





**SB**

**102**

### Coastal Districts

1. Aleutians East Borough
2. Aleutians West CRSA
3. Municipality of Anchorage
4. City of Anchorage
5. Barrow Borough CRSA
6. City of Bethel
7. Bristol Bay Borough
8. Bristol Bay CRSA
9. Central CRSA
10. City of Cordova
11. City of Craig
12. City of Haines
13. City of Hoonah
14. City of Hydaburg
15. City and Borough of Juneau
16. City of Kake
17. Kenai Peninsula Borough
18. Ketchikan Gateway Borough
19. City of Klawock
20. Kodiak Island Borough
21. Lake and Peninsula Borough
22. Matanuska-Susitna Borough
23. City of Nome
24. North Slope Borough
25. Northwest Arctic Borough
26. City of Palcaan
27. City of Petersburg
28. City and Borough of Sitka
29. City of Skagway
30. City of St. Paul
31. City of Thoma Bay
32. City of Valdez
33. City of Whittier
34. City of Wrangell
35. City and Borough of Yakutat

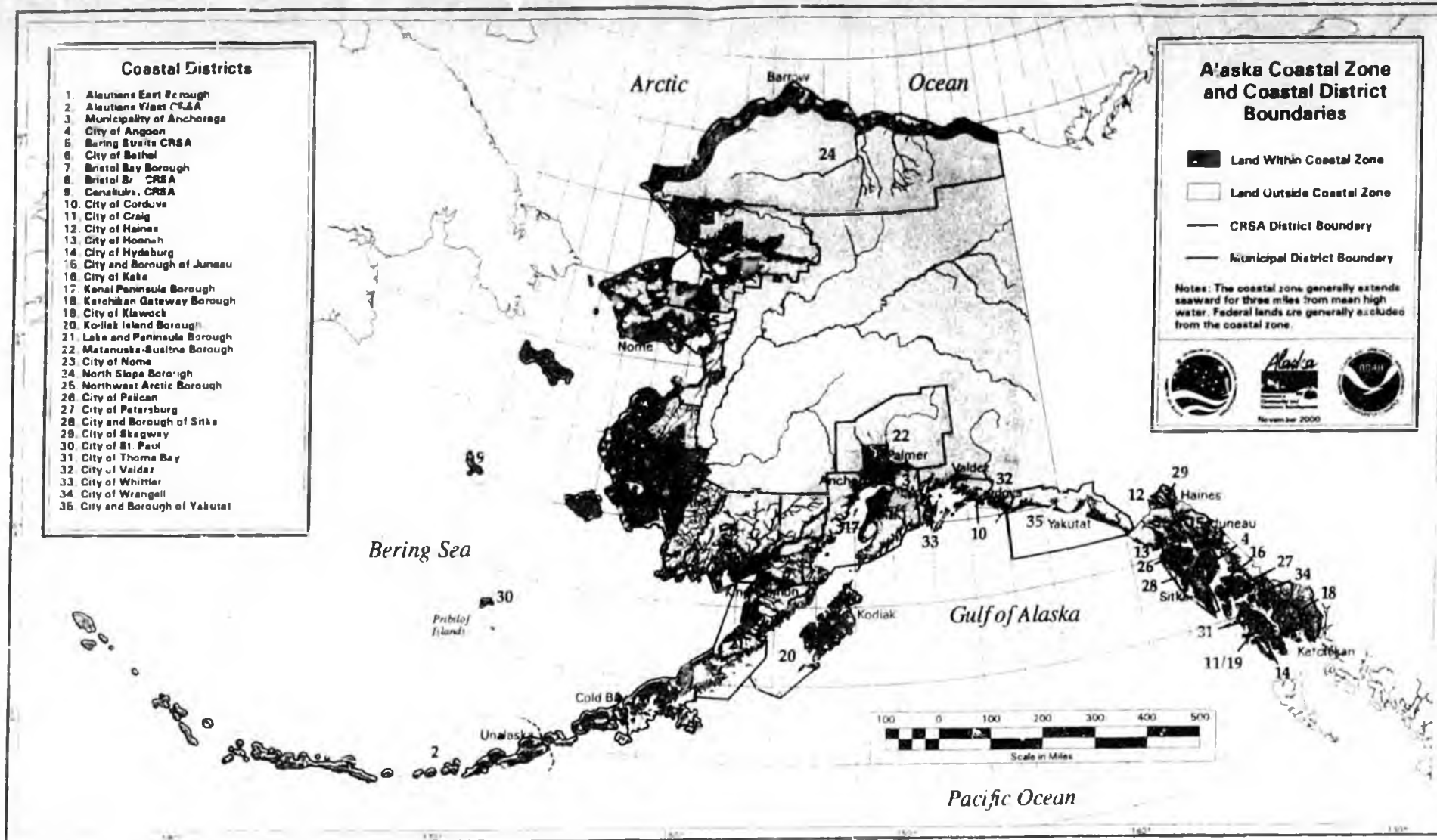
### Alaska Coastal Zone and Coastal District Boundaries

-  Land Within Coastal Zone
-  Land Outside Coastal Zone
-  CRSA District Boundary
-  Municipal District Boundary

Notes: The coastal zone generally extends seaward for three miles from mean high water. Federal lands are generally excluded from the coastal zone.



November 2000



# Alaska State Legislature

Rep. Harry Crawford  
Rep. Jim Elkins  
Rep. Carl Gatto  
Rep. Mary Kapsner  
Rep. Gabrielle LeDoux  
Rep. Kurt Olson  
Rep. Paul Seaton



State Capitol, Room 124  
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## House Resources Committee

### MEMO

To: Resources Committee

Fm: Jim Pound, Committee Aide

Cc:

Date: May 6, 2005, 10:31 AM

Re: HB 189/SB 102

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This is the information on SB 102 for inclusion with the backup from HB 139.

Please bring both to Resources Today.

Thanks

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Thank you

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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

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

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- 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;



## Alaska State Legislature

Senate Majority Web: [www.akrepublicans.org](http://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.

**Coastal Management Programs**  
Sponsor Statement for Senate Bill 102  
Released: February 23, 2005  
Doug Letch

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. OCRM has determined that additional revisions are necessary before they can grant approval.

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. However, OCRM has identified problems with the state's guidance to local districts regarding the scope and content of their program. The state will have to revise regulatory guidelines for the local districts before the new program can be approved by OCRM. In turn, the local districts will have to re-revise their programs to meet the new guidelines. It is a waste of time, money and effort for districts to revise their plans before the state's program is federally approved and any necessary changes have been made.

SB 102 bases the deadline for district coastal program revisions and annulment of the existing program on federal approval of the state's program. This extension will ensure an orderly and efficient transition to the new program.

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[http://www.akrepublicans.org/stevensg/24/spst/steg\\_sb102.php](http://www.akrepublicans.org/stevensg/24/spst/steg_sb102.php)

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5/6/05

**HOUSE CS FOR CS FOR SENATE BILL NO. 102( )**  
**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 commissicner, 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 (i) 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;

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

3 (D) a mineral claim located under AS 38.05.195;

4 (E) a mineral lease issued under AS 38.05.205;

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

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

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

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

26 (G) a surface use lease under AS 38.05.255;

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

28 (7) the director shall include in

29 (A) a preliminary written finding, if required, a summary of  
30 agency and public comments, if any, obtained as a result of contacts with other  
31 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 uncoded 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).

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSSB 102(CRA)  
 (S) Publish Date: 3/18/05

Revision Date/Time (Note if correction): 3/16/05 3:20pm Dept. Affected: Natural Resources  
 Title: Relating to District Coastal Management RDU: Resource Development  
Programs Component: Alaska Coastal Management  
 Sponsor: Senators Gary Stevens, Olson Program:  
 Requester: Senate C&RA 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		199.1	199.1			
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>199.1</b>	<b>199.1</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		199.1	199.1			
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>199.1</b>	<b>199.1</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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)

HB191 required districts to have plans submitted by 6/30/2005, with the ACMP review process to be complete by 6/30/2006. Implementation of CSSB102(CRA) extends the district deadline to one year after the State's revised program is approved by NOAA. This fiscal note assumes NOAA/OCRM approval by 6/2006, with the ACMP completion by 6/30/2008. Funding is available for existing staff through 6/30/2006, under the original plan. CSSB102(CRA) will require us to retain 2-3 positions for an additional two years, resulting in this fiscal note request.

