

11607 HOUSE RESOURCES

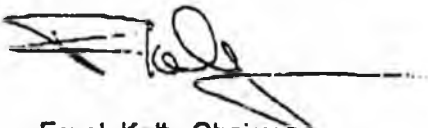
meaningfully participate in state consistency reviews. The AWCRSA has completely revised their coastal policies based on initial guidance only to find, in mid-December, that recent DNR guidance mandates a choice between further revisions or to choose to submit a potentially unacceptable document. DNR's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

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

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

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

Sincerely,



Frank Kelly Chairman,
Aleutians West Coastal Resource Service Area

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

March 10, 2005,

Senator Gary Stevens

Subject: Testimony Regarding SB 102

Senator Stevens:

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

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

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

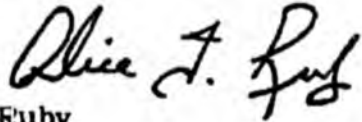
We embarked on our plan updates in good faith. Through no fault of the hard work of a dedicated staff at the Office of Project Management and Permitting, we believe seeking an extension to the deadlines imposed by HB 191 is the best course of action at this point.

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

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

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

Sincerely,

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

Alice Fuby
Chair, Bristol Bay CRSA



Lake and Peninsula Borough

P.O. Box 495
King Salmon, Alaska 99613

Telephone: (907) 246-3421

Fax: (907) 246-6602



November 29, 2004

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

Subject: Alaska Coastal Management Program (ACMP)

Dear Representative Ledoux:

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

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

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

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

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

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

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

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

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

How can this be resolved?

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

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

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

2. Provide the districts with additional funds for planning as the under-defined policy writing we have been tasked with to date, is not the proper way to plan, but is rather, planning in reverse order. With the time extension suggested in Point # 1 more funds might be allocated each year and could accommodate the three year, phased planning concept while allowing pursuit of additional federal funding.

3. Reinstate local control such as the Coastal Policy Council. As it is now DNR has total control over every district plan and its contents. We (the districts) have no say, nor is there any local input as to how plans are written as was the case when there was a Coastal Policy Council.

4. Reinstate Air, Land and Water Quality into the program. It is impossible to manage a coastal program without having to interact with Air, Land and water quality.

5. Rewrite the regulations to allow districts to have enforceable policies that have a direct management affect on their anadromous lakes and streams. The current habitat standards do not accomplish that! The Lake and Peninsula Borough can write policies on Lake Iliamna, however because Lake Iliamna is in an area not directly affected by sea water, the policy would have no "due deference". Rewrite the regulations governing habitat standards and specifically allow our lakes to be within the Coastal Boundaries of the Lake and Peninsula Borough where policies may be written that have due deference during coastal consistency reviews. Why is Lake Iliamna so special? There are several reasons. Lake Iliamna is the largest fresh water lake in Alaska, the largest natural red salmon hatchery in the world and one of two lakes in the world that has a native population of freshwater seals. All other large lakes within the Borough are within National Parks or National Wildlife refuges. There is no such protection for Lake Iliamna. Over 80 percent of the shore line is privately held. The potential for uncontrolled development in future years is very high without adequate guidance and oversight.

6. Rewrite the regulations to allow districts to write enforceable policies on subsistence. At the conference in October we were informed by OPMP that districts could not write policies on subsistence. This is in direct conflict with testimony given by legislators and DNR staff during the passing of House Bill 191.

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

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

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

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

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

Sincerely,



Glen Alsworth, Sr.
Mayor

CC:

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

Senator Gary Stevens
112 Mili Bay Road
Kodiak, Alaska 99615

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

**CITY OF DILLINGHAM
Dillingham, Alaska**

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

A RESOLUTION OF THE COUNCIL OF THE CITY OF DILLINGHAM, ALASKA, CALLING FOR THE CONTINUATION THE ALASKA COASTAL MANAGEMENT PROGRAM AND AN EXTENSION OF THE DEADLINE FOR SUBMISSION OF COASTAL DISTRICT MANAGEMENT PLANS.

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

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

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

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

THEREFORE, BE IT RESOLVED that the Dillingham City Council urges the Twenty-Fourth Alaska State Legislature to:

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

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

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

APPROVED AND ADOPTED this _____ day of _____, 2005.

