Kenai Fjords are not included.	Desire to manage uses and activities that could affect anadromous fish habitat.
Ketchikan Gateway Borough (1984)	The zone of indirect influence consists of alpine plant communities and watershed areas above the coastal forest treeline.	The increased boundary is based on watersheds and political jurisdiction. The zone of indirect influence contains critical watershed areas for the borough's supply of drinking water.
Kodiak Island Borough (1990)	The zone of indirect influence includes lands and waters above the 1000-foot contour.	The district is an island with steep topography, and all areas are influenced by proximity to marine coastal waters. Boundaries were based on watersheds and political jurisdiction.

Lake and Peninsula Borough (1996)	The zone of indirect influence includes lands and waters above the 1000-foot elevation, not including perennially snow-capped peaks and glaciers.	Desire to manage lands located near marine coastal waters or that may affect anadromous fish streams.
Matanuska-Susitna Borough (1984)	The zone of indirect influence includes: all lands and waters above the 400-foot elevation near Beluga Lake; all lands and waters above the 200-foot elevation east of the Parks Highway (not including major drainages and their primary tributaries to the 1000-foot elevation); all lands and waters north of approximately 62° 10' north latitude (except major drainages and their primary tributaries to the 1000-foot elevation); and all lands and waters west of approximately 152° west longitude (except major drainages and their primary tributaries to the 1000-foot elevation).	Potential for and need to manage effects of mineral development, petroleum development, and residential development on waterfowl and anadromous fish habitat.
North Slope Borough (1988)	The zone of indirect influence encompasses a uniform setback of one mile from the ordinary high water mark of each bank of the upper reaches of all known anadromous fish waters.	Potential for and need to manage effects of gravel mining, hardrock mining, oil and gas exploration and development, and associated activities on anadromous fish habitat.
Northwest Arctic Borough (1998)	The zone of indirect influence extends inland from the 200-foot contour and encompasses watersheds of major rivers; drainage area of major lakes, bays, and marine water bodies; and villages.	Desire to manage uses and activities that could affect anadromous fish habitat.

DETAILED ANALYSIS BY DISTRICT

Aleutians East Borough

Zone of Indirect Influence: The zone of indirect influence extends inland from the 200-foot elevation contour along the northern Alaska Peninsula coast and inland from the 1,000-foot elevation contour along the southern Alaska Peninsula shoreline. This area is small and has not been intensively developed in the past. It was included in the coastal zone to streamline administration of the district's coastal program, as well as to effectively manage uses and activities that have or are likely to have direct impacts on marine coastal waters and the populations of anadromous fish dependant on coastal waters.

The district's highly productive coastal waters provide important biological use areas and a world class commercial fishery. Subsistence hunting and fishing are significant components of the local economy. Balanced against these significant values is the fact that most of the southern half of the Alaska Peninsula, including the Herendeen Bay/Port Moller vicinity, is highly mineralized. The area east from Cold Bay along the northern half of the Alaska Peninsula are rated moderate to high in potential for discovery of oil and gas deposits.

Conclusion: The proposed exclusion of the zone of indirect influence would make coastal zone management in the Aleutians East Borough more cumbersome, and would reduce the borough's ability to effectively manage uses and activities that could have direct impacts on marine coastal waters and anadromous fish.

Bering Straits CRSA

Zone of Indirect Influence: If the coastal zone boundary is reduced to exclude the zone of indirect influence, the following areas will be removed from the district's coastal zone: "watersheds and drainages where mineral potential is rated as high or very high by ADNR," "highly mineralized terranes," and "rivers and streams that support anadromous fish in areas where the likelihood of mineral or other development is low." In the latter case, the district expanded the coastal area to include "a corridor extending one mile from the ordinary high water mark on both sides of the stream.... and extending upstream to one mile above the limits of known distribution of anadromous fish." The exclusion would also remove the "inland setback of two miles from the marine coastal shoreline where bluffs are adjacent to or in close proximity to the coast."

Certain streams, identified as Important Use Areas in the district plan, will be excluded from the coastal zone above the 200-foot contour: Serpentine River, Arctic River, rivers that drain into Ikpek Lagoon, Agiapuk River, Kuzitrin River, Nome River, Solomon River, Niukluk River, Fish River, Kwiniuk River, Tubutulik River, Kwik River, Koyuk

River, and Unalakleet River. These streams provide spawning habitat for anadromous fish, which are important subsistence resources and also support commercial harvest. Some of these rivers include highly mineralized areas where the likelihood of development is significant.

Conclusion: Given the extent of valuable mineralization in the district, and the likelihood that these areas will be mined as market conditions warrant, one impact of the boundary change would be the loss of one avenue for local involvement in state and federal mining permit processes. Local concerns about the effects of mining on water quality in anadromous streams would lose a forum for expression.

Bristol Bay Borough

Zone of Indirect Influence: The zone of indirect influence includes:

- The foothills of the Aleutian Range in the northeast corner of the Borough. These hills provide important uplands habitat and form the upper drainage of King Salmon and Paul's Creeks.
- The ridge separating the Naknek Lake and Naknek river systems which drain into primary salmon spawning areas.
- The hills in the southwest corner of the Borough which drain into the Naknek River and Kvichak Bay, both important anadromous fish migration routes.

The zone of indirect influence includes areas that directly affect anadromous fish and their habitat. It also conforms to the borough's political boundaries, streamlining coastal management in the borough.

Conclusion: The salmon fishery in Bristol Bay is a major segment of the borough's economy. The total run of salmon in the Naknek-Kvichak estuary has been the largest in the world. Potential development in the zone of indirect influence that could affect anadromous fish streams include State upland land sales, federal oil and gas lease sales, recreational development, and sport hunting and fishing. Local involvement in decisions affecting salmon runs would be reduced by the proposed deletion of the zone of indirect influence from the borough's coastal zone. The efficiency of the borough's coastal management program would also be reduced.

Bristol Bay CRSA

Zone of Indirect Influence: The zone of indirect influence includes:

- All water bodies designated in the Catalog of Waters Important for Spawning, Rearing, and Migration of Anadromous Fish, plus a one (1) mile corridor from ordinary high water (OHW) on each bank; and
- All tributaries to these aforementioned designated water bodies, plus a 200-foot corridor from ordinary high water (OHW) on each bank.

The boundaries of the zone of indirect influence reflect the importance of salmon to both the region and the State. During a ten-year period from 1981-1990, the ex-vessel value of the Bristol Bay fishery averaged approximately \$141 million per year, with a record \$200 million in 1990. Salmon are also an important resource to the subsistence economy. The continued health of this renewable resource is of paramount importance to both the commercial and subsistence sectors of the regional economy.

The zone of indirect influence supports a number of uses, primarily fish and wildlife habitat, subsistence harvests, commercial lodges and camps, sport hunting and fishing, and river float trips. Mining claims are concentrated in the Sleitat Mountain, Shotgun Hills area, and the hills south of the upper King Salmon River. Another potential use is hydroelectric development on the Newhalen River. Mineral exploration and development is likely to increase in the Tikchik Lakes area, Taylor Mountains, Marsh Mountain, Kemuk Mountain, and in the upper Mulchatna and Chilikodrotna drainages. The most significant mineral prospect discovered to date is a large copper-gold porphyry deposit between the headwaters of the Kuktuli River and the Upper Talarik Creek.

In the "Togiak Subregion," lands within the zone of indirect influence are used for fish and wildlife habitat, subsistence harvests, trapping, and recreation, especially sport fishing and river floating. There are several mining claims north and west of Upper Togiak Lake. Sport fishing and wilderness recreation opportunities will attract more visitors, placing more pressure on fish and wildlife. Mineral development may occur on Native corporate lands, since known mineral terranes favorable for deposits of copper and zinc with by-products of gold and silver exist.

Conclusion: Given the value of salmon and the potential for many types of development, particularly mining, reducing coastal zone boundaries to exclude the zone of indirect influence in the Bristol Bay CRSA will reduce local involvement in matters affecting the salmon fishery that is so vital to the area's economic survival.

Kenai Peninsula Borough

Zone of Indirect Influence: If the coastal zone boundary is reduced to exclude the zone of indirect influence, the following areas between the 400-foot and 1000-foot elevation will be excluded: Upper Kenai River and Kenai Lake; the Fox River drainage; and, lowlands in the Beluga Lake area.

The zone of indirect influence around Upper Kenai River and Kenai Lake provides important habitat for anadromous fish. Upper Kenai River and Kenai Lake have been recognized as important recreation areas. "These habitats either directly support fish and wildlife or perform important functions which enable fish and wildlife to thrive in the Kenai River system.... [L]ands and waters in this area... are important for public use and enjoyment of the river, including recreational areas and open space areas of high scenic value."

The zone of indirect influence includes portions of the watersheds of the Fox River Flats State Critical Habitat Area and Tustamena Lake. "Tustamena Lake is the headwater of the Kasilof River, the second most productive freshwater fishery on the Kenai Peninsula." This area provides important habitat to anadromous fish and many species of animals, and is used for a variety of recreational activities. The Fox River provides spawning and rearing habitat for salmon. The zone of direct influence was not drawn to include the upper half of the Fox River. In order to more fully protect anadromous fish habitat, the district expanded its coastal zone boundary to include the zone of indirect influence.

The district chose to set the coastal zone boundary in the Beluga Lake Area at the 1000-foot contour. This was done to correct an uneven interim coastal zone boundary line, which varied between the 400- and 1000-foot contour lines in this part of the district. The district chose the new coastal zone boundary to allow more effective management of this area, which consists of marshes and wetlands, lakes, ponds, creeks and rivers. These provide habitat for anadromous and freshwater fish and waterfowl. Existing uses and activities in the vicinity of the zone of indirect influence include the villages of Tyonek and Beluga, the Chugach Electric power plant, developable coal resources, and oil and gas exploration and producing wells.

Conclusion: Reduction of the boundary as proposed is likely to cause inefficient management in the Beluga Lake area of the district. Local involvement in permitting decisions involving activities in the zone of indirect influence such as grazing, hydropower development, subsistence, and recreation, will also be reduced.

Ketchikan Gateway Borough

Zone of Indirect Influence: If the boundary is reduced to exclude the zone of indirect influence, "alpine plant communities and watershed areas above the coastal forest treeline" will be removed from the coastal zone. The alpine areas of Diana Mountain, John Mountain, Deer Mountain, and Twin Peaks, all on Revillagigedo Island above the City of Ketchikan, would be excluded from the coastal zone. These alpine areas influence water quality in Upper and Lower Ketchikan Lakes, Granite Basin, Lake Perseverance, and Mahoney Lake, and in their associated rivers. These are the major

water sources that supply potable water to Ketchikan residents. The watershed areas “have an important influence on the sediment regime, salinity, and temperature of the nearshore marine waters.”

Conclusion: Reduction of the boundary as proposed is likely to reduce local involvement in the management of key watersheds that supply the City of Ketchikan with potable water.

Kodiak Island Borough

Zone of Indirect Influence: The zone of indirect influence includes all lands and waters above the 1000-foot elevation. The district’s topography includes steep terrain that both influences, and is influenced by, proximity to marine coastal waters.

Conclusion: Lands and waters above the 1000-foot elevation are not presently receiving much development pressure, but they do influence the quality of habitat in anadromous fish streams. Reducing the coastal zone boundary to exclude these areas would reduce local involvement in the management of lands and waters within the district.

Lake and Peninsula Borough

Zone of Indirect Influence: The zone of indirect influence includes all lands and waters above the 1000-foot elevation, except perennially snow-capped peaks and glaciers. The coastal zone boundaries were selected after consideration of the extent of documented anadromous fish habitat, limitations to comprehensive surveys for anadromous fish habitat, the drainage mosaic pattern created by the neighboring Bristol Bay CRSA in the use of coastal boundary corridors along anadromous fish streams and their tributaries, spillover impacts, and the sphere of potential disturbances associated with development activities. The boundaries reflect the resource values and sensitivities of anadromous fish habitats, and concerns related to development impacts and resource uses.

Conclusion: Reduction of the coastal zone boundaries would present major difficulties for managing present and potential uses and activities that could impact coastal waters and the living resources dependent on these.

Matanuska-Susitna Valley Borough

Zone of Indirect Influence: The zone of indirect influence includes:

- all lands and waters above (1) the 400-foot elevation near Beluga Lake; and (2) the 200-foot elevation east of the Parks Highway, not including major drainages and their primary tributaries to the 1000-foot elevation;

- All lands and waters north of approximately 62° 10' north latitude, except major drainages and their primary tributaries to the 1000-foot elevation; and
- All lands and waters west of approximately 152° west longitude, except major drainages and their primary tributaries to the 1000-foot elevation.

The entire district has been identified as a medium to very high density coastal lowland waterfowl nesting, molting, and staging area, with the exception of the Beluga and Mount Susitna highlands (ADF&G Atlas, 1973). For this reason, the areas between anadromous fish streams and rivers (zones of indirect influence) were included within the coastal zone boundary. Uses and activities that occur within the zone of indirect influence include: (1) recreation; (2) subsistence; (3) mining; (4) roads; and (5) agriculture.

Conclusion: Excluding the zone of indirect influence from the coastal zone would reduce the borough's ability to manage active uses and activities that have the potential to harm prime waterfowl habitat and salmon streams.

North Slope Borough

Zone of Indirect Influence: If the boundary is reduced to exclude the zone of indirect influence, "anadromous fish spawning and overwintering habitat" along the upper reaches of certain rivers will be removed from the coastal zone. These rivers are: the Kukpuk, Chandler, Anaktuvuk, Kanayut, Nanushuk, Itkillik, Sagavanirktok, Ridbon, Lupine, Echooka, Ivishak, Saviukviayak, Shaviovik, Kavik, Canning and Marsh Fork River drainages. The zone of indirect influence extends along each stream in a one-mile corridor from the mean high water mark.

Some of these rivers are experiencing development pressure from gravel removal, placer mining, seismic blasting, placement of structures within the active floodplain, effluent discharge, construction adjacent to the floodplain, water withdrawal, and oil resource exploration and development activities. These rivers are considered important sources of anadromous fish. The rivers also provide habitat for nesting and molting birds; and feeding, escape cover, denning, and travel corridors for mammals such as polar bears, grizzly bears, caribou, and smaller mammals such as otter, fox, voles, and lemmings.

Conclusion: Reduction of the boundary as proposed is likely to reduce local involvement in state and federal land management activities in some areas where resource development activities (particularly the development of oil and gas resources) and subsistence activities both take place.

Northwest Arctic Borough

Zone of Indirect Influence: If the coastal zone boundary is reduced to exclude the zone of indirect influence, the following areas will be excluded above the 200-foot contour level: the entire watershed area of major rivers in the district, including the main stem and tributary waters of the Kivalina, Wulik, Noatak, Kobuk, Selawik, Buckland, Kiwalik, Kugruk, Inmachuk, and Goodhope Rivers; the drainage areas of Selawik, Kobuk and Hotham Lakes, and the lakes themselves; the drainage areas of Spafarief, Eschscholtz and Goodhope Bays, and the bays themselves; the drainage area of the estuarine and marine waters of the Kotzebue Sound and Chukchi Sea; and, all villages, including Kotzebue.

These areas provide important habitat for seabirds, ducks, and mammals. The rivers provide spawning, rearing, and overwintering habitat to anadromous fish. All of these resources are important to subsistence activities in the district. Since "subsistence use of coastal resources has traditionally been the primary and highest priority use of all lands and waters" within the district, the district has a high level of interest in maintaining these resources through proper management of uses that could impair them.

Current and anticipated uses that could affect these areas include various types of mining activities; pipelines; refuse disposal sites; bulk fuel storage; transportation and utility corridors; oil and gas exploration and development activities; sewage disposal; and tourism activities. These activities have the following potentially significant adverse impacts: alteration of surface flows, increased turbidity and sedimentation, alteration of aquatic habitats, hydraulic and thermal erosion, and discharge of effluents, pollutants, and toxic substances.

The Red Dog Mine would be excluded from the reduced coastal zone, although the mine could still be considered to affect resources in the coastal zone (the Wulik River, below the 200-foot contour) and so could remain subject to consistency review under certain conditions.

Conclusion: Reduction of the boundary as proposed is likely to reduce local involvement in state and federal land management activities in some areas where resource development activities (particularly mining) and subsistence activities both take place.

HOUSE BILL 28 - REPEAL OF THE ALASKA COASTAL MANAGEMENT PROGRAM

TESTIMONY - Diane Mayer, Director, Division of Governmental Coordination

Mr. Chairman, members of the committee, my name is Diane Mayer. I am the Director of the Division of Governmental Coordination which is located within the Governor's Office of Management and Budget. Administration of Alaska's Coastal Program is the primary responsibility of the Division. I am here to voice the Knowles Administration's opposition to HB 28 - An Act repealing the Alaska's Coastal Management Program. Though opposed to repealing the program, I consider the proposal to do so an opportunity to highlight the benefits of this program and to answer some of the questions about it.

The Alaska Coastal Program benefits all Alaskans who live, work, and recreate in the State's coastal areas. Its most important feature is its provision for coastal communities to set local standards that help guide development in their coastal areas. Other benefits of the coastal program include:

- (1) Three million dollars annually in Federal funding to support coastal program development and implementation.
- (2) The Alaska coastal program gives the state and local communities a strong role in shaping proposed federal activities.
- (3) Coastal program regulations provide one-stop permitting services to developers, including a coordinated State review of their proposed projects.

If the coastal program is repealed, the State would lose the federal funding, would lose State and local influence over federal actions, and would lose the coordinated review of project permits. Though project reviews may be addressed through new legislation, the State forfeits the federal funding and loses the experienced staff needed to manage the recreated process.

Alaska's coastal program takes advantage of the federal Coastal Zone Management Act. Congress believes states and local communities are best positioned to responsibly direct development in their coastal areas. In fact, just last year Congress passed the bill reauthorizing the federal Coastal Zone Management by a unanimous vote in both the House and the Senate. Every coastal state now has a state coastal program and is benefiting from the state's rights and federal funding granted by the federal Coastal Zone Management Act. The Alaska coastal program is the state's tool for using the power granted by the federal CZMA. Given the extensive ownership and regulatory authority of the federal government in Alaska, eliminating the coastal program will further a federal agenda in coastal Alaska.

The Alaska legislature has also reviewed the State's coastal program several times since its inception. Most recently, in 1994, the Legislative Budget and Audit Committee requested its Legislative Audit Division to conduct a full review of the administration and costs of the Alaska Coastal Program. The auditor's report finds: that Alaska's coastal program offers unique benefits not provided by other federal

programs; that DGC appears to be the most appropriate agency for administering the State's coastal program; and that DGC has been successful in the role of facilitator and consensus builder. I recently distributed copies of this report for each member of the committee to be sure the you had not only testimony from those involved with the day-to-day operations, but could also benefit by the rigorous, 6-month review conducted by your own audit division.

From recent conversations I've had about Alaska's coastal program, it is clear that people have important questions about the program. I hope to provide immediate answers to many of them today.

Some say the project review system stops development and is plagued by continuous appeals to higher levels. A quick look at our project statistics demonstrates the effectiveness of the coastal project review. As illustrated by the first chart, over the last 5 years, 99.4% of all projects needing multiple permits were found consistent with the coastal program. This record is based on our review of approximately 400 projects each year and demonstrates that DGC is working across federal, state and local lines to solve development problems, not make them. Of these projects, the record shows on chart 2 that 98.3% are permitted by regional staff with no subsequent review needed by higher agency officials. Project solutions and permit decisions are being made where they should be, at the ground-level.

Even though these numbers are impressive, it is true that project appeals have sometimes resulted in the same issue being reconsidered several times by agency decision-makers. This repetition, though rare, has been frustrating to everyone when it occurred. There is already a Cabinet-level effort to streamline the appeal process so that there is only one formal appeal per project. Furthermore, other Cabinet level initiated efforts are underway to streamline resource development activities, such as drafting of general permits for routine projects, expanding the use of joint public notices, consolidating permit application forms to reduce unnecessary paperwork, and simplifying project permitting procedures. DGC staff is leading several of these streamlining initiatives.

Another assertion is that other federal resource laws diminish the need for the coastal program. While other state and federal laws provide for specific environmental protection, Alaska's coastal program uniquely addresses local interests in development activities. In addition, it provides federal funding to support coastal programs, it strengthens the voice of state and local communities in federal activities, and it provides efficient coordinated project permitting services.

There is the perception that the coastal program is duplicative of other state authorities. Alaska intentionally developed its coastal program by using existing state authorities, and local approvals, rather than opting for creating a separate coastal permit. Instead of there being a new agency that adjudicates a coastal

permit system, like the California coastal permit issued by their Coastal Commission, under Alaska's system the resource agencies and affected local districts work together to ensure that existing state and federal permits satisfy the established coastal standards. Rather than duplicating existing processes, the coastal program offers one-stop shopping that brings all the participants to the table to resolve disagreements. With resource agency permits and coastal program reviews occurring on the same schedule, the process benefits all parties by saving time and money.

Another concern I have heard is that the Coastal program allows state agencies to require stipulations on permitted activities beyond the agency's statutory authority. An agency can only propose stipulations based on state coastal standards and local district programs. Except for their own permits, they cannot independently require these stipulations. The statutes do provide permitting agencies full authority, indeed the responsibility, to administer their permit approvals consistent with the State and local coastal standards. Existing local, State and federal approvals are the legal tools for implementing project agreements.

A common concern is that Coastal program standards are vague and open to different interpretations by state agencies and local coastal districts. This concern is shared by state resource agencies, the coastal policy council, and coastal districts. The Coastal Policy Council has directed DGC to work with the coastal

program participants to address not only improvement of policy statements, but simplification of procedures to implement program revisions. Fixing this problem is our top priority.

Another question about the coastal program is "does it allow the unorganized borough to create quasi-governmental entities that participates in coastal program and development decisions?" Yes, this is true. These districts are called Coastal Resource Service Areas. Every community wants a say in development that affects the area it relies on for their economic opportunity and their quality of life. Alaskans living in the unorganized borough are no different. These communities deserve a voice in activities that affect their areas. The coastal program gives them an opportunity to fully participate. It is local participation that often builds understanding and support for projects and reduces legal challenges at the end of the reviews.

Taking a longer view, coastal resource service areas have proven to be a stepping stone to borough formation. Of the seven CRSA's originally formed, three have organized into boroughs and others are now seriously considering taking the next step.

For developers, elimination of the Alaska Coastal Management Program will mean they will be on their own to navigate the maze of federal and state permitting

requirements. One-stop shopping will disappear. There will not be a standard process resolving disagreements between agencies and no way to make sure that local communities are fully informed about projects in their area. If a new system is developed, the State will have lost its federal funding and an experienced staff to get the new system up and running.

Whole-sale repeal of Alaska's coastal program forfeits our position of power over federal decisions that affect our coast; it turns back federal dollars that largely benefit local communities in their attempt to responsibly direct coastal development in their areas; and it unravels Alaska's project review system that provides one-stop services and development solutions for individuals and companies proposing coastal projects. The Knowles Administration is opposed to HB 28 - the repeal of this important program.

Mr. Chairman, since this is a networked program with significant initiatives underway, we thought it would be beneficial for the committee to have access to Marty Rutherford, Deputy Commissioner of DNR and Craig Tillery, Assistant AG. Ms. Rutherford is a Coastal Policy Council Member and has an extensive background in community issues from her years with Community and Regional Affairs. Mr. Tillery is our legal guide in the current streamlining effort. We are all available to help answer any questions you might have.

FINDINGS AND RECOMMENDATIONS

PART A: ISSUES REQUIRING STATE ACTION

USER FEES

FINDING 1. As State revenues decline, agencies with the authority to assess fees will predictably attempt to both increase and broaden the scope of those fees in an act of budgetary self-preservation. Unfortunately, this system provides no meaningful incentive for the agency to minimize these costs to the regulated community. There is an inherent conflict of interest in asking for timely permit reviews from agency personnel whose jobs depend upon hourly billings for the given review, and unlike the free market, the regulated community cannot take its business elsewhere.

Alaska cannot afford such an irresponsible process, especially when regulatory stability is a key element in marketing Alaska as an attractive and competitive place to do business. The citizens and businesses of Alaska deserve an open budgetary process that includes legislative oversight and that clearly details the relationship between user fees and agency expenditures.

COMMISSION RECOMMENDATIONS

- 1a** *Long-term, the State needs to move toward paying for essential public services out of general fund revenue instead of assessing user fees at all levels of government. This will keep the budgetary process public, allow the public to establish priorities, and remove the inherent conflict of interest between efficient permit processing and agency hourly fees.*
- 1b** *Short term, the Legislature should amend AS 44.46.025 to require public review and legislative approval of all fees affecting the mining industry. Proposed fees shall include a detailed schedule justifying the applicable direct costs of inspections, permit preparation and administration, plan review and approval, and other services provided by the department that are to be paid for by the proposed fee. In no event should the proposed fee exceed those costs reasonably necessary to cover the direct costs of the above.*

GEOPHYSICAL AND GEOLOGICAL MAPPING

FINDING 2. Since 1993, 12 state funded airborne geophysical surveys have covered about 5,000 square miles of the State of Alaska's 162,500 square mile land entitlement, at a total cost of about \$2.3 million.

One such survey in the Fairbanks district cost \$300,000, and since the results were released in 1995 the number of mining claims has doubled, and more than \$10 million has been spent exploring just the new claims. Further major investments are expected in the coming years. Information compiled by the Alaska Division of Mining & Water Management indicates that at least 65% of the \$35 million claimed by companies under the Exploration Incentives Credit are for Alaskan goods and services.

As a result of the airborne surveys, most of the Nome and Circle survey areas are now staked, and increased activity is reported in the Manley-Rampart, Yentna and Chulitna survey areas.

This increased activity was the intent of the surveys and will accelerate discovery of new Alaskan mines. However, with a landbase of 162,500 square miles, much of it chosen for its mineral potential, it will take the State of Alaska another 75 years to survey only 50% of its land endowment at the present rate of funding.

COMMISSION RECOMMENDATIONS

- 2 *The Governor and the Legislature should invest \$5 million per year (approximately 10% of what industry spent on exploration in 1997) for the next decade, preferably through foundation funding, in airborne geophysical surveys and complementary geological and geochemical surveys.*

COASTAL ZONE MANAGEMENT

FINDING 3. As presently implemented, the Coastal Zone Management program is not an efficient means of permitting necessary development activities in Alaska. The present jurisdiction of the "coastal zone" extends so far inland that an unnecessary level of bureaucracy is created in regions that have little to do with the marine environment.

In many cases the Coastal Management boundaries are many miles inland based on the Alaska Department of Fish & Game (ADF&G) boundary studies of the early 1980's which defined "zones of direct interaction" and "direct influence" that included transitional and intertidal areas; salt marshes and wetlands; islands; beaches; and water under tidal influence, including areas where anadromous fish, such as salmon, migrate upstream to spawn. These areas were mapped with the intent that Coastal Management Programs do detailed resource inventories in order to redefine coastal zone boundaries. In some cases, over a decade later, fish (trout and grayling) streams 85 miles from the coast are still within the coastal zone boundaries, with no studies done nor any changes made to the boundaries. The ADF&G and Department of Environmental Conservation already have authority to restrict uses of waterways (including waters that support anadromous fish) for resource development activities without this additional inland boundary.

The present Coastal Zone Management program creates a duplicative appeal process that allows the same issues to be challenged at two different stages of the process. This creates unnecessary delays and adds needless uncertainty during the permitting of any project. Both the Governor and the Legislature have recognized some of the shortcomings of the Coastal Zone Management programs, and have recommended various solutions. The key points that must be incorporated into any final solution are detailed below.

COMMISSION RECOMMENDATIONS

- 3 *During any efforts to streamline the Coastal Zone Management Program, the Governor and Legislature should ensure that the following key provisions are incorporated:*
 - a *The jurisdiction of the coastal zone should be limited to those regions defined as wetlands, beaches, islands, waters under saline influence, transitional and intertidal areas, and not to include anadromous fish streams.*
 - b *There must only be a single notice, public comment, and appeal procedure, and*
 - c *The Department of Natural Resources should remain the lead agency for all mining related actions on a statewide basis, including within the coastal zone.*

RECORDERS OFFICE TECHNOLOGY UPGRADE

FINDING 4. Modern technological improvements in imaging systems and computer systems make significant improvements in information management, search and retrieval, and document handling. In order for the Alaska Recorders Office to cost-effectively fulfill its function in government, an upgrade with state-of-the-art hardware, software and procedures is necessary. This upgrade will benefit all users

H. Marick
JUL 15 1997

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE ALASKA
COASTAL POLICY COUNCIL

Notice is given that the Alaska Coastal Policy Council, under the authority of AS 44.19.161, AS 46.40.010, and AS 46.40.040, proposes to adopt, amend, and repeal regulations in Title 6 of the Alaska Administrative Code dealing with development and amendment of district coastal management programs, special area management plans, and areas meriting special attention, to implement, interpret, or make specific AS 46.40, including the following:

1. 6 AAC 80.158, TYPES OF AREAS TO BE DESIGNATED AS AREAS WHICH MERIT SPECIAL ATTENTION, is proposed to be repealed. This regulation defined the type of areas that may be designated as an area which merits special attention. The substance of this regulation is proposed to be moved to 6 AAC 85.
2. 6 AAC 80.160, AREAS WHICH MERIT SPECIAL ATTENTION INSIDE DISTRICTS, is proposed to be repealed. This regulation defined the process and requirements for proposal and designation of an area which merits special attention inside a district. The substance of this regulation is proposed to be moved to 6 AAC 85.
3. 6 AAC 80.170, AREAS WHICH MERIT SPECIAL ATTENTION OUTSIDE DISTRICTS, is proposed to be repealed. This regulation defined the process and requirements for proposal and designation of an area which merits special attention outside a district. The substance of this regulation is proposed to be moved to 6 AAC 85.
4. 6 AAC 85 is proposed to be amended to amend existing sections, repeal existing sections, and add new sections providing for more defined requirements of district programs and streamlined district program approval processes.

Notice is also given that any person interested may present written comments relevant to the proposed action, including the potential costs to private persons of complying with the proposed action, by writing to Randy Bates, Division of Governmental Coordination, Office of the Governor, P.O. Box 110030, Juneau, Alaska, 99811-0030, so that they are received no later than August 22, 1997. Additionally, any interested person may present oral or written comments relevant to the proposed action, including the potential costs to private persons of complying with the proposed action, at a hearing to be held in the Division of Governmental Coordination Conference Room, Suite 370, Frontier Building, 3601 "C" Street, Anchorage, Alaska, at 9 a.m., on August 13, 1997. The hearing will be held from 9 a.m. to 4 p.m. and might be extended to accommodate those present before 2 p.m. who do not have an opportunity to testify.

The State of Alaska, Division of Governmental Coordination complies with Title II of the Americans with Disabilities Act of 1990. If you are a person with a disability who may need a special accommodation in order to participate in the process on the proposed regulations, please contact Randy Bates at (907) 465-3937 or via email at Randy_Bates@gov.state.ak.us no later than August 1, 1997, to ensure that any necessary accommodations can be provided.

This action is not expected to require an increased appropriation.

Copies of the proposed regulations may be obtained by writing to:

Randy Bates
Division of Governmental Coordination
Office of the Governor
P.O. Box 110030
Juneau, Alaska 99811-0030

After the close of the public comment period, the Coastal Policy Council will either adopt these or other proposals dealing with the same subject, without further notice, or decide to take no action on them. The language of the final regulations may vary from that of the proposed regulations. You should comment during the time allowed if your interests could be affected.

DATE: 7-9-97

Diane Mayer
Diane Mayer, Director
Division of Governmental Coordination

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Alaska Coastal Policy Council
2. General subject of regulation: Guidelines for District Coastal Management Programs
3. Citation of regulation (may be grouped): 6 AAC 80.158 - 80.170 & 6 AAC 85
4. Reason for the proposed action:
 compliance with federal law
 compliance with new or changed state statute
 compliance with court order
 development of program standards
 other: (please list) amendment of existing regulations
5. Program category and BRU affected: Office of Management & Budget Division of Governmental Coordination
6. Cost of implementation to the state agency and available funding (in thousands of dollars)
- | | Initial Year
FY 1998 | Subsequent
Years |
|--------------------------|-------------------------|---------------------|
| Cost | \$0.00 | \$0.00 |
| General fund | \$0.00 | \$0.00 |
| Federal fund | \$0.00 | \$0.00 |
| Other funds
(specify) | \$0.00 | \$0.00 |
7. The name of the contact person for the regulations:
- Name Randy Bates
Title District Program Coordinator
Address Governmental Coordination
P.O. Box 110030
Juneau, AK 99811-0030
Telephone (907)465-3937
8. The origin of the proposed action:
 staff of state agency
 federal government
 general public
 petition for regulation change
 other (please list)
9. Date: 7/9/97

Prepared by:

Randy Bates
(signature)

Name (typed) Randy Bates
Title (typed) District Program Coordinator
Telephone: (907)465-3937

Register ____, ____, 19__ Governor's Office

**TITLE 6. GOVERNOR'S OFFICE
ALASKA COASTAL POLICY COUNCIL**

**CHAPTER 80. STANDARDS OF THE ALASKA
COASTAL MANAGEMENT PROGRAM**

Article

1. Government Process (6 AAC 80.010-6 AAC 80.030)
2. Uses and Activities (6 AAC 80.040-6 AAC 80.120)
3. Resources and Habitats (6 AAC 80.130-6 AAC 80.150)
4. [AREAS WHICH MERIT SPECIAL ATTENTION (6 AAC 80.158-6 AAC 80.170)
- 5.] General Provisions (6 AAC 80.900)

Article 4.

[AREAS WHICH MERIT SPECIAL ATTENTION

SECTION

158. TYPES OF AREAS TO BE DESIGNATED AS AREAS WHICH MERIT SPECIAL ATTENTION
160. AREAS WHICH MERIT SPECIAL ATTENTION INSIDE DISTRICTS
170. AREAS WHICH MERIT SPECIAL ATTENTION OUTSIDE DISTRICTS]

6 AAC 80.158 is repealed:

6 AAC 80.158. TYPES OF AREAS TO BE DESIGNATED AS AREAS WHICH MERIT SPECIAL ATTENTION. Repealed. (Eff. 6/9/85, Register 94; repealed / / , Register)

6 AAC 80.160 is repealed:

6 AAC 80.160. AREAS WHICH MERIT SPECIAL ATTENTION INSIDE DISTRICTS. Repealed. (Eff. 7/18/78, Register 67; am 8/18/79, Register 71; am 6/9/85, Register 94; am 4/2/86, Register 97; repealed / / , Register)

6 AAC 80.170 is repealed:

6 AAC 80.170. AREAS WHICH MERIT SPECIAL ATTENTION OUTSIDE DISTRICTS. Repealed. (Eff. 6/9/85, Register 94; am 4/2/86, Register 97; repealed / / , Register)

[ARTICLE 5.]

Register ____, ____, 19__ Governor's Office

**TITLE 6. GOVERNOR'S OFFICE
ALASKA COASTAL POLICY COUNCIL**

**CHAPTER 85. GUIDELINES FOR DISTRICT
COASTAL MANAGEMENT PROGRAMS**

Article

1. Program Elements (6 AAC 85.010-6 AAC 85.110)
2. Government Process (6 AAC 85.135 [120]-6 AAC 85.185)
3. Special Area Management Plans and Areas Which Merit Special Attention (6 AAC 85.195-6 AAC 85.225)
4. General Provisions (6 AAC 85.900)

Article 1. Program Elements

Section

10. Coverage of chapter
20. Issues [NEEDS], goals, and objectives [, AND GOALS]
30. Organization
40. Boundaries
50. Resource inventory
60. Resource suitability and sensitivity analysis
70. Subject uses
80. Proper and improper uses
90. Enforceable policies
100. Implementation
110. Public participation

6 AAC 85.010 is repealed:

6 AAC 85.010. COVERAGE OF CHAPTER. Repealed. (Eff. 7/18/78, Register 67; repealed // , Register)

6 AAC 85.020 is amended to read:

6 AAC 85.020. ISSUES [NEEDS], GOALS, AND OBJECTIVES [, AND GOALS].
A [EACH] district program must include a statement of the district's overall coastal management issues, goals, and [NEEDS,] objectives [, OR GOALS], or summarize or reference the district's comprehensive land and resource use plan. The statement must reference the implementation mechanisms that will be used to achieve the goals and objectives. (Eff. 7/18/78, Register 67; am // , Register)

Authority: AS 44.19.161
AS 46.40.030
AS 46.40.040

Register ____, ____, 19__ Governor's Office

6 AAC 85.030 is amended to read:

6 AAC 85.030. ORGANIZATION. (a) A [EACH] district program must describe [INCLUDE A DESCRIPTION OF] the organizational structure of the district, and define whether the district is a coastal resource service area or a municipality [DISTRICT PROGRAM ORGANIZATION FOR COASTAL MANAGEMENT]. The description must include the district's budgetary [BUDGETARY] and staff needs and, if [WHERE] appropriate, a schedule for necessary reorganization [MUST BE INCLUDED].

(b) The district program must identify and give an address for the official or department [CLEARLY STATE THE NAME AND ADDRESS OF THE INDIVIDUAL OR ORGANIZATION] within the district that is assigned to receive from the state notice of proposed activities and authorizations affecting the district, and that submits comments [IS RESPONSIBLE FOR RESPONDING] to the state under 6 AAC 50.070 [ON CONSISTENCY REVIEWS]. (Eff. 7/18/78, Register 67; am 3/2/84, Register 89; am //, Register)

Authority: AS 44.19.161
AS 46.40.030
AS 46.40.040

6 AAC 85.040 is amended to read:

6 AAC 85.040. BOUNDARIES. (a) A [EACH] district must include a map and description of the boundaries of the coastal area that is [WITHIN THE DISTRICT] subject to the district program. The boundaries must be within the district and must enclose those lands that [WHICH] would reasonably be included in the coastal area and subject to the district program if they were not subject to the exclusive jurisdiction of the federal government.

(b) Before council approval of the district program, initial district 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.

(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 a use or activity [USES AND ACTIVITIES] that has [HAVE] or is [ARE] likely to have a direct and significant impact on marine coastal water, or is likely to be affected by or vulnerable to sea level rise; 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.

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(e) The boundaries of the district must be sufficiently compatible with those of an adjoining area [AREAS] to allow consistent administration of the Alaska Coastal Management Program [COASTAL MANAGEMENT PROGRAM]. (Eff. 7/18/78, Register 67; am 8/18/79, Register 71; am // , Register)

Authority: AS 44.19.161
AS 46.40.030
AS 46.40.040

Editor's note: The *Biophysical Boundaries of Alaska's Coastal Zone* is published by the Office of Coastal Management and the Alaska Department of Fish and Game, 1978. A copy is on file and available by writing the Office of the Governor, Office of Management and Budget, P.O. Box 110030, Juneau, Alaska, 99811-0030.

6 AAC 85.050 is amended to read:

6 AAC 85.050. RESOURCE INVENTORY. (a) For the coastal area within the district, a [EACH] district program must include a resource inventory that [WHICH] describes, in a manner sufficient for program development and implementation ,

(1) natural resources such as forests, minerals, soils, wetlands, water, and fish and wildlife, including those habitats listed in 6 AAC 80.130, and their functional relationship, if appropriate [THAT ARE FOUND WITHIN OR ADJACENT TO THE DISTRICT]; and

(2) major cultural, historic, prehistoric, and archaeological resources [THAT ARE FOUND WITHIN OR ADJACENT TO THE DISTRICT; AND].

(b) A district program must describe, in a manner sufficient for program development and implementation,

(1) a [(3)] major land or [AND] water use or activity that is or has been [USES AND ACTIVITIES WHICH ARE] conducted or designated within or adjacent to the district; and

(2) [(4)] major land and resource ownership, jurisdiction, 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].

(c) A district program should incorporate local knowledge into the resource inventory.

(d) Information in the resource inventory must be substantiated or documented with a citation or reference.

(e) If inventory information is contained in another published source, the relevant information must be summarized, referenced in the district program, and made available upon request. (Eff. 7/18/78, Register 67; am // , Register)

Authority: AS 44.19.161
AS 46.40.030
AS 46.40.040

6 AAC 85.060 is amended to read:

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6 AAC 85.060. RESOURCE SUITABILITY AND SENSITIVITY ANALYSIS. (a) A [EACH] district program must include a resource suitability and sensitivity analysis for areas or resources within the district. The analysis must evaluate [WHICH DESCRIBES], in a manner sufficient for program development and implementation,

(1) a significant anticipated change [CHANGES] in a matter [THE MATTERS] identified under 6 AAC 85.050, including a use or activity likely to occur in the foreseeable future;

(2) the direct or indirect impact of a specific use or activity, with consideration of natural hazards and conflicting or competing uses;

(3) [AN EVALUATION OF THE ENVIRONMENTAL CAPABILITY AND SENSITIVITY OF] resources and habitats, including cultural, soil, and water resources [FOR LAND AND WATER USES AND ACTIVITIES]; and

(4) [(3) AN ASSESSMENT OF THE] present and anticipated needs, [AND] demands, and conflicts for and among coastal habitats, [AND] resources, uses, and activities.

(b) A district should incorporate local knowledge into the resource suitability and sensitivity analysis. (Eff. 7/18/78, Register 67; am // , Register)

Authority: AS 44.19.161
AS 46.40.030
AS 46.40.040

6 AAC 85.070 is amended to read:

6 AAC 85.070. SUBJECT USES. A [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 6 AAC 80 are, if applicable, subject to the district program. (Eff. 7/18/78, Register 67; am // , Register)

Authority: AS 44.19.161
AS 46.40.030
AS 46.40.040

6 AAC 85.080 is amended to read:

6 AAC 85.080. PROPER AND IMPROPER USES. A [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 issues, goals, and [OVERALL NEEDS,] objectives [, OR GOALS, OR THE DISTRICT'S COMPREHENSIVE LAND AND RESOURCE USE PLAN,] under 6 AAC 85.020, and must be consistent with the standards contained in 6 AAC 80. (Eff. 7/18/78, Register 67; am // , Register)

Authority: AS 44.19.161

AS 46.40.030
AS 46.40.040

6 AAC 85.090 is repealed and readopted to read:

6 AAC 85.090. ENFORCEABLE POLICIES. (a) A district program must include the enforceable policies and definitions that will be applied to a land or water use or activity subject to the district program. An enforceable policy or definition must

- (1) be consistent with the standards contained in 6 AAC 80;
- (2) be comprehensive, applying to all uses, activities, and areas in need of management;
- (3) be specific, allowing 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;
- (4) ensure implementation of and adherence to the district program; and
- (5) achieve the goals and objectives identified in 6 AAC 85.020.

(b) A district program must clearly identify an enforceable policy, definition, map, or boundary description. Enforceable policies and definitions must be located in a single section of the program document. The enforceable policies, definitions, maps, and boundary descriptions provide the basis for a determination of consistency with the district program.

(c) For a sensitive use area or sensitive resource area identified and analyzed in 6 AAC 85.050 and 6 AAC 85.060, a district may adopt enforceable policies that will be used to determine whether a specific land or water use or activity will be allowed. An area subject to these policies must be described or mapped at a scale sufficient to determine whether a use or activity is located within the area. A description or map developed under this subsection must be referenced in the applicable enforceable policy and is an enforceable components of the district program. (Eff. 7/18/78, Register 67; am 3/2/84, Register 89; am // , Register)

Authority: AS 44.19.161
AS 46.40.030
AS 46.40.040

6 AAC 85.100 is amended to read:

6 AAC 85.100. IMPLEMENTATION. A [EACH] district program must describe [INCLUDE A DESCRIPTION OF]

(1) the methods and authorities [AUTHORITY WHICH WILL BE USED] to implement, monitor, and enforce the district program; methods [METHODS] and authorities

(A) [AUTHORITY] must be adequate to ensure [INSURE] program implementation and enforcement; [,] and

(B) [ANY ADDITIONAL METHODS OR AUTHORITY WHICH ARE REQUIRED MUST BE SPECIFIED. METHODS AND AUTHORITY] include

- (i) land and water use plans;

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- (ii) [,] municipal ordinances and resolutions; [(including shoreline, zoning, and subdivision ordinances and building codes;
 - (iii) [,] state and federal statutes and regulations;
 - (iv) [,] capital improvement programs;
 - (v) [,] the purchase, sale, lease, or exchange of coastal land and water resources;
 - (vi) [,] cooperative agreements;
 - (vii) [,] tax exemptions for nondevelopment purchase of development rights;
 - (viii) [,] memoranda of understanding;
 - (ix) [,] coordinated project or permit review procedures; and
 - (x) the means and procedure to document public need, should the district comment on public need under 6 AAC 50;
- (2) the planning, implementation, and enforcement relationship between the coastal district and a city or village inside the district; the district program must address consistency reviews, municipal appeals, planning and plan revisions, municipal land use regulations, and review of municipal land use regulations for consistency with the district plan.
(Eff. 7/18/78, Register 67; am // , Register)

Authority: AS 44.19.161
AS 46.40.030
AS 46.40.040

6 AAC 85.110 is amended to read:

6 AAC 85.110. PUBLIC PARTICIPATION. A [EACH] district program must document an [INCLUDE EVIDENCE OF] effective and significant opportunity [OPPORTUNITIES] for public participation in program development under this chapter [6 AAC 85.130]. (Eff. 7/18/78, Register 67; am // , Register)

Authority: AS 44.19.161
AS 46.40.030
AS 46.40.040

Article 2. Government Process

Section

120. SUBMITTALS TO COUNCIL

130. PUBLIC INVOLVEMENT DURING PROGRAM DEVELOPMENT

135. Scoping

140. Public Hearing Draft Development | COORDINATION AND REVIEW

145. Review of public hearing draft

146. Revised public hearing draft development and review in coastal resource service areas

148. Development, coordination, and public review of concept approved drafts

150. Council review of final findings and conclusions and concept approved drafts of district programs

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160. Minor amendments

170. Mediation

175. Office of Ocean and Coastal Resource Management review

180. Local adoption and effective [EFFECTIVE] date [AND LOCAL ADOPTION]

183. Annual progress report submissions to council

185. Petition for amendment to an approved district program regarding uses of state concern

6 AAC 85.120 is repealed:

6 AAC 85.120. SUBMITTALS TO COUNCIL. Repealed. (Eff. 7/18/78, Register 67; am 5/2/81, Register 78; am 9/9/81, Register 79; am 3/2/84, Register 89; repealed / / , Register)

6 AAC 85.130 is repealed:

6 AAC 85.130. PUBLIC INVOLVEMENT DURING PROGRAM DEVELOPMENT. Repealed. (Eff. 7/18/78, Register 67; am 8/18/79, Register 71; am 3/2/84, Register 89; repealed / / , Register)

6 AAC 85 is amended by adding a new section to read:

6 AAC 85.135. SCOPING. (a) As soon as practicable after a district identifies its intent to adopt or amend a district program, the district shall hold at least one meeting with the office. This meeting may be a teleconference meeting. An opportunity to participate in the meeting must also be provided to federal, state, and local governmental agencies, adjacent districts, cities and villages within the district, and the public. The purpose of the meeting is to identify issues that will need to be addressed by the district.

(b) A record file containing all material relating to the development and approval of the district program or significant amendment to the district program shall be created and maintained at a convenient location at the office. Districts shall forward all relevant material to the office for inclusion in the record file. (Eff. / / , Register)

Authority: AS 44.19.161
AS 46.40.040

6 AAC 85.140 is repealed and readopted to read:

6 AAC 85.140. PUBLIC HEARING DRAFT DEVELOPMENT. (a) No less than two public meetings must be held within the district during the public hearing draft development to inform the public and receive comments concerning the program.

(b) A district shall provide the public, in a timely manner and in understandable form, information explaining the Alaska Coastal Management Program, the district coastal management program, the requirement of public participation during program development, how and when the public may participate in program development, what information is available, and

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where that information may be obtained.

(c) A district shall provide an opportunity during the public hearing draft development for participation by federal, state, and local governmental agencies, adjacent districts, cities and villages within the district, and the public.

(d) The public hearing draft must include all elements to be included in the district program when it is approved by the district, as described in 6 AAC 85.148(a).

(e) A district shall submit the public hearing draft to the office for review before distribution under 6 AAC 85.145. Within 15 days, the office shall determine whether the public hearing draft contains the requirements as set forth in 6 AAC 85.020 - 6 AAC 85.110. If, upon its review of the public hearing draft, the office determines that the public hearing draft does not contain the requirements, the office may request more information from the district. (Eff. 7/18/78, Register 67; am // , Register)

Authority: AS 44.19.161
AS 44.19.162
AS 46.40.030
AS 46.40.040

6 AAC 85.145 is repealed and readopted to read:

6 AAC 85.145. REVIEW OF PUBLIC HEARING DRAFT. (a) The district must distribute the public hearing draft to all parties identified as having a significant interest in the district program. A transmittal letter that states the comment deadline and identifies the recipient of comments must be sent with the document. The mailing list of these parties must be reviewed and approved by the office before distribution.

(b) Public notice of the availability of the public hearing draft must be given to any person who has requested it in writing, and through advertisement in a newspaper of general circulation within the district. Notice must also be posted in cities and villages within the district. A coastal resource service area shall also notify cities and villages within the district of the regulations contained within this chapter and the provisions of AS 46.40.180.

(c) At least a 45-day review and comment period must be provided if the district is a city or unified borough. At least a 60-day review and comment period must be provided if the district is a coastal resource service area.

(d) During the review period under (c) of this section, the district shall hold at least one meeting with state agency representatives. If the district is a coastal resource service area or borough, the district shall hold at least one meeting with the representative of an affected city or village within the district boundaries. A meeting may be a teleconference meeting.

(e) During the review period under (c) of this section, the district shall hold at least one public hearing. At least 30 days before the hearing, notice of the time and place of the hearing must be provided to a recipient of the public hearing draft, advertised in a newspaper of general circulation within the district or by an announcement on radio or television that broadcasts within the district, and advertised in a newspaper of general circulation within the state. At the public hearing, a person shall be given the opportunity to present statements orally or in writing.

