

HB

243

During Session:
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Alaska State Legislature
REPRESENTATIVE REGGIE JOULE

Date: March 10, 2008

To: Representative Anna Fairclough, Co-Chair Community and Regional Affairs
Representative Gabrielle LeDoux, Co-Chair Community and Regional Affairs

From: Representative Joule *RJ*

Re: Request for Hearing

I would like to formally request a hearing on CS HB 234, "An Act relating to the Alaska coastal management program; and establishing the Alaska Coastal Policy Board." I have attached the committee substitute, sponsor statement, fiscal note, sectional analysis, and some other pertinent information. If possible we would appreciate a hearing in March. If you have any questions or concerns, please contact our office. I appreciate your consideration of this request.

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Sponsor Statement

CS HB 234 () Coastal Management Plan

"An Act relating to the Alaska coastal management program; and establishing the Alaska Coastal Policy Board"

CS HB 234 is an effort to improve the partnership between the State of Alaska and coastal communities under the Coastal Zone Management Program. This legislation will give coastal districts a seat at the table in the review of proposed state and federal resource development actions. An effective review process that accounts for local concerns will encourage local support for important responsible development projects in our coastal communities.

The bill focuses on three primary areas:

- 1) It provides clarification that districts may develop meaningful policies.
- 2) It establishes a Coastal Policy Board made up of resource agencies and coastal districts to agree on policy issues, approve regulations, and district management plans.
- 3) It brings water and air quality concerns of the Department of Environmental Conservation back to the table during consistency reviews.

This bill attempts to correct problems brought about by the enactment of HB 191. I support responsible development of our coastal resources. I believe that this can best and most expeditiously be accomplished through restoring some meaningful involvement of coastal communities in development decisions that directly affect them.

**CS House Bill 234 Coastal Management
Sectional Analysis**

- Sec. 1:** Establishes the Alaska Coastal Policy Board which will be composed of four coastal district members and the commissioners of natural resources, fish and game and environmental conservation; and outlines provisions for administrative support to assist the Board.
- Sec. 2:** Provides authority for the Department of Natural Resources to adopt regulations for the Alaska Coastal Management Program (ACMP) that have been approved by the Board.
- Sec. 3:** Establishes powers for the Board including the ability to take reasonable action to carry out provisions of AS 46.39 (Coastal Management Administration) and AS 46.40 (The Alaska Coastal Management Program). The Department retains the authority to issue "consistency determinations" regarding consistency of projects with the ACMP statewide standards and coastal district enforceable policies.
- Sec. 4:** Establishes duties of the Board.
- Sec. 5:** Makes the Board subject to the Administrative Procedures Act in AS 46.39.900.
- Sec. 6:** Establishes authority for the Board to approve ACMP program changes and to evaluate the effectiveness of district plans.
- Sec. 7:** Adds "subsistence" to the list of values included in the ACMP objectives.
- Sec. 8:** Makes a conforming amendment requiring approval of ACMP regulations adopted by the Department and exclusion of the Department of Environmental Conservation (DEC) from the ACMP. Deleted language relating to the duties of the Board has been moved to Section 10.
- Sec. 9:** Retains DEC's authority for determining consistency of matters it regulates. Requires public notice for DEC consistency findings for projects located on federal lands and waters when there are no DEC authorizations.
- Sec. 10:** Moves language deleted from AS 46.40.040(a) to a new section outlining responsibilities of the Board. Subsection (d) clarifies that aspects of air and water discharges not covered by DEC laws or regulations may be reviewed for consistency with the statewide standards and district enforceable policies. DEC retains authority to determine a project's consistency with its laws.
- Sec. 11:** Establishes authority for the Board to approve coastal district plans that are required to be submitted every 10 years, as well as outlining criteria for new coastal district management plans.
- Sec. 12:** Establishes authority for the Board to approve coastal district plans if it finds the plans meet the district plan criteria. Establishes the Board's role in mediation of decisions on the approval of district plans.
- Sec. 13:** Outlines requirements for Board approval of district plans. Amends three criteria for approval of enforceable policies to clarify what policies may address.
- Sec. 14:** Clarifies legislative intent of Chapter 24 SLA 03 (HB 191) to allow districts to establish enforceable policies for activities that may affect a coastal use or resource.
- Secs. 15, 16 and 17:** Make conforming amendments regarding approval of ACMP regulations by the Board.
- Sec. 18:** Makes a conforming amendment regarding approval of ACMP regulations by the Board and replaces the term "subsequent review" with the commonly used term "elevation." Requires concurrence of resource agencies for resolutions of elevations of a proposed consistency determination.

- Sec. 19:** Clarifies that the aspect of an activity covered by a general or nationwide permit is removed from the scope of an ACMP consistency review while allowing individual review of aspects of an activity not covered by the general or nationwide permit. Eliminates exemption of air and water quality permits from the coordinated ACMP review process.
- Sec. 20:** Makes a conforming amendment regarding Board approval of coastal district plans.
- Sec. 21:** Clarifies that the ACMP regulations shall address activities on federal waters and that seismic surveys in federal Outer Continental Shelf Waters are subject to ACMP reviews.
- Sec. 22:** Makes a conforming amendment regarding approval of ACMP regulations by the Board, including regulations listing which authorizations trigger a consistency review and the list of activities that are categorically or generally consistent (i.e., activities that do not require an individual ACMP review).
- Sec. 23:** Exempts federal activities and federally-permitted activities from the 90-day review schedule. This exemption allows extension of reviews for projects with federal approvals which tend to be more complex reviews. Requires suspension of the 90-day time frame when an applicant is required to provide additional information.
- Sec. 24:** Establishes the Board's role in reviewing a petition regarding non-implementation of a coastal district program.
- Sec. 25, 27 and 28:** Make conforming amendments to Board action on a petition. [See Sec. 24]
- Sec. 26:** Clarifies that Board orders are subject to enforcement by superior courts.
- Sec. 29:** Makes a conforming amendment to Board approval of district plans including areas meriting special attention.
- Sec. 30:** Makes a conforming amendment to the definition of "coastal zone" regarding Board's role in approving coastal boundary changes.
- Sec. 31:** Makes a conforming amendment to the definition of "district coastal management plan" regarding Board's role in approving district plans.
- Sec. 32:** Makes a conforming amendment to the definition of "enforceable policy" regarding Board's role in approving policies included in district plans.
- Sec. 33:** Defines "Board" in the definitions section.
- Sec. 34:** Repeals AS 46.40.096(i) because the DEC authorizations are no longer removed from the consistency review process.