Prepared by: Randy Bates, Deputy Director Phone 269-8429  
 Division: Office of Project Management & Permitting Date/Time 3/16/2005  
 Approved by: Tom Irwin, Commissioner Date 3/16/2005  
 Agency: Natural Resources

# 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

# 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: Senate 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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 Regelin Date 3/8/2005  
 Agency: Alaska Department of Fish & Game

# 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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: 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  
 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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>133.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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)						
<b>TOTAL</b>	<b>0.0</b>	<b>133.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

**FRANK H. MURKOWSKI**  
Governor



P.O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500  
Fax (907) 465-3532

**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.

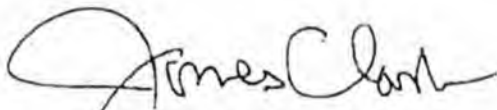
Funding


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



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



Printed on Recycled Paper



The Honorable Frank H. Murkowski

Page 2

c. :   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, 1<sup>st</sup> 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, 2<sup>nd</sup> 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 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. Further, none of the OCRM feedback should be interpreted as attempting to "shift the balance of authority."

6. Page 4, 1<sup>st</sup> bullet: " 'Geographic Location Description' (GLD) requirement...impose[s] an 'effects test' requirement well beyond what OCRM had previously required...effectively withdrew OCRM's agreement on how to capture the federal effects test in regulations"

There was no intent in OCRM's January 28 letter to expand the scope of the federal consistency effects test or to establish "new national policy." OCRM's description of federal consistency and the use of "geographic location descriptions" in Enclosure III of its January 28 letter applies long-standing statutory and regulatory requirements. The description is not a departure from previous discussions with Alaska DNR staff. The information provided was in response to an Alaska DNR staff request for a detailed description of how the geographic location provision could apply in all circumstances, using the subsistence use policy as an example; and, that is what was provided. In addition, as stated in OCRM's January 28 letter, it is up to the State of Alaska to decide whether to describe geographic locations outside its coastal zone. This provides Alaska with substantial control over what federal license or permit activities it will review for federal consistency and the extent to which it will exert states' rights over federal actions affecting Alaska's coastal uses or resources.

7. Page 4, final paragraph: "ACMP will expire by operation of law in the summer of 2005"

The "summer of 2005" expiration is the result of Alaska HB 191, and not any CZMA or federally imposed deadline.

FRANK H. MURKOWSKI  
GOVERNOR  
GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

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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.

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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.

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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

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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.

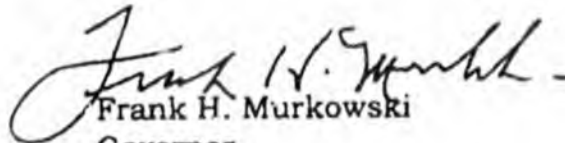
Back in 1971, Congress saw the wisdom of leaving the development of an appropriate coastal management program within the broad framework of the CZMA to each state's judgment of its special priorities and needs. I regret that OCRM has departed from its original legislative mandate and has not allowed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

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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



# Municipality of Anchorage

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Physical Address: 4700 Bragaw Street • Anchorage, Alaska 99507 • [www.muni.org/planning](http://www.muni.org/planning)

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  
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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 manner.

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 requires 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



**CITY/BOROUGH OF JUNEAU  
ALASKA'S CAPITAL CITY**

**OFFICE OF THE MANAGER**

Telephone: (907) 586-5240; Fax: (907) 586-5385

[Roxi.Swope@ci.juneau.ak.us](mailto:Roxi.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 Cenaliulriit 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.

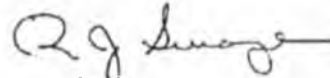
In closing, I would observe that Juneau is one of the premier cruise ship destinations in the world, and has averaged almost 10% growth in cruise visitors annually. It is one of the hard-rock mining centers of the state, home to the largest silver mine in North America, and has recently issued a permit 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  
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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 Kertula  
Representative Bruce Weyhrauch  
Mayor Bruce Botelho  
Clark Gruening, CBJ Lobbyist

**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 Studetaker  
4288 Cliffside Rd.  
P.O. Box 970  
Kodiak, AK 99615



# *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.

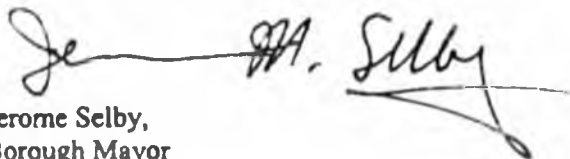
I understand there will be legislative hearings later this month to investigate some of the problems with the ACMP. The Kodiak Island Borough looks forward to participating in these hearings.

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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

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 coastal 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 of 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

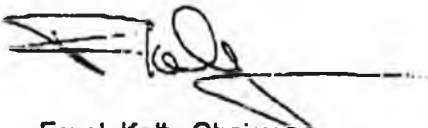
meaningfully participate in state consistency reviews. The AWCRSA has completely revised their coastal policies based on initial guidance only to find, in mid-December, that recent DNR guidance mandates a choice between further revisions or to choose to submit a potentially unacceptable document. DNR's 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 Kolehmainen, 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.

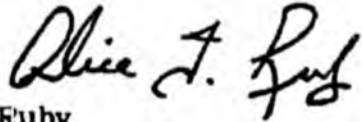
We embarked on our plan updates in good faith. Through no fault of the hard work of a dedicated staff at the Office of Project Management and Permitting, we believe seeking an extension to the deadlines imposed by HB 191 is the best course of action at this point.

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.

Thank you for your attention to this matter so very important to your local coastal districts and to the State of Alaska.

Sincerely,

A handwritten signature in cursive script that reads "Alice J. Fuby". The signature is written in black ink and is positioned above the printed name.

Alice Fuby  
Chair, Bristol Bay CRSA



## 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/revise 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,



Glen Alsworth, Sr.  
Mayor

CC:

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

Senator Gary Stevens  
112 Mili Bay Road  
Kodiak, Alaska 99615

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

**CITY OF DILLINGHAM  
Dillingham, Alaska**

**RESOLUTION NO. 2005-10  
Support Alaska Coastal Management Program**

A RESOLUTION OF THE COUNCIL OF THE CITY OF DILLINGHAM, ALASKA, 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 (OCRM), 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 Dillingham City Council urges 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

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.

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

SEAL:

\_\_\_\_\_  
Chris Napoli, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

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 (OCRM), 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:

Loki Akelkok, Sr.

\_\_\_\_\_

**CITY OF ALEKNAGIK**  
P.O. BOX 33, MAIN STREET  
ALEKNAGIK ALASKA 99685-0033  
PHONE: 907-842-5953 OR 842-2520  
FAX: 907-842-2107  
EMAIL: [alekn@alekn.net](mailto:alekn@alekn.net)

February 25, 2005

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

RE: Alaska Coastal Management Program (ACMP)

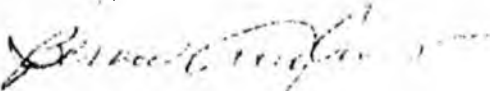
To the Honorable Representative Carl Moses,

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



## **Cenaliulriit Coastal Resource Service Area**

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PO Box 61, Mekoryuk, AK 99630 / Phone: 907-827-8748 / Fax: 827-8749 / E-Mail: [cenaliulriit2@sterband.net](mailto:cenaliulriit2@sterband.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.<sup>1</sup> 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, Nyaq 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

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<sup>1</sup> 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, Nuwapitchuk, Pilot Station, Platinum, Quinhagak, Russian Mission, Scammon Bay, and Toksook Bay) and 12 unincorporated cities (Akiachak, Atmautluak, Kasigluk, Kipnuk, Koniganak, 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.

**adn.com**

Anchorage Daily News

**Murkowski challenges regulators****COASTAL ZONE: State threatens to stop participating in protection program.**By PAULA DOBBYNI  
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."

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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 ones 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.