As necessary, a district shall provide translation into and out of a Native language prevalent within the district. In addition, the district shall provide the office with a transcript or electronic recording of the hearing.

(f) A city or village within a coastal resource service area shall submit a comment as a resolution. The city or village shall issue a public notice and hold a public hearing to adopt a resolution. Notice of the time and place for that hearing must be posted in the city or village, given to a person who requests it in writing, advertised in a newspaper of general circulation within the city or village or by an announcement on radio or television that broadcasts within the city or village, or through another applicable provision for public notice. A comment from a city or village must

(1) focus on elements of the program affecting resources or the use of resources within the corporate limits of the city or within two miles of the village; and

(2) provide an alternative element, component, or provision, as appropriate.

(g) The district shall consider a comment received within the review period under (c) of this section. A coastal resource service area must incorporate a resolution into the revised public hearing draft if it is an element of the program affecting resources or the use of resources within the corporate limits of the city or within two miles of the village.

(h) No later than the end of the review and comment period as defined in (c) of this section, state agencies must give their comments on the public hearing draft to the office and the district.

(i) Within 30 days following the review and comment deadline as defined in (c) of this section, the office shall consolidate the state agency comments. This consolidation will represent the position of state agencies, and will be developed in consultation with the district so as to resolve any significant differences between the state agency comments and the public hearing draft.

(j) Following receipt of the consolidated position of state agencies, the district shall

(1) consolidate all public comments and identify issues raised during the review under (c) of this section;

(2) resolve any outstanding issues. If the district and commentor cannot resolve the outstanding issues, the district may request the office consider the issues and provide a recommendation;

(3) incorporate any necessary changes into the revised public hearing draft or concept approved draft, as appropriate; and

(4) issue within 90 days a copy of all comments submitted by the deadline as defined in (c) of this section, and a written response explaining how the district considered a comment received during the review period under (c) of this section. The district shall distribute the written response to a person who submitted comments during that review period. The office may extend the 90 day period for the written response, upon request by the district.

(k) A district, other than a coastal resource service area, may revise the public hearing draft to allow for further review and comment. (Eff. 3/2/84, Register 89; am // , Register)

Authority: AS 44.19.161
AS 44.19.162

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AS 46.40.010
AS 46.40.040
AS 46.40.180

6 AAC 85 is amended by adding a new section to read:

6 AAC 85.146. REVISED PUBLIC HEARING DRAFT DEVELOPMENT AND REVIEW IN COASTAL RESOURCE SERVICE AREAS. (a) In addition to the 60-day review and comment period required in 6 AAC 85.145(c), a coastal resource service area shall provide an affected city or village a second 60-day review and comment period for a revised public hearing draft. An affected city or village may waive by resolution its right to review the revised public hearing draft. Adoption of that resolution must follow the provisions of 6 AAC 85.145(f).

(b) The service area shall distribute the revised public hearing draft to an affected city and village within the service area. A transmittal letter that states the comment deadline, identifies the recipient of comments, and identifies the regulations contained within this chapter and the provisions of AS 46.40.180, must be sent with the document.

(c) A city or village within the service area requesting new matter on the revised public hearing draft shall submit a comment as a resolution, as defined 6 AAC 85.145(f).

(e) A comment must

(1) focus on new material or specific elements that were submitted as comments or resolutions during the first 60-day review. A city or village within the district may not request changes or adopt a resolution to material or issues not commented on during the first 60-day review period, or agreed to in previous resolutions;

(2) focus on elements of the program affecting resources or the use of resources within the corporate limits of the city or within two miles of the village, as appropriate; and

(3) include alternative suggested elements, components or language, as appropriate.

(f) A coastal resource service area must incorporate a resolution into the concept approved draft if it is an element of the program affecting resources or the use of resources within the corporate limits of the city or within two miles of the village, as appropriate. (Eff. // , Register)

Authority: AS 44.19.160
AS 44.19.161
AS 46.40.010
AS 46.40.040
AS 46.40.180

6 AAC 85 is amended by adding a new section to read:

6 AAC 85.148. DEVELOPMENT, COORDINATION, AND PUBLIC REVIEW OF CONCEPT APPROVED DRAFTS. (a) A district shall conceptually approve its district

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program before submitting it to the office. Conceptual approval of the district program must be by resolution of

(1) the municipality's governing body, if the district represents that municipality;

or

(2) the board of a district that is a coastal resource service area.

(b) As soon as practicable after conceptually approving its district program, the district shall submit to the office and to state agencies

(1) the concept approved draft; and

(2) the names and addresses of persons who testified at a public hearing or provided a written comment during the review period under 6 AAC 85.145(c); and

(3) a copy of the district's response to comments, as described in 6 AAC

85.145(j).

(c) No later than 30 days after receipt of the concept approved draft, state agencies shall give their comments on the draft to the office and the district. Comments shall focus on new material or specific elements that were submitted under 6 AAC 85.145(h) during the first review period as defined in 6 AAC 85.145(c).

(d) Within 15 days following the review and comment deadline as defined in (c) of this section, the office shall prepare the revised findings and conclusions. The revised findings and conclusions will represent the consolidated position of state agencies, and will be developed in consultation with the district so as to resolve any significant differences between the positions of state agencies and the concept approved draft.

(e) Following completion of the revised findings and conclusions, the district or the office shall distribute, as soon as practicable, the

(1) concept approved draft;

(2) revised findings and conclusions; and

(3) copies of the district's responses to all comments, as described in 6 AAC

85.145(j).

The material shall be distributed to all parties that provided comments during a review period, or that identified themselves as having a significant interest in the district program. The mailing list of these parties must be reviewed and approved by the office before distribution.

(f) Reviewing parties, as described in (e) of this section, shall have at least 21 days following distribution of the materials to provide comments to the office. A comment shall focus on new material or specific elements that were submitted as comments previously.

(g) Within 15 days following the comment deadline as defined in (f) of this section, the office will

(1) determine whether the final concept approved draft contains the requirements as set forth in 6 AAC 85.020 - 85.110; and

(2) prepare final findings and conclusions as its recommendation to the council on the program. The final findings and conclusions shall be developed by the office in consultation with the district so as to resolve any significant differences between the requirements of this chapter and the district program.

(h) If the office and the district cannot resolve the outstanding issues, or the coastal

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resource service area does not agree with the change required by a resolution submitted by a city or village, the district may request the council consider the issues and provide a recommendation. For consideration by the council, a coastal resource service area must demonstrate that a resolutions submitted by an affected city or village within the coastal resource service area is not substantially consistent with the guidelines and standards contained in this chapter, 6 AAC 50 and 6 AAC 80, the provisions contained in AS 46.40, or in an district program. The district must submit the request as a response to the office's final findings and conclusions. (Eff. // , Register)

Authority: AS 44.19.161
AS 44.19.162
AS 46.40.040

6 AAC 85.150 is repealed and readopted to read:

6 AAC 85.150. COUNCIL REVIEW OF FINAL FINDINGS AND CONCLUSIONS AND CONCEPT APPROVED DRAFTS OF DISTRICT PROGRAMS. (a) The concept approved draft, the office's final findings and conclusions, the comments received during the comment period, and district responses to the comments received during the comment periods shall be distributed to the council, all persons who testified at the public hearing or presented written comments during the comment periods, and any other person who has requested this material in writing. If any of these materials were distributed under 6 AAC 85.148 and have not been amended, they do not need to be resent to the recipients. The mailing list of these parties must be reviewed and approved by the office before distribution. Public notice of the availability of the material and notice of the council meeting shall be given to a person who has requested it in writing, and through advertisement in a newspaper of general circulation. The public notice shall be issued at least 21 days before council review.

(b) The council will approve or disapprove the district program, in whole or in part, and issue a decision with findings and conclusions. The council will, in its discretion, adopt the findings and conclusions of the office by reference.

(c) The council will serve its decision under this section on ail persons as defined in (a) of this section, and to all persons who have requested a copy of the decision in writing. Notice of the council's action also must be published, at a minimum, in newspaper of general circulation in the district and in the Alaska Administrative Journal. (Eff. 7/18/78, Register 67; am 1/22/81, Register 77; am 3/2/84, Register 89; am // , Register)

Authority: AS 44.19.161
AS 46.40.040
AS 46.40.060
AS 46.40.070

6 AAC 85 is amended by adding a new section to read:

6 AAC 85.160. MINOR AMENDMENTS. (a) Notwithstanding another provision of this chapter, this section and 6 AAC 85.180 govern a minor amendment.

(b) A minor amendment is an amendment to an approved district program including

(1) a revision, addition or deletion to the issues, goals and objectives included in the approved district program under 6 AAC 85.020, which improves clarity or specificity, or which reflects the district's current views, but which does not result in a modification of a policy's intent, performance or design standard, or variance procedure;

(2) a revision, addition or deletion to the resource inventory under 6 AAC 85.050;

(3) a revision, addition or deletion to the resource suitability and sensitivity analysis under 6 AAC 85.060;

(4) a revision, addition or deletion to the policies or definitions included in the district program under 6 AAC 85.090 which

(A) helps to improve specificity or clarity, and which do not modify the goals, objectives or intent;

(B) adopts policies or definitions which have already been approved by the council and the National Oceanic and Atmospheric Administration, and which have undergone a public review in the district; or

(C) changes policies or definitions to be consistent with ordinances;

(5) altering the boundaries of a sensitive use area or sensitive resource area created under 6 AAC 85.090, but does not change the enforceable policies of the district program or coastal zone;

(6) a revision, addition or deletion to the implementation methods or authorities included in the district program under and 6 AAC 85.100 in which

(A) a coastal resource service area becomes a borough, and the district program is implemented by the borough;

(B) an area which merits special attention outside a district is annexed to a municipality, and the area which merits special attention program is implemented by the municipality; or

(C) a borough or coastal resource service area delegates coastal management planning and or implementation responsibility to a city or village within its boundaries, and adds a section in its implementation chapter on the relationship of a city inside its boundaries specifically for state consistency reviews and elevations, municipal appeals, planning and plan revisions, implementation through municipal land use regulations, and city land use regulations and how they will be reviewed for consistency with the district program;

(7) a district adopting a procedure for incorporating local knowledge into the implementation procedures of an approved district program;

(8) a district adopting a procedure for documenting public need;

(9) altering a coastal resource service area or municipal corporate boundary by

(A) annexing land where no existing coastal district program applies and the district designates the initial biophysical coastal zone boundary in the new territory as the final coastal zone boundary; or

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(B) annexing land already covered by a district coastal management program whereby the district does not want to make significant changes to the policies which apply to the area nor change the coastal zone boundary in the area; or

(10) an editorial change, reprint, change of format or program layout, or translation into another language of dialect.

(c) To make a minor amendment, a district must submit a request to the office. The request must include

(1) a brief description of the proposed change and an enclosure containing the actual change;

(2) the basis upon which the district believes the amendment is a minor program amendment;

(3) the reason the change is necessary;

(4) an assessment of the effects or potential effects of the change on district program implementation;

(5) documentation that state agencies have been consulted; this documentation may include a district's response to an agency's comments;

(6) a letter of support for the change from the coastal resource service area board, municipal planning commission, or municipal governing body; and

(7) a letter of support from a municipal governing body or a village, if that governing body or village

(A) exercises planning powers within a coastal resource service area or borough; and

(B) is materially affected by the change.

(d) Within 30 days after submission of the request, the office shall

(1) review the proposed amendment and the material submitted under (a) of this section;

(2) discuss the proposed amendment with an affected

(A) state or federal agency;

(B) district; or

(C) other interest; and

(3) prepare a recommendation on the amendment.

(e) The district may modify its proposed amendment to address the concerns identified by any of the parties listed in (d) of this subsection, or identified by the office.

(f) The office shall submit its recommendation on the amendment to the council. Public notice of the availability of the proposed amendment, recommendation, and notice of council meeting shall be given to a person who has requested that notice in writing, and through advertisement in a newspaper of general circulation. The public notice shall be issued at least 21 days before council review.

(g) The council will review the office's recommendations, material submitted by the district, and public comment offered at the council hearing. The council will, in its discretion, adopt the recommendation of the office by reference, and

(1) determine whether the amendment is a minor amendment, a minor amendment

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provided certain changes are made, or a significant amendment; and

(2) approve the minor amendment in whole, approve the minor amendment provided certain changes are made, or disapprove the minor amendment.

If the council determines that the amendment is a significant amendment, the amendment is subject to the significant amendment provisions of this chapter. (Eff. // , Register)

Authority: AS 44.19.161
AS 44.19.162
AS 46.40.040
AS 46.40.060
AS 46.40.070

6 AAC 85.170 is amended to read:

6 AAC 85.170. MEDIATION. (a) If the council's decision under 6 AAC 85.150 or 6 AAC 85.160 [6 AAC 85.150(i)] disapproves the district program or amendment [,] in whole or in part, the district may

(1) amend the district program [THE DISAPPROVED PORTION] to comply with the council's directive; or

(2) submit the disapproved portion [MUST BE SUBMITTED] to mediation as required by AS 46.40.060(b).

(b) Before the [INITIAL] mediation session, the council will, in its discretion, call for a [ONE OR MORE] public hearing [HEARINGS] in the district to discuss the part [CONCERNED, FOR THE PURPOSE OF DISCUSSING THOSE PORTIONS] of the program subject to mediation. Public notice shall be issued at least 30 days before the hearing. Upon request, a district shall provide [PUBLIC HEARINGS MUST BE PRECEDED BY 30 DAYS' NOTICE. IF PUBLIC HEARINGS ARE HELD, DISTRICTS SHALL INSURE THAT, WHERE REASONABLY REQUESTED,] translation into and out of a [APPROPRIATE] Native language prevalent within the district. The [LANGUAGES IS PROVIDED. ALL] public hearing [HEARINGS] must be electronically recorded. A person may submit oral [ORAL] or written testimony [MAY BE SUBMITTED], except that unduly repetitious testimony may be excluded. The oral and written testimony [AND WRITTEN SUBMISSIONS] constitute the hearing record, which shall [MUST] be transmitted to the mediator. [MEDIATION SESSIONS WILL BE CONDUCTED AS FOLLOWS:]

(c) [(1)] The parties to the mediation are [WILL BE] the council and the district. The parties shall, within 10 days after the date of the council's decision under 6 AAC 85.150 [6 AAC 85.150(i)], agree upon the selection of a mediator. If the parties cannot agree, they shall immediately, in writing, ask the Federal Mediation and Conciliation Service to appoint a mediator. If that mediator is unacceptable to either party, that party shall request the Federal Mediation and Conciliation Service to submit to the parties the names of three qualified mediators. Upon receipt of these names, each party shall strike one name from the list and the remaining name will be the mediator. A mediator shall perform [HIS OR HER] duties in a manner consistent with the standards of conduct set out in the Code of Professional Conduct for

Labor Mediators, referred to in and set out as an appendix to 29 C.F.R. 1400.735-20.

(d) [(2)] A mediation session [MEDIATION SESSIONS] must be held within the district. The mediator shall schedule a session [THE SESSIONS], with due regard for the convenience of the parties, upon at least seven days' notice, except that the parties may, by mutual consent, waive the notice period. The parties shall mutually agree upon the place of the meeting.

(e) [(3)] The mediator shall schedule the first mediation session to be held as soon as possible after the mediator [HE OR SHE] has been selected. At the initial session, the mediator shall establish reasonable rules of procedure. A mediation session [MEDIATION SESSIONS] must be conducted in a manner so that the parties will have the assurance and confidence that information disclosed to the mediator will remain confidential. The mediator shall determine the length and frequency of a mediation session. If [SESSIONS; HOWEVER, IF] an accord is not reached within 60 days after the initial session, [AN IMPASSE WILL BE DECLARED BY] the mediator shall declare an impasse, except that [. BY MUTUAL CONSENT OF] the parties and the mediator may agree to extend the 60-day [, THIS DEADLINE MAY BE EXTENDED FOR A] period by no more than [NOT TO EXCEED AN ADDITIONAL] 30 days.

(f) [(4)] If the mediator determines that an impasse has been reached, the mediator [HE OR SHE] shall notify the parties in writing within 10 days after the determination is made.

(g) [(5)] If the mediator determines that an accord has been reached, the mediator [HE OR SHE] shall direct the parties to set out in writing the terms of the agreement. This agreement [, TO BE SIGNED BY THE PARTIES,] signifies the final settlement of the dispute [OUTSTANDING DISPUTES], subject to ratification at a public meeting by [THE OFFICIAL BODIES OF] each party. With the approval of the parties, mediation may be used to resolve a difference that [ANY DIFFERENCES WHICH] may arise as the result of the public meetings. After ratification [UNDER (A)(5) OF THIS SECTION], the agreement may be set aside only for fraud, misconduct, or gross mistake.

(h) [(b)] If the council and the district reach an accord [IN MEDIATION SESSIONS HELD UNDER (A) OF THIS SECTION], the council will, within 20 days after ratification by both parties, serve its modified decision, in the form of an order, on the district and a person [ALL PERSONS] who WAS [WERE] served with the council's decision under 6 AAC 85.150(c) [6 AAC 85.150(i)], and will place the modified decision in the record file. The modified decision must [WILL] contain findings and conclusions, based on the record file and additional material presented during mediation, necessary to demonstrate that the modified decision is consistent with AS 46.40, this chapter, and [THE STANDARDS CONTAINED IN] 6 AAC 80 [, AS 46.40.060, OR 46.40.070].

(i) [(c)] If the council and the district do not reach an accord, the council will, within 20 days after a determination that an impasse has been reached, set the matter for an adjudicatory hearing under AS 46.40.060(c). Notice of the hearing must be served on the district and on a person [ALL PERSONS] who was [WERE] served with the council's decision under 6 AAC 85.150(c). A [6 AAC 85.150(I). ANY] person served with notice of the hearing under this subsection may intervene as a party to the hearing. (Eff. 3/2/84, Register 89; am // , Register)

Authority: [AS 44.19.160]
AS 44.19.161

Register ____, ____, 19__ Governor's Office

[AS 46.19.167]
AS 46.40.010
AS 46.40.030
AS 46.40.040

6 AAC 85 is amended by adding a new section to read:

6 AAC 85.175. OFFICE OF OCEAN AND COASTAL RESOURCE MANAGEMENT REVIEW. Within 30 days after a council approval under 6 AAC 85.150 or 6 AAC 85.160, or a modified decision under 6 AAC 85.170, the office shall submit the district program or amendment to the United States Department of Commerce for review under 16 U.S.C. 1455 (Coastal Zone Management Act). (Eff. //, Register)

Authority: AS 44.19.161
AS 44.19.162
AS 46.40.040

6 AAC 85.180 is amended to read:

6 AAC 85.180. LOCAL ADOPTION AND EFFECTIVE DATE [AND LOCAL ADOPTION]. (a) The council will, in its discretion, waive the requirements of this section for minor program amendments that do not involve a change to an enforceable element or component of the district program.

(b) Within 90 days after [THE DATE] a district program or [SIGNIFICANT] amendment is approved by the council under 6 AAC 85.150 - 6 AAC 85.170 and has been approved by the United States Department of Commerce as described in 6 AAC 85.175, the district shall approve or disapprove the district program or amendment in its entirety. The district shall issue a public notice for a hearing to adopt the district program or amendment. Public notice of the hearing shall be given to a person who has requested it in writing, and through advertisement in a newspaper of general circulation within the district, through radio or television announcements, or through another applicable provision for public notice. The district shall, by ordinance or resolution, whichever is required by other applicable provision of law, adopt the district program or amendment approved by the council at the hearing or as soon thereafter as practicable. [HOWEVER,] A [a] coastal resource service area shall adopt the district program by resolution of the coastal resource service area board. [IN THE SAME MANNER, A CHANGE] Following change in a district program after [RESULTING FROM] mediation under 6 AAC 85.170 [AS 46.40.060(b) AND 6 AAC 85.170(a) AND (b)] or an [FROM] adjudication under AS 46.40.060(c), [AND 6 AAC 85.170(c) MUST BE ADOPTED BY] the district shall adopt that change after a council [FOLLOWING THE COUNCIL'S] order under 6 AAC 85.170 [6 AAC 85.170 (b) OR (c) RATIFYING THE RESULTS OF THE MEDIATION OR DETERMINING THE ADJUDICATION].

(c) A district program or [SIGNIFICANT] amendment to a district program takes effect as part of the Alaska Coastal Management Program 30 days after public notice of [UPON] the lieutenant governor's filing of the council's decision approving the district program or

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[SIGNIFICANT] amendment. A change or an amendment in the district program resulting from mediation under 6 AAC 85.170 [AS 46.40.060(b) AND 6 AAC 85.170(a) AND (b)] or from adjudication under AS 46.40.060(c) [AND 6 AAC 85.170(c)] takes effect 30 days after public notice of [UPON] the lieutenant governor's filing of the council's order under 6 AAC 85.170 [EITHER RATIFYING THE RESULTS OF THE MEDIATION OR DETERMINING THE ADJUDICATION]. Filing will take place after local adoption as provided in (b) of this section. (Eff. 3/2/84, Register 89; am // , Register)

Authority: [AS 44.19.160]
AS 44.19.162
[AS 46.40.010]
[AS 46.40.030]
AS 46.40.040
[AS 46.40.060]
[AS 46.40.070]

6 AAC 85 is amended by adding a new section to read:

6 AAC 85.183. ANNUAL PROGRESS REPORT SUBMISSIONS TO COUNCIL.

(a) After adopting a district program under 6 AAC 85.180, a district shall submit annually to the council a brief progress report concerning program implementation. The council will furnish a copy of the report to an interested party upon request. The district shall submit the report by August 15. The report must include

(1) a statement describing the district's progress in fulfilling a condition that the council placed upon approval of the district program or an amendment;

(2) a summary, on a form provided by the office, of significant district land and water use decisions and enforcement actions during the year;

(3) a description of minor program changes to the district program during the year;

(4) the district's response to a council recommendation; and

(5) identification of a problem encountered in implementing the district program and a recommendation to solve the problem.

(b) After adoption of the district program, the district shall submit to the council every five years an evaluation of the program's effectiveness and implementation, a presentation of new issues, and a recommendation for resolving a problem that has arisen.

(c) The council may require that a district amend the district program to resolve a problem with implementing the district program, or to update part of the district program that is outdated. (Eff. // , Register)

Authority: AS 44.19.161
AS 44.19.162
AS 46.40.010
AS 46.40.040

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6 AAC 85.185 is amended to read:

6 AAC 85.185. PETITION FOR AMENDMENT TO AN APPROVED DISTRICT PROGRAM REGARDING USES OF STATE CONCERN. (a) A state agency or other interested party may submit a petition for amendment to a district program if there is substantial evidence that a use of state concern, as defined in AS 46.40.210(6), is arbitrarily or unreasonably restricted or excluded by the district program. The petitioner must submit the petition to the office [DIVISION OF GOVERNMENTAL COORDINATION (DGC), IN THE OFFICE OF MANAGEMENT AND BUDGET, OFFICE OF THE GOVERNOR,] and to the district. The petition must include the following information:

- (1) identification of a use [ONE OR MORE USES] of state concern that is [ARE] arbitrarily or unreasonably restricted or excluded by implementation of the program;
- (2) specific documentation of how the use of state concern is being arbitrarily or unreasonably restricted or excluded;
- (3) a description of a significant change in circumstances or new information that has arisen since program approval, which provides a reasonable basis for concluding that the district program arbitrarily or unreasonably restricts or excludes a use of state concern; and
- (4) the proposed program amendment.

(b) The office [DGC] will review the petition for completeness and distribute it to [APPROPRIATE] state agencies. Within 30 days after the petition is submitted, the office shall [TO DGC, DGC WILL], in consultation with the district [,] and the petitioner, attempt to resolve the petitioner's concerns without initiating a program amendment. The office [DGC] will extend the 30-day consultation period by 20 days at the request of the district, the [INVOLVED] state agencies, or the petitioner. The office may [DGC WILL, IN ITS DISCRETION,] extend the consultation period by up to 60 days [IF MORE TIME IS NEEDED FOR ALL PARTIES TO ASSEMBLE].

(c) If the concerns are not resolved through consultation and if the office [DGC], in consultation with the district, the [INVOLVED] state agencies, and the petitioner, determines that after original program approval a significant change in circumstances has occurred or new information has developed that might cause the program to arbitrarily or unreasonably restrict or exclude a use of state concern, the procedure described in (d) of this section applies.

(d) Within [IF THE CRITERIA IN (C) OF THIS SECTION ARE MET, THEN WITHIN] 20 days after [THE END OF THE] consultation period under [SPECIFIED IN] (b) of this section, the office shall [DGC WILL] distribute the petition, an [DGC'S] evaluation of the proposed amendment, and the district's response to the petition [,] to the council and to a party [ALL PARTIES] identified as having a significant interest in the district program, including a party [THOSE PARTIES] described in 6 AAC 85.140. The office's [DGC'S] evaluation shall [WILL] include:

- (1) a summary of the proposed [PROGRAM] amendment;
- (2) an analysis of the evidence that the requirements in (c) have been satisfied;

and

(3) an evaluation of the amendment's consistency with AS 46.40 and 6 AAC 80 [THE ALASKA COASTAL MANAGEMENT PROGRAM (ACMP)].

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(e) If the criteria established in (c) of this section are not met, then the office shall [DGC WILL] report this finding to the council. The office shall distribute its [DGC'S] finding [WILL BE DISTRIBUTED] to a person [ALL PARTIES] involved during the consultation period specified in (b) of this section and to the council. The office's [DGC'S] finding is subject to council review if a review is requested by a council member.

(f) The procedures set out in 6 AAC 85.150 [6 AAC 85.150(c)-(f)] for review of district programs apply to council review of a petition under this section.

(g) The procedures set out in 6 AAC 85.170 [FOR MEDIATION AND ADJUDICATORY HEARINGS] apply if the district is dissatisfied with the council's decision on the petition.

(h) An amendment to a district program approved by the council under (f) of this section takes effect [AS PART OF THE ACMP] upon the lieutenant governor's filing of the council's decision approving the amendment. If mediation or an adjudication occurs under AS 46.40.060 and 6 AAC 85.170 [ADJUDICATORY HEARING UNDER (G) OF THIS SECTION OCCURS], an amendment to a district program [RESULTING FROM MEDIATION UNDER AS 46.40.060(b) AND 6 AAC 85.170(a) AND (b) OR FROM ADJUDICATION UNDER AS 46.40.060(c) AND 6 AAC 85.170(c)] takes effect upon the lieutenant governor's filing of the council's order either ratifying the results of the mediation or determining the adjudication [, RESPECTIVELY]. (Eff. 8/23/86 , Register 99; am / / , Register)

Authority: [AS 44.19.160]
AS 44.19.161
AS 46.40.010
AS 46.40.040
AS 46.40.060

Article 3. Special Area Management Plans and Areas Which Merit Special Attention

Section

195. Special area management plans

205. Types of areas to be designated as areas which merit special attention

215. Areas which merit special attention inside districts

225. Areas which merit special attention outside districts

6 AAC 85 is amended by adding a new section to read:

6 AAC 85.195. SPECIAL AREA MANAGEMENT PLANS. A coastal resource district may develop a special area management plan to manage a specific resource or activity within the coastal district. A special area management plan includes a harbor management plan, ocean resource management plan, public use management plan, recreation management plan, watershed management plan, and wetlands management plan. A special area management plan provides for increased specificity in protecting significant natural resources, coastal-dependent

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economic growth, improved protection of life and property in hazardous areas, and improved predictability in governmental decision making. Development and approval of a special area management plan must follow the procedures for approval of district programs or significant amendments as described in this chapter. (Eff. // , Register)

Authority AS 46.40.030

6 AAC 85 is amended by adding a new section to read:

6 AAC 85.205. TYPES OF AREAS TO BE DESIGNATED AS AREAS WHICH MERIT SPECIAL ATTENTION. (a) A coastal resource district may develop a program for an area which merits special attention. The development and approval of a program for an area which merits special attention is subject to 6 AAC 85.215 and 6 AAC 85.225.

(b) An area which merits special attention includes the following, in addition to the categories contained in AS 46.40.210(1):

- (1) an area important for subsistence hunting, fishing, food gathering, and foraging;
- (2) an area with special scientific value, including an area where an ongoing research project could be jeopardized by development or a conflicting use or activity; and
- (3) a potential estuarine or marine sanctuary. (Eff. // , Register)

Authority: AS 44.19.161
AS 46.40.040

6 AAC 85 is amended by adding a new section to read:

6 AAC 85.215. AREAS WHICH MERIT SPECIAL ATTENTION INSIDE DISTRICTS. (a) A person may recommend to a district that an area inside the district be submitted to the council for approval as an area which merits special attention. A district may include in its district program, or submit for approval as a significant amendment to its program, a program for an area which merits special attention. A program for an area which merits special attention must include

- (1) the basis or bases for designation under AS 46.40.210(1) or 6 AAC 85.205;
- (2) a map showing the geographical location, surface area and, if appropriate, bathymetry of the area, along with a legal and narrative description of the boundaries and a justification of the size of the area which merits special attention;
- (3) a district program element described in 6 AAC 85.020 - 6 AAC 85.110;
- (4) a summary of the resource values and use conflicts, if any, in the area; and
- (5) analysis that the area which merits special attention designation is the district's preferred planning and management mechanism for meeting the objectives of the proposal and the Alaska Coastal Management Program.

(b) Council approval of areas which merit special attention inside districts will be in accordance with the procedures for approval of district programs, or significant amendments to

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district programs, as described in this chapter.

(c) A management plan for an area which merits special attention inside a district must preserve, protect, enhance, or restore the value or values for which the area was designated. (Eff. //, Register)

Authority: AS 44.19.161
AS 46.40.040

Editor's Note. The substance of this section was originally codified at 6 AAC 80.158.

6 AAC 85 is amended by adding a new section to read:

6 AAC 85.225. AREAS WHICH MERIT SPECIAL ATTENTION OUTSIDE DISTRICTS. (a) A person may recommend to the council an that area within the coastal area but outside a coastal resource district be designated as an area which merits special attention. A recommendation to the council for an area which merits special attention outside a district must be submitted to the office, and must include

- (1) the basis for designation;
- (2) a map showing the geographical location of the area, as well as a legal and narrative description of the boundaries, and a justification of the size of the area which merits special attention;
- (3) a summary of the resource values and use conflicts, if any, in the area;
- (4) a statement of the purpose and objectives to be met through planning for an area which merits special attention;
- (5) a tentative schedule outlining time frames for completion of planning tasks and reviews;
- (6) the source of funding for developing the area which merits special attention program;
- (7) a list of parties with interests in or adjacent to the proposed area who may be affected by its designation, and a description of how these parties would be involved in plan development;
- (8) a letter from the affected districts commenting on the proposed area which merits special attention;
- (9) a written summary of the issues discussed and the participants involved in the meeting as defined under 6 AAC 85.135; and
- (10) an analysis that the area which merits special attention is the preferred planning and management mechanism for meeting the objectives of the proposal and the Alaska Coastal Management Program.

(b) A program for an area which merits special attention outside a district must preserve, protect, enhance, or restore the value or values for which the area is designated.

(c) Upon receipt of a recommendation for designation of an area which merits special attention outside of a district, the office shall place the recommendation on the council's agenda for consideration at its next regularly scheduled meeting, and shall give notice of a public

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hearing. The office shall give direct notice to a person identified in (a)(7) of this section. The office shall make the recommendation available for public inspection at the time of the notice of the public hearing. The council will make an initial finding, detailing its reasons to either authorize additional planning for the area which merits special attention, or to reject the recommendation. The council's authorization of additional planning does not constitute council approval of a final program.

(d) If the council decides to authorize additional planning under this section,

(1) public notice will be provided by advertisement in a news publication of general circulation in the affected area and in one of general circulation in the state. The office, with assistance from the person recommending the designation, shall compile a mailing list of state and federal agencies, affected cities and villages, landowners, and other interested parties and shall notify them that planning for the area which merits special attention outside the district is going to occur; and

(2) designation of an area which merits special attention outside of a district shall be in accordance with the procedures for approval of district programs as described in this chapter. For the purposes of this chapter, the person recommending the designation of the area shall be responsible for all applicable district program development requirements within this chapter.

(e) In addition to the applicable requirements of this chapter, the public hearing draft as described in 6 AAC 85.140 must also include the information required under (a) of this section and in 6 AAC 85.020 - 6 AAC 85.110.

(f) The council will approve or disapprove the designation of an area that merits special attention outside a district as described in 6 AAC 85.150. The council will disapprove the designation if designation would cause substantial irreparable harm to another interest or value in the coastal area. (Eff. // , Register)

Authority: AS 44.19.161
AS 46.40.040

Editor's Note. The substance of this section was originally codified at 6 AAC 80.170.

Article 4. General Provisions

Section 900. Definitions

6 AAC 85.900 is repealed and readopted to read:

6 AAC 85.900. DEFINITIONS. Unless the context indicates otherwise, in this chapter

- (1) "area which merits special attention" has the meaning given in AS 46.40.210(1);
- (2) "beach" means an area affected by wave action directly from the sea;
- (3) "city" has the meaning given in AS 29.05.011;
- (4) "concept approved draft" means the draft document developed in 6 AAC 85.148,

and which has been approved, by the municipality's governing body or the coastal resource service areas board, for further development;

(5) "**council**" means the Alaska Coastal Policy Council;

(6) "**direct and significant impact**" means an effect of a project which will likely contribute or lead to a significant change in or alteration of the natural, social, cultural, or economic characteristics of a coastal resource district;

(7) "**district**" means a coastal resource district as defined in AS 46.40.210(2);

(8) "**district program**" means a district coastal management program;

(9) "**enforceable policy**" means those policies which are legally binding through constitutional provisions, laws, regulations, land use plans, ordinances, or judicial or administrative decisions, by which the State or municipalities exert control over private and public land and water uses and natural resources in the coastal zone;

(10) "**feasible and prudent**" has the meaning given in 6 AAC 80.900;

(11) "**governing body**" has the meaning given in AS 29.71.800;

(12) "**islands**" means bodies of land surrounded by water on all sides;

(13) "**local knowledge**" means a body of knowledge or information about the coastal environment or the human use thereof, including information passed down through generations, if that information is

(A) derived from experience and observations; and

(B) generally accepted by the local community;

(14) "**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;

(15) "**new matter**" means new language or deletions;

(16) "**office**" means the Division of Governmental Coordination established in the Office of Management and Budget established in the Office of the Governor;

(17) "**person**" means

(A) any individual;

(B) any corporation, partnership, association, or other entity organized or existing under the laws of the State;

(C) the Federal Government;

(D) any state, regional, or local government; or

(E) any entity of any such Federal, state, regional, or local government;

(18) "**public hearing draft**" means the draft document developed in 6 AAC 85.140 and 6 AAC 85.145;

(19) "**public need**" means a documented need of the general public and not that of any private individual or group of individuals;

(20) "**saltwater wetlands**" has the meaning given in 6 AAC 80.900(19);

(21) "**sensitivity**" means the tendency to be altered easily or to be vulnerable to changes from other forces, uses, or activity in the environment;

(22) "**service area**" means a coastal resource service area;

(23) "**significant amendment**" means an amendment to an approved district program

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which

(A) results in a major revision, addition or deletion to the policies or implementation methods or authorities included in the district program under 6 AAC 85.090 and 6 AAC 85.100;

(B) alters the district boundaries, other than by technical adjustments;

(C) designates an area which merits special attention or alters an existing area which merits special attention designation; or

(D) restricts or excludes a use of state concern not previously restricted or excluded;

(24) **"suitability"** means the fitness and appropriateness of the coastal environment to support a given use or activity.

(25) **"transitional and intertidal area"** means an area subject to periodic or occasional inundation by tides, including coastal floodplains, storm surge areas, tsunami and hurricane zones, and washover channels;

(26) **"village"** means an unincorporated community

(A) in which at least 25 persons reside as a social unit as determined by the Department of Community and Regional Affairs;

(B) has a traditional village council, IRA council, or community association; and

(C) with boundaries as follows, for the purposes of this chapter:

(i) the area within a three mile radius of the village post office; or

(ii) if there is no post office, the area within a three mile radius of a site designated by the commissioner of the Department of Community and Regional Affairs;

(27) **"zone of direct interaction"** means the portion of the coastal zone where physical and biological processes are a function of direct contact between land and sea; and

(28) **"zone of direct influence"** means the portion of the coastal zone extending seaward and landward from the zone of direct interaction. (Eff. 7/18/78, Register 67; am 8/18/79, Register 71; am 9/9/81, Register 79; am 3/2/84, Register 89; am //, Register)

Authority: AS 44.19.161
AS 46.40.040

Author. ruffner@Alaska.NET (Robert Ruffner) at CC2MHS1

Date: 2/19/98 9:17 PM

Priority: Normal

TO: Representative Joe Green at LAA_TRANS

CC: Representative Bill Hudson at LAA_CAP, Representative Scott Ogan at LAA_TRANS,

Representative Gene Therriault at LAA_HTHR,

Representative_Bill_Hudson@legis.state.ak.us at CC2MHS1

Subject: HB 28

Dear Representatives,

Although none of you are in my district, I hope you will take the time to hear from an average Alaskan in Kenai/Soldotna. I will be brief!

HB 28 could significantly lessen the LOCAL control we currently have. I'm quite certian that my Rep would disagree with this, but I've seen it in other rural areas in the west. The scenerio goes as follows. If the local people don't take care of those sensative environmental areas, the feds will bring in big hammers to "help us out". I realize that the Rep. Therriault probably doesn't have much use for the CMP, but in Kenai, we really do!

This bill would lessen the flexibility currently in place that prevents damage to the Kenai.

I urge you not to support this bill.

My apologies to Rep. Therriault.

Thank you for considering my comments,

Robert Ruffner

PO Box 407

Soldotna



H
FK 1128

February 27, 1998

MAR 02 1998

Representative Bill Hudson
Alaska State House of Representatives
State Capitol
Mail Stop 3100
Juneau, AK 99801-1182

Dear Representative Hudson:

I attended yesterday's House Resources Committee hearing via teleconference, but was not called upon to testify on CSHB 28. Apparently my name failed to appear on your list of teleconference attendees. I am writing today to enter my comments into the hearing record.

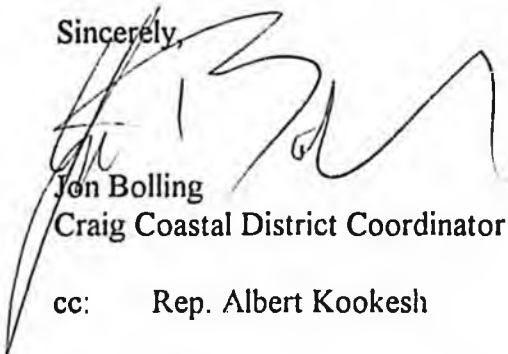
My comments are as follows.

1. I support the comments made by Gail Ostrom of St. Marys at yesterday's teleconference regarding stripping Coastal Resource Service Areas (CRSA) of their current authority in Title 46. Doing so will only serve to eliminate local control and administration of the program, exactly the opposite approach that the municipalities that participate in the Alaska Coastal Management Program (ACMP) support.
2. I believe that if the authorities granted to CRSA's in Title 46 are eliminated as proposed by CSHB 28, the state risks losing federal funding of the ACMP. My understanding of the federal Coastal Zone Management Act requires that the state ACMP program explicitly grant such authority. Voiding that power as proposed in this bill will reduce federal grant funding.
3. I support the comments made during yesterday's teleconference by the planning director of the Kenai Peninsula Borough regarding the need for an administrative appeal process in the ACMP (known as petitions). Elimination of an appeal process, as proposed by CSHB 28, will only lead to more litigation on ACMP issues; that process is more divisive and costly than a built-in administrative appeal.
4. CSHB 28 will also reduce the state's ability to oversee federally sponsored activities in Alaska by reducing the size of coastal districts. One of the most attractive components of the ACMP is the authority it gives to the state to have legal standing in the review of federal actions. Why should the state voluntarily reduce that authority? Doing so is not in the best interest of Alaska.

It is my hope that CSHB 28 will not pass out of the House Resources Committee in its present form. Changes to the bill that address the issues raised above and in yesterday's hearing are needed.

Thank you for this opportunity to comment.

Sincerely,



Jon Bolling
Craig Coastal District Coordinator

cc: Rep. Albert Kookesh

Author: rba@alaska.net (Roy Anderson) at CC2MHS1
Date: 2/18/98 8:10 PM
Priority: Normal
TO: Representative Bill Hudson at LAA_CAP
Subject: CSHB 28
To: The Honorable Bill Hudson and The Honorable Scott Ogan

Regarding: CS For House Bill 28

From: Roy Anderson, Resident - Kenai Peninsula Borough

I am writing to oppose CSHB 28, " An Act modifying the Alaska Coastal Management Program and the Responsibilities of the Alaska Coastal Policy Council".

I believe the act as written, would eliminate the ability of local Coastal Management Programs to protect valuable habitat within their boundaries.

I am one of four persons that recently appealed an arbitrary and capricious decision made by various governmental agencies to the Alaska Coastal Policy Council. We were successful in having the consistency finding remanded back to the agencies for further review. Removing the course of appeal as proposed, would leave petitioners with only the courts as an arbitrator of these capricious decisions. If a case was appealed to the courts and found successful, the state would pay the cost to defend it self and also pay the court costs of the petitioners. One law suit found in favor of the petitioners would cost more than the state's cost of maintaining an appeal through the elevation process of the Coast Management Program.

If the Coast Management Program is to be amended, then strength the appeals process, do not eliminate it. Currently because state employees sit on the Coastal Policy Council the Council is restricted to considering only if a petitioner's comments have been "fairly considered". This does not provide citizens of an affect district a fair appeal process when arbitrary and capricious decision are made by government agencies. My suggestion is that state employees be removed from the Coastal Policy Council and that the Council be given the powers through statute to consider appeals based on their merit.

I also disagree with removing the stipulation powers of the agencies. This would force all but the most benign projects to be denied because they could not be found consistent without the stipulations. Removal of the agencies ability to require stipulations for a consistency finding could result in the denial of reasonable development projects within in the coast zone boundary.

Also, shrinking the coastal zone boundary as proposed would not protect the up-river habitat of salmon producing rivers like the Kenai . Without these protections, significant harm will occur to the salmon populations in these rivers.

I am sorry that I could not testify at your teleconference tomorrow. You must realize that for many of us who work, attending a teleconference scheduled between 1 and 4 on a weekday is impossible.

I appreciate you consideration of my concerns.



Alaska State Legislature

Written Testimony Form

Please enter into the record my testimony to the HOUSE RESOURCES
(committee name)

committee on HB 28, dated February 19, 1998
(bill/subject)

Cordova District Fishermen United (CDFU) would like to register their support of the Alaska Coastal Policy Council and the Coastal Management Program. We do not want to see shrinkage of their powers, nor lessening of their authority. It has given coastal communities much needed avenues of input and has provided due process, an important component of the Alaskan democratic procedure. We are against modification of the Coastal Management Program. We are against House Bill 28

Signed: Jo Ellen Key
Testifier Name

Cordova District Fishermen United
Representing (Optional)

PO Box 939 Cordova, AK 99574
Address

907.424.3447
Phone Number

HOUSE RESOURCES COMMITTEE PUBLIC TESTIMONY, FEBRUARY 26, 1998

SUBJECT: CS FOR HB28

COMMENTOR: JIM GLASPELL
19738 IVY HOME CIRCLE
EAGLE RIVER, AK 99577
694-2126
jdaspell@compuserve.com



Mr. Chairman and House Resources Committee Members:

My name is Jim Glaspell, 19738 Ivy Home Circle, Eagle River, and I am testifying on my own behalf. I have worked with ACMP issues in Alaska since 1981 and have serious concerns regarding this proposed legislation. Although the Committee Substitute before you does not call for outright elimination of the Alaska coastal management program, it imposes arbitrary and inappropriate limitations on district plan coastal boundaries, restricts local community involvement in plan development and resource protection policy application in a manner never envisioned in the enabling legislation, and eliminates petition processes originally intended to provide a procedure for coordinated state/community oversight of the implementation of the ACMP.

- Reducing the CZM boundary to only the zones of direct interaction and direct influence reverts to the "interim" or initial boundaries approved by the Coastal Policy Council back in 1979. At that time it was clearly recognized that the "interim" boundary was only a starting point, and specific criteria were identified for modifying the interim boundary during development of a district program. To arbitrarily change the coastal boundary to its starting point from nearly 20 years ago would ignore recognition of the critical interactions of development activities and resource uses on the state's coastal areas, habitats, and fish and wildlife populations. We only have to look to the status of salmon populations in Washington and Oregon to see a demonstrable effect of the importance of proactive coastal resource protection. In addition, it should not be assumed that all coastal district boundaries would be reduced under this proposed legislation since there are coastal districts where the current boundary encompasses an area smaller than the original "interim" boundary.
- The Coastal Policy Council has already directed coastal districts to avoid the adoption of state statutes and regulations by reference in local plans in the January 1997 "Drafting Principles for Enforceable Policies". District plan policies are intended to supplement, where appropriate, the regulatory framework provided by state and federal laws, and not to repeat them.

- A key component of the ACMP is the ability to protect coastal resources through a locally-developed plan, using enforceable policies that supplement existing state and federal regulations. For Coastal Resource Service Areas (CRSA) which do not have planning powers, the only way to implement their program standards is through inclusion on state permits and authorizations under the consistency review process. Municipalities and boroughs with planning powers do not generally attempt to establish their own standards for air, land, water, and habitat protection. The proposed change would preclude any district program policies or permit stipulations across a broad spectrum of local coastal resource issues for which the district does not or can not exercise authority. Limiting state agency involvement in the ACMP to only those areas in which they already have statutory authority ignores the knowledge and expertise of resource agencies in implementing district program policies which focus on coastal resource protection. The approach proposed in this legislation would restrict district program involvement and state agency participation in project consistency reviews to only those issues of coastal resource protection already existing in regulation.
- Elimination of B-1 (specific action) and B-2 (district program implementation) petition review processes will throw away an important tool in the system of checks and balances - the ability to elevate consistency decisions to the Coastal Policy Council (agency and community representatives) when a district, applicant, or citizen does not agree with a consistency decision or the implementation of a district program. The petition process does not duplicate the consistency review "elevation" process since elevations are directed to higher authority in the same agency that rendered the consistency decision at issue.

Overall, the arbitrary shrinking of the coastal boundary without justification, the limitation of agency or district involvement in the ACMP to only those areas where they have statutory authority, and elimination of the petition process for consistency determinations would effectively emasculate key components of the ACMP, almost to the same functional point that would be achieved by complete elimination of the Alaska coastal management program. At a time when the state is striving to give a greater voice to local knowledge and expertise, and to provide expanded opportunities for self-determination of coastal resource protection needs by local communities, this committee substitute for HB28, work draft "E" would significantly weaken the ACMP and the cooperative community/state management of resources in the coastal area. CRSAs in the unincorporated borough would be particularly hard hit by this approach (Bristol Bay, Aleutians West, Bering Straits, Cenaliulnit).

Thank you for the opportunity to provide comments to the committee



Alaska State Legislature

Please enter into the record my testimony to the House Resources
 committee name
 committee on HB 28 Coastal Mngement dated 2/26/98
 bill/subject

The Matanuska-Susitna Borough opposes the proposed HB 28. The borough's position is reflected in the position taken by the Alaska Municipal League regarding this proposal.

Signed: George Kenneth Hudson
 Testifier
Matanuska-Susitna Borough
 Representing (Optional)
350 East Dehlic Ave Palmer Alaska 99645
 Address
(907) 745-9865
 Phone No.



Southeast Alaska Conservation Council

SEACC 419 6th Street, Suite 328, Juneau, AK 99801

(907) 586-6942 phone (907) 463-3312 fax

info@seacc.org

Statement of the Southeast Alaska Conservation Council (SEACC)
on HB 28
before the House Resources Committee
Alaska State Legislature
February 26, 1998

Founded in 1970, SEACC is a coalition of fifteen local community, volunteer conservation groups in twelve Southeast Alaska communities, from Ketchikan to Yakutat. SEACC's 1200 individual members include commercial fishermen, Native Alaskans, hunters and guides, tourism and recreation business owners, value-added wood product manufacturers, and Alaskans from all walks of life. SEACC is dedicated to safeguarding the integrity of Southeast Alaska's unsurpassed natural environment while providing for balanced, sustainable use of our region's resources.

The Alaska Coastal Management Program is a valuable program which allows local citizens and communities to have a voice in management decisions affecting coastal resources. SEACC opposes this bill and any other attempts to weaken the public's involvement in the ACMP program. We are most concerned with Sections 2 and 6 of the proposed CS for this bill, or Work Draft "E." Under these sections, the State Legislature would reduce the coastal zone boundary to exclude the zone of indirect influence, and eliminate the process of petitioning a district program or proposed consistency determination.

Section 2 of this bill would force districts to reduce their coastal zones to only the "zone of direct interaction" and the "zone of direct influence" and exclude the "zone of indirect influence." By excluding the zone of indirect influence, this bill would limit the ability of coastal districts and their citizens to affect State and federal land management decisions in the coastal zone. Since Alaskan communities and citizens depend heavily on coastal resources, especially salmon, they must be allowed full participation in management decisions affecting these resources. Given the importance of anadromous fish habitat in the zone of indirect influence to coastal communities, the Legislature must allow coastal districts to have a say in management decisions in this zone.

By eliminating the petition process, Section 6 of this bill would hamstring public participation in the ACMP process. Without the petition process to make certain that public comments are adequately considered in the ACMP, the public would be required to use the courts to achieve this goal. Cutting out this important step in the ACMP process, then, would then end up costing the State more in legal fees and unnecessarily limit public involvement in this important program.

In conclusion, we urge you to withdraw this legislation.

