

SB

102

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FILE

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 5
Bill Version: CSSB 102(FIN)
(S) Publish Date: 5/3/05

Revision Date/Time (Note if correction): 5/03/05 11:00am Dept. Affected: Natural Resources
Title: Relating to District Coastal Management RDU: Resource Development
Programs Component: Alaska Coastal Management
Sponsor: Senators Gary Stevens, Olson Program: Program
Requester: Senate Finance Component No.: 2680

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services		133.0				
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	133.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		133.0				
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	133.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 191 required the districts to have plans submitted by 6/30/2005, with the ACMP review process of those plans to be complete by 6/30/2006. Implementation of CS SB 102 extends the district submission deadline to 3/1/2006, 8 months after the deadline established in HB 191. The ACMP review process of those plans would not be complete until 3/1/2007. Funding is available for existing staff through 6/30/2006, under the original plan. SB 102 will require us to retain 2-3 positions for the additional 8 months, resulting in the fiscal note.

Prepared by: Randy Bates, Deputy Director Phone 269-8429
Division: Office of Project Management & Permitting Date/Time 5/3/2005
Approved by: Tom Irwin, Commissioner Date 5/3/2005
Agency: Natural Resources

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 4
Bill Version: CSSB 102(CRA)
(S) Publish Date: 3/18/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Environmental Conservation
Title: Act relating to coastal management programs; RDU Division of Water
and providing for an effective date. Component: Water Quality
Sponsor: Senators Gary Stevens and Olson
Requester: Senate Community & Regional Affairs Component No. 2062

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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						
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CHANGE IN REVENUES ()						
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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 (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
This bill extends the deadline for submission of revised district coastal management plans by coastal resource districts pursuant to AS 46.40 as amended by ch. 24, SLA 2003. The department anticipates no fiscal impact.

Prepared by: Dan Easton Phone: 465-5135
Division: Water Date/Time: 3/9/05 10:55 AM
Approved by: Kurt Fredriksson Date: 3/14/2005
Agency: Department of Environmental Conservation

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSSB 102(CRA)
(S) Publish Date: 3/18/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Fish and Game
Title: Coastal Management Programs RDU: _____
Component: _____
Sponsor: Senator Gary Stevens
Requester: Senale Community & Regional Affairs Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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						
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CHANGE IN REVENUES ()						
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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 (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation would have no fiscal impact.

Prepared by: Sarah Gilbertson Phone: 465-6137
Division: Legislative Liaison Date/Time: 3/8/05 4:49 PM
Approved by: Acting Commissioner Wayne Regolin Date: 3/8/2005
Agency: Alaska Department of Fish & Game

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSSB 102(CRA)
(S) Publish Date: 3/18/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
Title Coastal Management Programs RDU Comm Assist & Ec Dev (405)
Component Community Advocacy
Sponsor Stevens G. Olson
Requester Senate Community & Regional Affairs Component No. 2703

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
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						
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CHANGE IN REVENUES ()						
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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 (FY2005) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would extend the deadline for coastal districts to amend their plans. It would have no fiscal impact on the operations of the division.

Prepared by: Michael Black, Director Phone 907.269.4580
Division Community Advocacy Date/Time 3/8/05 2:29 PM
Approved by: Edgar Blatchford, Commissioner Date 3/8/2005
Agency Commerce, Community, and Economic Development

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Bullock
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Adopted by HRES

HOUSE CS FOR CS FOR SENATE BILL NO. 102() Res
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS GARY STEVENS, Olson, Wilken, Dyson, Wagoner

A BILL

FOR AN ACT ENTITLED

1 "An Act repealing the Alaska coastal management program; relating to an extension for
2 review and approval of revisions to the Alaska coastal management program; relating to
3 reviews and modifications by the Department of Natural Resources; relating to coastal
4 resource district policies; providing for an effective date by amending the effective date
5 of sec. 45, ch. 24, SLA 2003; and providing for an effective date."

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

7 * Section 1. AS 09.45.230(b) is amended to read:

8 (b) A person may not maintain an action under this section based upon an air
9 emission or water or solid waste discharge, other than the placement of nuclear waste,
10 where the emission or discharge was expressly authorized by and is not in violation of
11 a term or condition of

- 12 (1) a statute or regulation;
- 13 (2) a license, permit, or order that is

1 (A) issued after public hearing by the state or federal
2 government; and

3 (B) subject to

4 (i) continuing compliance monitoring;

5 (ii) periodic review by the issuing agency; or

6 (iii) renewal on a periodic basis; or

7 [(iv) AS 46.40; OR]

8 (3) a court order or judgment.

9 * Sec. 2. AS 16.43.160(e) is amended to read:

10 (e) For an entry permit or an interim-use permit issued for calendar year 2002
11 and following years, the annual base fee may not be less than \$10 or more than \$300.
12 The annual base fee must reasonably reflect the different rates of economic return for
13 different fisheries. The fee for a nonresident entry permit or a nonresident interim-use
14 permit shall be higher than the annual base fee by an amount, established by the
15 commission by regulation, that is as close as is practicable to the maximum allowed by
16 law. The amount of the fee for a nonresident entry permit or a nonresident interim-use
17 permit may reflect

18 (1) the costs incurred by the state that are directly attributable to
19 participation of nonresidents in the commercial fisheries of the state;

20 (2) the costs incurred by the state for

21 (A) direct operating expenditures for ongoing management,
22 support, and regulation of the commercial fishing industry, including relevant
23 expenditures of the

24 (i) Department of Environmental Conservation - air and
25 water quality permitting activities and seafood inspection activities;

26 (ii) Department of Commerce, Community, and
27 Economic Development - commercial fishing loan program, Alaska
28 Seafood Marketing Institute, regional seafood development program,
29 and community development quota program;

30 (iii) Department of Fish and Game - division of
31 commercial fisheries, board support section, division of administrative

1 services, division of sport fish, commissioner's office, and Alaska
2 Commercial Fisheries Entry Commission;

3 (iv) Department of Labor and Workforce Development
4 - wage and hour enforcement, mechanical inspections, occupational
5 safety and health activities, and fishermen's fund;

6 (v) Department of Law;

7 (vi) Department of Natural Resources, including [THE
8 ALASKA COASTAL MANAGEMENT PROGRAM AND] habitat
9 programs;

10 (vii) Department of Public Safety - commercial
11 fisheries enforcement;

12 (viii) Department of Revenue - fisheries business tax
13 program, fishery resource landing tax program, seafood development
14 tax program, salmon fishery assessment program, permit buy-back
15 assessment program, and dive fishery management assessment
16 program;

17 (ix) University of Alaska - Fisheries Industrial
18 Technology Center, Institute of Marine Science, Marine Advisory
19 Program, Sea Grant College Program, and School of Fisheries and
20 Ocean Sciences;

21 (x) Legislature;

22 (xi) Alaska Court System;

23 (B) indirect operating expenditures for general overhead
24 attributable to supporting the commercial fishing industry, including
25 expenditures for general overhead attributable to components of agencies that
26 have direct operating expenditures identified under (A) of this paragraph and to
27 components of agencies for which direct operating expenditures related to the
28 ongoing management, support, and regulation of the commercial fishing
29 industry cannot be readily determined;

30 (C) capital costs directly supporting the commercial fishing
31 industry; and

1 (D) expenditures to subsidize the construction and operation of
2 salmon hatcheries.

3 * Sec. 3. AS 37.10.058(2) is amended to read:

4 (2) "designated regulatory service" means a regulatory service
5 provided under the following regulatory programs:

6 (A) control of solid waste facilities under AS 46.03.020(10)(D)
7 and (E);

8 (B) regulation of the disposal of waste into waters of the state
9 under AS 46.03.100;

10 (C) certification of federal permits or authorizations under 33
11 U.S.C. 1341 (sec. 401, Clean Water Act);

12 (D) [A COASTAL MANAGEMENT CONSISTENCY
13 DETERMINATION RELATING TO A PERMIT OR AUTHORIZATION
14 ISSUED UNDER A PROGRAM LISTED IN (A) - (C) OF THIS
15 PARAGRAPH, IF THE DETERMINATION IS MADE BY THE AGENCY
16 ISSUING THE PERMIT OR AUTHORIZATION;

17 (E)] any authorization for the use or appropriation of water
18 under AS 46.15; and

19 (E) [(F)] administration of emission control permits for the air
20 quality control program under AS 46.14.

21 * Sec. 4. AS 37.10.058(7) is amended to read:

22 (7) "permit" means a permit, license, certificate, or approval [, OR
23 COASTAL MANAGEMENT CONSISTENCY DETERMINATION];

24 * Sec. 5. AS 38.05.035(e) is amended to read:

25 (e) Upon a written finding that the interests of the state will be best served, the
26 director may, with the consent of the commissioner, approve contracts for the sale,
27 lease, or other disposal of available land, resources, property, or interests in them. In
28 approving a contract under this subsection, the director need only prepare a single
29 written finding. In addition to the conditions and limitations imposed by law, the
30 director may impose additional conditions or limitations in the contracts as the director
31 determines, with the consent of the commissioner, will best serve the interests of the

1 state. The preparation and issuance of the written finding by the director are subject to
2 the following:

3 (1) with the consent of the commissioner and subject to the director's
4 discretion, for a specific proposed disposal of available land, resources, or property, or
5 of an interest in them, the director, in the written finding,

6 (A) shall establish the scope of the administrative review on
7 which the director's determination is based, and the scope of the written
8 finding supporting that determination; the scope of the administrative review
9 and finding may address only reasonably foreseeable, significant effects of the
10 uses proposed to be authorized by the disposal;

11 (B) may limit the scope of an administrative review and finding
12 for a proposed disposal to

13 (i) applicable statutes and regulations;

14 (ii) the facts pertaining to the land, resources, or
15 property, or interest in them, that the director finds are material to the
16 determination and that are known to the director or knowledge of which
17 is made available to the director during the administrative review; and

18 (iii) issues that, based on the statutes and regulations
19 referred to in (i) of this subparagraph, on the facts as described in (ii) of
20 this subparagraph, and on the nature of the uses sought to be authorized
21 by the disposal, the director finds are material to the determination of
22 whether the proposed disposal will best serve the interests of the state;
23 and

24 (C) may, if the project for which the proposed disposal is
25 sought is a multiphased development, limit the scope of an administrative
26 review and finding for the proposed disposal to the applicable statutes and
27 regulations, facts, and issues identified in (B)(i) - (iii) of this paragraph that
28 pertain solely to the disposal phase of the project when

29 (i) the only uses to be authorized by the proposed
30 disposal are part of that phase;

31 (ii) the disposal is a disposal of oil and gas, or of gas

1 only, and, before the next phase of the project may proceed, public
2 notice and the opportunity to comment are provided under regulations
3 adopted by the department [UNLESS THE PROJECT IS SUBJECT
4 TO A CONSISTENCY REVIEW UNDER AS 46.40 AND PUBLIC
5 NOTICE AND THE OPPORTUNITY TO COMMENT ARE
6 PROVIDED UNDER AS 46.40.096(c)];

7 (iii) the department's approval is required before the
8 next phase of the project may proceed; and

9 (iv) the department describes its reasons for a decision
10 to phase;

11 (2) the director shall discuss in the written finding prepared and issued
12 under this subsection the reasons that each of the following was not material to the
13 director's determination that the interests of the state will be best served:

14 (A) facts pertaining to the land, resources, or property, or an
15 interest in them other than those that the director finds material under (1)(B)(ii)
16 of this subsection; and

17 (B) issues based on the statutes and regulations referred to in
18 (1)(B)(i) of this subsection and on the facts described in (1)(B)(ii) of this
19 subsection;

20 (3) a written finding for an oil and gas lease sale or gas only lease sale
21 under AS 38.05.180 is subject to (g) of this section;

22 (4) a contract for the sale, lease, or other disposal of available land or
23 an interest in land is not legally binding on the state until the commissioner approves
24 the contract, but if the appraised value is not greater than \$50,000 in the case of the
25 sale of land or an interest in land, or \$5,000 in the case of the annual rental of land or
26 interest in land, the director may execute the contract without the approval of the
27 commissioner;

28 (5) public notice requirements relating to the sale, lease, or other
29 disposal of available land or an interest in land for oil and gas, or for gas only,
30 proposed to be scheduled in the five-year oil and gas leasing program under
31 AS 38.05.180(b), except for a sale under (6)(F) of this subsection, are as follows:

1 (A) before a public hearing, if held, or in any case not less than
2 180 days before the sale, lease, or other disposal of available land or an interest
3 in land, the director shall make available to the public a preliminary written
4 finding that states the scope of the review established under (1)(A) of this
5 subsection and includes the applicable statutes and regulations, the material
6 facts and issues in accordance with (1)(B) of this subsection, and information
7 required by (g) of this section, upon which the determination that the sale,
8 lease, or other disposal will serve the best interests of the state will be based;
9 the director shall provide opportunity for public comment on the preliminary
10 written finding for a period of not less than 60 days;

11 (B) after the public comment period for the preliminary written
12 finding and not less than 90 days before the sale, lease, or other disposal of
13 available land or an interest in land for oil and gas or for gas only, the director
14 shall make available to the public a final written finding that states the scope of
15 the review established under (1)(A) of this subsection and includes the
16 applicable statutes and regulations, the material facts and issues in accordance
17 with (1) of this subsection, and information required by (g) of this section,
18 upon which the determination that the sale, lease, or other disposal will serve
19 the best interests of the state is based;

20 (6) before a public hearing, if held, or in any case not less than 21 days
21 before the sale, lease, or other disposal of available land, property, resources, or
22 interests in them other than a sale, lease, or other disposal of available land or an
23 interest in land for oil and gas or for gas only under (5) of this subsection, the director
24 shall make available to the public a written finding that, in accordance with (1) of this
25 subsection, sets out the material facts and applicable statutes and regulations and any
26 other information required by statute or regulation to be considered upon which the
27 determination that the sale, lease, or other disposal will best serve the interests of the
28 state was based; however, a written finding is not required before the approval of

29 (A) a contract for a negotiated sale authorized under
30 AS 38.05.115;

31 (B) a lease of land for a shore fishery site under AS 38.05.082;

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(C) a permit or other authorization revocable by the commissioner;

(D) a mineral claim located under AS 38.05.195;

(E) a mineral lease issued under AS 38.05.205;

(F) an exempt oil and gas lease sale or gas only lease sale under AS 38.05.180(d) of acreage subject to a best interest finding issued within the previous 10 years or a reoffer oil and gas lease sale or gas only lease sale under AS 38.05.180(w) of acreage subject to a best interest finding issued within the previous 10 years, unless the commissioner determines that substantial new information has become available that justifies a supplement to the most recent best interest finding for the exempt oil and gas lease sale or gas only lease sale acreage and for the reoffer oil and gas lease sale or gas only lease sale acreage; however, for each oil and gas lease sale or gas only lease sale described in this subparagraph, the director shall call for comments from the public; the director's call for public comments must provide opportunity for public comment for a period of not less than 30 days; if the director determines that a supplement to the most recent best interest finding for the acreage is required under this subparagraph,

(i) the director shall issue the supplement to the best interest finding not later than 90 days before the sale;

(ii) not later than 45 days before the sale, the director shall issue a notice describing the interests to be offered, the location and time of the sale, and the terms and conditions of the sale; and

(iii) the supplement has the status of a final written best interest finding for purposes of (i) and (l) of this section;

(G) a surface use lease under AS 38.05.255;

(H) a permit, right-of-way, or easement under AS 38.05.850;

(7) the director shall include in

(A) a preliminary written finding, if required, a summary of agency and public comments, if any, obtained as a result of contacts with other agencies concerning a proposed disposal or as a result of informal efforts

1 undertaken by the department to solicit public response to a proposed disposal,
2 and the department's preliminary responses to those comments; and

3 (B) the final written finding a summary of agency and public
4 comments received and the department's responses to those comments.

5 * Sec. 6. AS 38.05.945(d) is amended to read:

6 (d) Notice at least 30 days before action under (a)(5) of this section shall be
7 given to appropriate

8 [(1)] regional fish and game councils established under AS 16.05.260

9 [; AND

10 (2) COASTAL RESOURCE SERVICE AREAS ORGANIZED
11 UNDER AS 46.40.110 - 46.40.210].

12 * Sec. 7. AS 41.17.900(d) is amended to read:

13 (d) Notwithstanding any other provision of this chapter, the state forester and
14 the commissioner may not employ the authority vested by this chapter so as to
15 duplicate or preempt the statutory authority of other state agencies to adopt regulations
16 or undertake other administrative actions governing resources, values, or activities on
17 forest land except for

18 [(1)] REGULATIONS UNDER THE COASTAL MANAGEMENT
19 ACT; AND

20 (2)] regulations, if authorized by the commissioner of environmental
21 conservation, relating to control of nonpoint source pollution.