SEAL:

Chris Napoli, Mayor

ATTEST:

City Clerk

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

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

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

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

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

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

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

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

Coastal District Management Plans

2/2

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

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

Signed:

Attest:

Luki Akelkok, Sr.

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

February 25, 2005

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

RE: Alaska Coastal Management Program (ACMP)

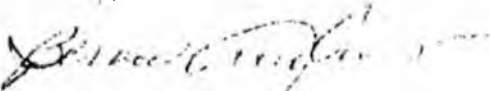
To the Honorable Representative Carl Moses,

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

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

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

Sincerely,



Berna Andrews
Mayor

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



Cenaliulriit Coastal Resource Service Area

PO Box 61, Mekoryuk, AK 99630 / Phone: 907-827-8748 / Fax: 827-8749 / E-Mail: cenaliulriit2@sterband.net
Toll Free: 1-877-827-8747

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

Alaska Coastal Management Program Oversight Hearing

Thank you Chairman Paul Seaton and the Honorable Committee Members:

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

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

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

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

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

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

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

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

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

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

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

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

Digest -

Alaska Economic Report
Alaska Legislative Digest

Special Commentary

February 25, 2005
With Digest #07/05

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

Coastal zone management a major "headache"

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

Development of regulations for HB-191 are slow, uncertain

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

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

- Continued on next page

Revised A CMP more clear? Ludicrous, say critics

-Continued from preceding page

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

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

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

Coastal districts ask for an extension of their deadlines

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

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

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Anchorage Daily News

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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GOVERNOR SEEKS TO DEMOLISH SUBSISTENCE

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

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

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

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

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

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

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

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

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

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

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

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

Web posted Monday, February 28, 2005

Governor's coastal management stance erodes Alaska's rights

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

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

Bob Shavelson, Executive director, Cook Inlet Keeper, Homer



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Communities ask Legislature for delay on coastal program overhaul

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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LAWS OF ALASKA

2003

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CSHB 191(FIN) am

Chapter No.

AN ACT

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

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

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

5

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

8 **FINDINGS.** The legislature finds that

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

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

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

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

7 (4) the state has chosen not to enact legislation similar to 42 U.S.C. 4321 -
8 4370f (National Environmental Policy Act of 1969, as amended) and, in furtherance of the
9 legislative findings expressed in sec. 1(7), ch. 38, SLA 1994, the ACM² is not intended to
10 take the place of such a program;

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

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

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

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

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

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

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

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

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

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

3 (6) land

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

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

7 or

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

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

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

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

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

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

28 (B) the Department of Corrections;

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

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

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

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

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

7 (2) contract for necessary services;

8 (3) consult and cooperate with

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 district coastal management plans [PROGRAMS];

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (i) demonstrated as sensitive to development;

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

5 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (2) prepare proposed consistency determinations;

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

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

6 (B) may occur only if requested by

7 (i) the project applicant;

8 (ii) a state resource agency; or

9 (iii) an affected coastal resource district; and

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

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

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

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

16 (1) an activity that

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

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

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

24 and

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

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

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

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

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

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

15 (1) activities within the coastal zone; and

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

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

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

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

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

8 (2) are suspended

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (A) unified municipalities;

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

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

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

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

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

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

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

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

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

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

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

1 related security facilities that are dependent upon coastal locations;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (1) change the heading of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) a revision, addition, or deletion of

(A) a local ordinance; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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HOUSE STATE AFFAIRS COMMITTEE Representative Paul Seaton, Chairman

Sponsor Statement HB 189

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

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

In 2003, HB 191 substantially revised the state coastal program. The federal Office of Ocean and Coastal Resource Management (OCRM) must approve the revised program. OCRM has determined that additional revisions are necessary before they can grant approval.

The 2003 legislation included state-imposed deadlines for revisions to local coastal programs. Coastal Districts are attempting to follow the statutory directive to revise their programs to meet the new requirements. However, OCRM has identified problems with the state's guidance to local districts regarding the scope and content of their program. The state will have to revise regulatory guidelines for the local districts before the new program can be approved by OCRM. In turn, the local districts will have to re-revise their programs to meet the new guidelines. It is a waste of time, money and effort for districts to revise their plans before the state's program is federally approved and any necessary changes have been made.