Respectfully submitted,

Marc Wheeler
SEACC

LYNN CANAL CONSERVATION, Haines • FRIENDS OF GLACIER BAY, Gustavus • FRIENDS OF BERNERS BAY, Juneau
WRANGELL RESOURCE COUNCIL • ALASKA SOCIETY OF AMERICAN FOREST DWELLERS, Pt. Barrow • PELICAN FORESTRY COUNCIL
ALASKANS FOR JUNEAU • NARROW'S CONSERVATION COALITION, Petersburg • TONGASS CONSERVATION SOCIETY, Ketchikan
CHICHAGOI CONSERVATION COUNCIL, Tenakee • JUNEAU GROUP SIERRA CLUB • SITKA CONSERVATION SOCIETY
TAKU CONSERVATION SOCIETY, Juneau • PRINCE OF WALES CONSERVATION LEAGUE, Craig • YAKUTAT RESOURCE CONSERVATION COUNCIL

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email: unite@akvoice.org

Alaska Conservation Voice
Speaking Out for Alaska's Future

Juneau
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fax: 907-463-3312
email: unite@akvoice.org

Testimony on HB 28
February 26, 1998

The Alaska Conservation Voice is an organization comprised of twenty four member groups, which represent over 10,000 households statewide. ACV is strongly opposed to House Bill 28 because it is a direct attack on the rights of local residents in coastal areas to take charge of their own futures.

In areas where formation of boroughs has not been feasible, and may not be feasible in the immediate future, the Alaska Coastal Management Program (ACMP) provides a critical planning structure that is responsive to local and regional concerns. Over the years, it has provided a valuable means for local and regional interests to chart a balanced development course that protects highly valued resources and creates or preserves opportunities for a more stable livelihood.

House Bill 28 employs several devices which seriously undermine the ability of local people to plan for economic development, land use and civil infrastructure that are appropriate to their needs and circumstances.

Specifically in western Alaska, the provision to reduce the coastal zone contradicts the realities of both the natural environment and topography and the interaction of humans with the environment of this region.

The proposal to prohibit coastal districts from adopting state statutes for their plan is a sharp and unfair curtailment of local prerogatives. Any number of logistical or consensus-building issues might arise that would make this direction very appropriate for a district to take. It is inappropriate for the legislature to second-guess coastal district decision-makers.

The petition review process is one of the basic building blocks of the Coastal Zone Management process. Without an avenue for redress when their concerns have not been answered, citizens' participation in the CZM process can all too easily be neglected as government officials and industry realize there are no consequences to ignoring the concerns of local residents.

In conclusion, ACV cannot support any effort to further curtail the ability of local people in coastal Alaskan communities to affect management decisions on lands affecting coastal resources. The ACMP has been a cost-effective program providing numerous benefits to thousands of Alaskans. The ACMP does not need the overhaul required by HB28.



City and Borough of Sitka

100 LINCOLN STREET • SITKA, ALASKA 99835

February 24, 1998

The Honorable Representative Bill Hudson, Co-Chair
The Honorable Representative Scott Ogan, Co-Chair
and Members of House Resources Committee
Alaska State House of Representatives
State Capitol
Juneau, AK 99801-1182

Dear Co-Chairs Hudson and Ogan and Members of
House Resources Committee:

I respectfully request that the following written testimony be substituted for my verbal testimony before House Resources Committee for your Thursday, February 26 hearing on House Bill 28. I attended your February 19 teleconference on HB28 but was not able to testify. This Thursday I cannot participate in person. Please also accept the attached Resolution No. 97-670 by the Assembly of the City and Borough of Sitka Supporting the Alaska Coastal Management Program and Opposing HB 28 To Repeal The Program, as well as the comments of Administrator Gary Paxton of the City and Borough of Sitka.

TESTIMONY BY MARLENE CAMPBELL, COASTAL MANAGEMENT COORDINATOR CITY AND BOROUGH OF SITKA TO THE HOUSE RESOURCES COMMITTEE

Mr. Co-Chairs and members of the House Resources Committee:

My name is Marlene Campbell. I have been Coastal Management Coordinator for the City and Borough of Sitka for the past eleven years. The Sitka Coastal District encompasses the coastal areas of the 4,710 square mile City and Borough of Sitka. Over 90 percent of the City and Borough of Sitka is Tongass National Forest lands owned by the Federal government, and most of the tidelands are State-owned.

The Alaska Coastal Management Program (ACMP) permits the citizens of the City and Borough of Sitka to have an active voice in the management of our land and water coastal resources. This "seat at the table" with the Forest Service, Department of Natural Resources, and other State and Federal agencies has been extremely beneficial to all parties and enables the Municipality and our community to have a measure of local control which is very important to us.

House Resources Committee
February 24, 1998
Page 2

HB 28 as presently written would destroy the integrity of Sitka's highly successful Coastal Program. Our well-written and flexible enforceable policies emphasize working cooperatively within the ACMP and jurisdictions of State and Federal agencies to permit development while at the same time protecting our valuable resources. By reducing the coastal boundaries to zones of direct influence, much of our directly impacted coastal zone outside the zone of direct influence would be outside our authorities to comment on. Most of Sitka's enforceable policies relate to our authorities to have a role as a partner with the agencies and applicants under the ACMP, and if these were excluded, Sitka would lose its "seat at the table" on decisions affecting our coastal zone.

Sitka's Coastal Program has been a model statewide since 1981, providing a balanced approach to permitting needed economic development while ensuring our natural resources in the Coastal Zone are maintained. We have never had a petition to the CPC; we have been able to work out all problems with permits to enable projects to proceed while protecting the environment. This partnership has been good for all parties but would be lost if HB 28 were approved. The federal funding provided to coastal districts through the ACMP also permits our communities to provide on-site staff assistance on coastal management issues to our citizens on a daily basis.

We could not possibly complete a total rewrite of the Sitka Coastal Program including new boundaries in 180 days. Further, if the ACMP is "gutted", there would be little reason left to continue to participate in the Program, and our local involvement in decisions affecting our lands and waters would be severely compromised. Sitka's Title 29 authorities do not give the Municipality the ability to effectively influence especially Federal decision-making except through the ACMP.

The Alaska Coastal Management Program is not broken and does not need fixing. Please support Alaska's coastal communities by letting the Division of Governmental Coordination fine-tune Alaska's highly successful Coastal Management Program. Please do not support HB 28, which will emasculate this extremely valuable federally funded program so important to the future of our State.

Thank you for the opportunity to comment.

Sincerely,


Marlene A. Campbell
Coastal Management Coordinator/
Special Projects Director

cc: Senator Robin Taylor
Representative Ben Grussendorf
Director Diane Mayer, DGC

Sponsor: Administrator

CITY AND BOROUGH OF SITKA

RESOLUTION NO. 97-670

A RESOLUTION OF THE ASSEMBLY OF THE CITY AND BOROUGH OF SITKA, ALASKA SUPPORTING THE ALASKA COASTAL MANAGEMENT PROGRAM AND OPPOSING HB 28 TO REPEAL THE PROGRAM

WHEREAS, the Sitka District Coastal Management Program has been an extremely effective opportunity for both citizens and the Municipality of the City and Borough of Sitka to have a strong local voice in decision-making affecting our coastal zone since its adoption in 1981; and

WHEREAS, developing the Sitka Coastal Program was a major citizen-based effort that encompassed long-range planning for the entire community and a site-specific determination of the major recreation and subsistence use areas in the entire Sitka Coastal District; and

WHEREAS, having gained state and federal approval of the Plan means state and federal agencies must recognize and be consistent with the local coastal Management policies, which has been of immense benefit to Sitka; and

WHEREAS, the Sitka Coastal Program has provided often the only opportunity for direct citizen involvement in setting policies which will permit appropriate development while at the same time protecting the resources our citizens most value; and

WHEREAS, the primarily federal dollars which fund the Alaska Coastal Management Program have provided hundreds of thousands of dollars over time to Sitka to fund staff and projects to permit Sitka to actively participate in the Coastal Management Program, to provide daily assistance to the public and agencies, and to comment on and facilitate permit reviews; and

WHEREAS, Sitka does not have automatic zoning and regulatory presence throughout its entire 4,710 square miles, and the Coastal Program provides the only involvement available to the Municipality for much development outside the zoned Sitka road system; and

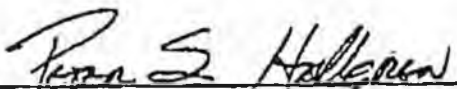
WHEREAS, the Alaska Division of Governmental Coordination has been of great

assistance to the City and Borough of Sitka recently to resolve agency conflicts with the permitting of two of its own large development projects, the Sitka Lightering Facility and the Sitka Water Export Project, and generally has provided a valuable project planning and coordination tool through the ACMP process,

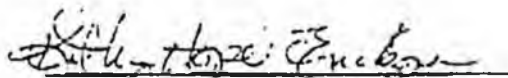
NOW, THEREFORE, BE IT RESOLVED by the Assembly of the City and Borough of Sitka, Alaska opposes HB 28 to repeal the Alaska Coastal Management Program.

BE IT FURTHER RESOLVED that the Assembly of the City and Borough of Sitka, Alaska supports the Alaska Coastal Management Program and wishes to continue to be an active participant in the program.

PASSED AND APPROVED by the Assembly of the City and Borough of Sitka, Alaska on this 11th day of March, 1997.


Peter S. Hallgren, Mayor

ATTEST:


Kathy Hope Erickson
Municipal Clerk



City and Borough of Sitka

100 LINCOLN STREET • SITKA, ALASKA 99835

CITY AND BOROUGH OF SITKA'S SUPPORT FOR THE ALASKA COASTAL MANAGEMENT PROGRAM

February 24, 1997

The Sitka District Coastal Management Program has been an extremely effective opportunity for both the citizens and the Municipality of the City and Borough of Sitka to have a strong local voice in decision-making affecting the coastal zone of our City and Borough since its adoption in 1981. A major revision of the Sitka Coastal Program and the Sitka Public Use Management Plan have further enhanced the effectiveness and specificity of the Sitka Program. Developing the Sitka Program and its revisions was a major citizen-based effort that encompassed long-range planning for the entire community and a site-specific determination of the major recreation and subsistence use areas in the Sitka Coastal District. Gaining state and federal approval of the plan means state and federal agencies must recognize and be consistent with local Coastal Management policies. This local involvement in state and federal decision-making has been of immense benefit to Sitka.

Throughout the 16 years of Sitka's approved program, it has operated smoothly, providing often the only opportunity for direct citizen involvement in setting policies which will permit appropriate development while at the same time protecting the resources our citizens most value. There has been an opportunity to encourage project development with the least adverse impacts to resources or the community through the consistency review process. Many problems or conflicts have been solved through the review process. There has not been a single elevation by a Sitka project during the entire history of the Coastal Program.

The primarily federal dollars which fund the Alaska Coastal Management Program have provided hundreds of thousands of dollars over time to Sitka to fund the Coastal Management Coordinator part-time position. This local staff presence has facilitated the major amendments of the Sitka Program, provided daily assistance to the public and agencies, and permitted active municipal participation in permit reviews. The Coastal Management staff regularly works with individuals to help develop and comment on permit requests and with State and Federal agencies to assist them at the local level. Without this position, the City and Borough of Sitka would have no staff to provide all these services.

Hundreds of examples of the effectiveness of Sitka's Coastal Program exist. One example was a mariculture project proposed for an extremely popular recreation and subsistence use area close to Sitka. There was universal opposition to the project at this location but it would have been permitted anyway if not for the inconsistency finding of the Coastal Program. The Coastal Coordinator then worked with the applicant to find a less controversial location, and the project was subsequently permitted at the new site with NO opposition. This was ultimately a "win-win" situation. Usually, such problems can be eliminated before they occur if the applicant works with the Coastal Coordinator early on to resolve conflicts.

Sitka does not have automatic zoning throughout its entire 4,710 square miles. The Coastal Program provides the only involvement available to the Municipality for much development outside the zoned Sitka road system. Rather than developing new layers of regulations and additional municipal staff, the City and Borough of Sitka has relied on the Coastal Program to provide for reasonable, controlled development. The ACMP review enables projects to proceed with a single permit process rather than duplication and inconsistencies between agencies. If the Coastal Program were repealed, Sitka's only recourse to get direct involvement in project reviews would be through litigation.

The Alaska Division of Governmental Coordination (DGC) has been of great assistance to the City and Borough of Sitka recently to resolve agency conflicts with the permitting of two of its own large development projects: the Sitka Lightering Facility and the Sitka Water Export Project. Each of these proposals was "bogged down" by various agency concerns that proved specious, but the projects were finally moved forward to successful conclusion with the assistance of DGC. The ACMP process is a valuable project planning and coordination tool. While Sitka has occasionally had difficulties with DGC, these have generally been resolved equitably, and the agency's willingness to upgrade its services through the ACMP assessment process has been admirable.

In short, Sitka and its citizens have benefitted greatly from its involvement in the Coastal Management Program since 1981. The passage of House Bill 28 to repeal the Coastal Management Program would have major adverse impacts on our Municipality and our community and the lands and waters of the City and Borough of Sitka. The Coastal Management Program is our citizens' only real chance for involvement in the decisions affecting the coastal zone in which we all live. The City and Borough of Sitka opposes HB28 and hopes to continue to participate in the Coastal Management Program in the future.

Submitted by
Gary L. Paxton, Administrator
City and Borough of Sitka



ALASKA MINERS ASSOCIATION, INC.

501 W. Northern Lights Blvd., Suite 203, Anchorage, Alaska 99503 FAX: (907) 278-7997 Telephone: (907) 278-0347

February 25, 1998

FEB 26 1998

Honorable Bill Hudson
Honorable Bill Williams
Co-Chairmen, House Resources Committee
Capitol Building
Juneau, AK 99801

RE: House Bill 28, Relating to Coastal Zone Management

Dear Representatives Hudson and Williams,

Thank you for the opportunity to comment on the Committee Substitute for House Bill 28(RES). The Alaska Miners Association is in strong support of what we understand as your purposes for this bill - to place some reasonable limits on the area of applicability of the coastal zone program and to correct the uncertainty now associated with the use of stipulations and the petition process.

There are primarily three arguments raised to support the need for the Coastal Zone Management Program (CZMP): (1) CZMP assures the State will have a formal voice in any federal actions along the coasts of the state. All significant decisions made by the federal government do however, require either an Environmental Assessment or Environmental Impact Statement and State and local involvement is required by this NEPA process. (2) CZMP provides a mechanism for input by local communities when decisions are being made in the coastal zone. This is especially important in areas of the unorganized borough. (3) The CZMP receives an annual pot of federal money that comes with acceptance of a CZMP. However, the question remains as to what percentage of the actual cost of the program is covered by the money received from the federal government.

We feel that the changes made to HB-28 by the Committee Substitute are appropriate and that the resulting changes should not adversely impact these three reasons for having the CZMP. We are not debating the justification for eliminating or retaining the CZMP but we feel that it is time to make some significant changes to the program. The changes proposed by CSIB-28(RES) are needed and are appropriate.

1. Area Covered by CZMP CSIB-28(RES) does a very good job of addressing the question of coverage of the CZMP. CZM should be limited to those lands and waters that are directly touched by salt water. CSIB-28(RES) does this by using the phrase "may include only a zone of direct interaction..." This clear definition of the landward extent of CZM is essential. Some CZM areas currently extend many miles and even hundreds of miles inland from the coastal zone. This is totally inappropriate. There are all manner of other laws and regulations that apply to inland

areas and there is no logical justification for such a far-reaching influence under CZM. The changes proposed will correct the problems that now exist in determining the inland extent of CZMP

2. Stipulations The changes proposed by the Committee Substitute addressing stipulations should help clarify an area of uncertainty. In various instances CZMPs have included stipulations that appear to be in conflict with State Statute. The change proposed by this bill should remove the uncertainty that now exists.

3. Role of DGC in Permitting Process An area that is not addressed in CSIB-2S(RES) that you may wish to consider deals with the role of the Division of Governmental Coordination (DGC). One possible suggestion would be to clarify that whenever a permitting approach like that used by DNR for large mines is being followed, the role of DGC (and CZM) would be defined in statute as one of the agencies providing comment to the DNR project coordinator. For mining projects the DNR, as specified in statute, must be the coordinating agency. This applies in coastal areas as well as in the uplands. If a similar approach is used for permitting in other industries, the role of DGC and CZM should be treated the same as with mining. The DNR model utilizes experienced resource managers as coordinators. This approach has proven to be flexible and effective and should be used whenever possible.

Thank you for the opportunity to comment on this extremely important bill. If there is anything we can do to assist you in seeing this bill become law please contact me.

Sincerely,



Steven C. Borell, P.E.
Executive Director

cc Representative Gene Therriault
Diane Mayer

Alaska Oil and Gas Association



121 W. Fireweed Lane, Suite 207
Anchorage, Alaska 99503-2035
Phone: (907)272-1481 Fax: (907)279-8114

January 19, 1998

The Honorable Gene Therriault
Alaska State House of Representatives
Room 511
State Capitol
Juneau, Alaska 99801-1182

AOGA Comments on CSHB 28 & SB 186

Dear Representative Therriault:

In response to your September 17, 1997 letter, AOGA's permit streamlining task group is reviewing SB 186 and CSHB 28. Following are our initial comments and suggestions.

As you know, SB 186 interweaves permit streamlining processes with changes to the Alaska Coastal Management Program (ACMP). The result is a major revision of Alaska's permitting system that will require much more time for review and working through of the details.

Permit streamlining is an important goal for the state. A clearly defined, efficient, consistent permit system and a clearly defined, efficient, consistent coastal management program are both essential to the oil and gas business, or for that matter, any resource business in Alaska. Both are evolving systems and need periodic review by the Administration and the Legislature to ensure they are operating as intended.

Our industry's experience with the ACMP process has varied depending upon the operating environment and the nature of the projects for which permits have been sought.

On the North Slope, the ACMP process has generally provided the benefit of greater coordination among agencies reviewing applications for different permits required for a given project. In part this has as much to do with the development of effective working relationships among agency staffs, the North Slope Borough and industry representatives as it does with the ACMP process itself, aspects of which remain cumbersome. However, on other occasions, the ACMP process has led to many cases of duplicative procedures and added additional hurdles to the permit process. This is particularly true in the case of oil tanker vessel contingency plans, where the ACMP process has not been constructive.

Representative Gene Therriault

January 19, 1998

Page 2

Based on our experience, we believe that clarification of the role and powers of the ACMP is a necessary first step toward effective permit streamlining. Interestingly enough, the need for clarification of the role of the ACMP seemed to be broadly agreed upon by the participants at the state's Permit Streamlining Workshop on September 29, 1997.

We support the goal of introducing greater clarity and efficiency into the ACMP and we endorse the principles underlying CSHB 28 which we believe are important steps toward that goal. We believe that implementation of these steps would also greatly contribute to the objective of permit streamlining in general.

Following are our comments and suggestions with respect to these principles:

- We agree with the approach of clarifying coastal district boundaries to clearly defined areas of direct interaction and influence. District boundaries should identify both land and seaward limits.
- We believe it is necessary to have legislative clarification that the ACMP is not intended to expand the jurisdiction of local coastal districts over state permits beyond the existing authority or boundary of the local governments they represent.
- We agree that district programs should be prohibited from adopting state statutes and regulations into their local plans. We believe that an additional step is necessary to fully realize a goal of administrative efficiency and elimination of redundancy in permitting.

We propose that the ACMP be precluded from regulating matters which are already subject to the statewide standards or authority of state agencies. For example, we believe there should be no duplication or inconsistent patchwork of ACMP rules with respect to Department of Environmental Conservation regulations establishing statewide air, land and water quality standards. (Indeed, an existing regulation of the ACMP already recognizes this principle. 6 AAC 80.140.) We believe this principle should be extended to all other appropriate agencies engaged in statewide regulation. In short, the ACMP should not duplicate existing regulation.

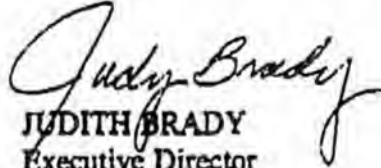
- We believe that the CSHB 28 clarification, limiting stipulations to existing agency authority, is an important and necessary measure.
- We believe that elimination of the existing petition review process to the Coastal Policy Council is important and necessary to implement the above principles.

Representative Gene Therriault
January 19, 1998
Page 3

We plan to provide comments on SB 186 to Diane Mayer, Director, Division of Governmental Coordination. We will forward a copy of those comments to you.

We appreciate the difficult task of crafting effective reform legislation and the commitment to this task demonstrated both by you and the Administration. We look forward to working with you and all other interested parties in resolving these important issues.

Sincerely,


JUDITH BRADY
Executive Director

cc: Representative Joe Green
Commissioner John Shively, DNR
Commissioner Michele Brown, DEC
Diane Mayer, Director, DGC
Pat Pouchot, Legislative Director, Office of the Governor
Mike Abbott, Economic Development Assistant, Office of the Governor



KENAI PENINSULA BOROUGH

144 N. BINKLEY • SOLDOTNA, ALASKA • 99669-7599
BUSINESS (907) 262-4441 FAX (907) 262-1892

MIKE NAVARRE
MAYOR

December 1, 1997

Representative Gene Therriault
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701

Dear Representative Therriault:

Thank you for sending the work draft of HB 28. As Program Coordinator for the Kenai Peninsula Borough (KPB) Coastal District, I have been following your bill and SB 186 with great interest. Although we appreciate your request for comments, we have not had the staff available to conduct an indepth review of the two bills. As time permits, we will be happy to provide comments.

Once again, thank you for the information.

Sincerely,

Glenda Landua
Coastal Management Program Coordinator

Bering Straits Coastal Resource Service Area
P.O. Box 190
Uualakleet, Alaska 99684

(907) 624-3062
FAX 624-3811

14 October 1997

Representative Gene Therriault
119 N. Cushman, Suite 101
Fairbanks, Alaska 99701

Dear Representative Therriault:

Subject: HB 28 work draft.

Thank you for the opportunity to comment on the work draft that would modify the Alaska Coastal Management Program. In reading the work draft, it is very nearly the same as your original HB 28 which would repeal the ACMP.

The current Alaska Coastal Management Program provides all citizens a voice in the process. The State of Alaska still has the strongest position in the process.

Sincerely,


Chuck Degnan

Program Director

cc: Pat Pourchot, Governor's Legislative Director



February 25, 1998

Representative Scott Ogan, Co-chair
House Resources Committee
State Capitol
Juneau, Alaska 99811
and
Representative Bill Hudson, Co-chair
House Resources Committee
State Capitol
Juneau, Alaska 99811

Re: HB 28

Dear Representatives Ogan and Hudson:

On behalf of the members of the Alaska Municipal League I am writing to oppose HB 28, which modifies the Coastal Management Program.

Amending boundaries to include only the zones of direct interaction and influence will require significant and extremely expensive boundary revisions for at least eleven coastal districts. The right to include zones of indirect influence was a hard fought battle and is critical for protection of the economic base (salmon and other seafood resources) of most of coastal Alaska.

If Section 5 is intended to remove districts' authority to stipulate and limit them to their own enabling authorities, such as Title 29, then an effective vehicle for local protection of resources upon which coastal economies are based will be lost.

While the League supports efforts to improve the Alaska Coastal Management Program, including the appeals petition process, we oppose legislation which would minimize the ability of coastal residents to protect critical resources which support the economies in their regions.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin Ritchie'.

Kevin Ritchie
Executive Director

FEB. 18. 1998
OFFICE OF THE MAYOR
P.O. Box 69
BARROW, ALASKA 99723
☎ 907 852-2611 or 0200
Fax: 907 852-0337
email: bnageak@co.north-slope.ak.us



17 February 1998

Representative Reggie Joule
Alaska State Capitol
Juneau, Alaska 99801-1182

RE: North Slope Borough comments regarding committee substitute for HB28

Dear Representative Joule:

The North Slope Borough has reviewed the proposed committee substitute for HB 28 and offers the following comments:

Sections 1, 4 & 5 - These amendments demonstrate a fundamental misunderstanding of the Alaska Coastal Management Program (ACMP) and its subparts, the Coastal Resource Districts Management Programs. Each coastal district management program becomes a part of the ACMP and visa versa. The State and district programs are intended to be interdependent and to separate the two would most likely require an extensive review by the National Oceanic and Atmospheric Administration to ensure the ACMP still meets federal requirements for the program. Triggering such a review by amending the ACMP in this manner may endanger immediate federal funding of the coastal district programs.

Section 2 - This amendment would require the North Slope Borough, as well as other coastal resource districts, to initiate a major program amendment without reimbursement for costs incurred to make the coastal boundary changes. Essentially this is an unfunded State mandate. This is a nonessential amendment for the North Slope Borough because the coastal boundary for the Borough has been in existence for 15 years without dispute.

Section 5 - This amendment again lacks the understanding that the individual coastal district programs are a part of the ACMP and should justifiably incorporate statutes and regulations whenever appropriate and necessary

Section 6 - Elimination of the petition process to the Coastal Policy Council reduces the avenue of appeal on consistency determinations to elevating an unacceptable or faulty decision to the same agency that made the decision. It leaves the coastal district at the mercy of the agency originally making the decision and reduces agency accountability. It

eliminates the only option for an unbiased review of the elevation/petition record before a challenge is mounted before the Alaska Superior Court. The goal in administrative appeals should be to reduce the likelihood of litigation by providing unbiased means for resolving disagreements.

Section 7 - Again, this amendment forces the coastal resource district into a major amendment process with 6 months to accomplish the amendment. It would be a onerous task for the North Slope Borough, forcing public hearings in 6 villages, none of which are accessible by road from Barrow. Even if the funding were available to conduct such an amendment, the time deadline would seriously cripple other work our coastal district has in the North Slope Oil fields.

I hope this will be helpful to you during the committee meetings on this proposed substitute. Please emphasis the onerous burden placed on all coastal resource districts by this bill. If you have any questions please call Jon Dunham, Deputy Director for Land Management at 852-0440. Thank you for your consideration.

Sincerely,

L.C. Nageak
Acting Mayor
Benjamin P. Nageak, Mayor

cc: Marie Carroll, Chief Administrative Officer
Becky Gay, Governmental Affairs
Charles D N. Brower, Director, Wildlife Management
files

Testimony of United Fishermen of Alaska
on HB 28, Work Draft "E"
before the House Resources Committee

Mr. Chairman and Members of the House Resources Committee, my name is Liz Cabrera and I am testifying on behalf of United Fishermen of Alaska. UFA is an umbrella organization representing over 20 commercial fishing organizations throughout the State.

We are primarily concerned with the portion of the bill which shrinks the coastal zone boundary to only include the zones of direct interaction and direct influence. We believe this provision would be detrimental to the health of our state's salmon resource and therefore we cannot support it.

In general, we find it ironic that the State works so hard to fend off federal management in different arenas but would be willing to give away our ability to affect management decisions on critical watersheds. The coastal zone management program gives local communities the opportunity to influence state and federal management decisions. For some communities, it represents the power to protect important anadromous fish habitat which supports Alaska's commercial, sport and subsistence fisheries. These fisheries make up the economic lifeblood of these communities.

Obviously, the Federal government does not willingly relinquish its absolute authority to make management decisions on their land. We, in Alaska, have seen countless examples. But, in eleven coastal districts throughout the state, the Federal government does have to listen and adhere to the priorities of the local citizenry.

In order to have zones of indirect influence included in their boundaries, each district had to provide evidence that activities within this zone would have a direct and significant impact on coastal waters. The reason they took the time and effort to do this is simple: they want to manage uses that are likely to have an affect on anadromous fish habitat.

We believe communities which rely on fishing should have the ability to influence the management of anadromous rivers, even if the headwaters are on federally managed lands. Continuing to allow these communities to act as stewards is in the best interest of the resource and in the best interest of the state.

Thank you for the opportunity to comment on this important issue.

FEB 26 1998 15:46 PETERSBURG LTO 507 112 5175 P.01

February 26, 1998

To: House Resources Committee
Fr: Liz Cabrera, United Fishermen of Alaska
PO Box 232 Petersburg, AK
772-9323

Pages: 2

Re: Testimony on HB 28

Unfortunately, I will be unable to testify in person because the teleconference system is fully booked for this bill. I would appreciate it if you could please submit the enclosed testimony for the record. Thank you.

Sincerely,





Lake and Peninsula Borough

P.O. Box 495
King Salmon, Alaska 99613

Telephone: (907) 246-3421
Fax: (907) 246-6602



W.B.

MAR 02 1998

February 24, 1998

The Honorable Bill Hudson
Co-Chair, House Resources Committee
Capitol Room 108
Alaska State Capitol
Juneau, AK 99801

Re: Work Draft - HB28

Dear Representative Hudson,

The House Resources Committee is now reviewing the proposed Committee Substitute on House Bill 28, Work Draft "E" submitted by Representative Gene Therriault. There are sections of the proposed bill that could adversely affect the Lake and Peninsula Borough and are as follows:

Reduce the coastal zone boundary by excluding the "zone of indirect influence"

After careful consideration of the importance of coastal resources to be protected and the range of activities and uses which could potentially adversely affect anadromous fish habitat, the Lake and Peninsula Borough identified a coastal boundary which encompasses all lands and waters within the Borough, except for glaciers, volcanoes, and perennially snow capped mountains. In selecting this approach to delineation of our coastal boundary, the Borough Planning Commission considered the extent of documented anadromous fish habitat, limitations to comprehensive surveys for anadromous fish habitat, the drainage mosaic pattern created by the neighboring Bristol Bay CRSA in the use of coastal boundary corridors along anadromous fish streams and their tributaries, spillover impacts, and the realm of potential disturbances associated with development activities within the Borough. This inclusive approach to our coastal boundary was determined to be most reflective of the resource values and sensitivities of anadromous fish habitats, and concerns related to development impacts and resource uses. The zone of indirect influence in the Borough includes all lands and waters above the 1,000-foot elevation, except for perennially snow-capped peaks and glaciers. By cutting the zone of indirect influence from the Borough's coastal zone, planning staff would be excluded from participating in state and federal permitting decisions in many important areas of the Borough that support the livelihoods of its residents.

Additionally, this cut to our coastal zone would require that Lake and Peninsula Borough Coastal Management Program be amended within six months at great expense to the Borough, in essence causing an unfunded mandate. A plan amendment would require significant staff time from the Borough, as well as DGC, other state agencies, the Coastal Policy Council, and the federal government. It would also require new boundary descriptions be researched and depicted on maps that are expensive to produce. Due to last year's failure of the Bristol Bay and Chignik fisheries, the Borough faces significant cuts to our budget. We do not have available now or nor will we have in the near future, the staff or funds to accomplish this task.

Reduce the Borough's ability to add stipulations to state and federal permits

One of the proposed provisions is intended to clarify that the Alaska Coastal Management does not expand any agency's authority beyond that agency's statutory authority. It is not clear whether this provision would have any effect on coastal districts like the Lake and Peninsula Borough, since ACMP statutes themselves (Title 46) give the Borough the power to participate in consistency reviews and to suggest stipulations related to coastal uses, activities, and habitats for state and federal permits. If this provision has any effect at all, it would be to cancel the authority granted to the Borough under Title 46, thereby forcing the Borough to solely rely on its Title 29 powers when participating in a consistency review. One possible effect is that stipulations suggested by the Borough would have to be carried on a local permit, rather than on a state or federal permit. If the Borough had to rely on its Title 29 authority as a result of this provision, and could not suggest stipulations to be carried on state and federal permits, much of the value of the ACMP to the Borough would be lost.

Eliminate the Borough's ability to appeal to the Alaska Coastal Policy Council when a state or federal permit decision did not "fairly consider" the Borough's interests

This provision would eliminate the petition process for appealing a coastal consistency determination. The petition process is important to the Borough in that it allows us to appeal a consistency determination directly to the Alaska Coastal Policy Council, where its concerns are heard by nine elected officials from coastal communities and seven members of the Governor's Cabinet. This petition process assures that when the Borough raises concerns during the consistency review process, these concerns are "fairly considered" by the agency coordinating permit decisions for the state and federal governments. Eliminating this appeal process reduces the Borough's assurance that its concerns will be fairly considered before permits are issued. It is important to note that the Borough has never had to appeal a consistency determination. However, we feel it is very important that this process be available to our residents and the Borough, and should not be eliminated.

Thank you for the opportunity to comment on the proposed House Bill 28, changing the Alaska Coastal Management Program. If you need further information, please feel free to contact me at (907) 246-3421.

Sincerely,

Sheila Bergey

Sheila Bergey
Community Development Coordinator

Cc: Senator Lyman Hoffman
Representative Carl Moses
Mark Hickey

Steve Beeson
35277 Kenai Spur Rd
Soldotna, AK 99669

March 3, 1998

House Resources Committee

Re: HB 28

I stand in opposition to this bill, and have stated so in previous written testimony. I recently used the petition process of the Alaska Coastal Zone Management Policy Council, and felt the system worked quite well. I feel this bill has several flaws to it.

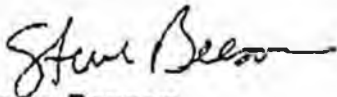
1). By shrinking the coastal zone boundary, you will remove local responsibility and input. Local issues will be largely ignored "the good old buddy system" will reign supreme.

2). Prohibiting agency input that is beyond statutory authority ignores the wealth of information that a given agency can provide. Point in case - I am involved in disputes of Kenai River 320. In this case, a developer wants to build a 4400 foot road, dividing a wetlands that has been identified as "the best of the best". Under statute, ADF&G would not have input because it does not involve an andromodous stream. However, due to the high nutrient value that this wetlands gives, not only through runoff, but through leaching through substrate base directly into the river, ADF&G should be allowed to comment and elevate the project. This is what is occuring in this case presently.

3). Eliminating the petition review process tosses disputes into the court system right off the bat. Needless litigation and high costs will either intimidate those challenging the developer or put the potential challenge out of reach for the average public.

To me, you are gutting the CZMP. Reform may be needed, but as this legislation is currently written, you are eliminating all the checks and balances that are currently being provided in the Plan. As I stated, I have gone throught the process, and know personally that the system works.

Sincerely,



Steve Beeson
(907)262-4401 Work
(907)262-9026 Home
(907)262-3525 Fax



Alaska State Legislature

Please enter into the record my testimony to the HOUSE RESOURCES
 committee name
 committee on CS HB 28 , dated March 3rd, 1998
 bill/subject

I wish to state that while I am not opposed to changes in the state's Coastal Zone Management Program that would have the effect of "streamlining" the permitting process, such as through the use of "one-stop" permitting, etc., I AM STRONGLY OPPOSED to any changes in the present laws that would have the effect of decreasing the area included and the ability of local governments to add stipulations to federal permits, etc. I am also STRONGLY OPPOSED to any changes that would weaken the powers of or diminish the authority of the Alaska Coastal Policy Council.

I have read the "Sectional Analysis of CS HB 28(), workdraft "E", 3/6/97" and am not convinced of the necessity of the proposed changes.

I STRONGLY URGE that you give serious and thoughtful consideration to the position of the Prince William Sound Regional Citizens Advisory Council, the Kenai Peninsula Borough, and the Kodiak Island Borough, all of which I agree with, on this proposal.

I am absolutely opposed to legislation which would have the effect of denying local control over coastal zone management, as CS HB 28 would do. I do not understand why the legislature of the state of Alaska would take an action which would deny local residents the ability to protect their vital coastal areas, unless it is because industrial interests are afraid that their projects would be hampered by such local control. If this is the reason the sponsor (or sponsors, if any) of this proposal are pushing for it, they (you, to those who are doing it) ought to be ashamed of yourself (or selves, if this applies)!

Thank you for your consideration of this testimony. I hope that you will give it your most serious consideration.

Signed: Gerald R. Brookman

Testifier

Myself

Representing (Optional)

715 Muir Avenue, Kenai, Alaska 99611-8816

Address

283-9329

Phone No.

To: Rep. Hudson
Co-Chair
Resources



CITY OF UNALAKLEET

BOX 28
ALASKA
99884
(907) 624-3531
FAX (907) 624-3130

RESOLUTION 98-05

A RESOLUTION OF THE CITY COUNCIL OF UNALAKLEET SUPPORTING THE EXISTING ALASKA COASTAL MANAGEMENT PROGRAM AND THE BERING STRAITS COASTAL MANAGEMENT PROGRAM AS THEY CURRENTLY FUNCTION, AND OPPOSING HB 28 AND CS HB 28.

WHEREAS, the City of Unalakleet participates in the Alaska Coastal Management Program through the Bering Straits Coastal Resource Service Area; and,

WHEREAS, the Bering Straits Coastal Resource Service Area was formed under the laws of the United States of America and the State of Alaska; and,

WHEREAS, the Alaska Coastal Management Program and the Bering Straits Coastal Management Program provide for meaningful participation in reviewing development within the Bering Straits Coastal Resource Service Area; and,

WHEREAS, reviews of projects benefit all parties involved; and,

WHEREAS, the Alaska Coastal Management Program and the Bering Straits Coastal Management Program provide for local public participation in the review process.

NOW THEREFORE BE IT RESOLVED THAT the City Council of the City of Unalakleet supports the existing Alaska Coastal Management Program and the Bering Straits Coastal Management Program as they presently function, and opposes HB 28 and CS HB 28

PASSED AND APPROVED by a duly constituted quorum of the City Council of Unalakleet this 25th day of February, 1998.

Henry Ivanoff, Sr., Mayor

ATTEST:

Brad Gray, City Clerk



March 3, 1998

House Resources Committee
1:00 p.m., March 3, 1998 Public Hearing
HB 28, Modifying Alaska Coastal Management Program

I will be unable to attend today's teleconference at the Kenai LIO on HB 28, but thank you very much for notifying me.

PLEASE OPPOSE HB 28.

I have read am HB 28, Workdraft "B" dated 2/20/98, modifying the Alaska Coastal Management Program, and I am still opposed to this bill as the needs of the people and the resources of the coastal areas are not properly addressed. I ask all who represent our coastal areas and their vast natural resources to oppose HB 28.

I live in Cooper Landing, a small unincorporated village, located in the headwaters of the Kenai River. Tourism is the economic life blood of this area and tourism only exists because of our clean waters, fresh mountain air and the natural bounties that those produce. The waters of the Cooper Landing Area produce 20 to 30 percent of Kenai River sockeye salmon and thus are a major source of the Upper Cook Inlet commercial fisheries harvest.

Because we live in an unincorporated area we dependent on the Kenai Peninsula Borough for government. Through the Kenai Peninsula Borough Coastal Management Program local citizen can interact with Federal, State and KPB managers to best manage our coastal resource for the benefit of our area. If we lose the Coastal Management Program through the modifications recommended in HB 28, Workdraft "B", we will lose a large part of our ability to effect Federal and State decisions and those managers will lose the vast local knowledge that local citizens and governments bring to the table.

I want to thank you for this opportunity to participate and ask you to listen to the voices of Alaska's coastal people. Please leave the Alaska Coastal Management Program intact for the benefit of all Alaskans.

Thank You,



Bill Stockwell
P.O. Box 721
Cooper Landing, AK 99572

Phone and Fax: (907) 595-1540

02/26/98
14:15:55

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (TESTIFIERS ONLY)
TCN:80340 SCHEDULED FOR:02/26/98 13:00 TO 16:00
PUBLIC HEARING HOUSE RESOURCES

LTN1150
BY:JNU
FOR:ALL

LOCATION: ANCHORAGE

HJR 52	TODD	OWENS ✓	RDC	TESTIFY
HB 28	JIM	GLASPELL ✓		TESTIFY
HB 28	KAROL	KOLEHMAINEN ✓		TESTIFY
HB 394	JANICE	ADAIR	DEC	TESTIFY

LOCATION: BARROW

HB 28	MR	JIM	VORDERSTRASSE ✓	CITY OF BARROW	TESTIFY
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LOCATION: DILLINGHAM

HB 28	MR.	PATRICK	GALVIN ✓		TESTIFY
HB 28	MS.	ALICE	RUBY ✓	BBCRSA/CHOG	TESTIFY
HB 28	MS.	SUE	FLENSBURG ✓	BBNA	TESTIFY
HB 28	MR.	CHRIS	NAPOLI	BRISTOL FUELS	TESTIFY

LOCATION: FAIRBANKS

HJR 52	MR.	STAN	LEAPHART ✓	CAC ON FED LANDS	TESTIFY
ALL ITEMS	REP.	IRENE	NICHOLIA ✓		TESTIFY

LOCATION: KENAI LIO

HJR 52	MR.	LEONARD	EFTA ✓	SELF	TESTIFY
HB 28	MS.	LISA	PARKER ✓	KPB PLANNING	TESTIFY

LOCATION: KODIAK

HB 28	MS	LINDA	FREED	<i>HAND TO LEASE</i>	KOD IS BOROUGH	TESTIFY
HB 28	MR	OLIVER	HOLMS			TESTIFY

LOCATION: KOTZEBUE

HB 28	MR	WILLIAM	SHELDON ✓	SELF	TESTIFY
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LOCATION: KETCHIKAN

HB 28	MS	JENNIFER	CARMAN ✓	KTN GATEWAY BOR	TESTIFY
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LOCATION: MATSU

HB 28	MR	THOMAS	LOGAN ✓	<i>Big Lake</i>	TESTIFY
HB 28	MR	KEN	HUDSON ✓		TESTIFY

LOCATION: NOME

HB 28	MR.	ROBERT	FAGERSTRUM ✓	SITNASUAK	TESTIFY
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02/26/98 13:04:17 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
MESSAGE FROM: LIOCJEN IN ANCHORAGE

LTN1120
JNU

RE TCN: 80340 SCHEDULED FOR:02/26/98 13:00 TO 16:00
SPONSOR: HOUSE RESOURCES PURPOSE: PUBLIC HEARING

MESSAGE TEXT: SAND POINT IS ON LINE HAD OPEN MIC-AND
SOMEONE TO T ON HB 28

— TINA ANDERSON —

WE ONLY HAVE A FIRST NAME SORRY

02/26/98 13:22:34 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
MESSAGE FROM: LIOCJEN IN ANCHORAGE

LTN1120
JNU

RE TCN: 80340 SCHEDULED FOR:02/26/98 13:00 TO 16:00
SPONSOR: HOUSE RESOURCES PURPOSE: PUBLIC HEARING

MESSAGE TEXT: CHUCK DEGNAN, OF4, IS ON LINE FROM
UNALAKLEET TO T ON HB 28

*Problem -
Salmon
upstream*

02/26/98 13:27:27 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
MESSAGE FROM: LIOCJEN IN ANCHORAGE

LTN1120
JNU

RE TCN: 80340 SCHEDULED FOR:02/26/98 13:00 TO 16:00
SPONSOR: HOUSE RESOURCES PURPOSE: PUBLIC HEARING

MESSAGE TEXT: GAIL ALSTROM, OF2, IN ST. MARYS IN ON
LINE TO T ON HB 28

Program Director -



02/26/98 13:36:05 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
MESSAGE FROM: LIOCJEN IN ANCHORAGE

LTN1120
JNU

RE TCN: 80340 SCHEDULED FOR:02/26/98 13:00 TO 16:00
SPONSOR: HOUSE RESOURCES PURPOSE: PUBLIC HEARING

MESSAGE TEXT: ARNIE ERICKSON, NAKNEK-BRISTOL BAY BORO,
MAY WANT TO T ON HB 28

Not Here

02/26/98
14:38:23

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (ALL PARTICIPANTS)
TCN:80340 SCHEDULED FOR:02/26/98 13:00 TO 16:00
PUBLIC HEARING HOUSE RESOURCES

LTN1150
BY:BAR
FOR:BAR

LOCATION:BARROW

HB 28	MR	JIM	VORDERSTRASSE	CITY OF BARROW	TESTIFY
HB 28	MR	JOHN	DUNHAM	N SLOPE B	TESTIFY

Amendments should include

1) Cut appeal process
(and counsel?)

2) Lead agency for
each industry

3) Somehow streamline
large vs. small
projects...

~
Unfortunately,

Both these timber
businessmen have
real problems with
permitting redundancy...
I'll talk to them
about specifics.

Coastal Project Questionnaire

Rogue staffers

- Increase individual agency
control
- Dealings of Federal
Agency

You could ask him
about the appeal
process to the
Council...

of study and public hearings, the Department of Natural Resources granted a lease to the City of Bethel and denied leases to the private landowners.

J. Bruce Crow and Lucy Crow own two of the affected parcels and have challenged the state's decision to lease the tidelands to the City of Bethel in two separate court actions. J. Bruce Crow filed an appeal to the superior court from the administrative decision on the lease of the tidelands and he and Lucy Crow have filed a multi-count complaint, including an action to quiet title, against DNR and Bethel claiming superior rights to the leased lands.

The parties recently reached settlement and have signed a Settlement Agreement. Pursuant to the terms of the Agreement, the state will transfer the lands in question [ATS 1346] to the City of Bethel pursuant to AS 38.05.825. Public notice of the transfer of ATS 1346 has been published. A Stipulation to Stay Proceedings has been filed in both the administrative appeal and the quiet title action. Upon completion of the transfer, both actions will be dismissed with prejudice.

19. *Native Village of Koyuk v. Noah* (Barrow Superior Court No. 2NO-94-06 Civ. (Judge Jeffery); our file nos. 223-94-0338, 225-94-0100; state's attorneys: Steve Weaver, for Coastal Policy Council; Cameron Leonard, for DNR). This is an administrative appeal from a decision by the Coastal Policy Council (CPC) upholding the issuance of a permit by Department of Natural Resources (DNR) for construction of a trapping cabin within a "Permit Notification Area" of the Bering Straits Coastal Resource Service Area (Bering Straits CRSA). The appellants in this case were the Native Village of Koyuk and the Bering Straits CRSA, both represented by Eric Smith. Central issues included the adequacy of the factual findings, the meaning of "due deference" under the Alaska Coastal Management Program, and whether the CPC should review DNR compliance with the Northwest Area Plan. The superior court affirmed the CPC decision, except that the court reversed the determination that the CPC lacked jurisdiction over DNR compliance with the Northwest Area Plan. The superior court upheld the CPC's alternate finding that DNR complied with the Northwest Area Plan. Nancy Wainwright, the new counsel for the opposing parties, has appealed the decision to the Alaska Supreme Court; the state has cross-appealed on the issue of whether the CPC had jurisdiction to review DNR's application of the Northwest Area Plan, one of DNR's own comprehensive plans under Title 38. The appellants' brief was submitted in late November; the state's brief is due December 26, 1996, but a routine 45-day extension has been requested.

20. *Wilhelmsen v. Walsh* (Juneau Superior Court No. JU-95-880 Civ. (Judge Carpeneti); our file no. 223-95-0491; state's attorney: Steve Weaver). Wilhelmsen, a private citizen, filed a petition with the CPC, claiming that the Division of Governmental Coordination (DGC) erred in concluding that a tram project on Mount Roberts in Juneau was consistent with Juneau's coastal management program. In April 1995, the CPC found that DGC had fairly considered Wilhelmsen's public comments on the tramway, dismissed his petition, and permitted issuance of a final determination that the tramway was consistent with the Alaska Coastal Management Program and Juneau's coastal management program. Wilhelmsen sought an injunction against issuance of the final determination, which the superior court denied. On October 16, 1995, Wilhelmsen served the state with an "amended complaint." The complaint also named numerous individual state and city officials as defendants, seeking \$35 million in compensatory damages and over \$100 million in punitive damages for alleged violation of 42 U.S.C. § 1983. On October 30, 1995, Judge Carpeneti denied Wilhelmsen's second request for a temporary restraining order. The state filed its answer on November 27, 1995. Proper service of the individual parties did not begin until March 18, 1996. On April 9, 1996, the state filed a motion to dismiss Wilhelmsen's suit. The superior court heard oral argument on June 13, 1996. The state will answer on behalf of the individual defendants if the court does not dismiss them.

21. *Interior Airboat Ass'n v. State* (Fairbanks Superior Court No. 4FA-96-1494 Civ. (Judge Beistline); our file no. 221-97-0004; state's attorney: Lynn Levensgood). Interior Alaska Airboaters seek to invalidate 5 AAC 92.540(2)(j) which prohibits the use of airboats for moose hunting near Nenana. The parties have agreed to a schedule for summary judgment briefing which requires briefs to be filed by March 15, 1997.

22. *United Cook Inlet Drift Association v. State* (Kenai Superior Court No. 3KN-96-278 Civ. (Judge Brown); our file no. 223-96-0420; state's attorney: Steven Daugherty; UCIDA attorney: Arthur Robinson; intervenor Northern District Set Netter's Association's attorney, Geoffrey Parker). UCIDA amended its complaint November 21, 1996. UCIDA seeks declaratory and injunctive relief against the Board of Fisheries "guiding principles" for management of Cook Inlet salmon stocks, 5 AAC 21.363(d), and against the Northern district Coho Salmon Management Plan, 5 AAC 21.358. UCIDA argues that the guiding principles were not properly noticed, that the Board improperly relied on the principles before they became effective as regulation, and that the Northern District Coho Salmon Management Plan is arbitrary and unreasonable and does not provide a "fair and reasonable" opportunity for harvest by the central district drift gill net fishery. UCIDA's amended complaint added allegations that the Board's consideration did not

launching services at the Deep Creek State Recreational Area on the Kenai Peninsula. Hylan, an unsuccessful bidder for the competitive permit, claims that, among other things, the issuance of the permit failed to comply with the requirements for a concession contract under AS 41.21.027, and that the permit violates sections 3 and 15 of article VIII of the Alaska Constitution. Appellant filed his brief in October. The parties have stipulated to extend the due date of the state's brief until January 15, 1997 to facilitate settlement discussions.

25. *Martin v. State OMB* (Alaska Superior Court No. 3AN-96-1904 Civ.; our file no. 221-96-0752; state's attorneys: Robert C. Nauheim and Laura Bottger; appellant's attorney: Marc Nunn). Ed Martin has appealed a decision by the Division of Governmental Coordination determining that a bakery and brewhouse to be built by Mr. Martin in the Cooper Landing area of the Kenai Peninsula were not consistent with the applicable coastal zone management plan. Mr. Martin has alleged that the agency decision was arbitrary and capricious and that it violated numerous constitutional rights of Mr. Martin. Both parties have now filed their opening briefs; Martin's reply is expected any day.

