

**SB**

**102**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/25/05

FURTHER:

REPORTED OUT

MAY 3 2005

SENATE FINANCE  
COMMITTEE

DATE TURNED  
IN TO OFFICE: 3 May 2005

Finance Committee considered

SENATE BILL NO. 102

## SB 102 COASTAL MANAGEMENT PROGRAMS

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

and recommends:

- be replaced with \_\_\_\_\_ CS SB 102 (FIN)
- adopt previous \_\_\_\_\_ CS CS forthcoming (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**CS Senate Bill:**  
 Same Title  
 New Title

**SCS House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

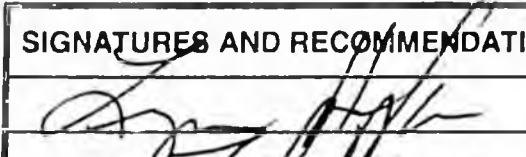
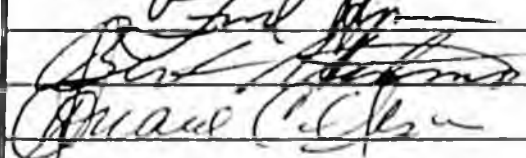
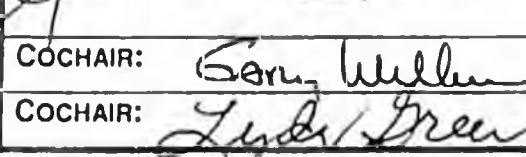
**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Ind.	Zero	FN#
DNR	5/3/05	F407		✓	

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Ind.	Zero	FN#
<del>DNR</del>	<del>8/1/05</del>	<del>F407</del>		<del>✓</del>	<del>#1</del>
Commerce	3/8/05			✓	#2
F+G	3/8/05			✓	#3
DEC	8/1/05			✓	#4

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
	✓			
	✓			
			✓	
COCHAIR: Gary Miller	✓			
COCHAIR: Lynda Green	✓			

MAY 3 2005

SENATE FINANCE  
COMMITTEE

# 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 \_\_\_\_\_  
Sponsor Senator Gary Stevens Component \_\_\_\_\_  
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  
Division: Legislative Liaison  
Approved by: Acting Commissioner Wayne Regelin  
Agency: Alaska Department of Fish & Game

Phone: 465-6137  
Date/Time: 3/8/05 4:49 PM  
Date: 3/8/2005

MAY 3 2005

SENATE FINANCE  
COMMITTEE

# 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>

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

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

REPORTED OUT  
MAY 3 2005  
SENATE FINANCE  
COMMITTEE

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>	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2005) cost: 00  
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

REPORTED OUT

MAY 3 2005

SENATE FINANCE  
COMMITTEE

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB102CS(FINANCE)-DN  
( ) Publish Date: \_\_\_\_\_

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

adopted

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AS 29.05.031;

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

1606;

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

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

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

\* Sec. 14. AS 46.40.030(b) is amended to read:

(b) In developing enforceable policies in its coastal management plan under (a) of this section, a coastal resource district shall meet the requirements of AS 46.40.070 and shall address only uniquely local matters to which state standards, state or federal statutes or regulations, or other authority do not

specifically apply (~~MAY NOT DUPLICATE, RESTATE, OR INCORPORATE BY REFERENCE STATUTES AND ADMINISTRATIVE REGULATIONS ADOPTED BY STATE OR FEDERAL AGENCIES.~~) <sup>shall</sup> <sub>retain</sub>

un-delete

\* Sec. 15. The uncodified law of the State of Alaska enacted in sec. 46(c), ch. 24, SLA 2003, is amended to read:

(c) Notwithstanding any contrary provision of ch. 24, SLA 2003 [THIS ACT], the repeal of the Alaska Coastal Policy Council enacted by sec. 44, ch. 24, SLA 2003 [OF THIS ACT], and the repeal of the Alaska Coastal Policy Council's duties in AS 46.40.040, as amended by sec. 10, ch. 24, SLA 2003 [OF THIS ACT], a district coastal management program, including its enforceable policies, approved by the former Alaska Coastal Policy Council remains in effect for purposes of AS 46.39 and AS 46.40 until January 1, 2007 [JULY 1, 2006], unless the Department of Natural Resources disapproves or modifies all or part of the program before January 1, 2007 [JULY 1, 2006].

