

HB

439

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 3/13/02

REPORTED OUT
APR 24 2002
SENATE FINANCE
COMMITTEE

FURTHER:

DATE TURNED IN TO OFFICE: 4/24/02

Finance Committee considered **CS FOR HOUSE BILL NO. 439(RES)(title.am)**

HB 439 COASTAL ZONE MANAGEMENT PETITIONS

"An Act removing provisions providing an opportunity to petition for review of proposed or final consistency determinations under the Alaska coastal zone management program; and limiting the authority of the Alaska Coastal Policy Council to order a coastal resource district or a state agency to take action with respect to a proposed or final consistency determination."

and recommends:

- be replaced with S CS for CS HB 439 (FIN)
- adopt previous CS - CS FORTHCOMING ()
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR # _____

NEW FISCAL NOTE(S):

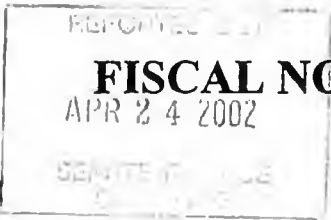
Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
Gov	2/20/02		Ø	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Lynne Green</i>	✓			
<i>Ally Lustig</i>	✓			
<i>Sam Hoff</i>			✓	
<i>Sam Wilken</i>	✓			
<i>Gregory A. Simon</i>	✓			
<i>Jay [unclear]</i>	✓			
COCHAIR: <i>[Signature]</i>				
COCHAIR: <i>[Signature]</i>	✓			



**STATE OF ALASKA
2002 LEGISLATIVE SESSION**

Fiscal Note Number: 1
 Bill Version: HB 439
 (H) Publish Date: 2/27/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Office of the Governor
 Title: "An Act removing provisions under the Alaska coastal zone management program." BRU: Governmental Coordination
 Sponsor: House Special Committee on Oil & Gas Component: Governmental Coordination
 Requester: House Special Committee on Oil & Gas Component No.: 18

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES

CHANGE IN REVENUES () - ()

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact.

Prepared by: Patrick Galvin, Director Phone 465-3562
 Division: Governmental Coordination Date/Time 2/20/02 3:37 PM
 Approved by: David Ramseur, Chief of Staff Date 02/20/2002
 Agency: Office of the Governor

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

3 (2) [(B)] indicate the manner in which the public may comment on the
4 petition [IF THE PETITION IS FILED UNDER (b)(2) OF THIS SECTION].

5 * Sec. 6. AS 46.40.100(g) is amended to read:

6 (g) The opportunity to petition [UNDER (b)(2) OF THIS SECTION] is
7 limited to

8 (1) a coastal resource district;

9 (2) a citizen of the coastal resource district; or

10 (3) a state resource agency.

11 * Sec. 7. AS 46.40.100 is amended by adding a new subsection to read:

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

19 * Sec. 8. AS 46.40.210 is amended by adding a new paragraph to read:

20 (9) "resource agency" has the meaning given in AS 44.19.152.

21 * Sec. 9. AS 46.40.094(c)(2), 46.40.096(e), 46.40.096(f), and 46.40.100(d) are repealed.

"Conceptual" Amendment #4

"This act takes effect immediately with transitional language to allow petitions already in progress be allowed to proceed.

Our Proof.
22-LS146410
OK'ed
per
Laura
4/26/02

SENATE CS FOR CS FOR HOUSE BILL NO. 439(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE SPECIAL COMMITTEE ON OIL AND GAS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to compliance with and implementation of district coastal management
2 programs; removing the opportunity to petition for review of proposed or final
3 consistency determinations under the Alaska coastal zone management program; and
4 limiting the authority of the Alaska Coastal Policy Council to order a coastal resource
5 district or a state agency to take action with respect to a proposed or final consistency
6 determination; and providing for an effective date."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. AS 46.40.096(d) is amended to read:

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

11 (1) request consistency review comments for the proposed project
12 from state resource agencies, affected coastal resource districts, and other interested
13 parties as determined by regulation adopted by the council;

1 (2) prepare proposed consistency determinations;
 2 (3) coordinate subsequent reviews of proposed consistency
 3 determinations prepared under (2) of this subsection; a subsequent review of a
 4 proposed consistency determination under this paragraph

5 (A) is limited to a review by the state resource agencies; and

6 (B) may occur only if requested by

7 (i) the project applicant;

8 (ii) a state resource agency; or

9 (iii) an affected coastal resource district;

10 (4) [AFTER PROVIDING AN OPPORTUNITY TO FILE A
 11 PETITION FOR REVIEW UNDER (e) OF THIS SECTION,] render the final
 12 consistency determination and certification.

13 * **Sec. 2.** AS 46.40.100(a) is amended to read:

14 (a) Municipalities and state resource agencies shall administer land and water
 15 use regulations or controls in conformity with district coastal management programs
 16 approved by the council [AND THE LEGISLATURE] and in effect.

17 * **Sec. 3.** AS 46.40.100(b) is amended to read:

18 (b) A party that is authorized under [AS 46.40.096(e)(1) OR] (g) of this
 19 section may file a petition showing that a district coastal management program is not
 20 being implemented. A petition filed under this subsection may not seek review of
 21 a proposed or final consistency determination regarding a specific project [.
 22 ENFORCED, OR COMPLIED WITH]. On receipt of a petition, the council, after
 23 giving public notice in the manner required by (f) of this section, shall convene a
 24 hearing to consider the matter. A hearing called under this subsection shall be held in
 25 accordance with regulations adopted by the council. After hearing,

26 [(1) IF THE PETITION WAS FILED UNDER AS 46.40.096(e) AND
 27 THE COUNCIL FINDS THAT

28 (A) THE OFFICE OR THE STATE AGENCY
 29 RESPONSIBLE FOR COORDINATING THE CONSISTENCY REVIEW
 30 HAS NOT FAIRLY CONSIDERED THE PETITIONER'S COMMENTS IN
 31 THE DEVELOPMENT OF A PROPOSED CONSISTENCY

1 DETERMINATION, THE COUNCIL SHALL REMAND THE PROPOSED
 2 CONSISTENCY DETERMINATION TO THE OFFICE, OR TO THE
 3 STATE AGENCY RESPONSIBLE FOR COORDINATING THE
 4 CONSISTENCY REVIEW, FOR PREPARATION OF A REVISED
 5 PROPOSED CONSISTENCY DETERMINATION THAT GIVES FAIR
 6 CONSIDERATION TO THE PETITIONER'S COMMENTS;

7 (B) A REMAND OF THE CONSISTENCY
 8 DETERMINATION IS NOT REQUIRED UNDER (A) OF THIS
 9 PARAGRAPH, THE COUNCIL SHALL DISMISS THE PETITION;

10 (2) IF THE PETITION WAS NOT FILED UNDER AS 46.40.096(e),]
 11 the council may order that the coastal resource district or a state resource agency take
 12 any action with respect to future implementation of the district coastal
 13 management program that the council considers necessary, except that the council
 14 may not order that the coastal resource district or a state agency take any action
 15 with respect to a proposed or final consistency determination that has been issued
 16 [TO IMPLEMENT, ENFORCE, OR COMPLY WITH THE DISTRICT COASTAL
 17 MANAGEMENT PROGRAM].

18 * Sec. 4. AS 46.40.100(c) is amended to read:

19 (c) In [EXCEPT WHEN A PETITION HAS BEEN FILED UNDER
 20 AS 46.40.096(e), IN] determining whether an approved district coastal management
 21 program is being implemented [, ENFORCED, OR COMPLIED WITH] by a coastal
 22 resource district that exercises zoning authority or controls on the use of resources
 23 within the coastal area or by a state resource agency, the council shall find in favor
 24 of the district or the state resource agency, unless the council finds a pattern of
 25 nonimplementation [IF

26 (1) ZONING OR OTHER REGULATIONS HAVE BEEN ADOPTED
 27 AND ARE BEING ENFORCED;

28 (2) VARIANCES ARE BEING GRANTED ACCORDING TO
 29 PROCEDURES AND CRITERIA THAT ARE ELEMENTS OF THE DISTRICT
 30 COASTAL MANAGEMENT PROGRAM, OR THE VARIANCE IS OTHERWISE
 31 APPROVED BY THE COUNCIL; AND

1 (3) PROCEDURES AND STANDARDS ADOPTED BY THE
 2 COASTAL RESOURCE DISTRICT AS REQUIRED BY THIS CHAPTER OR BY
 3 THE GUIDELINES AND STANDARDS ADOPTED BY THE COUNCIL AND
 4 SUBSEQUENTLY APPROVED BY THE LEGISLATURE HAVE BEEN
 5 FOLLOWED AND CONSIDERED].

6 * Sec. 5. AS 46.40.100(f) is amended to read:

7 (f) Upon receipt of a petition under (b) of this section, the council shall give
 8 notice of the hearing [CONVENED TO CONSIDER THE PETITION AS
 9 FOLLOWS:]

10 (1) [NOTICE OF THE HEARING SHALL BE GIVEN] at least 10
 11 days before the scheduled date of the hearing. The

12 [(A) BY PUBLICATION IN

13 (i) A NEWSPAPER OF STATEWIDE
 14 CIRCULATION; OR

15 (ii) A NEWSPAPER OF GENERAL CIRCULATION
 16 IN THE VICINITY OF THE DISTRICT COASTAL MANAGEMENT
 17 PROGRAM THAT IS THE SUBJECT OF THE PETITION; AND

18 (B) BY AT LEAST ONE OF THE FOLLOWING METHODS:

19 (i) PUBLICATION THROUGH PUBLIC SERVICE
 20 ANNOUNCEMENTS ON THE ELECTRONIC MEDIA SERVING
 21 THE AREA AFFECTED BY THE DISTRICT COASTAL
 22 MANAGEMENT PROGRAM;

23 (ii) POSTING IN A CONSPICUOUS LOCATION IN
 24 THE VICINITY OF THE PROPOSED PROJECT OR ACTION;

25 (iii) NOTIFYING PARTIES KNOWN OR LIKELY
 26 TO BE AFFECTED BY THE PROPOSED PROJECT OR ACTION;
 27 OR

28 (iv) ANOTHER METHOD CALCULATED TO
 29 EFFECTIVELY NOTIFY AFFECTED INTERESTED PARTIES.

30 (2) a] notice [PROVIDED UNDER (1) OF THIS SUBSECTION]

31 must

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

3 (2) [(B)] indicate the manner in which the public may comment on the
4 petition [IF THE PETITION IS FILED UNDER (b)(2) OF THIS SECTION].

5 * Sec. 6. AS 46.40.100(g) is amended to read:

6 (g) The opportunity to petition [UNDER (b)(2) OF THIS SECTION] is
7 limited to

8 (1) a coastal resource district;

9 (2) a citizen of the coastal resource district; or

10 (3) a state resource agency.

11 * Sec. 7. AS 46.40.100 is amended by adding a new subsection to read:

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

19 * Sec. 8. AS 46.40.210 is amended by adding a new paragraph to read:

20 (9) "resource agency" has the meaning given in AS 44.19.152.

21 * Sec. 9. AS 46.40.094(c)(2), 46.40.096(e), 46.40.096(f), and 46.40.100(d) are repealed.

22 * Sec. 10. The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 TRANSITION PROVISION. Petitions filed under AS 46.40 before the effective date
25 of this Act shall be heard and acted on according to the law in effect on the date the petition
26 was filed.