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

ALASKA STATE HOUSE OF REPRESENTATIVES



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(907)-465-2689
FAX# (907) 465-3472
State Capital
Room 102

HOUSE STATE AFFAIRS COMMITTEE Representative Paul Seaton, Chairman

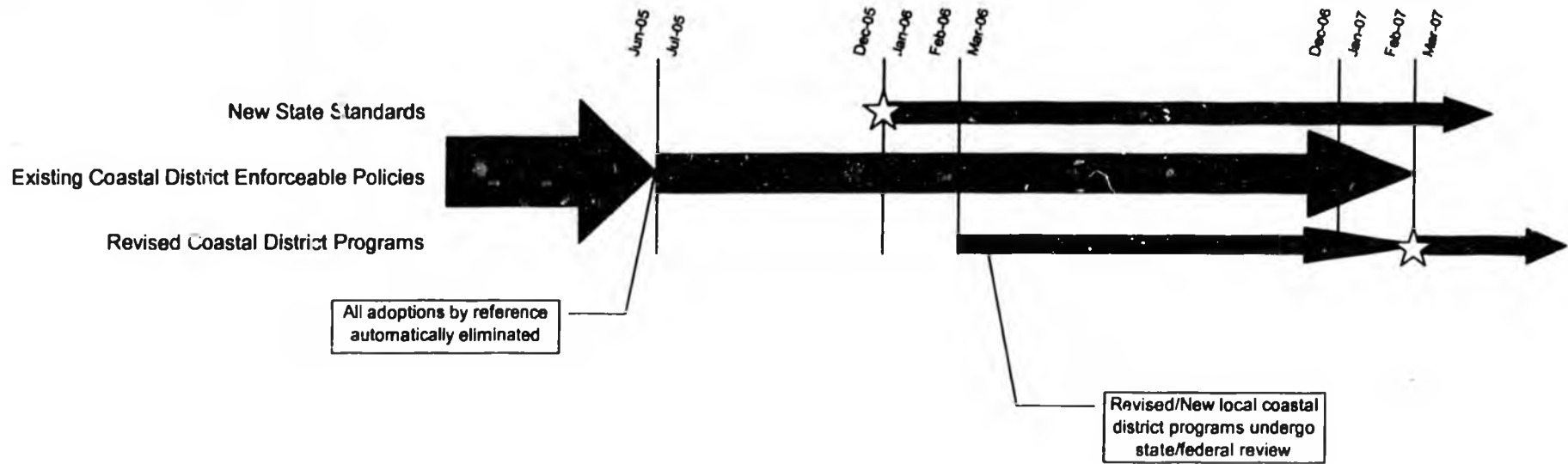
HB 189 Sectional Analysis

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

SECTIONAL

Senate Bill 102 (FIN)

Effects of Section 19



SB

144

ALASKA STATE LEGISLATURE



Official Business

SENATE RESOURCES COMMITTEE

Senator Tom Wagoner, Chair

State Capitol, Room 427

Juneau, AK 99801-1182

Phone: (907) 465-4907 Fax: (907) 465-4779

Senator Ralph Seekins, Vice-Chair

Senator Ben Stevens

Senator Kim Elton

Senator Fred Dyson

Senator Bert Stedman

Senator Gretchen Guess

Sponsor Statement

SB 144 - EMISSION CONTROL PROGRAM PERMITS/REGS

As part of Governor Murkowski's permit reform initiative, the 23rd Alaska Legislature passed CSHB 160 (Fin) in 2003. This law streamlined Alaska's air permitting by making the State's air permit rules mirror federal requirements.

However, in adopting the regulations to implement the new statute, the Department of Environmental Conservation (DEC) found several places where the statute did not meet federal requirements. If unaddressed, these deficiencies would prevent federal approval of Alaska's permit programs, and could jeopardize State primacy for these programs.

This bill makes technical changes to address certain specific deficiencies and to ensure continued State primacy in air permitting. It adopts federal definitions to ensure the State's program is consistent with federal law, and repeals definitions not needed in statute. For needed terms that are not defined in statute, the bill directs the department to define them in regulation consistent with federal law.

One change proposed by the bill is needed to ensure a solvent program. The air permit program is funded entirely by user fees. This bill would allow DEC to revoke a permit when the fees are not paid.