26. *Terence and Donna Zeznock v. Clark Davis, State of Alaska, et al.* (Alaska Superior Court No. 3AN-95-6471 Civ. (Anchorage, Judge Michalski); state's attorney: Lisa B. Nelson; plaintiff's attorney: Richard B. "Rip" Collins). Terence and Donna Zeznock have filed a quiet title complaint to a small beachfront lot located in the town of Katalla, along the Gulf of Alaska, not far from Cordova. The state claims that a portion of the land claimed by the plaintiffs back from the mean high tide line was created by "avulsion," which by law would be state land. Avulsion is a "sudden and perceptible" addition or loss to land by the action of water or otherwise. In this case, the "or otherwise" was the 1964 Alaska Earthquake. Geological studies done shortly after the Earthquake showed that the Katalla coastline rose up 9 feet and shifted out approximately 1000 feet. Under the law, where land shifts by earthquake-generated avulsion, the old state and private boundaries, submerged or otherwise, survive. The plaintiffs claim that a certain portion of the land is accreted and belongs to them. We are waiting to review a new survey from the plaintiff demonstrating their position.

27. *State of Alaska, Department of Natural Resources v. Ed Ellis* (Alaska Superior Court No. 3AN-96-9064 Civ. (Anchorage, Judge Fuld); state's attorney: Lisa B. Nelson; defendant's attorney: none (pro se)). On behalf of the Department of Natural Resources, Division of Lands, we filed a Complaint for Trespass and Preliminary Injunctive Relief against Lake Creek miner Ed Ellis on November 15, 1996. Among other

salmon waste regulations or to allow sales of roe by hatcheries. Milford D. Sweat, a Yukon River fisherman represented by Alaska Legal Services, has moved to intervene and seeks to invalidate 5 AAC 93.320 and to obtain a declaratory judgment against the sale of salmon roe by hatcheries. Sweat also seeks a declaratory judgment prohibiting the commissioner from adopting emergency regulations where normal regulations have been adopted but are not yet effective.

29. *Villages of Port Graham & Nanwalek v. State, Office of Mgmt. & Budget, Div. of Governmental Coordination* (Alaska Superior Court No. 3AN-96-8541 Civ. (no judge assigned yet); our file no. 223-97-0166; state's attorney: Steve Weaver). This action is an appeal to the superior court from a determination by the Division of Governmental Coordination (DGC), on behalf of the state resource agencies, that the U.S. EPA's proposed renewal of an NPDES general permit for discharges of drilling muds from offshore oil platforms in Upper Cook Inlet was consistent with the Alaska Coastal Management Program. The Kenai Peninsula Borough submitted comments that the permit would also be consistent with the borough's district coastal management program (DCMP). Without first seeking review via a petition to the Coastal Policy Council, see AS 46.40.096, 46.40.100(b)(1), a number of Native and environmental groups have filed an appeal to the superior court under Alaska Appellate Rules 601-612. Appellants contend that by not requiring the platform operators to adhere to a policy of "zero discharge," the proposed NPDES permit violates a number of provisions of the ACMP and the Kenai Peninsula Borough DCMP. By stipulation of the parties, an abbreviated record has been transmitted in this case; and a briefing schedule is expected soon.

30. *Fish and Wildlife Enforcement Actions*. Two attorneys (Lance Nelson and Henry Wilson, each working half-time in this area) pursue various actions against those persons and companies that commit serious violations of the state's fish and game laws. These attorneys work closely with the Division of Fish and Wildlife Protection and the Department of Fish and Game. Some of their cases involve seizure of vessels and equipment and subsequent forfeiture actions. Other of the cases involve claims for damages for the value of illegally taken fish or damages for injury or loss to the fishery resources of the state. In addition, as time allows, these attorneys provide briefing, consultation, and other back-up assistance to the District Attorney Offices around the state in criminal cases involving violations of state fish and game laws. Monetary recoveries in these cases amount to several million dollars over the last few years, with part of that money going to the Fish and Game Fund and the remainder to the state's general fund. Recent activities include settlement of a civil action for vessel forfeiture and damages against Tyson Seafoods, Inc., successor to Arctic Alaska Fisheries Corp., a large Seattle-

In addition to the fact that the ACMP is not operating as intended, it should be noted that a number of environmental laws have been enacted in the ensuing 17 years which provide protection to coastal environmental resources in the same manner as the ACMP. These include the Clean Water Act with the Section 404 fill permit requirements, Title 16 ADF&G permitting requirements and the continuation of the National Environmental Policy Act (NEPA). In many instances the finding of conformity by DGC duplicates processes already required by other state and federal laws.

An investigation of the legislative history of the ACMP would show that the program now in place, where the state resource agencies make the initial determination of ACMP consistency, was initially proposed and rejected by the legislature. The program is not working as promised; i.e., local control of state and federal actions within the coastal area, and the process is duplicatory, which conflicts with AS 44.19.(d)(1), and adds to the cost of state government both in terms of dollars and time.

Perhaps it is time to re-evaluate the usefulness of the Alaska Coastal Management Program (AS 40 et seq.).

Submitted to DGC by:
Roger Allington, Director
Division of Planning, DOTPF .
June 14, 1994

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Alaska State Legislature

REPRESENTATIVE
GENE THERRIAULT

Mailing Address
11111 Cuterman Suite 101
Fairbanks, Alaska 99701
(907) 488-0862
Fax (907) 488-4271



Washington
State Capitol
Juneau, Alaska
99801-1152
(907) 465-4707
Fax (907) 465-3884

House District: 33

House Of Representatives

HOUSE BILL 28

"An Act repealing the Alaska Coastal Management Program and the Alaska Coastal Policy Council, and making conforming amendments because of those repeals."

SPONSOR: Representative Gene Therriault

SPONSOR STATEMENT:

Alaska chose to participate in the federal voluntary Coastal Zone Management program by creating the Alaska Coastal Management Program (ACMP) approved by the Legislature in 1977. The ACMP is supported by federal and state matching funds and is designed as a "voice" for state and local interests to be addressed in decisions affecting the coastal areas.

Since 1977, there have been many state and federal laws such as the clean water act, spill prevention laws, and wetlands legislation affecting coastal districts diminishing the need for the ACMP. After 20 years of existence it is time for the Alaska State Legislature to determine whether the Coastal Zone Management program warrants Alaska's continued participation.

Concerns leading to the introduction of HB 28 include:

The ACMP allows state agencies to require stipulations on permitted activities beyond the agencies' statutory authority.

Some Coastal districts are not organized governments. They participate in the ACMP by forming Coastal Resource Service Areas (CRSA's). These quasi-governmental entities have no planning and zoning authority making them dependent upon state agencies to enforce the local plans.

A purported benefit of the ACMP is the requirement of cooperation among those involved in the development of Alaska's coastal resources. However, the ACMP standards are vague and open to differing interpretations by the state agencies and local districts eventually leading to expensive elevation hearings and appeals.

For the past four years, as the Finance subcommittee chairman of two resource agencies' budgets, I have heard from administration officials, business representatives and constituents that in the effort to continue to reduce budgets, we must also limit the agencies' statutory responsibilities. The ACMP has been criticized for being a cumbersome, duplicative review process that, in theory, may have some benefits however, in practice, does not work as intended.

The ACMP deserves a thorough review by this Legislature to determine if the purported benefits outweigh the expensive and time-consuming process that evolved from Alaska's participation in this program.

revised 2/6/97

JAN-14-1997 10:11 AM NOV 15 1996 424 3802 P.01
Rep. Gene Therriault
Alaska State Legislature
Juneau, Alaska

January 14, 1997

Re: House Bill 28, Alaska Coastal Management Program.

Dear Rep. Therriault,

I am writing to offer my support for this bill. This month I just completed serving over four years as public co-chair of the Alaska Coastal Policy Council. As a result of this experience I have come to believe that the Alaska Coastal Management Program has evolved into a process that is redundant and seriously off course from it's original intent.

The original purpose of coastal zone management was to promote the wise use of coastal resources by seeking a balance between development and conservation. This was to be accomplished by PLANNING for the needs of our coastal areas and siting development projects in appropriate locations. The program has become one where very little planning is being done. Instead, the necessary decisions that need to be made through the planning process are ignored and left to a judicial or appeal process to sort out.

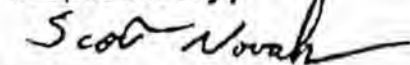
During the past two years the Coastal Policy Council along with the state resource agencies and the coastal districts have been conducting an assessment of the program in an attempt to make it work better. This assessment began with many good intentions and included an enormous amount of public involvement. It is now concluding without achieving two of the most important goals. Fixing the petition and appeals process and defining a use of state concern.

It is my belief that while the original concept of coastal management is still a good one, our current program has become over taken by a desire to try to please every one while avoiding the real issue of making decisions based on sound planning.

There are sufficient authorities in Alaska Statutes titles 29 and 48 to achieve the original goals of good planning. The current CZM program is causing more frustration than good and it is time to move forward.

If I can be of assistance to your effort please don't hesitate to call. I am willing to testify before committees if needed.

Respectfully,



Scott Novak

Box 1703 Cordova, Alaska 99574

Phone: 424 3800
Fax: 424 3802

June 1994

Alaska Coastal Management Program

Fifteen Years Later

In 1977 the Alaska Legislature enacted legislation (AS 46.40) creating the Alaska Coastal Management Program (ACMP) (Article 4, Chapter 84 SLA 1977). The ACMP was envisioned to be a locally developed program overseen by an Alaska Coastal Policy Council (ACPC). The first duties of the ACPC were to develop the Guidelines and Standards which are part of 6 AAC 80. In supporting legislation and developing the Guidelines and Standards, the primary thrust was to keep implementation of the ACMP at the local level to the maximum extent possible.

Essentially, the local governments acting in the capacity of a coastal resource district, were to develop and submit for approval the local coastal management plan. After approval of the plan by the ACPC, all state and federal agencies actions within the coastal district were to be consistent with the approved coastal plan. Although not specifically spelled out in the statutes and regulations, the intent was to have the local coastal plan an element of the local comprehensive land use plan. In fact AS 46.40.210(2) defines "coastal resource district" such that the district must have planning powers as a unified municipality, borough or municipality in the unorganized borough.

Unfortunately, over the years the ACMP has become another layer of bureaucracy that appears to serve little if any public good. The conformity determinations, which were to be made by local governments, are now being made by the state resource agencies. The Office of Coastal Management, which was intended to become involved in consistency determinations only when there was an appeal from a local government consistency determination, now takes 30 to 50 days to make such determination. (The federal statutes authorizing the ACMP require a single state entity be identified for consistency determinations; hence AS 44.19.145(a)(11) which provides for the Office of the Governor to make the determination. In the development of the Guidelines and Standards it was generally agreed that the "consistency determination" by the Governor's office would be pro-forma. Actual determinations would be by the local governments.)

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**Alaska Coastal Management Program
Division of Governmental Coordination**

Section 6217 Coastal Nonpoint Pollution Control Program

Background

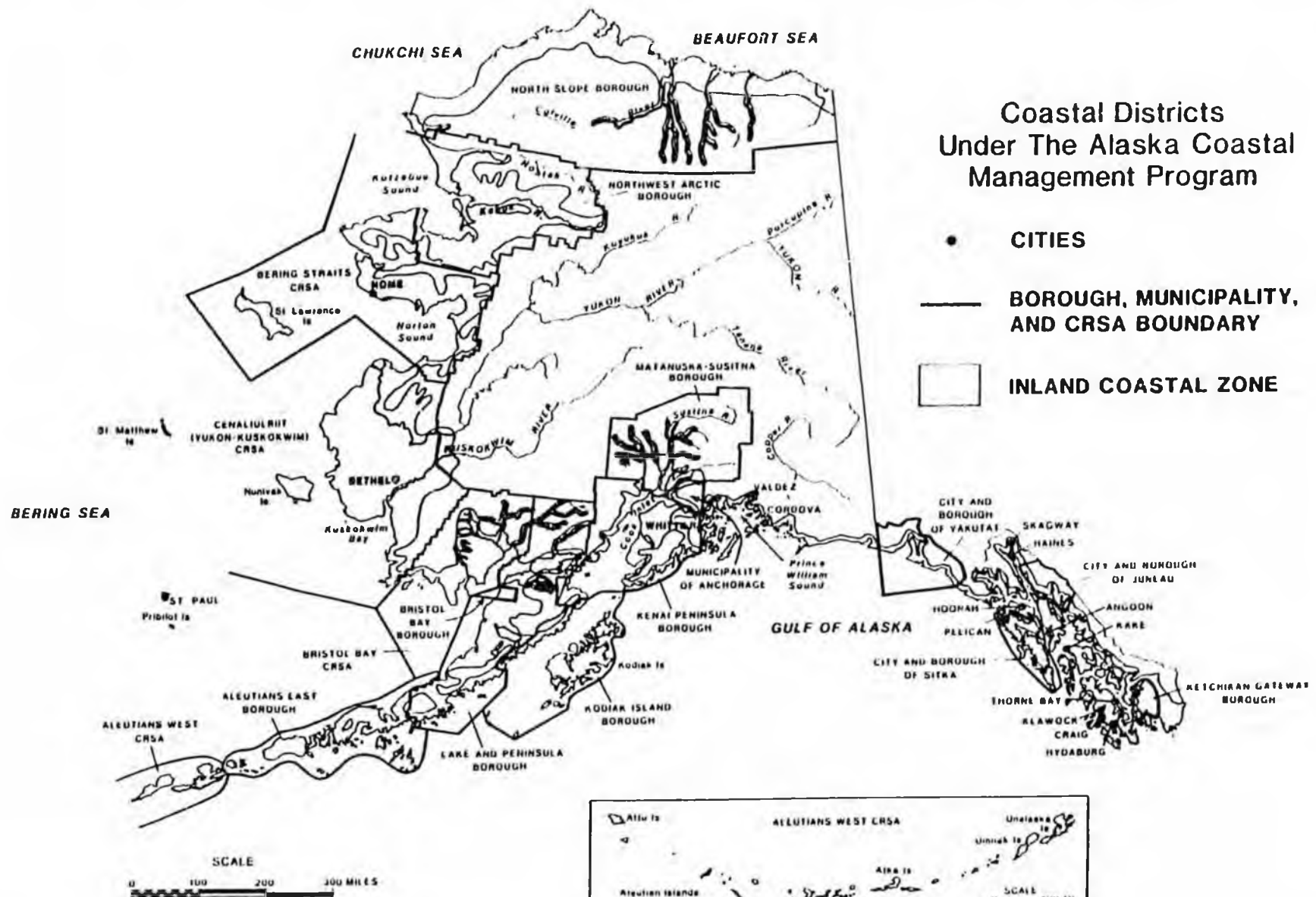
- 1993** NOAA and EPA require coastal states to meet 55 objectives for reducing nonpoint source water pollution (pollution that doesn't come out of a pipe) from forestry, urban development, dams, channelized streams, harbors and agriculture.
- 1993-95** DGC networks with other agencies, local governments and industry to develop the Coastal Clean Water Plan, which shows how the state meets the federal objectives. The strategy is to provide technical assistance to communities and industry, rather than develop a new regulatory program.
- Alaska submits the Coastal Clean Water Plan Public Review Draft to NOAA and EPA in August 1995.
- 1994-96** Division of Governmental Coordination provides funds to districts for on-the-ground clean water projects, and provides funds to agencies to develop technical assistance manuals (see attached).
- Oct. 1996** NOAA and EPA preliminarily approve the state's plan with 10 conditions.
- 1997** The state is negotiating with NOAA and EPA to remove two of the conditions, and to agree to a reasonable work plan to meet the other conditions.

Coastal Districts Under The Alaska Coastal Management Program

● CITIES

— BOROUGH, MUNICIPALITY,
AND CRSA BOUNDARY

□ INLAND COASTAL ZONE





U.S. Department of Commerce
National Oceanic and Atmospheric Administration



U.S. Environmental Protection Agency

OCT 09 1996

Diana Mayer, Director
Division of Governmental Coordination
Office of the Governor
P.O.Box 110030
Juneau, Alaska 99801-0030

Leonard Verrelli, Director
Division of Air and Water Quality
Alaska Department of Environmental Conservation
410 Willoughby Avenue, Suite 105
Juneau, Alaska 99801-1795

Dear Ms. Mayer and Mr. Verrelli:

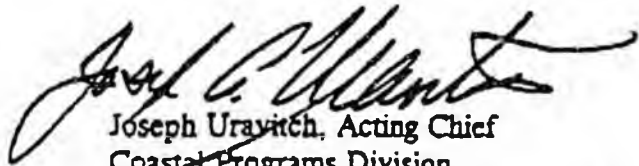
We are pleased to enclose a copy of the draft findings and conditions for the Alaska coastal nonpoint pollution control program under Section 6217(c)(1) of the Coastal Zone Act Reauthorization Amendments of 1990. These findings and conditions present the result of our review of the Alaska program. They highlight the strengths of the program and identify steps needed to obtain final approval of the program.

We believe that sharing our draft findings and conditions will provide an opportunity to discuss remaining questions with you and determine the most reasonable and environmentally sound approaches for meeting and implementing the requirements of Section 6217. In the next week, our staffs will arrange for a conference call with your staffs to discuss the draft findings and conditions for your program. After these discussions and any appropriate follow-up with you, we will finalize the findings and conditions, and provide a 30-day public comment period for both the draft findings and for an Environmental Assessment prepared to comply with the National Environmental Policy Act.

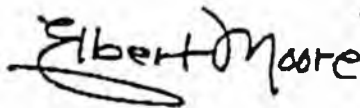
Section 6217 provides NOAA and EPA with six months to review each State's program. The question has been raised whether the penalty provisions of Section 6217(c)(3) will be invoked at the end of this six-month period. Section 6217 directs that grants penalties be assessed where NOAA and EPA find that a coastal State has failed to submit an approvable program. Therefore, we assure you that no such penalties will be automatically triggered six months after you submitted your program. The penalty provisions of section 6217 will only become operative at the time a final decision is made on the program's approvability, i.e., at the end of the conditional approval period.

We appreciate the effort that your staffs have expended to develop your coastal nonpoint program during the past several years and look forward to continuing to work with you in this important endeavor. Please do not hesitate to call us at any time if you have any questions. (Joseph Uravitch 301-713-3155, Elbert Moore 206-553-4181, Geoff Grubbs 202-260-7040)

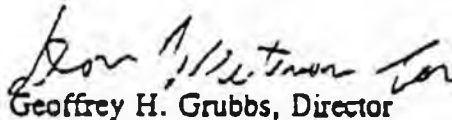
Sincerely,



Joseph Uravitch, Acting Chief
Coastal Programs Division
Office of Ocean and Coastal Resource Management
National Oceanic and Atmospheric Administration



Elbert Moore, Director
Office of Ecosystems and Communities
Environmental Protection Agency, Region X



Geoffrey H. Grubbs, Director
Assessment and Watershed Protection Division
Environmental Protection Agency

Enclosure



U.S. Department of Commerce
National Oceanic and Atmospheric Administration



U.S. Environmental Protection Agency

Diana Mayer, Director
Division of Governmental Coordination
Office of the Governor
P.O. Box 110030
Juneau, Alaska 99801-0030

DRAFT

Leonard Verrelli, Director
Division of Air and Water Quality
Alaska Department of Environmental Conservation
410 Willoughby Avenue, Suite 105
Juneau, Alaska 99801-1795

Dear Ms. Mayer and Mr. Verrelli:

Thank you for developing and submitting the Alaska coastal nonpoint pollution control program to the National Oceanic and Atmospheric Administration and to the U.S. Environmental Protection Agency. We are pleased to inform you that NOAA and EPA approve Alaska's program in accordance with Section 6217(c)(1) of the Coastal Zone Act Reauthorization Amendments of 1990, subject to the enclosed conditions.

We recognize and appreciate the substantial effort that your two staffs have made to develop your program during the past few years. Your submission reflects the participation and input of many different groups that will be key to your success in implementing your program, including other State agencies, local communities, and interested and affected members of the public. We commend the extensive effort that you expended to develop the program as well as your plans to continue to work closely with these groups in implementing the program.

As you know, reducing coastal nonpoint pollution presents considerable technical, economic, and institutional challenges to us all. Yet it is of the utmost importance that we meet these challenges if we are to restore and maintain the physical, chemical, and biological health of our nation's coastal waters. NOAA and EPA look forward to working closely with Alaska as partners in your effort to successfully complete and implement the coastal nonpoint source program conditionally approved today and achieve your goal of restoring and protecting the coastal waters of Alaska.

Sincerely,

Jeffrey R. Benoit, Director
Office of Ocean and Coastal Resource Management
National Oceanic and Atmospheric Administration

Charles C. Clarke
Regional Administrator
U.S. Environmental Protection Agency

Enclosure: Findings and Conditions

cc: Susan Brook
Susan Braley

ALASKA COASTAL NONPOINT PROGRAM
FINDINGS AND CONDITIONS

INTRODUCTION

The U.S. Environmental Protection Agency (EPA) and the National Oceanic and Atmospheric Administration (NOAA) approve the coastal nonpoint pollution control program submitted by the State of Alaska pursuant to Section 6217(a) of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA), subject to certain conditions.

This document provides the specific findings used by NOAA and EPA as the basis for the decision to approve the State's program. It also provides the rationale for the findings and includes the conditions that have been established for Alaska to receive final approval of its program. We recognize that Alaska has already proposed changes for its program that would, if finalized, ensure the implementation of the management measures in conformity with the 6217(g) guidance. In those cases, the conditions are based on the State's proposed changes.

NOAA and EPA have written this document as succinctly as possible. The references in this document to page numbers and text refer to the Alaska Coastal Clean Water Plan, August, 1995 ("program submittal"). We have relied upon, but do not repeat here, the extensive information that the State included in the program submittal. Further information and analysis is contained in the administrative record for this approval decision and may be reviewed by interested parties at the following locations:

EPA/Office of Wetlands, Oceans and Watersheds
Assessment & Watershed Protection Division
Nonpoint Source Control Branch
401 M St., SW (4503-F)
Washington, DC 20460
Contact Kristen Martin (202/260-8077)

NOAA/Office of Ocean and Coastal Resource Management
Coastal Programs Division
SSMC-4, N/ORMS
1305 East-West Highway
Silver Spring, MD 20910
Contact John King (301/713-3105, x188)

U.S. EPA Region X
Office of Ecosystems and Communities
Geographical Implementation Unit
1200 6th Avenue
Seattle, WA 98101
Contact Michael Rylko (206 533-4014)

I. BOUNDARY

FINDING: Alaska's proposed boundary is sufficient to control the land and water uses that have, or are reasonably expected to have, a significant impact on the State's coastal waters.

RATIONALE: Alaska proposes to use its existing coastal zone boundary, which extends from 2,000 feet to 250 miles inland, as the 6217 management area boundary. This boundary is not as extensive as the coastal watershed boundary recommended by NOAA, however, it does encompass land and water uses that have or are reasonably expected to have a significant impact on coastal waters.

In determining the coastal zone boundary, the State identified three distinct biophysical regions: the zone of direct interaction, the zone of direct influence, and the zone of indirect influence. The boundary was refined during the development of local coastal programs, but still includes the zones of direct interaction and direct influence. In addition, local coastal program boundaries must encompass the uses and activities that have, or are likely to have a direct and significant impact on marine coastal waters (6 AAC 85.040). Marine coastal waters is broadly defined to include not only the water bodies themselves but also the living resources dependent these waters (6 AAC 85.900(2)). These requirements help ensure that the coastal zone boundary includes areas that are likely to have a significant impact on coastal waters.

In addition, most of the State's population and development activities are situated along the coast, within the existing coastal zone boundary. The remaining uses outside of the coastal zone are either minor in nature, or so far removed from the coast that it is unlikely that they do, or could, have a significant impact on coastal waters.

II. AGRICULTURE

FINDING: Alaska has provided sufficient justification for a categorical exclusion of agriculture.

RATIONALE: Crop farming, fertilizer application, and pesticide application occur on only a small amount of land in coastal Alaska, and no water quality impairments due to agriculture have been identified in the State's 305(b) water quality assessment. Of Alaska's 365 million acres, only 100,000 acres are identified as cropland. The use of agricultural chemicals is also very low in Alaska.

In 1994, fertilizers were applied to approximately 10,000 acres, and pesticides and herbicides to approximately 2,000 acres of the estimated 30,000 acres of cropland within the coastal zone. Currently only 5 facilities (dairies) in the entire 6217 management area meet the applicability for the large and small confined animal facilities management measures, and agricultural livestock production is declining in the State. Alaska does have a large amount of rangeland, but average stocking rates of 70 acres per animal are very low and have not resulted in any identified impacts.

Irrigation occurs on less than 1,000 acres. The small acreage devoted to agriculture compared to the large land area in Alaska's 6217 management area demonstrates that agriculture is generally not a significant contributor of pollutants to Alaska's coastal waters.

III. FORESTRY

FINDING: Alaska's program includes management measures in conformity with the 6217(g) guidance and includes enforceable policies and mechanisms to ensure implementation throughout the 6217 management area, except it does not include management measures for preharvest planning or the protection of streamside management areas in all water bodies within the coastal management area. Alaska has provided sufficient justification to support the sub-categorical exclusions of Management Measures F (Site Preparation and Forest Regeneration), G (Fire Management), and I (Forest Chemical Management).

CONDITION: Within two years, Alaska will include management measures in conformity with the 6217(g) guidance for preharvest planning and streamside management areas throughout the 6217 management area.

RATIONALE: The Alaska Forest Practices Act (AS 41.17) and Forest Resources and Practices Regulations (Sec. 11 ACC 95.185 et. seq.) include enforceable policies and mechanisms to implement the forestry management measures. These authorities also specify best management practices that are in conformity with the management measures, except for preharvest planning and streamside management areas.

Operators or landowners are required to submit a detailed plan-of-operations (DPO) to the Department of Natural Resources before commercial operations begin on forest lands (AS 41.17.090). The contents of the DPO are specified in the Forest Resources and Practices Regulations (Sec. 11 AAC 95.185 et. seq.), but do not include all information required by the 6217(g) management measures for preharvest planning. The current requirements for information on locations of water bodies, sensitive areas, and roads are limited to these features where they are "known" to the operator (11 AAC 95.220). In many cases, water bodies and other features to be protected according to the 6217(g) guidance are not indicated on existing maps or otherwise known, and therefore may not be protected or managed according to the applicable management measures. To be effective, information included in a DPO on these key features must be complete, which may require actual field reconnaissance conducted at a time of the year when it is appropriate to identify features that require protection. Failure to do so may result in the degradation of water quality and the incremental loss of important aquatic resources. NOAA and EPA encourage Alaska to pursue efforts to improve the process for identifying all water bodies, sensitive areas, and roads in DPO. NOAA and EPA are available to work collaboratively with Alaska to achieve this objective.

The Alaska Forest Practices Act requires the protection of riparian areas from the significant

adverse effects of timber harvest activities on fish habitat and water quality (AS 41.115.115). Alaska requires SMA's for some surface water bodies in conformity with the 6217(g) guidance; however, they do not require such SMA's along water bodies that are not catalogued or determined by Fish and Game to contain or exhibit evidence of anadromous fish. On private lands, Alaska does not require SMA's for some streams that are catalogued or determined to contain or exhibit evidence of anadromous fish. These limitations can be relaxed subject to general and site specific variances. The inconsistencies between those water bodies which require SMA's and those which do not are based on land ownership and other variables not related to nonpoint source pollution control. SMA protection is especially critical for streams that are tributary to anadromous streams and/or high value resident fish streams. The sediment contribution from these streams will have significant detrimental impacts on water quality and habitat for anadromous and high value resident species when sedimentation is increased as a result of land disturbing activities such as timber harvesting and road construction.

Sufficient justification has been provided to support the sub-categorical exclusions for Management Measures F, G, and I. The following summarizes justifying information provided by the State of Alaska in its submission. Mechanical site preparation and artificial reforestation is rarely conducted in Southeast Alaska. Prescribed fires have not been set on forest lands in Southeast Alaska for at least the past six years, and wildfires are infrequent due to high precipitation. The use of forest chemicals in Alaska's coastal zone is "virtually non-existent" and no herbicide or insecticide permits have been issued in the last five years.

IV. URBAN

A. NEW DEVELOPMENT

FINDING: Alaska's program does not include management measures in conformity with the 6217(g) guidance. Alaska's program includes enforceable policies and mechanisms to ensure implementation of the measures throughout the 6217 management area.

CONDITION: Within three years, Alaska will develop alternative management measures that achieve the maximum level of conformity with the management measures that is economically achievable given Alaska's unique conditions.

RATIONALE: Under contract with the State, Montgomery Watson undertook a study on the effectiveness and economic achievability of best management practices for stormwater control, and documented its findings in a report entitled Assessment of Stormwater Controls in Alaska. Based on the analysis and findings of this report, Alaska has determined that the 6217(g) management measures for new development are neither practical nor economically achievable. Sedimentation ponds are not effective in capturing fine particulates from runoff, which accounts for more than 20% of the total suspended solid load in Alaska's low intensity storms. The methods for removing the remaining unsettlable fraction involve chemical or physical treatments.

that would not be economically achievable. Therefore, the State concluded that the new development management measure is not attainable, even with the BMP judged most cost-effective for Alaska's communities. Alaska also states that the second element of the new development measure, to maintain post-development peak runoff rate and volume at pre-development levels, cannot be met in northern and western regions of the State.

Alaska has proposed an interim measure that "by design or performance, after construction has been completed and the site is permanently stabilized, reduce turbidity and settleable solids to the maximum extent practicable." However, Alaska currently lacks data to demonstrate the effectiveness of these measures. The State should develop performance objectives for stormwater runoff reflecting the maximum level of post-development control economically achievable in Alaska.

The State has several enforceable policies and mechanisms that could be used to ensure implementation of the stormwater measures. Alaska's Wastewater Disposal Code requires a permit for any person who disposes of non-domestic wastewater, including stormwater runoff into or onto land, surface water, or ground water (18 AAC 72 500). Projects requiring State or federal permits, must also meet requirements to maintain the physical, biological and chemical characteristics of identified habitat types including: estuaries, wetlands, tideflats, rivers, and streams (6 AAC 80 130).

B. WATERSHED PROTECTION AND EXISTING DEVELOPMENT.

FINDING: Alaska's program includes management measures in conformity with the 6217(g) guidance for watershed protection. Alaska does not include management measures in conformity with the 6217(g) guidance for existing development. Alaska's program includes enforceable policies and mechanisms to ensure implementation throughout the 6217 management area.

CONDITION: Within three years, Alaska will include in its program management measures in conformity with the 6217(g) guidance for existing development.

RATIONALE: The ACMP includes several enforceable policies and mechanisms to ensure that the management measures are implemented. For example, the ACMP requires local governments to develop district coastal management programs (AS 46 40 030). These programs are designed to protect natural values and natural systems or processes, "areas which merit special attention", wetlands, estuaries, and geophysical hazards. The programs must also manage rivers, streams and lakes to protect natural vegetation, water quality, important fish or wildlife habitat, and natural water flow. These programs must be approved by the Alaska Coastal Policy Council (CPC), and are implemented through enforceable policies that are applied to projects requiring State or federal permits (6 AAC 50). To ensure consistency with the ACMP, State agencies attach enforceable stipulations to required permits. In addition, local governments are required to

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implement land and water use controls in conformity with their coastal management program (AS 46.40.100).

Alaska's program does not address the existing development management measure. The proposed watershed protection framework for identifying pollutant reduction opportunities provides a foundation for implementing the existing development measure

C. SITE DEVELOPMENT, CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL, CONSTRUCTION SITE CHEMICAL CONTROL

FINDING: Alaska's program includes management measures in conformity with the 6217(g) guidance for the first, second, and fourth elements of the site development management measure. Alaska does not include management measures in conformity with the 6217(g) guidance for the third element of the site development management measure, construction site erosion and sediment control, and construction site chemical control. Alaska's program includes enforceable policies and mechanisms to ensure implementation throughout the 6217 management area.

CONDITION: Within three years, Alaska will include in its program management measures for (1) the third element of the site development measure, (2) construction site erosion and sediment control, and (3) construction site chemical control in conformity with the 6217(g) guidance

RATIONALE: As described in more detail under section B. above, the ACMP includes several enforceable policies and mechanisms to ensure that the management measures are implemented, except as noted in the Finding. In addition, the regulations for Nondomestic Wastewater and System Plan Review (18 AAC 72.500 - 600) provide the DEC with the authority to control erosion and offsite movement of sediment from project. These policies, however, do not specifically ensure preparation and implementation of an approved erosion and sediment control plan. They also do not necessarily limit land disturbing activities including clearing and grading and cut and fill to reduce erosion and sedimentation. NOAA and EPA encourage the State to continue to implement elements of the Action Plan described in Chapter 6 (pp 12 -14) of the program submittal to ensure that nonpoint pollution impacts are evaluated and the measures are developed and applied

Alaska has several authorities for implementing construction site chemical controls in a proactive manner. For example, discharge of petroleum products is prohibited except by permit (AS 46.03.070). Regulations at 18 AAC 90.430 prohibit the improper use, storage, and disposal of pesticides. Under the Department of Fish and Game's Title 16 authority, construction activities that could pollute fish-bearing waters must submit a plan that protects the fish and their habitat. Because most coastal streams in Alaska support anadromous fish, this authority has broad geographic applicability.

The State, however, has not described BMPs or developed a comprehensive program to ensure

proper storage, transport, and disposal of a variety of chemicals on construction sites. NOAA and EPA encourage the State to update and expand BMP manuals for roads, highways and bridges (such as the Alaska Highway Maintenance and Operations Manual) to include all construction sites throughout the 6217 management area.

D. ONSITE DISPOSAL SYSTEMS (OSDS)

FINDING: Alaska's program includes management measures in conformity with the 6217(g) guidance, except it does not include a provision for inspection of existing OSDS. Alaska includes enforceable policies and mechanisms for the new OSDS measure except exemptions in Alaska's program preclude the State from implementing the measure throughout the 6217 management area. The State does not have enforceable policies and mechanisms to implement the existing OSDS management measure.

CONDITION: Within three years, Alaska will include in its program provisions for the inspection of existing OSDS in conformity with the (g) guidance and enforceable policies and mechanisms to ensure implementation of the new and existing OSDS management measures throughout the 6217 management area.

RATIONALE: Through the Wastewater Disposal Code (18 AAC 72), Alaska has a well-crafted program for OSDS that meets the intent of the 6217(g) guidance, except the State's program does not ensure periodic inspection of OSDS to identify improperly functioning systems.

The State reviews and approves for construction, installation and modification the operation of OSDS serving either (1) more than 3 units or (2) single family or duplex conventional OSDS if similar systems in nearby areas have failed or the OSDS is located in areas where failure is expected (18 AAC 72.210 - 235). The requirement for registered engineering plans provide for implementation of the design, siting, and installation of OSDS in conformity with the 6217(g) guidance. For example, the State requires a minimum vertical separation distance of 4 feet from high water tables and minimum horizontal setbacks from surface waterbodies. In cases where nitrogen loadings may impact drinking water aquifers, OSDS planning and design must prevent aquifer contamination where private water systems (wells) are used. The State also has the authority to require alternative systems or system modification where additional treatment is necessary to protect the public health or environment. The permitting and engineering plan requirements, however, do not apply throughout the 6217 management area.

The State is currently in the process developing regulations addressing inspection requirements for the operation and maintenance of package treatment plants but does not have a program to require periodic inspection of single-family OSDS. The State does have a voluntary mechanism

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to encourage some OSDS inspections. Through DEC's audit stamp program lending institutions are encouraged to require OSDS inspection by a qualified engineer as a condition for loan approval.

E. POLLUTION PREVENTION

FINDING: Alaska's program includes management measures in conformity with the 6217(g) guidance.

RATIONALE: The State has developed a variety of pollution prevention laws and public outreach material that adequately addresses the requirements of the 6217(g) guidance for this management measure. For example, AS 46.06.031, establishes a solid waste reduction and recycling program that is run by DEC. The ACMP developed public service announcements in both English and Yup'ik to promote coastal clean water. DEC also provides grants for hazardous waste reduction under AS 46.03.317.

F. ROADS, HIGHWAYS, AND BRIDGES

FINDING: For roads, highways and bridges (RHBs) subject to Alaska Department of Transportation and Public Facilities (DOTPF) jurisdiction, Alaska's program includes management measures in conformity with the 6217(g) guidance except for the runoff systems management measure. For other RHBs, Alaska's program does not include management measures in conformity with the 6217(g) guidance. Alaska includes enforceable policies and mechanisms to ensure implementation of the measures throughout the 6217 management area.

CONDITION: Within three years, Alaska will include in its program management measures in conformity with the (g) guidance for local RHBs and, for RHBs under DOTPF jurisdiction, management measures for runoff systems.

RATIONALE: Alaska meets the management measure for planning, siting and developing RHBs for those RHBs within the jurisdiction of DOTPF. DOTPF has adopted American Association of State Highway Transportation Officials (AASHTO) guidelines and standard contract specifications which require practices in conformity with the 6217(g) guidance. Alaska does not have similar programs in local areas not under DOTPF jurisdiction. The Alaska Coastal Management Program and Alaska Department of Environmental Conservation review RHB plans for bridges and projects to minimize impacts to surface waters (e.g., in highly erodible areas and wetlands) (6 AAC 80.050 and 6 AAC 80.130).

Alaska's DOTPF has developed standard contract plans and specifications to assure

implementation of the construction site erosion and sediment and chemical control management measures on its RHB projects. DOTPF also includes programs for operation and maintenance (O&M), including an O&M manual that addresses water quality issues. These programs conform to the management measures. For local RHB construction, Alaska has identified a need for erosion and sediment control plans to be developed but does not identify program elements. Also, Alaska does not include management measures for O&M for local RHBs.

Alaska identifies federal funding and scheduling provisions to meet the runoff systems management measure, but does not identify a program to use these provisions to improve runoff management practices along State and local roadways.

DOTPF uses contract clauses as enforceable policies to ensure implementation of the measures as well as environmental review requirements in a variety of legislation. Alaska Administrative Code Title 18 Chapter 72 can ensure implementation in local areas as it requires a permit issued by Department of Environmental Conservation for disposal of all nondomestic wastewater, including storm water runoff. NOAA and EPA encourage Alaska to improve its programs to ensure inspection of the construction site measures. NOAA and EPA commend Alaska's plans to include an inspection checklist in Alaska-specific methodologies and Best Management Practices Guidance under development.

V. MARINAS AND RECREATIONAL BOATING

FINDING: For the siting and design of marinas, Alaska's program includes management measures in conformity with the 6217(g) guidance and includes enforceable policies and mechanisms to ensure implementation, except that it does not include a management measure for storm water runoff. For operation and maintenance of marinas, Alaska's program does include the management measure for solid waste, but does not include the remaining operation and maintenance management measures. The program includes enforceable policies and mechanisms to ensure implementation throughout the 6217 management area.

CONDITION: Within three years, Alaska will include in its program management measures for the storm water measure, and the operation and maintenance measures in conformity with the 6217(g) guidance.

RATIONALE: Alaska's program includes management measures in conformity with the 6217(g) guidance, but does not include management measures for the storm water runoff measure, and operation and maintenance activities, with the exception of the solid waste measure. Alaska is proposing to supplement its program by developing a manual for Coastal and Harbor Design Procedures. The manual will detail the siting and design management measures and include best management practices for the marinas. This manual is intended as basic information to promote awareness of environmental concerns at Alaskan harbors. The State also proposes to launch a program for harbor cleanup and disposal of solid waste and liquid and petroleum spills. This

program will include workshops for marina operators and harbor masters on how to prepare oil spill response plans and how to comply with Alaska's regulations and harbor management agreements. NOAA and EPA encourage the State to complete its Coastal and Harbor Design Manual in a timely manner.

Alaska has also developed a best management practices manual for operation and maintenance activities including management practices for: solid and liquid waste; fish waste, petroleum control, boat cleaning; and maintenance of sewage facilities. The State has not yet incorporated the manual into its program, but expects to do so within a few months. NOAA and EPA commend the State on completing this manual, and encourage its adoption.

The vast majority of marinas and harbors are State-owned facilities administered by the DOTPF; there are only 7 private marinas in the entire State. For State-owned facilities, DOTPF can negotiate Harbor Management Agreements (HMA) with local jurisdictions for the operation of marinas and harbors. DOTPF can include appropriate rules and regulations in HMAs with supplemental conditions as needed; it also has authority to ensure compliance with the HMA. State, local, and federal regulations applicable to harbor operation are incorporated into the HMA.

Siting and design activities requiring state or federal permits can also be addressed through the ACMP permitting process, which applies to both public and private marinas. New or expanding marinas would likely require nondomestic wastewater permits (18 AAC 72.500), and or DFG permits under AS 16.05.870. Permit stipulations can be added to State permits to ensure compliance with the standards of the ACMP. For operation and maintenance activities, the State has several authorities to ensure implementation of the measures at non-DOTPF facilities. Harbors and marinas must obtain a solid waste permit (18 AAC 60.015, .025, .200). The State also has authority to address hazardous liquid wastes, petroleum products, and maintenance of sewage facilities (for example: AS 46.06.021; 18 AAC 62; AS 46.03.740, 18 AAC 72). The State needs to develop a process to ensure that the measures contained in the manual discussed above will be applied to non-DOTPF harbors.

VI. HYDROMODIFICATION

FINDINGS: Alaska's program includes management measures in conformity with the 6217(g) guidance, and includes enforceable policies and mechanisms to ensure implementation of the management measures, except. Alaska does not include management measures and enforceable policies and mechanisms to implement erosion and sediment controls for activities involving maintenance of dams, and to manage the operation of dams to protect surface water quality and instream and riparian habitat.

CONDITIONS: Within three years, Alaska will include in its program management measures and enforceable policies and mechanisms to ensure widespread implementation of erosion and

sediment controls for activities involving maintenance of dams, and to manage the operation of dams to protect surface water quality and instream and riparian habitat

RATIONALE: Alaska requires permits for both new channelization activities and modification of existing channels (AS 16 05.870). Permit applications are reviewed for impacts on fish passage, habitat, water quality and quantity of natural water flow (6 AAC 80.130). The State has completed an analysis of channel modification effects on habitat on the Kenai River, and is applying the methodology to other altered waterways to identify opportunities to improve surface water quality and instream and riparian habitat through the operation and maintenance of existing modified channels.

Alaska implements management measures for erosion and sediment control at dams through Natural Resources Regulations in the Alaska Administrative Code (11 AAC 93 171). The regulations require Erosion and Sediment Control Plans for activities involving construction of new dams, and demolition of existing dams. However, Alaska's erosion and sediment control program does not apply to activities involving maintenance of dams throughout the 6217 management area

Alaska implements management measures for chemical and pollutant control at dams by requiring permits for the proper use of toxic materials, and by requiring proper storage, handling, and disposal of solid waste, hazardous waste, and other construction-related wastes (18 AAC 60 and 62). Conditions on permits from the Alaska Department of Fish and Game for dam construction and modification can restrict application of toxic materials and fertilizers (AS 16 05 870).

Alaska implements management measures for protection of surface water quality and instream and riparian habitat from the effects of dams by adding conditions to permits for new dam construction which stipulate the protection of habitat, fish migration and propagation, and water quality (AS 16 05.870). The State conducts periodic inspections of operating dams, but the checklist of observations completed by the Dam Safety Program deals only with issues relating to engineering integrity. As acknowledged by the State, its program does not include a process to manage the operation of existing dams to protect surface water quality and instream and riparian habitat. The State intends to address this by developing a database which records and categorizes aquatic and terrestrial habitat problems from the construction, operation, and maintenance of dams, and use this to review BMP's which can be attached to permits for dam operation. The State implements management measures for excessive surface water withdrawals by adding conditions to water appropriation permits to maintain instream flows to protect fish and wildlife habitat and water quality (AS 46 15 030 - 035).

To protect anadromous fish habitat and other natural resources, Alaska requires permits for projects involving streambank and shoreline stabilization, and the State encourages proper design of structures while giving preference to vegetative controls (AS 16 05 870). Projects must also

comply with standards of the ACMP, which require coastal areas and shorelines to be managed to protect important habitats, preserve natural vegetation, and avoid adverse effects on natural drainage patterns (6 AAC 80.130). A very small portion of the State's streambanks and shorelines are impacted by humans, and demonstration streambank stabilization projects have helped to increase public awareness about the destruction of streamside habitat due to human activities in waterfront areas. Additional demonstration projects are planned.

VII. WETLANDS, RIPARIAN AREAS AND VEGETATED TREATMENT SYSTEMS

FINDING: Alaska's program includes management measures in conformity with the 6217(g) guidance, and includes enforceable policies and mechanisms to ensure implementation.

RATIONALE: AS 46.03.100 requires a permit for any action involving the disposal of liquid or solid waste material into the waters or on to the lands of the State. This includes dredge and fill activities within wetlands, estuaries, and inland and coastal marshes. Also, under AS 16.05 construction activities that could pollute fish-bearing waters, including wetlands, must submit a plan that protects the fish and their habitat. Projects requiring State permits are subject to the ACMP. Under the ACMP, projects in wetlands and riparian areas are reviewed for impacts on biological, physical and chemical characteristics of the habitat (6 AAC 80.130, 6 AAC 80.140). Under the Forest Practices Act (AS 41.17), timber harvest is prohibited within 100 feet of anadromous streams, or high value streams, on State, federal, and private land in Alaska (except private lands in southeast Alaska, where timber can be harvested within 66 feet of streams in these categories). DEC also evaluates a project's potential impacts on water quality before issuing a water quality certification. These certifications are enforceable under State law (AS 46.03.850(a)).

The municipalities of Anchorage and Juneau have implemented wetlands management plans which identify sensitive wetlands, specify practices for protection and restoration of high-value wetlands, and contain enforceable policies requiring compensation for wetland damages from development. Similar plans for wetlands management and conservation are anticipated for other populated areas of the State's coastal region.

Management measures promoting restoration of wetland and riparian areas are implemented through the State's coastal management and fish habitat programs which require restoration for mitigation of wetlands loss or degradation (6 AAC 80.130 and AS 16.05.870). Restoration is already a key component of wetlands management plans in Anchorage and Juneau, as well as in the plans under development for other population centers. A work group comprised of government, industry, and indigenous peoples of the North Slope are developing a mitigation strategy which will emphasize restoration.

Management measures promoting vegetative treatment systems are implemented through government and industry who are assessing the performance, effectiveness, and durability of

existing demonstration projects. The use of constructed wetlands and filter strips as nonpoint source controls for runoff is promising, but limited in the State's environment, due to cold climate, short growing season, and locally heavy rates of precipitation.

VII. ADMINISTRATIVE COORDINATION

FINDING: Alaska's program establishes mechanisms to improve coordination among State agencies and between State and local officials.

RATIONALE: Alaska has several existing mechanisms for promoting intergovernmental coordination. For example, the coordinated consistency review process (6 AAC 50), establishes a coordinated State/local project review process. In addition, there is a statutory requirement (AS 46.40 200) that requires all State agencies, boards and commissions to examine their authorities and take whatever actions are necessary to ensure compliance with the Alaska Coastal Management Program. The submittal describes the various agencies' authorities and roles in the implementation of the management measures. To further enhance coordination, the State has committed to complete a statewide nonpoint source pollution needs assessment and action plan within the next 18 months. This will help set a common agenda and improve coordination.

IX. PUBLIC PARTICIPATION

FINDING: Alaska's program provides opportunities for public participation in the development and implementation of the coastal nonpoint program.

RATIONALE: Chapter 2 of the State's program submittal describes activities that provide opportunities for public participation in the coastal nonpoint program. The State established a 6217 Task Force consisting of State and local government representatives to help give local coastal districts an opportunity to guide the development and implementation of the program. The State undertook an outreach and education campaign to promote public participation in program development. The State has also held informational sessions for affected parties such as port administrators and the municipal league. The State intends to continue these activities as part of its efforts to ensure strong implementation of its 6217 program.

X. TECHNICAL ASSISTANCE

FINDING: Alaska has included programs that will provide technical assistance to local governments and the public for implementing additional management measures.

RATIONALE: Chapter 2 of Alaska's submittal details a variety of technical assistance initiatives available to local government and the public, as well as an ongoing action plan to provide for continued technical assistance. For example, DGC initiated the Coastal Clean Water grant

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Program. This program provides small grants to local governments to support efforts (e.g., data collection, education, demonstration projects) that will lead to better implementation of management measures. The Department of Community and Regional Affairs supports an electronic library of local ordinances relating to surface runoff and other water pollution problems. To address the Alaska specific issue of tidal grids, DOTPF is developing best design practices for tidal grid layout and design and use minimize water quality impacts.

After the State completes its section 319 Nonpoint Source Pollution needs assessment, it plans to convene a series of meeting involving affected parties. The purpose of these meetings will be to refine and coordinate technical assistance and public outreach efforts.

XI. CRITICAL COASTAL AREAS

FINDING: Alaska's program does not identify and include a process for the continuing identification of critical coastal areas adjacent to impaired and threatened coastal waters.

CONDITION: Within two years, Alaska will identify and include a process for the continuing identification of critical coastal areas

RATIONALE: Although the program does not identify critical coastal areas, it does describe initial efforts to complete this requirement (Chapter 11). The program also includes a preliminary list of impaired and threatened waters and coastal waters of concern. The program also commits the State to a consultative process to identify critical coastal areas and delineate appropriate boundaries.

XII. ADDITIONAL MANAGEMENT MEASURES

FINDING: Alaska's program does not provide for the identification and the continuing revision of additional management measures applicable to critical coastal areas and cases where (g) measures are fully implemented but water quality threats or impairments persist.