27 * Sec. 11. This Act takes effect immediately under AS 01.10.070(c).



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

*Faxed 4/24/02
12:05 pm*

FAX COVER SHEET

DATE: 4/24/02 TIME: 12:01 pm

TO: Regal

NUMBER OF PAGES, INCLUDING COVER SHEET: 2

FROM: ROBIN PAUL
SENATE FINANCE CMTE. ASST. SECRETARY
PHONE: 465-2618
FAX: 465-2187

NOTES: Need A FINAL Please
with attached ^{conceptual} Amendment
incorporated. \implies

SCS for CS HB 439 (FIN) of 22-LS1464/L

*Thank you!
Robin*

ADOPTED 4/24/02

WORK DRAFT

WORK DRAFT

WORK DRAFT

22-LS1464VL
Kurtz
4/11/02

SENATE CS FOR CS FOR HOUSE BILL NO. 439()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE SPECIAL COMMITTEE ON OIL AND GAS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to compliance with and implementation of district coastal management
2 programs; removing the opportunity to petition for review of proposed or final
3 consistency determinations under the Alaska coastal zone management program; and
4 limiting the authority of the Alaska Coastal Policy Council to order a coastal resource
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20 being implemented. A petition filed under this subsection may not seek review of
21 a proposed or final consistency determination regarding a specific project [,
22 ENFORCED, OR COMPLIED WITH]. On receipt of a petition, the council, after
23 giving public notice in the manner required by (f) of this section, shall convene a
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26 [(1) IF THE PETITION WAS FILED UNDER AS 46.40.096(e) AND
27 THE COUNCIL FINDS THAT

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8 DETERMINATION IS NOT REQUIRED UNDER (A) OF THIS
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13 management program that the council considers necessary, except that the council
14 may not order that the coastal resource district or a state agency take any action
15 with respect to a proposed or final consistency determination that has been issued
16 [TO IMPLEMENT, ENFORCE, OR COMPLY WITH THE DISTRICT COASTAL
17 MANAGEMENT PROGRAM].

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20 AS 46.40.096(e), IN] determining whether an approved district coastal management
21 program is being implemented [, ENFORCED, OR COMPLIED WITH] by a coastal
22 resource district that exercises zoning authority or controls on the use of resources
23 within the coastal area or by a state resource agency, the council shall find in favor
24 of the district or the state resource agency. unless the council finds a pattern of
25 nonimplementation [IF

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27 AND ARE BEING ENFORCED;

28 (2) VARIANCES ARE BEING GRANTED ACCORDING TO
29 PROCEDURES AND CRITERIA THAT ARE ELEMENTS OF THE DISTRICT
30 COASTAL MANAGEMENT PROGRAM, OR THE VARIANCE IS OTHERWISE
31 APPROVED BY THE COUNCIL; AND

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(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].

* Sec. 5. AS 46.40.100(f) is amended to read:

(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. The

[(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

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

3 (2) [(B)] indicate the manner in which the public may comment on the
4 petition [IF THE PETITION IS FILED UNDER (b)(2) OF THIS SECTION].

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17 order issued under this subsection shall be considered a final administrative order for
18 purposes of judicial review under AS 44.62.560.

19 * Sec. 8. AS 46.40.210 is amended by adding a new paragraph to read:

20 (9) "resource agency" has the meaning given in AS 44.19.152.

21 * Sec. 9. AS 46.40.094(c)(2), 46.40.096(e), 46.40.096(f), and 46.40.100(d) are repealed.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 23, 2002

SUBJECT: Petitions under the Alaska Coastal Zone Management Program as modified in SCS CSHB 439 () (Work Order No. 22-LS1464\L)

TO: Representative Scott Ogan
Attn: Linda Hay

FROM: Kathryn L. Kurtz *KK*
Legislative Counsel

You asked what recourse there is for petition under the Alaska Coastal Zone Management Program, as modified in the draft committee substitute for HB 439, version 22-LS1464\L.

The only provision for petitions remaining in the Alaska Coastal Zone Management Program, AS 46.40, would be in AS 46.40.100(b). This subsection would permit a coastal resource district, a citizen of the coastal resource district, or a state resource agency to file a petition showing that a district coastal management program is not being implemented. In response to such a petition, after hearing, the Alaska Coastal Policy Council could order a coastal resource district or state resource agency to take action with respect to future implementation of the plan.

This draft includes language specifically prohibiting the filing of a petition for review of a proposed or final consistency determination regarding a specific project. Also, it specifies that the council may not order that action be taken with regard to a proposed or final consistency determination that has been issued.

If you have further questions, please let me know.

KLK:lmb
02-072.lmb

Session:
State Capitol
Juneau, AK 99801
(907) 465-3878
(907) 465-3265



Interim:
600 E. Railroad Ave. #1
Wasilla, AK 99654
(907) 376-1866
(907) 373-4724

House Special Committee on Oil & Gas

COASTAL ZONE PETITION

HB 439

SPONSOR STATEMENT

The Alaska Coastal Zone Management Petition Process is broken.

Currently, any citizen may file a petition to have an automatic 30-day delay to the issuance of a CZM permit. (plus up to 20 days for petitioner to draft petition and submit for a potential total of a 50 day delay)

In the vast majority of cases, this is used as a delaying tactic to try to kill projects. Five out of six petitions filed, were withdrawn at the eleventh hour. The Council unanimously overruled the sixth petition.

There is wide industry support from oil, gas, mining, timber and related industry associations.

The Division of Governmental Coordination is not opposed to the bill.

In this day and age of budget deficits, it is imperative that we do all we can to provide regulatory certainty. With two of the three major oil companies no longer doing exploration in frontier areas, it is clear, that unambiguous environmental policy will be needed to continue to attract independent explorers and producers to Alaska.

This bill is a first step in bringing that clarity and common sense to our permitting process.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 19, 2002

SUBJECT: Sectional of CSHB 439()
Work Order No. 22-1464\L

TO: Representative Scott Ogan
Attn: Linda Hay

FROM: Kathryn L. Kurtz 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Removes a reference to filing a petition for review under AS 46.40.096(e), repealed in section 9 of the bill.

Section 2. Limits the requirement that land and water use regulations and controls be administered in conformity with the district coastal management plan to state resource agencies, rather than all state agencies. Also removes reference to legislative approval of district coastal management programs.

Section 3. Reduces the scope of petitions that may be filed under AS 46.40.100(b) to petitions showing that a district coastal management program is not being implemented (removing petitions relating to enforcement and compliance). Specifically provides that review of a proposed or final consistency determination may not be sought under AS 46.40.100(b).

Removes provisions relating to the disposition of petitions filed under AS 46.40.096(e), repealed in section 9 of the bill. Limits actions that can be ordered in response to petitions filed under this section to coastal resource districts and state resource agencies (rather than all state agencies). Reduces the power of the council to making orders with respect to future implementation of a district coastal management program, removing the authority to order action relating to enforcement and compliance. Specifically prohibits the council from ordering any action with respect to a proposed or final consistency determination that has been issued.

Representative Scott Ogan

April 19, 2002

Page 2

Section 4. Removes a reference to AS 46.40.096(e), repealed in section 9 of the bill. Removes enforcement and compliance language. Inserts references to implementation of a district coastal management plan by a state resource agency. Requires that the council find in favor of the district or resource agency implementing the plan unless it finds a pattern of nonimplementation. Removes criteria relating to enforcement of regulations, granting of variances, and procedures and standards.

Section 5. Removes provisions relating to the means of giving notice of a petition filed under AS 46.40.100(b).

Section 6. Limits the opportunity to petition under AS 46.40.100(b) to state resource agencies, rather than all state agencies.

Section 7. Adds a new subsection to AS 46.40.100 permitting the council, if it finds a pattern of nonimplementation of a district coastal management plan, to order action with respect to future implementation that it considers necessary to implement the plan.

Section 8. Defines the term "resource agency."

Section 9. Repeals the definition of "resource agency" in AS 46.40.094(c)(2), the process for petitioning for review of a consistency determination under AS 46.40.096(e) and related provisions in (f), and provisions relating to compliance with a district coastal management program by a state agency under AS 46.40.100(d).

KLK:med
02-390.med

LEGAL SERVICES

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MEMORANDUM

April 19, 2002

SUBJECT: Comparison of HB 439 \F.a and \L versions
(Work Order No. 22-LJ1464)

TO: Representative Scott Ogan
Attn: Linda Hay

FROM: Kathryn L. Kurtz *KK*
Legislative Counsel

You requested a comparison of versions \F.a and \L of HB 439.

	Version \F.a	Version \L
AS 6.40.094(c)(2)	(n.a.)	Sec. 9. Repeals.
AS 46.40.096(d)	Sec. 1. Removes reference to AS 46.40.096(e).	Sec. 1. Same.
AS 46.40.096(e)	Sec. 7. Repeals.	Sec. 9. Repeals.
AS 46.40.096(f)	Sec. 7. Repeals.	Sec. 9. Repeals.
AS 46.40.100(a)	(n.a.)	Sec. 2. Changes "agencies" to "resource agencies."
AS 46.40.100(b)	Sec. 2. Adds the clause "a petition filed under this section may not seek review of a proposed or final consistency determination regarding a specific project." Deletes AS 46.40.100(b)(1) and a reference to AS 46.40.096(e).	Sec. 3. Same.

	Version F.a	Version L
AS 46.40.100(b)	Sec. 2. Adds the phrase "except that the council may not order that the coastal resource district or a state agency take an action with respect to a proposed or final consistency determination."	Sec. 3. Changes "agency" to "resource agency." Deletes references to enforcement and compliance. Limits council action to orders with respect to future implementation of the district coastal management program. Adds phrase "except that the council may not order that the coastal resource district or a state agency take any action with respect to a proposed or final consistency determination that has been issued."
AS 46.40.100(c)	Sec. 3. Deletes reference to AS 46.40.096(e).	Sec. 4. Deletes reference to AS 46.40.096(e). Removes enforcement and compliance language. Inserts references to implementation of a district coastal management plan by a state resource agency. Requires that the council find in favor of the district or resource agency implementing the plan unless it finds a pattern of nonimplementation. Removes criteria relating to enforcement of regulations, granting of variances, and procedures and standards.
AS 46.40.100(d)	Sec. 4. Removes reference to AS 46.40.096(e).	Sec. 9. Repeals AS 46.40.100(d).
AS 46.40.100(f)	Sec. 5. Removes a reference to petitions filed under AS 46.40.100(b)(2).	Sec. 5. Removes most of the subsection.
AS 46.40.100(g)	Sec. 6. Changes reference to AS 46.40.100(b)(2) to AS 46.40.100(b).	Sec. 6. Removes reference to (b)(2); changes "agency" to "resource agency".
AS 46.40.210	Sec. 8. Adds definition of "resource agency."	(n.a.)

Testimony on

HB-439, Regarding the Coastal Zone Petition Process

Mr. Chairman, members of the committee. My name is Steve Borell, I am Executive Director of the Alaska Miners Association and I am testifying on behalf of the Association.

The Alaska Miners Association supports House Bill 439. This bill would remove a petition process which now appears is being used as a harassment tactic against some projects within the coastal zone. I am not aware of any mining projects that have yet been affected by this petition process, but at the same time I am not aware of any high-profile mining projects that have gone through this phase of the ACMP process in recent years.