ALASKA STATE LEGISLATURE



Official Business

SENATE RESOURCES COMMITTEE

Senator Tom Wagoner, Chair

State Capitol, Room 427

Juneau, AK 99801-1182

Phone: (907) 465-4907 Fax: (907) 465-4779

Senator Ralph Seekins, Vice-Chair

Senator Ben Stevens

Senator Kim Elton

Senator Fred Dyson

Senator Bert Stedman

Senator Gretchen Guess

Sectional Analysis

SB 144 - EMISSION CONTROL PROGRAM PERMITS/REGS

Sectional Analysis of SB 144 (relating to regulations, definitions, and permits under the emission control permit program)

SB 144 makes technical changes to the state air permits program needed for consistency with federal requirements. The bill also expands the department's authority to ensure payment of program fees.

Sec. 1. The first section of the bill better defines who needs a Clean Air Act Title V operating permit by using federal terminology. In AS 46.14.130(b)(1)&(2), the federal term "major source" is added and use of the term "stationary source" changed to more closely track the terminology used by CAA Title V to describe categories needing permits. Together with adoption of the federal definition of "major source" in section 2, these changes ensure that the state program will meet the minimum federal requirements needed for program approval by EPA. The current state program omits certain groups of stationary sources required to have a Title V permit under federal law.

Sec. 2. The second section adopts the federal definition of "major source" contained in CAA section 501 for purposes of AS 46.14.130. This change ensures that the state's operating permit program applies to all categories of sources enumerated under Title V of the CAA.

Sec. 3. Section three adds a new subsection AS 46.14.140(a)(15) directing DEC to use applicable definitions of the CAA or EPA implementing regulations when adopting air emission permit program regulations. This is a continuation of the department's effort to have our state air permit programs mirror their federal counterparts.

SECTIONAL

Sec. 4. Section four authorizes DEC to revoke a permit if necessary to secure payment of program fees or penalties awarded by the court for violations of state law. Currently AS 46.14.255(b) gives DEC leverage to stop work on permit applications or to refuse to issue a permit or permit change. However under the new minor permit program some permits will be continuous and, unless the permittee needs a permit modification, the statute as currently written cannot be used to compel payment after the permit is issued. Similarly, with the standard operating permit term of five years, there may be significant periods of time during which the department is not working on a permit renewal or other permit change for a given permittee. The addition of permit revocation authority will enhance the department's ability to obtain payment in those circumstances.

Sec. 5. Section five corrects the phrase "major stationary source" to read "major source" in AS 46.14.255(a) and makes other stylistic changes.

Sec. 6. Section six amends the definition of "emissions unit" to enable the department to use either of two federal definitions of the term as the context requires. The federal construction and operating permit programs use different definitions of the term for these respective permit programs. This amendment enables the state permit programs to more closely mirror the federal counterparts.

Sec. 7. Section seven substitutes a CAA definition for the term "stationary source" in lieu of EPA's regulatory definition for the Title I permit program. The CAA and EPA's implementing regulations use different definitions of the term "stationary source" depending upon the CAA program.

Sec. 8. Section eight repeals the statutory definition of the term "modification." The term "modification" has various definitions in the CAA and EPA implementing regulations. Adopting the applicable definition by regulation is less cumbersome and better enables the department to promulgate regulations mirroring the federal programs.

Sec. 9. Provides for an effective date of July 1, 2005.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSSB 144(RES)
 (S) Publish Date: 3/22/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Environmental Conservation
 Title Emission Control Program Permits/Regs RDU _____ Air Quality
 Component _____ Air Quality
 Sponsor Senate Resources
 Requester Senate Resources Component No. 2061

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	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0

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

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill will not have a financial impact on the Air Permits Program. The cost to administer the program remains unchanged.