22 * Sec. 8. AS 41.21.492(b) is amended to read:

23 (b) Nothing in AS 41.21.491 - 41.21.495 affects the responsibilities of

24 (1) the Department of Fish and Game, the Board of Fisheries, or the
25 Board of Game under AS 16 and AS 41.99.010; or

26 (2) the Department of Environmental Conservation under AS 46.03 [;
27 OR

28 (3) STATE AGENCIES AND MUNICIPALITIES UNDER
29 AS 46.39.010 AND AS 46.40.100].

30 * Sec. 9. AS 41.21.504(b) is amended to read:

31 (b) Nothing in AS 41.21.500 - 41.21.514 affects the applicability of

1 (1) AS 41.99.010 and AS 16 regarding the responsibilities of the
2 Department of Fish and Game or the Board of Fisheries or the Board of Game; or

3 (2) AS 46.03 regarding the responsibilities of the Department of
4 Environmental Conservation [; OR

5 (3) AS 46.39.010 AND AS 46.40.100 REGARDING THE
6 RESPONSIBILITIES OF STATE AGENCIES AND MUNICIPALITIES].

7 * Sec. 10. AS 41.23.420(d) is amended to read:

8 (d) The provisions of AS 41.23.400 - 41.23.510 do not affect the authority of

9 (1) the Department of Fish and Game, the Board of Fisheries, the
10 Board of Game, or the Department of Commerce, Community, and Economic
11 Development under AS 08.54, AS 16, or AS 41.99.010; or

12 (2) the Department of Environmental Conservation under AS 46.03 [;
13 OR

14 (3) STATE AGENCIES AND MUNICIPALITIES UNDER
15 AS 46.39.010 AND AS 46.40.100].

16 * Sec. 11. AS 44.33.788 is amended to read:

17 Sec. 44.33.788. Other planning powers. The department may accept and
18 expend grants from the federal government and other public or private sources, may
19 contract with reference to them, and may enter into contracts and exercise all other
20 powers necessary to carry out 44.33.782 - 44.33.788 [AS 44.33.781 - 44.33.788].

21 * Sec. 12. AS 44.33.790 is amended to read:

22 Sec. 44.33.790. Definition. In AS 44.33.782 - 44.33.790 [AS 44.33.781 -
23 44.33.790], "department" means the Department of Commerce, Community, and
24 Economic Development.

25 * Sec. 13. AS 44.33.844 is amended to read:

26 Sec. 44.33.844. Boundaries. The boundaries of an area studied shall conform
27 to the boundaries indicated in the request for the study under AS 44.33.842 unless the
28 commissioner, after a public hearing held in the area of the proposed study, determines
29 that the boundaries should be altered. In determining the boundaries of an area to be
30 studied, the commissioner shall consider

31 (1) the standards applicable to the incorporation of boroughs under

1 AS 29.05.031;

2 (2) boundaries of regional corporations established under 43 U.S.C.
3 1606;

4 (3) census divisions of the state used for the 1980 census; and

5 (4) boundaries of the regional educational attendance areas established
6 under AS 14.08.031 [; AND

7 (5) BOUNDARIES OF COASTAL RESOURCE SERVICE AREAS
8 ORGANIZED UNDER AS 46.40.110 - 46.40.210].

9 * Sec. 14. AS 44.66.020(a) is amended to read:

10 (a) Agency programs and activities listed in this subsection that are
11 specifically designated as provided in AS 44.66.030 are subject to termination during
12 the regular legislative session convening in the month and year set out after each:

13 (1) programs in the budget categories of general government, public
14 protection, and administration of justice - January, 1980;

15 (2) programs in the budget categories of education and the University
16 of Alaska - January, 1981;

17 (3) programs in the budget categories of health and social services -
18 January, 1982;

19 (4) programs in the budget categories of natural resources
20 management, development, and transportation - January, 1983;

21 (5) the Alaska coastal management program (AS 46.40) - January,
22 2011.

23 * Sec. 15. AS 46.40.030(b) is amended to read:

24 (b) In developing enforceable policies in its coastal management plan under
25 (a) of this section, a coastal resource district shall meet the requirements of
26 AS 46.40.070 and shall [MAY] not duplicate, restate, or incorporate by reference
27 statutes and administrative regulations adopted by state or federal agencies.

28 * Sec. 16. The uncodified law of the State of Alaska enacted in sec. 46(c), ch. 24, SLA
29 2003, is amended to read:

30 (c) Notwithstanding any contrary provision of ch. 24, SLA 2003 [THIS ACT],
31 the repeal of the Alaska Coastal Policy Council enacted by sec. 44, ch. 24, SLA 2003

1 [OF THIS ACT], and the repeal of the Alaska Coastal Policy Council's duties in
2 AS 46.40.040, as amended by sec. 10, ch. 24, SLA 2003 [OF THIS ACT], a district
3 coastal management program, including its enforceable policies, approved by the
4 former Alaska Coastal Policy Council remains in effect for purposes of AS 46.39 and
5 AS 46.40 until March 1, 2007 [JULY 1, 2006], unless the Department of Natural
6 Resources disapproves or modifies all or part of the program before March 1, 2007
7 [JULY 1, 2006].

8 * Sec. 17. The uncodified law of the State of Alaska enacted in sec. 47(a), ch. 24, SLA
9 2003, is amended to read:

10 (a) Within 20 months [ONE YEAR] after the effective date of regulations
11 adopted by the department of natural resources implementing changes to
12 AS 46.40.010 - 46.40.090, enacted by secs. 8 - 15 and 44, ch. 24, SLA 2003 [OF
13 THIS ACT], or by March 1, 2006 [JULY 1, 2005], whichever is later, coastal
14 resource districts shall review their existing district coastal management program and
15 submit to the Department of Natural Resources for review and approval a revised
16 district coastal management plan meeting the requirements of AS 46.40 [, AS
17 AMENDED BY THIS ACT,] and the implementing regulations.

18 * Sec. 18. AS 41.17.900(e); AS 44.33.781; AS 46.39.010, 46.39.030, 46.39.040, 46.39.900;
19 AS 46.40.010, 46.40.020, 46.40.030, 46.40.040, 46.40.050, 46.40.060, 46.40.070, 46.40.090,
20 46.40.094, 46.40.096, 46.40.100, 46.40.110, 46.40.140, 46.40.150, 46.40.180, 46.40.190,
21 46.40.195, 46.40.205, and 46.40.210 are repealed.

22 * Sec. 19. The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 DUTIES OF THE DEPARTMENT OF NATURAL RESOURCES; REPEAL OF
25 CERTAIN COASTAL RESOURCE DISTRICT POLICIES. (a) Notwithstanding any
26 contrary provision of law, enforceable coastal resource district policies in effect on the
27 effective date of this section that conflict with AS 46.40.030(b), as amended in sec. 15 of this
28 Act and as that subsection read on the effective date of this section, or address any matter
29 regulated by the Department of Environmental Conservation are repealed and are declared
30 null and void.

31 (b) Within two years after the approval of the state's revised coastal

1 management program developed under ch. 24, SLA 2003 by the National Oceanic and
2 Atmospheric Administration, Office of Ocean and Coastal Resource Management, United
3 States Department of Commerce under 16 U.S.C. 1455 and 1457 (Coastal Zone Management
4 Act of 1972), the Department of Natural Resources shall complete a review and update of
5 categorically and generally consistent determinations. The Department of Natural Resources
6 shall complete a review and update of categorically and generally consistent determinations at
7 least every four years thereafter and shall conform to the requirements of AS 46.40.096(m) as
8 that subsection read on the effective date of this section.

9 * Sec. 20. The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 EMERGENCY REGULATIONS. The need to adopt regulations consistent with this
12 Act is declared an emergency, and the Department of Natural Resources shall proceed to
13 adopt emergency conforming regulations to implement this Act.

14 * Sec. 21. The uncodified law of the State of Alaska enacted in sec. 49, ch. 24, SLA 2003,
15 is amended to read:

16 Sec. 49. Section 45, ch. 24, SLA 2003, [OF THIS ACT] takes effect March 1,
17 2007 [JULY 1, 2005].

18 * Sec. 22. Sections 1 - 13 and sec. 18 of this Act take effect July 1, 2011 unless the state's
19 revised coastal management program has not been approved by the National Oceanic and
20 Atmospheric Administration, Office of Ocean and Coastal Resource Management, United
21 States Department of Commerce, under 16 U.S.C. 1455 and 1457 (Coastal Zone Management
22 Act of 1972) before January 1, 2006. If the state's revised coastal management program is not
23 approved before January 1, 2006, by the National Oceanic and Atmospheric Administration,
24 Office of Ocean and Coastal Resource Management, United State's Department of
25 Commerce, then secs. 1 - 13 and sec. 18 of this Act take effect May 10, 2006. The
26 commissioner of natural resources shall notify the revisor of statutes on February 1, 2006,
27 whether the revised coastal management program has been approved as described in this
28 section.

29 * Sec. 23. Except as provided in sec. 22 of this Act, this Act takes effect immediately under
30 AS 01.10.070(c).

5-7-05

Failed (2-0)

24-LS0491VB .1
Bullock
5/7/05

AMENDMENT

OFFERED IN THE HOUSE

TO: HCS CSSB 102(RES)

- 1 Page 13, line 22:
2 Delete "January 1, 2006"
3 Insert "~~February~~ 1, 2006" *March*
4
5 Page 13, line 23:
6 Delete "January 1, 2006"
7 Insert "~~February~~ 1, 2006" *March*
8
9 Page 13, line 26:
10 Delete "February 1, 2006"
11 Insert "~~March~~ 1, 2006" *April*

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Senator Gary Stevens

Alaska State Legislature

INTERIM ADDRESS:
112 Mill Bay Road
Kodiak, Alaska 99615
(907) 486-4925
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SPONSOR STATEMENT

HCS for CS SB 102 (RES), COASTAL MANAGEMENT PROGRAMS (Revised May 7, 2005)

The Alaska Coastal Management Program (ACMP) is a partnership between federal, state, and local governments providing state and local governments a voice in federal decision making. Alaska is one of 34 coastal and Great Lakes states and territories that utilize this program, a program that annually channels millions of dollars in federal grant money to the states. The ACMP has helped guide coastal development in the state since it was enacted in 1977. Without the program the state and local governments lose their ability to control development on federal land and the Outer Continental Shelf. In addition the state will lose millions in federal coastal management planning money.

In 2003, HB 191 substantially revised the state coastal program. The federal Office of Ocean and Coastal Resource Management (OCRM) must approve the revised program. The 2003 legislation included state-imposed deadlines for revisions to local coastal programs. Coastal Districts are attempting to follow the statutory directive to revise their programs to meet the new requirements, but have repeatedly said that need more time to complete this process.

HCS CS for SB 102 (RES) extends the existing statutory deadline for district coastal program submissions by eight months and a correlative delay in dates of annulment of the existing standards and program until March 1, 2007. These extensions will ensure an orderly and efficient transition to the new program.

In Senate Finance committee with Senator Therriault's input, sunset provisions were added including Legislative Audit review. Sections that differ between the version passed by the Senate and those amended in the House Resources committee, begin on page 12, line 30 with a new subsection that requires DNR to complete a review and update of the categorical consistency determinations (known as an ABC list) every four years and conform to the existing requirements in AS 46.40.096(m). Sec. 21 was amended in House Resources Committee to specifically allow the old program standards to stay in effect through 3/1/07.

Section 22 on page 13 is new and was added in House Resources Committee setting a 'kill date' ending the Coastal Zone Program entirely if OCRM approval does not occur by January 1, 2006. That date, is the date the Administration has been told by OCRM that the NEPA/EIS of the new state coastal program would be complete. The section puts in place the repealing and sunset clauses in the bill but they do not take effect until May 10, 2006 leaving the Legislature time to act, to extend the sunset dates of the old coastal management program.



Alaska State Legislature

Senate Majority Web: www.akrepublicans.org

Sponsor: Senator Gary Stevens
Current Version: CSSB 102 (RES)
Contact: Doug Letch, 465-4925

Fact Sheet for: Senate Bill 102

Short Title: COASTAL MANAGEMENT PROGRAMS

Summary:

- Extends the deadline for coastal resource districts to submit revised district coastal management plans to the Department of Natural Resources.
- Moves the deadline to six months after the State's revised coastal management program is approved by the National Oceanic and Atmospheric Administration.

Benefits:

- Gives resource districts more time to submit revised coastal zone management plans while state and federal oversight agencies resolve outstanding issues.
- Gives Alaska's coastal districts a reasonable opportunity for meaningful participation in the development of their coastal management plan.

Background:

- In 2003 the Legislature passed House Bill 191, which streamlined the Alaska Coastal Management Program (ACMP). The ACMP was first enacted in 1977 to participate in the federal Coastal Zone Management Act of 1972. The federal program encourages states to adopt coastal programs by providing federal funds and the opportunity for federal consistency review, which allows the state to apply its authority to projects located on federal land where otherwise it would be preempted by federal law. HB 191 created a new coastal management program and required resource districts to submit a revised coastal management plan by July 1, 2005. This bill gives districts more time to comply.

FRANK H. MURKOWSKI
GOVERNOR

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April 18, 2005

Coastal District Representatives

Re: Update to the Coastal Districts Following Receipt of Office of Coastal and Resource Management's (OCRM) Letter Addressing Preliminary Approval of the Amended Alaska Coastal Management Program (ACMP)

Dear Coastal District Representatives:

I am pleased to share with you a landmark letter issued by OCRM on April 14, 2005. That letter responds favorably to the State of Alaska's December 16, 2004, submission of *The Alaska Coastal Management Program, As Amended*, and concludes an arduous, detailed, comprehensive, and collaborative effort by the State of Alaska and OCRM on the approvability of the state's coastal program.

On February 23, 2005, I wrote OCRM a letter that took a firm position regarding our state's right to manage our coastal uses and resources in a manner consistent with our best judgment. OCRM took a hard look at the issues I identified and re-evaluated their position, as characterized in their January 28, 2005, letter. I appreciate OCRM's flexibility in reviewing the Coastal Zone Management Act (CZMA) and other approval criteria that resulted in a significantly modified list of requirements for Alaska's amended ACMP to be federally approved. OCRM's modified position truly assists our state in developing a coastal program that appropriately addresses the management and protection of Alaska's coastal uses and resources, balances the rights of stakeholders, and does so in a manner fully compliant with the CZMA and its implementing regulations.

Our discussions have culminated with OCRM's April 14, 2005, letter, which identifies the few remaining technical regulatory amendments necessary for the amended ACMP to meet the requirements of the CZMA. The state has agreed to make those revisions identified in the letter as required by law, but will not make further changes which OCRM sought as a policy directive but which had no legal basis.

Once the amended regulations have been adopted in accordance with Alaska's Administrative Procedures Act, OCRM will issue preliminary approval

Coastal District Representatives
April 18, 2005
Page 2

of the amended ACMP. The revisions are discussed in detail in the OCRM letter and are briefly summarized below.

1. Pursuant to 16 U.S.C. 1455(d)(4) and 15 C.F.R. 923.82(a), the state must hold a public hearing on the amended ACMP before OCRM can make a preliminary approval decision. This public hearing is an opportunity for interested persons to provide oral and/or written testimony on the state's amended ACMP.
2. The Department of Natural Resources (DNR) will make regulatory revisions to the ACMP's state standards at 11 AAC 112 to accommodate the CZMA "effects test" for federal consistency reviews which is required by federal regulation. As described in DNR Commissioner Tom Irwin's April 7, 2005, letter to OCRM, this "effects test" applies to (a) federal agency activities if the federal agency determines that effects to any land or water use or natural resource of the coastal zone are reasonably foreseeable and the state has an enforceable policy addressing the use or resource; and (b) federal license or permit activities that are located within the state's defined coastal area or on the outer continental shelf.
3. The state will make regulatory revisions to the subsistence use standard to allow the state to designate subsistence use areas. This revision will address the potential gap between the effective date of the new state standards at 11 AAC 112 and the implementation of the revised coastal district plans.
4. The state will update the ACMP program description by incorporating into that document all of DNR's existing published guidance pertaining to district planning and implementation.

To secure timely preliminary approval of the amended ACMP, and to assure continued federal funding of the ACMP in state fiscal year 2006, DNR intends to expeditiously revise the regulations to satisfy these procedural requirements. The proposed schedule for accomplishing the above listed tasks and securing preliminary approval from OCRM is as follows:

- April 20, 2005 - DNR releases all proposed regulatory revisions for public review and comment, and provides public notice of the hearing on the amended ACMP;

Coastal District Representatives

April 18, 2005

Page 3

- May 20, 2005 – DNR conducts a public hearing on the amended ACMP in Anchorage;
- May 23, 2005 – DNR closes the public review and comment period on all proposed regulations;
- May 25, 2005 – Having considered all comments on the regulations and incorporated appropriate changes, DNR finalizes and adopts the revised regulations, and submits them to the Department of Law (DOL) for legal review;
- May 31, 2005 – DOL transmits regulations to the Lieutenant Governor for filing, establishing an effective date of July 1, 2005;
- June 1, 2005 – DNR submits to OCRM: (1) the adopted revised regulations, (2) the summary of the public hearing on amended ACMP, and (3) the revised program description;
- July 1, 2005 – OCRM responds to the state, preliminarily approving the amended ACMP; OCRM initiates the NEPA process; and
- December 31, 2005 – OCRM completes the NEPA process and approves amended ACMP, such that the state standards at 11 AAC 112 become effective on January 1, 2006.