Alaska Coastal Management Program



Program Goals and Objectives

The Alaska Coastal Management Program (ACMP) oversees the responsible development of coastal uses and resources, federal activities within the coastal zone, and activities on the Outer Continental Shelf.

ACMP Structure and Organization

The ACMP is a voluntary State program, authorized by the Coastal Zone Management Act of 1972, as amended. The Division of Coastal and Ocean Management (DCOM), within the Department of Natural Resources, is the lead agency for the ACMP. Previously the ACMP was located within the Office of Project Management and Permitting (OPMP), but was split from OPMP and housed within the newly formed DCOM. Several state agencies participate in the implementation of the ACMP. In addition, several coastal municipalities and service areas (collectively known as coastal districts) voluntarily participate in the implementation of the ACMP. This structure and organization of state agencies and coastal districts provides for a networked implementation scheme designed to comprehensively manage coastal uses and resources.

The primary tool used to implement the ACMP is the consistency review process at 11 AAC 110. Through this process, proposed resource development activities are reviewed for consistency and compliance with the State's coastal management program which includes State laws, State standards, and district enforceable policies.

Value of ACMP

Having a federally approved coastal management program allows the State the opportunity to:

- Balance the need for economic investment and development in the coastal areas with the need to protect and manage the uses and resources of the coastal areas
- Act as State's liaison to federal agencies (1) conducting/permitting activities within the State's coastal zone and the Outer Continental Shelf, (2) involving federal laws/initiatives that effect development of the coastal zone, waters, uses or resources of the State
- Act as the department's lead on issues affecting or addressing the coastal waters affecting the State
- Apply State ACMP enforceable policies to federal agency activities
- Provide project applicants with a single point of contact for the State's review of resource development permit applications
- Incorporate coastal district input and knowledge for reasoned decisions

Key Fiscal Years 2008 and 2009 Priorities and Needs

- Finalize coastal district plan amendments review and approval
- Educate and train participants on implementation of ACMP
- Evaluate the ACMP implementing regulations and determine whether amendments are necessary
- Develop and seek approval for State Coastal Impact Assistance Program and for the Coastal and Estuarine Land Conservation Program

A Program of the Division of Coastal and Ocean Management



"The Alaska Coastal Management Program provides stewardship for Alaska's rich and diverse coastal resources to ensure a healthy and vibrant Alaskan coast that efficiently sustains long-term economic and environmental productivity."



ALASKA DEPARTMENT OF NATURAL RESOURCES - DIVISION OF COASTAL AND OCEAN MANAGEMENT
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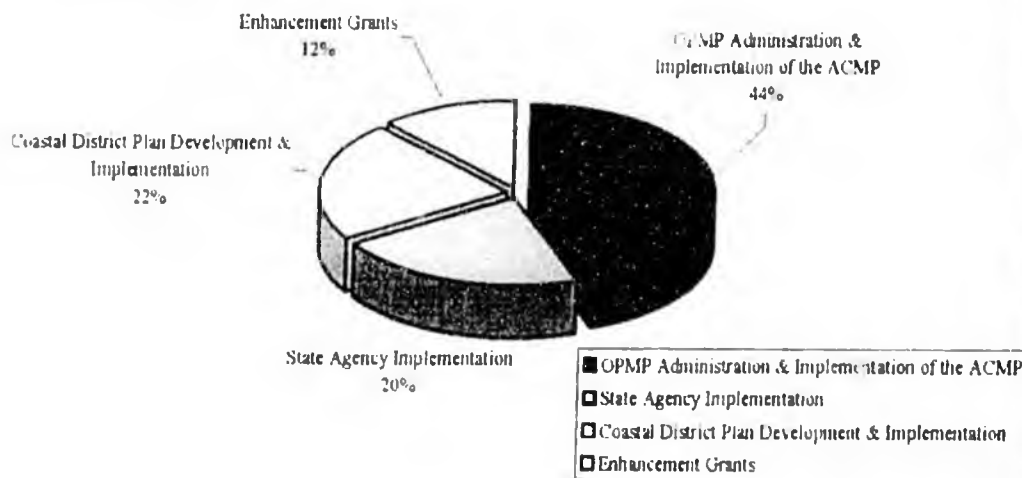
Alaska Coastal Management Program



Key Fiscal Year 2007 Accomplishments

- Continue to establish the Alaska Coastal Management Program (ACMP) within the Department of Natural Resources (DNR). This office leads on all issues and matters relating to the state's coastal zone, waters, uses, and resource, and administers and implements the ACMP
- Secured federal approval of reform changes to ACMP
- Coordinated or expedited approximately 215 consistency reviews for resource development projects within the coastal zone
- Provided coordinated and consolidated State response on all National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management proposed rules, regulations, and initiatives
- Worked with Minerals Management Service, Forest Service, US Army Corps of Engineers, Bureau of Land Management, Federal Aviation Administration, and the Departments of Environmental Conservation and Transportation and Public Facilities to identify coastal consistency issues that would be resolved through the application of MOU's or other effective coordination and cooperation means

ACMP Funding



ACMP Originally Approved:
1979

Coastal Population in 1979:
330,960

Coastal Population in 2004:
538,332

Miles of Coastline:
44,500

CZMA Funds:
\$2,503,000

State and Other
Matching Funds:
\$1,967,000

Total:
\$4,470,000



ACMP State Contact

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Bullock
2/22/08

CS FOR HOUSE BILL NO. 243()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION**

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES JOULE, Edgmon

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska coastal management program; and establishing the**
2 **Alaska Coastal Policy Board."**

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

4 *** Section 1.** AS 46.39 is amended by adding a new section to article 1 to read:

5 **Sec. 46.39.005. Alaska Coastal Policy Board.** (a) There is created in the
6 Department of Natural Resources the Alaska Coastal Policy Board. The board consists
7 of the following:

8 (1) four public members appointed by the governor from a list
9 composed of at least three names from each region, nominated and submitted by the
10 coastal districts of each region; one public member shall be appointed from each of the
11 following regions:

12 (A) northwest Alaska, including, generally, the area of the
13 North Slope Borough and the Northwest Arctic Borough; and the Bering Strait
14 area, including, generally, the area of the Bering Strait regional educational