Lohmen 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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# LAWS OF ALASKA

2003

**Source**  
CSHB 191(FIN) am

**Chapter No.**  
\_\_\_\_\_

## AN ACT

Relating to the Alaska coastal management program and to policies and procedures for consistency reviews and the rendering of consistency determinations under that program; eliminating the Alaska Coastal Policy Council; annulling certain regulations relating to the Alaska coastal management program; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to the Alaska coastal management program and to policies and procedures for  
2 consistency reviews and the rendering of consistency determinations under that program;  
3 eliminating the Alaska Coastal Policy Council; annulling certain regulations relating to the  
4 Alaska coastal management program; and providing for an effective date.

5

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6 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
7 to read:

8 **FINDINGS.** The legislature finds that

9 (1) the Alaska coastal management program (ACMP) is intended to function  
10 with a minimum of delay and avoid regulatory confusion, costly litigation, and uncertainty  
11 regarding the feasibility of new investment;

12 (2) there is a need to update and reform the existing statewide standards of the

1 ACMP so that they are clear and concise and provide needed predictability as to the  
2 applicability, scope, and timing of the consistency review process under the program;

3 (3) there is a need to update and reform the district coastal management plans  
4 under the ACMP so that the local enforceable policies within those plans are clear and  
5 concise, provide greater uniformity in coastal management throughout the state, relate to  
6 matters of local concern, and do not duplicate state and federal requirements;

7 (4) the state has chosen not to enact legislation similar to 42 U.S.C. 4321 -  
8 4370f (National Environmental Policy Act of 1969, as amended) and, in furtherance of the  
9 legislative findings expressed in sec. 1(7), ch. 38, SLA 1994, the ACM<sup>2</sup> is not intended to  
10 take the place of such a program;

11 (5) to achieve these goals, statutory reform is needed; and

12 (6) to implement these needed reforms at the administrative level, it is in the  
13 best interest of the state for the development and implementation of the ACMP to be  
14 transferred from the Alaska Coastal Policy Council to the Department of Natural Resources.

15 \* Sec. 2. AS 38.05.825(a) is amended to read:

16 (a) Unless the commissioner finds that the public interest in retaining state  
17 ownership of the land clearly outweighs the municipality's interest in obtaining the  
18 land, the commissioner shall convey to a municipality tide or submerged land  
19 requested by the municipality that is occupied or suitable for occupation and  
20 development if the

21 (1) land is within or contiguous to the boundaries of the municipality;

22 (2) use of the land would not unreasonably interfere with navigation or  
23 public access;

24 (3) municipality has applied to the commissioner for conveyance of the  
25 land under this section;

26 (4) land is not subject to a shore fisheries lease under AS 38.05.082,  
27 or, if the land is subject to a shore fisheries lease, the commissioner determines it is in  
28 the best interests of the state to convey the land;

29 (5) land is classified for waterfront development or for another use that  
30 is consistent or compatible with the use proposed by the municipality, or the proposed  
31 use of the land is consistent or compatible with a land use plan adopted by the

1 municipality or [,] the department [, OR THE ALASKA COASTAL POLICY  
2 COUNCIL]; and

3 (6) land

4 (A) is required for the accomplishment of a public or private  
5 development approved by the municipality;

6 (B) is the subject of a lease from the state to the municipality;

7 or

8 (C) has been approved for lease to the municipality.

9 \* Sec. 3. AS 44.33.781 is amended to read:

10 **Sec. 44.33.781. Planning assistance for development and maintenance of**  
11 **district coastal management plans [PROGRAMS].** The department shall conduct a  
12 program of research, training, and technical assistance to coastal resource districts  
13 necessary for the development, [AND] implementation, and maintenance of district  
14 coastal management plans [PROGRAMS] under AS 46.40. The technical assistance  
15 shall include the direct granting to the coastal resource districts of a portion of any  
16 funds received by the state from the federal coastal zone management program, in  
17 amounts to be individually determined for each coastal resource district by the  
18 commissioner of community and economic development. State agencies shall assist  
19 the department in carrying out the purposes of this section.

20 \* Sec. 4. AS 44.62.800(1) is amended to read:

21 (1) "agency" means a department, an institution, or a division or other  
22 administrative unit of the executive branch of state government authorized or required  
23 by law to make regulations, except that "agency" does not include

24 (A) a board, [,] a commission, [,] a council, [EXCEPT THE  
25 ALASKA COASTAL POLICY COUNCIL ESTABLISHED IN  
26 AS 46.39.020;] an authority, [,] or a public corporation of the executive branch  
27 of state government authorized or required by law to make regulations, or

28 (B) the Department of Corrections;

29 \* Sec. 5. AS 46.39.010 is amended by adding a new subsection to read:

30 (c) The department may adopt regulations necessary to implement this  
31 chapter.

1 \* Sec. 6. AS 46.39.030 is amended to read:

2 **Sec. 46.39.030. Powers of the department [COUNCIL].** The **department**  
3 **[COUNCIL]** may

4 (1) apply for and accept grants, contributions, and appropriations,  
5 including application for and acceptance of federal funds that may become available  
6 for coastal planning and management;

7 (2) contract for necessary services;

8 (3) consult and cooperate with

9 (A) persons, organizations, and groups, public or private,  
10 interested in, affected by, or concerned with coastal area planning and  
11 management;

12 (B) agents and officials of the coastal resource districts of the  
13 state, and federal and state agencies concerned with or having jurisdiction over  
14 coastal planning and management;

15 (4) take any reasonable action necessary to carry out the provisions of  
16 **this chapter or AS 46.40** [AS 46.39.020 - 46.39.050].

17 \* Sec. 7. AS 46.39.040 is amended to read:

18 **Sec. 46.39.040. Duties of the department [COUNCIL].** In conformity with  
19 16 U.S.C. 1451 - 1464 (Coastal Zone Management Act of 1972), as amended, the  
20 **department** [COUNCIL] shall

21 (1) [THROUGH THE PUBLIC HEARING PROCESS AND THE  
22 RECORDING OF THE MINUTES OF THE HEARINGS,] develop **statewide**  
23 **[GUIDELINES AND]** standards **for the Alaska coastal management program, and**  
24 **criteria** for the preparation [OF,] and **approval of district coastal management**  
25 **plans** [APPROVE.] in accordance with AS 46.40 [, THE ALASKA COASTAL  
26 MANAGEMENT PROGRAM];

27 (2) establish continuing coordination among state agencies to facilitate  
28 the development and implementation of the Alaska coastal management program; in  
29 carrying out its duties under this paragraph, the **department** [COUNCIL] shall initiate  
30 an interagency program of comprehensive coastal resource planning for each  
31 geographic region **of the state** [DESCRIBED IN AS 46.39.020(a)(1)];

1                   (3) assure continued provision of data and information to coastal  
2 resource districts to carry out their planning and management functions under the  
3 program.

4 \* Sec. 8. AS 46.40.010 is amended to read:

5                   **Sec. 46.40.010. Development of Alaska coastal management program.** (a)  
6 The department [ALASKA COASTAL POLICY COUNCIL ESTABLISHED IN  
7 AS 46.39.020] shall approve, in accordance with this chapter, the Alaska coastal  
8 management program.

9                   (b) The department [COUNCIL] may approve the Alaska coastal  
10 management program for a portion or portions of the coastal area before approving the  
11 complete program under (a) of this section. Portions of the program approved under  
12 this subsection shall be incorporated into the Alaska coastal management program.

13                   (c) The Alaska coastal management program shall be reviewed by the  
14 department [COUNCIL] and, when appropriate, revised to

15                           (1) add newly approved district coastal management plans  
16 [PROGRAMS], or revisions and amendments to the Alaska coastal management  
17 program;

18                           (2) integrate newly approved district coastal management plans  
19 [PROGRAMS], or revisions and amendments of district coastal management plans  
20 [PROGRAMS], with existing approved plans [PROGRAMS] and with plans  
21 developed by state agencies;

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

24                           (4) review the effectiveness of implementation of district coastal  
25 management plans [PROGRAMS]; and

26                           (5) consider new information acquired by the state and coastal resource  
27 districts.

28                   (d) All reviews and revisions shall be in accordance with the statewide  
29 [GUIDELINES AND] standards and district plan criteria adopted [BY THE  
30 COUNCIL] under AS 46.40.040.