Over the past several months, coastal district representatives have told us that while all districts will be able to submit a revised district coastal management plan by the July 1, 2005, deadline, additional time would improve the quality of those plans and the public outreach process. Three bills currently before the Legislature have requested various formulations of the request for additional time and the districts have recently indicated that an additional six months would be invaluable to their efforts. I agree.

Therefore, I am announcing that DNR will work with the Alaska State Legislature on Senate Bill 102 and House Bill (HB) 186 to effect three deadline extensions within HB 191 (Chapter 24, SLA 2003). These three deadline extensions will:

- Amend Section 46(c) of HB 191 to extend by six months the district program sunset date;

Coastal District Representatives

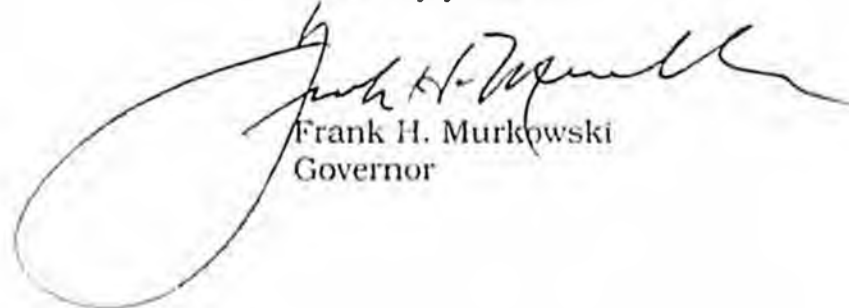
April 18, 2005

Page 4

- Amend Section 47(a) of HB 191 to extend by six months the revised district plan submission deadline; and
- Amend Section 49 of HB 191 to extend by six months the sunset date of the state standards at 6 AAC 80.010 - 6 AAC 90.90.

I hope you will join me in considering these developments a significant victory for all stakeholders in the ACMP process, and, most importantly for the coastal resources that we all work so hard to effectively manage. I am counting on your assistance and support as we complete the preliminary approval requirements and work through the deadline extension legislation you have requested, which will allow you to produce the best revised district plans possible.

Sincerely yours,

A large, stylized handwritten signature in black ink, appearing to read "Frank H. Murkowski". The signature is written over the printed name and title.

Frank H. Murkowski
Governor

Enclosure

FRANK H. MURKOWSKI
Governor



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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 31, 2005

Coastal District Representatives

RE: Summary and Follow-up to March 30, 2005, ACMP Meeting

Dear Coastal District Representatives:

Thank you for attending the March 30, 2005, meeting held in Anchorage to discuss the Alaska Coastal Management Program (ACMP). That 23 of the 27 coastal districts working on district coastal management plan revisions were represented at the meeting was not only encouraging but demonstrated your commitment to this program.

The meeting provided us a valuable opportunity to receive your input regarding the amended ACMP. The professional and articulate comments were appreciated and are being carefully considered. The general issues of concern are summarized below. Please recognize that this summary is not intended to provide a transcript or exhaustive list of every comment made at the meeting, but rather to recap the general themes and issues that you requested the state consider as it continues its efforts to obtain federal approval of the amended ACMP, and to comprehensively review your revised plans.

Federal Approval of the Amended ACMP

Districts voiced universal support of the state's efforts to pursue federal approval of the amended ACMP. Districts confirmed that continued state participation in the federal coastal program allows the coastal districts "a seat at the table" in participating in federal decision making, keeps federal money flowing to the coastal districts, and brings coastal district expertise and local perspective on important local issues to the decision making process.

Coastal District Plan Revisions

Every district stated that it would be able to submit a revised plan to the Department of Natural Resources (DNR) by the July 1, 2005, deadline. However, districts universally supported receiving additional time to develop those plan revisions. Representatives recalled that their original plans required significant time and effort, often stretching to two or three years. Districts asserted that the additional time would be spent on enhancing public participation and education on their district plans and coastal program revisions, as well as on refining the

Coastal District Representatives
March 31, 2005
Page 2

content of the revised plans to make the plans more likely to meet DNR approval criteria. Some districts asserted that an additional six months would make a significant difference.

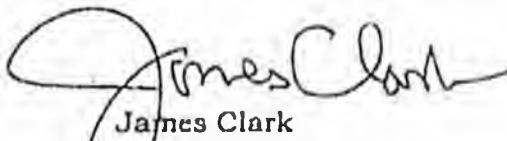
Funding


Districts expressed concern over the source and extent of future funding of the ACMP. Issues raised by districts included immediate funding for implementation absent federal approval of the amended ACMP and additional funding for districts to complete and further revise coastal plans submitted by July 1, 2005.

We thank you for providing your input and comments on these important issues, and want to assure you that we have taken them under advisement. We are presently considering how we will address the issues, and will keep you informed on our progress.

We also want to thank you for the opportunity to share the state's position regarding pursuit of a federally approved coastal management program. The state is committed to securing federal approval of an amended ACMP by the Office of Ocean and Coastal Resource Management (OCRM), but only if that program works for Alaska. We simply will not accept mandates by OCRM regarding how our state should manage its coastal uses and resources when that mandate exceeds federal authority. While we are confident that we recently secured OCRM's commitment to maintain their proper role in assisting us, rather than dictating to us, in developing our program, we will continue to defend our state's right to develop a coastal program in accordance with Alaska's priorities and needs. We share your desire for a federally approved coastal management program, and look forward to your support in convincing OCRM that the amended ACMP provides important and comprehensive management of Alaska's coastal uses and resources, and should be approved expeditiously.

Sincerely yours,


James Clark
Chief of Staff
Office of the Governor


Tom Irwin
Commissioner
Department of Natural Resources

FRANK H. MURKOWSKI
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February 23, 2005

Richard W. Spinrad, Ph.D.
Assistant Administrator
National Ocean Services
National Oceanic and Atmospheric
Administration (NOAA)
SSMC4, Room 13632
1305 East-West Hwy
Silver Spring, MD 20910

Subject: State of Alaska's Response to the Office of Ocean and Coastal
Resource Management's January 28, 2005, Letter and Enclosures
Relating to Alaska Coastal Management Program Amendment
Approval Issues

Dear Dr. Spinrad:

I have reviewed the letter and attachments from the Office of Ocean and Coastal Resource Management (OCRM), dated January 28, 2005. In that decisional document, OCRM denied preliminary approval of Alaska's amendment, and explained why it would not initiate the NEPA process required for later approval of a revised amendment. After careful study of the issues, I have concluded that the Alaska Coastal Management Program (ACMP) as envisioned and mandated by OCRM differs from the ACMP that I believe will best manage the competing uses and demands placed upon Alaska's coastal resources.

The original ACMP, approved by OCRM in 1979, provided the standards and protections necessary and appropriate at that time to manage effectively the uses, areas, and resources of the state's coastal zone. Over the next 25 years, the program evolved, into a complex, confusing set of requirements which unnecessarily delayed projects in Alaska without corresponding environmental benefits. Therefore, on May 21, 2003, I signed into law House Bill (HB) 191 (chapter 24 SLA 2003) which amended the ACMP in a manner that simplified and clarified the fragmented and defective 25 year old program, while still comprehensively and responsibly managing Alaska's coastal uses and resources.

Richard W. Spinrad, Ph.D.

February 23, 2005

Page 2

During the development of the statutory amendments included within HB 191, as well as the development of the regulations implementing HB 191, the state invited OCRM's participation and review of the amendments, requesting guidance and recommendations to ensure ultimate and timely program approval by OCRM. The state thought it had received that guidance, as well as a commitment from OCRM to work jointly to resolve program approval issues at the earliest juncture. The state then worked long and hard to develop a comprehensive program description of the amended ACMP that satisfied the federal approval criteria, while still fulfilling the mandates of HB 191. I am advised that discussions between the state and OCRM to reach this goal were proceeding constructively into January 2005, with OCRM identifying minor modifications to the ACMP regulations and program description as appropriate for program approval.

Considering this history, and OCRM's intimate involvement with the amended program from its legislative inception, I was dismayed to review OCRM's January 28, 2005, denial decision wherein OCRM not only retreated from program approval positions conveyed to state staff during prior discussions, but failed to adequately evaluate the state's prior submissions against the federal rules, and added entirely new criteria and rationale to justify its denial decision.

OCRM's denial decision adopts a highly prescriptive interpretation of the Coastal Zone Management Act (CZMA), extending, well beyond Congress' mandate when enacting the CZMA "to encourage and assist the states to exercise effectively their responsibilities in the coastal zone ..." 16 U.S.C. 1452.

It is instructive to review the Congressional Commerce Committee's 1971 findings (Calendar No. 510, Report No. 92-526, p. 15-16) that led to the creation of the CZMA, which legislation clearly intended that each state, and not the federal government, manage its coastal uses and resources as that state saw fit:

It is the Committee's intent to recognize the need for expanded state participation in the control of land and water use decisions involving important state or regional interests.... In adopting the states as the focal points for development of comprehensive plans and implementation of management programs for the coastal and estuarine zone, the

Richard W. Spinrad, Ph.D.

February 23, 2005

Page 3

Committee has concluded that the states have, in varying degrees, the resources, administrative machinery, enforcement powers, and constitutional authority on which to build a sound coastal management program.... The principles on which state authority with respect to water regimes are based date back at least to Magna Carta....

We do not believe that the positions OCRM asserts in its January 28, 2005, decision "assists" Alaska in developing our program. Rather, OCRM has now conditioned approval of our program upon OCRM's interpretation of what is best for our state. Under this administration Alaskans decide what is best for Alaska.

I will not detail all of OCRM's unacceptable new mandates to obtain approval of our program, but will list the most significant:

- Mandated direct-control ACMP regulatory standards. OCRM calls for amended ACMP state standards that independently and comprehensively manage the coastal resources. To the contrary, the federal regulations implementing the CZMA allow for comprehensive management of those resources through a network of existing state and federal regulatory authorities. We believe that existing state and federal authorities aggressively manage Alaska's natural resources, coastal and inland. Considering the adequacy of the existing networked structure, we are unwilling to assent to a federal agency dictating duplicative or additional standards along our coasts that confuse stakeholders, unnecessarily delay projects and erode Alaska's sovereignty.
- Mandated expanded role of coastal districts. Consistent with the spirit of HB 191, the state's amended ACMP regulations limited the subject and scope of coastal district enforceable policies. OCRM now asserts that this limitation on coastal district policies raises program approval concerns. The state disagrees with OCRM's position. The ACMP is a networked program, relying on implementation techniques "A" and "B" under 15 C.F.R. 923.42 and 15 C.F.R. 923.43, respectively. State agencies are to implement their existing authorities as well as the standards and policies of the ACMP. Additionally, municipal coastal districts share in the responsibility of implementing their coastal district plan policies through municipal code or ordinance. I would like to emphasize that few other states have coastal districts or their equivalent and there is no requirement that Alaska include

Richard W. Spinrad, Ph.D.

February 23, 2005

Page 4

coastal districts as part of our coastal management program. However, we included districts to supplement existing state and federal authorities where the matter is of local concern. The balance of authority between the state and the coastal districts is a matter within the discretion granted a state in the CZMA, and therefore any specific balance of authority directed by OCRM is inappropriately addressed as a program approval issue. Again, this is a simple matter of state's rights.

- Expanded and unpredictable federal "effects" test. OCRM's decision contained an expansive "Geographic Location Description" (GLD) requirement that would impose an "effects test" requirement well beyond what OCRM had previously required, and beyond what the state feels is necessary to adequately protect coastal uses and resources. Representatives from other federal agencies have also expressed concern with OCRM's federal effects test and the GLD as a "new national policy" with additional burdens never previously considered. This requirement is particularly disappointing considering recent positive communications between the state and OCRM wherein OCRM suggested reasonable amendments to the ACMP regulations. The amended language would have ensured that enforceable policies would be applicable to federal lands to address any activity (regardless of location) that may affect any coastal use or resource located within the state's coastal zone. The state agreed with OCRM's interpretation of the federal regulations on this issue and began preparing, verbatim, the regulatory fix that OCRM had recommended. Unfortunately, the expanded GLD concept contained in the January 28, 2005, documents effectively withdrew OCRM's agreement on how to capture the federal effects test in the regulations, and is unacceptable.

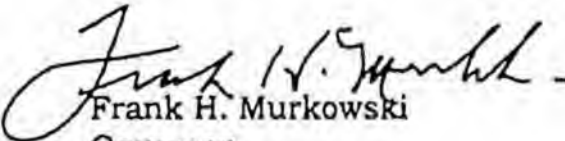
Back in 1971, Congress saw the wisdom of leaving the development of an appropriate coastal management program within the broad framework of the CZMA to each state's judgment of its special priorities and needs. I regret that OCRM has departed from its original legislative mandate and has not allowed Alaska to implement our amended program utilizing existing regulatory tools and in accordance with Alaska's priorities and needs.

Therefore, if OCRM does not immediately abandon the new requirements and broken promises contained in its January 28, 2005, decision, the ACMP will expire by operation of law in the summer of 2005.

Richard W. Spinrad, Ph.D.
February 23, 2005
Page 5

We have worked hard to forge relationships with federal agencies and participate in federal decision-making processes independent of ACMP requirements, so we are confident that Alaska's voice will be heard in federal activity and authorization processes even without the formality of the CZMA's federal consistency tools. Still, we acknowledge that a streamlined ACMP would serve a valuable purpose in effectively managing Alaska's coastal uses and resources. This is the reason that my staff has been working for two years to amend the program to provide a fair, predictable, and protective networked management scheme. Unfortunately, OCRM will not allow Alaska to implement that program at this time. The State of Alaska will continue to ensure that resources, coastal and inland, are adequately managed and protected with or without federal participation.

Sincerely yours,


Frank H. Murkowski
Governor



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Silver Spring, Maryland 20910

APR 14 2005


Mr. Thomas E. Irwin, Commissioner
Alaska Department of Natural Resources
550 West 7th Avenue, Suite 1400
Anchorage, Alaska 99501-3650

Dear Commissioner Irwin:

Thank you for your April 7, 2005, letter furthering our discussions on the National Oceanic and Atmospheric Administration's (NOAA's) review of the amendment to the Alaska Coastal Management Program. I am pleased to say that after many discussions this week between our staffs we have agreed on the steps necessary for NOAA to make a preliminary approval decision prior to July 1, 2005. These steps are set forth in the enclosure entitled, Remaining Steps for ACMP Preliminary Approval.

To complete the Coastal Zone Management Act amendment process and comply with the National Environmental Policy Act over the coming months will involve substantial staff time for both of our offices. We look forward to working with Alaska in a coordinated and collaborative fashion to complete the amendment to the Alaska Coastal Management Program.

Sincerely,


Richard W. Spinrad, Ph.D.
Assistant Administrator

Enclosure

Cc: Honorable Senator Ted Stevens
Honorable Senator Lisa Murkowski
Honorable Congressman Don Young
Ben Stevens, President of the Alaska State Senate
John Harris, Speaker of the Alaska State House of Representatives
Eldon Hout, Director OCRM
Henri Bisson, State Director BLM
John Goll, Regional Director MMS
Forrest Cole, Supervisor Tongass National Forest
John Katz, Office of the Governor
Dick LeFebvre, Deputy Commissioner DNR
Marty Rutherford, Deputy Commissioner DNR
McKie Campbell, Commissioner DF&G
Kurt Fredriksson, Commissioner DEC
Edgar Blatchford, Commissioner DCCED
Bill Jeffress, Director DNR, OPMP
Tony MacDonald, Executive Director CSO



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ENCLOSURE – REMAINING STEPS FOR ACMP PRELIMINARY APPROVAL.

GENERAL COMMENT

The changes proposed by Alaska, with further modification as described below, should meet Coastal Zone Management Act (CZMA) preliminary approval requirements. Once these changes are submitted to and reviewed by NOAA, NOAA will be able to make a preliminary approval decision. Changes submitted to NOAA for preliminary approval consideration should be, for any regulatory changes, a final rule by Alaska submitted to the Alaska Lieutenant Governor prior to publishing the final rule, and a revised Alaska Coastal Management Program (ACMP) document for the non-regulatory changes. As stated in our March 25, 2005, letter, the remainder of the items described in the January 28, 2005, letter and enclosures do not need to be made at this time for preliminary approval. Those items will need to be made to the ACMP document before final approval and NOAA believes that some of the items may be eliminated.