1 attendance area;

2 (B) southwest Alaska, including, generally, the area within the
3 Lower Yukon, Lower Kuskokwim, and Southwest regional educational
4 attendance areas and the Lake and Peninsula and Bristol Bay Boroughs; and
5 the Kodiak-Aleutians area, including the Kodiak Island and area of the
6 Aleutians East Boroughs and the area of the Aleutian, Adak, and Pribilof
7 regional educational attendance areas;

8 (C) Upper Cook Inlet area, including the Municipality of
9 Anchorage and the Matanuska-Susitna Borough; the Lower Cook Inlet area,
10 including, generally, the Kenai Peninsula Borough; and the Prince William
11 Sound area, including, generally, the area east of the Kenai Peninsula Borough
12 to 141 West longitude; and

13 (D) Southeast Alaska, generally the area east of 141 West
14 longitude;

15 (2) each of the following:

16 (A) the commissioner of environmental conservation;

17 (B) the commissioner of fish and game; and

18 (C) the commissioner of natural resources.

19 (b) Each public member appointed by the governor under (a)(1) of this section
20 serves a term of two years and until a successor is appointed and qualified. A public
21 member may be reappointed.

22 (c) The board shall designate co-chairs, one of whom shall be selected from
23 among the public members appointed under (a)(1) of this section and one from among
24 the members designated in (a)(2) of this section.

25 (d) Each member of the board shall select one person to serve as a permanent
26 alternate at meetings of the board. If a member of the board is unable to attend, the
27 member shall advise the alternate, who may attend and act in the place of the member.
28 The alternate for each public member appointed under (a)(1) of this section shall be
29 approved by the coastal districts in each region. The alternate for a designated member
30 serving under (a)(2) of this section shall be a deputy commissioner of the department
31 or the director of a division in the department. The names of alternates shall be filed

1 with the board.

2 (e) Three public members and two designated members of the board constitute
3 a quorum, but one or more of the members designated by the board may hold hearings.
4 All decisions of the board shall be by a majority vote of the members present and
5 voting.

6 (f) Members of the board or their alternates are entitled to per diem and travel
7 expenses authorized by law for members of boards and commissions.

8 (g) Administrative support for the board shall be provided by the division in
9 the department responsible for coastal and ocean management. The director of the
10 division in the department responsible for coastal and ocean management, under
11 direction of the co-chair designated by the board from the individuals listed in (a)(2)
12 of this section, may contract with or employ persons as necessary to assist the board in
13 carrying out the board's duties and responsibilities.

14 * Sec. 2. AS 46.39.010(b) is amended to read:

15 (b) The department may adopt regulations approved by the board necessary
16 to implement this chapter.

17 * Sec. 3. AS 46.39.030 is amended to read:

18 Sec. 46.39.030. Powers of the hoard [DEPARTMENT]. The board
19 [DEPARTMENT] may

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

23 (2) contract for necessary services;

24 (3) consult and cooperate with

25 (A) persons, organizations, and groups, public or private,
26 interested in, affected by, or concerned with coastal area planning and
27 management;

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

31 (4) take any reasonable action necessary to carry out the provisions of

1 this chapter or AS 46.40.

2 * Sec. 4. AS 46.39.040 is amended to read:

3 Sec. 46.39.040. Duties of the board [DEPARTMENT]. In conformity with
4 16 U.S.C. 1451 - 1464 (Coastal Zone Management Act of 1972), as amended, the
5 board [DEPARTMENT] shall

6 (1) approve [DEVELOP] statewide standards for the Alaska coastal
7 management program [,] and criteria for the preparation and approval of district
8 coastal management plans in accordance with AS 46.40;

9 (2) [ESTABLISH CONTINUING COORDINATION AMONG
10 STATE AGENCIES TO FACILITATE THE DEVELOPMENT AND
11 IMPLEMENTATION OF THE ALASKA COASTAL MANAGEMENT PROGRAM;
12 IN CARRYING OUT ITS DUTIES UNDER THIS PARAGRAPH, THE
13 DEPARTMENT SHALL INITIATE AN INTERAGENCY PROGRAM OF
14 COMPREHENSIVE COASTAL RESOURCE PLANNING FOR EACH
15 GEOGRAPHIC REGION OF THE STATE;

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

19 * Sec. 5. AS 46.39.900 is amended to read:

20 Sec. 46.39.900. Definitions [DEFINITION]. In this chapter, unless the
21 context requires otherwise,

22 (1) "board" means the Alaska Coastal Policy Board established in
23 AS 46.39.005;

24 (2) "department" means the Department of Natural Resources.

25 * Sec. 6. AS 46.40.010 is amended to read:

26 Sec. 46.40.010. Development of Alaska coastal management program. (a)
27 The Alaska Coastal Policy Board [DEPARTMENT] shall approve, in accordance
28 with this chapter, program changes to the Alaska coastal management program.

29 (b) The board [DEPARTMENT] may approve the Alaska coastal
30 management program for a portion or portions of the coastal area before approving the
31 [COMPLETE] program changes under (a) of this section. Portions of the program

1 approved under this subsection shall be incorporated into the Alaska coastal
2 management program.

3 (c) The Alaska coastal management program shall be reviewed by the board
4 [DEPARTMENT] and, when appropriate, revised to

5 (1) add newly approved district coastal management plans [,] or
6 revisions and amendments to the Alaska coastal management program;

7 (2) integrate newly approved district coastal management plans [,] or
8 revisions and amendments of district coastal management plans [,] with existing
9 approved plans and with plans developed by state agencies;

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

12 (4) evaluate [REVIEW] the effectiveness [OF IMPLEMENTATION]
13 of district coastal management plans; and

14 (5) consider new information acquired by the state and coastal resource
15 districts.

16 (d) All reviews and revisions shall be in accordance with the statewide
17 standards and district plan criteria adopted under AS 46.40.040.