The ACMP consistency review process is extremely detailed and thorough. Every member of the public has the opportunity to comment on the ACMP consistency review and on each of the individual permits that are required by the various agencies, including DNR, DEC and ADF&G.

There are two questions that I am often asked by Legislators:

First, What can be done to streamline the permitting process? and

Second, What can be done to encourage business investment in Alaska?

I believe that removing this redundant and un-necessary petition provision will help answer both of these questions. We urge passage of this bill.



Resource Development Council for Alaska, Inc.

121 West Fireweed Lane, Suite 250, Anchorage, Alaska 99503-2035
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Tadd Owens, Executive Director
Resource Development Council
HB439 Testimony
House Oil & Gas Committee
February 26, 2002

Thank you, Mr. Chairman. For the record my name is Tadd Owens, executive director of the Resource Development Council. RDC is a private, non-profit, trade association representing individuals and companies from Alaska's mining, timber, tourism, fisheries and oil and gas industries. Our mission is to grow Alaska's economy through the responsible development of our state's natural resources.

RDC strongly supports HB439 and urges the House Oil and Gas Committee to move the bill forward. This legislation eliminates a redundant petition process from the Alaska Coastal Management Program (ACMP) without compromising the ability of Alaska's citizens or communities to provide meaningful input and comments regarding development projects within the coastal zone. The petition process targeted by HB439 has been used as a means to delay projects, adding uncertainty and increased costs to doing business in Alaska, while providing no measurable benefit to the environment.

If the Legislature sees fit to remove this particular process from the ACMP, rest assured that Alaskans retain a multitude of opportunities to participate in the evaluation of projects in the coastal zone. Alaskan citizens will continue to have opportunities to participate in and comment on ACMP consistency determinations, as well as the individual state and federal permits associated with any given project. In other words, HB439 provides the kind of permit streamlining that makes sense.

Mr. Chairman, you have RDC's full support on this issue and I appreciate the opportunity to testify this morning.

Alaska Oil and Gas Association



121 W. Fireweed Lane, Suite 207
Anchorage, Alaska 99503-2035
Phone: (907)272-1481 Fax: (907)279-8114
Email: bradv@aoga.org
Judith Brady, Executive Director

Testimony of the Alaska Oil & Gas Association House Special Committee on Oil & Gas

February 21, 2002

Re: HB 439: "An Act removing provisions providing an opportunity to petition for review of proposed consistency determinations under the Alaska coastal zone management program."

Chairman Ogan:

For the record, my name is Judy Brady. I am the executive director of the Alaska Oil and Gas Association (AOGA). As you know, AOGA is a private, non-profit trade association. Its member companies represent the majority of oil and gas exploration, production, transportation, refining and marketing activities in Alaska.

AOGA supports the goals of HB 439 to once and for all close off the opportunity to use the petition process in the Alaska Coastal Management Program (ACMP to delay projects).

The coastal zone management program provides coastal communities with oversight of their local development and we are supportive of this purpose. This legislation will not diminish this authority.

What this legislation does do is eliminate the ability of a citizen of a coastal district to file a petition, after a proposed consistency determination, asking that the Coastal Policy Council (CPC) determine whether or not their comments opposing the project had been "fairly considered".

The ability of an individual citizen to file a petition on a consistency determination is a holdover from the beginning days of the Alaska Coastal Management Program (ACMP)—when the public comments process was not yet developed. Through the years, with the development of a lengthy and multi-tiered public comment process, the individual petition is no longer important or necessary as an opportunity to be heard.

Today, individual citizens have several opportunities to provide comments on a project. Any citizen can comment to his or her own coastal district about a project. Any member of the public can comment to a coastal district, or to any agency or to the Division of Governmental Coordination (DGC) about a project. Finally, any citizen can go to court. This legislation does not decrease any of these rights. HB 439 does remove the now extraneous right of petition that is being used for delay purposes rather than the original purpose of public comment.

During the coordinated review process, each local, state, and federal agency is not only involved in helping the (DGC) make the consistency determination but is also responsible for reviewing, analyzing, and issuing their own numerous permits and authorizations. Individual members of the public have an opportunity to be involved in and to comment on not only the ACMP consistency review but also on each and every one of the agency permits.

The problem: If a single individual that lives in the district where the project is proposed submits comments to DGC during the public comment period and the agency subsequently issues a proposed determination that the project is "consistent" - this lone individual has the right to notify DGC of intent to petition the CPC. It does not matter that the coastal district in which the individual lives has approved the project, or the local government has approved the project, or that all the agencies involved have approved the project.

This single act of an individual petition automatically extends the consistency review period by up to 50 total days, which includes 20 days for the petitioner to draft the formal petition and then if submitted, another 30 days for the CPC to be convened and make its decision. Neither DGC nor the CPC get to review the merits of the Notice of Petition or the Petition itself. If the "petitioner" meets certain basic requirements, such as being a citizen in the district, and has submitted comments, regardless of the merit of the comments, the right to petition is automatically granted.

The petition process has been the source of concern, legal ambiguity and abuse since the ACMP began in Alaska. In 1984 the CPC itself wrote regulations to end the petition process but neglected to change the statute so petitions remained a problem. The Knowles Administration attempted to end the petition process through SB 186 (which did not pass for other reasons).

In 1994 the legislature attempted to correct the abuses and legal ambiguities of the petition process by limiting the right of petition to the single question of whether or not an individual's comments had been "fairly considered" by the DGC. Regulations were finalized in 1999.

From 2000 to date, 18 petitions were filed; 9 were filed since last year. Of the 18, nine were not accepted because of deficiencies in filing; nine were accepted (stopping the project clock); hearings were held on five (the Council ruled against the petitioner in each case); four were withdrawn near or on the day of the hearing, which meant the project was delayed the full time allocated for petition review.

HB 439 is fourth attempt to resolve the misuse of the petition process. We thank you for focusing on this issue and we support your effort.

Thank You.

Testimony of the Alaska Oil & Gas Association
House Special Committee on Oil & Gas
February 21, 2002
Page 2 -

Alaska Support Industry Alliance
In support of HB 439

February 26, 2002

Mr. Chairman and members of the committee. My name is Larry Houle and I am the General Manager of the Alaska Support Industry Alliance. The Alliance is a statewide, non-profit trade association. Our membership consists of 419 businesses, contractors, suppliers and individuals that provide products and services in support of the Alaska Oil and Gas industry. Our membership collectively represents over 35,000 Alaska residents that derive their livelihood in Alaska's Oil and Gas industry.

The purpose of my testimony today is to voice our support for House Bill 439; an act that removes an unnecessary and duplicative administrative petition process from the consistency determination procedure under the Alaska coastal zone management program.

Contrary to an Associated Press article published in Saturday's Anchorage Daily News this bill does not eliminate the citizen appeal process. What this bill does do is eliminate an additional administrative layer in the petition process that, in our opinion, could be used by individuals as an avenue for delay of permits.

The Alaska Coastal Zone Management Program is an extremely open and public process for both local governments and individuals. For years the Coastal Zone Policy Council has attempted to fix this particular "loop-hole" in the Act and we commend Committee for finally addressing this petition process.

HB 439 in its current form will amend the Coastal Zone Management Act in a manner that is consistent with the original intent of law, without taking away the rights of the individual for public comment and input. At minimum three specific avenues for individual comment remain untouched in the Act:

- (1) Individual citizens have the opportunity for public comments in the very early stages when the Districts are first developing their overall plans.
- (2) Individual citizens also have petition and comment opportunities when the Districts and the Dept. of Governmental Coordination's public comment periods are noticed.
- (3) An individual citizen can also comment during each individual Agency's public comment period, unique to a specific project. The greater number of Agencies involved in a project the greater number of opportunities the general public has to comment.

Most people, reasonable or otherwise, understand that delays of 30 to 55 days in a 120-day construction window can be devastating to a project. Speaking for the Contracting community this lack of timeline certainty,

the risk of the "mischievous petition," injects uncertainty into a process that may mean the difference between bidding and not bidding the job.

The Alaska Support Industry Alliance supports responsible oil and gas development in Alaska. Mr. Chairman, we understand and believe there are three main components necessary for oil and gas development:

First, fiscal certainty and a stable, predictable tax regime, something we have had for the last decade or more,

Secondly; access to the land, again, Alaska has enjoyed a predictable lease program; and

Thirdly, a regulatory environment that provides for a fair, consistent and predictable permit process.

Unfortunately, the weakest link in our Alaska exploration and development program is our "regulatory uncertainty." Essentially, the permit process is broken. The long-term ramifications are only starting to surface as some Producing oil companies reduce exploration budgets and potential new entrants for the Oil Patch hold back.

We see HB 439 as a significant step in the right direction, a positive direction toward regulatory reform. We are encouraged by the Committee's efforts here and applaud HB 439's passing.

Thank you for allowing me to testify today.



February 26, 2002

The Honorable Scott Ogan
Chairman, House Special Committee on Oil & Gas
Alaska State House of Representatives
State Capitol, Room 108
Juneau, AK 99801-1182

Via Fax: (907) 465-3265, Original Via First Class Mail

RE: Support of HB 439

Dear Representative Ogan:

These comments on HB 439 are submitted on behalf of Chugach Alaska Corporation ("CAC"), the Alaska Native Regional Corporation for the Chugach region established pursuant to the Alaska Native Claims Settlement Act of 1971, as amended, 43 U.S.C. § 1601, et seq. ("ANCSA"). CAC owns or has valid selection rights to over 930,000 acres of surface estate, subsurface estate and oil and gas rights within the Chugach Region, which stretches from the outer Kenai Coast to Icy Bay along the Gulf Coast near Yakutat. In addition to ANCSA, CAC's rights with respect to its lands are governed by the Alaska National Interest Lands Conservation Act of 1980, 16 U.S.C. § 3101, et seq. ("ANILCA"), and the 1982 Chugach Natives, Incorporated Settlement Agreement ("1982 CNI Settlement").

Most of CAC's economically viable lands are within coastal zones subject to the ACMP consistency review process for development activities. For this reason, the ACMP program has an enormous impact on virtually any projects CAC contemplates on its lands.

HB 439 eliminates the ability of a citizen of a coastal district to file a petition, after a proposed consistency determination, asking that the Coastal Policy Council (CPC) determine whether or not their comments opposing the project had been "fairly considered". The petition process has been abused by those opposed to development projects, and has not resulted in any meaningful improvement of the important oversight the program provides to coastal communities. With the development of a lengthy and multi-tiered public comment process, the individual petition is no longer important as an opportunity to be heard but is used instead as an opportunity for delay.

Individual members of the public have an opportunity to be involved in and to comment on not only the ACMP consistency review but also on each and every one of the agency

The Honorable Scott Ogan February 26, 2002

permits. Under the current law if a single individual that lives in the district where the project is proposed submits comments to DGC during the public comment period and the agency subsequently issues a proposed determination that the project is "consistent" – this lone individual has the right to notify DGC of intent to petition the CPC. It does not matter that the coastal district in which the individual lives has approved the project, or the local government has approved the project, or that all the agencies involved have approved the project.

The problems associated with the petition process have been long recognized. In 1984 the CPC itself wrote regulations to end the petition process but neglected to change the statute so petitions remained a problem. The Knowles Administration attempted to end the petition process through SB 186 (which did not pass for other reasons). In 1994 the legislature attempted to correct the abuses and legal ambiguities of the petition process by limiting the right of petition to the single question of whether or not an individual's comments had been "fairly considered" by the DGC. Regulations were finalized in 1999.