\* Sec. 16. The uncodified law of the State of Alaska enacted in sec. 47(a), ch. 24, SLA 2003, is amended to read:

(a) Within 20 months [ONE YEAR] after the effective date of regulations adopted by the department of natural resources implementing changes to AS 46.40.010 - 46.40.090, enacted by secs. 8 - 15 and 44, ch. 24, SLA 2003 [OF THIS ACT], or by March 1, 2006

SENATE FINANCE COMMITTEE  
5/3/2005 COMMITTEE ACTION

Bill Number	SB 102		
Amendment	#2		
Motion	adpt		
<u>Motion by</u>	Wilken		
<u>Objection by</u>	none		
<u>Removed</u>			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Dyson			
Senator Hoffman			
Senator Clson			
Senator Stedman			
Senator Bunde			
Co-Chair Wilken			
Co-Chair Green			
<u>Tally</u>			
Yea			
Nay			
Absent			
<b>MOTION</b>	<b>Pass</b>		

Conceptual:

AS 44.66.020

add the AK Coastal Management  
 Program  
 to list subject to audit

Bill Jeffress 632-2919

SENATE FINANCE  
COMMITTEE

Amendment Number: #3

Bill Number: SB 102

Sponsor: \_\_\_\_\_ Date: 5/3/05

Logged In By: Robin

CS FOR SENATE BILL NO. 102(RES)

"An Act relating to an extension for review and approval of revisions to the Alaska coastal management program; providing for an effective date by amending the effective date of sec. 45, ch. 24, SLA 2003; and providing for an effective date."

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

\* Section 1. The uncodified law of the State of Alaska enacted in sec. 46(c), ch. 24, SLA 2003, is amended to read:

(c) Notwithstanding any contrary provision of ch. 24, SLA 2003 [THIS ACT], the repeal of the Alaska Coastal Policy Council enacted by sec. 44, ch. 24, SLA 2003 [OF THIS ACT], and the repeal of the Alaska Coastal Policy Council's duties in AS 46.40.040, as amended by sec. 10, ch. 24, SLA 2003 [OF THIS ACT], a district coastal management program, including its enforceable policies, approved by the former Alaska Coastal Policy Council remains in effect for purposes of AS 46.39 and AS 46.40 until January 1, 2007 [JULY 1, 2006], unless the Department of Natural Resources disapproves or modifies all or part of the program before January 1, 2007 [JULY 1, 2006].

\* Sec. 2. The uncodified law of the State of Alaska enacted in sec. 47(a), ch. 24, SLA 2003, is amended to read:

(a) Within eighteen months [ONE YEAR] after the effective date of the regulations adopted by the Department of Natural Resources implementing changes to AS 46.40.010 - 46.40.090, enacted by secs. 8 - 75 and 44 of ch. 24, SLA 2003 [THIS ACT], or by January 1, 2006 [JULY 1, 2006], whichever is later, coastal resource districts shall review their existing district coastal management program and submit to the Department of Natural Resources for review and approval a revised district coastal management plan meeting the requirements of AS 46.40 [AS AMENDED BY THIS ACT,] and the implementing regulations.

\* Sec. 3. The uncodified law of the State of Alaska enacted in sec. 49, ch. 24, SLA 2003, is amended to read:

Sec. 49. Section 45, ch. 24, SLA 2003 [OF THIS ACT], takes effect January 1, 2006 [JULY 1, 2006].

\* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to read:

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

\* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

Deleted: 4

44.62.250

DNR already has the statutory authority necessary to issue emergency regs.

↳ they have to issue a written finding first

SENATE FINANCE COMMITTEE  
5/3/2005 COMMITTEE ACTION

Bill Number	SB 102		
Amendment	#3		
Motion	adpt		
<u>Motion by</u>	Wilken		
<u>Objection by</u>			
Removed			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Olson			
Senator Stedman			
Senator Bunde			
Senator Dyson			
Senator Hoffman			
Co-Chair Wilken			
Co-Chair Green			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	Pass		



Proof

**CS FOR SENATE BILL NO. 102(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FOURTH LEGISLATURE - FIRST SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Offered:**

**Referred:**

**Sponsor(s): SENATORS GARY STEVENS, Olson**

**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 ~~water~~ or condition of

12 (1) a statute or regulation;

13 (2) a license, permit, or order that is

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

3 (B) subject to

4 (i) continuing compliance monitoring;

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

6 (iii) renewal on a periodic basis; or

7 [(iv) AS 46.40; OR]

8 (3) a court order or judgment.