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

1           **Sec. 46.40.030. Development of district coastal management plans**  
2 **[PROGRAMS]. (a) Coastal resource districts shall develop and adopt district coastal**  
3 **management plans [PROGRAMS] in accordance with the provisions of this chapter.**  
4 **The plan [PROGRAM] adopted by a coastal resource district shall be based upon a**  
5 **municipality's existing comprehensive plan or a new comprehensive resource use plan**  
6 **or comprehensive statement of needs, policies, objectives, and standards governing the**  
7 **use of resources within the coastal area of the district. The plan [PROGRAM] must**  
8 **meet [BE CONSISTENT WITH] the statewide [GUIDELINES AND] standards and**  
9 **district plan criteria adopted [BY THE COUNCIL] under AS 46.40.040 and must**  
10 **include**

11                           (1) a delineation within the district of the boundaries of the coastal area  
12 subject to the district coastal management plan [PROGRAM];

13                           (2) a statement, list, or definition of the land and water uses and  
14 activities subject to the district coastal management plan [PROGRAM];

15                           (3) a statement of policies to be applied to the land and water uses  
16 subject to the district coastal management plan [PROGRAM];

17                           (4) [ REGULATIONS, AS APPROPRIATE, TO BE APPLIED TO  
18 THE LAND AND WATER USES SUBJECT TO THE DISTRICT COASTAL  
19 MANAGEMENT PROGRAM;

20                           (5)] a description of the uses and activities that [WHICH] will be  
21 considered proper and the uses and activities that [WHICH] will be considered  
22 improper with respect to the land and water within the coastal area;

23                           [(6) A SUMMARY OR STATEMENT OF THE POLICIES WHICH  
24 WILL BE APPLIED AND THE PROCEDURES WHICH WILL BE USED TO  
25 DETERMINE WHETHER SPECIFIC PROPOSALS FOR LAND OR WATER USES  
26 OR ACTIVITIES SHALL BE ALLOWED;] and

27                           (5) [(7)] a designation of, and the policies that [WHICH] will be  
28 applied to the use of, areas within the coastal resource district that [WHICH] merit  
29 special attention.

30                           (b) In developing enforceable policies in its coastal management plan  
31 [STATEMENTS OF POLICIES AND REGULATIONS] under (a) of this section, a

1 coastal resource district shall meet the requirements of AS 46.40.070 and may not  
2 duplicate, restate, or incorporate by reference statutes and administrative regulations  
3 adopted by state or federal agencies.

4 \* Sec. 10. AS 46.40.040 is amended to read:

5 Sec. 46.40.040. Statewide standards and district plan criteria [DUTIES  
6 OF THE ALASKA COASTAL POLICY COUNCIL]. Except as provided in (b)  
7 of this section and AS 41.17, the department [THROUGH THE PUBLIC  
8 HEARING PROCESS AND THE RECORDING OF THE MINUTES OF THE  
9 HEARINGS, THE ALASKA COASTAL POLICY COUNCIL] shall

10 (1) by regulation, adopt under the provisions of AS 44.62  
11 (Administrative Procedure Act) for the use of and application by coastal resource  
12 districts and state agencies for carrying out their responsibilities under this chapter,  
13 statewide [GUIDELINES AND] standards and district coastal management plan  
14 criteria for

15 (A) identifying the boundaries of the coastal area subject to the  
16 Alaska [DISTRICT] coastal management program;

17 (B) determining the land and water uses and activities subject  
18 to the Alaska [DISTRICT] coastal management program;

19 (C) developing policies applicable to the land and water uses  
20 subject to the Alaska [DISTRICT] coastal management program;

21 (D) developing regulations applicable to the land and water  
22 uses subject to the Alaska [DISTRICT] coastal management program;

23 (E) developing policies and procedures to determine whether  
24 specific proposals for the land and water uses or activities subject to the  
25 Alaska [DISTRICT] coastal management program shall be allowed;

26 (F) designating and developing policies for the use of areas of  
27 the coast that [WHICH] merit special attention; and

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

30 (2) develop and maintain a program of technical and financial  
31 assistance to aid coastal resource districts in the development and implementation of

1 district coastal management plans [PROGRAMS];

2 (3) undertake review and approval of district coastal management  
3 plans [PROGRAMS] in accordance with this chapter;

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

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

9 (6) by regulation, establish a consistency review and determination or  
10 certification process that conforms to the requirements of AS 46.40.096.

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

12 (b) AS 46.03, AS 46.04, AS 46.09, AS 46.14, and the regulations adopted  
13 under those statutes constitute the exclusive enforceable policies of the Alaska coastal  
14 management program for those purposes. For those purposes only,

15 (1) the issuance of permits, certifications, approvals, and  
16 authorizations by the Department of Environmental Conservation establishes  
17 consistency with the Alaska coastal management program for those activities of a  
18 proposed project subject to those permits, certifications, approvals, and authorizations;

19 (2) for a consistency review of an activity that does not require a  
20 Department of Environmental Conservation permit, certification, approval, or  
21 authorization because the activity is a federal activity or the activity is located on  
22 federal land or the federal outer continental shelf, consistency with AS 46.03,  
23 AS 46.04, AS 46.09, and AS 46.14 and the regulations adopted under those statutes  
24 shall be established on the basis of whether the Department of Environmental  
25 Conservation finds that the activity satisfies the requirements of those statutes and  
26 regulations.

27 (c) For a consistency review described in (b)(2) of this section, the  
28 department, in addition to its review under AS 46.40.096 of all other enforceable  
29 policies applicable to the project, shall coordinate with the Department of  
30 Environmental Conservation and issue the Department of Environmental  
31 Conservation's finding of whether the activity satisfies the requirements of the statutes

1 and regulations described in (b)(2) of this section.

2 \* **Sec. 12.** AS 46.40.050 is repealed and reenacted to read:

3 **Sec. 46.40.050. Submission of district plans by coastal resource districts.**

4 (a) A coastal resource district must review and resubmit its coastal management plan  
5 for reapproval every 10 years after its approval by the department under  
6 AS 46.40.060.

7 (b) Within 30 months after certification of the organization of a new coastal  
8 resource district, the coastal resource district shall complete and submit to the  
9 department a proposed district coastal management plan. If, after receipt of a written  
10 request for extension from the coastal resource district, the department considers an  
11 extension proper, the department may grant an extension to a date that is within 54  
12 months after certification of the results of the coastal resource district's organization.  
13 A request under this subsection must include the reasons for the extension.

14 \* **Sec. 13.** AS 46.40.060 is amended to read:

15 **Sec. 46.40.060. Review and approval by the department [COUNCIL].** (a)  
16 If, upon submission of a district coastal management plan [PROGRAM] for approval,  
17 the department [COUNCIL] finds that the plan meets [PROGRAM IS  
18 SUBSTANTIALLY CONSISTENT WITH] the provisions of this chapter and the  
19 statewide [GUIDELINES AND] standards and district plan criteria adopted by the  
20 department [COUNCIL] and does not arbitrarily or unreasonably restrict or exclude  
21 uses of state concern, the department [COUNCIL] may approve [GRANT  
22 SUMMARY APPROVAL OF] the district coastal management plan [PROGRAM], or  
23 may approve portions of the district plan that meet those requirements [PROGRAM  
24 WHICH ARE CONSISTENT].

25 (b) If the department [COUNCIL] finds that a district coastal management  
26 plan [PROGRAM] is not approvable or is approvable only in part under (a) of this  
27 section, it shall direct that deficiencies in the plan [PROGRAM] submitted by the  
28 coastal resource district be mediated. In mediating the deficiencies, the department  
29 [COUNCIL] may call for one or more public hearings in the district. The department  
30 [COUNCIL] shall meet with officials of the coastal resource district in order to resolve  
31 differences.