CONDITION: Within two years, Alaska will develop a process for developing and revising management measures to be applied in critical coastal areas and in areas where necessary to attain and maintain water quality standards

RATIONALE: Alaska's program includes a commitment to develop and implement additional management measures once the identification of critical coastal areas and land uses is completed. However, the program does not include a continuing process, including milestones for implementing, evaluating, and, as necessary, revising the additional management measures

XIII. MONITORING

FINDING: Alaska's program does not yet include a plan to assess over time the success of the management measures in reducing pollution loads and improving water quality.

CONDITION: Within one year, Alaska will finalize its plan that enables the State to assess over time the extent to which implementation of management measures is reducing pollution loads and improving water quality.

RATIONALE: Alaska proposes a one-page "action plan" to develop a monitoring program for section 6217. The brief plan identifies six tasks, including a survey of existing monitoring efforts in the State, establishment of watershed monitoring objectives, identification of monitoring needs, an assessment of gaps in current monitoring efforts, an evaluation of options to fill the gaps, and implementation of the program. Alaska plans to complete most of these tasks by July, 1996. Thus, Alaska has not yet formulated its strategy to assess over time the success of the management measures in reducing pollution loads and improving water quality.

Alaska should include in its plan information regarding the number and location of monitoring stations, the types and frequency of water quality data being collected, and the analytic approaches that will be employed in conjunction with existing monitoring efforts to assess the success of management measures in achieving water quality objectives. The State should include some inexpensive tracking of management measure implementation in conjunction with water quality monitoring, as such information is needed to assess the success of management measures in achieving water quality objectives.



Coastal Zone Management Program

Coastal Zone
Management

National Estuarine
Research Reserves

National Marine
Sanctuaries



Coastal Zone Management Program



Texas Coastal Management Program Approved!!



Congratulations to Texas - the 30th approved coastal management program

- OCRM Publishes Final Environmental Impact Statement for Texas Coastal Management Program
- Press Release announcing OCRM approval of Texas Coastal Management Program
- Federal Register Notice (January 10, 1997)
- Summary of Texas Coastal Management Program

Mission

The National Coastal Zone Management (CZM) Program is a voluntary partnership between the Federal government and U.S. coastal states and territories authorized by Coastal Zone Management Act of 1972 to:

- Preserve, protect, develop, and where possible, restore and enhance the resources of the Nation's coastal zone for this and succeeding generations;
- Encourage and assist the states to exercise effectively their responsibilities in the coastal zone to achieve wise use of land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for compatible economic development;
- Encourage the preparation of special area management plans to provide increased specificity in protecting significant natural resources, reasonable coastal-dependent economic growth, improved protection of life and property in hazardous areas and improved predictability in governmental decision-making;

Encourage the participation, cooperation, and coordination of the public, Federal, state, local, interstate and regional agencies, and governments affecting the coastal zone.

Since 1974, with the approval of the first state CZM program in Washington, 25 coastal states and five island territories have developed CZM programs. Together these programs protect 94 percent of the nation's 95,000 miles of oceanic and Great Lakes coastline. Four of the five remaining eligible states - Georgia, Indiana, Minnesota, and Ohio - are now developing CZM programs for Federal approval.

Reflecting the diverse natural environment of the coastal zone and the varied uses of coastal lands and waters, the CZM program focuses on balancing often competing land and water uses while protecting sensitive resources. The CZM program is made up of several elements which provide comprehensive resource management.

Programs are expected to consider or undertake the following:

- Protection of natural resources
- Manage development in high hazard areas
- Manage development to achieve quality coastal waters
- Give development priority to coastal-dependent uses
- Have orderly processes for the siting of major facilities
- Locate new commercial and industrial development in or adjacent to existing developed areas
- Provide public access for recreation
- Redevelop urban waterfronts and ports, and preserve and restore historic, cultural, and esthetic coastal features
- Simplify and expedite governmental decision-making actions
- Coordinate state and Federal actions
- Give adequate consideration to the views of Federal agencies
- Assure that the public and local government has a say in coastal decision-making
- Comprehensively plan for and manage living marine resources

A unique aspect of coastal zone management is "Federal Consistency" which ensures that Federal actions that are reasonably likely to affect any land or water use or natural resource of the coastal zone be consistent with the enforceable policies of a coastal state's or territory's federally approved coastal zone management program.

In 1990, Congress created a new program under the Coastal Zone Management Act, called the Coastal Zone Enhancement Program. The Coastal Zone Enhancement Program provides incentives for states and territories to make changes in any of eight areas of national significance.

Another important component of coastal zone management programs is the developing Coastal Nonpoint Pollution Control Program (under construction). Authorized by section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990, this amendment requires states and territories with approved coastal zone management programs to develop and implement coastal nonpoint programs. Coastal states were required to submit their coastal nonpoint programs to NOAA and the Environmental Protection Agency (EPA) for approval in July 1995. Submissions have been received from 28 of 29 state CZM programs. Once approved, these programs will be implemented through changes to the state nonpoint source program approved by EPA under section 319 of the Clean Water Act and through changes to the state coastal zone management program. Management measures to control the addition of pollution to coastal waters have been developed by EPA for five source categories of nonpoint pollution: agricultural runoff, urban runoff, forestry runoff, marinas, and hydromodification. Measures were also developed for wetlands, riparian areas, and vegetated treatment systems. (A 6217 program status section of this homepage is under construction.)

Scope

FAX TRANSMITTAL

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Comments: Coastal Project Questionnaire (CPQ)

Note that the first half of the FAX is instruction on process and contact lists by region

The last 8 pages are the actually CPQ. Each question targets specific criteria that triggers an agency permit. We work with applicants and agencies in the "yes" categories to determine which permit applications are needed. A completed CPQ also provides applicants a record that will protect them from any late attempts to require additional permits.

Call if you have questions.

If you received this FAX in error, please immediately notify the sender by telephone, and return this FAX to the sender at the above address. Thank you.

STATE OF ALASKA

OFFICE OF THE GOVERNOR

TONY KNOWLES, GOVERNOR

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ALASKA COASTAL MANAGEMENT PROGRAM CONSISTENCY REVIEW INSTRUCTIONS COASTAL PROJECT QUESTIONNAIRE (CPQ)

Dear Applicant or Federal Project Proponent:

The State of Alaska uses a multiple agency coordinated system for reviewing and processing all resource-related permits which are required for proposed projects in or affecting coastal areas of Alaska. This system, called "project consistency review," is based on the Alaska Coastal Management Program (ACMP) and is designed to improve management of Alaska's coastal land and water uses. Project proposals are reviewed to determine the project's consistency with the standards of the ACMP and enforceable policies of approved district coastal management programs.

Participants in the State's review process include:

- You, the applicant;
- State resource agencies (Alaska Departments of Environmental Conservation (DEC), Fish and Game (DFG), and Natural Resources (DNR));
- The Division of Governmental Coordination (DGC);
- The affected local coastal community; and
- Other interested members of the public.

Your answers to this Coastal Project Questionnaire (CPQ) will determine State and federal permitting requirements as well as which State agency will coordinate the consistency review. Please be advised that the CPQ identifies permits subject to a consistency review. You may need additional permits from other agencies or local governments to proceed with your activity. DGC will coordinate the review if:

- The project is a federal activity;
- The project requires a federal government approval; or
- The project requires permits from more than one State agency.

All other reviews will be coordinated by the State agency responsible for issuing those permits.

The State considers all aspects of a proposed activity in a single consistency review. Your answers to the questions must reflect all elements of the activity, and all applications for the entire project must be

submitted together. This approach eliminates repetitive ACMP reviews and decisions on the same project. However, you should be advised that individual permits may still need further review by issuing agencies for non-ACMP concerns upon completion of the ACMP consistency review.

Before you finalize project plans and submit your application, the State can arrange a preapplication meeting among review participants and yourself to review your draft plans. This meeting identifies concerns, information needs and promotes a mutual understanding of your project. To arrange a preapplication meeting, contact the coordinating agency. In lieu of a meeting, the coordinating agency can distribute materials to review participants for preapplication assistance.

For all projects proposed by applicants and federal agencies the consistency review begins upon receipt of your complete application packet by the coordinating agency. A complete application packet includes:

- A completed, signed CPQ;
- Copies of any necessary State and/or federal applications, topographic maps and plan drawings required by the approving agency(ies) (ORIGINALS go to the State or federal issuing agency. Fees associated with a State permit must be submitted to the issuing agency.); and
- Any additional pertinent information, including public notices from agencies.

You must submit the completed packet to the regional office where the proposed project is located. Attached are a list of regional agency contacts and a map of the coastal area with the regions delineated. All packets must be submitted to DGC, with the following exceptions:

- If your application packet includes an application which contains confidential information, submit that application ONLY to the applicable State agency, and the remainder of the packet to the coordinating agency.
- If the project involves placer mining, submit an Annual Placer Mining Application (instead of the CPQ) to DNR, Division of Mining.
- If you need permits from only one State agency and no federal agencies, submit the entire packet to that State agency.
- If you are applying to grow shellfish or aquatic plants, you must submit an aquatic farm application packet to DNR during the annual 60-day aquatic farm district opening.

Some projects that will have no significant impact on coastal resources, or that are routine activities, may be exempt from individual consistency review requirements. These projects are called "categorical permits" or "general concurrence determinations," respectively. The State maintains a list identifying permits and projects that qualify for these categories of expedited review. The list is referred to as the "Classification of State Agency Permits" (ABC List). Applicants must complete the CPQ so the State can determine whether a proposed project qualifies for an expedited review. Contact DGC for more information.

REVIEW OF YOUR PROJECT WILL BEGIN WHEN THE COORDINATING AGENCY HAS DETERMINED THAT THE APPLICATION PACKET IS COMPLETE.

The State must complete the consistency review of your project within 30 or 50 days*. A 50-day review schedule will be used for projects with permits requiring a 30-day public notice. The review schedule may be extended as provided in 6 AAC 50.110(b). The provisions include extensions requested by the applicant and requests for additional information by a review participant.

	30-Day Review	50-Day Review
Start-Up: When the consistency review begins you will receive a review number and review schedule.	Day 1	Day 1
Information Requests: Deadline for reviewers to request additional information. The review may be stopped until that information is received.	Day 15	Day 25
Comment Deadline: Public, district and agency reviewer comments due.	Day 17	Day 34
Proposed Determination: The coordinating agency will develop a proposed consistency determination that will be presented to you and reviewers for concurrence.	Day 25	Day 44
Deadline for notification of elevation and/or petition**	Day 29	Day 49
Final Determination: A final consistency determination will be issued upon agreement of the proposed determination by you and reviewers unless an elevation and/or petition is requested.	Day 30	Day 50
Elevation Process: If elevated, directors' determination	Day 45	Day 65
Elevation Process: If elevated again, commissioners' determination	Day 60	Day 80
Petition to the Coastal Policy Council	Council decision in 30 days.	Council decision in 30 days.

*Some projects may require a different review process/schedule (such as federal activities and projects which involve a disposal of interest in State land or resources).

****Elevation/Petition Process:** Elevation is an appeal process which allows further review by division directors and commissioners of the State resource agencies. Each elevation review lasts a maximum of 15 days. The petition process allows the applicant, resource agencies, an affected coastal district, or citizen of an affected coastal district to seek Coastal Policy Council review of the proposed determination. Each petition review lasts a maximum of 30 days.

Permits: State agencies issue permits covered by the conclusive consistency determination within five days after the final determination is issued, unless an agency finds that additional review is necessary to fulfill its statutory requirements. DGC can provide you with more information on additional permit reviews that may be necessary for your project.

If your project requires a federal approval and you disagree with the State's final conclusive consistency determination, you may also appeal to the U.S. Secretary of Commerce in Washington, D.C., as provided in 15 CFR 930.125(h). DGC can provide you information on this appeal process upon request.

PLEASE DETACH AND KEEP THE INSTRUCTION SECTION AND CONTACT LIST OF THIS FORM.

SOUTHEAST REGIONAL CONTACTS

**DEPARTMENT OF
NATURAL RESOURCES**

Oil & Gas

DNR/Oil and Gas
Frontier Building
3601 C Street, Suite 1380
Anchorage, AK 99503-5948
Phone: (907) 269-8775
Fax: (907) 562 3652
CONTACT: Jim Haynes

Mineral/Metal Mining

DNR/Mining
Box 107016
Anchorage, AK 99510-7016
Phone: (907) 269-8400
or 1-800 478-2154
Fax: (907) 563-1853
CONTACT: Mitch Henning

Forestry

DNR/Forestry
400 Willoughby Avenue
Juneau, AK 99801-1796
Phone: (907) 465-2491
Fax: (907) 586-3113
CONTACT: Jim McAllister

Agriculture

DNR/Agriculture
P.O. Box 949
Palmer, AK 99645-0949
Phone: (907) 745-7200
Fax: (907) 745-7112
CONTACT: Jay Kartula

Activities on State Park Lands

DNR/Parks & Outdoor Recreation
400 Willoughby Avenue
Juneau, AK 99801-1796
Phone: (907) 465-4563
Fax: (907) 465-5330
CONTACT: Bill Garry

State Historic Preservation Office

DNR/SHPO
3601 C Street, Ste. 1278
Anchorage, AK 99510-7001
Phone: (907) 269-8715
Fax: (907) 269-8908
CONTACT: Judith Bittner

Water

DNR/Water
400 Willoughby Avenue
Juneau, AK 99801-1796
Phone: (907) 465-2533
Fax: (907) 586-2954
CONTACT: John Dunker

Aquatic Farming

DNR/Land
Box 107005
Anchorage, AK 99510-7005
Phone: (907) 269-8546
Fax: (907) 269-8913
CONTACT: Janetta Pritchard

All Other Activities

Southeast Regional Office
DNR/Land
400 Willoughby Avenue
Juneau, AK 99801-1796
Phone: (907) 465-3400
Fax: (907) 586-2954
CONTACT: Elizaveta Shadun

**DEPARTMENT OF
FISH AND GAME**

Area Offices

ADF&G/Habitat and
Restoration Division
P.O. Box 240020
Douglas, AK 99824-0200
Phone: (907) 465-4290
Fax: (907) 465-4272
CONTACT: Clayton Hawk 65-4299
Ben Kirkpatrick 465-4288

ADF&G/Habitat and
Restoration Division
2030 Sealevel Drive,
Room 205
Ketchikan, AK 99901
Phone: (907) 225-2027
Fax: (907) 225-3756
CONTACT: Jack Gustafson

ADF&G/Habitat and
Restoration Division
P.O. Box 271
Klawock, AK 99925-0271
Phone: (907) 755-2485
Fax: (907) 755-2440
CONTACT: Jim Durst

ADF&G/Habitat and
Restoration Division
304 Lake Street, Room 103
Sitka, AK 99835
Phone: (907) 747-5828
Fax: (907) 747-6239
CONTACT: Dave Hardy -
Chatham Area (Admiralty, Baranof, and
Chichagof Islands)
CONTACT: Phil Mooney -
Sitka Area (Petersburg, Wrangell, Ketchikan,
Hoon Bay, Yakutat and Tazewell Areas)

Hatchery Permits

DFG/CFMD Division
1255 West Eighth Street
P.O. Box 25526
Juneau, AK 99802-5526
Phone: (907) 465-4160
Fax: (907) 465-4168
CONTACT: Steve McGee . . 465-6152
Kevin Duffy . . 465-6151

Regional Office

ADF&G/Habitat and Restoration
Division
P.O. Box 240020
Douglas, AK 99824-0200
Phone: (907) 465-4287
FAX: (907) 465-4272
CONTACT: Lena Shea Flanders

**DEPARTMENT OF
ENVIRONMENTAL CONSERVATION**

DEC

410 Willoughby Ave., Suite 105
Juneau, AK 99801
Phone: (907) 465-5350
Fax: (907) 465-5274

COE/Wetlands Fill

Dave Sturdevant 465-5276

Solid Waste Disposal

Ed Emawiler 465-5353

Air Quality

Jim Baumgartner 465-5108

Oil Spill Contingency Plans

Dan Hoffman (Irrawaddi/Sakuma) 465-5368
Steve Provant (Stikine/Marshu Kusli)
(in Valdez) 835-4698

DEC

610 University Avenue
Fairbanks, AK 99709-3643
Fax: 451-2187

Domestic Wastewater Disposal

Tim Wingerter 451-2116

Industrial Wastewater Disposal

Pete McGee 451-2101

**OFFICE OF
MANAGEMENT AND BUDGET**

Division of Governmental
Coordination
240 Main, Suite 500, P.O. Box 110030
Juneau, AK 99811-0030
Phone: (907) 465-3362
Fax: (907) 465-3075
CONTACT: Karen Esary . . 465-2142
Jennifer Garland . . 465-3177
Lorraine Marshall 465-8790
Jackie Timothy . . 465-8798

SOUTHCENTRAL REGIONAL CONTACTS

DEPARTMENT OF NATURAL RESOURCES

Oil and Gas Activities

DNR/Oil and Gas
Frontier Building
3601 C Street, Ste. 1380
Anchorage, AK 99503-5948
Phone: (907) 269-8775
Fax: (907) 562-3852
CONTACT: Jim H. Juel

Mineral/Metal Mining Activities

DNR/Mining
3601 C Street, Ste.
Anchorage, AK 99510-7016
Phone: (907) 762-2109
Fax: (907) 562-3587
CONTACT: Mitch Henning

Forestry Activities

DNR/Forestry
400 Willoughby Avenue
Juneau, AK 99801-1796
Phone: (907) 465-2491
Fax: (907) 586-3113
CONTACT: Jim McAllister

Agriculture Activities

DNR/Agriculture
P.O. Box 949
Palmer, AK 99645
Phone: (907) 745-7200
Fax: (907) 745-7112
CONTACT: Jay Kerttula

Activities on State Park Lands

DNR/Parks & Outdoor Recreation
Frontier Building
3601 C Street, Suite 1200
Anchorage, AK 99503-5921
Phone: (907) 269-8700
Fax: (907) 269-8907
CONTACT: Dave Stephens

State Historic Preservation Office

DNR/SHPO
3601 C Street, Suite 1200
Anchorage, AK 99510-7001
Phone: (907) 269-8715
Fax: (907) 269-8908
CONTACT: Judith Bittner

Water Related Activities

DNR/Water
3601 "C" Street, Suite 822
Anchorage, AK 99503
Phone: (907) 269-8642
Fax: (907) 562-1384
CONTACT: Kallie Litzen

Aquatic Farming Activities

DNR/Land
3601 C Street, Suite 1080
Anchorage, AK 99503-5937
Phone: (907) 269-8546
Fax: (907) 269-8913
CONTACT: Janetta Pritchard

All other Activities

Regional Office, DNR/Land
Frontier Building
Southcentral District Office
3601 C Street, Suite 1080
Anchorage, AK 99503-5937
Phone: (907) 451-2751
Fax: (907) 269-8913
CONTACT: Ali Iliff

DEPARTMENT OF FISH AND GAME

ADF&G/Habitat and Restoration Division
333 Raspberry Road
Anchorage, AK 99518-1599
(South central except as noted below)
Phone: (907) 267-2284
Fax: (907) 267-2464
CONTACT: Don McKay

Kuskokwim (above Sleetmute) and Yukon (above Paimout)
River drainages:

ADF&G/Habitat and Restoration Division
1300 College Road
Fairbanks, AK 99709
Phone: (907) 451-6192
Fax: (907) 456-3091
CONTACT: Al Ott

Coastal Gulf of AK drainages
East of Cape Suckling:

ADF&G/Habitat and Restoration Division
304 Lake Street, Room 103
Sitka, AK 99835
Phone: (907) 747-5828
Fax: (907) 747-6239
CONTACT: Phil Mooney

Hatchery Permits

ADF&G/CPMD Division
1255 West Eighth Street
P.O. Box 25526
Juneau, AK 99802-5526
Phone: (907) 465-4160
Fax: (907) 465-4168
CONTACT: Steve McGee . 465-6152
Kevin Duffy . . 465-6151

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

DEC
555 Cordova Street
Anchorage, AK 99501
Phone: (907) 269-7500
Fax: (907) 269-7652

COE/Wetlands Fill

Gary Saupa 269-7567

Solid Waste Disposal

Laura Ogar 269-7590

Domestic Wastewater Disposal

Robert Dolan 269-7565

Industrial Wastewater Disposal

Pete McGee (in Fairbanks) . . 451-2101

Air Quality

Ron Chaitoff 269-3071

Oil Spill Contingency Plans

Joe Saumer 269-7539

OFFICE OF MANAGEMENT AND BUDGET

Division of Governmental Coordination
3601 C Street, Suite 370
Anchorage, AK 99503-5930
Phone: (907) 269-7470
Fax: (907) 561-6134
CONTACT: Front Desk . . . 269-7470
Jeff Davis 269-7474
Maureen McCrea 269-7473
Arlene Murphy 269-7475

State Pipeline Coordinator's Office
(for oil and gas, onshore/state waters only)

DGC Liaison
411 W. 4th Avenue, Suite 2-C
Anchorage, AK 99501-2343
Phone: (907) 271-4317
Fax: (907) 272-0690
CONTACT: Molly Birnbaum

(for oil and gas, offshore OCS only)
DGC

P.O. Box 110030
Juneau, AK 99811-0030
Phone: (907) 465-8792
Fax: (907) 465-3075
CONTACT: Glenn Gray

NORTHERN REGIONAL CONTACTS

DEPARTMENT OF NATURAL RESOURCES

Oil and Gas Activities

DNR/Oil and Gas
 Box 107034
 Anchorage, AK 99510-7034
 Phone: (907) 269-8700
 Fax: (907) 269-8907
 CONTACT: Jim Haynes

Mineral/Metal Mining Activities

DNR/Mining
 3700 Airport Way
 Fairbanks, AK 99709
 Phone: (907) 451-2793
 Fax: (907) 451-2751
 CONTACT: Fred Lee

Forestry Activities

DNR/Forestry
 3700 Airport Way
 Fairbanks, AK 99709
 Phone: (907) 451-2700
 Fax: (907) 451-2751
 CONTACT: Steve Clautice

Agriculture Activities

DNR/Agriculture
 3700 Airport Way
 Fairbanks, AK 99709
 Phone: (907) 451-2700
 Fax: (907) 451-2751
 CONTACT: Ed Arobie

Activities on State Park Lands

DNR/Parks & Outdoor Recreation
 3700 Airport Way
 Fairbanks, AK 99709
 Phone: (907) 451-2700
 Fax: (907) 451-2751
 CONTACT: Anna Plager

State Historic Preservation Office

DNR/SHPO
 3601 C Street, Suite 1278
 Anchorage, AK 99510-7001
 Phone: (907) 269-8715
 Fax: (907) 269-8908
 CONTACT: Judith Bittner

Water Related Activities

DNR/Water
 3700 Airport Way
 Fairbanks, AK 99709
 Phone: (907) 451-2736
 Fax: (907) 451-2751
 CONTACT: Jack Korin

All Other Activities

Northern Regional Office
 DNR/Land
 3700 Airport Way
 Fairbanks, AK 99709
 Phone: (907) 451-2700
 Fax: (907) 451-2751
 CONTACT: Roselynn Smith

DEPARTMENT OF FISH AND GAME

ADF&G/Habitat and
 Restoration Division
 1300 College Road
 Fairbanks, AK 99709
 Phone: (907) 451-6192
 Fax: (907) 456-3091
 CONTACT: Al Ott

Hatchery Permits

ADP&G/CFMD Division
 1255 West Eighth Street
 P.O. Box 25526
 Juneau, AK 99802-5526
 Phone: (907) 465-4160
 Fax: (907) 465-4168
 CONTACT:
 Steve McGee . . . 465-6152
 Kevin Duffy . . . 465-6151

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

DEC
 610 University Avenue
 Fairbanks, AK 99709-3643
 Phone: (907) 451-2360
 Fax: (907) 451-2187 or 451-2188

COE/Wetlands Fill and Domestic Wastewater Disposal

Tim Wingarter 451-2116
Industrial Wastewater Disposal
 Pete McGee 451-2101
Solid Waste Disposal
 Kris McCumby 451-2154

DEC
 555 Cordova Street
 Anchorage, AK 99501
 Phone: (907) 269-7500
 Fax: (907) 269-7652

Air Quality

Ron Chaitoff 269-3071
Oil Spill Contingency Plans
 Joe Seutner 269-7539

OFFICE OF MANAGEMENT AND BUDGET

Division of Governmental Coordination
 3601 C Street, Suite 370
 Anchorage, AK 99503-5930
 Phone: (907) 269-7470
 Fax: (907) 561-6134
 CONTACT: Front Desk . . . 269-7470
 Jeff Davis 269-7474
 Maureen McCrea 269-7473
 Arlene Murphy 269-7475

State Pipeline Coordinator's Office

(for oil and gas, onshore/state waters only)
 DGC Liaison
 411 W. 4th Avenue, Suite 2-C
 Anchorage, AK 99501-2343
 Phone: (907) 271-4317
 Fax: (907) 272-0690
 CONTACT: Molly Birnbaum

(for oil and gas, offshore OCS only)

DGC
 P.O. Box 110030
 Juneau, AK 99811-0030
 Phone: (907) 465-8792
 Fax: (907) 465-3075
 CONTACT: Glenn Gray

**COASTAL DISTRICT CONTACTS:
ALASKA COASTAL MANAGEMENT PROGRAM**

Aleutians East Borough
Ms. Tina Anderson
Coastal Coordinator
Aleutians East Borough
P.O. Box 349
Sand Point, AK 99661
Phone: (907) 383-2699
Telecopy: (907) 383-3496

Aleutians West CRSA
Ms. Mary Pearsall
Program Coordinator
Aleutians West CRSA
308 G Street, #225
Anchorage, AK 99501
Phone: (907) 272-6700
Telecopy: (907) 272-6707

Anchorage Municipality of
Mr. Thede Tobush
Department of Community
Planning and Development
P O Box 196650
Anchorage, AK 99519-6650
Phone: (907) 343-4261
Telecopy: (907) 343-4220

Angoon City of
Mayor Floyd Kookesh
P O Box 189
Angoon, AK 99820
Phone (907) 788-3653
Telecopy: (907) 788-3821

Annette Islands Indian Reserve
Ms. Saline Haven/Mr. Benson
Annette Island Metlakatla
Indian Community
P O Box 360
Metlakatla, AK 99926-0360
Phone (907) 886-4200
Telecopy (907) 886-7997

Bering Straits CRSA
Mr. Chuck Degan, Director
Bering Straits Coastal
Management Program
P O Box 190
Unaakleet, AK 99684
Phone (907) 624-3062
Telecopy (907) 624-3811

Bethel City of
Mr. Jim Hoppenworth
Coastal Coordinator
City of Bethel
P.O. Box 388
Bethel, AK 99559
Phone: (907) 543-4456
Telecopy: (907) 543-4171

Bristol Bay Borough
Mrs. Cynthia Zuelow-Osborne
Administrative Assistant
Bristol Bay Borough
P O. Box 189
Naknek, AK 99633
Phone: (907) 246-4224
Telecopy: (907) 246-6633

Bristol Bay CRSA
Ms. Sue Flensburg
Bristol Bay CRSA
Nanvaq Building, Room 207
P.O. Box 849
Dillingham, AK 99576
Phone: (907) 842-2666
Telecopy: (907) 842-2776
Email bbersant@nushtel.com (no caps)

Cenaliulnit CRSA
Mr. George Owlituck
Program Director
Cenaliulnit CRSA
P.O. Box 357
St. Mary's, AK 99658
Phone: (907) 438-2638
Telecopy: (907) 438-2643

Cordova City of
Mr. Scott Janke, City Manager
Mr. George Keeney, Planner
City of Cordova
P.O. Box 1210
Cordova, AK 99574
Phone: (907) 424-6200
Telecopy: (907) 424-6000

Craig City of
Mr. Jon Bolling
Coastal Coordinator
City of Craig
P O Box 725
Craig, AK 99921
Phone (907) 826-3275
Telecopy (907) 826-3278

Haines City of
Mr. Tom Healy
City Administrator
City of Haines
P O. Box 1049
Haines, AK 99827
Phone: (907) 766-2231
Telecopy: (907) 766-3179

Hoonah City of
Mr. Robert Pinard
City of Hoonah
P.O. Box 360
Hoonah, AK 99829
Phone: (907) 945-3663
Telecopy: (907) 945-3445

Hydaburg City of
Ms. Jean Bland
City of Hydaburg
P.O. Box 49
Hydaburg, AK 99922
Phone: (907) 285-3761
Telecopy: (907) 285-3760

Juneau City and Borough of Juneau
Mr. Bill Smith, Planner
Community Development
Department
City and Borough of Juneau
155 South Seward Street
Juneau, AK 99801
Phone: (907) 586-5230
Telecopy: (907) 586-3365
Email Bill_Smith@mail.ci.juneau.ak.us

Kake City of
Mayor Lonnie Anderson
City of Kake
P.O. Box 500
Kake, AK 99830
Phone: (907) 785-3804
Telecopy: (907) 785-4815

Kenai Peninsula Borough
Ms. Glenda Landua
Coastal Coordinator
Kenai Peninsula Borough
144 N. Binkley Street
Soldotna, AK 99669-7599
Phone: (907) 262-4441
Telecopy: (907) 262-1892

Ketchikan Gateway Borough
Ms. Jennifer Carman
Coastal Coordinator
Ketchikan Gateway Borough
344 Front Street
Ketchikan, AK 99901
Phone: (907) 228-6610
Telecopy: (907) 247-8439

Klawock City of
Mr. Doc Waterman
Coastal Coordinator
P.O. Box 113
Klawock, AK 99925
Phone: (907) 755-2261
Telecopy: (907) 755-2403

Kodiak Island Borough
Ms. Linda Freed
Community Development
Department Director
Kodiak Island Borough
710 Mill Bay Road
Kodiak, AK 99615-6340
Phone: (907) 486-9360
Telecopy: (907) 486-9376
Email: lfreed@kib.co.kodiak.ak.us (no caps)

Lake and Peninsula Borough
Mr. Walt Wrede, Manager
Ms. Sheila Bergey, Planner
Lake and Peninsula Borough
P.O. Box 495
King Salmon, AK 99613
Phone: (907) 246-3421
Telecopy: (907) 246-6602

Matanuska-Susitna Borough
Mr. Ken Hudson
Coastal Management Coordinator
Matanuska-Susitna Borough
350 E. Dahlia Avenue
Palmer, AK 99645-6488
Phone: (907) 745-9865
Telecopy: (907) 745-9876

Nome City of
Mr. Randy Romenesko
City of Nome
P.O. Box 281
Nome, AK 99762
Phone: (907) 443-5242
Telecopy: (907) 443-5349

North Slope Borough
Mr. Jon Dunham
North Slope Borough
P.O. Box 59
Barrow, AK 99723
Phone: (907) 852-0440 x266
Telecopy: (907) 852-3991
Email: jdunham@co.north_slope.ak.us

Northwest Arctic Borough
Mr. Frank Stein
Planning Director
Northwest Arctic Borough
P.O. Box 1110
Kotzebue, AK 99752
Phone: (907) 442-2500
Telecopy: (907) 442-2930

Pelican City of
Ms. Ginnie Porter
Coastal Coordinator
P.O. Box 737
Pelican, AK 99832
Phone: (907) 735-2202(wk)
735-2259(hm)
Telecopy: (907) 735-2258

Petersburg City of
Mr. Leo Luzzak
Planning Director
City of Petersburg
P.O. Box 329
Petersburg, AK 99833
Phone: (907) 772-4533
Telecopy: (907) 772-4876

Sitka City and Borough of
Mr. Gary Paxton
Administrator
City and Borough of Sitka
100 Lincoln Street
Sitka, AK 99835-7540
Phone: (907) 747-1812
Telecopy: (907) 747-7403

Ms. Marlene Campbell
Coastal Management Coordinator
City and Borough of Sitka
100 Lincoln Street
Sitka, AK 99835
Phone: (907) 747-1855
Telecopy: (907) 747-1856

Skagway City of
Mr. Robert Ward
City Manager
City of Skagway
P.O. Box 415
Skagway, AK 99840
Phone: (907) 983-2297
Telecopy: (907) 983-2151

St. Paul City of
Mr. John Merculief
City Manager
City of St. Paul
P.O. Box 901
St. Paul, AK 99660
Phone: (907) 546-2331
Telecopy: (907) 546-3199

St. Paul
Ms. Char Kirkwood
Coastal Coordinator
31424 7th Place SW
Federal Way, WA 98023
Phone: (206) 946-5362
Telecopy: (206) 946-0723

Thorne Bay City of
Ms. Ginny Tierney
City Administrator -
City of Thorne Bay
P.O. Box 19110
Thorne Bay, AK 99919
Phone: (907) 828-3380
Telecopy: (907) 828-3374

Valdez City of
Mr. David Dengel, Director
Community Development
City of Valdez
P.O. Box 307
Valdez, AK 99686
Phone: (907) 835-4313
Telecopy: (907) 835-2992

Whittier City of
Mr. Dave Morgan
City Manager
City of Whittier
P.O. Box 608
Whittier, AK 99693
Phone: (907) 472-2327
Telecopy: (907) 472-2404

Wrangell City of
Mayor Douglas Roberts
P.O. Box 531
Wrangell, AK 99929
Phone: (907) 874-2381
Telecopy: (907) 874-3952

Yakutat City and Borough of
Mr. Tom Armour
Borough Manager
and Mr. Sam Flora, Planner
City and Borough of Yakutat
P.O. Box 160
Yakutat, AK 99689
Phone: (907) 784-3323
Telecopy: (907) 784-3281

Coastal Project Questionnaire and Certification Statement

Please answer all questions. To avoid a delay in processing, please call the department if you answer "yes" to any of the questions related to that department. Maps and plan drawings must be included with your packet. An incomplete packet will be returned.

■ APPLICANT INFORMATION

1. _____ Name of Applicant _____ Address _____ City State Zip Code _____ Daytime Phone _____ Fax Number _____	2. _____ Agent (or responsible party if other than applicant) _____ Address _____ City State Zip Code _____ Daytime Phone _____ Fax Number _____
---	--

■ PROJECT INFORMATION

	Yes	No
1. This activity is a: <input type="checkbox"/> new project <input type="checkbox"/> modification or addition to an existing project		
If a modification do you currently have any State, federal or local approvals related to this activity?	<input type="checkbox"/>	<input type="checkbox"/>
<i>Note. Approval means any form of authorization. If "yes," please list below:</i>		
Approval Type	Approval #	Issuance Date
_____	_____	_____
_____	_____	_____
_____	_____	_____
2. Has this project ever been reviewed by the State of Alaska per the ACMP?	<input type="checkbox"/>	<input type="checkbox"/>
Previous State I.D. Number: AK _____	Previous Project Name: _____	

■ PROJECT DESCRIPTION

1. Attach the following: • a detailed description of the project and all associated facilities; • a project timeline for completion of all major activities in the proposal; • a site plan depicting all proposed actions; • other supporting documentation that would facilitate review of the project. Note: If the project is a modification, identify existing facilities as well as proposed activities on the site plan.

Proposed starting date for project: _____ Proposed ending date for project: _____

2. Provide a brief description of your entire project and ALL associated facilities (access roads, caretaker facilities, waste disposal sites, etc.)

■ PROJECT LOCATION

1. Attach a copy of the topographical map with the project location marked on it.
2. Location of project (include nearest community or name of the land feature or body of water. Identify township, range and section):
 Township _____ Range _____ Section _____ Meridian _____ Latitude/Longitude _____ / _____
3. The project is on: State Land* Federal Land Private Land Municipal Land
 *State land can be uplands, tidelands, or submerged lands to 3 miles offshore. See Question #1 in DNR section.
4. The project is located in which region (see attached map): Northern Southcentral Southeast
 State Pipeline Coordinator's Office
5. Is the project located in a coastal district? Yes No

 If yes, please contact the district representative listed on the attached sheet.
6. Identify the communities closest to your project location: _____

■ FEDERAL APPROVALS

1. Is the proposed project on U.S. Forest Service (USFS) land or will you need to cross USFS lands for access? Yes No

 Does the cost of the project exceed \$250,000?
 If yes, have you applied for a USFS permit or approval?
 Date of submittal: _____
2. Is the proposed project on Bureau of Land Management (BLM) land or will you need to cross BLM lands for access?
 Does the cost of the project exceed \$250,000?
 If yes, have you applied for a BLM permit or approval?
 Date of submittal: _____
3. Will you be constructing a bridge over tidal (ocean) waters, or navigable rivers, streams or lakes?
 If yes, have you applied for a U.S. Coast Guard permit for a bridge?
 Date of submittal: _____
4. Will you be dredging or placing structures or fills in any of the following: tidal (ocean) waters? streams? lakes? wetlands?
 If yes, have you applied for a U.S. Army Corps of Engineers (COE) permit?
 Date of submittal: _____

(Note: Your application for this activity to the Corps of Engineers also serves as your application to DEC.)

*If you are not certain whether your proposed project is in a wetlands, contact the U.S. Corps of Engineers, Regulatory Branch at (907) 733-2720 for a wetlands determination (outside the Anchorage area call toll free 1-800-478-2712.)

5. Have you applied for a U.S. Environmental Protection Agency National Pollution Discharge Elimination System (NPDES) permit? Yes No
 Date of submittal: _____
(Note: For information regarding the need for an NPDES permit, contact EPA at (907) 271-5083.)
6. Will you have a putrescible waste discharge within 5 miles of any public airport? Yes No
 If yes, please contact the Airports Division of the Federal Aviation Administration at (907) 271-5440.
7. Does the project include a nonfederal power project affecting any navigable body of water or located on federal land? Or, is utilization of surplus water from any federal government dam proposed? Yes No
(Power projects consist of dams, water conduits, reservoirs, powerhouses, and transmission lines.)
 If yes, have you applied for a permit from the Federal Energy Regulatory Commission (FERC)? Yes No
 Date of submittal: _____
(Note: For information, contact FERC, Office of Hydropower Licensing, at (202) 208-0200.)
7. Have you applied for permits from any other federal agency? Yes No
- | AGENCY | APPROVAL TYPE | DATE SUBMITTED |
|--------|---------------|----------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

■ DEPARTMENT OF ENVIRONMENTAL CONSERVATION (DEC) APPROVALS

1. Will a discharge of wastewater from industrial or commercial operations occur? Yes No
 Will the discharge be connected to an already approved sewer system? Yes No
 Will the project include a stormwater collection/discharge system? Yes No
2. Do you intend to construct, install, modify, or use any part of a wastewater (sewage or greywater) disposal system? Yes No
 a) If so, will the discharge be 500 gpd or greater? Yes No
 b) If constructing a domestic wastewater treatment or disposal system, will the system be located within fill material requiring a COE permit? Yes No
- If you answered yes to a or b, answer the following:
- 1) How deep is the bottom of the system to the top of the subsurface water table? _____
- 2) How far is any part of the wastewater disposal system from the nearest surface water? _____
- 3) Is the surrounding area inundated with water at any time of the year? Yes No
- 4) How big is the fill area to be used for the absorption system? _____
- (Questions 1 & 2 will be used by DEC to determine whether separation distances are being met. Questions 3 & 4 relate to the required size of the fill if wetlands are involved.)*
3. Do you expect to request a mixing zone for your proposed project? Yes No
(If your wastewater discharge will exceed Alaska water quality standards, you may apply for a mixing zone. If so, please contact DEC to discuss information required under 18 AAC 70.032.)

If you answered NO to ALL questions in this section, continue to next section.

If you answered YES to ANY of these questions, contact the DEC Regional office for information and application forms. Please be advised that all new DEC permits and approvals require a 30-day public notice period.

Based on your discussion with DEC, please complete the following:

Approval Type: _____ Date Submitted: _____

9. Does your project qualify for a general permit for wastewater or solid waste? Yes No
10. If you answered yes to any questions and are not applying for DEC permits, indicate reason below:
 _____ (DEC contact) told me on _____ that no DEC approvals are required on this project. Reason: _____
 Other: _____

■ DEPARTMENT OF FISH & GAME (DFG) APPROVALS

1. Will you be working in, or placing anything in, a stream, river or lake? (This includes work in running water or on ice, within the active flood plain, on islands, the face of the banks or the tidelands down to mean low tide.) (Note: If the proposed project is located within a Federal Emergency Management Agency Zone, a Floodplain Development Permit may be required. Contact the local municipal government for additional information and a floodplain determination.) Yes No
 Name of stream, river, or lake: _____

2. Will you do any of the following?

Please indicate below:

- | | |
|--|--|
| <input type="checkbox"/> Build a dam, river training structure or instream impoundment? | <input type="checkbox"/> Alter or stabilize the banks? |
| <input type="checkbox"/> Use the water? | <input type="checkbox"/> Mine or dig in the beds or banks? |
| <input type="checkbox"/> Pump water out of the stream or lake? | <input type="checkbox"/> Use explosives? |
| <input type="checkbox"/> Divert or alter the natural stream channel? | <input type="checkbox"/> Build a bridge (including an ice bridge)? |
| <input type="checkbox"/> Block or dam the stream (temporarily or permanently)? | <input type="checkbox"/> Use the stream as a road (even when frozen), or crossing the stream with tracked or wheeled vehicles, log-dragging or excavation equipment (back-hoes, bulldozers, etc.)? |
| <input type="checkbox"/> Change the water flow or the water channel? | <input type="checkbox"/> Install a culvert or other drainage structure? |
| <input type="checkbox"/> Introduce silt, gravel, rock, petroleum products, debris, chemicals, or other organic/inorganic waste of any type into the water? | <input type="checkbox"/> Construct a weir? |
| | <input type="checkbox"/> Use an in-stream structure not mentioned here? |

3. Is your project located in a designated State Game Refuge, Critical Habitat Area or State Sanctuary?
4. Does your project include the construction/operation of a salmon hatchery?

- | | | | |
|----|--|--------------------------|--------------------------|
| | | Yes | No |
| 5. | Does your project affect, or is it related to, a previously permitted salmon hatchery? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. | Does your project include the construction of an aquatic farm? | <input type="checkbox"/> | <input type="checkbox"/> |

If you answered "No" to ALL questions in this section, continue to next section.

If you answered "Yes" to ANY questions under 1-3, contact the Regional DFG Habitat Division Office for information and application forms.

If you answered "Yes" to questions 4-6, contact the DFG at the CFMD division headquarters for information and application forms.

Based on your discussion with DFG, please complete the following:

Approval Type: _____ Date Submitted: _____

7. If you answered yes to any questions and are not applying for DFG permits, indicate reason below:
- _____ (DFG contact) told me on _____ that no DFG approvals are required. Reason: _____
- Other: _____

■ DEPARTMENT OF NATURAL RESOURCES (DNR) APPROVALS

- | | | | |
|----|---|--------------------------|--------------------------|
| 1. | Is the proposed project on State-owned land or will you need to cross State-owned land for access? ("access" includes temporary access for construction purposes) | Yes | No |
| | | <input type="checkbox"/> | <input type="checkbox"/> |
| | <i>Note. In addition to State-owned uplands, the State owns almost all land below the ordinary high water line of navigable streams, rivers and lakes, and below the mean high tide line seaward for three miles.</i> | | |
| 2. | Do you plan to dredge or otherwise excavate/remove materials on State-owned land? | <input type="checkbox"/> | <input type="checkbox"/> |
| | Location of dredging site if other than the project site: _____ | | |
| | Township _____ Range _____ Section _____ Meridian _____ | | |
| 3. | Do you plan to place fill or dredged material on State-owned land? | <input type="checkbox"/> | <input type="checkbox"/> |
| | Location of fill disposal site if other than the project site: _____ | | |
| | Township _____ Range _____ Section _____ Meridian _____ | | |
| | Source is on: <input type="checkbox"/> State Land <input type="checkbox"/> Federal Land <input type="checkbox"/> Private Land <input type="checkbox"/> Municipal Land | | |
| 4. | Do you plan to use any of the following State-owned resources. | <input type="checkbox"/> | <input type="checkbox"/> |
| | <input type="checkbox"/> <i>Timber:</i> Will you be harvesting timber? Amount: _____ | | |
| | <input type="checkbox"/> <i>Materials such as rock, sand or gravel, peat, soil, overburden, etc.:</i> | | |
| | Which material? _____ Amount: _____ | | |
| | Location of source: <input type="checkbox"/> Project site <input type="checkbox"/> Other, describe: _____ | | |
| | Township _____ Range _____ Section _____ Meridian _____ | | |
| 5. | Are you planning to use or divert any fresh water? | <input type="checkbox"/> | <input type="checkbox"/> |
| | Amount (gallons per day): _____ | | |
| | Source: _____ Intended Use: _____ | | |

- | | Yes | No |
|--|--------------------------|--------------------------|
| 6. Will you be building or altering a dam? | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Do you plan to drill a geothermal well? | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. At any one site (regardless of land ownership), do you plan to do any of the following? | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> Mine five or more acres over a year's time? | | |
| <input type="checkbox"/> Mine 50,000 cubic yards or more of materials (rock, sand or gravel, soil, peat, overburden, etc.) over a year's time? | | |
| <input type="checkbox"/> Have a cumulative unreclaimed mined area of five or more acres? | | |
| If you plan to mine less than the acreage/amount stated above and have a cumulative unreclaimed mined area of less than five acres, do you intend to file a voluntary reclamation plan for approval? | | |
| | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Will you be exploring for or extracting coal? | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. Will you be drilling for oil/gas? | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. Will you be investigating or removing historical or archaeological resources on State-owned land? | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. Is the proposed project located within a known geophysical hazard area? | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. Is the proposed project located in a unit of the Alaska State Park System? | <input type="checkbox"/> | <input type="checkbox"/> |

If you answered "No" to ALL questions in this section, continue to certification statement.

If you answered "Yes" to ANY questions in this section, contact DNR for information.

Based on your discussion with DNR, please complete the following:

Approval Type: _____ Date Submitted: _____

14. If you answered yes to any questions and are not applying for DNR permits, indicate reason below:
- _____ (DNR contact) told me on _____ that no DNR approvals are required Reason: _____
- Other: _____

Please be advised that the CPQ identifies permits subject to a consistency review. You may need additional permits from other agencies or local governments to proceed with your activity.

**Alaska Coastal Management Program
FY 1997 Reimbursable Service Agreements
between DGC and State Agencies**

DCED Trade & Development

RSA#170006 \$8,200.00 Federal
Section 306 Development & Implementation .06 FTE

DCRA Municipal & Regional Assistance

RSA#170007 \$214,000.00 Federal
Section 306 Development & Implementation 2.75 FTE

RSA#170008 \$1,077,000.00
District Financial Assistance \$967,900 Federal/\$109,100 State
District Funding 0 FTE

RSA#170014 \$42,636.00 Federal
FY 96 Carryforward Section 309 Rural District Policies .05 FTE

RSA#170034 \$15,000.00 Federal
Section 309 Assessment of the ACMP .17 FTE

RSA#170035 \$40,000.00 Federal
Section 309 Assessment of the ACMP - Districts Funding 0 FTE

RSA#170059 \$3,000.00 Federal
FY 96 Carryforward Section 6217 Non-point Source Pollution 0 FTE
Printing Solid Waste Manual

DEC Environmental Quality

RSA#170020 \$72,000.00 Federal
Section 306 Monitoring & Compliance .6 FTE

RSA#170022 \$100,000.00 Federal
Section 306 Development & Implementation 1.05 FTE

Air & Water Quality		
RSA#170021		\$12,000.00 Federal
	FY 96 Carryforward Section 309 Aquatic Habitat Restoration	.15 FTE
RSA#170024		\$3,000.00 Federal
	FY 96 Carryforward Section 309 Federal Activities	.04 FTE
RSA#170025		\$4,565.00 Federal
	FY 96 Carryforward Section 309 Rural District Policies	.04 FTE
RSA#170029		\$20,000.00 Federal
	Section 309 Assessment of the ACMP	.23 FTE
RSA#170042		\$2,242.00 Federal
	Section 309 Revision to Enhancement Grants Program Strategy	.04 FTE
<u>DF&G</u>	Habitat	
RSA#170015		\$100,500.00 Federal
	Section 306 Development & Implementation	1.44 FTE
RSA#170016		\$71,500.00 Federal
	Section 306 Monitoring & Compliance	1.08 FTE
RSA#170017		\$20,000.00 Federal
	Section 309 Assessment of the ACMP	.24 FTE
RSA#170018		\$1,800.00 Federal
	FY 96 Carryforward Section 309 Rural District Policies	0 FTE
RSA#170019		\$87,700.00 Federal
	FY 96 Carryforward Section 309 Aquatic Habitat Restoration	1.21 FTE
RSA#170043		\$44,750.00 Federal
	National Estuarine Research Reserve Site Selection (NERRS)	1.39 FTE
<u>DOL</u>	Civil	
RSA#170011		\$120,000.00 Federal
	Section 306 Development & Implementation	1.0 FTE

	Legal Service Operations	
RSA#170054	Section 309 Assessment of the ACMP	\$50,000.00 Federal .37 FTE
<u>DNR</u>	Land	
RSA#170009	Section 306 Development & Implementation	\$62,500.00 Federal .75 FTE
RSA#170010	Section 306 Monitoring & Compliance	\$109,500.00 Federal 1.25 FTE
RSA#170031	FY 96 Carryforward Section 309 Rural District Policies	\$2,000.00 Federal .03 FTE
RSA#170032	Section 309 Assessment of the ACMP	\$25,000.00 Federal .75 FTE
RSA#170033	FY 96 Carryforward Section 309 Aquatic Habitat Restoration	\$16,000.00 Federal .5 FTE
<u>DOT/PF</u>	Statewide Planning	
RSA#170012	Section 306 Development & Implementation	\$3,000.00 Federal .06 FTE
RSA#170030	Section 309 Assessment of the ACMP	\$5,000.00 Federal .05 FTE
	Engineering & Operations	
RSA#170013	FY 96 Carryforward Section 6217 Non-point Source Pollution Road, Highway, & Bridge BMP Manual	\$15,600.00 Federal .1 FTE
RSA#170023	FY 96 Carryforward Section 309 Aquatic Habitat Restoration	\$12,000.00 Federal .07 FTE

**Alaska Coastal Management Program (ACMP)
FY 98 Federal Funds**

Total Anticipated Funding \$2,690,000

<u>Break-down of Federal Dollars</u>	1:1 Match Requirement	No Match Requirement
ACMP Section 306	\$2,110,000	
ACMP Section 309		\$420,000
NERRS		<u>160,000</u>
	<u>\$2,110,000</u>	<u>\$580,000</u>

Break-down ACMP Section 306 Federal/Match(1:1)

	Federal	DGC Match	Other Match
34 Coastal Districts	\$ 967,900		\$225,000
State Agencies	\$ 762,800		\$590,500
DGC/CPC	<u>\$ 379,300</u>	<u>\$1,294,500</u>	
	<u>\$2,110,000</u>	<u>\$1,294,500</u>	<u>\$815,500</u>

Break-down ACMP Section 309 (No Match)

21 Proposals received for Section 309 Funding*	Federal
	\$420,000
Coastal Districts	9 proposals
DGC	1 proposals
State Agencies	15 proposals

*Note: Committee of Coastal Policy Council reviewing proposals; 5 - 10 projects anticipated to be funded.