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

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

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

20 (2) the costs incurred by the state for

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

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

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

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

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

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

6 (v) Department of Law;

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

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

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

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

21 (x) Legislature;

22 (xi) Alaska Court System;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (A) shall establish the scope of an 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 (j) 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 #2  
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 #1  
26 AS 46.40.070 and shall [MAY] not duplicate, restate, or incorporate by reference  
27 statutes and administrative regulations adopted by state or federal agencies.

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

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

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

1 matter contained in state standards approved under AS 46.40.040 are repealed and are null  
2 and void as of January 1, 2006.

3 \* Sec. 20. The uncodified law of the State of Alaska is amended by adding a new section to  
4 read: #3

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

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

10 Sec. 49. Section 45, ch. 24, SLA 2003, [OF THIS ACT] takes effect  
11 January 1, 2006 [JULY 1, 2005].

12 \* Sec. 22. Sections 1 - 13 and sec. 18 of this Act take effect July 1, 2011.

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

Adopted 5/3/05

WORK DRAFT

WORK DRAFT

WORK DRAFT

24-LS0491VP  
Bullock  
5/2/05

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

A BILL

FOR AN ACT ENTITLED

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

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

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

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

12 (1) a statute or regulation;

13 (2) a license, permit, or order that is

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

3 (B) subject to

4 (i) continuing compliance monitoring;

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

6 (iii) renewal on a periodic basis; or

7 [(iv) AS 46.40; OR]

8 (3) a court order or judgment.

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

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

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

20 (2) the costs incurred by the state for

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

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

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

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

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

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

6 (v) Department of Law;

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

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

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

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

21 (x) Legislature;

22 (xi) Alaska Court System;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (i) applicable statutes and regulations;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 46.40.030(b) is amended to read:

10 (b) In developing enforceable policies in its coastal management plan under  
11 (a) of this section, a coastal resource district shall meet the requirements of  
12 AS 46.40.070 and shall address only uniquely local matters to which state  
13 standards, state or federal statutes or regulations, or other authority do not  
14 specifically apply [MAY NOT DUPLICATE, RESTATE, OR INCORPORATE BY  
15 REFERENCE STATUTES AND ADMINISTRATIVE REGULATIONS ADOPTED  
16 BY STATE OR FEDERAL AGENCIES].

17 \* Sec. 15. The uncodified law of the State of Alaska enacted in sec. 46(c), ch. 24, SLA  
18 2003, is amended to read:

19 (c) Notwithstanding any contrary provision of ch. 24, SLA 2003 [THIS ACT], the  
20 repeal of the Alaska Coastal Policy Council enacted by sec. 44, ch. 24, SLA 2003 [OF THIS  
21 ACT], and the repeal of the Alaska Coastal Policy Council's duties in AS 46.40.040, as  
22 amended by sec. 10, ch. 24, SLA 2003 [OF THIS ACT], a district coastal management  
23 program, including its enforceable policies, approved by the former Alaska Coastal Policy  
24 Council remains in effect for purposes of AS 46.39 and AS 46.40 until January 1, 2007  
25 [JULY 1, 2006], unless the Department of Natural Resources disapproves or modifies all or  
26 part of the program before January 1, 2007 [JULY 1, 2006].

27 \* Sec. 16. The uncodified law of the State of Alaska enacted in sec. 47(a), ch. 24, SLA  
28 2003, is amended to read:

29 (a) Within 20 months [ONE YEAR] after the effective date of regulations adopted by  
30 the department of natural resources implen. ning changes to AS 46.40.010 - 46.40.090,  
31 enacted by secs. 8 - 15 and 44, ch. 24, SLA 2003 [OF THIS ACT], or by March 1, 2006

1 [JULY 1, 2005], whichever is later, coastal resource districts shall review their existing  
2 district coastal management program and submit to the Department of Natural Resources for  
3 review and approval a revised district coastal management plan meeting the requirements of  
4 AS 46.40 [, AS AMENDED BY THIS ACT,] and the implementing regulations.

5 \* Sec. 17. AS 41.17.900(e); AS 44.33.781; AS 46.39.010, 46.39.030, 46.39.040, 46.39.900;  
6 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,  
7 46.40.094, 46.40.096, 46.40.100, 46.40.110, 46.40.140, 46.40.150, 46.40.180, 46.40.190,  
8 46.40.195, 46.40.205, and 46.40.210 are repealed.

9 \* Sec. 18. The uncodified law of the State of Alaska is amended by adding a new section to  
10 read:

11 DUTIES OF THE DEPARTMENT OF NATURAL RESOURCES; REPEAL  
12 OF CERTAIN COASTAL RESOURCE DISTRICT POLICIES. (a) Notwithstanding any  
13 contrary provision of law, enforceable coastal resource district policies in effect on the  
14 effective date of this section that conflict with AS 46.40.030(b), as amended in sec. 14 of this  
15 Act and as that subsection read on the effective date of this section, or address any matter  
16 regulated by the Department of Environmental Conservation are repealed and are declared  
17 null and void.