In spite of these past efforts to "fix" this problem, from year 2000 to date, 18 petitions were filed. Of the 18, nine were not accepted because of deficiencies in filing; nine were accepted (stopping the project clock); hearings were held on five (the Council ruled against the petitioner in each case); four were withdrawn near or on the day of the hearing, which meant the project was delayed the full time allocated for petition review.

HB 439 removes once and for all this now extraneous right that is being used for delay rather than the original purpose of citizen comment. The legislation does not decrease the many rights and opportunities of individual citizens to provide comments on a project that have been added over the years since the ACMP was enacted. Any citizens can comment to their own coastal district about a project. Any member of the public can comment to a coastal district, or to any agency or to the DGC. Finally, any citizen can go to court.

CAC believes that while other significant reforms of the ACMP program are needed, the growth of frivolous petitions of consistency reviews requires expeditious and focused action provided by HB 439.

We appreciate your attention to our concerns on this issue.

Sincerely,



Rick Rogers,
Vice President Lands and Resources



750 West Second Ave., Suite 109, Anchorage Alaska 99501 / Ph. 907.258.6171 / Fax 907.258.6177
P.O. Box 22151, Juneau Alaska 99802 / Ph. 907.463.3366 / Fax 907.463.3312 / www.acvoters.org

HB 439 ~ Coastal Zone Petition

TO: Representatives
DATE: March 5, 2002

Alaska Conservation Voters (ACV) is a nonprofit organization dedicated to protecting Alaska's environment through public education and advocacy. Our 32 member organizations represent over 35,000 registered Alaskans, many of whom participate in public notice and comment opportunities during the state's review of development projects of all types. As conservationists, our members are particularly concerned with issues affecting the multitude of coastal resources.

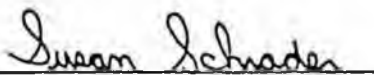
Alaskan conservationists, in good faith, have participated over the years in the many opportunities to comment on regulatory changes in the Alaska Coastal Management Program (ACMP). In particular, we have watched the program become more complex and convoluted, and less accessible to all Alaskans, especially those living in coastal communities who care about protecting their local resources.

The petition process that would be repealed by HB 439 has long ceased being a meaningful tool for Alaskan citizens to use. However, this process does provide the only opportunity, however limited, for the public to administratively appeal a project.

Alaskan citizens must have meaningful ways to participate in the protection of Alaska's miles of coastlines and watersheds. Because industry has problems with the citizen appeal process under ACMP, ACV encourages the Division of Governmental Coordination (DGC) to work to address industry's concerns *without further limiting the public's ability to participate*.

This bill simply represents another step closer to industry's goal of permit streamlining – a step that comes at the expense of further limitations on opportunities for Alaskans to shape how development in our state will occur.

Alaska Conservation Voters is opposed to this legislation and encourages you to vote "Nay." Send the message to industry and DGC to look for an alternative method to deal with industry's concerns.


Susan Schrader



THE ALLIANCE

ALASKA SUPPORT INDUSTRY ALLIANCE

2002 GOVERNMENT RELATIONS PRIORITIES

PRIORITY: OIL AND GAS DEVELOPMENT

The Alliance supports public policy that encourages responsible exploration and development of Alaska's oil and natural gas resources.

PRIORITY: REGULATORY REFORM

The Alliance advocates for clear, streamlined and equitable state and federal permit systems based on sound science and economics that will encourage private sector investment in the state.

PRIORITY: LONG TERM FISCAL PLAN

It is in the best interest of the State that the legislature and administration adopt a long-term fiscal plan to address the realities of the state's current fiscal gap. A state fiscal plan must address a strategy to bring state spending in line with revenues, encourage and promote economic development, and maintain the state's infrastructure. The most important factor to encouraging future oil and gas development in Alaska will be fiscally responsible government.

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Priority: OIL AND GAS DEVELOPMENT

Alaska is unique from other states in the nation in that our abundant natural resources--primarily the oil and gas resources of the North Slope, have generated almost 80% of the state's annual operating budget for decades. At peak production the North Slope fields produced two million barrels of oil per day. Today North Slope production has declined to approximately one million barrels of oil per day. This is a strong indicator that the economics of the North Slope have and will continue to change. The only way to offset today's production is through new discoveries and added production. The cost of Alaskan oil and gas production coupled with the costs to deliver the product to market must be managed efficiently to remain competitive worldwide and attract investment capital.

The Alliance supports public policy that encourages responsible exploration and development of Alaska's oil and natural gas resources. The Alliance favors the following:

- ▲ Incentives that encourage exploration and production of oil and gas resources in satellite fields, in "frontier" acreage, and the extraction of heavy viscous oil deposits.
- ▲ Expedited permit process for oil and gas exploration and the same expedited process for projects such as a trans-Alaska gas pipeline, a gas-to-liquids facility, or new discoveries.
- ▲ Public policy decisions that improve the commercial viability of developing Alaska's stranded natural gas resources.
- ▲ A stable and predictable oil and gas tax regime.



Priority: REGULATORY REFORM

The Alliance advocates for a clear, streamlined and equitable state and federal permit systems based on sound science and economics to encourage private sector investment in the state.

Specifically, The Alliance supports:

- ▶ The repeal of the "sunset" clause in last year's temporary water use bill. (HB 185)
- ▶ Legislative efforts to address misuse by "public interest" litigants against responsible resource development in Alaska.
- ▶ Partnering between industry and government to provide more reasonable regulations.
- ▶ Reform of the Alaska Coastal Management Program (ACMP) to a more comprehensive and equitable framework to ensure Alaska's regulatory climate is one that promotes private sector investment, namely:

The ACMP process must confine its review of permits to activities with a "direct and significant" coastal impact; and

Provide better criteria for determining which projects are subject to ACMP review; and

Establish firm deadlines for consistency reviews; and

Define the authority of the Department of Governmental Coordination in relation to other state review agencies; and

Require review agencies and public commenters to raise issues in a timely manner; and

Establish better standards for approving or rejecting elevations and petitions.



Priority: LONG TERM FISCAL PLAN

Fiscally sound state and federal government is essential to maintain a healthy oil and gas industry in Alaska. The Alliance supports legislation, regulation and processes that establish sound fiscal management in government.

State revenues rely on substantial private investments in our natural resources. A fiscally sound state government provides the kind of stable environment that allows businesses to invest with confidence. The Alliance strongly supports legislative efforts to balance the state budget, including the use of such tools as results-based budgeting, development of performance measures to determine agency efficiency, and a two-year budgeting cycle. As the state begins to "live within its means," Alaska can more effectively encourage and promote business development, economic investment and jobs for Alaskans. Through fiscal reform, investors can rely on an environment that is stable and attractive to investment capital.

Today the oil and gas industry pays approximately four-fifths (which equates to about 80%) of the cost of state government. We believe that further corporate and industry assessments will discourage future investments in developing Alaska's oil and gas resources.

Additional industry taxes will make Alaska even less attractive, given its remote location as well as heavy crude resources that are more expensive to refine. Alaska cannot afford to discourage investors (and employers) with an unprofitable and punitive business environment.

The Alliance membership is comprised of over 415 businesses and organizations. Collectively they employ over 35,000 people in Alaska.

The Alaska Support Industry Alliance

Founded in 1979, the Alaska Support Industry Alliance — also known as The Alliance, is a non-profit statewide trade association representing businesses and individuals engaged in activities related to oil and gas exploration, development, and production in Alaska. We are oilfield service companies, transportation enterprises, wholesale and retail businesses, professional firms and private citizens. Our mission is to promote responsible, safe, and environmentally sound exploration, development and production of oil and gas resources to benefit all Alaskans.

Our Goals

- To improve public understanding of the relationship between political decisions, industry activity and Alaska's economic health;
- To promote safe and environmentally sound development of Alaska's natural resources;
- To foster and promote a conducive business climate; and
- To foster a skilled Alaskan work force through participation in educational programs.



THE ALLIANCE

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PETROLEUM NEWS

A S K A



"History will look back on the year 2001 as a turning point for our great nation. After that morning of horror ... three months ago today, each of us was forever changed. Americans have responded with an overwhelming sense of national pride and solidarity. We are a people stronger and more unified than ever."

—Gov. Tony Knowles, Dec. 11, 2001

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Week of January 6, 2002

GOVERNMENT

AOGA says proposed ACMP regulations unclear, unfair, illegal

Sealaska tells DGC in times of declining state revenues it is not good for state to volunteer to perform 'costly bureaucratic reviews'

By Steve Sutherland
PNA Managing Editor

In an unparalleled move, the 18 members of the Alaska Oil and Gas Association joined with other stakeholders to protest the state's proposed Alaska Coastal Management Program regulations in a Dec. 13 letter to the state Division of Governmental Coordination. Dependent upon the agencies for permits — and therefore normally cautious about strenuously objecting to their proposals — the state's oil and gas companies told DGC that the second draft of the ACMP regulations is unclear, undisciplined, unfair and illegal.

"Nothing less than Alaska's investment and development future is at stake," AOGA said in its cover letter.

AOGA contends the proposed regulations should, but do not, address four basic questions for every project applicant:

1. Does the ACMP apply to my project?
2. What information must I submit for my application to be complete?
3. What standards will be applied to the consistency review of my project?
4. How long will it take to obtain a consistency determination?

"Ridding the draft regulations of ambiguities, unnecessary duplicative reviews, permit conditions that agencies have no authority to enforce, and undefined timelines will do much to clarify the regulations..."

—Chugach Alaska Corp.

Members include Alaska's major oil companies

The members of the Alaska Oil & Gas Association are companies that represent the majority of oil and gas exploration, production, refining, transportation and marketing activities in Alaska.

Members include the following:

- Alaska Pipeline Service Co.
- Anadarko Petroleum Corp.
- BP Exploration (Alaska) Inc.
- Chevron U.S.A. Inc.
- Cook Inlet Region Inc.
- Cross Timbers Oil Co.
- ExxonMobil Production Co.
- Frontier Petroleum Corp.
- Greenwich Energy Services Inc.
- Marathon Petroleum Corp.
- North Slope Alaska Inc.
- Northwest Energy Services Inc.
- Phillips 66 Alaska Inc.
- Unocal
- Williams Alaska Petroleum

No clear boundaries

DGC's proposed regulations create confusion about which projects in Alaska do or do not require an ACMP review, AOGA said, and they expand the reach of the ACMP to lands beyond the intent of the Legislature. A DGC employee told PNA in September that the agency wants all projects north

see AOGA page 13



THE REST OF THE STORY

continued from page 13

AOGA

The Alaska Miners Association said the ACMP affects not only "big" business, but small business as well.

"The gravity of these proposed regulations for the mining industry must not be underestimated," the association said. "Many of our members are small business-

AOGA contends the proposed regulations should, but do not, address four basic questions for every project applicant:

1. Does the ACMP apply to my project?
2. What information must I submit for my application to be complete?
3. What standards will be applied to the consistency review of my project?
4. How long will it take to obtain a consistency determination?

es which do not have legal and permitting staff that can negotiate their way through these regulations. For all the regulated public, but especially for such small businesses, the ACMP regulations have historically been a major source of permitting difficulty and concern. The proposed regulations would both perpetuate the existing problems and even expand the problems for these small businesses."

Coastal Policy Council to review results

According to Bates, the division has received many comments on the proposed regulations, and will take several months to review and summarize them before proceeding.