1 (c) If, after mediation, the differences have not been resolved [TO THE  
2 MUTUAL AGREEMENT OF THE COASTAL RESOURCE DISTRICT AND THE  
3 COUNCIL, THE COUNCIL SHALL CALL FOR A PUBLIC HEARING AND  
4 SHALL RESOLVE THE DIFFERENCES IN ACCORDANCE WITH AS 44.62  
5 (ADMINISTRATIVE PROCEDURE ACT). AFTER A PUBLIC HEARING HELD  
6 UNDER THIS SUBSECTION], the department [COUNCIL] shall enter findings  
7 and, by order, may require

8 (1) that the district coastal management plan [PROGRAM] be  
9 amended to satisfy [MAKE IT CONSISTENT WITH] the provisions of this chapter  
10 or meet the statewide [GUIDELINES AND] standards and district plan criteria  
11 adopted by the department [COUNCIL];

12 (2) that the district coastal management plan [PROGRAM] be revised  
13 to accommodate a use of state concern; or

14 (3) any other action be taken by the coastal resource district as  
15 appropriate.

16 (d) The superior courts of the state have jurisdiction to enforce orders of the  
17 department [COUNCIL] entered under (c) of this section.

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

19 **Sec. 46.40.070. Requirements for department review and approval.** (a)  
20 The department shall approve a district coastal management plan submitted for review  
21 and approval if

22 (1) the district coastal management plan meets the requirements of this  
23 chapter and the statewide standards and district plan criteria adopted by the  
24 department; and

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

26 (A) are clear and concise as to the activities and persons  
27 affected by the policies, and the requirements of the policies;

28 (B) use precise, prescriptive, and enforceable language; and

29 (C) do not address a matter regulated or authorized by state or  
30 federal law unless the enforceable policies relate specifically to a matter of  
31 local concern; for purposes of this subparagraph, "matter of local concern"

1 means a specific coastal use or resource within a defined portion of the  
2 district's coastal zone, that is

3 (i) demonstrated as sensitive to development;

4 (ii) not adequately addressed by state or federal law;

5 and

6 (iii) of unique concern to the coastal resource district as  
7 demonstrated by local usage or scientific evidence.

8 (b) A decision by the department under this section shall be given within 90  
9 days after submission of the district coastal management plan to the department.

10 \* Sec. 15. AS 46.40.090 is amended to read:

11 **Sec. 46.40.090. Implementation of district coastal management plans**  
12 **[PROGRAMS].** (a) A district coastal management plan [PROGRAM] approved  
13 under this chapter [BY THE COUNCIL AND THE LEGISLATURE] for a coastal  
14 resource district that [WHICH] does not have and exercise zoning or other controls on  
15 the use of resources within the coastal area shall be implemented by appropriate state  
16 agencies as provided in AS 46.40.096. Implementation shall be in accordance with  
17 the comprehensive use plan or the statement of needs, policies, objectives, and  
18 standards adopted by the district.

19 (b) A coastal resource district that [WHICH] has and exercises zoning or  
20 other controls on the use of resources within the coastal area shall implement its  
21 district coastal management plan [PROGRAM]. Implementation shall be in  
22 accordance with the comprehensive use plan or the statement of needs, policies,  
23 objectives, and standards adopted by the district.

24 \* Sec. 16. AS 46.40.094(a) is amended to read:

25 (a) The provisions of this section apply to a use or activity for which a  
26 consistency determination is required if

27 (1) at the time the proposed use or activity is initiated, there is  
28 insufficient information to evaluate and render a consistency determination for the  
29 entirety of the proposed use or activity;

30 (2) the proposed use or activity is capable of proceeding in discrete  
31 phases based upon developing information that was not available to the project

1           applicant at the time of the previous [OBTAINED IN THE COURSE OF A] phase;  
2           and

3                               (3) each subsequent phase of the proposed use or activity is subject to  
4           discretion to implement alternative decisions based upon the developing information.

5   \* Sec. 17. AS 46.40.096(a) is amended to read:

6                               (a) The department [COUNCIL] shall, by regulation, establish a consistency  
7           review and determination process that conforms to the requirements of this section.

8   \* Sec. 18. AS 46.40.096(b) is amended to read:

9                               (b) If a consistency review is not subject to AS 46.39.010 because the project  
10          for which a consistency review is made requires a permit, lease, or authorization from  
11          only one state resource agency, that state resource agency shall coordinate the  
12          consistency review of the project. The state resource agency shall coordinate the  
13          consistency review according to the requirements of the regulations adopted by the  
14          department [COUNCIL] under this section.

15   \* Sec. 19. AS 46.40.096(c) is amended to read:

16                              (c) The regulations adopted by the department [COUNCIL] under this  
17          section must include provisions for public notice and provide the opportunity for  
18          public comment. The regulations adopted under this subsection may make  
19          distinctions relating to notice based upon differences in project type, anticipated effect  
20          of the project on coastal resources and uses, other state or federal notice requirements,  
21          and time constraints. However, a notice given under this subsection must contain  
22          sufficient information, expressed in commonly understood terms, to inform the public  
23          of the nature of the proposed project for which a consistency determination is sought,  
24          and must explain how the public may comment on the proposed project.

25   \* Sec. 20. AS 46.40.096(d) is amended to read:

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

28                                       (1) request consistency review comments for the proposed project  
29          from state resource agencies, affected coastal resource districts, and other interested  
30          parties as determined by regulation adopted by the department [COUNCIL];

31                                       (2) prepare proposed consistency determinations;

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

4 (A) is limited to a review by the department [STATE  
5 RESOURCE AGENCIES]; [AND]

6 (B) may occur only if requested by

7 (i) the project applicant;

8 (ii) a state resource agency; or

9 (iii) an affected coastal resource district; and

10 (C) shall be completed by the department within 45 days  
11 after the initial request for subsequent review under this paragraph;

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

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

14 (g) The reviewing entity shall [MAY] exclude from the consistency review  
15 and determination process for a project

16 (1) an activity that

17 (A) is authorized under a general or nationwide permit that has  
18 previously been determined to be consistent with the Alaska [APPLICABLE]  
19 coastal management program [PROGRAMS]; or

20 (B) is subject to authorization by the Department of  
21 Environmental Conservation under the requirements described in  
22 AS 46.40.040(b);

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

24 and

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

27 \* Sec. 22. AS 46.40.096 is amended by adding new subsections to read:

28 (i) For purposes of those activities of a proposed project that are subject to  
29 (g)(1)(B) of this section, the consistency of those activities is determined by the  
30 issuance of the applicable permits, certifications, approvals, and authorizations by the  
31 Department of Environmental Conservation.

1 (j) Except as provided in AS 41.17, 16 U.S.C. 1456, and 15 C.F.R. Part 930, a  
2 consistency review of a project under this section is triggered by an activity within the  
3 areas described in (f) of this section that is subject to a state resource agency permit,  
4 lease, authorization, approval, or certification.

5 (k) Except as provided in (g) of this section, AS 41.17, AS 46.40.040(b), and  
6 AS 46.40.094, the scope of a consistency review of a project, once triggered under (j)  
7 of this section, is limited to activities that are located within the areas described in (f)  
8 of this section and that either are subject to a state resource agency permit, lease,  
9 authorization, approval, or certification or are the subject of a coastal resource district  
10 enforceable policy approved by the department under this chapter. The scope of a  
11 consistency review subject to 16 U.S.C. 1456 is determined under 16 U.S.C. 1456 and  
12 15 C.F.R. Part 930.

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

15 (1) activities within the coastal zone; and

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

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

1 (n) Except as provided in (o) of this section, a consistency review under this  
2 section shall be completed within 90 days after the receipt of a complete application  
3 by the state. If a consistency review is not completed by the time specified in this  
4 subsection, the activity subject to review is conclusively presumed consistent.

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

6 (1) do not apply to a consistency review involving the disposal of an  
7 interest in state land or resources;

8 (2) are suspended

9 (A) from the time the reviewing entity determines that the  
10 applicant has not adequately responded in writing within 14 days after the  
11 receipt of a written request from the reviewing entity for additional  
12 information, until the time the reviewing entity determines that the applicant  
13 has provided an adequate written response;

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

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

17 (p) A consistency review and determination for those activities of a project not  
18 excluded under (g) of this section may not be delayed or withheld pending issuance of  
19 the permits, certifications, approvals, and authorizations referred to in (g) of this  
20 section but shall proceed regardless of the status of those permits, certifications,  
21 approvals, and authorizations.