Break-down NERRS (No Match)

	Federal
DGC	\$ 2,000
DNR	\$ 10,000
DF&G	<u>\$148,000</u>
	\$160,000

**Proposed FY 98 Distribution
Alaska Coastal Management Program
Section 306 Funding**

Anticipated Section 306 Funding Level: \$2,110.0 Federal/\$2,110.0 Match

34 Coastal Districts	\$967.9 Federal	\$225.0 Match
7 State Agencies	\$762.8 Federal	\$590.5 Match
DGC/CPC	\$379.3 Federal	\$1,294.5 Match

Proposed Distribution of Federal Funds among State Agencies:

DCED	8.2 Federal	8.2 Match
DCRA	189.2 Federal	60.4 Match
DEC	152.1 Federal	152.1 Match
DF&G	152.1 Federal	152.1 Match
DOL	106.1 Federal	62.6 Match
DNR	152.1 Federal	152.1 Match
DOT/PF	3.0 Federal	3.0 Match

FY 97 Section 306 Coastal Management Program

DCRA #170008: District Development and Implementation

The Division of Governmental Coordination (DGC) contracts through a reimbursable service agreement with the Department of Community and Regional Affairs (DCRA) for administration of local coastal district contracts for Section 306 funds.

The primary focus of ACMP funds will be to provide all districts with funds for required district program implementation tasks that include: 1) participation in local, State and federal ACMP-related consistency reviews and permitting activities; 2) municipal implementation using local land use regulations and field monitoring of coastal projects; 3) CRSA board elections and activity; and, 4) local ACMP liaison public awareness/education efforts.

Three coastal district regional representatives participate as members of the ACMP Working Group which is an interagency Working Group coordinated by DGC. This group tackles programmatic and procedural issues arising from the day-to-day implementation of the ACMP. District representatives are funded to attend Coastal Policy Council meetings and provide a district perspective.

DCED #170006, DCRA #170007, DEC #170022, DF&G #170015, DOL #170011, DNR #170009, DOT/PF #170012: *State Agency Development and Implementation*

The primary agencies participating in the ACMP implementation and district program development are DCRA, DEC, DF&G, DOL, and DNR. DCED and DOT/PF participate on a limited bases.

Each agency's ACMP coordinator are federally funded and serve as the agency contact for ACMP issues and information. Each coordinator:

- Facilitates department review of ACMP-related issues, documents and regulations,
- provides ACMP training to agency staff,
- represents their agency on the ACMP working group
- ensures department review of district planning documents,
- participates in the annual district conference and CPC meetings, and
- provides technical assistance to coastal districts.

During FY 97, the ACMP Working Group will participate in revising Alaska's Section 309 Strategy and continue to assist DGC on the substantial rulemaking underway to implement 1994 statutory changes to the ACMA.

The resource agencies, along with DGC, bear the major responsibility for review of district planning documents to ensure that uses of State concern are maintained, resource inventories are accurate, and district policies are workable and enforceable. The resource agencies also provide technical assistance when a district is evaluating complex projects for consistency with its local policies.

The DCRA administers the district grant contracts, provides local planning assistance and training, and helps organize new coastal districts and the election of boards.

The DCED and DOT/PF provide specific economic and transportation perspectives on statewide ACMP issues and are minimally funded to provide staff support to their agency Coastal Policy Council representative and participate in ACMP Working Group meetings.

The DOL attorney funded under the ACMP Section 306 funding provides legal assistance primarily to DGC and the CPC, and secondarily to other State agencies and coastal districts. The DOL represents the CPC in litigation and administrative proceedings.

DEC #170020, DF&G #170016, DNR #170010: *State Agency Monitoring and Compliance*

The ACMP establishes a coordinated review of proposed development projects in Alaska's coastal zone. The review process is designed to ensure that projects are consistent with the ACMP standards and district enforceable policies. DEC, DF&G, and DNR coordinates reviews for projects which require only a single agency's permits while DGC coordinates consistency reviews for projects requiring federal permits or multiple State agency permits.

The DEC, DF&G, and DNR receive federal funds to undertake ACMP-related monitoring and compliance activities. Agency staff will conduct field inspections of projects for compliance with conditions of the ACMP consistency determinations placed on agency permits. While the emphasis of ACMP funding is enforcement activities, upon request, agencies will provide pre- and post-application assistance to a project applicant.

FY97 SECTION 309 ENHANCEMENT GRANT PROJECTS

DCRA #170014, DEC #170025, DFG #170018 & DNR #17003: *Rural Coastal District Policies and Participation in the ACMP*

Rural districts have concerns about the credence given local knowledge in the State's permitting processes. Additionally, different interpretations of coastal district policies affect how they are implemented. A task force of rural coastal districts and State agencies met to identify ways to: 1) use local knowledge as part of a cumulative impacts assessment and consistency determination, 2) ensure policies are written to meet the expectations of the coastal district, and 3) ensure that Native participation in the State consistency determination and appeals process is not undermined because of communication differences. A final report summarizing the task force findings and specific recommendations is being prepared.

DEC #170021, DFG # 170019, DNR #170033 & DOT/PF #170023: *Alaska Working Group on Aquatic Habitat Reclamation.*

The State of Alaska established a working group on Aquatic Habitat Reclamation to develop a consistent approach and facilitate cooperation, coordination and communication about aquatic habitat reclamation in Alaska. The working group includes State and federal resource management agencies, municipal governments, private industry, and others. Statewide and regional forums and technical working groups are being established to conduct research, examine technical and management issues, and implement aquatic habitat reclamation projects in Alaska. Technology transfer and standardization of agency aquatic habitat reclamation goals and policies will significantly streamline project design.

DEC # 170024: *Federal Activities*

Section 307 of the federal Coastal Zone Management Act requires that federal agencies conduct their activities that affect any land or water use or natural resource in the coastal zone in a manner which is consistent with a state's coastal management program. Given the tremendous amount of federal land ownership and management presence in Alaska's coastal zone, there is a need to identify the array of federal agencies, their activities, and federal consistency practices. Funds were disbursed to selected State agencies (including DEC) and coastal districts to help complete MOUs with Western Federal Lands Highway Division and the Corps of Engineers and review a draft report.

DEC # 170042: *Revisions to the §309 strategy*

Funds were expended to update the Geographic Information Systems map of the coastal zone and district boundaries as part the revisions to the §309 Enhancement Grants Strategy (EGS). The EGS is a federally funded effort that positions Alaska to receive 100% federal funding (no match requirement) for special projects.

DCRA #s 170034 & 170035, DEC # 170029, DFG #170017, DOL # 170054, DNR # 170032, & DOT/PF # 170030: *Assessment of the ACMP*

Alaska conducted an overall assessment of its coastal management program which resulted in the resolution of the following issues:

- Alaska's Coastal Management Program will continue to be implemented through existing permits and approvals issued by State and local governments.
- The State will continue to manage the consistency review process. However, the coastal district's standing and responsibilities will be clarified and improved. An option will be considered for municipal districts to make the determinations for consistency with their plans where there are not federal permits or direct federal actions or uses of state concern. Petitions to the Coastal Policy Council will be substantially simplified.

The RSAs support participation of state agencies and coastal districts to develop the mechanics of implementing assessment recommendations. Specifically work tasks include the development of revisions to the ACMP regulations or statute, and public education to inform the public, participating agencies and districts, and affected industries about the proposed program changes.

FY97 SECTION 6217 PROJECTS

DCRA # 170059: *Printing solid Waste Manual*

Funds were used to print a landfill design and operations manual, and to distribute the manual to all communities in western Alaska. The manual was prepared with FY96 §6217 funds by the Yukon-Kuskokwim River district to help villagers improve their solid waste disposal facilities.

DOT/PF # 170013: *Road, Highway, & Bridge Manual*

Funds were used to print a manual of Best Management Practices for the construction, siting, design, operation and maintenance of Alaskan roads, highways and bridges. The manual was prepared by DOT/PF with FY96 §6217 funds. The manual will help DOT/PF comply with Federal Highway Administration requirements, and will result in less polluted road runoff entering Alaskan streams, bays and lakes.

FY97 NERP'S PROJECTS BY RSA

DFG # 170011: *National Estuarine Research Reserve Site Selection*

Funds are being used to explore the desirability and feasibility of nominating a site in Kachemak Bay to the National Estuarine Research Reserve System.

FY97 SECTION 306DISTRICT SPECIAL PROJECTS

The Alaska Coastal Management Program provides funding for coastal districts (municipalities and coastal resource services areas formed within the unorganized borough) with funding to undertake special projects to address the management of coastal resources, uses and activities. The Division of Governmental Coordination works closely with the districts in managing these planning and implementation projects.

Aleutians West Coastal Resource Service Area

Unalaska Bay AMSA Plan (\$5,000). The Aleutians West CRSA will continue working with the agencies, industry and the City of Unalaska to resolve issues and seek consensus on enforceable policy language for the Unalaska Bay AMSA Plan. If issues are resolved, the CRSA board will give conceptual approval and the plan will be submitted to the Coastal Policy Council for review and approval.

Municipality of Anchorage

Chester Creek Watershed Wetland Profile (\$19,250). This project will produce information on existing and historic wetland coverage, wetland type and wetland relationship to flood control and water quality in the Chester Creek watershed, a highly urbanized area of the city. The municipality was awarded the money on October 16.

Bristol Bay Coastal Resource Service Area

Nushagak/Mulchatna Rivers Recreation Management Plan (\$22,000) The CRSA will work with the Department of Natural Resources and Native corporations to determine the "trigger points" for amending the NMRRMP by compiling available information on changes taking place in the planning area, such as development on private and public lands, resource use patterns and user conflicts. The information will be summarized and analyzed in a report that will be used in the out years to develop and evaluate proposed changes to the NMRRMP. A long range plan for coordinated management of private lands and State shore lands on the lower river will be developed in cooperation with DNR and Native corporations. The plan will complement the NMRRMP, and include goals and objectives for each landowner and recommendations on implementation tasks. Preliminary information should provide a useful data base to help determine the management direction for lands along the lower Nushagak River.

City of Cordova

Update coastal management plan (\$18,750). The update to the Cordova coastal management plan is proceeding. Cordova wishes to extend its influence outside its municipal boundaries, and is considering several options: 1) designate a "permit notification area" outside the district where developers must notify the district of planned activities, 2) sponsor an extraterritorial AMSA, 3) form a Prince William Sound CRSA or 4) form a Prince William Sound borough. Cordova has sponsored meetings to discuss the last three options with other communities in the

Sound. The city is anticipating submitting a concept approved draft in April.

City of Hoonah

Training/brochures (\$4,500) The City of Hoonah was provided \$2,500 to send Planning Commission members to the recent "Alaska Planning Association" training in Haines. Funding has also been provided (\$2,000) to hire a consultant to develop and print a user-friendly manual for use by the public, planning commission, and city council explaining the updated Hoonah Coastal Management Plan (scheduled for Alaska Coastal Policy Council approval in December 1996) and the City's Comprehensive Plan.

City and Borough of Juneau

Major Project Reviews(\$10,000) The Juneau Coastal District received funds to support staff involvement in consistency review processes for the A.I., Kensington, and Greens Creek gold mine projects. These three mine operations are the largest projects, with the greatest potential for impacts to coastal resources to be proposed in Juneau since approval of the Juneau Coastal Management Plan in 1986.

Kodiak Island Borough

Coastal Sensitivity Identification Update (\$49,000.) A contractor will interview residents to collect local knowledge about sensitive areas in the borough. This information will be compared with agency documents, and discrepancies will be resolved. The information will be mapped in a GIS format. The identified sensitive areas will become part of the Kodiak area oil spill contingency plan, and will prioritize areas in the event of an oil spill.

Northwest Arctic Borough

Plan update(\$32,900) Because of extensive comments that were received during the FY95-96 update of this plan, the update will continue into FY97. An "interim review draft" of the enforceable policies chapter will be distributed to all those who commented on the public hearing draft. This draft is expected to be distributed in November 1996. By December 1996, the Borough expects to conceptually approve the updated document. If all goes smoothly during the review of the concept-approved draft, the updated plan should go before the Alaska Coastal Policy Council for approval at a spring 1997 meeting.

City of Pelican

Comprehensive plan scoping project (\$3,500) The City of Pelican has been funded to hire a consultant to develop a scoping document that shall include the following elements: review of current planning documents pertaining to Pelican and outline a work plan for development of a comprehensive plan. The scoping document will indicate perceived need, and show written support of the city and the community for development of a

comprehensive plan. The work plan will contain the chapters of the plan and maps needed, time lines for development of the plan, and costs and funding sources. A contract will be in effect with a consultant by November 15, 1996 with a final scoping document due by January 1997.

St. Paul

Amend enforceable policies(\$16,200) - The City of St. Paul received funding to amend the enforceable policies in their coastal management plan which were originally effective in 1989. Revisions will address near shore ecology around St. Paul and in the Pribilof Islands in light of the rapid growth of the fishing industry and its potential effects on the coastal resources. The policies will also be made consistent with the 1996 Comprehensive Plan and the Master Land Use Ordinance also adopted in 1996. A public hearing draft with amended policies will be completed and distributed for review in April 1997. Following a 60-day review, the City will prepare a summary of comments and responses, revise the policies accordingly and conceptually-approve the draft by June 30, 1997.

Thorne Bay

Plan revision (\$19,000) - The City of Thorne Bay will update their 1992 Coastal Management Plan. Program revision will include updating enforceable policies, development of new base map for the district showing newly annexed lands and coastal district boundary, resource inventory of new lands, and review and amendment of program goals and objectives relative to the new coastal district area. Scoping document has been completed (October 1996); public hearing draft document due April 1, 1997. Following a 60-day review period, the district will provide a summary of comments received and a response to those comments, due June 30, 1997.

City and Borough of Yakutat

Update coastal district plan (\$8,000.) With the annexation of 5,875 square miles, the City of Yakutat recently became the City and Borough of Yakutat. They are in the process of completely revising and updating their coastal management plan. CBY expects to submit a concept approved draft to the state by December. Full approval is anticipated by June.

FY96 SECTION 306 DISTRICT SPECIAL PROJECTS

Aleutians West Coastal Resource Service Area Cost \$11,900

Unalaska Bay AMSA Plan. The Aleutians West CRSA will continue working with the agencies, industry and the City of Unalaska to resolve issues and seek consensus on enforceable policy language for the Unalaska Bay AMSA Plan. The CRSA board will seek conceptual approval during the second quarter. Coastal Policy Council approval will be sought during the fourth quarter.

<u>Benchmark</u>	<u>Completion Date</u>
Conceptual Approval	12/31/95
Coastal Policy Council Approval	6/30/96

Municipality of Anchorage Cost \$36,000

Resource Inventory and Analysis Revision - Wildlife Habitats. The Municipality of Anchorage will update the resource inventory and analysis for wildlife habitat within the district's coastal zone boundary. The update will use a systematic method to identify locations of important habitats and describe their existing and potential management. The Municipality anticipates this update will be an integral component for a future Anchorage Coastal Management Plan revision process. The project will provide a hard copy report containing descriptions of resources, their significance, land use activities and conflicts, existing and recommended management, and a bibliography. In addition, a set of ARC/INFO GIS maps depicting locations and boundaries of habitats and cross-referenced information will accompany the report.

<u>Benchmark</u>	<u>Completion Date</u>
Wildlife Habitats report and GIS maps	6/30/96

Cenaliulriit CRSA Cost \$33,700

Special project funding was awarded for the Cenaliulriit Coastal Resource Service Area to revise their coastal management plan (original plan was effective in 1985). The district will produce a revised Public Hearing Draft document and hold public hearings. All comments received on this draft will be considered and changes to the draft plan will be incorporated into the concept-approved draft which will be printed and distributed to the Division of Governmental Coordination.

<u>Benchmarks</u>	<u>Completion Date</u>
Print and distribute PHD	10/31/95
Complete agency and public hearings	1/31/96

Print and submit CAD to DGC

4/15/96

City of Cordova

Cost \$40,000

Cordova Coastal and Area Which Merits Special Attention (AMSA) Plan Update. The City of Cordova will continue an update of the City's coastal management plan. At a minimum, the updated plan will combine the existing coastal management plan and the Eyak Lake AMSA plan into one document, expand the area covered by the 68 square miles recently annexed by the City, and bring the plan into compliance with current City zoning ordinances. This fiscal year will complete Phase II to include 1) preparation and distribution of a hearing draft pursuant to 6 AAC 80 and 6 AAC 85; 2) public hearings and agency meetings; 3) incorporation of comments into the concept approved draft; and 4) a camera-ready concept approved draft.

Benchmark

complete and distribute public hearing draft
camera-ready concept approved draft to DGC

Completion Date

10\31\95 (will be pre-PHD)
2\29\96

Hoonah

Cost \$42,500

The City of Hoonah received special project funding to revise their November 1984 coastal management plan. The public hearing draft document, including new maps, is due by January 15, 1996. A public hearing comment period will be held with a deadline for comments. Comments will then be considered and appropriate changes made. The concept-approved draft will then be produced towards the end of the fiscal year.

Benchmarks

Print and distribute PHD
Produce concept-approved draft

Completion Date

1/15/96
5/30/96

City and Borough of Juneau

Cost \$7,200

Major Project Reviews. The Juneau Coastal District received funds to support staff involvement in consistency review processes for the AJ, Kensington, and Greens Creek gold mine projects. These three mine operations are the largest projects, with the greatest potential for impacts to coastal resources to be proposed in Juneau since approval of the Juneau Coastal Management Plan in 1986. Quarterly reports will be submitted that summarize staff activity on the projects. Copies of correspondence, recommendations to the Planning Commission, and CBJ consistency determinations will be included in the quarterly reports.

Benchmark
Quarterly reports

Completion Date
Each quarter

Lake and Peninsula Borough

Cost \$10,800

Lake and Peninsula Borough Coastal Plan Preparation. The Lake and Peninsula Borough, incorporated in 1989, encompasses an area that was previously within the Bristol Bay Coastal Resource Service Area. This fiscal year the Borough will conclude development of the coastal management program after completing the concept approved draft. Tasks associated with the concept approved draft include 1) obtain conceptual approval of the program from the Borough assembly; 2) submit completed concept approved draft to DGC; and 3) work with DGC to complete any final changes to the concept approved draft prior to submitting the program to the Coastal Policy Council. This work will be completed pursuant to 6 AAC 80 and 6 AAC 85.

Benchmarks
Submit CAD to DGC
Presentation to Coastal Policy Council

Completion Date
9/20/95
4/30/96

Northwest Arctic Borough

Cost \$18,300

The Borough was awarded special project funding to continue the update of their coastal management plan. The original plan is dated December 1989. The district at that time was the NANA Coastal Resource Service Area. Since that time the district became a borough and in the process of borough formation received lands from the North Slope Borough. The updated plan will reflect this change. Because of the issues raised in comments received on the revised public hearing draft, the district is producing an interim revised draft that will be distributed to the NW Arctic Borough Planning Commission and to all agencies and organizations that submitted comments on the May 1994 public hearing draft. A camera ready copy of the concept-approved draft is expected by the end of the fiscal year.

Benchmarks
Interim revised draft
Camera ready CAD

Completion Date
11/30/95
6/30/96

Saint Paul

Cost \$16,900

Special project funding was award to St. Paul to assist with the completion and printing of their comprehensive plan. Tasks include completing final revisions to the text and maps, printing and distribution of the plan, and City adoption of the plan by ordinance. The

money will also support in the preparation of an updated zoning ordinance which will be based upon the comprehensive plan.

<u>Benchmarks</u>	<u>Completion Date</u>
Complete comprehensive plan;	12/31/95
Complete update to zoning ordinance	6/30/96

Sitka Cost \$7,750

The City and Borough of Sitka received special project funding to develop draft enforceable policies to guide the siting of proposed mariculture operations in Sitka Sound. Depending on the outcome of the project, the policies will be evaluated for inclusion in the Sitka coastal management program. Draft policies will be submitted to a mailing list of state and federal agencies and other interested parties. Comments will be considered and comments will be incorporated into final draft policies towards the end of the fiscal year.

<u>Benchmarks</u>	<u>Completion Date</u>
Draft policies	3/1/96
Final draft policies	5/15/96

City and Borough of Yakutat Cost \$30,400

City and Borough of Yakutat Coastal Plan Update. The new City and Borough of Yakutat enters the final phases for developing its coastal management program. This fiscal year the City and Borough will 1) review and consider comments on the public hearing draft; 2) consult with agencies to resolve issues; 3) prepare a preliminary concept approved draft for City and Borough consideration; 4) conduct a public hearing for the concept approved draft; and 5) transmit a camera-ready concept approved draft to DGC for developing findings and conclusions. These tasks will be conducted pursuant to 6 AAC 80 and 85.

<u>Benchmarks</u>	<u>Completion Date</u>
Camera-ready concept approved draft	2\20\96

Contingency Cost \$35,650

Contingency Funds. Funds are held in contingency for printing coastal management plan revisions and AMSA plans funded with special project monies; for coastal district representative travel to attend ACMP working group meetings; and other unanticipated costs. Districts' needs will be assessed in January to allocate the contingency funds.

ACMP ENHANCEMENT GRANTS PROGRAM

The Section 309 Enhancement Grants Program priority needs identified by Alaska covered four categories during state fiscal years 1993-1997:

- ◆ Energy Resources and Facilities
- ◆ Coastal Wetlands
- ◆ Special Area Management Planning
- ◆ Cumulative and Secondary Impacts

Following is a brief description of projects funded to pursue improvements to the Alaska Coastal Management Program in these four categories.

ENERGY RESOURCES AND FACILITIES

- 1) *Review of State and Federal Authorities Relating to OCS Oil and Gas Lease Sales, FY93 - \$78,000.* Division of Governmental Coordination/Department of Law.
 - Improve consistency procedures for reviews of OCS leasing sales and clarify state jurisdiction of offshore leasing activities
 - MOU completed with MMS and AK clarifies and better meshes state/federal procedures, timelines, phases of review and provisions for extended reviews
 - Draft regs would codify early state agency involvement in OCS lease sales with MMS and establishes a preconsistency review process for lease sale activities (public review was completed, draft regs are on hold)
 - Report: Kerttula, Elizabeth and LaRoche, Gabrielle. 1993. *Alaska Outer Continental Shelf Oil and Gas Lease Sale Review and Coastal Zone Management.* Alaska Department of Law and Alaska Office of the Governor, Division of Governmental Coordination. Juneau.

COASTAL WETLANDS

- 2) *Assessment and Development of Guidelines for Restoration and Enhancement of Aquatic Habitat, FY93 - \$89,000; FY94 - \$85,000.* Department of Fish and Game.
 - Analysis of 25 restoration and enhancement projects in Alaska
 - Project recommends districts incorporate mitigation policies and develop mitigation/restoration plans. Identification of projects for the ACMP B- List is not practical at the regional level, but could be pursued at the district level
 - Juneau, Anchorage, Unalaska following these recommendations in their current planning and project development efforts.

- Reports: Parry, Betsy; Celia Rosen; and Glenn Seaman. 1993. *Restoration and Enhancement of Aquatic Habitats in Alaska: Project Inventory, Case Study Selection and Bibliography*. Technical Report No. 93-8. Alaska Department of Fish and Game. Juneau, AK.
- Parry, Betsy; Celia Rosen; and Glenn Seaman. 1993. *Restoration and Enhancement of Aquatic Habitats in Alaska: Case Study Reports, Policy Guidance and Recommendations*. Technical Report No. 94-3. Alaska Department of Fish and Game. Juneau, AK.
- 3) *North Slope Gravel Pit Performance Standards Project, FY93 – \$59,000*. Department of Fish and Game.
 - Project developed decision matrixes to guide gravel pit siting and operation
 - Technical performance guidelines for reclamation. Now being applied in Bering Straits CRSA and North Slope Borough (no district policies yet)
 - Conceptual North Slope Borough coastal district policies
 - Reports: McLean, Robert F. 1993. *North Slope Gravel Pit Performance Guidelines*. Technical Report No. 93-9. Alaska Department of Fish and Game. Fairbanks.
 - Roach, S.M. 1993. *ADF&G Flooded Gravel Mine Studies Since 1986 and an Arctic Grayling Experimental Transplant Into a Small Tundra Drainage. A Synthesis*. Technical Report No. 93-6. Alaska Department of Fish and Game. Juneau.
- 4) *Juneau Wetlands Mitigation Project: Site Selection and Design Guidelines, FY93 – \$55,000*. City and Borough of Juneau.
 - Lists of projects to serve for off-site compensatory mitigation (formerly high quality salmon habitat, esp. rearing)
 - Guidelines for minimizing wetland losses, restoring or rehabilitating wetlands functions, and for designing effective compensatory mitigation projects
 - Identify funding sources for mitigation projects and long-term monitoring
 - Project is an implementation component of Juneau Wetlands Management Plan
 - Report: Schempf, Janet Hall. 1993. *Recommendations for a Juneau Wetlands Strategy*. Technical Report No. 93-7. Juneau.
- 5) *ACMP Regulations to Identify and Protect High Value Wetlands, FY94 –\$25,000*. Division of Governmental Coordination.
 - Guidance on how state should proceed to addressing wetlands within existing ACMP guidelines. Bibliography and synthesis of literature of use to coastal districts.

- Results indicate no need for a new state standard; districts need guidance on wetlands classification and identification and planning, access and training in use of data, and support from state and federal agencies
- Ethno-botanical and subsistence uses of wetlands in AK should be further researched
- Report: Three Parameters + and Natural Resources Consulting. 1994. *Program to Identify and Protect High Value Wetlands in Alaska Coastal Districts*. Wasilla, AK.

SPECIAL AREA MANAGEMENT PLANNING

- 6) *Special Area Management Planning Guidance*, FY94 –\$35,000; FY95 – \$42,000; FY96 – \$23,000. Division of Governmental Coordination.
- Purpose is to improve special area planning process and products. Expanded to include planning in general and include ACMP Assessment tasks
 - Several recommendations for regulation changes, guidance, grant management practices, further research
 - Amended district grant application process to encourage "scoping of issues"
 - Recommendations of District planning working group, T29/46 working group, Enforceable Policy Guidelines Working Group, and Routine Program Amendment Working Group incorporated into ACMP Assessment
 - Enforceable policy guidance approved by the Council in December 1996
 - Draft language to amend 6 AAC 80 and 85 to be completed for public review by June 30, 1996
 - Report: Hunt, Sara. 1994. *Special Area Management Under the Alaska Coastal Management Program. Summary Report to the District Planning Working Group*. Alaska Office of the Governor, Division of Governmental Coordination. Juneau.

CUMULATIVE AND SECONDARY IMPACTS

- 7) *Analysis of Existing State Authorities Regarding Cumulative and Secondary Impacts of Development*, FY93 – \$25,000. Division of Governmental Coordination.
- Final report recommends revisions to the ACMP Guidelines for Resource Inventory (6 AAC 85.050), Resource Analysis (6 AAC 85.070), and Policies (6 AAC 85.090) and to project consistency regulations (6 AAC 50)
 - Report recommends a definition of cumulative and secondary impacts
 - Report recommends management tools (i.e., checklists, use of GIS, planning, guidance to districts, development thresholds)
 - Report: Gray, Glenn. 1993. *Regulation of Cumulative and Secondary Impacts in Alaska*. Office of the Governor, Division of Governmental Coordination. Juneau, AK.

8) *Assessment and Control of Cumulative and Secondary Impacts of Coastal Uses on Fish Habitat along the Kenai River, FY93 - \$95,000; FY94 - \$114,000; FY95 - \$122,500.* Department of Fish and Game.

- Kenai River drainage supports largest recreational fishery in AK & is major contributor to the Cook Inlet commercial sockeye salmon fishery (\$80 million in 1994). Near shore waters of mainstem provide critical rearing habitat for over 90% of chinook salmon. Nearshore waters and shorelands altered by commercial, residential, and recreation uses and activities
- This project has elicited support and involvement from all sectors within the Kenai Peninsula Borough. Private and public funds directed to Kenai River habitat issues. Municipalities are looking at tax incentive programs, education programs
- Project developed cumulative impact assessment methodology (GIS and HEP)
- Standard stipulations to maintain and enhance fish habitat for routine projects (done this last month) (floating docks, bank restoration, ladders and steps, dredging)
- KPB initiated a Kenai River Policy working group in 1994 to develop enforceable policies. Kenai is also discussing a zoning ordinance to regulate activities on private lands. Although agreement not reached, first time parties are talking
- Third year evaluates effectiveness of mitigation measures and develops a program for continued assessment. Will result in more B-Lists, enforceable policies, and MOUs

• Reports: E3 Consulting. 1994. *A Socioeconomic Assessment of Kenai River Fish Production on the Regional Economy.* Produced for Kenai Peninsula Borough. Anchorage, AK.

Fink, Mark, Celia Rosen and Glenn Seaman. 1993. *Non Regulatory Mechanisms for Habitat Protection.* Alaska Department of Fish and Game. Anchorage.

John Isaacs and Associates. 1994. *Kenai River Fish Habitat Cumulative Impacts Project.* Report to the Policy Working Group and the Kenai Peninsula Borough. Anchorage, AK.

Leipitz, Gary and Muhlberg, Gay. 1993. *The Assessment and Control of Cumulative Impacts of Coastal Uses on Fish Habitat of the Kenai River, Alaska.* Technical Report No. 94-6. Alaska Department of Fish and Game. Anchorage.

Seaman, Glenn. 1995. *The Continued Assessment and Management of Cumulative Impacts on Kenai River Fish Habitat.* Technical Report No. 95-6. Alaska Department of Fish and Game. Anchorage.

- 9) *Regulations to Consider Cumulative and Secondary Impacts During Project Renewals and Modifications*, FY94 – \$20,000. Division of Governmental Coordination.
- Project clarifies review procedures and a predictable review process for project renewals or modifications
 - Project summary of information from other states, consideration of CSI, threshold question of "significance"
 - Draft regulations completed public review – currently on hold for completion of ACMP Assessment
 - Need to complete other fundamental CSI work first, need legal questions answered on "grandfathering", need to complete ACMP Assessment and governor's streamlining effort
 - Report: Dense, Chas. 1993. *Procedures to Consider Cumulative and Secondary Impacts During Project Renewal and Modification*. Alaska Office of the Governor, Division of Governmental Coordination. Juneau.
- 10) *Assessment and Control of Cumulative and Secondary Impacts of Coastal Growth and Development at Selected Areas of the Kenai Peninsula*, FY94 – \$63,000. Department of Natural Resources.
- Project resulted in a single-agency perspective of problems with land management and monitoring and enforcement in general. The report is based on interviews with DNR permittees and visits to developed sites on the Kenai Peninsula. The report concluded that improving day-to-day implementation of the ACMP must occur before program changes would be successful.
 - Report: Walkinshaw, Rob. 1994. *Cumulative and Secondary Impacts and the Alaska Coastal Management Program*. Alaska Department of Natural Resources, Division of Lands. Anchorage.
- 11) *Cumulative Impacts in Alaska: Where They Occur and How Agencies and Districts Address Them*, FY95 – \$126,000. Division of Governmental Coordination.
- DGC and a project team inventoried the extent of cumulative impacts in AK and how state and federal agencies and coastal districts consider and control them.
 - A report summarizes the areas with Cumulative impacts and assesses methodologies and recommends improvements. A series of inter and intra agency and district meetings were held to discuss selected questions from the project survey and build consensus about CSIs in AK.

- Reports: HDR Engineering. 1995. *Cumulative Impacts in Alaska, Where They Occur and How Agencies and Districts Address Them*. Anchorage, AK.

Dames and Moore. 1995. *Cumulative Impacts in Alaska: Where They Occur and How Agencies and Districts Address Them, Group Discussion Project*. Anchorage, AK.

- 12) *Geographic Information System Support for the Assessment of Cumulative Impacts in Coastal District Planning and ACMP Consistency Reviews*, WF, FY95 – \$60,000.
Department of Environmental Conservation/Division of Governmental Coordination.

- Assess the usefulness and demonstrate the application of a GIS to identify and control Cumulative impacts during planning and consistency reviews
- Consultant did a Southeast based demo project
- Recommends a GIS approach housed out of DC
- DGC considering recommendations and is contracting with a consultant to maintain and update a GIS data base for coastal district boundaries and other district plan maps
- Report: Resource Data, Inc. 1995. *Geographic Information System Assessment and Demonstration for the Alaska Coastal Management Program*. Juneau, AK.

- 13) *Analysis of Direct Federal Activities in Alaska*, FY95 – \$45,600; FY96 – \$61,500.
Division of Governmental Coordination.

- Assess the federal agency activities and States ability to minimize Cumulative impacts through the ACMP consistency review process
- Examine each agencies practices.
- Evaluate and consider the need to review federal land use planning and rulemaking for consistency with the ACMP
- Develop model MOUs (USFS, MMS, FHA, CORPS, NPS)
- Prepare an ACMP Implementation manual for federal agencies that includes the ACMP consistency review procedures, ACMP standards, all coastal district enforceable policies and boundary maps
- Reports: Garland, Andrea. 1995. *Federal Requirements for Assessing Cumulative Impacts in Alaska*. Alaska Office of the Governor, Division of Governmental Coordination. Juneau, AK.

Garland, Andrea. 1995. *Coastal States' Definitions of Cumulative Impacts*. Alaska Office of the Governor, Division of Governmental Coordination. Juneau, AK.

- 14) *Rural Coastal District Policies and Participation in the ACMP*, FY96 - \$72,500 (In progress). Department of Community and Regional Affairs.
- How to consider Cumulative impacts in the rural coastal districts
 - Subsistence area- Cumulative impacts to coastal resources are important
 - Concerns about local knowledge given consideration during State permitting
 - Concern about differences in interpretation of policies - do they meet district's expectations
 - To be completed by December 31, 1996
- 15) *Major Project Reviews*, FY96 - \$29,000. Division of Governmental Coordination.
- Evaluate ACMP consistency process to improve major project reviews (e.g., A-J Gold Mine)
 - Identify any obstacles to assessment of cumulative impacts
 - Identify processes or procedures used by other jurisdictions
 - Develop criteria to distinguish large and small projects
 - Determine if regulations are appropriate
 - Report: Gallagher, Tom. 1996. *An Evaluation of Large Project Permitting in Alaska*. University of Alaska Southeast. Juneau.
- 16) *A Coastal Indicator System for Sitka*, FY96 - \$87,600. Department of Environmental Conservation/City and Borough of Sitka.
- Develop a coastal indicator system for Alaska using Sitka as a model
 - Coastal indicators are variables or estimates taken from natural resource, environmental social, or economic data that can be used in a decision making context to show patterns, or trends in the condition of coastal resources over time.
 - Phase one is a test model in Sitka. Sitka is using selected indicators to track land development and use trends, to assist with project reviews, land use planning, and determine trends in use of coastal wilderness areas.
 - Reports: McDowell Group. 1996. *Sitka Coastal Indicators Project*. Juneau, AK.

Powell, Jim. 1996. *Sitka Coastal Indicators Pilot Project*. DEC. Juneau, AK.
- 17) *Aquatic Habitat Reclamation Working Group*, FY96 - \$146,000 (In progress). Department of Fish and Game.
- Statewide working group on Aquatic Habitat Reclamation will be established to enhance interagency consistency and facilitate closer cooperation among all parties on reclamation, restoration and enhancement
 - Will use state and regional forums to conduct research, examine technical and

- management issues and implement aquatic habitat reclamation project in AK
 - Could result in changes to district enforceable policies, MOUs and standard B List stipulations. Project in progress, to be completed by June 31, 1997
- 18) *Kenai River Wetlands Indicators*, FY97 – \$45,000 (in progress). Department of Environmental Conservation.
- Wetland indicators will be developed to assess change and cumulative impacts to wetlands in the Kenai River watershed.
 - A MOU will be developed among DEC, DGC, DOT, DFG, the CORPS and the Kenai Peninsula Borough regarding the use of wetland indicators in the Kenai River Special Management Area
 - Reference sites will be identified to assist in rehabilitation, mitigation, and planning context for wetlands management decisions in the Kenai River watershed
 - Project to be completed by June 30, 1997
- 19) *Assessment of the ACMP*, FY97 – \$370,000 (In progress). Division of Governmental Coordination/State Agencies/Coastal Districts.

During state fiscal year 1997, the lion's share of the Section 309 Enhancement Grants Program funds, about \$370,000, will be dedicated to continuing the Assessment of the ACMP work. The work tasks will be led by DGC with integral participation of state agencies and coastal districts. Some of these work tasks will require further research which may be completed by consultants or state agencies, as appropriate. Each component of the ACMP will include work tasks that ultimately result in written guidance, revisions to the ACMP regulations or statute, and a public education element to inform the public and participating agencies and districts about the proposed program change, build support for the change, how it works, and how to effectively participate. The primary components of the ACMP that will be addressed during FY97 include:

- A. *Coastal District Participation*
1. Address how local knowledge is integrated with scientific or professional knowledge during consistency reviews
 2. Provide guidance on how public need is determined and when uses of state concern come into play
 3. Give districts a seat at the table when project decisions are elevated to the resource agency directors
 4. Strengthen implementation at the local level
- B. *State Agency Enforcement Authority*
1. Clarify and strengthen state agencies' authority to enforce the ACMP
 2. Provide for civil penalties for violation of ACMP stipulations on permits
 3. Develop good enforcement tools

C. *Coastal District Plans*

1. Improve coastal district plans through guidance on enforceable policies and the planning process
2. Improve the planning process through strengthening involvement of state agencies and others during the planning process, and streamlining the plan amendment process
3. Develop model implementation chapters that address the relationships of cities in boroughs and CRSAs and local consistency determinations

D. *Coastal Policy Council Oversight*

1. Revise the petition process so it focuses on coastal district and state agency systematic implementation and enforcement of the ACMP and coastal district plans.
2. Address project specific issues through improvements to the consistency review and elevation process that focus on mediation and raise the standing of the coastal districts.

E. *Public Education and Outreach*

1. DGC will produce publications to educate agencies, coastal districts, industry, and the public about the ACMP and proposed changes to build support and consensus on the changes. Publications may include brochures or newsletters, advertisements, or other media types.
2. DGC will participate in other forums such as the Alaska Municipal League, American Planners Association, or Resource Development Council to educate and reach out to the public that participates in or is affected by coastal management. Participation could include managing an information booth, hosting workshops, or speaking at the conferences.

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**Alaska Coastal Management Program
Division of Governmental Coordination**

Section 6217 Coastal Nonpoint Pollution Control Program

Technical Assistance and On-the-Ground Projects funded by DGC

- Forestry** \$15,000. to DNR Division of Forestry for FPA implementation monitoring.
- Urban/Community** \$25,000. to ADOT&PF for Best Management Practices for Construction, Maintenance and Operations Activities manual.
- \$10,000. to Cenaliurrit Coastal Resource Service Area for landfill siting and operation manual for western Alaska.
- \$26,000. to Wrangell to install stormwater controls in a parking lot adjacent to a salmon and crab harvest area.
- \$8,500. to Haines to replace culverts and stabilize banks of a fish stream that flows through town.
- \$37,600. to Municipality of Anchorage to test environmentally-friendly dust control products on unpaved roads.
- \$10,100. to ADF&G to bring together land owners and managers to discuss how to improve water quality and fish habitat in Unalaska Lake and Iliuliuk River.
- Harbors** \$12,500. for Best Management Practices for operation and maintenance of Alaskan harbors.
- \$22,300. to Aleutians West Coastal Resource Service Area for a public education campaign to reduce improper bilge pumping in Dutch Harbor/Unalaska.
- \$27,600. to Aleutians East Borough to collect wave data to determine circulation characteristics of a proposed harbor.
- \$15,000. to ADOT&PF to develop environmentally sound tidal grid designs, included in *Harbor Design Procedures Manual*.
- \$8,500. to ADOT&PF to develop environmentally sound engineering practices, included in *Harbor Design Procedures Manual*.

**TITLE 6. GOVERNOR'S OFFICE
DIVISION OF GOVERNMENTAL COORDINATION**

**CHAPTER 50. PROJECT CONSISTENCY WITH
THE ALASKA COASTAL MANAGEMENT PROGRAM**

Section

- 10. Purpose of regulations
- 20. Federal consistency determinations
- 30. State permit consistency determination
- 40. Preapplication assistance
- 50. Expedited review by categorical approval
- 60. Scope of project to be reviewed
- 70. Consistency review process

Section

- 80. Confidential information and fees
- 90. Emergency expedited review
- 100. Public Participation
- 110. Review period deadlines and extensions
- 120. Conclusive consistency determinations
- 130. Issuance of project permits
- 190. Definitions

6 AAC 50.010. PURPOSE OF REGULATIONS. The regulations in this chapter are intended to implement, interpret, and make specific

(1) the responsibility of the office of management and budget (OMB) to implement the Alaska Coastal Management Program (ACMP) by rendering on behalf of the state

(A) all responses concurring in or objecting to a federal consistency certification or determination which is required or authorized by sec. 307 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. \p1456, (CZMA), and

(B) all conclusive consistency determinations for any project requiring two or more state agency or federal permits as required by AS 44.19.145(a)(11); and

(2) the responsibility of resource agencies to implement the ACMP by making conclusive consistency determinations for projects requiring the permit of a single state agency and no federal permit, and to expedite their permit review procedures, to the extent permitted by law, by coordinating their own procedures with the consistency review of a project.

(Eff. 3/11/84, Register 89)

Authority: AS 44.19.145(a)
AS 46.40.100(a)
Art. III, sec. 1, Ak. Const.
Art. III, sec. 16, Ak. Const.
Art. III, sec. 21, Ak. Const.

6 AAC 50.020. FEDERAL CONSISTENCY DETERMINATIONS. The division of governmental coordination (DGC) of the office of management and budget will coordinate a consistency review and render a response concurring in or objecting to a federal consistency certification or determination which is required or authorized by sec. 307 of the CZMA. DGC will coordinate the review in the manner provided in this chapter and will render a response in the time and manner prescribed in the CZMA or in the regulations implementing that Act.

(Eff. 3/11/84, Register 89)

Authority: AS 44.19.145(a)

6 AAC 50.030. STATE PERMIT CONSISTENCY DETERMINATIONS. (a) DGC will coordinate the review and render a determination for a project which requires the permits of two or more state agencies or a federal permit, in the manner provided in this chapter.

DGC
coordination

(b) A resource agency shall coordinate the consistency review and render a conclusive consistency determination for a project which requires only the permits of a single state agency and no federal permit. The agency shall coordinate the review and render its determination in the manner provided in this chapter.

Single agency
review

(c) DGC will participate in a single-agency consistency review in the same manner as the other resource agencies participate. DGC will also, on request of the coordinating agency, act as a facilitator to attempt to resolve any disputed issues. If the project includes a disposal of interest in state land, DGC will either concur in the determination or require modifications necessary for its concurrence.

(d) DGC will, in its discretion, at any time, with reasonable notice, review the consistency review procedures, files, or decisions of a coordinating agency.

(Eff. 3/11/84, Register 89; em am 5/1/90 - 8/9/90, Register 114)

Authority: AS 44.19.145(a)
AS 46.40.100(a)
Art. III, sec. 1, Ak. Const.
Art. III, sec. 16, Ak. Const.
Art. III, sec. 24, Ak. Const.

6 AAC 50.040. PREAPPLICATION ASSISTANCE. DGC will, on request, assist a potential applicant for a state permit for a project by providing and explaining the coastal project questionnaire and the consistency review process as described in 6 AAC 50.070, identifying persons to contact in other state or federal agencies, determining the scope of activities which comprise the project, and providing any other assistance or information at its disposal to facilitate review and approval of the applicant's proposed project. A resource agency shall, on request, provide similar assistance and shall also provide application forms for its own permits. DGC and all resource agencies will attempt to regularly inform each coastal resource district of proposed projects which may have significant and direct impacts on that district. (Eff. 3/11/84, Register 89)

Authority: AS 44.19.145(a)
AS 46.40.100(a)
Art. III, sec. 1, Ak. Const.
Art. III, sec. 16, Ak. Const.
Art. III, sec. 24, Ak. Const.

6 AAC 50.050. EXPEDITED REVIEW BY CATEGORICAL APPROVAL AND GENERAL CONCURRENCE DETERMINATIONS. (a) The consistency review of a project will be expedited as provided in (b) or (c) of this section if the project meets the requirements of one of those subsections.

(b) A project which requires one or more state or federal permits, each of which appears on the list published under (e) of this section listing permits which have been categorically approved by DGC as being consistent with the ACMP, is considered to have been conclusively determined by DGC to be consistent with the ACMP. A permit will be categorically approved if DGC determines that the activity authorized by the permit will have no significant impact in the coastal zone.

Categorical
approval

(c) A project which requires one or more state or federal permits not categorically approved as provided in (b) of this section will be considered consistent without further review, if it meets the requirements of a general concurrence determination contained on the list published under (e) of this section. A "general concurrence determination" is a consistency determination for a type of project which includes only routine activities, and which can be effectively made consistent with the ACMP by imposing standard stipulations on the applicable permit. If a subsequent project of any applicant fits the

General
concurrence

description in a general concurrence determination, the project will be considered consistent with the ACMP if it complies with the stated standard stipulations.

(d) A project which requires one or more state or federal permits, and which is not within the categories described in (b) or (c) of this section, is subject to review as an individual project as provided in this chapter.

(e) DGC will publish a list of permits which have been categorically approved as being consistent with the ACMP, and a list of general concurrence determinations, and will identify on each list those permits or projects for which a coastal project questionnaire is not necessary. DGC will amend these lists as necessary on its own initiative, or on the request of a coastal resource district or a resource agency based on new information regarding the impacts of these activities, including cumulative impacts. Before publishing or amending these lists, DGC will distribute the proposed lists or amendments for comment in the manner provided in 6 AAC 50.070 for a project consistency review. (Eff. 3/11/84, Register 89)

Individual
project
review

List of
permits

Authority: AS 44.19.145(a)
Art. III, sec. 1, Ak. Const.
Art. III, sec. 16, Ak. Const.
Art. III, sec. 24, Ak. Const.

6 AAC 50.060. SCOPE OF PROJECT TO BE REVIEWED. The scope of activities which are to be reviewed for consistency with the ACMP as part of a project will be determined based on statements of the applicant, the information provided in the coastal project questionnaire, and any additional information which DGC or a resource agency finds necessary to request. If there is disagreement among the agencies, DGC will make the final decision. If DGC determines that a project under review by a resource agency is one requiring a federal permit, or the permits of two or more state agencies, DGC will immediately notify the applicant and the resource agency that the consistency review will be coordinated by DGC, and will commence as provided in 6 AAC 50.070 when DGC has received completed applications for all necessary permits and a completed coastal-project questionnaire. (Eff. 3/11/84, Register 89; em am 5/1/90 - 8/9/90, Register 114)

Authority: AS 44.19.145(a)
Art. III, sec 1, Ak. Const.
Art. III, sec. 16, Ak. Const.
Art. III, sec. 24, Ak. Const.

6 AAC 50.070. CONSISTENCY REVIEW PROCESS. (a)

Except as provided in 6 AAC 50.050(e) or in (b) of this section, DGC on request, or a resource agency which receives an application for a permit for a coastal project, shall give the applicant a project questionnaire provided by DGC. Based on the information provided by the applicant in response to the questionnaire, the agency shall identify all state resource agencies which the applicant must contact regarding the project before submitting an application for a permit.

Project
questionnaire

(b) A project questionnaire is not required for placer mining activity which is authorized by an annual application known as the "tri-agency placer mining application." These applications must be submitted to the Department of Natural Resources (DNR). DNR will distribute these applications to initiate the consistency review of the projects as provided in this chapter.

Placer
mining

(c) For a project requiring a federal permit or the permits of two or more state agencies, the applicant shall submit a packet including all necessary state permit applications, copies of all necessary federal permit applications, and the project questionnaire to DGC, except that confidential information or fees must be handled as provided in 6 AAC 50.080. The coordinating agency may require the applicant to provide additional copies of maps or other documents which may not be conveniently duplicated.

Completed
packets

(d) For a project requiring only the permits of a single state agency, the applicant shall submit a packet including all necessary applications and the project questionnaire to the agency.

(e) Immediately upon receipt, or within 7 days if the packet includes an oil discharge prevention and contingency plan submitted under 18 AAC 75, the coordinating agency shall review the packet and shall inform the applicant if it appears to be sufficient for public review. If the packet appears to be sufficient for public review, and the project does not include a disposal of interest in state land, the coordinating agency shall immediately assign a project number, and note the date as Day 1 of the consistency review process. If public notice is required, the coordinating agency will assign Day 1 as that day on which all required notices have been published. For a project which includes a disposal of interest in state land, the consistency review will begin at a date which DGC and DNR agree will most effectively allow for both the consistency review and DNR's own statutory responsibilities. Acceptance of the packet does not preclude an agency from requesting additional information or applications from the applicant as necessary for its consistency review or its own statutory responsibilities. On or before Day 2, the coordinating agency will distribute copies of the packet to all

Day 1

Copies
distributed

review participants, and other interested parties. For a 30-day review, the distribution may be limited in the discretion of the coordinating agency but must, if requested in writing, include any affected coastal district with an approved program. Along with the packet, the coordinating agency will distribute a review schedule establishing a comment deadline at Day 34, or at Day 17 in a 30-day review period, or later if the review period is extended as provided in 6 AAC 50.110. The review schedule under this section will also state the applicable time limit, if any, imposed by the federal law or regulation.