"We'll take a hard look, and assuming we move forward, we'll send them to the Coastal Policy Council within the next few months," he said.

The Coastal Policy Council is charged with guiding the direction of the ACMP.

"We're trying to boil down what the issues are, and what the biggest impediments are," Bates said. "We'll look at the comments and see if they preclude us from

Coastal Policy Council Members

Public members

- Southern Southeast Region: Barry Br...
- Northern Southeast Region: Eli Hanlon
- Prince William Sound Region: Currently Vacant
- Lower Cook Inlet Region: Jack Cushing, mayor, City Of Homer
- Upper Cook Inlet Region: James Colver
- Kodiak-Aleutians Region: Robin Heinrichs, deputy mayor, Kodiak
- Southwest Region: Alice J. Ruby
- Bering Straits Region: Robert L. Fagerstrom
- Northwest Region: Chadote Brower

State agency officials

- Office of Management and Budget: Annaloe McConnell, director
- Department of Community and Economic Development: Debbie Sedwick, commissioner
- Department of Environmental Conservation: Michele Brown, commissioner
- Department of Fish and Game: Frank Rue, commissioner
- Department of Natural Resources: Patrick Poubot, commissioner
- Department of Transportation and Public Facilities: Joe Perkins, commissioner

The Coastal Policy Council consists of six state agency officials, appointed by virtue of their position; and nine public members representing one of nine coastal geographic areas. Public members serve for two years or until a replacement is appointed. Public members are appointed by the governor from a list of names nominated by municipalities of each region. Nominees must be borough assembly or city council members or mayors.

moving forward."

Bates said DGC was actually trying to make the agency's review process more predictable by clarifying its regulations. If the changes create more problems than they solve, the division might abandon the proposed revisions.

Initially, Bates said, it appears that some of the comments are based on problems with statutes, which can't be changed by DGC, but must be addressed by the Legislature. For instance, the review processes and some of the appeal processes are codified by statute, he said.

"The Legislature must amend statutes, we're the body amending regulations," he said.

Bates said it has been 17 years since the

regulations have been put in place. DGC began an assessment in the early 1990s to address concerns that have arisen over the years, and it was suggested that changes be made to Chapter 50 of the regulations, regarding the contingency review process. That led to the current draft process, which has been under way for two and one-half years, Bates said.

He said there has been a wide range of public involvement, and that DGC has had significant input from both industry and environmental interests. He said the division had gathered a meaningful picture of existing concerns.

"We may be able to move forward," he said. "We'll need the support of everybody involved." ♦

continued from page 1

PELICAN

the ground and three track-mounted drills will bore to depths of 20 feet every 220 feet along a source line. A 4.4 pound charge of Dynoseis will be placed in each hole and the hole will be backfilled.

Source lines will be 990 feet apart. Recording cables with geophones will be placed on the ground, with recording lines 660 feet apart.

The charges will be detonated one at a time. The recording cables, flagging, stakes and cap-wire will be recovered and the process repeated until the program is complete.

The activity will be supported by a helicopter and fixed wing aircraft. The 30 person crew will be staged from existing facilities in Beluga, Tyonek or Shirleyville.

The program will be shot during the winter of 2001-2002 and take approximately 45 days.

—Krisan Nelson

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continued from page 2

AOGA

of the Brooks Range to be subject to an ACMP review. Rather than addressing "direct and significant impacts" on coastal resources, as intended by the Legislature when the program was adopted, the language in the proposed regulations expands the program to include activity that "may affect any coastal use or resource," or activity that "may have a reasonably foreseeable direct or indirect effect on any coastal uses or resources." The DGC employee said even projects that were hundreds of miles from the coast or a river might be subject to an ACMP review because of a "possible indirect effect on coastal uses or resources."

"In these times of declining state revenues, it is not good government for the office of the Governor to volunteer to perform costly bureaucratic reviews of small projects that will only have minor and occasionally isolative effects" on some coastal resource.

—Sealaska Corp.

The state received numerous comments about how difficult it was to determine which projects would fall within the review area, Randy Bates, DGC project analyst told PNA recently.

"It's a source of frustration for stakeholders," Bates said. "There is a clear threshold, but not a clear boundary."

AOGA said DGC is required by state law to identify "the boundaries of the coastal areas subject to the district coastal management program."

In contrast, Washington state regulations clearly limit reviews to upland areas 200 feet landward from the edge of waters covered under its program.

Agencies stop the clock on projects

Another problem, AOGA said, was that it is impossible to determine how long the process will take.

"As currently drafted, the rules contain too many exceptions and loopholes that either stop the clock entirely or allow the schedule to be sequentially extended," AOGA said. "Because the coordinating agency can unilaterally modify the schedule at nearly every step, the applicant is left with no meaningful ability to predict the amount of time that will be needed to complete the process."

To illustrate the problem, AOGA notes the vast majority of pending ACMP consistency determinations for oil and gas exploration and development projects are on a "stopped consistency review clock." PNA's analysis of oil and gas project files shows that in the majority of cases the clock has been stopped by the state Department of Environmental Conservation.

Illegal requirements on permits

AOGA said the draft regulations would "institutionalize" illegal requirements known as "homeless stipulations" on permits for oil and gas projects.

The proposed regulations continue to allow state resource agencies to attach stipulations from the ACMP consistency determination as a requirement of permit approval, AOGA said. By this device, state agencies exceed the authority granted them by the Legislature.

AOGA said homeless stipulations impose new obligations on oil and gas projects, yet have no basis in statute or regulation and are therefore illegal.

AOGA's excerpts from DGC letter

"Despite DGC's best intentions, we believe the current draft is a significant step backward toward an unlawful and dysfunctional permitting scheme, lacking in even the minimum necessary predictability and..."

"We do not offer this very critical judgment lightly. Indeed, we want to emphasize that our membership is collectively and individually deeply disturbed by the current draft..."

"The significance of the ACMP process looms even larger as advocacy groups increasingly see the ACMP process as the procedural avenue of choice to pursue national and special interest political positions by blocking, delaying or increasing the costs of activities they oppose..."

"Unfortunately, AOGA, DGC and other stakeholders face a serious challenge because after much time and effort the current draft regulations are anything but a success story. Alaska cannot sustain further degradation of its regulatory reputation by adoption of ACMP regulations so unclear, undisciplined and ultimately, unfair and unlawful..."

Further, the proposed regulations delay state permits until after the consistency determination is final. Projects can be delayed by allowing DGC to impose conditions no agency is authorized to impose by attaching them as provisions of other state permits.

Elevation and petition process — a morass

AOGA member companies said they encounter major difficulties with the elevation and petition processes. The association suggests eliminating the current two-tiered elevation process.

An elevation occurs when an issue cannot be resolved at the staff level. If such a stalemate occurs an agency can "elevate" the issue to the appropriate directors of the resource agencies within the Department of Natural Resources, the Department of Fish and Game and DEC.

DGC coordinates the elevation. If, after a series of meetings between the directors, the issue remains unresolved, then the whole process begins again with an elevation of some or all of the issues to the resource agency commissioners.

AOGA believes the directors' level elevation is an unnecessary step in an already flawed process. Most of the issues that are elevated to directors are matters of policy and not fact or science. It is unusual for policy issues to find resolution at the director level; most elevations continue on to the commissioners. AOGA, not a proponent of the elevation process in any form, believes issues should be elevated only to commissioners. At least this eliminates one step that generally just wastes the time of the agencies and the applicants and provides little or no benefit.

Even with modification of elevations to a one-tiered process, procedures under the proposed regulations for conducting elevation meetings and petition hearings must be clarified, AOGA said.

In order to make sense of the proposed regulations, AOGA members attempted to prepare a detailed flow chart of the process, including timelines. The association said ambiguous and circular language made it impossible to develop a clear diagram that would show the required steps in the ACMP process.

In its comments, AOGA suggests that

DGC attempt to create a flow chart of the permitting process under the proposed regulations, noting that many conflicts and complexities are brought to light by diagramming the process.

Diverse interests, similar concerns

Other stakeholders from around Alaska expressed concerns that often coincided with AOGA's criticisms of the proposed regulations.

Sealaska Corp. comments mirrored concern about the effect of the regulations on economic development in the state.

"As we've stressed in the past, these are the most important procedural regulations in Alaska; they are complex; and every turn is fraught with the possibility of costly unintended consequences," Sealaska said.

The Juneau-based Native regional corporation also addressed the practical need to limit the reach of the ACMP review to definable boundaries, as intended by the Legislature: "In these times of declining state revenues, it is not good government for the office of the Governor to volunteer to perform costly bureaucratic reviews of small projects that will only have minor and occasionally esoteric effects" on some coastal resource."

Chugach Alaska Corp. said, "Ridding the draft regulations of ambiguities, unnecessary duplicative reviews, permit conditions that agencies have no authority to enforce, and undefined timelines will do much to clarify the regulations..."

The Anchorage-based Native regional corporation said in order for DGC to attain its goals with the regulations, such as consensus building among stakeholders, a clear timeline for the review process must be established.

"In today's world, we can expect virtu-

ally all projects to become controversial," Chugach said. "In order for consensus building to work in these cases, definite deadlines must be established and responsibility clearly assigned."

The Resource Development Council for Alaska said, "Developing a clear, well-organized, equitable framework for the ACMP will be critical to ensure Alaska's regulatory climate is one that does not unduly discourage private sector investment and economic development."

see AOGA page 15

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Pocket GUIDE

to the

*Alaska Coastal
Management
Program project
review process*



5 steps to project approval in Alaska's coastal zone



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*Working together for
the long-term economic and
environmental productivity
of Alaska's coast.*

Is this guide for you?

This guide is for you if you have little or no experience obtaining permits for projects in Alaska's coastal zone or you just want to learn more about the Alaska Coastal Management Program (ACMP). Here you will learn



Once you understand the permits your project will require, you can design a project that will address these requirements up front and avoid delays later during the permitting process.

How do I know if the ACMP applies to my project?

If your project meets the following two criteria, or if you are unsure, you should contact DGC. One of DGC's Project Review Coordinators will help you determine if your project requires an ACMP consistency review and guide you to the state agencies and coastal districts you may need to contact.

If your project is:

1. located in or will affect resources of the coastal zone; *and*
2. requires a state, federal, or local permit(s), your project may require an ACMP consistency review.

If you are not sure about the location of your project in relation to Alaska's coastal zone or the permits required for your project, keep reading.

How do I know if my project is located in the coastal zone?

Alaska's coastal zone boundaries include more than 44,000 miles of coastline and can extend inland along river drainages as far as 250 miles. This variability can make it difficult to tell if your project is within the coastal zone. The map on pages 20-21 shows a representation of Alaska's coastal zone and coastal districts.

If your project is located within a coastal district, you should contact either DGC at (907) 465-3562 (Juneau) or 269-7470 (Anchorage), or the coastal district to determine whether your project is within its coastal zone. Coastal district contact information is located at the end of this booklet.

Please note that the ACMP also applies to projects in large areas of Prince William Sound and southeast Alaska that are in the coastal zone but not within a coastal district.

How do I know if my project will require state or federal permits?

If you are not sure what permits your project might require, fill out a Coastal Project Questionnaire (CPQ) (for your own information). Even if you don't require an ACMP consistency review, the questions in the CPQ will help you identify what permits might apply to your project and who to contact for more information. If you discover your project requires an ACMP consistency review, you will be well on your way to fulfilling the requirements in Step 1.