22 \* Sec. 23. AS 46.40.100(a) is amended to read:

23 (a) As provided in AS 46.40.090 and 46.40.096, municipalities  
24 [MUNICIPALITIES] and state resource agencies shall administer land and water use  
25 regulations or controls in conformity with district coastal management plans  
26 [PROGRAMS] approved under this chapter [BY THE COUNCIL] and in effect.

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

28 (b) A party that is authorized under (g) of this section may file a petition  
29 showing that a district coastal management plan [PROGRAM] is not being  
30 implemented. A petition filed under this subsection may not seek review of a  
31 proposed or final consistency determination regarding a specific project. On receipt of

1 a petition, the department [COUNCIL], after giving public notice in the manner  
2 required by (f) of this section, shall convene a hearing to consider the matter. A  
3 hearing called under this subsection shall be held in accordance with regulations  
4 adopted under this chapter [BY THE COUNCIL]. After hearing, the department  
5 [COUNCIL] may order that the coastal resource district or a state resource agency  
6 take any action with respect to future implementation of the district coastal  
7 management plan [PROGRAM] that the department [COUNCIL] considers  
8 necessary, except that the department [COUNCIL] may not order that the coastal  
9 resource district or a state agency take any action with respect to a proposed or final  
10 consistency determination that has been issued.

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

12 (c) In determining whether an approved district coastal management plan  
13 [PROGRAM] is being implemented by a coastal resource district that exercises zoning  
14 authority or controls on the use of resources within the coastal area or by a state  
15 resource agency, the department [COUNCIL] shall find in favor of the district or the  
16 state resource agency, unless the department [COUNCIL] finds a pattern of  
17 nonimplementation.

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

19 (e) The superior courts of the state have jurisdiction to enforce lawful orders  
20 of the department under this chapter [COUNCIL].

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

22 (f) Upon receipt of a petition under (b) of this section, the department  
23 [COUNCIL] shall give notice of the hearing at least 10 days before the scheduled date  
24 of the hearing. The notice must

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

27 (2) indicate the manner in which the public may comment on the  
28 petition.

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

30 (h) If the department [COUNCIL] finds a pattern of nonimplementation  
31 under (c) of this section, the department [COUNCIL] may order a coastal resource

1 district or a state resource agency to take action with respect to future implementation  
2 of the district coastal management plan [PROGRAM] that the department  
3 [COUNCIL] considers necessary to implement the district coastal management plan  
4 [PROGRAM]. The department's [COUNCIL'S] determination under (c) of this  
5 section and any order issued under this subsection shall be considered a final  
6 administrative order for purposes of judicial review under AS 44.62.560.

7 \* Sec. 29. AS 46.40.110 is repealed and reenacted to read:

8 **Sec. 46.40.110. Authority in the unorganized borough.** A coastal resource  
9 service area in the unorganized borough organized under AS 29.03.020 and  
10 AS 46.40.110 - 46.40.180 before the effective date of this bill section shall exercise  
11 those authorities and perform those duties required under this chapter.

12 \* Sec. 30. AS 46.40.140(a) is amended to read:

13 (a) Each coastal resource service area [, UPON ORGANIZATION,] shall have  
14 an elected board representing the population of the service area. The board shall have  
15 the powers and duties and perform the functions prescribed for or required of coastal  
16 resource districts.

17 \* Sec. 31. AS 46.40.140(d) is amended to read:

18 (d) The term of office of a member of a coastal resource service area board is  
19 three years [, EXCEPT THAT THE TERMS OF THE MEMBERS OF THE FIRST  
20 BOARD ELECTED AFTER ORGANIZATION OF A COASTAL RESOURCE  
21 SERVICE AREA SHALL BE DETERMINED BY LOT, WITH TWO MEMBERS  
22 SERVING ONE-YEAR TERMS, TWO MEMBERS SERVING TWO-YEAR  
23 TERMS, AND THREE MEMBERS SERVING THREE-YEAR TERMS]. Members  
24 serve until their successors are elected and have qualified. This section does not  
25 prohibit the reelection of a board member.

26 \* Sec. 32. AS 46.40.140(e) is amended to read:

27 (e) The lieutenant governor shall provide for the election of the members of  
28 coastal resource service area boards. [THE FIRST ELECTION OF BOARD  
29 MEMBERS SHALL OCCUR AT THE SAME TIME AS THE ORGANIZATION  
30 ELECTION UNDER AS 46.40.130(b)].

31 \* Sec. 33. AS 46.40.140(f) is amended to read:

1           (f) Election [EXCEPT FOR THE FIRST ELECTION] of members of coastal  
2 resource service area boards [, ELECTIONS] shall be held annually on the date of  
3 election of members of regional educational attendance area boards under  
4 AS 14.08.071(b). [FOR AN ELECTION UNDER THIS SUBSECTION OR UNDER  
5 (e) OF THIS SECTION, A NEWLY ELECTED BOARD MEMBER TAKES  
6 OFFICE AT THE FIRST COASTAL RESOURCE SERVICE AREA BOARD  
7 MEETING AFTER CERTIFICATION OF THE ELECTION.] If no candidate files  
8 for election to a seat on the coastal resource service area board, the seat is considered  
9 vacant at the time a newly elected member would have taken office.

10 \* Sec. 34. AS 46.40.150 is amended to read:

11           Sec. 46.40.150. Elections in coastal resource service areas. Elections  
12 [ORGANIZATION ELECTIONS] under AS 46.40.110 - 46.40.180 [AS 46.40.130  
13 AND OTHER ELECTIONS, INCLUDING RECALL ELECTIONS CONDUCTED  
14 UNDER AS 46.40.140,] shall be administered by the lieutenant governor in the  
15 general manner provided in AS 15 (Election Code). In addition, the lieutenant  
16 governor may adopt regulations necessary to the conduct of coastal resource service  
17 area board elections. The state shall pay all election costs.

18 \* Sec. 35. AS 46.40.180(a) is amended to read:

19           (a) Before adoption by a coastal resource service area board, [OR BY THE  
20 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT UNDER  
21 AS 46.40.170,] a district coastal management plan [PROGRAM] shall be submitted  
22 for review to each city or village within the coastal resource service area. The council  
23 of a city or traditional village council shall consider the plan [PROGRAM] submitted  
24 for review. Within 60 days of submission, the council of a city or traditional village  
25 council shall either approve the plan [PROGRAM] or enter objections to all or any  
26 portion of the plan [PROGRAM].

27 \* Sec. 36. AS 46.40.180(b) is amended to read:

28           (b) If a city or village within a coastal resource service area fails to approve a  
29 portion of the district coastal management plan [PROGRAM] prepared and submitted  
30 for approval under (a) of this section, the governing body shall advise the coastal  
31 resource service area board [OR THE DEPARTMENT, AS APPLICABLE ] of its

1 objections to the proposed plan [PROGRAM] and suggest alternative elements or  
2 components for inclusion in the district coastal management plan [PROGRAM]. New  
3 matter submitted by a city or village that meets [WHICH IS SUBSTANTIALLY  
4 CONSISTENT WITH] the statewide [GUIDELINES AND] standards and district  
5 plan criteria adopted under this chapter [BY THE COUNCIL] shall be accepted  
6 and the district coastal management plan [PROGRAM] modified accordingly. If a  
7 city or village fails to provide objections and suggested alternatives within the time  
8 limits established in this section, the coastal resource service area board [OR THE  
9 DEPARTMENT, AS APPLICABLE,] may adopt the district coastal management  
10 plan [PROGRAM] as initially offered.

11 \* **Sec. 37.** AS 46.40.180(c) is amended to read:

12 (c) Objection by a city council under (b) of this section is limited to objection  
13 to elements of the plan [PROGRAM] affecting resources or the use of resources  
14 within the corporate limits of the city. Objection by a traditional village council under  
15 (b) of this section is limited to objection to elements of the plan [PROGRAM]  
16 affecting resources or the use of resources within the village or within two miles of the  
17 village.

18 \* **Sec. 38.** AS 46.40 is amended by adding a new section to read:

19 **Sec. 46.40.195. Construction with other laws.** Nothing in this chapter shall  
20 be construed to

21 (1) diminish state jurisdiction, responsibility, or rights in the field of  
22 planning, development, or control of land or water resources, submerged land, or  
23 navigable water;

24 (2) affect in any way any state requirement imposed under a federal  
25 authorization or federal waiver of sovereign immunity; or

26 (3) diminish the zoning or planning authority of municipalities under  
27 AS 29.