Review
schedule

(f) If the coordinating agency determines that the public notice, if any, provided by the resource agencies as part of their review of a permit is not adequate to inform the public about the project and the consistency review process, the coordinating agency shall, as soon as possible, publish a public notice in a newspaper or on radio or television in the affected areas, describing the project and the consistency review process. In evaluating the need for public notice of a project, the coordinating agency shall consider the magnitude of likely impacts, including cumulative impacts on the affected area, but may not unreasonably require public notice for a project for which notice is not statutorily required. DGC will encourage the joint public notice of project reviews when a permit from more than one agency is required.

Public
notice

(g) The coordinating agency, on its own initiative or at the request of a review participant, may request from the applicant on or before Day 25, or Day 15 of a 30-day review period, additional information relevant to the proposed project, which is necessary for its consistency review or its own statutory responsibilities.

Request for
additional
information

(h) Comments must be received by the coordinating agency on or before the comment deadline established by the coordinating agency. Each commenter shall also send copies of its comments to the resource agencies. Verbal comments must be confirmed by written comments postmarked within five working days after the verbal comments. If the commenter recommends stipulations on the consistency determination, a brief written justification must be provided by the commenter for each stipulation. Upon request, the coordinating agency shall send copies of comments to other interested parties.

Comments

Stipulations

Justification

(i) The coordinating agency shall encourage and facilitate consideration of comments received and discussion among the review participants. The coordinating agency shall determine whether there is a consensus among the resource agencies regarding a proposed consistency determination. The coordinating agency shall notify the review participants, the applicant, and other commenting parties, on or before Day 44, or Day 24 in a

Proposed
determination

30-day review period, of the proposed determination or the issues to be resolved.

(j) If a resource agency, an affected coastal resource district with an approved program, or the applicant does not concur with the proposed consistency determination, it may request elevation of the review by submitting a written statement which describes its concerns and includes a proposed alternative consistency determination which would meet its concerns. That party shall distribute this statement so that all review participants, the applicant, other commenting parties, and DGC will receive a copy on or before Day 49, or Day 29 in a 30-day review period, or within five days after receiving notice of the proposed determination, whichever is later. This requirement may be satisfied by transmitting the substance of the statement to the coordinating agency by telephone or other telecommunication device and sending written confirmation to all parties by mail or courier on or before the deadline under this subsection.

(k) The coordinating agency shall issue a conclusive consistency determination on or before Day 50, or Day 30 in a 30-day review period, if it has not received a request to elevate the review. If the coordinating agency receives a request, the agency shall elevate the review as necessary to the division directors, and then commissioners of the resource agencies, and may extend the decision deadline in accordance with 6 AAC 50.110(b)(7). If the review is elevated, the coordinating agency, or DGC on request, shall arrange meetings and shall mediate among the resource agencies, the affected coastal resource districts with approved programs, and the applicant, for the purpose of attempting to resolve any disputed issues and to formulate a mutually acceptable consistency determination. If no consensus is reached, the coordinating agency shall render a determination consistent with any policy direction given by the commissioners or the governor. (Eff. 3/11/84, Register 89; em am 5/1/90 - 8/29/90, Register 114; am 5/20/93, Register 126)

Authority: AS 44.19.161
AS 46.40.010
AS 46.40.040

6 AAC 50.080. CONFIDENTIAL INFORMATION AND FEES. An application for a state permit requiring information which must by law be held in confidence, and any fee associated with a state permit, must be submitted by the applicant directly to the agency with responsibility for issuing the permit. The agency shall delete the confidential information from any copy of

Request for
elevation

the application which is distributed for a consistency review under this chapter. (Eff. 3/11/84, Register 89)

Authority: AS 44.19.145(a)
Art. III, sec. 1, Ak. Const.
Art. III, sec. 16, Ak. Const.
Art. III, sec. 24, Ak. Const.

6 AAC 50.090. EMERGENCY EXPEDITED REVIEW. If, due to an emergency as described in AS 26.23 or AS 46.04.080 or other applicable law, an applicant needs an expedited agency permit or consistency review, or if the head of the coordinating agency finds that an expedited review is necessary for the preservation of the public peace, health, safety, or general welfare, the head of the coordinating agency may modify the review process established in this chapter as necessary to meet the emergency. Any modifications in the review process made under this section must be made in writing by the head of the coordinating agency, based upon clear and convincing evidence of a need for the modification. (Eff. 3/11/84, Register 89)

Authority: AS 44.19.145(a)
Art. III, sec. 1, Ak. Const.
Art. III, sec. 16, Ak. Const.
Art. III, sec. 24, Ak. Const.

6 AAC 50.100. PUBLIC PARTICIPATION. (a) Any person may comment on a proposed project by submitting written comments to the coordinating agency on or before the comment deadline. The coordinating agency shall provide a copy of the project packet to any person on request.

(b) If the coordinating agency receives a request for public hearing regarding a project by Day 34, or Day 17 of a 30-day review period, and finds that the request is based on concerns not already adequately addressed in the review, the coordinating agency shall schedule and hold a hearing in the area affected by the project.

(c) Within seven days after receiving a request under (b) of this section, the coordinating agency shall decide whether or not to hold a public hearing.

(d) At least 15 but no more than 30 days before the date of a public hearing, the coordinating agency shall give notice of the time and place of the hearing.

(1) by publication in a newspaper which is circulated in the area to be affected by the project;

Public
hearing

(2) by written notice to the governing body of an affected coastal resource district; and

(3) if the project is to be located in the unorganized borough, by radio or television announcements.

(e) If new information or issues are presented at a public hearing that have not been considered or resolved by project reviewers, the coordinating agency shall summarize those portions of the hearing testimony and distribute the summary to other resource agencies, affected coastal resource districts, and the applicant, within five days following the hearing. Recommendations for a proposed determination based on the summary may be submitted to the coordinating agency in writing within seven days after receipt of the summary.

(Eff. 3/11/84, Register 89)

Authority: AS 44.19.145(a)

Art. III, sec. 1, Ak. Const.

Art. III, sec. 16, Ak. Const.

Art. III, sec. 24, Ak. Const.

6 AAC 50.110. REVIEW PERIOD DEADLINES AND EXTENSIONS. (a) The coordinating agency shall complete a review by either Day 30 or Day 50 unless it extends the applicable decision deadline as provided in (b) or (c) of this section. Each resource agency shall, after consultation with DGC, establish standards for determining whether a 30-day or 50-day decision deadline will apply. DGC will complete a review by Day 30 only if all required permits must by statute or regulation be issued within 30 days.

30-50 day
review

(b) An associate director within OMB or a division director within the coordinating agency may grant an extension of a consistency review as long as the consistency determination is made within any time limit imposed by federal law or regulation. An extension and the reasons for it must be stated in writing and, except for an extension granted under (1) of this subsection, must be based on clear and convincing evidence of the need for the extension. The coordinating agency will notify the review participants and the applicant of the terms of an extension. The limits on extensions are

Extension of
review

(1) for a project located in the unorganized borough, the coordinating agency may, without a request, extend both the comment and decision deadlines by 10 days;

(2) if a commenting agency requests time to perform a field review, the coordinating agency may extend the remaining deadlines by up to 10 days;

(3) if the project involves a disposal of interest in state land or

resources and DGC is the coordinating agency, it will, on DNR's request, extend both the comment and decision deadlines for a period necessary to most efficiently coordinate the consistency review and the DNR disposal process;

(4) for a project which is subject to the Surface Mining Control and Reclamation Act of 1977, P.L. 95-87, 91 Stat. 445 (1977), 30 U.S.C. § 1201 et seq., the consistency review deadlines will be extended as necessary to conform to the requirements of that Act and AS 27.21;

(5) if a public hearing is held as part of the consistency review process, or as part of a resource-agency review of a necessary permit, the coordinating agency may extend both the comment and decision deadlines as necessary;

(6) if the coordinating agency requests additional information from the applicant as provided in 6 AAC 50.070, the agency may extend the remaining deadlines until the requested information has been received and deemed adequate by the requesting review participant. Within 7 days of receipt of the information by the requesting review participant, that participant shall notify the coordinating agency whether the information is adequate to find the project packet complete;

(7) if the coordinating agency determines that a consensus among the resource agencies, any affected coastal resource district, and the applicant cannot be reached within a 50-day review period, it shall state in writing the issues or conditions which require additional time for review, and may extend the remaining deadlines for up to 15 days for each higher level of review provided in 6 AAC 50.070(k);

(8) if the applicant requests an extension, the coordinating agency may extend the remaining deadlines as requested;

(9) if the coordinating agency determines that the project involves unusually complex issues, it may extend the deadlines as necessary; if the deadline is extended under this paragraph, the agency shall by Day 50, or Day 30 of a 30-day review period, distribute to the review participants, the applicant, and other commenting parties a written statement of the issues which remain to be resolved; the coordinating agency shall notify all interested parties promptly as issues are resolved.

(c) All time periods in this chapter must be calculated using calendar days. An action required to be taken on a Saturday, Sunday, or state or federal holiday must be taken on or before the next working day. (Eff. 3/11/84, Register 89; am. 5/20/93, Register 126)

Authority: AS 44.19.161
AS 46.40.010
AS 46.40.040

6 AAC 50.120. **CONCLUSIVE CONSISTENCY DETERMINATION.** (a) In rendering a conclusive consistency determination, the coordinating agency shall give careful consideration to all comments, and shall give due deference to the comments of resource agencies and affected coastal districts with approved programs. "Due deference" means that deference which is appropriate in the context of the commenter's expertise and area of responsibility, and all the evidence available to support any factual assertions. A coastal resource district whose district program has been incorporated into the ACMP is considered to have expertise in the interpretation and application of its program. If the coordinating agency rejects a stipulation or recommendation requested by a commenting resource agency or affected coastal resource district with an approved program, within its respective area of expertise, the coordinating agency shall make a written finding stating the reasons for rejecting the stipulation.

Due
Deference

(b) The coordinating agency shall render a written conclusive consistency determination before the decision deadline under 6 AAC 50.070 or 6 AAC 50.110. The agency shall distribute its determination to the applicants and to all resource agencies, all other agencies which commented on the project, and all affected coastal resource districts. The determination must describe the scope of the project which was reviewed. If the project is determined to be consistent with the ACMP, the determination must state any conditions or stipulations and must identify the state or federal permits in which each stipulation must be included to ensure that the project is consistent with the ACMP. If a resource agency is the coordinating agency, it may include the determination in its approval or denial of each permit required for the project. (Eff. 3/11/84, Register 89; em am 5/1/90 - 8/9/90, Register 114)

Conclusive
consistency
determination

Authority: AS 44.19.145(a)
Art. III, sec. 1, Ak. Const.
Art. III, sec. 16, Ak. Const.
Art. III, sec. 24, Ak. Const.

6 AAC 50.130. **ISSUANCE OF PROJECT PERMITS.** A resource agency shall issue a permit which is necessary for a project, except a lease, within five days after it issues or receives the conclusive consistency determination for that project, unless the commissioner of that agency finds that additional review is necessary to fulfill statutory responsibilities. A resource agency shall issue a lease at the time and in the manner provided by applicable law, regulation, and agency procedure, but not before

Permits issued
within 5 days

it issues or receives a conclusive consistency determination for the appropriate project. For a project which is deemed consistent, by either categorical approval of all necessary permits or a general concurrence determination, an agency shall issue a required permit as soon as possible in the time and manner prescribed by applicable statutes or regulations. A project permit must contain any applicable conditions or stipulations required by the conclusive consistency determination, and may not contain any additional condition or stipulation for the sole purpose of ensuring consistency. (Eff. 3/11/84, Register 89)

Authority: AS 44.19.145(a)
Art. III, sec. 1, Ak. Const.
Art. III, sec. 16, Ak. Const.
Art. III, sec. 24, Ak. Const.

6 AAC 50.190. DEFINITIONS. In this chapter and in AS 44.19.145(a)(11) (1) "ACMP" means the Alaska Coastal Management Program, as amended, which was developed as provided in AS 46.40, 6 AAC 80, and 6 AAC 85, and approved by the Secretary of the United States Department of Commerce under authority of sec. 305 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. \p 1454;

(2) "affected coastal resource district" means a coastal resource district as defined in AS 46.40.210(2) in which a project is proposed to be located, or which may experience a direct and significant impact from a proposed project;

(3) "approved program" means a coastal resource district program that has been approved by the Alaska Coastal Policy Council and filed by the lieutenant governor's office;

(4) "consistency" means compliance with the standards of the ACMP, including the enforceable policies of an approved coastal resource district program;

(5) "coordinating agency" means the agency responsible for coordinating and facilitating the review and rendering the determination;

(6) "CZMA" means the federal Coastal Zone Management Act of 1972, as amended, 16 U.S.C. \p 1451 et seq.;

(7) "DGC" means division of governmental coordination within the office of management and budget in the Office of the Governor;

(8) "DNR" means the Department of Natural Resources;

(9) "determination" or "consistency determination" or "conclusive consistency determination" means

(A) a document issued by the coordinating agency containing a brief description of the project, and the findings of the

consistency review together with any stipulations, conditions, or modifications to the project which must be attached to the applicable permits, and a brief justification for those necessary modifications, conditions, or stipulations, and includes

(B) a response to a consistency certification or determination required or authorized under the CZMA;

(10) "direct and significant impact" means an effect of a project which will likely contribute or lead to a significant change in or alteration of the natural, social, cultural, or economic characteristics of a coastal resource district;

(11) "disposal of interest in state land" means the sale, lease, or other disposition of state-owned or state-managed land or resources by the Department of Natural Resources;

(12) "OMB" means the office of management and budget in the Office of the Governor;

(13) "permit" means a permit, lease, authorization, license or any other determination necessary for completion of a project or a discrete phase of a project;

(14) "project" means an activity or use which will be located in or may affect the coastal zone of Alaska and which is subject to consistency review under sec. 307 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1456), or which requires the issuance of one or more state permits; when a land or water activity is developed or authorized in discrete phases, and each phase requires agency decisions regarding permits, each phase is considered a "project";

(15) "resource agency" means the Alaska Department of Environmental Conservation, or the Alaska Department of Fish and Game, or the Alaska Department of Natural Resources;

(16) "review" or "consistency review" means the evaluation of a project against the ACMP standards.

(17) "review participant" means resource agencies, other state agencies on request and affected coastal districts; when a project includes an oil discharge prevention and contingency plan, "review participant" includes an affected regional citizens advisory council as defined in 33 U.S.C. 2732(d). (Eff. 3/11/84, Register 89; em am 5/1/90 - 8/9/90, Register 114; am 5/20/93, Register 126)

Authority: AS 44.19.161
AS 46.40.010
AS 46.40.040

**TITLE 6. GOVERNOR'S OFFICE
ALASKA COASTAL POLICY COUNCIL**

**CHAPTER 80. STANDARDS OF THE ALASKA
COASTAL MANAGEMENT PROGRAM**

Article

1. Government Process (6 AAC 80.010-6 AAC 80.030)
2. Uses and Activities (6 AAC 80.040-6 AAC 80.120)
3. Resources and Habitats (6 AAC 80.130-6 AAC 80.150)
4. Areas Which Merit Special Attention (6 AAC 80.158-6 AAC 80.170)
5. General Provisions (6 AAC 80.900)

Article 1. Government Process

Section

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

6 AAC 80.010. **COVERAGE OF CHAPTER.** (a) This chapter contains 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 44.19.155 -44.19.162).

(b) Nothing in this chapter or in any district program displaces 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. However, if the district program and the standards in this chapter both address the same operational subject or issue, the provisions of the district program are controlling.

State/local
authorities

District program

(c) At a minimum, the council will review this chapter annually. (Eff. 7/18/78, Register 67; am 9/9/81, Register 79)

Authority: AS 44.19.160
AS 46.40.040
AS 46.40.100

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 ensure that, when requested and reasonably necessary, translation into the appropriate Native language is provided.

(Eff. 7/18/78, Register 67)

Authority: AS 44.19.161
AS 46.40.040

6 AAC 80.030. PROGRAM MANAGEMENT AND COORDINATION. (a) The division of governmental coordination of the Office of Management and Budget is the designated lead agency for the Alaska Coastal Management Program. The division of governmental coordination of the Office of Management and Budget shall

DGC
lead agency

(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, as provided in 6 AAC 50.

(b) The council will initiate an interagency program of comprehensive resource management for each geographic region listed in AS 44.19.155. Regional programs will

Regional program

(1) assist the council and districts in identifying uses of state concern 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 must be transmitted to the district through the division of governmental coordination. 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. 7/18/78, Register 67; am 10/28/84, Register 92)

Authority: AS 44.19.145(a)
AS 44.19.161
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.

Public need

(b) The placement of structures and the discharge of dredge¹ or fill material into coastal water must, at a minimum, comply with the standards contained in Parts 320-323, Title 33, Code of Federal Regulations (Vol. 42 of the Federal Register, pp. 37133 - 47 (July 19, 1977)). (Eff. 7/18/78, Register 67; am 8/18/79, Register 71)

Dredge/Fill

Authority: AS 44.19.161
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. 7/18/78, Register 67)

Siting/Design

Authority: AS 44.19.161
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.

(b) Districts and state agencies shall give high priority to maintaining and, where appropriate, increasing public access to coastal water. (Eff. 7/18/78, Register 67; am 8/18/79, Register 71)

Public access

Authority: AS 44.19.161
AS 46.40.040

6 AAC 80.070. ENERGY FACILITIES. (a) Sites suitable for the development of major energy facilities must be identified by districts and the state in cooperation with districts.

(b) The siting and approval of major energy facilities by districts and state agencies must be based, to the extent feasible and prudent, on the following standards:

(1) site facilities so as to minimize adverse environmental and social effects while satisfying industrial requirements;

(2) site facilities so as to be compatible with existing and subsequent adjacent uses and projected community needs;

(3) consolidate facilities;

(4) consider the concurrent use of facilities for public or economic reasons;

(5) cooperate with landowners, developers, and federal agencies in the development of facilities;

(6) select sites with sufficient acreage to allow for reasonable expansion of facilities;

(7) site facilities where existing infrastructure, including roads, docks, and airstrips, is capable of satisfying industrial requirements;

(8) select harbors and shipping routes with least exposure to reefs, shoals, drift ice, and other obstructions;

(9) encourage the use of vessel traffic control and collision avoidance systems;

(10) select sites where development will require minimal site clearing, dredging and construction in productive habitats;

(11) site facilities so as to minimize the probability, along shipping routes, of spills or other forms of contamination which would affect fishing grounds, spawning grounds, and other biologically productive or vulnerable habitats, including marine mammal rookeries and hauling out grounds and waterfowl nesting areas;

(12) site facilities so that design and construction of those facilities and support infrastructures in coastal areas of Alaska will allow for the free passage and movement of fish and wildlife with due consideration for historic migratory patterns and so that areas of particular scenic, recreational, environmental, or cultural value will be protected;

Fish
passage

(13) site facilities in areas of least biological productivity, diversity, and vulnerability and where effluents and spills can be controlled or contained;

(14) site facilities where winds and air currents disperse airborne emissions which cannot be captured before escape into the atmosphere;

(15) select sites in areas which are designated for industrial purposes and where industrial traffic is minimized through population centers; and

(16) select sites where vessel movements will not result in overcrowded harbors or interfere with fishing operations and equipment.

(c) Districts shall consider that the uses authorized by the issuance of state and federal leases for mineral and petroleum resource extraction are uses of state concern. (Eff. 7/18/78, Register 67; am 8/18/79, Register 71)

Authority: AS 44.19.161
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 district programs.

(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. 7/18/78, Register 67; am 8/18/79, Register 71)

Authority: AS 44.19.161
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. 7/18/78, Register 67)

Authority: AS 44.19.161
AS 46.40.040

6 AAC 80.100. TIMBER HARVEST AND PROCESSING. AS 41.17, Forest Resources and Practices, and the regulations and procedures adopted under that chapter with respect to the harvest and processing of timber, are incorporated into the Alaska coastal management program and constitute the components of the coastal management program with respect to those purposes. (Eff. 7/18/78, Register 67; am 8/18/79, Register 71; am 3/30/84, Register 89)

Authority: AS 44.19.161
AS 46.40.040

(Note: AS 41.17 was amended in 1990. The revised FPA regulations were incorporated into the ACMP effective August 4, 1993.)

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

(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. 7/18/78, Register 67; am 8/18/79, Register 71)

Sand/gravel
extraction

Authority: AS 44.19.161
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 nonsubsistence 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. 7/18/78, Register 67)

Authority: AS 44.19.161
AS 46.40.040

Identified
areas

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;

(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 tidflats 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:

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

(2) there is no feasible 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

Offshore areas

Estuaries

Wetlands

Islands and seacliffs

Barrier islands
and lagoons

High energy coasts

Rivers, streams
and lakes

(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 6 AAC 80.030(b). (Eff. 7/18/78, Register 67)

Authority: AS 44.19.161
AS 46.40.040

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, in effect on August 18, 1992, 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. 7/18/78, Register 67; am 5/20/93, Register 126)

Authority: AS 44.19.161
AS 46.40.010
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. 7/18/78, Register 67)

Authority: AS 44.19.161
AS 46.40.040

Article 4.
Areas Which Merit Special Attention

Section

158. Types of areas to be designated as areas which merit special attention

160. Areas which merit special attention inside districts

170. Areas which merit special attention outside districts

6 AAC 80.158. TYPES OF AREAS TO BE DESIGNATED AS AREAS WHICH MERIT SPECIAL ATTENTION. An area to be designated as an area which merits special attention may include the following, in addition to the categories contained in AS 46.40.210(1):

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

(2) areas with special scientific values or opportunities, including those areas where ongoing research projects could be jeopardized by development or conflicting uses and activities; and

(3) potential estuarine or marine sanctuaries. (Eff. 6/9/85, Register 94)

Authority: AS 44.19.161
AS 46.40.040

Editor's Note. Before 6/9/85, Register 94, the substance of 6 AAC 80.158 was contained in 6 AAC 80.160. The history of AAC 80.160 is not reflected in the history note for 6 AAC 80.158.

6 AAC 80.160. AREAS WHICH MERIT SPECIAL ATTENTION INSIDE DISTRICTS. (a) A person may recommend, to a district, areas inside the district to be nominated to the council as areas which merit special attention. A district may nominate, in a district program or as a significant amendment to its program, areas which merit special attention. Council designation of areas which merit special attention inside districts will be in accordance with the procedures for approval of district programs, or significant amendments to district programs, as described in 6 AAC 85. A nomination of an area which merits special attention must include the following information:

District
nomination

(1) the basis or bases for designation under AS 46.40.210(1) or 6 AAC 80.158;

Basis for
designation

(2) a map showing the geographical location, surface area and, if appropriate, bathymetry of the area, along with a legal and narrative description of the boundaries and a justification of the size of the area which merits special attention;

(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 plan, consisting of the following:

(A) a description of the uses and activities that will be considered proper, and the uses and activities that will be considered improper, with respect to land and water within the area, and the rationale for the designate of proper and improper uses;

(B) a statement of the specific, enforceable policies that will be applied in managing the area; and

(C) an identification of the authority that will be used to implement the proposed management plan.

(b) A management plan for an area which merits special attention inside a district must preserve, protect, enhance, or restore the value or values for which the area was designated. (Eff. 7/18/78, Register 67; am 8/18/79, Register 71; am 6/9/85, Register 94; am 4/2/86, Register 97)

Authority: AS 44.19.161
AS 46.40.040

6 AAC 80.170. AREAS WHICH MERIT SPECIAL ATTENTION OUTSIDE DISTRICTS. (a) A person may recommend to the council an area that is within the coastal area but outside a coastal resource district, to be designated as an area which merits special attention. A recommendation to the council of an area which merits special attention outside a district must include the following information:

Recommendation to
Council

(1) a map showing the geographical location of the area, as well as a legal and narrative description of the boundaries, and a justification of the size of the area which merits special attention;

Justification

(2) a summary of the resource values and use conflicts, if any, in the area;

(3) a statement of the purpose and objectives to be met through planning for an area which merits special attention;

(4) a tentative schedule outlining timeframes for completion of planning tasks and reviews;

(5) a list of parties with interests in or adjacent to the proposed area which merits special attention who may be affected by its designation, and a description of how these parties would be involved in plan development; and

(6) justification that the area which merits special attention is the preferred planning and management mechanism for meeting the objectives of the proposal and the Alaska coastal management program.

(b) Upon receipt of a recommendation for an area which merits special attention outside of a district, the division of governmental coordination (DGC) of the office of management and budget shall place the recommendation on the council's agenda for consideration at its next regularly scheduled meeting, and shall give notice of a public hearing. DGC shall give direct notice to the affected parties identified in (a)(5) of this section. DGC shall make the recommendation available for public inspection at the time of the notice of the public hearing. The council will make an initial finding, detailing its reasons to either authorize additional planning for the area which merits special attention outside a district, or to reject the recommendation. The council's determination to authorize additional planning for the area which merits special attention may not be construed as council approval of the merits of the final plan.

Council
consideration

(c) If the council decides to authorize further planning for an area which merits special attention, public notice will be provided by conspicuous advertisement, such as display notice, in a news publication of general circulation in the affected area and in one of general circulation in the state. DGC, with assistance from the sponsor, shall compile a mailing list of state and federal agencies, affected municipalities and villages, landowners, and other interested parties and shall notify them that planning for the area which merits special attention is going to occur.

(d) The sponsor of the nomination is responsible for developing a public review draft for the area which merits

Public review
draft

special attention outside of a district. The review draft must include the information required under 6 AAC 80.160(a)(1) through (7), in addition to the following:

(1) an evaluation of the potential impacts of the designation on the social, cultural, environmental, and economic features of the area and adjacent areas;

(2) The proposed management plan required under 6 AAC 160(a)(7) must include a description of how the proposed management plan will be implemented.

(e) A management plan for an area which merits special attention outside a district must preserve, protect, enhance, or restore the value or values for which the area is designated.

(f) The sponsor shall provide opportunities for consultation on and review of the proposal by appropriate state, federal, and local governmental agencies, affected landowners, and other persons who have been identified as interested parties under (c) of this section. The sponsor shall hold no less than two public meetings during plan development to inform the public and receive comments concerning the plan.

Public
meetings

(g) The sponsor of the area which merits special attention shall distribute a public review draft to all parties identified under (c) of this section. The public review draft must contain all elements listed in (d) of this section, as well as evidence that the public participation requirements of this section have been satisfied. The sponsor shall provide at least a 60-day review period. The sponsor shall send with the public review draft a transmittal letter that identifies the comment deadline and the recipient of comments. The sponsor shall publish notice of the availability of the public review draft for review and comment, including advertising in news publications that are circulated in the area affected by the nomination and in news publications that are circulated statewide. The sponsor shall also post a notice prominently in municipalities and villages affected by the proposal.

(h) After the close of the public review and comment period, the sponsor of the area which merits special attention shall revise the public review draft as necessary to incorporate comments received. Council review of the area which merits special attention will begin upon the sponsor's submission of the revised draft to the council.

Revised
draft

(i) DGC shall distribute the council review draft, along with its preliminary findings on the plan, to the mailing list compiled under (c) of this section. A person may submit comments on the area which merits special attention nomination to the council within 60 days after this distribution. Comments that are not received within the 60-day review period will not be considered.

(j) DGC shall prepare a summary of and a response to comments received on the council review draft and, if necessary, revise its recommendations. DGC shall distribute these materials to all parties who commented on the draft. All comments and additional material submitted will be placed in a record file maintained by DGC.

(k) The council will, after public notice, hold a public hearing on the designation of the area which merits special attention.

**Council
designation**

(l) The council will approve the designation of an area which merits special attention if it (1) is substantially consistent with the requirements of this section; (2) does not arbitrarily or unreasonably restrict or exclude uses of state concern, except as allowed in AS 46.40.070(c); (3) does not violate another state law; and (4) does not cause substantial irreparable harm to another interest or value in the coastal area. The council's decision to designate, or not designate, the area which merits special attention outside of a district will contain findings and conclusions based on the requirements listed in this subsection.

(m) DGC shall provide public notice of the council's action designating an area which merits special attention outside of a district by distributing a copy of the council's order to all persons who testified or submitted timely written statements during public review, and to all persons who requested a copy of the order in writing. DGC shall also publish notice of the council's action, at a minimum, in news publications that are circulated within the affected region and in news publications that are circulated statewide.

**Public notice
of action**

(n) The council's designation of an area which merits special attention outside of a district takes effect for state law purposes as part of the Alaska coastal management program upon the lieutenant governor's filing of the council's order approving the designation. (Eff. 6/9/85, Register 94; am 4/2/86, Register 97)

Authority: AS 44.19.161
AS 46.40.040

(j) DGC shall prepare a summary of and a response to comments received on the council review draft and, if necessary, revise its recommendations. DGC shall distribute these materials to all parties who commented on the draft. All comments and additional material submitted will be placed in a record file maintained by DGC.

(k) The council will, after public notice, hold a public hearing on the designation of the area which merits special attention.

Council
designation

(l) The council will approve the designation of an area which merits special attention if it (1) is substantially consistent with the requirements of this section; (2) does not arbitrarily or unreasonably restrict or exclude uses of state concern, except as allowed in AS 46.40.070(c); (3) does not violate another state law; and (4) does not cause substantial irreparable harm to another interest or value in the coastal area. The council's decision to designate, or not designate, the area which merits special attention outside of a district will contain findings and conclusions based on the requirements listed in this subsection.

(m) DGC shall provide public notice of the council's action designating an area which merits special attention outside of a district by distributing a copy of the council's order to all persons who testified or submitted timely written statements during public review, and to all persons who requested a copy of the order in writing. DGC shall also publish notice of the council's action, at a minimum, in news publications that are circulated within the affected region and in news publications that are circulated statewide.

Public notice
of action

(n) The council's designation of an area which merits special attention outside of a district takes effect for state law purposes as part of the Alaska coastal management program upon the lieutenant governor's filing of the council's order approving the designation. (Eff. 6/9/85, Register 94; am 4/2/86, Register 97)

Authority: AS 44.19.161
AS 46.40.040

Article 5. General Provisions

Section 900. Definitions

6 AAC 80.900. DEFINITIONS. (a) 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;

(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 semiclosed 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 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 hazard areas" means those areas which present a threat to life or property from geophysical or geological hazards, including flooding, tsunami run-up, storm surge run-up, landslides, snowslides, faults, ice hazards, erosion, and littoral beach process;

(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) "tidflats" 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);

(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 halophilic hydrophytes and macroalgae extending from extreme low tide to an area above extreme high tide which is influenced by sea spray or tidally induced water table changes;

(20) "feasible and prudent" means consistent with sound engineering practice and not causing environmental, social, or economic problems that outweigh the public benefit to be derived from compliance with the standard which is modified by the term "feasible and prudent";

(21) "including" means including but not limited to;

(22) "major energy facility" includes marine service bases and storage depots, pipelines and rights-of-way, drilling rigs and platforms, petroleum or coal separation, treatment, or storage facilities, liquid natural gas plants and terminals, oil terminals and other port development for the transfer of energy products, petrochemical plants, refineries and associated facilities, hydroelectric projects, other electric generating plants, transmission lines, uranium enrichment or nuclear fuel processing

facilities, and geothermal facilities; "major energy facility" means a development of more than local concern carried out in, or in close proximity to, the coastal area, which meets one or more of the following criteria:

(A) a facility required to support energy operations for exploration or production purposes;

(B) a facility used to produce, convert, process, or store energy resources or marketable products;

(C) a facility used to transfer, transport, import, or export energy resources or marketable products;

(D) a facility used for in-state energy use; or

(E) a facility used primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any activity described in (A) - (D) of this paragraph;

(23) "significant amendment" means an amendment to an approved district program which

(A) results in a major revision, addition or deletion to the policies or implementation methods or authorities included in the district program under 6 AAC 85.090 and 6 AAC 85.100;

(B) alters the district boundaries, other than by technical adjustments;

(C) designates an area which merits special attention or alters an existing area which merits special attention designation; or

(D) restricts or excludes a use of state concern not previously restricted or excluded;

(24) "area which merits special attention" has the same meaning as in AS 46.40.210(1);

(25) "village" has the same meaning as in AS 46.40.180(d).

(b) In AS 44.19.155, "deputy commissioner" includes assistant commissioners of state agencies. (Eff. 7/18/78, Register 67; am 8/18/79, Register 71; am 9/9/81, Register 79; am 6/9/85, Register 94; am 10/16/87, Register 104)

Authority: AS 44.19.160(4)
AS 44.19.161
AS 46.40.010(c)
AS 46.40.030
AS 46.40.040
AS 46.40.060
AS 46.40.070

**TITLE 6. GOVERNOR'S OFFICE
ALASKA COASTAL POLICY COUNCIL**

**CHAPTER 85. GUIDELINES FOR DISTRICT
COASTAL MANAGEMENT PROGRAMS**

Article

1. Program Elements (6 AAC 85.010-6 AAC 85.110)
2. Government Process (6 AAC 85.120-6 AAC 85.185)
3. General Provisions (6 AAC 85.900)

Article 1. Program Elements

Section

- 10. Coverage of chapter
- 20. Needs, objectives, and goals
- 30. Organization
- 40. Boundaries
- 50. Resource inventory
- 60. Resource analysis

Section

- 70. Subject uses
- 80. Proper and improper use:
- 90. Policies
- 100. Implementation
- 110. Public participation

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 - 44.19.894).

(b) At a minimum, the council will review this chapter annually. (Eff. 7/18/78, Register 67)

Authority: AS 44.19.161
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. 7/18/78, Register 67)

Authority: AS 44.19.161
AS 46.40.030
AS 46.40.040

6 AAC 85.030. ORGANIZATION. (a) 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.

(b) The district program must clearly state the name and address of the individual or organization within the district that is assigned to receive from the state notice of proposed activities and authorizations affecting the district, and that is responsible for responding to the state on consistency reviews. (Eff. 7/18/78, Register 67; am 3/2/84, Register 89)

Authority: AS 44.19.161
AS 46.40.030
AS 46.40.040

6 AAC 85.040. BOUNDARIES. (a) Each district must include a map of the boundaries of the coastal area within the district subject to the district program. Boundaries must enclose those lands which would reasonably be included in the coastal area and subject to the district program if they were not subject to the exclusive jurisdiction of the federal government.

(b) 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.

(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.

(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. (Eff. 7/18/78, Register 67; am 8/18/79, Register 71)

Authority: AS 44.19.161
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. 7/18/78, Register 67)

Authority: AS 44.19.161
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 6 AAC 85.050;

(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. 7/18/78, Register 67)

Authority: AS 44.19.161 AS 46.40.040
AS 46.40.030

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 6 AAC 80 are, if applicable, subject to the district program. (Eff. 7/18/78, Register 67)

Authority: AS 44.19.161
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 6 AAC 85.020, and must be consistent with the standards contained in 6 AAC 80. (Eff. 7/18/78, Register 67)

Authority: AS 44.19.161
AS 46.40.030
AS 46.40.040

6 AAC 85.090. POLICIES. (a) Each district program must include 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 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 6 AAC 85.080. 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 must be consistent with the standards contained in 6 AAC 80 and must 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.

(b) All policies or enforceable rules of the district program must be clearly identified and located in a single section of the program document. The identified policies or enforceable rules will provide the basis for all determinations of consistency with the approved district program. (Eff. 7/18/78, Register 67; am 3/2/84, Register 89)

Authority: AS 44.19.161
AS 46.40.030
AS 46.40.040

6 AAC 85.100. IMPLEMENTATION. Each district program must include a description of the methods and authority which will be used to implement the district program. Methods and authority must be adequate to insure program implementation, and any additional methods or authority which are required must be specified. Methods and authority 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 improvement programs, the purchase, sale, lease, or exchange of coastal land and water resources, cooperative agreements, tax exemptions for nondevelopment purchase of development rights, memoranda of understanding, and coordinated project or permit review procedures. (Eff. 7/18/78, Register 67)

Authority: AS 44.19.161
AS 46.40.030
AS 46.40.040

6 AAC 85.110. PUBLIC PARTICIPATION. Each district program must include evidence of effective and significant opportunities for public participation in program development under 6 AAC 85.130. (Eff. 7/18/78, Register 67)

Authority: AS 44.19.161
AS 46.40.030

Article 2. Government Process

Section

- 120. Submittals to council
- 130. Public involvement during program development
- 140. Coordination and review
- 145. Review of public hearing draft
- 150. Council review of district programs
- 170. Mediation
- 180. Effective date and local adoption
- 185. Petition for amendment to an approved district program regarding uses of state concern

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 under 6 AAC 85.180(b), districts shall submit brief annual progress reports concerning program implementation to the council. The council will furnish copies of annual progress reports to any interested party upon request. An annual progress report must be submitted by December 31 of each year and must include

(1) a statement describing the district's progress in fulfilling any conditions stipulated at the time of the council's approval of the district program;

(2) a summary, on forms provided by the Office of Coastal Management, of significant district land and water use decisions and enforcement actions taken during the year;

(3) a description of routine program implementation during the year;

(4) additional details of the district program implementation, including the district's response to council recommendations made either at the time the district program was approved or as part of the council's continuing review after approval of the program; and

(5) identification of any problems encountered in implementing the district program and recommendations for solution of the problems.

(c) After conceptual approval as described in (d) of this section, a district program must be submitted to the council for approval as provided in 6 AAC 85.150, and a significant amendment to a district program must be submitted to the council, through the Office of Coastal Management, for approval. The Office of Coastal Management will review proposed amendments to determine if council approval is

District annual reports

Significant amendment

required. The coastal resource district may make a recommendation on whether council approval of a proposed amendment is required when the amendment to the district program is submitted to the office. If the office determines that council approval is required, the procedures set out in 6 AAC 85.150 apply. The office's determination is subject to council review when requested by a council member or the coastal resource district. Amendments to the district program determined not to require council approval are matters of routine program implementation. Matters of routine program implementation will be considered incorporated into the district program without further council action. Timely notification of matters of routine program implementation will be made to the council and appropriate state and federal agencies by the Office of Coastal Management.

Routine program
implementation

(d) Before submitting a district program or a significant amendment to a district program for approval, a district shall conceptually approve the district program or amendment by resolution of the district's governing body. However, a coastal resource service area shall conceptually approve the district program or amendment by resolution of the coastal resource service area board. (Eff. 7/18/78, Register 67; am 5/2/81, Register 78; am 9/9/81, Register 79; am 3/2/84, Register 89)

Conceptual approval

Authority:	AS 44.19.160	AS 46.40.040
	AS 44.19.162	AS 46.40.060
	AS 46.40.010	AS 46.40.070
	AS 46.40.030	

6 AAC 85.130. PUBLIC INVOLVEMENT DURING PROGRAM DEVELOPMENT. (a) Districts shall provide publicly advertised opportunities for public involvement in the development of all program elements contained in 6 AAC 85.020 - 6 AAC 85.110.

(b) 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 6 AAC 85.150.

(c) 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. 7/18/78, Register 67; am 8/18/79, Register 71; am 3/2/84, Register 89)

Authority: AS 44.19.161
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. 7/18/78, Register 67)

Authority: AS 44.19.161
AS 46.40.030
AS 46.40.040

6 AAC 85.145. REVIEW OF PUBLIC HEARING DRAFT. (a) This section applies to district programs and significant amendments to district programs.

(b) A public hearing draft of the district program must be distributed to all parties identified as having a significant interest in the district program, including those parties described in 6 AAC 85.140. The mailing list of these parties must be reviewed and approved by the Office of Coastal Management. The public hearing draft must include all elements to be included in the district program when it is conceptually approved. At least a 60-day review period must be provided. A transmittal letter that states the comment deadline and the recipient of comments must be sent with the document. One or more review meetings may be sponsored by the Office of Coastal Management, with the concurrence of the district.

60 day review

(c) Public notice of the availability of the document must be given to any person who has requested it in writing, and through conspicuous advertisement in a newspaper of general circulation within the district. Notice must also be posted in villages and municipalities within the district. Comments received by the deadline must be considered by the district and,

Public notice

where appropriate, incorporated into the plan before conceptual approval.

(d) A public hearing on the district program must be held before conceptual approval is given and no sooner than 30 days after distribution and notice of the public hearing draft under (b) and (c) of this section. Notice specifying time and place of the hearing must be provided to all who were provided the public hearing draft, and also by conspicuous advertisement in a newspaper of general circulation within the district and by advertisement in a newspaper of general circulation within the state. Notice must be given at least 30 days before the hearing is held.

Public hearing

(e) At the public hearing, each person must be given the opportunity to present statements orally or in writing. Districts shall insure that translation into the appropriate native languages is provided. A written transcript or electronic recording of the public hearing must be provided to the council. Comments offered at the hearing must be considered by the district and, where appropriate, incorporated into the plan before conceptual approval.

(f) Districts must give conceptual approval to their district program before the program is submitted to the council. District programs must be adopted by resolution of the district's governing body except that coastal resource service area plans must be adopted by resolution of the board. (Eff. 3/2/84, Register 89)

Conceptual approval

Authority: AS 44.19.161
AS 46.40.030
AS 46.40.040

6 AAC 85.150. COUNCIL REVIEW OF DISTRICT PROGRAMS. (a) A district may prepare findings and conclusions on its program, based on AS 46.40.030, 46.40.060, 46.40.080, and the standards set out in this chapter.

(b) At least one copy of the district's conceptually approved program, including any changes made to the public hearing draft, and the district's findings and conclusions or a written statement indicating that the district has elected not to prepare findings and conclusions, must be forwarded to the Office of Coastal Management as soon as practicable after conceptual approval. The district shall also submit a recording or transcript of the public hearing held under 6 AAC 85.145(d), a list of names and addresses of those who testified, and copies of all

Concept-approved
draft

materials on which it based its decision.

(c) Within 30 days after the district's submission to the Office of Coastal Management under (b) of this section, the office will prepare findings of fact and conclusions based on authorities cited in this section, to comprise its recommendation on the program. Any material on which the recommendation is based must be cited and placed in the district record file described in (f) of this section.

Preliminary
findings

(d) Before the Office of Coastal Management will submit a program to the council review, the district must submit copies of its conceptually approved program to the office in sufficient number to allow distribution to the office's mailing list, the council, and persons who testified at the public hearing or presented written comments on the public hearing draft.

(e) The Office of Coastal Management will distribute the district program, its recommendations, and the district's recommendations, if any, to those identified in (d) of this section and to any other person who has requested this material in writing. This material will be distributed as soon as practicable after the 30-day period allowed in (c) of this section.

(f) A record file containing all material submitted by the district under this section, the Office of Coastal Management's recommendations under this section, and all material on which the recommendation was based must be maintained at the office and at a convenient location within the district.

45 day
review

(g) Within 45 days after the distribution of the Office of Coastal Management's recommendation, any person may submit comments on the recommendation. Comments which are not received within the 45-day period will not be considered.

(h) Within 25 days after the deadline for submitting comments to the council under (g) of this section, the Office of Coastal Management will submit its response to the comments and, if appropriate, revised findings and conclusions to the council and to all who responded to the original findings and conclusions. All comments and additional material submitted must be placed in the record files.

Revised
findings

(i) Within a total of 45 days after the deadline in (g) 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 6 AAC 80, AS 46.40.060, and 46.40.070. The council's findings and conclusions will be based on material contained in the record file. The council will, in its discretion, adopt the findings and conclusions of the Office of Coastal Management by reference.

Council's
decision

(j) The council will serve its decision under this section on all persons who submitted timely comments on the staff recommendation under (g) of this section, to all persons who testified or submitted timely written statements at the public hearing held under 6 AAC 85 145(d), and to all persons who have requested a copy of the decision in writing. Notice of the council's action also must be published, at a minimum, in newspaper of general circulation in the district. (Eff. 7/18/78, Register 67; am 1/22/81, Register 77; am 3/2/84, Register 89)

Authority: AS 44.19.160 AS 44.19.161
AS 46.40.010 AS 46.40.030
AS 46.40.040

Notice of action

6 AAC 85.170. MEDIATION. (a) If the council's decision under 6 AAC 85.150(i) disapproves, in whole or in part, the district program, the disapproved portion must be submitted to mediation as required by AS 46.40.060(b). Before the initial mediation session, the council will, in its discretion, call for one or more public hearings in the district concerned, for the purpose of discussing those portions of the program subject to mediation. Public hearings must be preceded by 30 days' notice. If public hearings are held, districts shall insure that, where reasonably requested, translation into the appropriate Native languages is provided. All public hearings must be electronically recorded. Oral or written testimony may be submitted, except that unduly repetitious testimony may be excluded. The oral testimony and written submissions constitute the hearing record, which must be transmitted to the mediator. Mediation sessions will be conducted as follows:

(1) The parties to the mediation will be the council and the district. The parties shall, within 10 days after the date of the council's decision under 6 AAC 85.150(i), agree upon the selection of a mediator. If the parties cannot agree, they shall immediately, in writing, ask the Federal Mediation and Conciliation Service to appoint a mediator. If that mediator is unacceptable to either party, that party shall request the Federal Mediation and Conciliation Service to submit to the parties the names of three qualified mediators. Upon receipt of these names, each party shall strike one name from the list and the remaining name will be the mediator. A mediator shall perform his or her duties in a manner consistent with the standards of conduct set out in the Code of Professional Conduct for Labor Mediators, referred to in and set out as an appendix to 29 C.F.R. 1400.735-20.

(2) Mediation sessions must be held within the district. The mediator shall schedule the sessions, with due regard for the convenience of the parties, upon at least seven days' notice, except that the parties may, by mutual consent, waive the notice period. The parties shall mutually agree upon the place of the meeting.

Mediation held
in district

(3) The mediator shall schedule the first mediation session to be held as soon as possible after he or she has been selected. At the initial session, the mediator shall establish reasonable rules of procedure. Mediation sessions must be conducted in a manner so that the parties will have the assurance and confidence that information disclosed to the mediator will remain confidential. The mediator shall determine the length and frequency of mediation sessions; however, if an accord is not reached within 60 days after the initial session, an impasse will be declared by the mediator. By mutual consent of the parties and the mediator, this deadline may be extended for a period not to exceed an additional 30 days.

Accord or
impasse

(4) If the mediator determines that an impasse has been reached, he or she shall notify the parties in writing within 10 days after the determination is made.

(5) If the mediator determines that an accord has been reached, he or she shall direct the parties to set out in writing the terms of the agreement. This agreement, to be signed by the parties, signifies the final settlement of outstanding disputes, subject to ratification at a public meeting by the official bodies of each party. With the approval of the parties, mediation may be used to resolve any differences which may arise as the result of the public meetings. After ratification under (a)(5) of this section, the agreement may be set aside only for fraud, misconduct, or gross mistake.

Terms of
agreement

(b) If the council and the district reach accord in mediation sessions held under (a) of this section, the council will, within 20 days after ratification by both parties, serve its modified decision, in the form of an order, on the district and all persons who were served with the council's decision under 6 AAC 85.150(i), 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 material presented during mediation necessary to demonstrate that the modified decision is consistent with this chapter, and the standards contained in 6 AAC 80, AS 46.40.060, or 46.40.070.

(c) If the council and the district do not reach an accord, the council will, within 20 days after a determination that an impasse has been reached, set the matter for an adjudicatory hearing under AS 46.40.060(c). Notice of the hearing must be

Adjudicatory
hearing

served on the district and on all persons who were served with the council's decision under 6 AAC 85.150(i). Any person served with notice of the hearing under this subsection may intervene as a party to the hearing. (Eff. 3/2/84, Register 89)

Authority: AS 44.19.160 AS 46.40.030
 AS 46.19.167 AS 46.40.040
 AS 46.40.010

6 AAC 85.180. EFFECTIVE DATE AND LOCAL ADOPTION. (a) A district program or significant amendment to a district program takes effect as part of the Alaska Coastal Management Program upon the lieutenant governor's filing of the council's decision approving the district program or significant amendment. A change or an amendment in the district program resulting from mediation under AS 46.40.060(b) and 6 AAC 85.170(a) and (b) or from adjudication under AS 46.40.060(c) and 6 AAC 85.170(c) takes effect upon the lieutenant governor's filing of the council's order either ratifying the results of the mediation or determining the adjudication. Filing will take place after local adoption as provided in (b) of this section.

Lt. Governor
filing

(b) Within 90 days after the date a district program or significant amendment is approved by the council under 6 AAC 85.150, the district shall, by ordinance or resolution, whichever is required by other applicable provision of law, adopt the district program or amendment approved by the council. However, a coastal resource service area shall adopt the district program by resolution of the coastal resource service area board. In the same manner, a change in a district program resulting from mediation under AS 46.40.060(b) and 6 AAC 85.170(a) and (b) or from adjudication under AS 46.40.060(c) and 6 AAC 85.170(c) must be adopted by the district following the council's order under 6 AAC 85.170 (b) or (c) ratifying the results of the mediation or determining the adjudication. (Eff. 3/2/84, Register 89)

Local adoption

Authority: AS 44.19.160 AS 46.40.040
 AS 46.40.010 AS 46.40.060
 AS 46.40.030 AS 46.40.070

6 AAC 85.185. PETITION FOR AMENDMENT TO AN APPROVED DISTRICT PROGRAM REGARDING USES OF STATE CONCERN. (a) A state agency or other interested party may submit a petition for amendment to a district program if there is substantial evidence that a use of state concern, as defined in AS 46.40.210(6), is arbitrarily or unreasonably restricted or excluded by the district program. The petitioner must submit the petition to the division of governmental coordination (DGC), in the office of management and budget, office of the Governor, and to the district. The petition must include the following information:

(1) identification of one or more uses of state concern that are arbitrarily or unreasonably restricted or excluded by implementation of the program;

(2) specific documentation of how the use of state concern is being arbitrarily or unreasonably restricted or excluded;

(3) description of a significant change in circumstances or new information that has arisen since program approval, which provides a reasonable basis for concluding that the district program arbitrarily or unreasonably restricts or excludes a use of state concern; and

(4) the proposed program amendment.