18 * Sec. 7. AS 46.40.020 is amended to read:

19 **Sec. 46.40.020. Objectives.** The Alaska coastal management program shall be
20 consistent with the following objectives:

21 (1) the use, management, restoration, and enhancement of the overall
22 quality of the coastal environment;

23 (2) the development of industrial or commercial enterprises that are
24 consistent with the social, cultural, historic, economic, and environmental interests of
25 the people of the state;

26 (3) the orderly, balanced utilization and protection of the resources of
27 the coastal area consistent with sound conservation and sustained yield principles;

28 (4) the management of coastal land and water uses in such a manner
29 that, generally, those uses that [WHICH] are economically or physically dependent on
30 a coastal location are given higher priority when compared to uses that [WHICH] do
31 not economically or physically require a coastal location;

1 (5) the protection and management of significant historic, cultural,
2 natural, subsistence, and aesthetic values and natural systems or processes within the
3 coastal area;

4 (6) the prevention of damage to or degradation of land and water
5 reserved for their natural and subsistence values as a result of inconsistent land or
6 water usages adjacent to that land;

7 (7) the recognition of the need for a continuing supply of energy to
8 meet the requirements of the state and the contribution of a share of the state's
9 resources to meet national energy needs; and

10 (8) the full and fair evaluation of all demands on the land and water in
11 the coastal area.

12 * Sec. 8. AS 46.40.040(a) is amended to read:

13 (a) Except as provided in [(b) OF THIS SECTION AND] AS 41.17, the
14 department shall, with approval by the board,

15 (1) by regulation, adopt, under the provisions of AS 44.62
16 (Administrative Procedure Act) for the use of and application by coastal resource
17 districts and state agencies for carrying out their responsibilities under this chapter,
18 statewide standards and district coastal management plan criteria for

19 (A) identifying the boundaries of the coastal area subject to the
20 Alaska coastal management program;

21 (B) determining the land and water uses and activities subject
22 to the Alaska coastal management program;

23 (C) developing policies applicable to the land and water uses
24 subject to the Alaska coastal management program;

25 (D) developing regulations applicable to the land and water
26 uses subject to the Alaska coastal management program;

27 (E) developing policies and procedures to determine whether
28 specific proposals for the land and water uses or activities subject to the Alaska
29 coastal management program shall be allowed;

30 (F) designating and developing policies for the use of areas of
31 the coast that merit special attention, and

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

3 (2) [DEVELOP AND MAINTAIN A PROGRAM OF TECHNICAL
4 AND FINANCIAL ASSISTANCE TO AID COASTAL RESOURCE DISTRICTS IN
5 THE DEVELOPMENT AND IMPLEMENTATION OF DISTRICT COASTAL
6 MANAGEMENT PLANS;

7 (3) UNDERTAKE REVIEW AND APPROVAL OF DISTRICT
8 COASTAL MANAGEMENT PLANS IN ACCORDANCE WITH THIS CHAPTER;

9 (4) INITIATE A PROCESS FOR IDENTIFYING AND MANAGING
10 USES OF STATE CONCERN WITHIN SPECIFIC AREAS OF THE COAST;

11 (5) DEVELOP PROCEDURES OR GUIDELINES FOR
12 CONSULTATION AND COORDINATION WITH FEDERAL AGENCIES
13 MANAGING LAND OR CONDUCTING ACTIVITIES POTENTIALLY
14 AFFECTING THE COASTAL AREA OF THE STATE;

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

17 * Sec. 9. AS 46.40.040(b) is amended to read.

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

21 (1) the issuance of permits, certifications, approvals, and
22 authorizations by the Department of Environmental Conservation establishes
23 consistency with the Alaska coastal management program for those activities of a
24 proposed project subject to those permits, certification approvals, and authorizations;

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

1 regulations; before making a finding under this paragraph, the Department of
2 Environmental Conservation shall provide notice and an opportunity for public
3 comment.

4 * Sec. 10. AS 46.40.040 is amended by adding new subsections to read:

5 (d) Except as provided in AS 41.17, the board shall

6 (1) develop and maintain a program of technical and financial
7 assistance to aid coastal resource districts in the development and implementation of
8 district coastal management plans;

9 (2) undertake review of and, after public hearing, approve district
10 coastal management plans in accordance with this chapter;

11 (3) initiate a process for identifying and managing uses of state
12 concern within specific areas of the coast;

13 (4) develop procedures or guidelines for consultation and coordination
14 with federal agencies managing land or conducting activities potentially affecting the
15 coastal area of the state.

16 (e) To the extent that AS 46.03, AS 46.04, AS 46.09, and AS 46.14 and the
17 regulations adopted under those statutes do not address a potential effect on coastal
18 resources or uses, the coordinating agency shall review all project activities to ensure
19 that air or water discharges are consistent with statewide standards and the enforceable
20 policies of the coastal resource district.

21 * Sec. 11. AS 46.40.050 is amended to read:

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

23 (a) A coastal resource district must review and resubmit its coastal management plan
24 for reapproval every 10 years after its approval by the board [DEPARTMENT] under
25 AS 46.40.060.

26 (b) Within 30 months after certification of the organization of a new coastal
27 resource district, the coastal resource district shall complete and submit to the board
28 [DEPARTMENT] a proposed district coastal management plan. If, after receipt of a
29 written request for extension from the coastal resource district, the board
30 [DEPARTMENT] considers an extension proper, the board [DEPARTMENT] may
31 grant an extension to a date that is within 54 months after certification of the results of

1 the coastal resource district's organization. A request under this subsection must
2 include the reasons for the extension.

3 * Sec. 12. AS 46.40.060 is amended to read:

4 **Sec. 46.40.060. Review and approval [BY THE DEPARTMENT].** (a) If,
5 upon submission of a district coastal management plan for approval, the **board**
6 [DEPARTMENT] finds that the plan meets the provisions of this chapter and the
7 statewide standards and district plan criteria adopted by the **board** [DEPARTMENT]
8 and does not arbitrarily or unreasonably restrict or exclude uses of state concern, the
9 **board** [DEPARTMENT] may approve the district coastal management plan, or may
10 approve portions of the district plan that meet those requirements.

11 (b) If the **board** [DEPARTMENT] finds that a district coastal management
12 plan is not approvable or is approvable only in part under (a) of this section, **the board**
13 [IT] shall direct that deficiencies in the plan submitted by the coastal resource district
14 be mediated. In mediating the deficiencies, the **board** [DEPARTMENT] may call for
15 one or more public hearings in the district. The **board** [DEPARTMENT] shall meet
16 with officials of the coastal resource district in order to resolve differences.