Prepared by: John Kuterbach, Air Permits Program Manager Phone (907) 465-5103
 Division Air Quality Date/Time 3/18/05 11:00 AM
 Approved by: Kurt Fredriksson, Acting Commissioner Date 3/18/2005
 Agency Environmental Conservation

STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

**DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF AIR QUALITY
DIRECTOR'S OFFICE**

555 Cordova Street
Anchorage, AK 99501-2617
PHONE: (907) 269-7634
FAX: (907) 269-3098
TDD/TTY: (907) 269-7511
<http://www.state.ak.us/dec/>

February 1, 2005

Roscoe G. Bicknell
Bicknell Inc
AEDCO All Mix Asphalt Plant
PO Box 33517
Juneau, AK 99803-3517

Re: Proposed Legislation That May Interest You

Dear Mr. Bicknell:

As you know, the Department of Environmental Conservation recently revised its air quality permitting rules. Some facilities that previously required a Title V operating permit will now require only a minor source permit. Unlike the Title V permits which terminate and are subject to renewal every five years, many of these minor source permits do not require renewal. Department records indicate that one or more of your facilities may fall into this category.


The department is seeking a change in law to create a fee collection tool applicable to minor source operators. The purpose of this letter is to make you aware of our legislative proposal and to explain the logic and need for it. The new permits will continue to be fee-based and the department will continue to issue billings for applicable permit fees, send reminders for late fees, and review fee appeals as it has in the past. These collection efforts have been successful for the great majority of fee payers. While rare, the department has had to refuse to work on permit renewals for a few permittees in order to encourage payment of past due fees. Since the new minor permits do not need renewal, the department believes it needs a means to encourage payment of any long overdue fee billings.

We are seeking to have legislation introduced this session to allow the department to revoke a minor permit for non-payment of fees. The legislation will provide protections for the permittee. Revoking a minor permit would only occur when all other efforts to collect undisputed fees or work out a payment schedule have failed. For fees subject to dispute, if a fee appeal has been submitted, the permit could not be revoked until the dispute is resolved.

We believe this added authority benefits the vast majority of permittees by helping to ensure that all permittees pay their allocated share. Because the air permit functions are almost exclusively funded through user fees, any accumulated bad debt will eventually result in all other permittees paying a higher fee. We believe it's in everyone's best interest to avoid this situation.

If you have any questions about this legislation or believe this legislative proposal has serious problems, please call me at (907) 269-7634 or John Kuterbach, the air permits program manager, at (907) 465-5103.

Sincerely,


Tom Chapple
Director

"Clean Air"