PUBLIC HEARING

A public hearing on the submission of the amendment must be held before NOAA can make a preliminary approval decision. This requirement is derived from CZMA section 306(d)(4) stating that for program approval that the "State has held public hearings in the development of the management program." This requirement is also applied to amendment requests because of the substantial change to a state's management program, under 15 CFR § 923.81(a). This requirement is for public hearings on the submission of a state's amendment request to NOAA; it does not refer to public hearings a state may have held during the development of the amendment at the state level. *See* 15 CFR § 923.81(b)(5) (describing documentation of public input during a state's development of an amendment).

The public hearing requirement for the submission of amendments to NOAA is tied to preliminary approval by 15 CFR § 923.82(a) and (c). These sections provide that NOAA cannot make a preliminary approval determination on a state's proposed amendment until the state has satisfied the applicable program approvability requirements and the procedural requirements of CZMA section 306(d), which include the public hearing requirement in section 306(d)(4) that is applied through 15 CFR § 923.81(a). The public notices and summaries for the public hearing, described in 15 CFR § 923.81(b)(3) and (4) relate to the section 306(d)(4) hearing.

The provisions in 15 CFR § 923.81(b)(3) and (4) regarding hearing summaries and concurrent Federal agency review provide that a state can submit hearing summaries 60 days after the hearing. This does not alter the requirement for a state's section 306(d)(4) hearing to be held before a preliminary approval determination is made.

Alaska is required to have at least one section 306(d)(4) hearing on the amendment submission. *See* 15 CFR § 923.81(a). Additional hearings are at the State's discretion. Alaska's responsibilities for the public hearing are to provide a public notice of the hearing 30 days in advance, note the time and location of the hearing and make available for public review at the time of the public notice, all agency materials pertinent to the hearings. The latter requirement could be satisfied by directing the public to the ACMP website and identifying the ACMP

amendment documents subject to the public hearing. At the hearing the State should make an opening statement about the purpose of the hearing (to provide the public an opportunity to comment on the State's ACMP submission to NOAA), and inviting any public comment. The State is not required to respond to comments. After the hearing, the State must submit to NOAA, within 30 days of the hearing, a transcript or summary of the hearing. 15 CFR § 923.58(d).

APPLICATION OF ENFORCEABLE POLICIES TO FEDERAL LANDS AND GEOGRAPHIC LOCATION DESCRIPTIONS (GLDS).

Paragraphs (a), (b) and (d) are satisfactory.

Paragraph (c) is satisfactory with the exception that the parenthetical "(occurring within the coastal zone)" is incorrect. A federal agency must provide a consistency determination for an activity, regardless of location, if the federal agency determines there will be effects to coastal uses or resources. This includes effects to uses or resources *of* the coastal zone (not *in* the coastal zone) where the use or resource affected is inland or seaward of the coastal zone. A state may, of course use the various provisions in NOAA's regulations to reach agreements with federal agencies regarding when and how federal consistency will apply to federal agency activities under 15 CFR part 930, subpart C (e.g., general concurrences, de minimis activities, beneficial activities).

The first sentence in paragraph (c) should be amended to read:

Federal agency activities that occur inland of the coastal zone boundary are only subject to ACMP consistency review process if the federal agency determines that effects to any land or water use or natural resource of the coastal zone ~~coastal uses or resources (occurring within the coastal zone)~~ are reasonably foreseeable and the State has an enforceable policy addressing the use or resource.

APPLICATION OF DISTRICT POLICIES AND DESIGNATED AREAS

The language is not clear regarding the scope of district policies and designated areas. The proposed language merely says that CZMA and NOAA regulations apply for the State standards and District policies. Because the other State standards would still have the language limiting review to projects occurring within a designated area, the following language needs to be added after the term "projects" (additional language is underlined):

Notwithstanding any other provision, for the purposes of federal consistency reviews conducted under 16 USC 1456, projects, within or affecting land or water uses or natural resources of the coastal zone, will be subject to the state standards at 11 AAC 112.200 - 11 AAC 112.900 and the coastal district enforceable policies approved under 11 AAC 114 in accordance with the requirements of the applicable subparts of 15 C.F.R. part 930 and other relevant parts of Alaska's federally approved coastal management program.

The ACMP document or preamble to the rule change should discuss this change in the context of the CZMA "effects test" for federal consistency purposes. In particular, the discussion should note that for purposes of federal consistency reviews, projects within or affecting a district's designated area would be subject to the applicable state and district enforceable policies.

TECHNIQUE A

Alaska proposes to amend the subsistence use standard at 11 AAC 112.270(a) to read, "A project within a subsistence use area designated by the State or under 11 AAC 114.250(g) must . . ."

Technique A is meant to apply state enforceability to entire local government plan. While Alaska still has Technique A components, NOAA now recognizes that the ACMP is relying primarily on Technique B for implementation of State standards and that the only State standard presently reliant on District policies is the subsistence use policy. All other District policies are at the choice of the Districts and are not required for ACMP approval or to implement State standards. Therefore, Alaska's proposed change to its regulation is sufficient for NOAA to make a preliminary approval decision, because it would give the State the ability to designate subsistence use areas and enforce the subsistence use standard during District plan development, pursuant to 15 CFR § 923.42(b)(2), and would use 15 CFR § 923.42(b)(3)(i) for direct State enforcement of the subsistence use standard if a District failed to adopt a plan.

SCOPE AND CONTENT OF DISTRICT PLANS

NOAA looks forward to reviewing the revised/combined District guidance, which must satisfy the need for clarity pursuant to 15 CFR § 923.3(c)(1) and (2), prior to making a preliminary approval decision.

HABITATS POLICY

1. Comprehensive Habitat Management. The CZMA requires state programs to develop and maintain a management program sufficient to carry out the protection of coastal resources such as shorelands, wetlands, estuaries, floodplains, fish and wildlife and their habitat and to use the land and water resources of the coastal zone giving full consideration to the ecological values of those resources as well as need for compatible economic development. Further, the CZMA requires the management program to contain specific, comprehensive and enforceable policies to provide that protection and overarching management scheme. State coastal programs need to manage and protect those significant resources and areas that make a state's coastal zone a unique, vulnerable or valuable area, particularly wetlands, estuaries, tidelands and offshore areas. 16 USC § 1455(d)(1); 15 CFR §§ 923.1, 923.3, 923.10 and 923.11. NOAA finds that Alaska's habitat management components are sufficient for purposes of our preliminary approval decision.

2. *Written Scientific Evidence.* NOAA believes that 11 AAC 114.900(40) provides a sufficient definition of this phrase for purposes of our preliminary approval decision.

3. *Significantly More Productive.* Alaska now proposes to replace this phrase with "biologically and significantly productive" in asking the districts to designate significant habitats. NOAA appreciates this change as it removes the comparison of habitats by deleting the term "more." While the State believes that the term is commonly understood and applied, and requires no additional explanation, we continue to believe that "significantly productive" is not a term generally accepted in the scientific community. NOAA did not recommend "biological productivity" as a preferable term; rather we asked the State to provide a definition so that users, districts, and other affected interests would be on notice as to how "productivity" is being measured so they would know what to provide data on. However, NOAA finds that defining the term is not needed for preliminary approval.

4. *Adjacent Habitat.* To address NOAA's concerns regarding the "adjacency" requirement, Alaska proposes to revise 11 AAC 112.300(c)(1)(B)(ii) and 11 AAC 114.250(h)(2) to read ". . . that is shown by written scientific evidence to be biologically and significantly productive." This language is an improvement over the "adjacency" requirement previously proposed by Alaska. NOAA finds that Alaska's change is adequate for our preliminary approval decision. Please see, however, our comments under No. 3, above, regarding the definition of "biologically and significantly productive."



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL OCEAN SERVICE
Silver Spring, Maryland 20910

MAR 3 2005

The Honorable Frank H. Murkowski
Governor of the State of Alaska
Juneau, Alaska 99811-0001

Dear Governor Murkowski:

Thank you for your recent letter on Alaska's pending efforts to undertake a major restructuring of the Alaska Coastal Management Program (ACMP). The enclosed summary analysis provides responses to the specific issues raised in your correspondence.

We believe the continued viability of the federally approved ACMP is of great importance to Alaska and the Nation. The letter of January 28, 2005, to Alaska's Department of Natural Resources (DNR) Commissioner Irwin was intended neither as a denial nor a decision, but rather as a further, albeit important, informational step in the process.

Our input did not add criteria and was neither a departure from earlier positions nor an effort to impose new national policies. It was a summary of the few remaining issues to meeting the Coastal Zone Management Act (CZMA) requirements necessary for preliminary approval of a revised ACMP. It also included recommendations for resolving these issues as requested by DNR. Our input was intended as part of the continuing coordination and dialogue at the staff level – not as a federal mandate or prescription, and it was not an effort to shift the balance of authority.

As you may know, there are significant benefits from participating in the CZMA program. Since the 1970s, Alaska has been awarded approximately \$130 million in coastal management funds from the National Oceanic and Atmospheric Administration (NOAA). Additionally, NOAA has identified \$2.6 million for Alaska coastal programs in FY 2005. With CZMA federal consistency authority, Alaska has a powerful tool to review and influence federal actions affecting the coastal zone, including offshore aquaculture and energy development. In addition, the collaborative relationships Alaska enjoys with federal agencies are often forged because of federal consistency.

Further, in response to the U.S. Commission on Ocean Policy's final report, President Bush recently released the U.S. Ocean Action Plan, which states that we will continue to work with state, tribal, and local stakeholders to develop comprehensive strategies to protect the Nation's coastal resources and build upon the successes of existing programs, including the CZMA.

As I stated at the outset, the continued viability of the ACMP is of great importance and we urge you to work with us to take action to prevent its expiration this summer. I propose sending a delegation headed by NOAA's National Ocean Service Policy Director, Thomas Kitsos, Ph.D., to Juneau this month to review the few remaining issues and develop a mutually agreeable course of action that would allow for preliminary approval.

Sincerely,

Richard W. Spinrad, Ph.D.
Assistant Administrator

Enclosure



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The Honorable Frank H. Murkowski
Page 2

cc: The Honorable Ted Stevens, United States Senate
The Honorable Lisa Murkowski, United States Senate
The Honorable Don Young, United States Congressman
The Honorable Ben Stevens, President, Alaska State Senate
The Honorable John Harris, Speaker, Alaska State House of
Representatives
The Honorable Gary Stevens, Alaska State Senate
The Honorable Paul Seaton, Alaska State House of Representatives
The Honorable Carlos M. Gutierrez, U.S. Secretary of Commerce
The Honorable Conrad C. Lautenbacher, Jr., VADM, U.S. Navy (Ret.),
Under Secretary of Commerce for Oceans and Atmosphere
Mark Rey, U.S. Under Secretary of Agriculture
Henri Bisson, State Director, Bureau of Land Management
Forrest Cole, Forest Supervisor, Tongass National Forest
John Goll, Regional Director, Alaska, Minerals Management Service
Eldon Hout, Director, Ocean and Coastal Research Management
Tony MacDonald, Executive Director, Coastal States Organization
John Katz, Director, State/Federal Relations, Office of the Governor
Edgar Blatchford, Commissioner, Alaska Department of Commerce,
Community, and Economic Development
Kurt Fredriksson, Acting Commissioner, Alaska Department of
Environmental Conservation
Tom Irwin, Commissioner, Alaska Department of Natural Resources
Wayne Regelin, Acting Commissioner, Alaska Department of Fish and
Game
Dick LeFebvre, Deputy Commissioner, Alaska Department of Natural
Resources
Marty Rutherford, Deputy Commissioner, Alaska Department of
Natural Resources
Bill Jeffress, Director, Office of Habitat Management and Permitting,
Alaska Department of Natural Resources

Response to Specific Issues Raised
In
State of Alaska's February 23, 2005 Letter

1. Page 1, paragraph 1: "OCRM denied preliminary approval"

The Office of Ocean and Coastal Resource Management's (OCRM's) January 28 letter did not deny preliminary approval. Rather, it indicated OCRM's inability within the legal requirements of the Coastal Zone Management Act (CZMA) to grant preliminary approval until certain CZMA requirements are satisfied. For example, the State's December 17 submission for local district plans did not meet two of the five CZMA requirements that have been in place for thirty years.

2. Page 2, paragraph 2: "...denial decision retreated from program approval decisions conveyed to state staff...added entirely new criteria and rationale..,"

Throughout the review and coordination process, OCRM has consistently used provisions of the CZMA as the basis for its opinions and feedback on State of Alaska input. The January 28 letter provided feedback on new information submitted in the State of Alaska's December 17 Submission. For example, NOAA's guidance to the State regarding the scope of the federal consistency effects test and application of the state's subsistence use policy is based on long-standing CZMA requirements.

3. Page 2, paragraph 3: "OCRM's denial decision adopts a highly prescriptive interpretation of the Coastal Zone Management Act (CZMA)"

The feedback provided in OCRM's January 28 letter was intended as recommendations to meet CZMA requirements for State of Alaska consideration in developing the ACMP. The recommendations were not a mandate and NOAA will consider other State options that are responsive to the CZMA requirements.

4. Page 3, 1st bullet: "[OCRM] Mandated direct-control ACMP regulatory standards"

The feedback provided in OCRM's January 28 letter was intended as recommendations to meet CZMA requirements for State of Alaska consideration in developing the ACMP. The recommendations were not a mandate and NOAA will consider other State options that are responsive to the CZMA requirements.

5. Page 3, 2nd bullet: "[OCRM] Mandated expanded role of coastal districts...balance of authority directed by OCRM is inappropriately addressed as a program approval issue"

The feedback provided in OCRM's January 28 letter was intended as recommendation to meet CZMA requirements for State of Alaska consideration in developing the ACMP. The recommendations were not a mandate and NOAA will consider other State options that are responsive to the CZMA requirements. Further, none of the OCRM feedback should be interpreted as attempting to "shift the balance of authority."

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Online Public Notice
State of Alaska

Public Notices
Notice Of Proposed Changes In The Acmp
Regulations

Submitted by: jlderose/10
Date Submitted: 04/21/2005 08:37 AM
Date Modified: 04/22/2005 03:15:03 PM
Ak Admin Journal: [not printed]

Attachments: No files attached

Notice Of Proposed Changes In The Acmp Regulations

Category: Notices of Proposed Regulations
Publish Date: 04/22/2005

Department: Natural Resources
Location: Statewide
Coastal District: N/A

Body of Notice:

NOTICE OF PROPOSED CHANGES IN THE
REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES

The Department of Natural Resources (DNR) proposes to adopt regulation changes in Title 11 of the Alaska Administrative Code dealing with the Alaska coastal management program (ACMP) implementation, the statewide standards of the ACMP, and the district coastal management plan requirements, including the following:

- (1) Adding a new section in 11 AAC 110 addressing the federal requirement to apply the enforceable policies of the ACMP to a project requiring a federal consistency certification or determination.
- (2) Changing 11 AAC 112.270 to clarify that DNR or a coastal district can designate a subsistence use area, establishing the procedure and basis for DNR designation of a subsistence use area, and defining necessary terms used in the subsection.
- (3) Changing 11 AAC 112.300(c)(1)(B)(ii) and 11 AAC 114.250(h)(2) to clarify one of the requirements for DNR or a coastal district to designate an important habitat area.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Randy Bates, Deputy Director, Office of Project Management and Permitting at 302 Gold Street, Suite 202, Juneau, Alaska 99801, by facsimile at (907) 465-3075, or by e-mail at Randy_Bates@dnr.state.ak.us. The comments must be received no later than 4:30 p.m. on Monday, May 23, 2005.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Yvonne Davis at (907) 465-3562 no later than May 9, 2005 to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact Yvonne Davis at the Office of Project Management and Permitting, 302 Gold Street, Suite 202, Juneau, Alaska 99801, (907) 465-3562, or go to www.alaskacoast.state.ak.us.

After the public comment period ends, the Department of Natural Resources will either adopt these or other provisions dealing with the same subject, without further notice, or decide to take no action on them. The language of the final regulations may be different from that of the proposed regulations. YOU SHOULD COMMENT DURING THE TIME ALLOWED IF YOUR INTERESTS COULD BE AFFECTED.