17 (c) If, after mediation, the differences have not been resolved **and mutually**
18 **agreed to by the coastal resource district and the board, the board shall call for a**
19 **public hearing and shall resolve the differences in accordance with AS 44.62**
20 **(Administrative Procedure Act). After the public hearing, the board**
21 [DEPARTMENT] shall enter findings and, by order, may require

22 (1) that the district coastal management plan be amended to satisfy the
23 provisions of this chapter or meet the statewide standards and district plan criteria
24 **approved** [ADOPTED] by the **board** [DEPARTMENT];

25 (2) that the district coastal management plan be revised to
26 accommodate a use of state concern; or

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

29 (d) The superior courts of the state have jurisdiction to enforce orders of the
30 **board** [DEPARTMENT] entered under (c) of this section.

31 * Sec. 13. AS 46.40.070 is amended to read:

1 **Sec. 46.40.070. Requirements for board [DEPARTMENT] review and**
2 **approval.** (a) The board [DEPARTMENT] shall approve a district coastal
3 management plan submitted for review and approval if

4 (1) the district coastal management plan meets the requirements of this
5 chapter and the statewide standards and district plan criteria in regulations adopted by
6 the department with approval by the board; and

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

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

10 (B) use precise [, PRESCRIPTIVE,] and enforceable language
11 that is either prescriptive or performance-based; and

12 (C) do not address a matter regulated or authorized by state or
13 federal law unless the enforceable policies relate specifically to a matter of
14 local concern; for purposes of this subparagraph, "matter of local concern"
15 means a specific coastal use or resource within a defined portion of the
16 district's coastal zone, that is

17 (i) demonstrated as sensitive to development;

18 (ii) not adequately addressed by a specific state or
19 federal law; and

20 (iii) of special [UNIQUE] concern to the coastal
21 resource district as demonstrated by local usage or scientific evidence.

22 (b) A decision by the board [DEPARTMENT] under this section shall be
23 given within 90 days after submission of the district coastal management plan to the
24 board [DEPARTMENT].

25 * **Sec. 14.** AS 46.40.070 is amended by adding a new subsection to read:

26 (c) A coastal resource district enforceable policy may address an effect on any
27 coastal use or resource and may not be required to be associated with a particular area
28 designation.

29 * **Sec. 15.** AS 46.40.096(a) is amended to read:

30 (a) The department shall, with approval of the board, by regulation,
31 establish a consistency review and determination process that conforms to the

1 requirements of this section.

2 * Sec. 16. AS 46.40.096(b) is amended to read:

3 (b) If a consistency review is not subject to AS 46.39.010 because the project
4 for which a consistency review is made requires a permit, lease, or authorization from
5 only one state resource agency, that state resource agency shall coordinate the
6 consistency review of the project. The state resource agency shall coordinate the
7 consistency review according to the requirements of the regulations adopted by the
8 department with approval of the board under this section.

9 * Sec. 17. AS 46.40.096(c) is amended to read:

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

20 * Sec. 18. AS 46.40.096(d) is amended to read:

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

23 (1) request consistency review comments for the proposed project
24 from state resource agencies, affected coastal resource districts, and other interested
25 parties as determined by regulation adopted by the department with approval of the
26 board;

27 (2) prepare proposed consistency determinations;

28 (3) coordinate elevation [SUBSEQUENT REVIEWS] of proposed
29 consistency determinations prepared under (2) of this subsection; an elevation [A
30 SUBSEQUENT REVIEW] of a proposed consistency determination under this
31 paragraph

1 (A) is limited to a review by state resource agencies [THE
2 DEPARTMENT];

3 (B) may occur only if requested by

4 (i) the project applicant;

5 (ii) a state resource agency; or

6 (iii) an affected coastal resource district; and

7 (C) shall be completed by the department with concurrence of
8 other resource agencies within 45 days after the initial request for subsequent
9 review under this paragraph;

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

11 * Sec. 19. AS 46.40.096(g) is amended to read:

12 (g) The reviewing entity shall exclude from the consistency review and
13 determination process for a project

14 (1) an aspect of an activity that

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

18 (B) IS SUBJECT TO AUTHORIZATION BY THE
19 DEPARTMENT OF ENVIRONMENTAL CONSERVATION UNDER THE
20 REQUIREMENTS DESCRIBED IN AS 46.40.040(b);]

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

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

24 * Sec. 20. AS 46.40.096(k) is amended to read:

25 (k) Except as provided in (g) of this section, AS 41.17, AS 46.40.040(b), and
26 AS 46.40.094, the scope of a consistency review of a project, once triggered under (j)
27 of this section, is limited to activities that are located within the areas described in (l)
28 of this section and that either are subject to a state resource agency permit, lease,
29 authorization, approval, or certification or are the subject of a coastal resource district
30 enforceable policy approved by the board [DEPARTMENT] under this chapter. The
31 scope of a consistency review subject to 16 U.S.C. 1456 is determined under 16

1 U.S.C. 1456 and 15 C.F.R. Part 930.

2 * Sec. 21. AS 46.40.096(l) is amended to read:

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

5 (1) activities within the coastal zone; and

6 (2) activities on federal land and water, including the federal outer
7 continental shelf, that would affect any land or water use or natural resource of the
8 state's coastal zone; for purposes of this paragraph, those activities consist of any
9 activity on the federal outer continental shelf, including seismic survey activity, and
10 any activity on federal land that are within the geographic boundaries of the state's
11 coastal zone notwithstanding the exclusion of federal land in 16 U.S.C. 1453(1).

12 * Sec. 22. AS 46.40.096(m) is amended to read:

13 (m) As part of the regulations adopted under (a) of this section, the department
14 with approval by the board shall establish a list of permits, certifications, leases,
15 approvals, and authorizations issued by a state resource or federal agency that will
16 trigger a consistency review under (j) of this section. In addition, the department with
17 approval by the board shall establish in regulation categories and descriptions of
18 uses and activities that, for purposes of evaluating consistency with the Alaska coastal
19 management program, are determined to be categorically consistent or generally
20 consistent after the inclusion of standard alternative measures. These categories of
21 uses and activities must be as broad as possible so as to minimize the number of
22 projects that must undergo an individualized consistency review under this section.