DEC SUPPORT

MINOR GENERAL PERMITS

Project ID	Facility Name / Location	Responsible Party	Address	City	State	Zip
113GP301	Wasilla Asphalt Plant	AAA Valley Gravel	PO Box 876418	Wasilla	AK	99687-2453
732GP301	Sitka Asphalt Plant	Aggregate Construction Inc	401 Granite Creek Rd	Sitka	AK	99835
021AC008	Alaska Complete Tank SRU	Alaska Complete Tank	2700 Huffman Rd	Anchorage	AK	99516
3910P301	AEDCO Asphalt Plant	Alaska Roadbuilders	44482 Frontier Ave	Soldotna	AK	99669
392GP901	GP9 Crusher	Alaska Roadbuilders	44482 Frontier Ave	Soldotna	AK	99669
393GP301	Adam Drum Mix Asphalt Plant	Alaska Roadbuilders	44482 Frontier Ave	Soldotna	AK	99669
341GP302	AEDCO All Mix Asphalt Plant	Bicknell Inc	PO Box 33517	Juneau	AK	99803-3517
626GP301	AEDCO All Mix Asphalt Plant	Bicknell Inc	PO Box 33517	Juneau	AK	99803-3517
783GP301	SE Paving Wylie 3140	Bicknell Inc	PO Box 33517	Juneau	AK	99803-3517
332GP302	AESCO Madsen DM7228 Drum	Brechan Enterprises Inc	2705 Mill Bay Rd	Kodiak	AK	99615
794GP901	Near Island Crusher	Brechan Enterprises Inc	2705 Mill Bay Rd	Kodiak	AK	99615
795GP901	Bella Flats Crusher	Brechan Enterprises Inc	2705 Mill Bay Rd	Kodiak	AK	99615
479GP301	Asphalt Plant	Brice Incorporated	PO Box 70668	Fairbanks	AK	99707-0668
775GP902	Brice Crusher	Brice Incorporated	PO Box 70668	Fairbanks	AK	99707-0668
400GP302	Builders Asphalt Plant	Builders Services Inc	PO Box 809	Homer	AK	99603
212GP301	Asphalt Plant	COLASKA Inc	240 W 68th Ave	Anchorage	AK	99518
246GP301	AEDCO 60" Drum Plant	COLASKA Inc	240 W 68th Ave	Anchorage	AK	99518
247GP301	Astec Super Six Pack	COLASKA Inc	240 W 68th Ave	Anchorage	AK	99518
248GP301	CMI Plant A248	COLASKA Inc	240 W 68th Ave	Anchorage	AK	99518
423GP301	AEDCO 42" Drum Plant	COLASKA Inc	240 W 68th Ave	Anchorage	AK	99518
424GP301	CMI 2500 Plant	COLASKA Inc	240 W 68th Ave	Anchorage	AK	99518
498GP301	Cedar Rapids Asphalt Plant	COLASKA Inc	240 W 68th Ave	Anchorage	AK	99518
347GP301	Eagle River Asphalt Plant	Emulsion Products	20130 New England Dr	Eagle River	AK	99577
097GP301	Sealand Pit Asphalt Plant	Exclusive Landscaping & Paving Inc	PO Box 58136	Fairbanks	AK	99711-0136
312GP301	Stansteel Asphalt Plant	H & H Contractors	PO Box 60610	Fairbanks	AK	99706
848GP901	Hamilton GP9 Crusher	Hamilton Construction LLC	465 Pease Rd	Burlington	WA	98233
219GP301	Drum Mix Asphalt Plant	Harris Sand & Gravel Inc	PO Box 6	Valdez	AK	99686
597GP301	Pioneer Drum Mix Asphalt Plant	Harris Sand & Gravel Inc	PO Box 6	Valdez	AK	99686
800GP901	Valdez Crusher	Harris Sand & Gravel Inc	PO Box 6	Valdez	AK	99686
412GP301	CMI UVM-250	Herdon & Thompson LLC	PO Box 1548	Seward	AK	99664
832GP901	Wrangell Airport Quarry Crusher	Kucwit Pacific Company	PO Box 1769	Vancouver	WA	98668-1769
338GP301	Kruk Asphalt Plant	Kruk Construction	PO Box 3757	Seattle	WA	98124
611GP902	Seward Crusher	Metro Inc	2701 Seward Hwy	Seward	AK	99664
176GP301	X551 CMI Hot Plant	North Star Paving & Construction	265 Wilson Lane	Soldotna	AK	99669
776GP301	NuVuk Asphalt Plant	NuVuk Construction LLC	5300 A St	Anchorage	AK	99518
366GP301	Fairbanks Asphalt Plant	Paving Products Inc	PO Box 80430	Fairbanks	AK	99708
596GP301	AESCO MADSEN DM Asphalt Plant	Pruha Corporation	2193 Viking Dr	Anchorage	AK	99501
616GP301	CMI Asphalt Plant	Pruha Corporation	2193 Viking Dr	Anchorage	AK	99501
799GP901	QSAO Crusher Palmer	Pruha Corporation	2193 Viking Dr	Anchorage	AK	99501
801GP301	ASTECC Drum Mix Asphalt Plant	Pruha Corporation	2193 Viking Dr	Anchorage	AK	99501
346GP301	AEDCO Asphalt Plant	Secor Inc	PO Box 32159	Juneau	AK	99803-2159
357GP301	Stansteel 3000 Asphalt Batch Plant	Secor Inc	PO Box 32159	Juneau	AK	99803-2159
358GP301	Stansteel TMS0	Secor Inc	PO Box 32159	Juneau	AK	99803-2159
788GP902	Secor Crusher Ketchikan	Secor Inc	PO Box 32159	Juneau	AK	99803-2159
615GP301	Boring Asphalt Plant Anchorage	SKW Eskimos Inc	PO Box 92479	Anchorage	AK	99509-2479
204GP401	Soil Remediation Unit	Soil Processing Inc	207 E Northern Lights Blvd Ste 103A	Anchorage	AK	99503
401GP301	Movable Facility	Tagish Constructi	PO Box 1306	Haines	AK	99827
X150	Tesorro Asphalt Plant	Tesorro Alaska Petroleum	PO Box 3369	Kenai	AK	99611-3369
792GP401	TPS Technologies SRU Cold Bay	TPS Technologies Inc	7400 E McDonalds Dr Ste 3-123	Scottsdale	AZ	85250
175GP301	Central Paving Products Hot Plant	Wilder Construction	11301 Lang St	Anchorage	AK	99515