18 (b) Coastal resource district enforceable policies that conflict with or address any  
19 matter contained in state standards approved under AS 46.40.040 are repealed and are null  
20 and void as of January 1, 2006.

21 \* Sec. 19. The uncodified law of the State of Alaska enacted in sec. 49, ch. 24, SLA 2003,  
22 is amended to read:

23 Sec. 49. Section 45, ch. 24, SLA 2003, [OF THIS ACT] takes effect  
24 January 1, 2006 [JULY 1, 2005].

25 \* Sec. 20. Sections 1 - 13 and sec. 17 of this Act take effect July 1, 2011.

26 \* Sec. 21. Except as provided in sec. 20 of this Act, this Act takes effect immediately under  
27 AS 01.10.070(c).

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# Senator Gary Stevens

## Alaska State Legislature

**INTERIM ADDRESS:**  
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### SPONSOR STATEMENT

#### CS for SB 102 (RES), COASTAL MANAGEMENT PROGRAMS (Revised April 27, 2005)

The Alaska Coastal Management Program (ACMP) is a partnership between federal, state, and local governments providing state and local governments a voice in federal decision making. Alaska is one of 34 coastal and Great Lakes states and territories that utilize this program, a program that annually channels millions of dollars in federal grant money to the states. The ACMP has helped guide coastal development in the state since it was enacted in 1977.

Without the program the state and local governments lose their ability to control development on federal land and the Outer Continental Shelf. In addition the state will lose millions in federal coastal management planning money.

In 2003, HB 191 substantially revised the state coastal program. The federal Office of Ocean and Coastal Resource Management (OCRM) must approve the revised program. 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, but have repeatedly said that need more time to complete this process.

CS for SB 102 (RES) bases the deadline for district coastal program revisions and annulment of the existing program six months after the federal approval of the state's program. This extension will ensure an orderly and efficient transition to the new program.



## Alaska State Legislature

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

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

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### Fact Sheet for: Senate Bill 102

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**Short Title:** COASTAL MANAGEMENT PROGRAMS

**Summary:**

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

**Benefits:**

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

**Background:**

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

FRANK H. MURKOWSKI  
GOVERNOR  
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April 18, 2005

Coastal District Representatives

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

Dear Coastal District Representatives:

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

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

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

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

Coastal District Representatives

April 18, 2005

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

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

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

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

Coastal District Representatives

April 18, 2005

Page 3

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

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

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

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

Coastal District Representatives

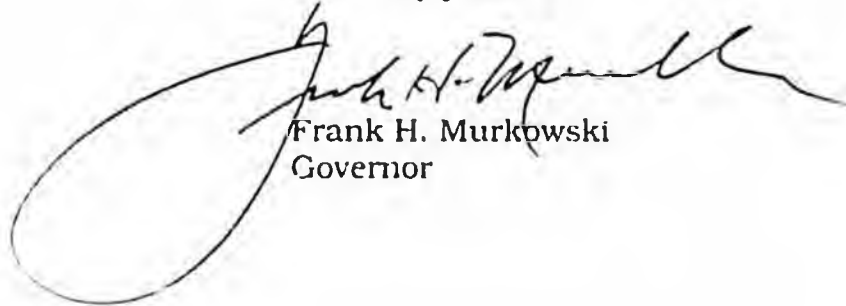
April 18, 2005

Page 4

- Amend Section 47(a) of HB 191 to extend by six months the revised district plan submission deadline; and
- Amend Section 49 of HB 191 to extend by six months the sunset date of the state standards at 6 AAC 80.010 - 6 AAC 80.90.