(b) DGC will review the petition for completeness and distribute it to appropriate state agencies. Within 30 days after the petition is submitted to DGC, DGC will, in consultation with the district, and the petitioner, attempt to resolve the petitioner's concerns without initiating a program amendment. DGC will extend the 30-day consultation period by 20 days at the request of the district, the involved state agencies or the petitioner. DGC will, in its discretion, extend the consultation period by up to 60 days if more time is needed for all parties to assemble.

(c) If the concerns are not resolved through consultation and if DGC, in consultation with the district, the involved state agencies, and the petitioner, determines that after original program approval a significant change in circumstances has occurred or new information has developed that might cause the program to arbitrarily or unreasonably restrict or exclude a use of state concern, the procedure described in (d) of this section applies.

(d) If the criteria in (c) of this section are met, then within 20 days after the end of the consultation period specified in (b) of this section, DGC will distribute the petition, DGC's evaluation of the proposed amendment, and the district's response to the petition, to the council and to all parties identified as having a significant interest in the district program,

including those parties described in 6 AAC 85.140. DGC's evaluation will include:

(1) a summary of the proposed program amendment;
(2) an analysis of the evidence that the requirements in (c) have been satisfied; and

(3) an evaluation of the amendment's consistency with the Alaska Coastal Management Program (ACMP).

(e) If the criteria established in (c) of this section are not met, then DGC will report this finding to the council. DGC's finding will be distributed to all parties involved during the consultation period specified in (b) of this section and to the council. DGC's finding is subject to council review if a review is requested by a council member.

(f) The procedures set out in 6 AAC 85.150(g) - (j) for review of district programs apply to council review of a petition under this section.

(g) The procedures set out in 6 AAC 85.170 for mediation and adjudicatory hearings apply if the district is dissatisfied with the council's decision on the petition.

(h) An amendment to a district program approved by the council under (f) of this section takes effect as part of the ACMP upon the lieutenant governor's filing of the council's decision approving the amendment. If mediation or an adjudicatory hearing under (g) of this section occurs, an amendment to a district program resulting from mediation under AS 46.40.060(b) and 6 AAC 85.170(a) and (b) or from adjudication under AS 46.40.060(c) and 6 AAC 85.170(c) takes effect upon the lieutenant governor's filing of the council's order either ratifying the results of the mediation or determining the adjudication, respectively. (Eff. 8/23/86, Register 99)

Authority: AS 44.19.160 AS 46.40.040
 AS 44.19.161 AS 46.40.060
 AS 46.40.010

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;

(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;

(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) "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);

(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;

(9) "feasible and prudent" has the same meaning as in 6 AAC 80.900;

(10) "including" has the same meaning as in 6 AAC 80.900; and

(11) "significant amendment" means an amendment to an approved district program which

(A) results in a major revision, addition or deletion to the policies or implementation methods or authorities included in the district program under 6 AAC 85.090 and 6 AAC 85.100;

(B) alters the district boundaries, other than by technical adjustments;

(C) designates an area which merits special attention or alters an existing area which merits special attention designation; or

(D) restricts or excludes a use of state concern not previously restricted or excluded. (Eff. 7/18/78, Register 67; am 8/18/79, Register 71; am 9/9/81, Register 79; am 3/2/84, Register 89)

Authority: AS 44.19.160 AS 46.40.040
 AS 44.19.161 AS 46.40.060
 AS 46.40.010(c) AS 46.40.070

Sec. 41.17.900. Applicability of chapter; relationship to other law.

(a) Unless otherwise specified, this chapter applies to forest land under state, municipal, or private ownership.

(b) For federal land,

(1) the degree of resource protection may not be less than that established by this chapter for state land except that AS 41.17.119 establishes the minimum riparian standard;

(2) a timber harvest activity subject to this chapter shall satisfy the requirement to be consistent to the maximum extent practicable with the Alaska coastal zone management program if the federal land management plans, guidelines, and standards applicable to that timber harvest activity provide no less resource protection than the standards that are established in this chapter provide for state land except that

(A) AS 41.17.119 establishes the minimum riparian standards; and

(B) this paragraph does not apply to a timber harvest activity that requires a state or federal authorization under a provision of law other than this chapter.

(c) The commissioner shall exempt by regulation from the provisions of this chapter

(1) minor, small scale, or incidental commercial operations of little significance with respect to the purposes of this chapter; and

(2) operations for primarily noncommercial purposes, including but not limited to the harvesting of timber for personal use.

(d) Notwithstanding any other provision of this chapter, the commissioner may not employ the authority vested by this chapter so as to duplicate or preempt the statutory authority of other state agencies to adopt regulations or undertake other administrative actions governing resources, values, or activities on forest land except for

(1) regulations under the Coastal Management Act; and

(2) regulations, if authorized by the commissioner of environmental conservation, relating to control of nonpoint source pollution.

(e) Subject to 16 U.S.C. 1456(f) (sec. 307(f) of the Coastal Zone Management Act of 1972, P.L. 92-583) as to private land, this chapter and the regulations adopted under this chapter establish the forest management standards, policies, and review processes under AS 46.40 (Alaska Coastal Management Act). This subsection does not apply to timber harvest activity that requires a state or federal authorization under a provision of law other than this chapter.

(f) This chapter does not diminish the rights, privileges, or immunities of Alaska Natives or Alaska Native corporations with respect to land conveyed under 43 U.S.C. 1601 - 1628 (Alaska Native Claims Settlement Act), and does not alter or diminish the authority of the Department of Fish and Game under AS 16, of the Department of Environmental Conservation under AS 46, or of a state agency under other law.

History -

(sec. 1 ch 108 SLA 1978; am sec. 24, 25 ch 34 SLA 1990)

Revisors Notes -

Subsections (a) - (c) were formerly AS 41.17.050 and subsection (d) was formerly AS 41.17.020(j). Renumbered in 1983.

Amendment Notes -

The 1990 amendment, effective October 1, 1990, rewrote subsection (b) and added subsections (e) and (f).

Sec. 44.19.145. Functions and duties of the office.

(a) The office shall

(1) provide technical assistance to the governor and the legislature in identifying long range goals and objectives for the state and its political subdivisions;

(2) prepare and maintain a state comprehensive development plan;

(3) provide information and assistance to state agencies to aid in governmental coordination and unity in the preparation of agency plans and programs;

(4) review planning within state government as may be necessary for receipt of federal, state, or other funds;

(5) participate with other countries, provinces, states, or subdivisions of them in international or interstate planning, and assist the state's local governments, governmental conferences, and councils in planning and coordinating their activities;

(6) encourage educational and research programs that further state planning and development, and provide administrative and technical services for them;

(7) publish such statistical information or other documentary material as will further the provisions and intent of AS 44.19.141 - 44.19.152;

(8) assist the governor and the Department of Community and Regional Affairs in coordinating state agency activities that have an effect on the solution of local and regional development problems;

(9) serve as a clearinghouse for information, data, and other materials that may be helpful or necessary to federal, state, or local governmental agencies in discharging their respective responsibilities or in obtaining federal or state financial or technical assistance;

(10) review all proposals for the location of capital improvements by any state agency and advise and make recommendations concerning location of these capital improvements;

(11) render, on behalf of the state, all federal consistency determinations and certifications authorized by 16 U.S.C. 1456 (sec. 307, Coastal Zone Management Act of 1972), and each conclusive state consistency determination when a project requires a permit, lease, or authorization from two or more state resource agencies.

(b) The office shall, in carrying out its functions, consult with local, regional, state and federal officials, private groups and individuals, and with officials of other countries, provinces, and states, and may hold public hearings to obtain information for the purpose of carrying out the provisions of AS 44.19.141 - 44.19.152.

(c) The governor may establish coordinating or advisory planning groups.

(d) The office shall

(1) coordinate its services and activities with those of other state departments and agencies to the fullest extent possible to avoid duplication;

(2) [Repealed, sec. 35 ch 126 SLA 1994].

(3) cooperate with the University of Alaska and other appropriate public and private institutions in research and investigations.

History -

(sec. 2 ch 103 SLA 1966; am sec. 2 ch 219 SLA 1970, am sec. 2 ch 60 SLA 1972; am sec. 8, 10 ch 200 SLA 1972; am sec. 5 ch 207 SLA 1975, am sec. 20 ch 63 SLA 1983; am sec. 1 ch 44 SLA 1990; am sec. 35 ch 126 SLA 1994)

Revisors Notes -

Formerly AS 44.19.880. Renumbered in 1980.

Amendment Notes -

The 1990 amendment substituted "requires a permit, lease, or authorization from two or more state resource agencies" for "requires two or more state or federal permits, leases, or authorizations" at the end of paragraph (a)(11) and made grammatical changes.

The 1994 amendment, effective July 1, 1994, repealed paragraph (d)(2), relating to the office's preparation of an integrated annual report on the long-range development program of the state.

Editors Notes -

Section 3, ch. 44, SLA 1990 provides that the 1990 amendment to (a) of this section is retroactive to March 11, 1984.

Decisions -

Competitive sale of oil and gas development rights - to offshore state land constituted a project requiring a review and finding by the Office of Management and Budget as to whether the project was consistent with the Alaska Coastal Management Program. Trustees for Alaska v. State, Dep't of Natural Resources, 795 P.2d 805 (Alaska 1990).

Consistency determinations by Department of Natural Resources. - The legislature has amended paragraph (a)(11) to permit the Department of Natural Resources to make consistency determinations pursuant to AS 46.40.010. Trustees for Alaska v. State, Dep't of Natural Resources, 847 P.2d 1061 (Alaska 1993).

Consistency determination to be in state's best interest. - The Department of Natural Resources consistency determination is one section of its finding, made in accordance with AS 38.05.035(e), that a sale would serve the State's best interest. Trustees for Alaska v. State, Dep't of Natural Resources, 847 P.2d 1061 (Alaska 1993).

Consistency determination to identify hazards. - The Department of Natural Resources is to identify and report on known and, as to areas of high development potential, substantially possible areas of geographical hazards within the land for which it is making a consistency determination. Trustees for Alaska v. State, Dep't of Natural Resources, 847 P.2d 1061 (Alaska 1993).

Sec. 44.19.155. Alaska Coastal Policy Council.

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

(1) nine public members appointed by the governor from a list comprised of at least three names from each region, nominated by the municipalities of each region; the nominees shall be the mayor or member of the assembly or council of a municipality; one public member shall be appointed from each of the following general regions:

(A) northwest Alaska, including, generally, the area of the North Slope Borough and the Northwest Arctic regional educational attendance area;

(B) Bering Straits, including, generally, the area of the Bering Straits regional educational attendance area;

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

(D) Kodiak-Aleutians, including the area of the Kodiak Island Borough and the Aleutian, Adak and Pribilof regional educational attendance areas;

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

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

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

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

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

(2) each of the following:

(A) the director of the office of management and budget;

(B) the commissioner of commerce and economic development;

(C) the commissioner of community and regional affairs;

(D) the commissioner of environmental conservation;

(E) the commissioner of fish and game;

(F) the commissioner of natural resources; and

(G) the commissioner of transportation and public facilities.

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

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

(d) Each member of the council shall select one person to serve as a permanent alternate at meetings of the council. If a member of the council is unable to attend, the member shall advise the alternate who may attend and act in the place of the member. The alternate for a public member appointed under (a)(1) of this section shall, at the time of the alternate's designation and throughout the period of service as a permanent alternate, be the mayor or member of the

assembly or council of a municipality within the region from which the permanent member is appointed. The alternate for the director of the office of management and budget, serving under (a)(2)(A) of this section, shall be the director's designee within that office. The alternate for a designated member serving under (a)(2)(B) - (G) of this section shall be a deputy commissioner of the department or the director of a division in the department. The names of alternates shall be filed with the council.

(e) Four public members and three designated members of the council constitute a quorum, but one or more of the members designated by the council may hold hearings. All decisions of the council shall be by a majority vote of the members present and voting.

(f) Members of the council or their alternates are entitled to per diem and travel expenses authorized by law for members of boards and commissions.

(g) If an incumbent public member ceases to meet the qualifications prescribed in (a)(1) of this section for nomination to the council or if a vacancy exists among the public members for any other reason except for a vacancy due to the expiration of the term of a public member, the governor shall, within 30 days of the establishment of the vacancy by lack of qualification or other reason, make an appointment, to be immediately effective, for the unexpired portion of the term. An appointment by the governor made under this subsection to fill an unexpired term of a public member shall comply with the requirements of (a)(1) of this section; however, the governor may appoint from qualified persons without soliciting from municipalities nominations of persons to fill the unexpired portion of the term.

History -

(sec. 3 ch 84 SLA 1977; am E.O. No. 39, sec. 11 (1977); am sec. 4, 5 ch 129 SLA 1978; am sec. 22, 23 ch 63 SLA 1983; am sec. 30 ch 168 SLA 1990; am sec. 25 ch 23 SLA 1995)

Revisors Notes -

Formerly AS 44.19.891. Renumbered in 1980.

Cross References -

For per diem and travel expenses, see AS 39.20.180.

Amendment Notes -

The 1990 amendment, effective June 22, 1990, deleted an exception at the end of the first sentence in subsection (b) pertaining to the term of a public member first appointed.

The 1995 amendment, effective May 11, 1995, deleted "after July 9, 1978" preceding "under (a)(1)" in the third sentence in subsection (d).

Article Notes -

Cross References. For the Alaska coastal management program, see AS 46.40; for planning assistance for development and maintenance of district coastal management programs, see AS 44.47.095; for provisions stating the legislative findings and legislative policy, see sec. 1 and 2, ch. 84, SLA 1977 in the Temporary and Special Acts of 1977.

Sec. 44.19.160. Powers of the council.

The council may

(1) apply for and accept grants, contributions, and appropriations, including application for and acceptance of federal funds that may become available for coastal planning and management;

(2) contract for necessary services;

(3) consult and cooperate with

(A) persons, organizations, and groups, public or private, interested in,

affected by, or concerned with coastal area planning and management;

(B) agents and officials of the coastal resource districts of the state, and federal and state agencies concerned with or having jurisdiction over coastal planning and management;

(4) take any reasonable action necessary to carry out the provisions of AS 44.19.155 - 44.19.162.

History -

(sec. 3 ch 84 SLA 1977)

Revisors Notes -

Formerly AS 44.19.892. Renumbered in 1980. Also in 1980, former AS 44.19.160 was renumbered as AS 44.99.007.

Sec. 44.19.161. Duties of the council.

In conformity with 16 U.S.C. 1451-1464 (Coastal Zone Management Act of 1972), as amended, the council shall

(1) through the public hearing process and the recording of the minutes of the hearings, develop guidelines and standards for the preparation of, and approve, in accordance with AS 46.40, the Alaska coastal management program;

(2) establish continuing coordination among state agencies to facilitate the development and implementation of the Alaska coastal management program; in carrying out its duties under this paragraph, the council shall initiate an interagency program of comprehensive coastal resource planning for each geographic region described in AS 44.19.155(a)(1);

(3) assure continued provision of data and information to coastal resource districts to carry out their planning and management functions under the program;

(4) [Repealed, sec. 35 ch 126 SLA 1994].

History -

(sec. 3 ch 84 SLA 1977; am sec. 35 ch 126 SLA 1994)

Revisors Notes -

Formerly AS 44.19.893. Renumbered in 1980.

Amendment Notes -

The 1994 amendment, effective July 1, 1994, repealed paragraph (4), relating to the council's duty to submit annually the portion of the coastal management program approved or amended by the council during the preceding year.

Sec. 44.19.162. Council staff.

The council shall use the staff of the office of coastal management within the office of management and budget in discharging its powers and duties. The coordinator of the office of coastal management, under the direction of the council co-chair who is selected from among the members designated in AS 44.19.155(a)(2), may contract with or employ personnel or consultants the coordinator considers necessary to carry out the powers and duties of the council.

History -

(sec. 3 ch 84 SLA 1977; am sec. 24 ch 63 SLA 1983)

Revisors Notes -

Formerly AS 44.19.894. Renumbered in 1980.

Chapter 46.40. THE ALASKA COASTAL MANAGEMENT PROGRAM
Cross References -

For regulations for the Alaska Coastal Management Program, see 6 AAC 80 and 6 AAC 85.

AG Opinions -

The activities of lessees, permittees and other private persons on nonexclusive federal coastal lands remain subject to state regulatory authority including the coastal management program unless the particular state regulation is preempted by, irreconcilably conflicts with or frustrates the purpose of another federal law. February 3, 1978 Cp. Att'y Gen.

While federal land use decisions will not be governed or controlled by the state's coastal management program, they must, to the degree that they directly affect nonfederal coastal resources, conform to the state program to the maximum extent practicable. February 3, 1978 Op. Att'y Gen.

Article 01. DEVELOPMENT OF ALASKA COASTAL MANAGEMENT PROGRAM

Sec. 46.40.010. Development of Alaska coastal management program.

(a) The Alaska Coastal Policy Council established in AS 44.19.155 shall approve, in accordance with this chapter, the Alaska coastal management program.

(b) The council may approve the Alaska coastal management program for a portion or portions of the coastal area before approving the complete program under (a) of this section. Portions of the program approved under this subsection shall be incorporated into the Alaska coastal management program.

(c) The Alaska coastal management program shall be reviewed by the council and, when appropriate, revised to

(1) add newly approved district coastal management programs, or revisions and amendments to the Alaska coastal management program;

(2) integrate newly approved district coastal management programs, or revisions and amendments of district coastal management programs, with existing approved programs and with plans developed by state agencies;

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

(4) review the effectiveness of implementation of district coastal management programs; and

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

(d) All reviews and revisions shall be in accordance with the guidelines and standards adopted by the council under AS 46.40.040.

History -

(sec. 4 ch 84 SLA 1977)

AG Opinions -

The doctrine of federal preemption, derived from the supremacy clause of the United States Constitution, Article VI, clause 2, would not apply to state regulation of outer continental shelf activities in the coastal zone. May 12, 1980 Op. Att'y Gen.

Reasonable restrictions on oil and gas activities embodied in a local coastal management plan, incorporated into the Alaska Coastal Management Program, would be enforceable against off-shore federal lessees. May 12, 1980 Op. Att'y Gen.

Municipal authority to regulate oil and gas activities of federal lessees depends upon whether the leases are on-shore or off-shore. In the case of the former, the doctrine of federal preemption may prohibit local coastal zone ordinances from affecting any measure of control. In the case of the latter, local coastal management programs which are approved by the Alaska Coastal Policy Council and thus part of the Alaska Coastal Management Program will become one of the touchstones in the state consistency determination required by section 307(c)(3) of the Coastal Zone Management Act, 16 U.S.C. sec. 1451 et seq. May 12, 1980 Op. Att'y Gen.

A municipality enacting a local district coastal management program may restrict or exclude a use of state concern without falling afoul of the constitutional limitations in Alaska Const., art. X, sec. 11 on the exercise of municipal authority if that restriction or exclusion is reasonable, within the meaning of AS 46.40.070(c). May 12, 1980 Op. Att'y Gen.

The Alaska Oil and Gas Conservation Act, AS 31.05.005 et seq., which mandates the conservation of oil and gas and prohibits their waste, would not be contravened by a local coastal management plan which comports with the Alaska Coastal Management Program. May 12, 1980 Op. Att'y Gen.

Decisions -

Competitive sale of oil and gas development rights - to offshore state land constituted a project requiring a review and finding by the Office of Management and Budget as to whether the project was consistent with the Alaska Coastal Management Program. Trustees for Alaska v. State, Dep't of Natural Resources, 795 P.2d 805 (Alaska 1990).

Consistency determinations by Department of Natural Resources. - The legislature has amended AS 44.19.145 (a)(11) to permit the Department of Natural Resources to conduct ACMP consistency determinations, formerly under the strict purview of the Office of Management and Budget. Trustees for Alaska v. State, Dep't of Natural Resources, 847 P.2d 1061 (Alaska 1993).

Article Notes -

Collateral References. - 78 Am. Jur. 2d, Waters, sec. 59-116, 375-438.

65 C.J.S., Navigable Waters, sec. 10-18, 20-132; 93 C.J.S., Waters, sec. 71-85.

Sec. 46.40.020. Objectives.

The Alaska coastal management program shall be consistent with the following objectives:

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

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

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

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

(5) the protection and management of significant historic, cultural, natural, and

aesthetic values and natural systems or processes within the coastal area;

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

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

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

History -

(sec. 4 ch 84 SLA 1977)

Decisions -

Archeological identification at initial sale stage. - Furtherance of the objectives of this section requires the identification of known archeological sites at the initial sale stage of government leases. Trustees for Alaska v. State, Dep't of Natural Resources, 847 P.2d 1061 (Alaska 1993).

Stated in Hammond v. North Slope Borough, 645 P.2d 750 (Alaska 1982).

Sec. 46.40.030. Development of district coastal management programs.

Coastal resource districts shall develop and adopt district coastal management programs in accordance with the provisions of this chapter. The program adopted by a coastal resource district shall be based upon a municipality's existing comprehensive plan or a new comprehensive resource use plan or comprehensive statement of needs, policies, objectives, and standards governing the use of resources within the coastal area of the district. The program must be consistent with the guidelines and standards adopted by the council under AS 46.40.040 and must include

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

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

(3) a statement of policies to be applied to the land and water uses subject to the district coastal management program;

(4) regulations, as appropriate, to be applied to the land and water uses subject to the district coastal management program;

(5) 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 the land and water within the coastal area;

(6) a summary or statement of the policies which will be applied and the procedures which will be used to determine whether specific proposals for land or water uses or activities shall be allowed; and

(7) a designation of, and the policies which will be applied to the use of, areas within the coastal resource district which merit special attention.

History -

(sec. 4 ch 84 SLA 1977)

AG Opinions -

The adoption of forest practices regulations by the Department of Natural Resources in 11 AAC 95 has completely preempted the coastal policy council's regulations, 6 AAC 80.100, in

regulating timber harvest and processing in the coastal area. April 20, 1981 Op. Att'y Gen.

The allocation of responsibility for administration of the forest practices regulations in coastal management consistency determinations is sufficiently unclear that it seems appropriate for resolution by the adoption of regulations since differing policy considerations emphasized in the Forest Practices Act, the Coastal Management Act, and proposed permit reform regulations will be served to a greater or lesser extent by assigning responsibility for interpreting and applying the forest practices regulations to more than one agency and since a particular result is not compelled under the various pieces of authorizing legislation. April 20, 1981 Op. Att'y Gen. Decisions -

Stated in *Hammond v. North Slope Borough*, 645 P.2d 750 (Alaska 1982).

Sec. 46.40.040. 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 AS 44.62 (Administrative Procedure 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;
 - (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;
- (6) by regulation, establish a consistency review and determination or certification process that conforms to the requirements of AS 46.40.096.

History -

(sec. 4 ch 84 SLA 1977; am sec. 1 ch 129 SLA 1978; am sec. 1 ch 34 SLA 1994)

Cross References -

For regulations for the Alaska Coastal Management Program, see 6 AAC 80 and 6 AAC 85.

Amendment Notes -

The 1994 amendment, effective August 7, 1994, made a minor stylistic change in the introductory language in paragraph (1), added paragraph (6), and made a related stylistic change.

Sec. 46.40.050. Action and submission by coastal resource districts.

Each coastal resource district shall make substantial progress, in the opinion of the council, toward completion of an approvable district coastal management program and shall complete and submit to the council for approval its program within 30 months of June 4, 1977 or within 30 months of certification of the results of the district's organization, whichever is later. If, in the opinion of the council, after receipt of a written request for extension from the district which includes the reasons for the extension, an extension is considered proper, the council may grant an extension to a date which is not later than December 4, 1981, or to a date which is within 54 months of certification of the results of the district's organization, whichever is later.

History -

(sec. 4 ch 84 SLA 1977; am sec. 1 ch 66 SLA 1979)

Sec. 46.40.060. Review and approval by council.

(a) If, upon submission of a district coastal management program for approval, the council finds that the program is substantially consistent with the provisions of this chapter and the guidelines and standards adopted by the council and does not arbitrarily or unreasonably restrict or exclude uses of state concern, the council may grant summary approval of the district coastal management program, or may approve portions of the district program which are consistent.

(b) If the council finds that a district coastal management program is not approvable or is approvable only in part under (a) of this section, it shall direct that deficiencies in the program submitted by the coastal resource district be mediated. In mediating the deficiencies, the council may call for one or more public hearings in the district. The council shall meet with officials of the coastal resource district in order to resolve differences.

(c) If, after mediation, the differences have not been resolved to the mutual agreement of the coastal resource district and the council, the council shall call for a public hearing and shall resolve the differences in accordance with AS 44.62 (Administrative Procedure Act). After a public hearing held under this subsection, the council shall enter findings and, by order, may require

(1) that the district coastal management program be amended to make it consistent with the provisions of this chapter or the guidelines and standards adopted by the council;

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

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

(d) The superior courts of the state have jurisdiction to enforce orders of the council entered under (c) of this section.

History -

(sec. 4 ch 84 SLA 1977)

AG Opinions -

The invalid provisions of AS 46.40.080 are severable from the remainder of the Coastal

Management Act. Thus, council guidelines take effect when adopted in accordance with the Administrative Procedure Act, AS 44.62. The effective date of council action on district programs is governed by the council's regulations and this section. April 29, 1980 Op. Att'y Gen.

A municipality enacting a local district coastal management program may restrict or exclude a use of state concern without falling afoul of the constitutional limitations in Alaska Const., art. X, sec. 11 on the exercise of municipal authority if that restriction or exclusion is reasonable, within the meaning of AS 46.40.070(c). May 12, 1980 Op. Att'y Gen.

Sec. 46.40.070. Standards for council review and approval.

(a) The council shall approve a district coastal management program submitted for review and approval if the program is consistent with the provisions of this chapter and the guidelines and standards adopted by the council.

(b) Notwithstanding an inconsistency of a district coastal management program submitted for review and approval with the guidelines and standards adopted, the council shall approve the program if it finds that

(1) strict adherence to the guidelines and standards adopted would result in a violation of another state law or policy;

(2) strict adherence to the guidelines and standards adopted would cause or probably cause substantial irreparable harm to another interest or value in the coastal area of the district; or

(3) the inconsistency is of a technical nature and no substantial harm would result to the policies and objectives of this chapter or the Alaska coastal management program.

(c) In determining whether a restriction or exclusion of a use of state concern is arbitrary or unreasonable, the council shall approve the restriction or exclusion if it finds that

(1) the coastal resource district has consulted with and considered the views of appropriate federal, state, or regional agencies;

(2) the district has based its restriction or exclusion on the availability of reasonable alternative sites; and

(3) the district has based its restriction or exclusion on an analysis showing that the proposed use is incompatible with the proposed site.

(d) A decision by the council under this section shall be given within 90 days.

History -

(sec. 4 ch 84 SLA 1977)

AG Opinions -

Reading subsection (b) as vesting local officials with complete control over policy formulation would probably render the Alaska Coastal Management Act unconstitutional under Alaska Const., art. VIII, sec. 2. May 12, 1980 Op. Att'y Gen.

Reasonable restrictions on oil and gas activities embodied in a local coastal management plan, incorporated into the Alaska Coastal Management Program, would be enforceable against off-shore federal lessees. May 12, 1980 Op. Att'y Gen.

A municipality enacting a local district coastal management program may restrict or exclude a use of state concern without falling afoul of the constitutional limitations in Alaska Const., art. X, sec. 11 on the exclusion of municipal authority if that restriction or exclusion is reasonable, within the meaning of subsection (c). May 12, 1980 Op. Att'y Gen.

The Alaska Oil and Gas Conservation Act, AS 31.05.005 et seq., which mandates the conservation of oil and gas and prohibits their waste, would not be contravened by a local coastal

management plan which comports with the Alaska Coastal Management Program. May 12, 1980 Op. Att'y Gen.

Sec. 46.40.080. Effective date of Alaska coastal management program.

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.

History -

(sec. 4 ch 84 SLA 1977)

Cross References -

For effective dates related to the Alaska Coastal Management Program, see 6 AAC 80.170(n) and 6 AAC 85.180; for resolution approving certain regulations under this section before the A.L.I.V.E. decision (discussed in notes below), see LR 41 in the 1978 Temporary and Special Acts and Resolves.

AG Opinions -

Under the decision in *State v. A.L.I.V.E. Voluntary*, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980), that the use of legislative resolutions as a veto over regulations, programs or other actions or proposed actions is constitutionally impermissible except as expressly provided by the constitution, this section is invalid. March 6, 1980 Op. Att'y Gen.

The invalid provisions of section are severable from the remainder of the Coastal Management Act. Thus, council guidelines take effect when adopted in accordance with the Administrative Procedure Act, AS 44.62. The effective date of council action on district programs is governed by the council's regulations, and AS 46.40.060. April 29, 1980 Op. Att'y Gen.

Sec. 46.40.090. Implementation of district coastal management programs.

(a) A district coastal management program approved by the council and the legislature for a coastal resource district which does not have and exercise zoning or other controls on the use of resources within the coastal area shall be implemented by appropriate state agencies.

Implementation shall be in accordance with the comprehensive use plan or the statement of needs, policies, objectives, and standards adopted by the district.

(b) A coastal resource district which has and exercises zoning or other controls on the use of resources within the coastal area shall implement its district coastal management program. Implementation shall be in accordance with the comprehensive use plan or the statement of needs, policies, objectives, and standards adopted by the district.

History -

(sec. 4 ch 84 SLA 1977)

Sec. 46.40.094. Consistency determinations for phased uses and activities.

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

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

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

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

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

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

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

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

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

(A) applicable statutes and regulations;

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

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

(ii) material to the consistency determination; and

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

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

(c) In this section,

(1) "agency responsible for the consistency determination" means

(A) the office of management and budget, for a consistency determination required to be made under AS 44.19.145(a)(11); and

(B) the commissioner of the resource agency that coordinates a consistency review for a proposed use or activity, or for a proposed phase of a use or activity, when required by this chapter for which a permit, lease, or authorization is required to be approved or issued only by that resource agency;

(2) "resource agency" has the meaning given in AS 44.19.152.

History -

(sec. 8 ch 38 SLA 1994)

Cross References -

For legislative findings in connection with the enactment of this section, see sec. 1, ch. 38, SLA 1994 in the Temporary and Special Acts.

History Reports -

For legislative letter of intent in connection with the enactment of this section, see the Senate Letter of Intent for CSSB 308(FIN) am, as amended, at 1994 Senate Journal 3853.

Sec. 46.40.096. Consistency reviews and determinations.

(a) The council shall, by regulation, establish a consistency review and determination process that conforms to the requirements of this section.

(b) If a consistency review is not subject to AS 44.19.145(a)(11) because the project for which a consistency review is made requires a permit, lease, or authorization from only one state agency, that state agency shall coordinate the consistency review of the project. The state agency shall coordinate the consistency review according to the requirements of the regulations adopted by the council under this section.

(c) The regulations adopted by the council under this section must include provisions for public notice and provide the opportunity for public comment. The regulations adopted under this subsection may make distinctions relating to notice based upon differences in project type, anticipated effect of the project on coastal resources and uses, other state or federal notice requirements, and time constraints. However, a notice given under this subsection must contain sufficient information, expressed in commonly understood terms, to inform the public of the nature of the proposed project for which a consistency determination is sought, and must explain how the public may comment on the proposed project.

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

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

(2) prepare proposed consistency determinations;

(3) coordinate subsequent reviews of proposed consistency determinations prepared under (2) of this subsection; a subsequent review of a proposed consistency determination under this paragraph

(A) is limited to a review by the state resource agencies; and

(B) may occur only if requested by

(i) the project applicant;

(ii) a state resource agency; or

(iii) an affected coastal resource district;

(4) after providing an opportunity to file a petition for review under (e) of this section, render the final consistency determination and certification.

(e) Under regulations adopted by the council, the reviewing entity shall provide opportunity to file a petition under AS 46.40.100(b)(1) seeking a review by the council of the proposed consistency determination prepared under (d)(2) of this section. The regulations must include provisions that establish a reasonable limit on the time that may elapse between the completion of the proposed consistency determination prepared under (d)(2) of this section and a hearing to consider a petition filed under this subsection. Not more than 30 days shall elapse between the filing of the petition and the decision by the council. Under this subsection,

(1) the right to file a petition is limited to

(A) each of the following parties, but only if the party had submitted comments during the period for receipt of public comments established under (c) of this section:

(i) an affected coastal resource district;

(ii) a state agency; or

(iii) a citizen of an affected coastal resource district; or

(B) the project applicant; and

(2) the reviewing entity

(A) may not accept a petition filed under this subsection if a final consistency determination has been rendered under (d)(4) of this section;

(B) may accept a petition filed by a party identified in (1)(A)(i), (1)(A)(ii), or (1)(B) of this subsection only if a party had requested a review of the proposed consistency determination prepared under (d)(2) of this section;

(C) may accept a petition filed by a party identified in (1)(A)(iii) of this subsection without regard to whether a party had requested a review of the proposed consistency determination prepared under (d)(2) of this section.

(f) For a consistency review subject to AS 44.19.145(a)(11), the council may, by regulation, limit consideration of a petition under (e) of this section seeking review of a proposed consistency determination to the extent necessary to meet the deadlines set by federal law for timely submission of a federal consistency determination as allowed by 16 U.S.C. 1456.

(g) In this section,

(1) "affected coastal resource district" means a coastal resource district in which a project is proposed to be located or which may experience a direct and significant impact from a proposed project;

(2) "reviewing entity" means the

(A) office, for a consistency review subject to AS 44.19.145(a)(11);

(B) state agency identified in (b) of this section, for a consistency review not subject to AS 44.19.145(a)(11).

History -

(sec. 2 ch 34 SLA 1994)

Sec. 46.40.100. Compliance and enforcement.

(a) Municipalities and state agencies shall administer land and water use regulations or controls in conformity with district coastal management programs approved by the council and the legislature and in effect.

(b) A party that is authorized under AS 46.40.096(e)(1) or (g) of this section may file a petition showing that a district coastal management program is not being implemented, enforced, or complied with. On receipt of a petition, the council, after giving public notice in the manner required by (f) of this section, shall convene a hearing to consider the matter. A hearing called under this subsection shall be held in accordance with regulations adopted by the council. After hearing,

(1) if the petition was filed under AS 46.40.096(e) and the council finds that

(A) the office or the state agency responsible for coordinating the consistency review has not fairly considered the petitioner's comments in the development of a proposed consistency determination, the council shall remand the proposed consistency determination to the office, or to the state agency responsible for coordinating the consistency review, for preparation of a revised proposed consistency determination that gives fair consideration to the petitioner's comments;

(B) a remand of the consistency determination is not required under (A) of this paragraph, the council shall dismiss the petition;

(2) if the petition was not filed under AS 46.40.096(e), the council may order that

the coastal resource district or a state agency take any action the council considers necessary to implement, enforce, or comply with the district coastal management program.

(c) Except when a petition has been filed under AS 46.40.096(e), in determining whether an approved district coastal management program is being implemented, enforced, or complied with by a coastal resource district that exercises zoning authority or controls on the use of resources within the coastal area, the council shall find in favor of the district if

(1) zoning or other regulations have been adopted and are being enforced;
(2) variances are being granted according to procedures and criteria that are elements of the district coastal management program, or the variance is otherwise approved by the council; and

(3) procedures and standards adopted by the coastal resource district as required by this chapter or by the guidelines and standards adopted by the council and subsequently approved by the legislature have been followed and considered.

(d) Except when a petition has been filed under AS 46.40.096(e), in determining whether a state agency is complying with a district coastal management program with respect to its exercise of regulation or control of the resources within the coastal area, the council shall find in favor of the agency if

(1) the use or activity for which the permit, license, or approval is granted is consistent with the district coastal management program and regulations adopted under it; and

(2) the use or activity for which the permit, license, or approval is granted is consistent with requirements imposed by state statute, regulation, or local ordinance applicable to the use or activity.

(e) The superior courts of the state have jurisdiction to enforce lawful orders of the council.

(f) Upon receipt of a petition under (b) of this section, the council shall give notice of the hearing convened to consider the petition as follows:

(1) notice of the hearing shall be given at least 10 days before the scheduled date of the hearing

(A) by publication in

(i) a newspaper of statewide circulation; or

(ii) a newspaper of general circulation in the vicinity of the district coastal management program that is the subject of the petition; and

(B) by at least one of the following methods:

(i) publication through public service announcements on the electronic media serving the area affected by the district coastal management program;

(ii) posting in a conspicuous location in the vicinity of the proposed project or action;

(iii) notifying parties known or likely to be affected by the proposed project or action; or

(iv) another method calculated to effectively notify affected interested parties.

(2) a notice provided under (1) of this subsection must

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

(B) indicate the manner in which the public may comment on the petition if the petition is filed under (b)(2) of this section.

- (g) The opportunity to petition under (b)(2) of this section is limited to
- (1) a coastal resource district;
 - (2) a citizen of the coastal resource district; or
 - (3) a state agency.

History -

(sec. 4 ch 84 SLA 1977; am sec. 3 - 6 ch 34 SLA 1994)

Amendment Notes -

The 1994 amendment, effective August 7, 1994, in subsection (b), added the first sentence, rewrote the second sentence, substituted "regulations adopted by the council" for "the Administrative Procedure Act (AS 44.62)" in the third sentence, added paragraph (1), added the paragraph (2) designation and added "if the petition was not filed under AS 46.40.096(e)," at the beginning therein; in subsections (c) and (d), substituted "Except when a petition has been filed under AS 46.40.096(e), in" for "In" in the introductory language and made stylistic changes; and added subsections (f) and (g).

AG Opinions -

For effective date of coastal management programs, see notes under this heading following AS 46.40.080.

Decisions -

Quoted in *Kuitsarak Corp. v. Swope*, 870 P.2d 387 (Alaska 1994).

Article 02. COASTAL MANAGEMENT PROGRAMS IN THE UNORGANIZED BOROUGH

Sec. 46.40.110. Authority in the unorganized borough.

Under AS 29.03.020 and AS 46.40.110 - 46.40.180, the legislature authorizes organization of coastal resource service areas in the unorganized borough and grants authority to the service areas which may be organized to perform the duties required under this chapter.

History -

(sec. 4 ch 84 SLA 1977)

Article Notes -

Collateral References.- 78 Am. Jur. 2d, *Waters*, sec. 59-116, 375-438.

65 C.J.S., *Navigable Waters*, sec. 10-18, 20-132; 93 C.J.S., *Waters*, sec. 71-85.

Sec. 46.40.120. Coastal resource service areas.

(a) Except as otherwise provided in this section, each regional educational attendance area established under AS 14.08.031 containing a part of the coastal area may be organized as a coastal resource service area.

(b) The commissioner of community and regional affairs may, after public hearings held in the area affected, consolidate two or more regional educational attendance areas as a single coastal resource service area

(1) if a substantial portion of the coastal area contains land and water area owned by the federal government over which it exercises exclusive jurisdiction or land held in trust by the federal government for Alaska Natives over which the state would not exercise control as to use; or

(2) if, after giving due consideration to the standards applicable to incorporation of borough governments and the likelihood that a borough will be incorporated within the area,

the commissioner determines that the functions to be performed under this chapter could be undertaken more efficiently through the combination of two or more regional educational attendance areas as a single coastal resource service area.

(c) A determination under (b) of this section shall be made before organization of the coastal resource service area.

(d) For purposes of coastal zone management only, the commissioner of community and regional affairs may, after public hearings held in the regional educational attendance area affected, divide an existing regional educational attendance area into no more than three coastal resource service areas according to geographic, cultural, economic, environmental, or other features relevant to coastal management planning. However

(1) each coastal resource service area formed by dividing an existing regional educational attendance area must contain at least one first class city or home rule city;

(2) a city within a coastal resource service area formed by dividing an existing regional educational attendance area may not elect to exclude itself from the coastal resource service area; and

(3) a coastal resource service area formed before June 1, 1980, may not be divided for coastal management planning purposes.

History -

(sec. 4 ch 84 SLA 1977; am sec. 2 ch 129 SLA 1978; am sec. 1, 2 ch 48 SLA 1980)

Sec. 46.40.130. Organization of coastal resource service area.

(a) Organization of a coastal resource service area may be initiated

(1) by submission to the council of a petition signed by a number of registered voters equal to 15 percent of the number of votes cast within the coastal resource service area at the last state general election;

(2) by submission to the council of a resolution approved by the city council or traditional village council of not less than 25 percent of the number of cities and villages within the coastal service area; or

(3) at the direction of a majority of the members of the council in the manner set out in AS 46.40.160.

(b) Acting at the request of the council, the lieutenant governor, not less than 60 nor more than 90 days after receipt of a proper petition under (a)(1) of this section, a proper resolution under (a)(2) of this section, or at the direction of the council under (a)(3) of this section, shall conduct an election on the question of organization of a coastal resource service area.

History -

(sec. 4 ch 84 SLA 1977)

Sec. 46.40.140. Coastal resource service area boards.

(a) Each coastal resource service area, upon organization, shall have an elected board representing the population of the service area. The board shall have the powers and duties and perform the functions prescribed for or required of coastal resource districts.

(b) A coastal resource service area board shall contain seven members. Board members shall be elected at large by the qualified voters of the coastal resource service area.

(c) The commissioner of community and regional affairs, after consultation with residents of a coastal resource service area, may divide a service area into sections only for the purpose of nominating and electing board members. Division of a service area into sections for the purpose

of nomination and election shall be in accordance with the provisions of AS 14.08.051(a). Division may be proposed in the petition submitted under AS 46.40.130(a)(1), in the resolution submitted under AS 46.40.130(a)(2), at the direction of the council under AS 46.40.130(a)(3), or may be proposed at any time by the members of the coastal resource service area board. If proposed by the board, the division of the service area into sections is subject to approval of a majority of the qualified voters voting on the question in the coastal resource service area at the next regular election or at a special election called for that purpose and, if approved, takes effect at the next regular election of members of the coastal resource service area board.

(d) The term of office of a member of a coastal resource service area board is three years, except that the terms of the members of the first board elected after organization of a coastal resource service area shall be determined by lot, with two members serving one-year terms, two members serving two-year terms, and three members serving three-year terms. Members serve until their successors are elected and have qualified. This section does not prohibit the reelection of a board member.

(e) The lieutenant governor shall provide for the election of the members of coastal resource service area boards. The first election of board members shall occur at the same time as the organization election under AS 46.40.130(b).

(f) Except for the first election of members of coastal resource service area boards, elections shall be held annually on the date of election of members of regional educational attendance area boards under AS 14.08.071(b). For an election under this subsection or under (e) of this section, a newly elected board member takes office at the first coastal resource service area board meeting after certification of the election. If no candidate files for election to a seat on the coastal resource service area board, the seat is considered vacant at the time a newly elected member would have taken office.

(g) A seat on a coastal resource service area board shall be declared vacant by the board if the criteria under AS 14.08.045(a) apply to the person elected. A vacancy on a coastal resource service area board shall be filled by appointment as provided in AS 14.12.070 for vacancies in the membership of regional educational attendance area boards.

(h) Members of coastal resource service area boards are subject to recall on the same grounds and in the same manner as provided for recall of municipal officials in AS 29.26.240 - 29.26.350. The lieutenant governor functions in place of the assembly or council and municipal clerk for receipt and review of recall petitions and the conduct of recall elections.

History -

(sec. 4 ch 84 SLA 1977; am sec. 85 ch 74 SLA 1985; am sec. 5 - 7 ch 129 SLA 1990)

Sec. 46.40.150. Elections in coastal resource service areas.

Organization elections under AS 46.40.130 and other elections, including recall elections conducted under AS 46.40.140, shall be administered by the lieutenant governor in the general manner provided in AS 15 (Election Code). In addition, the lieutenant governor may adopt regulations necessary to the conduct of coastal resource service area board elections. The state shall pay all election costs.

History -

(sec. 4 ch 84 SLA 1977)

Sec. 46.40.160. Organization at the direction of the council.

(a) Whenever it appears that major economic development activity will occur in a coastal

MILLER MCCRAY - DEC Anchorage



LAWS OF ALASKA

1977

Source

CGS SCS CSUB 342

Chapter No.

84

AN ACT

Relating to the management of the coastal resources of the state; and providing for an effective date.

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

* Section 1. LEGISLATIVE FINDINGS. The legislature finds that

(1) the coastal area of the state is a distinct and valuable natural resource of concern to all the people of the state;

(2) the demands upon the resources of the coastal area are significant, and will increase in the future;

(3) the protection of the natural and scenic resources and the fostering of wise development of the coastal area are of concern to present and future citizens of the state;

(4) the capacity of the coastal area to withstand the demands upon it is limited;

(5) the degree of planning and resource allocation which has occurred in the coastal area has often been motivated by short-term considerations, unrelated to sound planning principles; and

(6) in order to promote the public health and welfare there is a critical need to engage in comprehensive land and water use planning in coastal areas and to establish the means by which a planning process and management program involving the several governments and areas of the unorganized borough having an interest in the coastal area may be effectively implemented.

* Sec. 2. LEGISLATIVE POLICY. It is the policy of the state to

(1) preserve, protect, develop, use, and, where necessary, restore or enhance the coastal resources of the state for this and succeeding generations;

(2) encourage coordinated planning and decision making in the coastal area among levels of government and citizens engaging in or affected by activities involving the coastal resources of the state;

(3) develop a management program which sets out policies, objectives, standards and procedures to guide and resolve conflicts among users of coastal resources;

upon the coastal land and water of the state;

(4) assure the participation of the public, local governments, and agencies of the state and federal governments in the development and implementation of a coastal management program;

(5) utilize existing governmental structures and authorities, to the maximum extent feasible, to achieve the policies set out in this section; and

(6) authorize and require state agencies to carry out their planning duties, powers and responsibilities and take actions authorized by law with respect to programs affecting the use of the resources of the coastal area in accordance with the policies set out in this section and the guidelines and standards adopted by the Alaska Coastal Policy Council under AS 46.35.

* Sec. 3. AS 44.19 is amended by adding new sections to read:

ARTICLE 11A. ALASKA COASTAL POLICY COUNCIL.

Sec. 44.19.891. ALASKA COASTAL POLICY COUNCIL. (a) There is created in the Office of the Governor the Alaska Coastal Policy Council. The council consists of the following:

(1) nine public members appointed by the governor from a list comprised of at least three names from each region, nominated by the municipalities of each region, the nominees shall be the mayor or member of the assembly or council of a municipality; one public member shall be appointed from each of the following general regions:

(A) northwest Alaska, including, generally, the area of the North Slope Borough and the Northwest Arctic regional educational attendance area;

(B) Bering Straits, including, generally, the area of the Bering Straits regional educational attendance area;

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

(D) Kodiak-Aleutians, including the area of the Kodiak Island Borough and the Aleutian, Adak and Pribilof regional educational attendance areas.

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

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

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

(H) northern Southeast Alaska, including the area southeast of 141° W. longitude and north of 57° N Borough of Sitka, and

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

(2) each of the following:

(A) the director of the division of policy development and planning;

(B) the commissioner of the Department of Commerce and Economic Development;

(C) the commissioner of the Department of Community and Regional Affairs;

(D) the commissioner of the Department of Environmental Conservation;

(E) the commissioner of the Department of Fish and Game;

(F) the commissioner of the Department of Natural Resources; and

(G) the commissioner of the Department of Public Works.

(b) Each public member appointed by the governor under (a)(1) of this section serves a term of two years and until his successor is appointed and qualified, except that the term of office of a public member first appointed under (a)(1)(A), (a)(1)(C), (a)(1)(E) and (a)(1)(G) of this section shall be one year. A public member may be reappointed.

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

(d) Members appointed under (a) of this section may select one person to serve as a permanent alternate at meetings of the council. If the member appointed is unable to attend, the alternate may act in his place.

(e) Four public members and three designated members of the council constitute a quorum, but one or more of the members designated by the council may hold hearings. All decisions of the council shall be by a majority vote of the

Hypothetical Permit Review Process

Coastal zone
Project

→ Coastal project
questionnaire

DEC coordinates the
consistency review - multi-
agency

50 day review -
may be stopped at
Day 25 based on the
need for more info.

3 agency
permits
needed

DNR - Tidelands permit

[EPA - NPDES
DEC's - 401 certification

DEC - air permit

Agencies required to have
a public review process -
regardless of ACMP
requirements

→ Coordinated agency / applicant meeting w/ local district, agencies, possible special interest groups.

→ DNR Best Interest finding

→ possible jt hearing w/ EPA & DEC

→ DEC - Draft air permit w/ public hearing

→ Participates in ~~decision~~ consistency determination
F&G - participates too

meetings take permit writers away from this policy to participate in Acmp determination

→ Administrative appeal
→ Court

→ possible project stipulations:
1) mitigation for potential habitat impacts - moose population studies or suspension of project during calving season
2) limitations on activities involving air emissions.
Could be proposed by any agency involved although DEC's permit jurisdiction.

Scott Nak 4243800

AS 29 + 46 - planning
6 AAC 80 ^{46.40.210(2)} ♂

44.19.145(a)(11)

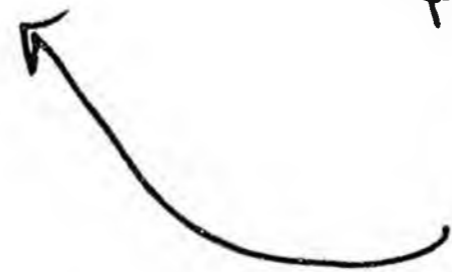
AS 40 +

→ agencies, district or applicant
may disagree w/ determination

→ elevate to director

→ elevate to Commissioner

petition
→ elevate to CPC
included eligible
petitioners:
✓ community members
✓ agencies
✓ applicant



possible remand to agencies