23 * Sec. 23. AS 46.40.096(o) is amended to read:

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

25 (1) do not apply to a consistency review involving

26 (A) the disposal of an interest in state land or resources;

27 (B) an activity proposed by a federal agency; or

28 (C) an activity permitted by a federal agency;

29 (2) are suspended

30 (A) from the time a review schedule is modified in response

31 to [THE REVIEWING ENTITY DETERMINES THAT THE APPLICANT

1 HAS NOT ADEQUATELY RESPONDED IN WRITING WITHIN 14 DAYS
2 AFTER THE RECEIPT OF] a written request from the reviewing entity for
3 additional information, until the time the reviewing entity determines that the
4 applicant has provided an adequate written response;

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

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

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

9 (b) A party that is authorized under (g) of this section may file a petition
10 showing that a district coastal management plan is not being implemented. A petition
11 filed under this subsection may not seek review of a proposed or final consistency
12 determination regarding a specific project. On receipt of a petition, the board
13 [DEPARTMENT], after giving public notice in the manner required by (f) of this
14 section, shall convene a hearing to consider the matter. A hearing called under this
15 subsection shall be held in accordance with regulations adopted under this chapter.
16 After hearing, the board [DEPARTMENT] may order that the coastal resource district
17 or a state resource agency take any action with respect to future implementation of the
18 district coastal management plan that the board [DEPARTMENT] considers
19 necessary, except that the board [DEPARTMENT] may not order that the coastal
20 resource district or a state agency take any action with respect to a proposed or final
21 consistency determination that has been issued.

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

23 (c) In determining whether an approved district coastal management plan is
24 being implemented by a coastal resource district that exercises zoning authority or
25 controls on the use of resources within the coastal area or by a state resource agency,
26 the board [DEPARTMENT] shall find in favor of the district or the state resource
27 agency, unless the board [DEPARTMENT] finds a pattern of nonimplementation.

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

29 (e) The superior courts of the state have jurisdiction to enforce lawful orders
30 of the board and the department under this chapter.

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

1 (f) Upon receipt of a petition under (b) of this section, the board
2 [DEPARTMENT] shall give notice of the hearing at least 10 days before the
3 scheduled date of the hearing. The notice must

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

6 (2) indicate the manner in which the public may comment on the
7 petition.

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

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

17 * **Sec. 29.** AS 46.40.210(1) is amended to read:

18 (1) "area that [WHICH] merits special attention" means a delineated
19 geographic area within the coastal area that [WHICH] is sensitive to change or
20 alteration and that [WHICH], because of plans or commitments or because a claim on
21 the resources within the area delineated would preclude subsequent use of the
22 resources to a conflicting or incompatible use, warrants special management attention,
23 or that [WHICH], because of its value to the general public, should be identified for
24 current or future planning, protection, or acquisition; these areas, subject to the
25 board's [DEPARTMENT'S] definition of criteria for their identification, include [:]

26 (A) areas of unique, scarce, fragile, or vulnerable natural
27 habitat, cultural value, historical significance, or scenic importance;

28 (B) areas of high natural productivity or essential habitat for
29 living resources;

30 (C) areas of substantial recreational value or opportunity;

31 (D) areas where development of facilities is dependent upon

1 the utilization of, or access to, coastal water;

2 (E) areas of unique geologic or topographic significance that
3 [WHICH] are susceptible to industrial or commercial development;

4 (F) areas of significant hazard due to storms, slides, floods,
5 erosion, or settlement; and

6 (G) areas needed to protect, maintain, or replenish coastal land
7 or resources, including coastal flood plains, aquifer recharge areas, beaches,
8 and offshore sand deposits;

9 * Sec. 30. AS 46.40.210(4) is amended to read:

10 (4) "coastal zone" means the coastal water including land within and
11 under that water, and adjacent shoreland, including the water within and under that
12 shoreland, within the boundaries approved by the former Alaska Coastal Policy
13 Council and by the United States Secretary of Commerce under 16 U.S.C. 1451 - 1465
14 (Coastal Zone Management Act of 1972, as amended); "coastal zone" includes areas
15 added as a result of any boundary changes approved by the board [DEPARTMENT]
16 and by the United States Secretary of Commerce under 16 U.S.C. 1451 - 1465;
17 "coastal zone" does not include

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

19 (B) areas deleted as a result of any boundary changes by the
20 board [DEPARTMENT] in conformance with 16 U.S.C. 1451 - 1465;

21 * Sec. 31. AS 46.40.210(7) is amended to read:

22 (7) "district coastal management plan" means a plan developed by a
23 coastal resource district, including enforceable policies of that plan, setting out
24 policies and standards to guide public and private uses of land and water within that
25 district and approved by the board [DEPARTMENT] as meeting the requirements of
26 this chapter and the regulations adopted under this chapter;

27 * Sec. 32. AS 46.40.210(8) is amended to read:

28 (8) "enforceable policy" means a policy established by this chapter or
29 approved by the board [DEPARTMENT] as a legally binding policy of the Alaska
30 coastal management program applicable to public and private activities;

31 * Sec. 33. AS 46.40.210 is amended by adding a new paragraph to read:

- 1 (13) "board" has the meaning given in AS 46.39.900.
- 2 * Sec. 34. AS 46.40.096(i) is repealed.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS HB 243 (CRA)
() Publish Date: _____

Identifier (file name): HB243CS(CRA)-DEC-CO-02-04-08 Dept. Affected: Environmental Conservation
Title: An Act relating to the Alaska coastal management program RDU: Administration
Component: Office of the Commissioner
Sponsor: Representatives Joule, Edgmon
Requester: Community & Regional Affairs Committee Component Number: 633

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services	96.7	96.7	96.7	96.7	96.7	96.7	96.7
Travel	8.0	8.0	8.0	8.0	8.0	8.0	8.0
Contractual	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Supplies	2.5	2.5	2.5	2.5	2.5	2.5	2.5
Equipment	5.0	1.0	1.0	1.0	1.0	1.0	1.0
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	117.2	0.0	113.2	113.2	113.2	113.2	113.2

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	117.2	113.2	113.2	113.2	113.2	113.2	113.2
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	117.2	0.0	113.2	113.2	113.2	113.2	113.2

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time	1.0	0.00	1	1	1	1	1
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

This legislation amends Alaska statutes related to the Alaska Coastal Management Program (ACMP). The bill requires that the Department of Environmental Conservation assume new responsibility for coordinating its permitting procedures with the ACMP coastal consistency review process. Authorizations issued by the agency will also be required to undergo the ACMP process creating a need for a ACMP program coordinator position.

This fiscal note represents the addition of \$96.7 in general funds for salaries and associated support costs for a Program Coordinator (range 20) position. First-year costs include on-time equipment costs that are not reflected in subsequent years.