Keep reading to learn more about the ACMP consistency review process and how DGC, your local coastal district, and state resource agencies can be of assistance.

Questions & Answers

What is the Alaska Coastal Management Program?

In 1972 Congress passed the Coastal Zone Management Act (CZMA) to promote the orderly development and protection of the country's coastal resources. The CZMA resulted from concern spurred by the increasing demands for development of the nation's coastal areas, population increases near the coast, and declining productivity of the coastal environment. The CZMA established a voluntary partnership among the federal government, coastal states, and local governments to develop individual state programs for managing coastal resources.

The Alaska Coastal Management Program (ACMP) implements legislation passed by the State of Alaska in 1977. With this legislation, called the Alaska Coastal Management Act, Alaska joins the partnership envisioned by the CZMA.

The ACMP improves stewardship of Alaska's coastal land and water uses, and natural resources, by creating a network of local, state, federal, and applicant interests in the project approval process. The networking provided by the ACMP helps to ensure that all aspects of a project are considered during a single review and approval process. This integrated approach promotes both economic and environmental productivity of Alaska's rich and diverse coastal resources.

The ACMP requires that projects in Alaska's coastal zone be reviewed by coastal resource management professionals and found consistent with the statewide standards of the ACMP. These standards and the enforceable policies of an affected coastal district ensure that development interests observe the vision set out for the future by the state and coastal communities. It is called the consistency review process. A finding of consistency with the ACMP must be obtained before permits can be issued for the project.

Mission of the Alaska Coastal Management Program:

"The ACMP provides stewardship of Alaska's rich and diverse coastal resources to ensure a healthy and vibrant coast that sustains long-term economic and environmental productivity."

What criteria does the ACMP use to evaluate my project?

The ACMP applies to projects within or affecting Alaska's coastal zone. The statewide standards (6 AAC 80) and coastal district enforceable policies of the ACMP provide direction for coastal resources and uses, such as:

- coastal development (whether a project is water-dependent or water-related),
- habitats (such as wetlands, tideflats, or streams),
- air, land, and water quality,
- transportation and utility routes and facilities,
- timber harvest,
- mining and mineral processing,
- subsistence opportunities,
- recreation designations,
- geophysical hazard areas,
- historical and archaeological resources,
- energy facilities, and
- fish and seafood processing.

Using the statewide standards and local enforceable policies, the ACMP evaluates the effects a project will have on the above coastal resources and uses. Projects must be consistent with the requirements found in the standards and enforceable policies.

What is the Coastal Consistency Review Process?

The coastal consistency review process, or *consistency review process*, helps ensure your project meets the statewide standards and coastal district policies. It also serves as the review process for most permits you will need from state resource agencies. This 5-step process advances your project through review and approval requirements in a timely fashion.

The consistency review process is a coordinated review process that benefits applicants and project reviewers alike. Applicants have a single, primary point of contact for their projects. Reviewers benefit by comprehensively reviewing a project only once.

This booklet explains the consistency review process in more detail and how you can get your project approved with a minimum of difficulty. The Division of Governmental Coordination, as well as state resource agencies and coastal districts, are available to help you understand and navigate your project through the consistency review process.

Who is DGC?

The **Division of Governmental Coordination (DGC)** is home to the ACMP. Located in the Office of the Governor, DGC is responsible for the overall administration and operation of the ACMP. In this role, DGC provides assistance to applicants, coastal districts, and state agencies in carrying out their duties and responsibilities under the ACMP.

DGC has connections throughout the ACMP network.



As such, *your first ACMP contact should probably be one of DGC's helpful Project Review Coordinators.* DGC also serves as the coordinator for the consistency review process if your project requires a federal permit or permits from more than one state agency.

The staff at DGC perform a variety of other activities that support the ACMP, including

- preapplication meetings for applicants
- federal funding for the ACMP
- assistance to local districts in getting their coastal management programs approved
- assistance resolving conflicts
- appeals, elevations, and petitions
- ACMP education and training

Who are the State Resource Agencies?

The State of Alaska has three agencies primarily responsible for managing its natural resources and uses of those resources. These resource agencies have permitting authorities for specific activities. If your project requires a permit(s) from only one state resource agency, that agency coordinates the consistency review process.

Your project will most likely require one or more permits from at least one resource agency. The state resource agencies include:

- *Department of Natural Resources (DNR)* manages state-owned land and natural resources, including sales and leases.
- *Department of Fish and Game (DFG)* manages the state's fish and wildlife resources and their habitats.

- *Department of Environmental Conservation (DEC)* serves to safeguard the public health and environment from human uses.

What is a coastal district?

Coastal districts are generally local governments, such as cities and boroughs, that contain a portion of Alaska's coastal area. In coastal areas outside the boundaries of local government, coastal districts known as Coastal Resource Service Areas (CRSA) may be formed.

Most coastal districts develop a coastal management program that requires a rigorous state and federal approval process. A district coastal management program contains enforceable policies that guide development affecting the coastal resources within its boundaries. Once approved, a district coastal management program becomes a part of the ACMP.

During the consistency review process, an affected coastal district reviews your project against the enforceable policies of its coastal management program. By complying with its enforceable policies, your project can help the district achieve its goals and objectives for coastal development within its boundaries.

The ACMP consistency review process provides:

- *a one-stop, consolidated state response to coastal development projects and related state and federal permit applications;*
- *specific timeframes and deadlines for reviewing project applications; and*
- *a fast appeal (elevation) process.*

Step 1

Complete a Coastal Project Questionnaire (CPQ)

What is the CPQ?

The Coastal Project Questionnaire, commonly called the CPQ, serves as the application for getting your project started in the ACMP consistency review process. A project in the coastal zone must receive an ACMP consistency determination, the end product of the consistency review process, before agencies can issue permits for the project.

The CPQ also helps you identify which state and federal permits will be required for your project. In addition, your completed CPQ provides reviewers with a description of your project and serves as your certification that your project will be conducted in a manner consistent with the ACMP. The CPQ (and this guide) includes a list of state agency and coastal district contacts for your convenience.

Who has to fill out a CPQ?

Anyone proposing a project within or affecting coastal areas of Alaska must submit a CPQ, with the following exceptions:

1) Placer miners: submit an *Annual Placer Mining Application* to the Department of Natural Resources (DNR).

2) Aquatic farmers: submit a *State of Alaska Aquatic Farm Permits Application* to DNR.



Federal agencies should contact DGC for information on how the consistency review process is used to review federal activities.

How do I get a CPQ?

Copies of the CPQ are available from DGC, state resource agencies (see the back of this brochure), the

U.S. Army Corps of Engineers (toll-free at 1-800-78-2712), other federal permitting agencies, and local coastal district offices.

What else do I need to know?

One of DGC's Project Review Assistants will help you determine what you need to do and who to contact to get your project ready for the consistency review process.

If your project is located within a coastal district, be sure to contact the district's ACMP coordinator and the planning department early to find out what will be required at the local level.

Once you've determined what permits will be required, be sure to contact those agencies to learn their permitting requirements.

How do I apply for my other permits?

Alaska has streamlined the permitting process to provide developers with a single point of entry. Your CPQ packet will include applications and fees for the permits you will need.

The consistency review process also serves as the permit review process for state resource agencies.

How much does it cost?

There is no charge for the ACMP consistency review process. However, agencies issuing permits for the project may require fees.

Is there anything I can do to pave the way for my project?

Before you finalize project plans or submit your CPQ and other information necessary for a complete application packet, the state can arrange a preapplication meeting with you and other review participants to discuss your draft plans. This meeting identifies concerns and information needs, helps you avoid 'pitfalls', and promotes a mutual understanding of your project. To

Pave the way for your project by identifying and addressing concerns before you turn in your application packet. Ask the state for a pre-application meeting.

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.

Fill in all the blanks

To complete the CPQ, fill in all the blanks and contact agencies as directed on the CPQ. Filling out the questionnaire properly is important and helps agencies process your project application without delays. If a question is not applicable then put "N/A." If you answer yes to a question and are not applying to that agency for a permit, explain why.

Your signature on the CPQ certifies that you believe your project is consistent with the standards and enforceable policies of the Alaska Coastal Management Program. The standards and enforceable policies are available from DGC and your local coastal district. If you need assistance, contact DGC or your local coastal district.

Is your application packet complete?

Your CPQ package should include:

- The completed CPQ and signed Certification of Consistency;
- Copies of any necessary state and federal permit applications, topographic maps, and plan drawings required by the approving agency. DGC encourages you to send original applications to the state or federal agency issuing the permit. Any fees associated with these permits also go to the issuing agency.
- Any additional pertinent information. Make sure you include a complete description of your entire project to minimize the need to provide more information later.

Step 2

Coordinating agency receives packet

Where do I send the CPQ?

Once you have a completed CPQ and application packet, you should submit it to the state agency responsible for coordinating the coastal consistency review for your project, commonly referred to as the review coordinating agency. You can determine the review coordinating agency for your project from the following:

- If your project requires a permit(s) from only one state agency, submit your CPQ and permit applications to that state agency. That agency will coordinate the consistency review for your project.
- If your project requires permits from two or more state agencies, or a permit from a federal agency, then you should submit your CPQ packet to the Division of Governmental Coordination, which will coordinate the consistency review for your project.

If you are not sure where to send your CPQ packet, contact DGC.

What happens next?

The review coordinating agency receives the application packet, decides whether it is complete, and determines if the project needs to undergo a coastal consistency review.

Does my project qualify for expedited review?

Some projects that have no significant impact on coastal resources, or are routine activities, may be exempt from further coastal consistency review requirements. The state maintains a list of permits and projects that qualify for expedited review in 6 AAC 50.050. The list is



referred to as the "Classification of State Agency Approvals" but is commonly known as the "ABC List."

To find out if your project qualifies for expedited review in the ABC List, contact DGC or your review coordinating agency. Projects that are in the coastal zone and not exempt from further review in the ABC List must undergo a full ACMP coastal consistency review.

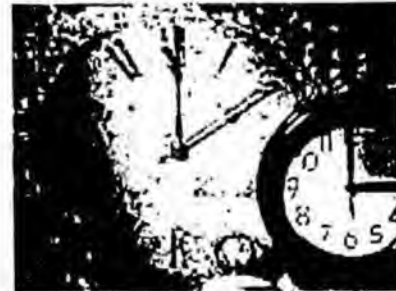
Step 3

Consistency review starts

50-day coastal consistency review begins

Once your application is received by the review coordinating agency and determined to be complete, the coordinating agency initiates the required public notices. The consistency review starts once all public notices have been issued.

The coordinating agency issues a deadline for reviewer and public comments and circulates your application packet to review participants. The coordinating agency tracks the project during the review and makes sure all interested parties take the opportunity to participate within the designated time frames.



The review coordinating agency will notify you of your review's start date, review number, review schedule, and any other pertinent information. With a few exceptions, the state must complete the consistency review of your project 50 days after the start date.

Do all consistency reviews last 50 days?

Although most projects require a 50-day review, the actual time frame may be shortened or extended under certain circumstances. Alternatives to 50-day consistency reviews are identified below:

- The consistency review of your project may be expedited if your project is a routine activity identified in the ABC List. For more information, refer to *Does my project qualify for expedited review?* in Step 2.
- The 50-day review schedule for your project may be extended for specific reasons. For more information, refer to *Extensions to the review schedule* below.