Statutory Authority: AS 46.39.010; AS 46.39.030; AS 46.39.040; AS 46.40.010; AS 46.40.040; AS 46.40.096
Statutes Being Implemented, Interpreted, or Made Specific: AS 46.39.010 - AS 46.39.900 and AS 46.40.010 - AS 46.40.210
Fiscal Information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: April 22, 2005
Thomas E. Irwin, Commissioner

ADDITIONAL REGULATIONS NOTICE INFORMATION



State of Alaska > Natural Resources > OPMP > ACMP > District Planner's Workpage

Public Comment Deadlines

Coastal District	Public Notice Publication Date	Comment Deadline	Review Draft Plan	Agency Comment Tools	Agency Comments on PRD	District Contact
Lake and Peninsula Borough	04/08/05	04/29/05	Draft	Templates	Comments	Marv Smith
City of Nome	04/11/05	05/02/05	Draft	Templates	Comments	Jim Dory
City of Whittier	04/11/05	05/02/05	Draft	Templates	Comments	Rick Hohnbaum
Matanuska-Susitna Borough	04/12/05	05/09/05	Draft	Templates	Comments	Susan Lee
Northwest Arctic Borough	04/15/05	05/05/05	Draft	Templates	Comments	Walter Porter
Kenai Peninsula Borough	04/15/05	05/12/05	Draft	Templates	Comments	Gary Williams
Ketchikan Gateway Borough	04/19/05	05/09/05	Draft	Templates	Comments	Dave Taylor
Bristol Bay CRSA	04/21/05	05/16/05	Draft	Templates	Comments	Andrew DeValpine
City of Thorne Bay	04/21/05	05/13/05	Draft	Templates	Comments	Mike Harper
North Slope Borough	04/20/05	05/11/05	Draft	Templates	Comments	Rex Okakok
City of Cordova	04/21/05	05/16/05	Draft	Templates	Comments	Steve Hanis
Aleutians East Borough	Available Soon	Available Soon	Draft	Templates	Comments	Tina Anderson
Anchorage Municipality	Available Soon	Available Soon	Draft	Templates	Comments	Thede Tobish
Bering Straits CRSA	Available Soon	Available Soon	Draft	Templates	Comments	Morris Nassuk
Ceñaliurii CRSA	Available Soon	Available Soon	Draft	Templates	Comments	John Oscar

City of Craig	Available Soon	Available Soon	Draft	Templates	Comments	Brian Templin
City and Borough of Juneau	Available Soon	Available Soon	Draft	Templates	Comments	Teri Camery
Aleutians West CRSA	03/03/05	04/01/05	Draft	Templates	Comments	Karol Kolehmainen
Haines Borough	03/14/05	04/04/05	Draft	Templates	Comments	Scott Hansen
City of Hoonah	03/14/05	04/04/05	Draft	Templates	Comments	Jerry Medina
City and Borough of Yakutat	03/14/05	04/04/05	Draft	Templates	Comments	Skip Ryman
City of Skagway	03/15/05	04/06/05	Draft	Templates	Comments	Marj Harris
City of Pelican	03/14/05	04/13/05	Draft	Templates	Comments	Allen Stewart
City and Borough of Sitka	03/21/05	04/15/05	Draft	Templates	Comments	Marlene Campbell
Kodiak Island Borough	03/24/05	04/20/05	Draft	Templates	Comments	Duane Dvorak
City of Valdez	04/04/05	04/25/05	Draft	Templates	Comments	Carol Smith
City of Bethel	04/04/05	04/25/05	Draft	Templates	Comments	John Malone

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Chapter 1: Introduction to the Alaska Coastal Management Program

Section 1.1: Background and History of the ACMP

The State of Alaska's coastline consists of approximately 44,500¹ miles which, measured either on the tideline or measured around an average perimeter that parallels the mainland limits of the Territorial Sea, exceeds that of the entire continental United States. The Alaska coastal area has national and international significance for its vast, healthy ecosystems and are a generous source of renewable and non-renewable resources, especially proven and potential energy resources. Three-quarters of Alaska's people live on or near the coast. Many earn their living from direct use of coastal resources and many more from indirect uses, such as Alaska's growing tourist industry. The Native people of Alaska maintain a cultural and economic intimacy with the coast that dates back thousands of years.

Alaska began considering comprehensive coastal management in the mid-1970s, after passage of the federal Coastal Zone Management Act of 1972.

At the time, state and local interest in participating in coastal zone management resulted in part from ambitious plans for federal oil and gas leasing off Alaska's coasts. Several federal agencies managed large portions of Alaska (over 60%) and Alaska's offshore areas, affecting the economies and lifestyles of local communities. Coastal communities also argued strongly for a voice in decisions that might affect their livelihood and way of life. Increasing demands for the use and enjoyment of Alaska's rich and diverse coastal resources (such as timber production, tourism, mining, fisheries, and oil and gas development) created a need for an effective forum for responsible development and resolving local issues. From its inception in 1972, the CZMA provided the various stakeholders and Alaska's coastal communities with that forum.

The Alaska Legislature enacted the Alaska Coastal Management Act (ACMA) on June 4, 1977, (ch 84 SLA 1977), which established the ACMP. In passing the ACMP, the Alaska Legislature noted several issues: waterfront space scarcity, energy resource development impacts, maintaining the fisheries, managing the forest resources, transportation needs and impacts, impacts of mining, impacts of Western culture on Native cultures, providing for the Alaska subsistence lifestyle, geological hazards, changing land ownership patterns, bottomfish, and

¹ For purposes of NOAA's allotment formula, shoreline mileage is defined as the "tidal shoreline" mileage listed in the NOAA publication *The Coastline of the United States*. In this publication, tidal shoreline is defined to include the shoreline of the outer coast, offshore islands, sounds, bays, rivers, and creeks, to the head of tidewater or to where tidal waters narrow to a width of 100 feet. The mileage was determined by using a recording device on large scale charts. NOAA's publication lists Alaska's shoreline as 33,904 miles. However, more recent measurements identify Alaska's accurate shoreline measurement at approximately 44,500 miles.

governmental regulation. To address these issues, the legislature made the following findings about the state's coastal area, which apply as much in 2004 as they did in 1977:

- (1) The coastal area of the state is a distinct and valuable natural resource of concern to all the people of the state;
- (2) the demands upon the resources of the coastal area are significant and will increase in the future;
- (3) the protection of the natural and scenic resources and the fostering of wise development of the coastal area are of concern to present and future citizens of the state;
- (4) the capacity of the coastal area to withstand the demands upon it is limited;
- (5) the degree of planning and resource allocation which has occurred in the coastal area has often been motivated by short-term considerations, unrelated to sound planning principles; and
- (6) in order to promote the public health and welfare, there is a critical need to engage in comprehensive land and water use planning in coastal areas and to establish the means by which a planning process and management program involving the several governments and areas of the unorganized borough having an interest in the coastal area may be effectively implemented.

In 1978, Alaska adopted the Standards of the Alaska Coastal Management Program at 6 AAC 80 and the Guidelines for District Coastal Management Programs at 6 AAC 85 to implement the ACMP and to implement the finding of the Alaska Legislature. The Coastal Policy Council revised the original Standards and Guidelines in 1979, and ultimately guided the ACMP to final federal approval that same year.

Since ACMP approval in 1979, 33 coastal district plans and 33 areas meriting special attention and special area management plans have been approved. Another significant addition to the ACMP occurred in the early 1980's when the coordinated consistency review process was developed in regulation. The original ACMA did not include a specific process to determine a project's consistency with the statewide standards and coastal district enforceable policies. The regulations at 6 AAC 50, adopted in 1984, created the process for coordinating the permitting and consistency review of a project.

Another set of significant developments occurred in 1994 when the Legislature added a section addressing consistency reviews and included the first of a series of needed reforms in the consistency review process. A new section

AS 46.40.096, "Consistency Reviews and Determinations," was added to identify the key elements of the consistency review process (am § 2 ch 34 SLA 1994). AS 46.40.100(b) was amended to provide procedures for when and how certain parties can petition the Coastal Policy Council (CPC) during an ACMP consistency review (am §§ 3-6 ch 34 SLA 1994). The petitioner could seek CPC review as to whether the petitioner's comments had been fairly considered by the State agency coordinating the ACMP consistency review, whereupon the CPC could either dismiss the petition or remand the proposed consistency determination to the agency for reconsideration of the petitioner's comments. Another section was added, AS 46.40.094, to provide consistency determinations for phased uses and activities (am § 8 ch 38 SLA 1994).

The ACMP has evolved significantly since 1979. Each district coastal management plan, regulation revision, or other program amendment that gains state and federal approval is incorporated into the ACMP. Today, two chapters of statutes, three chapters of regulations, 33 coastal district plans, and 33 areas meriting special attention and special area management plans are part of the ACMP.

Section 1.2: Objectives, Intent, and Approach of the ACMP

The legislature set forth at AS 46.40.020 the following objectives for the ACMP, which remain unchanged over its nearly thirty-year life:

- (1) the use, management, restoration, and enhancement of the overall quality of the coastal environment;
- (2) the development of industrial or commercial enterprises that are consistent with the social, cultural, historic, economic, and environmental interests of the people of the state;
- (3) the orderly, balanced utilization and protection of the resources of the coastal area consistent with sound conservation and sustained yield principles;
- (4) the management of coastal land and water uses in such a manner that, generally, those uses which are economically or physically dependent on a coastal location are given higher priority when compared to uses which do not economically or physically require a coastal location;
- (5) the protection and management of significant historic, cultural, natural, and aesthetic values and natural systems or processes within the coastal area;
- (6) the prevention of damage to or degradation of land and water reserved for their natural values as a result of inconsistent land or water usages adjacent to that land;

- (7) the recognition of the need for a continuing supply of energy to meet the requirements of the state and the contribution of a share of the state's resources to meet national energy needs; and
- (8) the full and fair evaluation of all demands on the land and water in the coastal area.

When the legislature addressed the coastal issues it identified in 1978, it selected a comprehensive management program as the general solution and set forth basic program policy in Section 2 of the Alaska Coastal Management Act:

- (1) preserve, protect, develop, use, and where necessary, restore or enhance the coastal resources of the state for this and succeeding generations;
- (2) encourage coordinated planning and decision making in the coastal area among levels of government and citizens engaging in or affected by activities involving the coastal resources of the state;
- (3) develop a management program which sets out policies, objectives, standards and procedures to guide and resolve conflicts among public and private activities involving the use of resources which have a direct and significant impact upon the coastal land and water of the state;
- (4) assure the participation of the public, local governments, and agencies of the state and federal governments in the development and implementation of a coastal management program;
- (5) utilize existing governmental structures and authorities, to the maximum extent feasible, to achieve the policies set out in this section; and
- (6) authorize and require state agencies to carry out their planning duties, powers and responsibilities and take actions authorized by law with respect to the programs affecting the use of the resources of the coastal area in accordance with the policies set out in this section and the guidelines and standards adopted by the Alaska Coastal Policy Council under AS 46.40.

The articulation of the Program's objectives from 1978 carries through to today. So does the explanation that, while the ACMP is a program of government, the private sector is viewed as a partner in coastal management. This partnership applies to the business community, public interest groups, environmental organizations and, rural interests as well as the public at large. The reader will note the emphasis on management and use of coastal resources. Certainly, the ACMP has environmental goals, but these goals are part of a spectrum of management goals set forth as policies for the program by the legislature. Continued

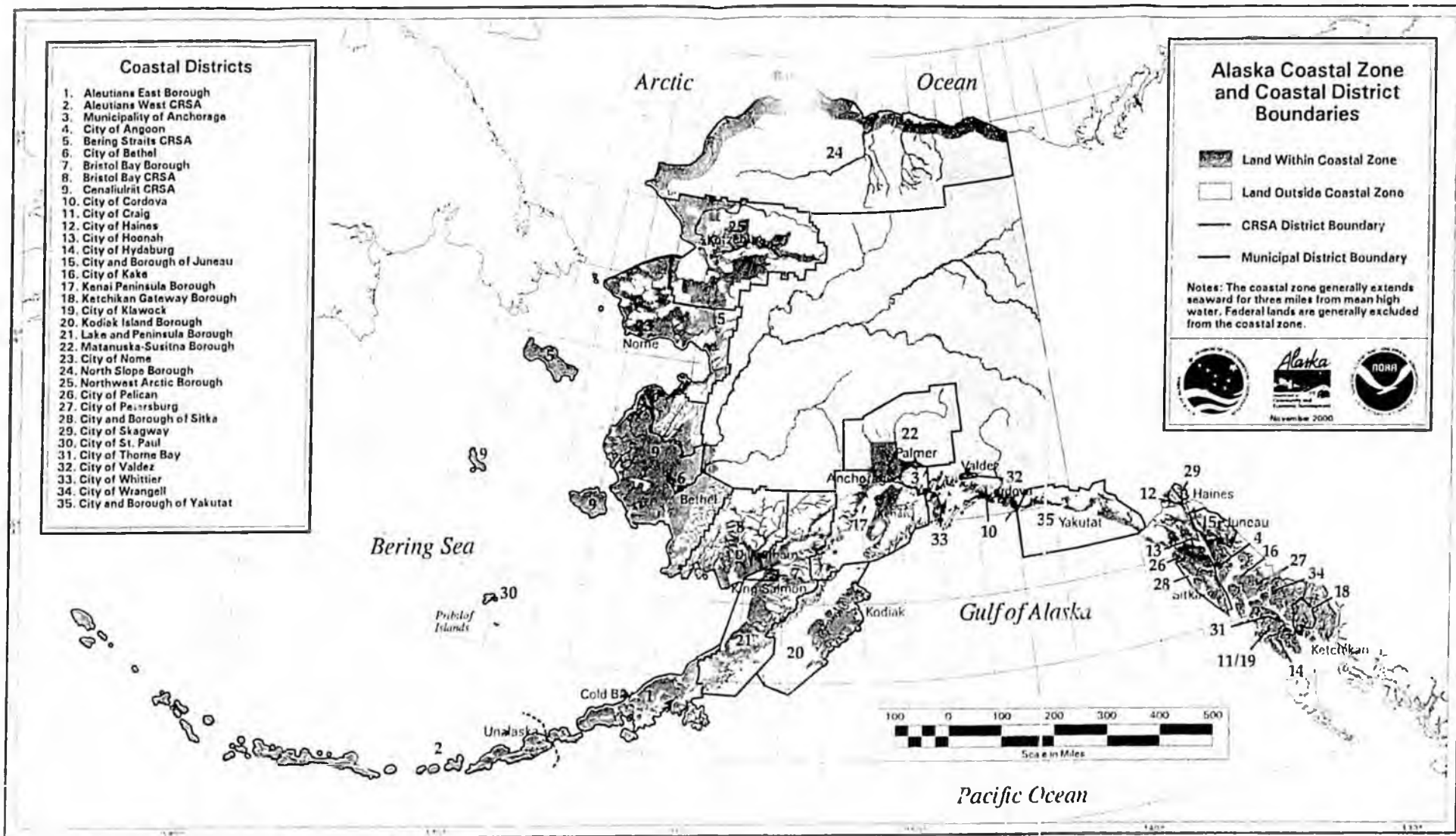
development of Alaska's coastal resources is vital to both the state and local economies, and to national interests as well. The framers of the program, both legislative and administrative, believe that state, local, national, and private goals and aspirations which depend on the use of coastal resources can be met through an open planning and management process where interested parties can be brought together to resolve their differences and eliminate potential conflicts before more serious problems occur.

General plans which govern the use of coastal and water areas, and which determine and satisfy the diverse array of coastal needs, were originally and continue to be seen as the best overall approach. The legislature determined that a focused application of local government planning and police powers would yield the most detailed and reliable solution. Local governments, aside from being closest to coastal issues, are also most familiar with local conditions and have the traditional political right and responsibility to govern local land use on city owned land within their municipal boundaries. Alaska is little different from other states in this respect.

With this in mind, the legislature called on local governments to prepare plans to govern the use of coastal resources in their areas. At the same time, a state level element was established by the formation of the Alaska CPC. The CPC, made up of state agency and local government officials, provided overall leadership for the program and established the basic guidelines and standards to be used by the local governments in the development of their coastal plans and by state agencies in making coastal permitting and management decisions. While the CPC no longer exists, the ACMP was designed, and continues to operate, as a "networked" program. Rather than establishing its own comprehensive coastal permitting structure, Alaska instead coordinates existing agencies' authorization and permitting authorities and processes to determine whether a given use is consistent with the standards and objectives of the ACMP.

The ACMP takes two approaches to regulating coastal uses and resources: (A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement; and (B) direct state land and water use planning and regulation.

Alaska's program is voluntary at the local level. But the networking process encourages local land use planning which, coupled with statewide policies, provide coordinated, intergovernmental evaluation of a proposed coastal project. The process involves a partnership between the project review team, the applicant, the coastal districts, state/federal agencies, and the public. The ACMP thus places emphasis upon coordination between state, local, national, and private interests in





Municipality of Anchorage

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Mayor Mark Begich

Planning Department

April 5, 2005

Honorable Senator Gary Stevens
State Capitol, Room 103
Juneau, AK 99801-1182

Subject: Senate Bill 102 w/Committee Substitutes On-Basis

Senator Stevens and Subcommittee Members:

My name is Thede Tobish, and I am a Senior Planner and Coastal District Coordinator for the Municipality of Anchorage. On behalf of the Municipality, please accept this letter as testimony for your committee hearing of:

SENATE BILL 102. *"An Act relating to district coastal management programs; and providing for an effective date."*

I want to thank you and the Committee members for this opportunity to testify and comment on the proposal to extend the schedule for Alaska's Coastal Districts to submit Coastal Management Plan revisions, as mandated by HB 191. Please understand that the Anchorage Coastal District has been a consistent advocate for any length of time extension to the original July 1, 2005 deadline. We laud your efforts to find a compromise schedule that meets the needs of the varied Coastal Districts and the original timeline of HB 191.