Prepared by: Mike Maher, Director
Division: Information and Administrative Services
Approved by: Dan Easton
Department of Environmental Conservation

Phone: 465-5256
Date/Time: 3/14/08 5:16 PM
Date: 3/17/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB243(CRA)
() Publish Date: _____

Identifier (file name): HB243CSCRA-DNR-DCOM-03-20-2008 Dept Affected: Natural Resources
Title An Act Relating to the Alaska Coastal Management Program RDU Resource Development
Component Coastal & Ocean Mgmt
Sponsor Rep. Joule, Edgmon
Requester H CRA Component Number 2680

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services								
Travel	284.0		284.0	284.0	284.0	284.0	284.0	284.0
Contractual	890.0		10.0	10.0	10.0	10.0	10.0	10.0
Supplies	10.0		10.0	10.0	10.0	10.0	10.0	10.0
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	1,184.0	0.0	304.0	304.0	304.0	304.0	304.0	304.0

CAPITAL EXPENDITURES								
-----------------------------	--	--	--	--	--	--	--	--

CHANGE IN REVENUES ()								
-------------------------------	--	--	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF	1,184.0		304.0	304.0	304.0	304.0	304.0	304.0
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL	1,184.0	0.0	304.0	304.0	304.0	304.0	304.0	304.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

This following issues contained within CSHB243 (CRA) will have the following fiscal impact.

Travel & Supplies - Based on the level of state agency authority transferred to the Coastal Policy Board, it's expected that the Board will need to meet at least twice a month to fulfill the obligations and provide the services outlined in the proposed legislation.

Prepared by: Randy Bates, Director
Division: Coastal & Ocean Management
Approved by: Tom Irwin, Commissioner
Natural Resources

Phone 907-465-8797
Date/Time March 20, 2008
Date March 20, 2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. CSHB243(CRA)

ANALYSIS CONTINUATION

In order to re-write the guiding regulations, the Division of Coastal & Ocean Management (DCOM) will need to secure contractual services for the promulgation and final Department of Law review of the regulations (\$50.0 in the first year). Additional legal advice to support the board's required actions is expected to cost \$10.0 annually.

In order to revise, amend and approve the district coastal management plans, additional funds will be required. These funds are granted to the individual districts to make their plan updates. Based on past requests for funding the district plan amendments and the anticipated level of revision, an estimated additional \$840.0 will be required.



Lake and Peninsula Borough

*P.O. Box 495
King Salmon, Alaska 99613*

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



March 18, 2008

The Honorable Representative Gabriel LeDoux
State Capitol, Room 412
Juneau, Alaska 99801-1182

Subject: HB 243, an Act relating to the Alaska Coastal Management Program; and establishing the Alaska Coastal Policy Board

Dear Representative LeDoux,

The Lake and Peninsula Borough would like to provide the following comment regarding the proposed HB 243, an Act relating to the Alaska Coastal Management Program (ACMP); and establishing the Alaska Coastal Policy Board that is currently in committee in the Alaska Legislature.

The Lake and Peninsula Borough supports HB 243 because it requires the Alaska Department of Environmental Conservation (ADEC) to participate in consistency reviews that affect air, land and water quality, clarifies the criteria for the approval of district enforceable policies, establishes the Coastal Policy Board, eliminates the requirement for designated areas, and reestablishes the protection of subsistence as an objective of the Alaska Coastal Management Program as well as the recognition of subsistence values concerning land usage adjacent to the water. I will try to address each issue below and how these topics have affected the program since the passage of HB 191 in 2003.

AIR AND WATER QUALITY

1. **Background:** The ACMP statutes were amended by HB 191 (Chapter 24 S.L.A. 03) to remove Alaska Department of Environmental Conservation (ADEC) authorizations from individual ACMP reviews. Removal of ADEC authorizations from ACMP reviews has resulted in a number of unanticipated problems:

- a. Confusion about what specific activities are included in the scope of review. This lack of clarity occurs when a project requires an ADEC authorization or an Environmental Protection Agency authorization or when it involves Outer Continental Shelf (OCS) activities.

b. The Alaska Department of Natural Resources (ADNR) is not following guidance it issued regarding its review of activities not regulated by federal NPDES or 404 permits (i.e., the guidance states that such activities not addressed by the ADEC or Army Corps of Engineers must be part of coordinated ACMP review).

c. As a result of this change districts can no longer comment on activities regulated by ADEC that affect other coastal uses and resources. For example, effects from an oil spill or other discharges on subsistence uses and resources can no longer be considered because this activity is excluded from the coordinated ACMP review, and the agency has no regulations or statutes that address effects of discharges on subsistence.

2. CLARIFIES CRITERIA FOR ENFORCEABLE POLICIES

This bill better clarifies the intent in Section 19, which addresses AS 46.40.070 in several paragraphs by being more specific on policy approval. This is critical to the coastal districts as it will allow the districts to establish local control through policies that were previously denied by DNR Staff when plans were reviewed. It amends three criteria for approval of enforceable policies to better clarify what policies may address. It clarifies the legislative intent of Chapter 24 SLA 03 (HB 191) to allow districts to establish enforceable policies for activities that may affect a coastal use or resource.

3. ESTABLISHES THE COASTAL POLICY BOARD

The establishment of the Coastal Policy Board is the key to the success of this bill as it returns control of the approval of district coastal management plans back to the districts. This will happen because the members of the Coastal Policy Board will be appointed from the coastal districts of Alaska who are much closer to local issues and will more closely understand and relate to the unique issues districts face when writing policies for plan approval. This bill also establishes the Board's role in the mediation of decisions on the approval of district plans as well as gives the Board approval authority for plans mentioning areas meriting special attention.

4. SUBSISTENCE IS NOW INCLUDED IN THE ACMP

Subsistence is very important to the culture of the citizens within the Lake & Peninsula Borough. This bill adds subsistence to the values included in the Alaska Coastal Management Plan objectives.

In summary the Lake and Peninsula Borough is in support of HB 243 as it requires the Alaska Department of Environmental Conservation (ADEC) to participate in consistency reviews that affect air, land and water quality, clarifies the criteria for the approval of district enforceable policies, establishes the Coastal Policy Board, eliminates the

requirement for designated areas, and reestablishes the protection of subsistence as an objective of the Alaska Coastal Management Program. We encourage all committees to please hear this bill and move it along as soon as possible.