28 \* **Sec. 39.** AS 46.40.210(2) is amended to read:

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

31 (A) unified municipalities;

1 (B) organized boroughs of any class that exercise planning and  
2 zoning authority;

3 (C) home rule and first class cities of the unorganized borough  
4 or within boroughs that do not exercise planning and zoning authority;

5 (D) second class cities of the unorganized borough, or within  
6 boroughs that do not exercise planning and zoning authority, that have  
7 established a planning commission, and that, in the opinion of the  
8 commissioner of community and economic development, have the capability  
9 of preparing and implementing a comprehensive district coastal management  
10 plan [PROGRAM] under AS 46.40.030;

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

13 \* Sec. 40. AS 46.40.210(3) is amended to read:

14 (3) "consistency review" means the evaluation of a proposed project,  
15 the scope of which is determined under AS 46.40.094 and 46.40.096, against the  
16 statewide standards adopted [BY THE COUNCIL] under AS 46.40.040 for those  
17 evaluations and the enforceable policies in an applicable [A] district coastal  
18 management plan [PROGRAM] approved [BY THE COUNCIL] under  
19 AS 46.40.060;

20 \* Sec. 41. AS 46.40.210(5) is amended to read:

21 (5) "department" means the Department of Natural Resources  
22 [COMMUNITY AND ECONOMIC DEVELOPMENT];

23 \* Sec. 42. AS 46.40.210(8) is amended to read:

24 (8) "uses of state concern" means those land and water uses that  
25 [WHICH] would significantly affect the long-term public interest; "uses of state  
26 concern" [THESE USES, SUBJECT TO COUNCIL DEFINITION OF THEIR  
27 EXTENT,] include

28 (A) uses of national interest, including the use of resources for  
29 the siting of ports and major facilities that [WHICH] contribute to meeting  
30 national energy needs, construction and maintenance of navigational facilities  
31 and systems, resource development of federal land, and national defense and

1 related security facilities that are dependent upon coastal locations;

2 (B) uses of more than local concern, including those land and  
3 water uses that [WHICH] confer significant environmental, social, cultural, or  
4 economic benefits or burdens beyond a single coastal resource district;

5 (C) the siting of major energy facilities, activities pursuant to a  
6 state or federal oil and gas lease, or large-scale industrial or commercial  
7 development activities that [WHICH] are dependent on a coastal location and  
8 that [WHICH], because of their magnitude or the magnitude of their effect on  
9 the economy of the state or the surrounding area, are reasonably likely to  
10 present issues of more than local significance;

11 (D) facilities serving statewide or interregional transportation  
12 and communication needs; and

13 (E) uses in areas established as state parks or recreational areas  
14 under AS 41.21 or as state game refuges, game sanctuaries, or critical habitat  
15 areas under AS 16.20;

16 \* Sec. 43. AS 46.40.210 is amended by adding new paragraphs to read:

17 (10) "coastal use or resource" means a land or water use or natural  
18 resource of the coastal zone; "coastal use or resource" includes subsistence, recreation,  
19 public access, fishing, historic or archaeological resources, geophysical resources, and  
20 biological or physical resources found in the coastal zone on a regular or cyclical  
21 basis;

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

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

31 (B) areas deleted as a result of any boundary changes by the

1 department in conformance with 16 U.S.C. 1451 - 1465;

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

7 (13) "enforceable policy" means a policy established by this chapter or  
8 approved by the department as a legally binding policy of the Alaska coastal  
9 management program applicable to public and private activities;

10 (14) "project" means all activities that will be part of a proposed  
11 development.

12 \* Sec. 44. AS 38.05.037(b)(2); AS 39.50.200(b)(38); AS 44.62.800(2)(B); AS 46.39.020,  
13 46.39.050; AS 46.40.080, 46.40.120, 46.40.130, 46.40.140(c), 46.40.160, 46.40.170,  
14 46.40.200, and 46.40.210(4) are repealed.

15 \* Sec. 45. The uncodified law of the State of Alaska is amended by adding a new section to  
16 read:

17 ANNULMENT OF CERTAIN REGULATIONS. The following regulations are  
18 annulled:

19 (1) 6 AAC 80.010 - 6 AAC 80.900;

20 (2) 6 AAC 85.020 - 6 AAC 85.900.

21 \* Sec. 46. The uncodified law of the State of Alaska is amended by adding a new section to  
22 read:

23 TRANSITION: GENERAL PROVISIONS. (a) The Department of Natural  
24 Resources shall adopt regulations under AS 44.62 (Administrative Procedure Act)  
25 implementing this Act in order that the regulations are effective no later than July 1, 2004.

26 (b) Until sec. 45 of this Act takes effect or the regulations attorney removes the  
27 regulations under sec. 48(c) of this Act, whichever occurs first, regulations adopted to  
28 implement the Alaska coastal management program at 6 AAC 80 and 6 AAC 85 remain in  
29 effect and, notwithstanding any contrary provision of this Act, the Department of Natural  
30 Resources may implement and enforce the regulations.

31 (c) Notwithstanding any contrary provision of this Act, the repeal of the Alaska

1 Coastal Policy Council enacted by sec. 44 of this Act, and the repeal of the Alaska Coastal  
2 Policy Council's duties in AS 46.40.040, as amended by sec. 10 of this Act, a district coastal  
3 management program, including its enforceable policies, approved by the former Alaska  
4 Coastal Policy Council remains in effect for purposes of AS 46.39 and AS 46.40 until July 1,  
5 2006, unless the Department of Natural Resources disapproves or modifies all or part of the  
6 program before July 1, 2006.

7 (d) Consistency reviews pending on the day before the effective date of secs. 17 - 22  
8 of this Act and initiated under the provisions of AS 46.40.096, as that section existed before  
9 the changes made by secs. 17 - 22 of this Act, may, at the applicant's option exercised no  
10 more than 60 days after the effective date of secs. 17 - 22 of this Act, be continued and  
11 completed under the procedures and enforceable policies under the provisions of AS 46.39  
12 and AS 46.40 as they existed before the changes made by this Act.

13 (e) Except as provided in (d) of this section, contracts, rights, liabilities, and  
14 obligations created by or under a law repealed by this Act remain in effect notwithstanding  
15 this Act's taking effect.

16 \* Sec. 47. The uncodified law of the State of Alaska is amended by adding a new section to  
17 read:

18 TRANSITION AND APPLICABILITY OF CERTAIN PROVISIONS:  
19 SUBMISSION OF DISTRICT PLANS BY COASTAL RESOURCE DISTRICTS FOR  
20 INITIAL IMPLEMENTATION OF THIS ACT. (a) Within one year after the effective date  
21 of regulations adopted by the Department of Natural Resources implementing changes to  
22 AS 46.40.010 - 46.40.090, enacted by secs. 8 - 15 and 44 of this Act, or by July 1, 2005,  
23 whichever is later, coastal resource districts shall review their existing district coastal  
24 management program and submit to the Department of Natural Resources for review and  
25 approval a revised district coastal management plan meeting the requirements of AS 46.40, as  
26 amended by this Act, and the implementing regulations.

27 (b) Upon request, the Department of Natural Resources shall consult with coastal  
28 resource districts to identify plan amendments that will meet the standards and guidelines  
29 established under this Act.

30 (c) AS 46.40.070(b), enacted by sec. 14 of this Act, does not apply to a revised  
31 district coastal management plan submitted under (a) of this section.

1     \* **Sec. 48.** The uncodified law of the State of Alaska is amended by adding a new section to  
2 read:

3           **REVISOR'S INSTRUCTIONS.** (a) The revisor of statutes is instructed to

4                   (1) change the heading of

5                           (A) AS 46.39 from "Coastal Management Administration; Alaska  
6 Coastal Policy Council" to "Coastal Management Administration";

7                           (B) article 2 of AS 46.40 from "Coastal Management Programs in the  
8 Unorganized Borough" to "Coastal Management Plans in the Unorganized Borough";

9                           (C) AS 46.40.180 from "Approval of programs in coastal resource  
10 service areas" to "Approval of plans in coastal resource service areas";

11                   (2) delete the heading of article 2 of AS 46.39 and renumber article 3 of  
12 AS 46.39 as article 2.