50-Day Consistency Review Schedule

ACMP Consistency Review Process	Day
Step 1 – Complete CPQ	0
Step 2 – Turn in your Packet	0
Step 3 – Consistency Review Starts	1
Deadline for information requests	25
Comment deadline	34
Step 4 – Proposed Determination	44
Deadline to file for elevation or petition*	49
Step 5 – Final Determination	50
*See page 17	

- If all necessary permits for your project are legally required to be issued within 30 days, the consistency review can be completed within a 30-day time frame as provided in 6 AAC 50.110 (a).
- Federal activities (projects conducted by or for a federal agency) may require a different review schedule. However, this booklet is not designed to address specific review or consistency requirements for federal activities. Contact DGC for more information at (907) 465-8794.

Who reviews the project?

The participants in the coastal consistency review process include: (1) you, the applicant; (2) state resource agencies and the Division of Governmental Coordination; (3) the affected coastal district; (4) other interested members of the public; and (5) federal agencies.

Having had a preapplication meeting can really pay off during step 3. Identifying concerns before the review begins can avoid delays and the need for additional stipulations.

Extensions to the review schedule

The review schedule may be extended for certain reasons as provided in 6 AAC 50.110(b). For example, after demonstrating a need for an extension, reviewers may request an extension:

- For you to provide additional information on your project that is needed for their analysis. The project review may be stopped within specified deadlines until that information is received. Within 7 days of receipt of the additional information, you will be notified of its adequacy.
- To perform a field review within a 10-day limit.
- To coordinate with DNR's process for disposals of interest in state land or resources.
- For a public hearing held as part of the consistency review process.

Step 4

Proposed consistency determination

What happens after reviewers submit comments?

After receiving comments from participants during the review process, the coordinating agency tries to resolve any issues that were raised. The coordinating agency then develops a **proposed consistency determination**. The proposed determination is discussed with you, state resource agencies, and the affected coastal district for concurrence.

What are stipulations?

The proposed consistency determination may include stipulations that modify your project and are necessary to bring it into compliance with the ACMP. These stipulations, or conditions of approval, are attached to permits issued for the project. Applicants and reviewers may discuss, or negotiate, the stipulations that will be included in the final determination.

What happens if I don't concur with the proposed consistency determination?

If concurrence cannot be reached by the review deadline, an elevation and/or petition can be requested by you or certain review participants. Please note that the instances of elevation are low. In fact, our statistics show that less than one percent of proposed consistency determinations receive requests for elevation or petition.

For a brief explanation of these processes, refer to *Elevations, Appeals, and Petitions* after Step 5. DGC can provide you with more information than is presented here in the unlikely event that this becomes an issue for your project.

Step 5

Final determination

When does my project get a final consistency determination?

A final consistency determination is issued when you and the project reviewers concur with the proposed determination, including the stipulations. The final consistency determination must be issued by the review deadline, generally 50 days.

When do I get my permits?

Once the final consistency determination is completed, most state agencies issue state permits covered by the determination within five days. However, an agency may find that additional time is necessary to fulfill its statutory requirements. For example, leases and other disposals of state land or resources issued by DNR generally require additional time. DGC or the permitting agency can provide you with more information on when you can expect to receive the permits for your project.

Elevations, Appeals, and Petitions

Elevation

If you disagree with the proposed determination on your project, you may request elevation (further review) to division directors within state resource agencies. A resource agency or affected coastal district may also request an elevation. This request must be in writing and include a proposed alternative consistency determination that would effectively address your concerns. The directors review the proposed determination and the alternative determination included in the elevation request, then issue a director-level proposed determination.

If you do not agree with the director-level review, you may elevate the review to the commissioners of the resource agencies, who issue a final determination. This is the last step in the administrative process. Each elevation review can take up to 15 days.

Petition

Under AS 46.40.096, certain eligible parties may petition the Coastal Policy Council to review a project if the petitioner believes their comments related to the enforceable policies of an affected coastal district were not fairly considered. These parties may include the project applicant, an affected coastal district, a state agency, or a citizen of an affected coastal district. The petition process must be completed within 30 days. Contact DGC for more information.

Appeal

If your project requires a federal approval and you disagree with the state's final 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 with information on this appeal process upon request.



Once all your permits are in place, the real work begins.

Looking for more information?

Where you go to obtain more information will depend on the type of information you are seeking and your familiarity with the ACMP consistency review process. Generally, DGC can provide answers to your questions or direct you to the right person. However, before and during the application and review process, you will also likely benefit from contacting the local coastal district, and the agency or agencies that will be issuing permits.

If you are new to the ACMP or are unsure where to go, we recommend you contact the Division of Governmental Coordination (DGC). As the administrator of the Alaska Coastal Management Program, DGC's duties include helping applicants navigate the consistency review process and obtaining the information they need to succeed in getting their projects approved.

What other information can DGC provide?

The Division of Governmental Coordination (DGC) serves as the information center for the ACMP and the consistency review process. DGC can provide quick answers to whether or not your project is in the coastal zone, what permits you will need, and other questions you have about the project approval process.

DGC also retains copies of:

- all coastal district management programs,
- coastal zone boundary maps,
- ACMP statutes and regulations,
- policies, procedures, special project papers,
- ACMP history and legal opinions, and
- other documents related to the ACMP.

For projects requiring permits from two or more state agencies, or a federal permit, DGC serves as the coordinating agency for the consistency review. In addition, DGC coordinates the review for federal projects proposed in the coastal zone.

What information can other state resource management agencies provide?

The Department of Natural Resources (DNR), Department of Environmental Conservation (DEC), and the Department of Fish and Game (DFG) can provide information about the ACMP consistency review process but specialize in providing applicants with permitting requirements under their authority. For projects only requiring a permit from one of these state resource agencies, that agency coordinates the consistency review.

What information can coastal districts provide?

Coastal Districts can provide information about the ACMP consistency review process, but most importantly can share with you local permitting requirements for your project. In addition, coastal districts have expertise of local conditions and community standards, including development priorities, cultural values, and environmental conditions.

What information can I find on the Internet?

If you have access to the internet, be sure to visit the ACMP Website at:

<http://www.alaskacoast.state.ak.us/>

This new site will feature:

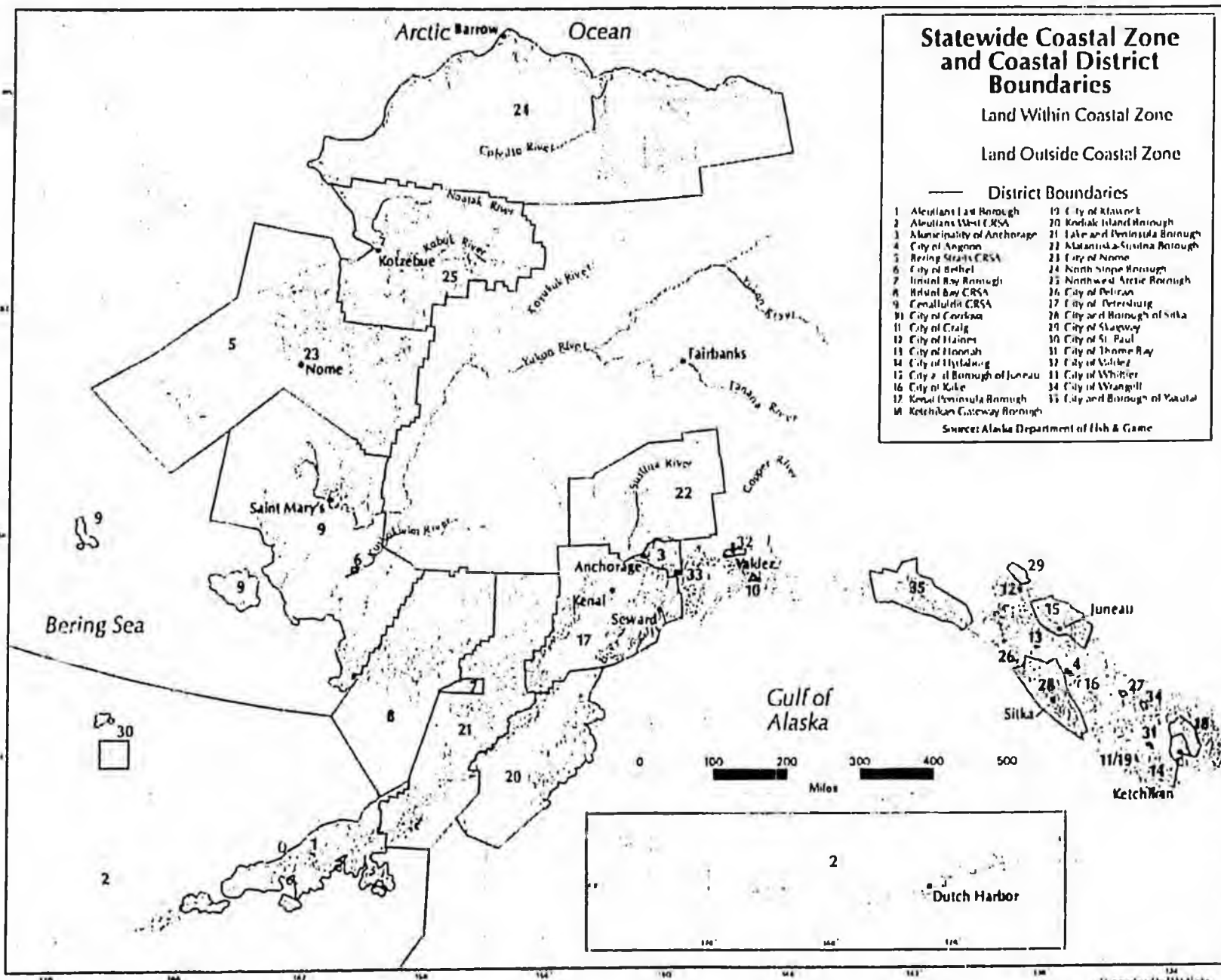
- a downloadable CPQ,
- more complete information about who to contact to help you through the consistency review process,
- access to DGC's project review database,
- coastal district enforceable policies,
- the ACMP statewide standards in 6 AAC 80,
- and much more.

If you need detailed information about an Alaskan community, visit the Department of Community and Regional Affairs community profiles database web page at:

http://www.comregaf.state.ak.us/CF_ComDB.htm

DGC can provide answers to your questions or direct you to the right person.