If it will assist you in deciding this new schedule, please understand the following issues as they relate to Anchorage's specific needs for a delay and adjustment to the plan submission deadline.

Anchorage does need to revise its Coastal Management Plan, since it was one of the original district plans adopted in 1980. It is out-of-date, and requires better specificity. But because of its age and context from the early years of coastal management in Alaska, it served as the basis for many of the Municipality's subsequent regulations and plans. Anchorage's environmental regulations evolved under the guidance of our Coastal Management Plan. HB 191 and the State's proposed new regulations will require a radically different approach to Anchorage's coastal management policies and guidelines. This is even more significant since we will have only had approximately 7 months to complete a new plan in order to meet the deadline. We need more time to address and finalize this new approach.

The Municipal Planning Department is in the midst of creating new or pursuing for significant revisions to six major planning documents, including our Coastal Management Plan. Seven months from initiation to concept approval, given our public outreach and hearing requirements, is never adequate. While we are working hard with consultants to meet the schedule, even a few months extra would provide great relief.

Community, Security, Prosperity

Senate Bill 102
April 5, 2005
Page 2

Several of Anchorage's major plan projects require interface with elements of what will be in our revised Coastal Management Plan, for instance, how to weave new enforceable policies and their implementation into our Title 29 land use code revisions. Without taking your time to give details of this meshing, suffice it to say that this merging of policies and land use code take time and finessing, public outreach, and review for community consensus.

In addition many of the essential elements of our original Coastal Management Plan, namely some 200 wetlands policies, are no longer eligible for inclusion in our new plan. We are exploring new avenues of how to keep these policies active thru other means, mainly with negotiations with the Corps of Engineers. But additional time would greatly benefit this effort, and better provide Anchorage with the certainty that these management tools will be retained in some manor.

As with many other Coastal Districts, Anchorage was encouraged with the announcement and the results of our March 30, 2005 meeting with the Governor's Office and Department of Natural Resources (DNR) representatives. Chief among the highlights of that meeting was assurance from the Governor's Office and the Commissioner of DNR that continuance of a federally-backed program remains a commitment of the State. In a summary letter of March 31, 2005, both Mr. Clark and Mr. Irwin noted that Coastal Districts stated that they would be able to submit a revised plan by the July 1, 2005 deadline. While that may be true, the content of these plans, including Anchorage's, could be incomplete and may not be consistent with any federal changes to the State's draft regulations. To produce a plan as a placeholder to meet a deadline is anathema to Anchorage's approach to plan productions. It could actually make our additional amendments and public reviews even longer and more involved and take time and funds we may not have.

While the Anchorage District does not question the State's need to maintain its July 1, 2005 deadline for preliminary federal approval of the draft coastal zone regulations, the Coastal Districts continue to have a significant need for relief with their same deadline of July 1. At a minimum, an additional six months time extension on this plan schedule would provide substantial benefit to Anchorage's plan revision program. That time would allow us to address all avenues of new coastal management implementation actions that HB 191 and the proposed regulations have mandated.

Thank you very much for this opportunity.

Sincerely,



Thede Tobish
Senior Planner/Coastal District Coordinator



Kodiak Island Borough

OFFICE of the MAYOR

710 Mill Bay Road

Kodiak, Alaska 99615

Phone (907) 486-9310 Fax (907) 486-9391

January 14, 2005

The Honorable Gary Stevens
State Capitol, Room 417
Juneau, AK 99801-1182

The Honorable Gabrielle LeDoux
State Capitol, Room 409
Juneau, AK 99801-1182

Dear Gary and Gabrielle:

This letter is to provide you with information about recent developments regarding the Alaska Coastal Management Program (ACMP) and to request your support in extending the July 1, 2005 deadline for submitting revised coastal district plans. Historically the ACMP has been an important tool for the Kodiak Island Borough to promote development while at the same time mitigating adverse effects to important resources and uses.

An extension to the legislatively mandated deadline for submittal of the revised coastal management plans, including that of the Kodiak Island Borough, is necessary for three reasons:

First, requirements for revisions to district plans are ambiguous despite numerous attempts by Alaska's local coastal districts to seek clarification. During a recent teleconference sponsored by the Alaska Department of Natural Resources, coastal district representatives and their consultants expressed frustration over unclear guidance, especially in regard to development of "enforceable policies." Enforceable policies are the local criteria required for approval of development projects.

Second, an extension to plan submission deadline is necessary because the federal Office of Ocean and Coastal Resource Management is currently reviewing the statutory and regulatory changes to the ACMP. Until the federal government finishes its environmental impact statement on the ACMP changes, coastal districts will not know the final criteria for development of their plans.

Third, a number of outstanding problems resulting from the July 2004 ACMP regulations need to be resolved. For example, revisions to the regulations remove the ability of both the state and the coastal districts from influencing important aspects of development projects on federal land such as subsistence. One of the primary reasons for the initial ACMP was to influence projects on federal land including waters of the Outer Continental Shelf.

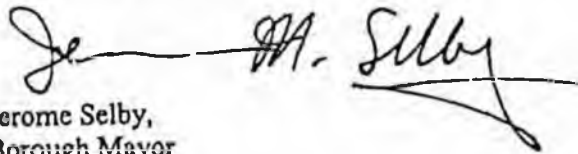
I understand there will be legislative hearings later this month to investigate some of the problems with the ACMP. The Kodiak Island Borough looks forward to participating in these hearings.

Page 2

In closing, the borough continues to support opportunities provided by the ACMP to participate in state and federal reviews of development projects. Uncertainty regarding recent changes to the ACMP regulations, however, has the potential to make the project consistency review process unpredictable. We urge your support in extending the deadlines for district plan revisions so that we can work together to resolve outstanding issues.

Sincerely,


OFFICE OF THE BOROUGH MAYOR

A handwritten signature in cursive script, appearing to read "Jerome Selby". The signature is written in dark ink and is positioned above the printed name.

Jerome Selby,
Borough Mayor

Douglas Letch

From: tidepoolak@ak.net
Sent: Wednesday, March 02, 2005 12:03 PM
To: Sen. Gary Stevens
Subject: Protect Local Control In Coastal Decision Making!



Dear Senator Stevens,

The Alaska Coastal Management Program has promoted balanced development throughout Alaska's coastal zone for over 20 years. Since the passage of HB 191, however, it has become increasingly clear this Administration does not value the role local citizens and coastal citizens play in Alaska coastal planning and management. Yet the Alaska Coastal Management Program affords Alaska a bundle of states rights that would disappear without the ACMP. For example, without the ACMP, the state would have little influence over offshore federal decisions, such as current proposals to promote fish farming in federal waters.

Therefore, I am writing now to urge you in the strongest possible terms to:

1. Support passage of HB 146 and SB 102 to extend the timeline for ACMP revisions;
2. Revise the current draft ACMP proposal to meaningfully involve coastal Alaskans and coastal districts in planning and management decisions affecting local coastal communities and resources.

Local control over local decisions has long been a hallmark of the ACMP specifically, and Alaska government generally. Please do not disenfranchise local citizens and communities by casting away these sensible long-standing policies.

Stacy Studebaker
4288 Cliffside Rd.
P.O. Box 970
Kodiak, AK 99615

March 14, 2005

Karol Kolehmainen, Program Director
Aleutians West Coastal Resource Service Area

Thank you for the opportunity to speak to you today. I have faxed a copy of a letter signed by my Board Chairman for your consideration that was previously sent to Senator Hoffman in support of a deadline extension.

As my testimony today I would like to read a portion of a letter sent on March 4, 2005 written by the Alaska Coastal District Association to Mr. Jeffress on the Status of District Plan Revisions.

We are writing this letter out of great concern regarding the status of the Alaska Coastal Management Program. The coastal districts have worked diligently to meet the requirements of the revised ACMP and have always supported a viable state program with a meaningful role for local districts. We feel that preserving our opportunity for continued participation through the ACMP in state and federal decision-making is of paramount importance. In view of the recent exchange of letters between OCRM and the state, many districts are confused regarding how best to proceed in the revisions of our local plans. While we have many questions regarding recent events, we have narrowed them down to a basic few that need to be addressed. We trust that you will take the time to do so. Our questions are as follows:

1. Will the Department of Natural Resources continue to assist the districts in completing their plan revisions?
2. What does Governor Murkowski mean when stating in his February 23 letter to NOAA that the ACMP could "expire by operation of law in the summer of 2005"?
3. If the statewide standards expire this summer (without any legislative action) does the state agree that consistency reviews could continue using district policies?
4. If the Legislature approves a bill extending the time periods for amendment of the state Coastal Management Program and for districts to submit new revised plans, will the Administration support the extension?

If the Administration will not support an extension, we have the following additional questions:

1. If the state program is eliminated will all the implementing Alaska Statutes and regulations previously adopted also go away?
2. How will the federal program be implemented in Alaska if the state program is eliminated?
3. Will the state or districts have the opportunity to comment on or otherwise directly influence federal projects within our jurisdiction?

4. Will federal grants and assistance still be available to Alaska Coastal Districts from the federal government for the operation of our local coastal management plans?

We asked for a written response to our questions as soon as possible, but no later than March 18, 2005 as time is running short for districts to complete their plans. Because, if it is anticipated that the ACMP will terminate on July 1, 2005 the coastal districts will need to develop a course of action as soon as possible.

And then we said, in summary, we are very concerned for the future of the coastal management program and desire continued participation in the management of our coastline.

I have chosen to read you this correspondence because I feel it is typical of the interactions we have had with DNR and is reflective of the sincerity of the coastal districts. There is a lot of confusion regarding where the program is heading and questions that need to be answered. Many questions were raised by OCRM and are legitimate. The program as originally created relied heavily on local policies for implementation. The amended program has greatly reduced opportunity for local policies and relies more on state standards and existing regulations. Whether we agree that this is right or wrong, we need to acknowledge that this type of major restructuring will raise questions that demand to be answered if federal funds are going to be provided and spent. I can use the analogy of a three-legged stool. If significant changes are made in one of the supports then it needs to be apparent how balance will be achieved with what is remaining. And the program is all about balance.

It makes an incredible amount of sense to pass SB 102 and allow the time necessary to make an orderly and efficient transition to the new program. It is paramount importance that the Alaska Coastal Management Program continues to exist, especially in the unorganized parts of the state such as the Aleutians West Coastal Resource Service Area where the citizens came together and elected to participate in this form of governing.

We and the other coastal districts have been working diligently to complete their plan revisions. Please pass SB 102 and provide the support all this effort deserves.

ALEUTIANS WEST

COASTAL RESOURCE SERVICE AREA

December 30, 2004

Senator Lyman Hoffman
State Capital, Room 514
Juneau, AK 99801-1182

Subject: Deadline Extension to Continue the Alaska Coastal Management Program (ACMP)

Dear Senator Hoffman:

I am compelled to write this letter as Chairman of the Aleutians West Coastal Resource Service Area (AWCRSA) Board out of grave concern for the future of the ACMP and to request an extension to the legislative deadlines imposed by House Bill 191. In 2003, the legislature passed HB 191, substantially revising the state's coastal management program and including several mandatory deadlines. We understand the program changes were to accomplish the following:

- provide clear and concise guidance
- provide greater uniformity in coastal management regulations throughout the state
- relate to matters of local concern, and
- not duplicate state and federal legislation

The AWCRSA had spent the previous four years updating our coastal management program and were asked "to shelve" the work pending the revision of the program regulations. The regulations were revised to meet the July 2004 deadline and the next phase of the process began with the revision of local coastal district plans while simultaneously submitting the program amendment to the federal Office of Ocean and Coastal Resource Management (OCRM) for approval. Since July of this year our district has been working with the state to amend our program and craft acceptable policies. However, while we have been working diligently at our program revision, we have found the process complicated by regulations that are not clear and concise but rather inadequate, conflicting, and unclear. This is evidenced by the state's initial submission for preliminary approval of the amended program to the OCRM and their finding of insufficiency. Several areas within the newly crafted program do not provide uniformity and cannot be easily explained. On December 16 the state resubmitted the program amendment and are now very concerned about the OCRM approval given that there are only 6 months remaining to allow full public process and obtain approval to meet the legislative deadline of July 2005. We share their concern.

We must submit our revised plan to the Department of Natural Resources (DNR) within one year after DNR adopted regulations implementing the changes to the coastal program (by July of 2005). Our task is complicated in that recent guidance published by DNR exceeds the legislative requirements of HB 191 and has effectively eliminated the coastal district's ability to craft enforceable policies that will enable a district to

meaningfully participate in state consistency reviews. The AWCRSA has completely revised their coastal policies based on initial guidance only to find, in mid-December, that recent DNR guidance mandates a choice between further revisions or to choose to submit a potentially unacceptable document. DNR's latest interpretation has left little room for local district enforceable policies. We are deeply concerned and very frustrated that we may not be able to complete an approvable document given the July 2005 deadline and the required public process. The legislative testimony during consideration of HB191 assured local officials that they would have future ability to influence state and federal permitting actions within their coastal zones. Recent departmental guidance has made this doubtful.

The complete revision of the ACMP requires a thorough, accurate, and complete review to adequately understand the significance of the changes. OCRM is in the process of conducting their review and has found several areas needing further clarification. In the six months that we have been once again revising our local plan we have received mixed signals to the point that we are uncertain how to proceed. The State has tasked coastal districts to revise their coastal management plans based on regulations and procedures that the Federal Government has yet to approve. Most of the plan revision monies are federal dollars passed through to the state. We are obligated to spend those funds wisely. We question the wisdom of rewriting our plan when the regulatory guidance to accomplish that task has yet to be approved by the federal government. We do not think this is being fiscally responsible.

The AWCRSA Board consists of elected officials who volunteer their time to define the coastal program for the entire western Aleutian area from Unalaska Island west to Attu Island, an area that is 20 to 60 miles in width and roughly 1000 miles long. It is an area with a wealth of natural resources including some of the richest fishing grounds in the state and the nation. The residents of our coastal district want to continue to have a voice in the management of these vital resources and have been acting with good faith in the revision of their program. The AWCRSA desires a working partnership with state and federal agencies and meaningful participation in the consistency review process.

We urgently request your support of an extension to the deadlines within HB 191. Thank you for your attention to our concerns.

Sincerely,



Frank Kelly Chairman,
Aleutians West Coastal Resource Service Area

CC: Aleutian West CRSA Board Members
Karol Kolohmainen, AWCRSA Program Director

March 10, 2005,

Senator Gary Stevens

Subject: Testimony Regarding SB 102

Senator Stevens:

The Bristol Bay Coastal Resource Service Area, based in Dillingham and covering an area of 25,000 square miles, including close to 500 miles of coastline and hundreds of miles of anadromous fish streams, supports SB 102 at the least, but prefers HB 146 as best.

When HB 191 passed the legislature two years ago, we were optimistic that we would be able to update our plan in a way that would more meaningfully fulfill a local role in coastal management. We were not so optimistic that the unreasonably short deadline would allow for a thorough and quality job, but we prepared to make the most of it.

However, as revisions to three sets of state regulations pertaining to the Alaska Coastal Management Program dragged on beyond the deadline for that work, and then as interpretations and clarifications consumed more weeks, we saw our effective window for updating our plans shrink from one year, to six months, to, now, about four months. And still uncertainty hovers over the entire enterprise.

We embarked on our plan updates in good faith. Through no fault of the hard work of a dedicated staff at the Office of Project Management and Permitting, we believe seeking an extension to the deadlines imposed by HB 191 is the best course of action at this point.

We continue to work on our plan update, and we will submit something if need be, but we believe that the citizens of the State of Alaska are entitled to thorough and considered work on their behalf, and HB 191 does not allow that as it is written today.

There are a number of reasons why the state should not allow the ACMP to disappear, not least of which is the looming battle over offshore finfish farming in federal waters.



Lake and Peninsula Borough

P.O. Box 495
King Salmon, Alaska 99613

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



November 29, 2004

Representative Gabrielle Ledoux
1414 Koustov Street
Kodiak, AK 99615-6557

Subject: Alaska Coastal Management Program (ACMP)

Dear Representative Ledoux:

This letter is to bring you up to date on Lake and Peninsula Borough's current re-write of its Coastal Management Plan. The re-write is a huge task however the Borough is committed to the management plan revision. We have hired a contractor to assist our Community Development Coordinator accomplish the re-write.

We understand we must revise our plan to comply with House Bill 191 (chapter 14 SLA 2003), which the Alaska Legislature passed in May 2003. Apparently House Bill 191 was passed because many district plans needed to be updated/revised to make coastal management within the state more streamlined and to make it simpler for industry. We understand the regulation changes were to accomplish the following:

- provide clear and concise guidance
- provide greater uniformity in coastal management regulations throughout the state
- relate to matters of local concern, and
- not duplicate state and federal legislation

Borough staff attended the DNR/OPMP and DCCED workshop on October 20-22 in hopes of receiving some clear and concise guidance on how to accomplish the revision of our Coastal Management Plan. However, it is disappointing to state, many District coordinators as well as plan revision contractors came away from that workshop without the clear and concise information required to revise our district plans.