13           (b) Wherever in the Alaska Administrative Code the terms "Alaska Coastal Policy  
14 Council" or "Coastal Policy Council" are used, or the term "council" is used to refer to the  
15 Alaska Coastal Policy Council, the regulations attorney is instructed to change those terms to  
16 read as "Department of Natural Resources," "DNR," "department" or "commissioner of  
17 natural resources" when to do so would be consistent with AS 44.62.125(b)(6) and the  
18 changes made by this Act.

19           (c) If regulations adopted by the Department of Natural Resources under sec. 46 of  
20 this Act take effect before the effective date of sec. 45 of this Act, the regulations attorney is  
21 instructed to remove from the Alaska Administrative Code the regulations listed in sec. 45 of  
22 this Act, as being obsolete. The lieutenant governor shall notify the regulations attorney of  
23 the effective date of the regulations adopted by the Department of Natural Resources under  
24 sec. 46 of this Act.

25     \* **Sec. 49.** Section 45 of this Act takes effect July 1, 2005.

26     \* **Sec. 50.** Except as provided in sec. 49 of this Act, this Act takes effect immediately under  
27 AS 01.10.070(c).

the office shall submit the proposed amendment, the office's analysis and recommendation on the proposed amendment, and all timely comments to the commissioner.

(h) Within 15 days after the close of the comment period, the commissioner will act on the proposed amendment. The commissioner may adopt the recommendation of the office by reference. In the determination, the commissioner will

(1) approve the amendment in whole or in part as a minor amendment;  
 (2) approve the amendment so long as the district makes each change that the commissioner considers necessary for the amendment not to be treated as a significant amendment;

(3) identify the amendment as a significant amendment and require that the amendment undergo the review set out in 11 AAC 114.305 - 11 AAC 114.335; or

(4) disapprove the amendment. (Eff. 7/1/2004, Register 170)

Authority:	AS 46.39.010	AS 46.40.030	AS 46.40.070
	AS 46.39.030	AS 46.40.040	AS 46.40.180
	AS 46.39.040	AS 46.40.060	

**11 AAC 114.345. Transition.** (a) Notwithstanding another provision of 11 AAC 114.300 - 11 AAC 114.385, only this section and 11 AAC 114.350 - 11 AAC 114.360 govern the review procedures for amendments to an approved district plan in effect on July 1, 2004 that are required to satisfy sec. 47(a), ch 24, SLA 2003.

(b) District plan amendments under this section are limited to

(1) a revision, addition, or deletion to the issues, goals, and objectives to meet 11 AAC 114.200, if the change improves clarity or specificity or reflects the district's current views;

(2) a revision to the organization element to meet 11 AAC 114.210;

(3) a revision, addition, or deletion to the resource inventory to meet 11 AAC 114.230;

(4) a revision, addition, or deletion to the resource analysis to meet 11 AAC 114.240;

(5) a revision, addition, or deletion to the uses, activities, and resources subject to the plan to meet 11 AAC 114.250;

(6) a revision, addition, or deletion to the proper and improper uses and activities subject to the plan to meet 11 AAC 114.260;

(7) a revision, addition, or deletion to an enforceable policy to meet 11 AAC 114.270;

(8) a revision, addition, or deletion of a boundary map or description to meet 11 AAC 114.270(g);

(9) a revision, addition, or deletion of

(A) a local ordinance; or

(B) a reference to a state or federal statute or regulation that is contained within an appendix of a district plan;

(10) a revision, addition, or deletion to the implementation methods or authorities included in the district plan to meet 11 AAC 114.280;

(11) an alteration of a district's coastal zone boundary within the municipal corporate boundary if the district designates the initial biophysical coastal zone boundary, as provided in 11 AAC 114.220(b), as the final coastal zone boundary for any new areas.

(c) In developing plan amendments under this section, a district shall

(1) consult with state and federal agencies that have authority for the subject matter addressed in the district enforceable policies to be amended; this consultation must be coordinated with the office;

(2) develop draft plan amendments that meet the requirements of AS 46.40 and this chapter;

(3) provide at least a 21-day public review and comment period on the draft plan amendments and maintain a list of persons that provided comments;

(4) obtain a resolution of support for the changes from the coastal resources service area board for the district, municipal planning commission, or governing body, as applicable; and

(5) obtain a resolution of support for the changes from a city council or traditional village council, if the city or village, as applicable, is located within a coastal resource service area and is affected by the district plan amendments.

(d) No later than July 1, 2005, a district developing district plan amendments under this section shall submit a request to the office to review and approve those amendments. The request must include

(1) a complete draft of each plan amendment that has been prepared to meet the requirements of AS 46.40 and this chapter;

(2) documentation of the consultation with state and federal agencies under (c)(1) of this section;

(3) the resolution of support for the changes from the coastal resource service area board for the district, municipal planning commission, or governing body, as applicable, obtained under (c)(4) of this section;

(5) the resolution of support for the changes from a city council or traditional village council obtained under (c)(5) of this section, if the city or village, as applicable, is located within a coastal resource service area and is affected by the district plan amendments; and

(6) the list of parties that provided comments during the public review and comment period maintained under (c)(3) of this section.

(e) Within 30 days of receiving a request under (d) of this section, the office shall determine whether the request is complete and notify the district accordingly. If the request is not complete, the office shall inform the district what information or documentation is necessary to complete the request.

(f) Within 30 days of receiving the office's notification that a request under (d) of this section is incomplete, the district shall provide the office with the necessary information or documentation identified by the office.

(g) Within 60 days after receipt of a complete submission under (d) or (f) of this section, the office shall

(1) coordinate a plan amendment review of the request and any supporting material submitted by the district with state and federal agencies and any other district that has

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## HOUSE STATE AFFAIRS COMMITTEE Representative Paul Seaton, Chairman

### Sponsor Statement HB 189

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. OCRM has determined that additional revisions are necessary before they can grant approval.

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. However, OCRM has identified problems with the state's guidance to local districts regarding the scope and content of their program. The state will have to revise regulatory guidelines for the local districts before the new program can be approved by OCRM. In turn, the local districts will have to re-revise their programs to meet the new guidelines. It is a waste of time, money and effort for districts to revise their plans before the state's program is federally approved and any necessary changes have been made.

**The proposed committee substitute of HB 189 does four things. First, it bases the deadline for district coastal program revisions and annulment of the existing program on federal approval of the state's program. This extension will ensure an orderly and efficient transition to the new program. The version before you also extends the sunset date on the current state coastal management standards from July 1, 2005 to March 1, 2006. This extension ensures that if legislative action needs to be taken to maintain a functional coastal management program, the legislature will be in session and can take action. An additional change extends the deadline for the state to evaluate and or modify coastal district plans from July 1, 2006 to January 1, 2007. Finally, the current version of HB 189 sunsets the entire ACMP on July 1, 2011 if no legislative action is taken. This will allow for legislative evaluation of the program as a whole on a continuing basis.**

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### HB 189 Sectional Analysis

1. Sections 1 through 13 (pages 1-10) details references to the Alaska Coastal Management Program currently in statute. Section 18 (page 12, line 10) deletes these references on July 1, 2011 if no legislative action is taken to extend the effective date.
2. Section 14 (page 11, line 7) extends the deadline for the Department of Natural Resources to review, approve, disapprove or modify revised coastal district plans from July 1, 2006 to January 1, 2007.
3. Section 15 (page 11, line 18) changes the deadline for coastal districts to have their revised plans completed from one year to six months after the federal Office of Ocean and Coastal Resource Management approves the state's revised coastal management plan.
4. Section 16 (page 12, line 2) repeals statutes containing references to the Alaska Coastal Management Program. Section 18 puts this repeal into effect July 1, 2011.
5. Section 17 (page 12, line 6) extends the repeal of the state's coastal management standards from July 1, 2005 to March 1, 2006.

SECTIONAL

# Senate Bill 102 (FIN)

## Effects of Section 19