DGC Contacts: addresses are on back cover



**JUNEAU
OFFICE**

Main Line (907) 465-3562
Fax (907) 465-3075
Web Site Address:
<http://www.alaskacoast.state.ak.us>

Director of DGC..... 465-3562
Project Review Coordinators..... 465-2142
Project Review Analysts
ABC List..... 465-3529
ANILCA 269-7477
Federal Consistency/Supervisor 465-8794
Mining and Timber 465-8791
Oil and Gas 465-8792

ANCHORAGE DGC OFFICE

Main Line (907) 269-7470
Fax (907) 561-6134

Project Review Coordinators..... 269-7472

JOINT PIPELINE OFFICE

Main Line (907) 271-4317
Fax (907) 272-0690

Project Review Coordinator 271-4317

Coastal District Contacts

Aleutians East Borough

P.O. Box 349
Sand Point, AK 99661
Phone: (907) 383-2699
Telecopy: (907) 383-3496
E-mail: aebclerk@aol.com

Aleutians West CRSA

P.O. Box 920045
Dutch Harbor, AK 99692
Phone: (907) 581-2212
Telecopy: (907) 581-1306
E-mail: awcrsa@ptialaska.net

Anchorage, Municipality of

Department of Community
Planning and Development
P.O. Box 196650
Anchorage, AK 99519-6650
Phone: (907) 343-4261
Telecopy: (907) 343-4220
E-mail: TobishTG@ci.anchorage.ak.us
Web Site: <http://www.ci.anchorage.ak.us>

Angoon, City of

P.O. Box 189
Angoon, AK 99820
Phone: (907) 788-3653
Telecopy: (907) 788-3821

Bering Straits CRSA

P.O. Box 190
Unalakleet, AK 99684
Phone: (907) 624-3062
Telecopy: (907) 624-3811

Bethel, City of

P.O. Box 388
Bethel, AK 99559
Phone: (907) 543-5301
Telecopy: (907) 543-4186
E-mail: john_malone@ddc-alaska.org

Bristol Bay Borough

P.O. Box 189
Naknek, AK 99633
Phone: (907) 246-4224
Telecopy: (907) 246-6633
E-mail: bbbmgmt@bristolbay.com

Coastal District Contacts

Bristol Bay CRSA

Nanvaq Building, Room 207
P.O. Box 849
Dillingham, AK 99576
Phone: (907) 842-2666
Telecopy: (907) 842-2776
E-mail: bbersant@nushtel.com

Ceñaliulriit CRSA

P.O. Box 368
St. Mary's, AK 99658
Phone: (907) 438-2638
Telecopy: (907) 438-2643

Cordova, City of

P.O. Box 1210
Cordova, AK 99574
Phone: (907) 424-6200
Telecopy: (907) 424-6246
E-mail: samflora@cordovanet.com

Craig, City of

City of Craig
P.O. Box 725
Craig, AK 99921
Phone: (907) 826-3275
Telecopy: (907) 826-3278
E-mail: jbolling@ptialaska.net

Haines, City of

City of Haines
P.O. Box 1049
Haines, AK 99827
Phone: (907) 766-2231
Telecopy: (907) 766-3179
Web Site: <http://www.haines.ak.us>

Hoonah, City of

P.O. Box 360
Hoonah, AK 99829
Phone: (907) 945-3663
Telecopy: (907) 945-3445

Hydaburg, City of

P.O. Box 49
Hydaburg, AK 99922
Phone: (907) 285-3761
Telecopy: (907) 285-3760

Coastal District Contacts

Juneau, City and Borough of

Community Development Department
155 South Seward Street
Juneau, AK 99801
Phone: (907) 586-5230
Telecopy: (907) 586-3365
Email: Terry_Stone@mail.ci.juneau.ak.us
Web Site: <http://www.juneau.Lib.ak.us>

Kake, City of

P.O. Box 500
Kake, AK 99830
Phone: (907) 785-3804
Telecopy: (907) 785-4815
E-mail: clerkake@seaknet.alaska.edu

Kenai Peninsula Borough

144 N. Binkley Street
Soldotna, AK 99669-7599
Phone: (907) 262-4441 x337
E-mail: Glandua@borough.kenai.ak.us
Web Site: <http://www.borough.kenai.ak.us>

Ketchikan Gateway Borough

344 Front Street
Ketchikan, AK 99901
Phone: (907) 228-6610
Telecopy: (907) 247-8439
E-mail: ktnczm@ktn.net

Klawock, City of

P.O. Box 113
Klawock, AK 99925
Phone: (907) 755-2261
Telecopy: (907) 755-2403

Kodiak Island Borough

Community Development Department
710 Mill Bay Road
Kodiak, AK 99615-6340
Phone: (907) 486-9360
Telecopy: (907) 486-9376
E-mail: lfred@kib.co.kodiak.ak.us (no caps)

Lake and Peninsula Borough

P.O. Box 495
King Salmon, AK 99613
Phone: (907) 246-3421
Telecopy: (907) 246-6602
E-mail: lpboro@bristolbay.com

Coastal District Contacts

Matanuska-Susitna Borough

350 E. Dahlia Avenue
Palmer, AK 99645-6488
Phone: (907) 745-9865
Telecopy: (907) 745-9876

Nome, City of

P.O. Box 281
Nome, AK 99762
Phone: (907) 443-5242
Telecopy: (907) 443-5349
Web Site: <http://www.alaska.net/~nome/>

North Slope Borough

P.O. Box 69
Barrow, AK 99723
Phone: (907) 852-0440 x266
Telecopy: (907) 852-5991
E-mail: jdunham@co.north-slope.ak.us

Northwest Arctic Borough

P.O. Box 1110
Kotzebue, AK 99752
Phone: (907) 442-2500
Telecopy: (907) 442-2930
E-mail: acar@cagle.ptialaska.net
Web Site: <http://www.northwestarcticborough.com>

Pelican, City of

P.O. Box 737
Pelican, AK 99832
Phone: (907) 735-2202(wk)
Telecopy: (907) 735-2258

Petersburg, City of

P.O. Box 329
Petersburg, AK 99833
Phone: (907) 772-4533
Telecopy: (907) 772-4876
E-mail: luczak@alaska.net

Sitka, City and Borough of

100 Lincoln Street, #201
Sitka, AK 99835-7540
Phone: (907) 747-1812
Telecopy: (907) 747-7403
E-mail: campbell@cityofsitka.com
Web Site: <http://www.CityofSitka.com>

Coastal District Contacts

Skagway, City of

P.O. Box 415
Skagway, AK 99840
Phone: (907) 983-2297
Telecopy: (907) 983-2151

St. Paul, City of

P.O. Box 501
St. Paul, AK 99660
Phone: (907) 546-2331
Telecopy: (907) 546-3199

Thorne Bay, City of

P.O. Box 19110
Thorne Bay, AK 99919
Phone: (907) 828-3380
Telecopy: (907) 828-3374

Valdez, City of

P.O. Box 307
Valdez, AK 99686
Phone: (907) 835-4313
Telecopy: (907) 835-2992
E-mail: vdzadm@alaska.net

Whittier, City of

P.O. Box 729
Whittier, AK 99693
Phone: (907) 472-2326
Telecopy: (907) 472-2404

Wrangell, City of

P.O. Box 531
Wrangell, AK 99929
Phone: (907) 874-2381
Telecopy: (907) 874-3952
E-mail: ccodev@wrangell.com

Yakutat, City and Borough of

P.O. Box 160
Yakutat, AK 99689
Phone: (907) 784-3323
Telecopy: (907) 784-3281

State Agency Contacts

Primary State Resource Management Agency Contacts

Department of Natural Resources

Web Site: <http://www.dnr.state.ak.us>

Southcentral Alaska:
Public Information Office
3601 C Street, Suite 200
Anchorage, AK 99503-5929
Phone: 269-8400
Fax: 269-8901

Southeast Alaska:
Public Information Office
400 Willoughby, Fourth Floor
Juneau, AK 99801-1790
Phone: 465-3400
Fax: 586-2954

Northern Alaska:
Public Information Office
3700 Airport Way
Fairbanks, AK 99709-4699
Phone: 451-2700
Fax: 451-2751

Department of Fish and Game Division of Habitat and Restoration

Web Site: [http://www.state.ak.us/local/akpages/
FISH.GAME/adfghome.htm](http://www.state.ak.us/local/akpages/FISH.GAME/adfghome.htm)

Southcentral Alaska:
333 Raspberry Rd.
Anchorage, AK 99518-1599
Phone: 267-2335
Fax: 267-2464

Southeast Alaska:
P.O. Box 240020
Douglas, AK 99824-0020
Phone: 465-4290
Fax: 465-4272

State Agency Contacts

Northern Alaska:
1300 College Rd.
Fairbanks, AK 99701-1599
Phone: 459-7289
Fax: 456-3091

Department of Environmental Conservation

Web Site: [http://www.state.ak.us/local/akpages/
ENV.CONSERV/home.htm](http://www.state.ak.us/local/akpages/ENV.CONSERV/home.htm)

Southcentral Alaska:
555 Cordova St.
Anchorage, AK 99501
Phone: 269-7500
Fax: 269-7652

Southeast Alaska:
410 Willoughby Ave. Suite 105
Juneau, AK 99801
Phone: 465-5350
Fax: 465-5274

Northern Alaska:
610 University Ave.
Fairbanks, AK 99709-3643
Phone: 451-2360
Fax: 451-2187

Federal Agency Contacts

U.S. Army Corps of Engineers

<http://www.usace.army.mil/alaska>

P.O. Box 898
Anchorage, AK 99506-0898
ATTN: NPACO-RF
Phone: 1-800-478-2712

Your project may also require permits from other federal agencies such as those listed below. However these agencies do not have consistent or single points of contact for permit information and ACMP requirement. DGC can provide you with appropriate contact information if your project may require permits from these agencies.

Bureau of Land Management

<http://www.ak.blm.gov/>

Environmental Protection Agency

<http://www.epa.gov/region10/www/search.html>

222 W. 7th Ave. #19
Anchorage, AK 99513-7588
1-800-781-0983

Federal Aviation Administration

Federal Energy Regulatory Commission

Minerals Management Service

949 E. 36th Ave.
Anchorage, AK 99508
(907) 271-6010

U.S. Coast Guard

<http://www.uscg.mil.d17uscgd17.html>

U.S. Forest Service

<http://www.fs.fed.us/r10/>

For more information about federal consistency or appeals to the U.S. Secretary of Commerce contact

Office of Ocean and Coastal Resource Management (OCRM)

<http://www.nos.noaa.gov/ocrm/>

OCRM, National Ocean Service
National Oceanic & Atmospheric Administration
U.S. Department of Commerce
1305 East-West Hwy., N/ORM4
Silver Spring, Maryland 20910



State of Alaska,
Office of the Governor

Division of Governmental Coordination (DGC)

DGC Web Site:

<http://www.alaska coast.state.ak.us>

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Suite 500, Juneau, AK

Mailing: P.O. Box 110030,
Juneau, AK
99811-0030

Telephone: (907) 465-3562
Fax: (907) 465-3075

Anchorage DGC Office

Address: 3601 "C" St., Suite 370
Anchorage, AK
99503-5930

Telephone: (907) 269-7470
Fax: (907) 561-6134

Joint Pipeline Office

Address: 411 W. 4th Ave.
Suite 2-C, Anchorage,
AK 99501-2342

Telephone: (907) 271-4317
Fax: (907) 272-0690



Funding for this publication provided by the State of Alaska and through the Coastal Zone Management Act of 1972, as amended in 1990, administered by the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, U.S. Department of Commerce. These booklets were printed at a cost of 96 each in Anchorage, Alaska during June, 1998.

HB 439-COASTAL ZONE MANAGEMENT PETITIONS
SENATE FINANCE COMMITTEE

SIGN-IN

✓
NAME: Pam LaBolle Subject/Bill No: HB 439
Co./Dept./Title: AK State Chamber President Phone: 586-2010
Address: 217 2nd St Juneau Zip: 99801
Do you wish to testify? Yes No Respond To Questions

NAME: Linda Hoy Subject/Bill No: HB 439
Co./Dept./Title: Rep Ogan Phone: # 2283
Address: #108 Zip: _____
Do you wish to testify? Yes No Respond To Questions

✓
NAME: Patrick Galvin Subject/Bill No: HB 439
Co./Dept./Title: Div. of Governmental Coord. Phone: 465-8800
Address: Juneau Zip: 99811
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