Finally the Lake and Peninsula Borough does not support any recommendations that suggest a working group or committee be formed to resolve the problems created by HB191 from 2003. This move is simply a stall tactic by those making that recommendation. However, we encourage the legislators to act on this bill as it will not require districts to re-write their plans but specifically requires DNR/DCOM to make the regulations more specific and puts local control back where it belongs.

We thank you for the opportunity to comment on this very important bill. If you have questions please contact Marv Smith at 907-246-3421.

Sincerely,

A handwritten signature in cursive script, appearing to read "Glen Alsworth".

Glen Alsworth
Mayor/Lake and Peninsula Borough

STATE OF ALASKA

SARAH PALIN, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF COASTAL AND OCEAN MANAGEMENT
<http://www.alaskacoast.state.ak.us>

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February 22, 2008

ACMP Participant

RE: Re-evaluation of ACMP

Dear ACMP Participant:

As you know, in 2003 the Alaska State Legislature mandated the reform of the ACMP that included revised statutes, regulations, district coastal management plans, and other ACMP processes, and included deadlines for those revision efforts. Though the reform effort is nearing its completion, it has not been without its difficulties. The Department of Natural Resources (DNR) has had a challenging time managing and implementing the change process and the reform efforts. During the process, DNR has heard from the various participants on the successes and failures of the changes, and on the efforts to implement those changes, most recently during public testimony on Senate Bill (SB) 161.

Although the State opposes SB 161 for a variety of reasons, DNR does support the concept of re-evaluating certain changes that were made to the ACMP. Specifically, DNR recognizes the need and is interested in re-evaluating the following statutory and regulatory provisions of the ACMP:

- Revisit the DEC carveout (i.e., coordination of review involving DEC authorizations, application of other ACMP enforceable policies to DEC authorized activities, etc.)
- Revisit the coastal district's authority and ability to write enforceable policies, revisit the requirements for designated areas to address certain coastal uses and resources
- Address the consistency review scope of the project (i.e., aspects of the project that are subject to review)
- Make other necessary clarifying and technical edits to the regulations

At the 2007 ACMP conference in Juneau, DNR Commissioner Tom Irwin announced DNR's intention to re-evaluate the ACMP changes. I re-affirmed DNR's commitment to evaluating these changes in my testimony on SB 161 on January 29, 2008. While we previously established an informal timeframe for this re-evaluation to begin in July 2009, it is obvious, based on the input that DNR has heard, that we need to begin the program re-evaluation sooner than originally identified. With this in mind, it is my intention to formally and openly re-evaluate the ACMP changes identified above by inviting input from the networked participants (coastal districts, state agencies, industry, and members of the public). Based on that input, DNR will prepare a responsive statutory

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."

ACMP Participants – ACMP Re-evaluation

February 22, 2008

Page 2

proposal for consideration during the 2009 legislative session, and a subsequent regulatory package for implementing the changes. The proposed schedule for this re-evaluation and development of proposed changes to the ACMP laws is as follows:

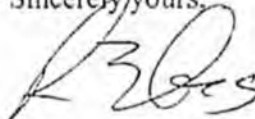
- June 2008 – Complete the review of the *List of Expedited Consistency Reviews and State Authorizations Subject to the ACMP* (i.e., the “ABC List”)
- July 2008 – Initiate a 30-day comment period to solicit input and suggested statutory and regulatory revisions
- August-October 2008 – Develop proposed statutory revisions
- November 2008 – Hold workshops to go over proposed statutory revisions; initiate a comment period to solicit input
- December 2008 – Finalize proposed statutory revisions
- January 2009 – Introduce bill addressing proposed statutory revisions.
- March through August 2009 – Promulgate and finalize regulatory revisions implementing the revised statutes (as appropriate) and addressing other identified regulatory revisions.

The DCOM has identified this re-evaluation of the ACMP within the *2006 Enhancement Grants Program Assessment and Strategy*, meaning DCOM has prioritized this initiative and identified it as eligible for federal funding under the ACMP. This effort is important to the success of the ACMP, and will be completed within the timeframes described above.

This re-evaluation is intended to identify and develop additional changes to the ACMP that will strengthen the ACMP as a State program, that will benefit applicants and the public in the coordination of projects, and that will enhance the coastal district participation and input into State decision-making regarding activities occurring in the coastal area and on the outer continental shelf.

I look forward to initiating the re-evaluation of the ACMP. Your participation in this effort is important to the future and success of the program.

Sincerely yours,



Randy Bates
Director

cc: DCOM Staff
Legislators
Coastal Districts
Coastal Currents “e-list”

Alaska Oil and Gas Association



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

March 19, 2008

TO: House Community and Regional Affairs Committee

Re: HB243 – Alaska Coastal Management Program

The Alaska Oil and Gas Association (AOGA) is a private, nonprofit trade association whose 17 member companies account for the majority of oil and gas exploration, development, production, transportation, refining and marketing activities in Alaska.

AOGA and its members have been actively engaged in the Alaska Coastal Management Program since the program was first established some 30 years ago. We were engaged with the state and local districts in the development of their respective plans at that initial stage, and have continued to be involved in subsequent revisions to the program over the last three decades.

Perhaps no other industry in Alaska has had more experience with the program than the oil and gas industry. It is for that reason that we have remained engaged throughout the comprehensive statutory and regulatory revisions of the program that began in 2003 with passage of HB191 and continue today.

As you know, the Department of Natural Resources had planned to begin a re-evaluation of the program in July, 2009. This timeframe would have provided a year-long period of time to gain experience operating under the new program to identify whether additional changes were warranted.

On February 22, 2008, the Department of Natural Resources announced it will initiate this review process one year earlier than planned. While we continue to believe that the full year of implementation and experience would have been valuable to assess future program revisions, the DNR review process now before us should be allowed to be completed.

The Alaska Coastal Management Program along with other local, state, and federal permitting and regulatory programs that guide planning and development in the State of Alaska's coastal zone are comprehensive and expansive. It will take time and considerable resources to conduct a program review with the objective of "getting it right". We encourage your Committee and the rest of the Alaska Legislature to, at a minimum, allow the Department of Natural Resources process to be carried out prior to moving forward with statutory changes to the Program.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Marilyn Crockett".

MARILYN CROCKETT
Executive Director