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

Sincerely yours,

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

Frank H. Murkowski  
Governor

Enclosure

THE  
FOLLOWING  
DOCUMENT(S)  
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UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL OCEAN SERVICE  
Silver Spring, Maryland 20910

APR 14 2005

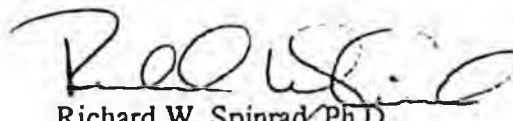
Mr. Thomas E. Irwin, Commissioner  
Alaska Department of Natural Resources  
550 West 7<sup>th</sup> Avenue, Suite 1400  
Anchorage, Alaska 99501-3650

Dear Commissioner Irwin:

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

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

Sincerely,



Richard W. Spinrad, Ph.D.  
Assistant Administrator

Enclosure

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



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## ENCLOSURE - REMAINING STEPS FOR ACMP PRELIMINARY APPROVAL

### GENERAL COMMENT

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

### PUBLIC HEARING

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

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

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

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

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

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

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

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

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

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

#### APPLICATION OF DISTRICT POLICIES AND DESIGNATED AREAS

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

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

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

#### TECHNIQUE A

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

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

#### SCOPE AND CONTENT OF DISTRICT PLANS

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

#### HABITATS POLICY

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

2. **Written Scientific Evidence.** NOAA believes that 11 AAC 114.900(40) provides a sufficient definition of this phrase for purposes of our preliminary approval decision.
3. **Significantly More Productive.** Alaska now proposes to replace this phrase with "biologically and significantly productive" in asking the districts to designate significant habitats. NOAA appreciates this change as it removes the comparison of habitats by deleting the term "more." While the State believes that the term is commonly understood and applied, and requires no additional explanation, we continue to believe that "significantly productive" is not a term generally accepted in the scientific community. NOAA did not recommend "biological productivity" as a preferable term; rather we asked the State to provide a definition so that users, districts, and other affected interests would be on notice as to how "productivity" is being measured so they would know what to provide data on. However, NOAA finds that defining the term is not needed for preliminary approval.
4. **Adjacent Habitat.** To address NOAA's concerns regarding the "adjacency" requirement, Alaska proposes to revise 11 AAC 112.300(c)(1)(B)(ii) and 11 AAC 114.250(h)(2) to read ". . . that is shown by written scientific evidence to be biologically and significantly productive." This language is an improvement over the "adjacency" requirement previously proposed by Alaska. NOAA finds that Alaska's change is adequate for our preliminary approval decision. Please see, however, our comments under No. 3, above, regarding the definition of "biologically and significantly productive."



[Click here to return to the original story](#)

## Communities ask Legislature for delay on coastal program overhaul

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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


Click here to return to story:

[http://www.juneauempire.com/stories/031503/sta\\_20050315008.shtml](http://www.juneauempire.com/stories/031503/sta_20050315008.shtml)

## Douglas Letch

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



Dear Senator Stevens,

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

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

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

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

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

March 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.

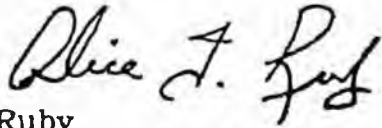
We embarked on our plan updates in good faith. Through no fault of the hard work of a dedicated staff at the Office of Project Management and Permitting, we believe seeking an extension to the deadlines imposed by HB 191 is the best course of action at this point.

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. Ruby". The signature is written in black ink and is positioned above the typed name.

Alice Ruby  
Chair, Bristol Bay CRSA

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

**CITY OF ALEKNAGIK**  
 P.O. BOX 33, MAIN STREET  
 ALEKNAGIK, ALASKA 99555-0033  
 PHONE: 907-842-5933 OR 842-2528  
 FAX: 907-842-2107  
 E-MAIL: [aleknagik@aleknagik.ak.us](mailto:aleknagik@aleknagik.ak.us)

February 25, 2005

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

RE: Alaska Coastal Management Program (ACMP)

To the Honorable Representative Carl Moses:

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

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

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

Sincerely,



Berna Andrews  
 Mayor

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

## SENATE COMMITTEE REPORT First Committee of Referral

DATE: 2/14/05

FURTHER: Resources

Date of 5-Day Notice: 3/3/05  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 3/14/05

Community and Regional Affairs Committee considered SENATE BILL NO. 102

### SB 102 COASTAL MANAGEMENT PROGRAMS

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

and recommends:

- be replaced with \_\_\_\_\_ CS SB102 ( CRA )
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( \_\_\_\_\_ )
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

<b>Senate Bill:</b>	
<input type="checkbox"/> Same Title	
<input checked="" type="checkbox"/> New Title	
<b>House Bill:</b>	
<input type="checkbox"/> Same Title	
<input type="checkbox"/> Technical Title Change	
<input type="checkbox"/> New Title w/ SCR # _____	

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
DNR	3/14/05	✓			1
DCCED	3/8/05			✓	2
ADFG	3/8/05			✓	3
DEC	3/14/05			✓	4

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
WAGONER			✓	
ELLIS	X			
STEVMAN			✓	
CHAIR:			α	

G. STEVENS