It is very difficult to adequately accomplish the revisions when the regulations, written as our guidance, confused even a representative from the state attorney's office who was only willing to provide answers in writing to questions written down during the conference. We are tasked to write clear and concise policies that relate to matters of local concern with regulations that, to date, have completely eliminated that possibility.

As previously stated, during the conference several questions were written down by the state with a promise of answers. To date no answers have been provided. According to HB 191 district plans must be revised and submitted to DNR/OPMP no later than June 30, 2004. We are finding this deadline to be a very difficult to meet, due to the lack of adequate, clear and concise direction. Huge time lags by DNR for information requested have not helped either. We are committed to our plan revision. We agree with the State that many plans need to be revised, but we do not agree with the deadlines imposed upon us, deadlines made unrealistic by the State's methodology to date.

The State of Alaska submitted an application to NOAA, the Office of Coastal Resource Management (OCRM), for an amendment. The State's request was turned down and they have been asked for additional information by OCRM. (See Attachment from OCRM)

Even though somewhat unbelievable perhaps, the State has tasked Coastal Districts to revise their coastal management plans based on regulations and procedures that the Federal Government has yet to approve, and in fact, the federal government has identified significant problems within those proposed regulations and procedures (see the attached letter from OCRM). We compare writing plans before OCRM has approved the state's program amendment, to building a project and then asking for a consistency review or then starting Environment Impact Statement (EIS) after the fact. The horse is in front of the cart.

The Lake and Peninsula Borough received a grant from ACMP to (partially) fund our plan revision. We understand some of these monies are federal dollars passed through to the state. We are obligated to spend those funds wisely. We question hiring a contractor to re-write our plan when the guidance to accomplish that task has yet to be approved by the federal government. We believe this to be fiscally irresponsible.

How can this be resolved?

1. Pass legislation that puts the following into law; Local coastal management plans will not be approved or rewritten until the State of Alaska gets approval from OCRM and the full EIS has been required is complete. Specifically, extend the deadline for plans to sunset to three years after OCRM approves the state amendment.

As it is now, we are writing plans using guidance from the state yet the federal government has significant problems with that information. We think the legislature needs to direct DNR to use a phased approach to approve district plans. We suggest a three year process for approving plans, approving one third of the district plans each year. This will preclude all district plans from coming due at the same time, say 10 years from now. This would be good long range planning for the state and districts too. It would spread DNR's present work load out over a manageable time period and will assist DNR and its limited staff in their plan review, and further, would promote the approval of the plans that have been well reviewed. The current DNR staff cannot

possibly adequately review and approve 26 district plans in 12 months. Look how long it has taken them to write the regulations, regulations that currently raise significant questions within most districts and within OCRM.

2. Provide the districts with additional funds for planning as the under-defined policy writing we have been tasked with to date, is not the proper way to plan, but is rather, planning in reverse order. With the time extension suggested in Point # 1 more funds might be allocated each year and could accommodate the three year, phased planning concept while allowing pursuit of additional federal funding.
3. Reinstate local control such as the Coastal Policy Council. As it is now DNR has total control over every district plan and its contents. We (the districts) have no say, nor is there any local input as to how plans are written as was the case when there was a Coastal Policy Council.
4. Reinstate Air, Land and Water Quality into the program. It is impossible to manage a coastal program without having to interact with Air, Land and water quality.
5. Rewrite the regulations to allow districts to have enforceable policies that have a direct management affect on their anadromous lakes and streams. The current habitat standards do not accomplish that! The Lake and Peninsula Borough can write policies on Lake Iliamna, however because Lake Iliamna is in an area not directly affected by sea water, the policy would have no "due deference". Rewrite the regulations governing habitat standards and specifically allow our lakes to be within the Coastal Boundaries of the Lake and Peninsula Borough where policies may be written that have due deference during coastal consistency reviews. Why is Lake Iliamna so special? There are several reasons. Lake Iliamna is the largest fresh water lake in Alaska, the largest natural red salmon hatchery in the world and one of two lakes in the world that has a native population of freshwater seals. All other large lakes within the Borough are within National Parks or National Wildlife refuges. There is no such protection for Lake Iliamna. Over 80 percent of the shore line is privately held. The potential for uncontrolled development in future years is very high without adequate guidance and oversight.
6. Rewrite the regulations to allow districts to write enforceable policies on subsistence. At the conference in October we were informed by OPMP that districts could not write policies on subsistence. This is in direct conflict with testimony given by legislators and DNR staff during the passing of House Bill 191.

The suggested regulation "rewrites" can be accomplished within DNR/OPMP and would not require additional legislative approval

We understand the state and the districts have to revise their plans and we are committed to that task. However, we think the State legislators need to reconsider the manner in which we are tasked to accomplish this enormous project. The steps suggested above

will make the process "flow" more efficiently and will get the rewrite accomplished with the support of local districts and citizens.

Your support in considering legislation during the upcoming session to implement the above suggestions would be appreciated by the Lake and Peninsula Borough and the coastal districts, and, it will relieve the intense pressure on the DNR/OPMP to accomplish tasks difficult to complete within the mandated deadlines of July 1, 2005 and July 1, 2006.

If you have questions or wish to discuss this in more detail please contact Marv Smith at 907-246-3421.

Sincerely,

A handwritten signature in black ink, appearing to read "Glen Alsworth, Sr.", with a stylized flourish at the end.

Glen Alsworth, Sr.
Mayor

CC:

Senator Lyman Hoffman
716 West 4th Avenue, Suite 360
Anchorage, AK 99501-2133

Senator Gary Stevens
112 Mill Bay Road
Kodiak, Alaska 99615

Representative Carl Moses
716 West 4th Avenue, Suite 470
Anchorage, AK 99501-2133

A resolution of the Nushagak-Mulchatna Watershed Council calling for the continuation the Alaska Coastal Management Program and an extension of the deadline for submission of coastal district management plans.

Whereas, the Twenty-Third Alaska State Legislature passed House Bill 191, which, in part, imposes a deadline of July 1, 2005 for coastal districts chartered under the Alaska Coastal Management Plan (ACMP) to submit updated coast district plans to the Alaska Department of Natural Resources (DNR); and

Whereas, in the past, coastal districts have needed at least two years to complete coastal district plan updates; and

Whereas, DNR has issued unclear regulations that have served to confuse and delay the updating of such plans; and

Whereas, the federal Office of Coastal and Resource Management (OCCRM), which has to approve the state's revisions to the ACMP, has not been satisfied with information provided to date and may require an Environmental Impact Statement process before such approval is forthcoming,

Now Therefore Be It Resolved that the members of the Nushagak-Mulchatna Watershed Council urge the Twenty-Fourth Alaska State Legislature to

Section 1. extend the deadline for submission of coastal district management plans to no later than June 30, 2006, and

Section 2. seek a final and definitive clarification on the ACMP regulatory framework so that coastal districts can take action within the requirements of that framework; and

Coastal District Management Plans

2/2

Section 3. urge the Department of Natural Resources to work closely with the Office of Coastal and Resource Management to ensure the proper alignment of the state and federal regulatory frameworks; and

PASSED AND ADOPTED by a duly constituted quorum of the Nushagak-Mulchatna Watershed Council this day of March 2, 2005.

Signed:

Attest:

Jack Akelkuk, Sr.

CITY OF ALEKNAGIK

P.O. Box 33, MAIN STREET
ALEKNAGIK ALASKA 99555-0033
PHONE: 907-842-5953 OR 842-2528
FAX: 807-842-2107
E-MAIL: aleknagik@aleknagik.ak.us

February 25, 2005

To the Honorable Representative Carl Moses
State Capital Building #500
Juneau, AK 99801-1182

RE: Alaska Coastal Management Program (ACMP)

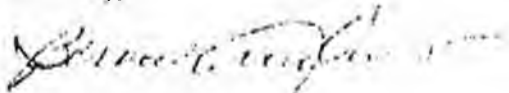
To the Honorable Representative Carl Moses:

The City Council of the City of Aleknagik would like for you to support an extension of time to revise the Alaska Coastal Management Program Plans. The Plans are to be revised by July 1, 2005, but there is not enough time remaining to do a proper job.

The City received notification of the revision in July 2004, but there has been no process for communities and interested people to provide input. We would like to see a concerted effort to gather information from all interested parties on a local level, with public review comment periods at each step of the way, before the Bristol Bay Coastal Resource Plan is rewritten. This should not be an administrative exercise without public input.

Thank you for your time, and any help you can provide toward extending the deadline for the ACMP Plan Revisions is greatly appreciated. Please contact me if you have any questions or concerns.

Sincerely,



Berna Andrews
Mayor

cc: Dobby Andrew, President, Aleknagik Natives Limited
Gusty Clythlook, President, Aleknagik Traditional Council
Andrew deValpine, Director, Bristol Bay CRSA



Cenaliulriit Coastal Resource Service Area

PO Box 69, Mekoryuk, AK 99630 / Phone: 907-827-8748 / Fax: 827-8749 / E-Mail: cenaliulriit2@starband.net
Toll Free: 1-877-827-8747

TESTIMONY
HOUSE STATE AFFAIRS COMMITTEE
State Capital, Room 102
FEBRUARY 24, 2005
8:00AM

Alaska Coastal Management Program Oversight Hearing

Thank you Chairman Paul Seaton and the Honorable Committee Members:

I'm John Oscar, Program Director for the Cenaliulriit Coastal Resource Service Area. On behalf of my board members we serve 38 villages in the Yukon-Kuskokwim delta.¹ We have approximately 21,000 residents in this area. Cenaliulriit district has one of largest number of dependents to renewable resources than any other part of the whole United States. Subsistence is an essential component of the Yup'ik people. Subsistence is history, culture, tradition, and it is deeply rooted to daily family living, it prevents dire poverty from hunger in the remotest places of Alaska, it sustains life.

The people of the Yukon-Kuskokwim Coastal Resource Management Area (CRSA) fervently believe in the wise use and management of their resources for future sustainability. But it is uncertain with the current requirements. One example I wish to share is a project that was only 200 feet above the village of Pilot Station. This airport project was only a few feet outside our coastal zone, and our policies could not apply in this case, even if the activity affected berry-picking sites around and near the project. The only time we were made aware of this was when the portion of this project was in question of being inside Cenaliulriit zone. The mining policies were taken out in the current regulations. We have mining projects as we speak in the Marshall District, Goodnews Bay District, Nyac District, and now including Red Devil and Donlin Creek Districts. What does this mean to the potential impact of mining, or large sand and gravel extractions near subsistence resource sites, wetlands and waterways, a few feet to a few miles above a village? Where is the due deference? How much influence do the current regulations provide those most affected in the decision making process? The rewritten regulations leave an unpredictable future for the people in the process, or at least a death in the public process. The ability of folks to comment or apply policies on mining under House B191 has been taken away, and is no longer our concern.

Cenaliulriit has only 1-first class city, which is St. Mary's, 25-second class cities, and 12 tribally run communities. These communities utilize the policies that address resource protection with subsistence as a primary part of their decision making process under Cenaliulriit. They do not have

¹ The district includes one first class city (Saint Mary's), 25 second class cities (Akiak, Alakanuk, Aniak, Cheformak, Chevak, Eek, Emmonak, Goodnews Bay, Hooper Bay, Kotlik, Kwethluk, Marshall, Mekoryuk, Mountain Village, Napakiak, Napaskiak, Newtok, Nightmute, Nunam Iqua, Nunapitchuk, Pilot Station, Platinum, Quinhagak, Russian Mission, Scanmon Bay, and Toksook Bay) and 12 unincorporated cities (Akiachak, Atmaultuak, Kasigiuk, Kipnuk, Kongiganak, Kwigillingok, Oscarville, Pitka's Point, Tuluksak, Tuntutuliak, and Tununak).

ordinances to land, air and water quality standards, or policies relating to resource protection. So this program is the only avenue they have to address those issues.

The main problem we are faced with is the weakened or in some cases eliminated, our ability to successfully share comments that require careful planning. We cannot address issues relating to land, air and water quality standards, and we cannot share our concerns to habitat standards. It is like saying "You may comment toward this project, but you cannot say anything about the impacts it will have to your resources and its relationship to land, air, water quality and the habitat areas."

The other problem we are faced with is the uncertainty of the new regulations that have been evolving since the inception of House Bill 191, with very little influence or input from the districts toward that plan. I have to explain these regulations to my 38 villages in Yup'ik Eskimo, or in other words a third language that meshes English and Yup'ik in plain language. To do this would require time and funds to meet with the leadership, which is must happen between now and late April, before everyone gets busy with renewable resource activity. I have no solid base to which to share them, as those regulations are not written in stone.

In most cases, scientific evidence in the western world has more bearing than traditional knowledge. We must provide the evidence of usage and documentation to prove those resources would be affected by development. We are also concerned about decisions that will be based on bias behind desks that are hundreds of miles away. Where is it that we can apply land, air and water quality standards? Where is it that we can apply habitat standards? Are we not speaking of the same animal?

We are working with villages to improve solid waste sites and meeting and conferring with updating these sites. In cooperation with other entities, we are also in process of implementing to help villages to develop policies relating to infrastructure development and future planning for future sites. With the current regulations, we are not able to provide policies that would otherwise protect them when a project is outside their immediate vicinity or town site. There is no protection.

With inadequate resources, I would have to meet with leadership during times when they are not hunting or fishing, and the spring-summer would be impossible. I calculated I would have to travel over 5,000 air miles in my district to explain the project and acquire support to the new regulations that may not set well with them.

We have a deadline of July 1, 2005 to complete this project, but in my district we are guaranteed to fail because of the vastness of the region and its people. Without the coastal management program, what guarantee do these people have, when decisions are being made for them in Anchorage or Juneau? We are concerned about the forests in South America, and other parts of the world, but not our backyard. We are concerned, if the Alaska Coastal Management Program was removed from the state, and then what protection do we have from decisions that would be made in D.C.?

In closing, my uncle, Oscar Usugan, who has long passed away, said, "My learning and knowledge was handed down by your ancient's ancestors, where the whole group was as important as one person's fate, your children's children preservation for the long term. Yet, today, we're threatened by the pervasiveness of the human nature. We live in a hurried world of technology, the clock, and the Western thought for self-gain, and forget who holds our lives. We are faced with written laws and regulations that change instantly the next day. From a far off land, from a few who offer promises and good words, but in the end you are forgotten, when the true face of hidden misdeeds and false words is revealed in their crafty laws."

Digest -

- Alaska Economic Report
- Alaska Legislative Digest

Special Commentary

February 25, 2005
With Digest #07/05

SB 102 - CZM
Local officials from Juneau to Barrow fire volley of complaints:

Coastal zone management a major "headache"

Local officials from Juneau to Barrow complained at a Feb. 24 legislative review that the Murkowski administration has made it impossible for them to meet a July 1 deadline to complete revisions of their coastal zone management programs required by the governor's CZMP reorganization bill passed in 2003. Administration officials, in turn, blamed the federal agency that oversees the program, claiming that the Office of Oceans and Coastal Resource Management is attempting to steal state control and impose new burdens on development projects. In a Feb. 23 letter to the National Oceanic and Atmospheric Administration, OCRM's parent agency, the governor threatened to let the state coastal zone program expire this summer unless OCRM "immediately abandon the new requirements."

Development of regulations for HB-191 are slow, uncertain

House State Affairs Committee Chairman Paul Seaton (R-Homer) convened the hearing to check on the implementation of regulations flowing from HB-191, the bill changing the program. As introduced in 2003, the proposal restricted local control on development outside municipal boundaries and restricted influence over projects on federal land. The final version of HB-191 retained a degree of local control, but the development of regulations to implement the measure has been an 18-month headache for local officials managing their coastal zone programs, they said.

Seven representatives of coastal districts, including municipal officials and managers from districts in the unorganized borough complained that the administration was slow to issue draft regulations, then continually changed its interpretation of its own proposals. "We go to the state. We ask them questions. We get guidance. The guidance is then reinterpreted. Then we get additional guidance. Then that is reinterpreted. Then (the federal) OCRM lobs something over the wall causing the state to rethink their interpretation," said Tom Lohman, the

- Continued on next page

Revised A CMP more clear? Ludicrous, say critics

-Continued from preceding page

North Slope Borough's coastal zone program manager. "The idea that HB-191 was passed to provide clarity and simplicity is sort of ludicrous at this point," he added. Several speakers said the coastal zone program's ability to bring federal, state and local governments to a central point where developers could efficiently address their concerns is being replaced by a system that will force project proponents to deal with separate local and state review processes. They also emphasized that the powerful tool local governments had to influence development on federal lands is being lost.

Bill Jeffress, director of the state's project management office, said a six month delay in issuing proposed regulations following passage of HB-191 was the result of multiple vacancies created by the administration's Executive Order 106 transferring the coastal zone program from the governor's office to the Department of Natural Resources.

Lawmakers concerned with the programmatic changes caused by HB-191 had warned it could prompt a major federal review, and Jeffress claimed that federal authorities were providing their own moving target for state compliance. "This is a state's rights issue," Jeffress said. "This is really ironic," said Rep. Beth Kerttula (D-Juneau), a consistent critic of HB-191. "One of our strongest tools to promote states' rights in Alaska has been the coastal zone management program. It's our hook into federal activities and federal lands. Getting rid of it is like cutting off our nose to spite our face. We give up a huge amount of authority that we have over the federal government."

Coastal districts ask for an extension of their deadlines

The coastal districts are asking for at least a one-year extension from the state July 1 deadline. The preference is for a deadline a year after the federal agency approves the state's revised program, in order to avoid the possibility that their complex revisions to meet state requirements would have to be changed again if the state program is ultimately rejected by the federal agency.

This year's SB-102, sponsored by Sen. Gary Stevens (R-Kodiak) gives the simple one year extension while HB-146, introduced by Kerttula, sets the deadline 18 months after the federal approval. Both bills were introduced on Feb. 14. Rep. Seaton said he will consult with State Affairs Committee members and may draft a third proposal. "It appeared to me that we have pretty uniform consensus that the changing landscape of regulation and interpretation means that for effective and efficient writing of those plans we're going to have to give an extension," Seaton said.

Supplemental commentary - 2

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Anchorage Daily News

Murkowski challenges regulators**COASTAL ZONE: State threatens to stop participating in protection program.**By PAULA DOBBYN
Anchorage Daily News*(Published: February 25, 2005)*

A program intended to balance development with environmental and subsistence protection along Alaska's vast coastline may end this summer because of a growing dispute between the Murkowski administration and the federal government.

Alaska's coastal management program, in effect for the past 25 years, gives local governments authority to weigh in on federal projects near their communities. It will cease to exist on July 1 unless federal ocean regulators "immediately abandon" their objections to the administration's overhaul of the program, Gov. Frank Murkowski wrote in a letter this week.

He sent it to a top official with the National Oceanic and Atmospheric Administration, a federal agency that in late January formally objected to the governor's efforts to streamline the program. NOAA officials have cited concerns, including doubts that the new program could adequately protect subsistence and natural habitats.

Eldon Hout, director of the agency's office of ocean and coastal resource management, said in written testimony to the state Legislature on Thursday that Alaska's efforts at streamlining have resulted in "gaps" that must be filled before the revamped program could meet the minimum federal standards. He described what Alaska is proposing as the most significant change that any state has ever undertaken to the federally approved program, which dozens of states follow.

Critics say anti-development zealots use the shoreline program to block projects such as oil and gas leasing, logging, dredging, shellfish farming and construction in environmentally sensitive places, such as wetlands. But city planners, hunters, birders, fishermen, whalers and environmental advocates tend to say that the coastal zone program ensures that other interests, besides those of developers, get heard.

Soon after taking office, Murkowski issued two executive orders. One abolished the habitat division of the Department of Fish and Game and moved the biologists to the pro-development Department of Natural Resources. The other dismantled the division of governmental coordination, which ran the coastal zone program, and shifted the program to Natural Resources.

The governor later introduced legislation, House Bill 191, that ordered major changes in the coastal program by July 1.

Supporters of the legislation say the changes were needed to streamline a policy that, as Murkowski said in his letter, "evolved into a complex, confusing set of requirements which unnecessarily delayed projects in Alaska without corresponding environmental benefits."

Critics said there is no proof the coastal zone program has held up projects.

Bob Shavelson, executive director with Cook Inlet Keeper, said Thursday that he thinks the

administration wants to get rid of the coastal program for philosophical and practical reasons.

"They want to strip away any meaningful oversight so that the executive branch can dictate the development policies in local districts around the state," he said.

Bill Jeffress, director of the Natural Resource Department's office of habitat management and permitting, which oversees the coastal program, disagreed. He said Alaska has many laws and regulations that protect fish, wildlife and coastal resources and that the shoreline program's requirements are often redundant. Simplifying the process makes sense, he said.

Alaska participates voluntarily in the program and will receive \$2.6 million in federal money this year to run it, said NOAA spokesman Ben Sherman.

Tom Lohman, environmental specialist with the North Slope Borough, said the giant Arctic borough has used the coastal zone program to negotiate changes to oil and gas projects that might have harmed subsistence resources, including bowhead whales, a mainstay of Inupiaq culture.

Oil companies have listened to local leaders in North Slope communities because of the authority granted to them under the coastal program, Lohman said. In some cases, they changed oil projects to address concerns over noise, potential spills and monitoring, he said.

Jeffress said he and other Alaska officials plan to travel to Washington, D.C., soon to talk to NOAA regulators.

"The game isn't over yet," he said.

But he also acknowledged that the way the administration sees things, if the coastal zone program ends in July, it won't be a catastrophe.

"We feel the coastal and inland resources are protected by existing laws and regulations."

Daily News reporter Paula Dobbyn can be reached at pdobbyn@adn.com or 257-4317.



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GOVERNOR SEEKS TO DEMOLISH SUBSISTENCE

Subsistence. It is a stumbling block to Governor Murkowski's recent decree to remove the Alaska Coastal Management Program (ACMP), which has a direct tie to protecting renewable resources on which many people in Alaska depend. Subsistence is perceived as a burden on development.

The ACMP was designed to enable the little guys to participate in the permitting process, and the means to express their concerns. Subsistence is under attack by the state in the way it has left the door open for applicants who wish to acquire permits for development. Subsistence is an essential element of the people. It is history, culture, and tradition, which are deep-rooted to daily family living. It prevents dire poverty and hunger in the remotest places of Alaska, for it sustains life.

The current administration has thrown smoke bombs to deceive the general public into thinking that the ACMP is a failure and slows development. The governor grew up in an era where mining had great power to influence the decision makers, a time when stumbling blocks were nonexistent, and Natives were completely out of the picture. This is a professional way for the government to do away with opposition and a way to pursue the almighty dollar.

Governor Murkowski in 2003 promoted the passage of House Bill 191 that revamped the ACMP in an effort to "streamline" the process, provide "predictability" and prevent "duplication." This bill was in search of a problem that was not there. The ACMP has provided an efficient balance between development and protection of our natural resources and uses, including subsistence.

The Governor recently stated that he would let the ACMP expire on July 1, 2005 unless the federal government backs off from its requirements that the state amend the 2004 ACMP regulations to ensure there is adequate protection of habitats and subsistence. The Alaska Department of Natural Resources (DNR) is blaming the federal government, and the state appears to be using the ACMP as an excuse to wash its hands from the issue of subsistence. The federal requirements are minimal and would not even afford the same protection of the original language, however the state is unwilling to provide language that assures protection of renewable resources.

Local coastal districts can no longer use land, air and water quality standards, or the habitat standards to develop policies to be applied to development. One could comment toward a project, but cannot address issues managed by the Department of Environmental Conservation. Other restrictions by the new regulations will not allow coastal districts to develop any meaningful policies to protect local resources and uses.

"Alaskans deserve a coastal management program that works for Alaska," said the governor. "This is another example of the federal government dictating from afar program requirements that don't make sense in Alaska. I promised to stand up to the federal government when they overreach their authority -- and through this action I am upholding that commitment."

A commitment from a bureaucrat, who served from afar, with many ties to big pockets, from hungry friends to reap and harvest the resources of Alaska. The question is, does it make sense to remove a system that protects the civil right to harvest and gather for one's family?

Without the coastal management program, what guarantee do people have, when decisions are being made for them behind a desk in Anchorage, Fairbanks or Juneau? Bureaucrats are concerned about the forests in South America, and other parts of the world, but

not those in Alaska's backyard. If the ACMP was eliminated, what protection would Alaskans have from decisions that would be made in Washington D.C. on federal lands and waters?

Oscar Usugan of Tununak, who has long passed away, said, "My learning and knowledge was handed down by your ancient's ancients, where the whole group was as important as one person's fate, your children's children preservation for the long term. Yet, today, we're threatened by the pervasiveness of the human nature. We live in a hurried world of technology, the clock, and the Western thought for self-gain, and forget who holds our lives. We are faced with written laws and regulations that change instantly the next day. From a far off land, from a few who offer promises and good words, but in the end you are forgotten, when the true face of hidden misdeeds and false words is revealed in their crafty laws."

The issue is clear, the leadership of Alaska must recognize that subsistence is what makes this great state unique from all others. It is our heritage, our culture, and a tradition to guarantee the beauty of our renewable resources for future generations, and understand that subsistence is much a part of everyone in Alaska. Join now and express your concerns to our leadership.

Web posted Monday, February 28, 2005

Governor's coastal management stance erodes Alaska's rights

Frank Murkowski came into office and immediately set out to remove Alaskans from decisions affecting coastal communities. Now, after bungling the process to revise the Alaska Coastal Management Program, he's blaming the federal government and claiming he's defending "states rights." But once again, Frank misses the mark. The federal coastal zone management law actually grants states more rights than they otherwise have without it. How? First, it provides money to state and local communities to implement their own local standards. By attacking this program, Frank is attacking decisions made by Alaskans, for Alaskans — not decisions made by faceless bureaucrats in D.C. or Juneau. Second, the federal law provides a powerful appeal process where states can challenge federal decisions affecting state and local interests. California used these very provisions last year to protect its coastal communities from federal intrusion.

Why is this relevant for Alaska? Among other reasons, there are efforts underway in Congress to allow fish farming in waters 3 to 200 miles offshore. But if Frank has his way, the state won't have a meaningful say in how the federal government manages our offshore waters. If you care about states' rights and local decision making, let the Governor and the Legislature know now. It's not too late to demand local control over coastal decision making in Alaska.

Bob Shavelson, Executive director, Cook Inlet Keeper, Homer



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Communities ask Legislature for delay on coastal program overhaul

Representatives of coastal districts say they don't have time to revamp local plans

Communities across the state are asking the Alaska Legislature to put the brakes on a plan to restructure environmental oversight of coastal areas.

The Alaska Coastal Management Program has been in place since 1979 and gives state and local governments a role in reviewing and approving federal projects in coastal areas. Thirty-three of Alaska's 35 coastal zone districts have set policies to address local coastal management issues under the existing program.

The Legislature shifted regulatory control on environmental effects from communities to the state and federal government in 2003, arguing the coastal zone program had become redundant with state and federal laws.

The overhaul of the program is set to take place July 2006. Local districts now must submit their revised local policies to the state Department of Natural Resources by July to come into compliance with the new state program. But representatives of the coastal districts say they do not have enough time or the resources necessary to revamp their local plans.

Three separate proposals in the Legislature would push the deadline back by at least a year. A plan by Sen. Gary Stevens, R-Kodiak, would delay the deadline a year from the time federal government approves the state's revised program.

The coastal management plans can take much longer than that to create. For the North Slope Borough, it took five years before its plan was finalized in 1988. North Slope Borough environmental specialist Tom Lohman told the Senate Community and Regional Affairs Committee Monday it took so long because of input from oil companies.

"They are not a passive stakeholder when it comes to something as important as a coastal management program," Lohman said.

Now, he said, the borough is waiting for direction from the Department of

Natural Resources on issues such as subsistence whaling by Inupiat Eskimos in the Beaufort and Chukchi Seas and management of wildlife refuges.

"We have not had final guidance from DNR as to whether we can craft meaningful policies dealing with subsistence on federal lands or waters or habitat protection on federal lands or waters on the North Slope," he said.

Lohman and other coastal districts argued that the state's proposed overhaul of the program has not been approved by the federal government's Office of Ocean and Coastal Resource Management. They questioned the logic of spending time and money to submit plans this summer if the federal government rejects the program.

Randy Bates, Alaska's Project Management and Permitting director, said the plans due in July are not necessarily the final product.

"When they get their plans in they can continue to refine them," he told the committee. "Our goal is to massage them into compliance."

Gov. Frank Murkowski, though, has threatened to eliminate the coastal management program entirely if the federal government does not abandon its objections to parts of the state's proposal.

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Rod_Swope@ci.juneau.ak.us

April 5, 2005

The Honorable Gary Stevens
Alaska State Senator
Alaska State Capitol, Room 103
Juneau, AK 99801-1182

Dear Senator Stevens:

I am writing with regard to the Alaska Coastal Management Program (ACMP) revision process, and SB 102 extending the June 30, 2005 deadline for a mandatory rewrite of the Juneau Coastal Management Program (JCMP). As former Commissioner of the Department of Natural Resources (DNR) and a former appointee to the Alaska Coastal Policy Council, I am very familiar with the Coastal Management Program and the benefits and importance it affords to communities.

The JCMP was prepared over a several-year period during the 1980s, with extensive public and agency involvement and included enforceable policies in areas such as coastal development, habitat, transportation and utilities, recreation, energy facilities, mining, fish and seafood processing, timber harvesting, and the unique Juneau Wetlands Management Plan. The Juneau Wetlands Management Plan was added as a tool to provide a specific and predictable review process for applicants. At this point, it is unclear whether communities may have enforceable policies of any kind. The role of communities in the statewide program has been significantly reduced, and the "due deference" granted to communities through enforceable policies may be virtually eliminated. The only option left would be to attempt to assert deference on a case-by-case basis using state standards. Success in this effort would be highly unlikely.

Even at this stage, DNR still has not provided final guidance on the regulations. DNR's occasional teleconferences with communities have given different, and often contradictory, guidance on the regulations. At this late date it is still unclear how, or if, a community can write policies that may be approved by DNR. In fact, DNR staff has suggested that communities should prepare plans that do not have policies at all, but expanded resource inventories and analyses instead. Without a policy basis, however, the plans would lack specific guidance and be impossible to implement.

As a home rule government, Juneau has broad powers, and is one of a handful of Alaska municipalities with a sophisticated and well-developed planning authority. We can use this authority in lieu of the ACMP, but would exercise it without the benefits of the ACMP, including one-stop permit shopping for the applicant; institutional coordination that, in effect, makes partners out of the different levels of government; ongoing, programmatic communication; pooling of agency knowledge and expertise; joint problem-solving; and due deference to local enforceable policies. Separating local standards from the state program means that an applicant must go through two separate, uncoordinated permit review processes, with the potential for conflicting permit conditions. Specifically, if the current Juneau Coastal Management Program must be removed from the statewide program (because none of its policies meet the new regulatory requirements), and remains only in the local land use code, the applicant will have one coastal management review at the state level, and a second review at the local level under local code. The stated goal of the coastal management program changes was a simplified, streamlined, and predictable review process for applicant.

The state's active coastal districts, including Anchorage, the North Slope Borough, the Kenai Peninsula Borough, the Lake and Peninsula Borough, and the Aleutians West and Cenaliuriiit Coastal Resource Service Areas are unanimous in seeking an extension. The June 30, 2005 deadline is unrealistic and ill timed. We simply do not have enough time to complete this work satisfactorily, much less have any hope of a meaningful process for public involvement. The statutory deadline for plan completion has always been short, but has been compounded by continually evolving guidance from DNR, particularly with regard to policy development. I believe that completing plans under these circumstances is premature and wasteful, particularly since the federal Office of Ocean and Coastal Resource Management (OCRM) appears unlikely to approve the state program revisions in their current iteration, leaving the door open for yet another round of plan revisions in six months or a year. Rather than struggle under an unrealistic deadline to prepare a plan that could become quickly outdated, we believe the deadline for plan revision should be 18 months, following final federal approval of the state's ACMP revisions.

Without an extension, the program will either lapse or suffer a significant gap in implementation and funding. The federal OCRM has stated that the changes are a significant amendment, and thus require preparation of an Environmental Impact Statement (EIS). DNR must present OCRM with a complete program amendment document, which it has not yet done. After OCRM officially accepts this package, an EIS must be completed. Then OCRM must review and approve the EIS and make a decision on the program. All of this has to be completed by July 1, 2005, a clearly impossible deadline. If the State of Alaska wants to have a coastal management program, in any form, the deadline must be extended.

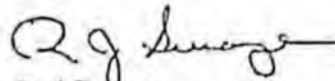
In closing, I would observe that Juneau is one of the premier cruise ship destinations in the world, and has averaged almost 10% growth in cruise visitors annually. It is one of the hard-rock mining centers of the state, home to the largest silver mine in North America, and has recently issued a permit for development of the Kensington gold mine. It has extensive port and industrial development within waterfront areas designated in the JCMP for water-dependent industry. It is homeport to a large commercial fishing fleet and has an expanding seafood processing sector. All of this development has occurred under the auspices of the Juneau Coastal

Senator Gary Stevens
April 5, 2005
Page 3

Management Program, a program that promoted a local voice and a local role in coastal economic development.

Thank you for your time and attention. Please feel free to contact me or Peter Freer, Community Development Planning Supervisor, should you have any questions or desire any follow-up to this correspondence.

Sincerely,



Rod Swope
City & Borough Manager

cc: Senator Kim Elton
Representative Beth Kerttula
Representative Bruce Weyhrauch
Mayor Bruce Botelho
Clark Gruening, CBJ Lobbyist