177GP301 X700 Barber Green Hot Plant
178GP301 X400 Cedar Rapids Hot Plant
192GP301 Pioneer Batch Plant
441GP901 X800 Portable Crusher
442GP901 X900 Portable Crusher

Wilder Construction
Wilder Construction
Wilder Construction
Wilder Construction
Wilder Construction

11301 Lang St
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99515

SB

164

ALASKA STATE LEGISLATURE

SESSION

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(877) 463-3873 Toll Free
Senator_Bert_Stedman@legis.state.ak.us



INTERIM

50 Front Street
Ketchikan, AK 99901-6442
Phone (907) 225-8088
Fax (907) 225-0713

SENATOR BERT K. STEDMAN

SPONSOR STATEMENT CSSB 164(FIN)

“An Act relating to the salmon product development tax credit; providing for an effective date by amending an effective date in sec. 7, ch. 57, SLA 2003; and providing for an effective date.”

Senate Bill 164 extends the deadline for salmon processors to receive a salmon product development tax credit. Under current law (AS 43.75.035), processors can claim the credit only for property first placed into service by the end of this calendar year (December 31, 2005). SB 164 would give processors three more years (until December 31, 2008) to claim the credit. The legislation also clarifies what types of items are eligible for the tax credit, to more effectively achieve the legislature's goal of encouraging Alaska's seafood processors to develop innovative value-added salmon products.

In 2003, the legislature passed and the Governor signed legislation that allows processors to claim a credit on the tax liability on new equipment they have purchased to add value to salmon using innovative processing techniques. The bill (HB 90) that became this law was proposed by the Joint Legislative Salmon Industry Task Force, and was part of an effort by Alaska's elected leaders and the fishing industry to create incentives for the industry to take investment risks and produce new salmon products that add value to our salmon. It has worked: a number of processors have taken advantage of this tax credit. SB 164 extends the deadline for applying for the credit for another three years, to the end of 2008. In addition, the bill defines the kind of investment that qualifies for the credit, making it clear that processors should be producing new, innovative salmon products in order to benefit from this program. The legislation has been drafted in consultation with the Tax Division of the Department of Revenue, incorporating lessons learned in the first two years of administering the credit, to ensure that management and enforcement are efficient and effective.

Senate Bill 164 is supported by many Alaskan salmon processors and fishermen as a valuable tool in improving the quality and net worth of our wild salmon.

Contact: Tim Barry, Aide to Senator Bert Stedman at (907) 465-3873

DISTRICT A

Ketchikan • Sitka • Petersburg • Wrangell

Pelican • Elfin Cove • Port Alexander • Seward • Meyers Chuck • Thorne Bay • Coffman Cove • Hollis

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 164
 (S) Publish Date: 4/18/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue 04
 Title Salmon Product Development Tax Credit PDU Tax and Treasury
 Component Tax
 Sponsor Sen. Stedman
 Requester Sen Resources Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()			(1,000.0)	(1,500.0)	(1,000.0)	(500.0)
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2005) cost: 0.0
 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)*

See page 2

Prepared by: Chuck Harlamert Phone 465-2320
 Division: Tax Division Date/Time 4/13/05 12:37 PM
 Approved by: Tom Boutin, Deputy Commissioner Date 4/13/2005
 Agency: Revenue

FISCAL NOTE # 1

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. SB 164

ANALYSIS CONTINUATION

The bill extends the existing credit for investment in processing equipment used to produce value-added salmon products by three years through 2008. The credit is the result of legislative recommendations of the Joint Legislative Salmon Task Force and was designed to encourage in-state processing of salmon beyond heading and gutting and the development of value-added salmon products in the state. Credits may be applied against tax in the year generated and the three subsequent years. Use of the credit in any tax year is limited to one half of the fisheries business tax on salmon that is processed in the state.

Based on credit claims for the most recent tax year (2004) we project investments generating \$1.5 million of credits in each of the three tax years 2006-2008. These credits will be applied against tax only after pre-existing credits have been used or expired. We project that the credits arising under this bill will be used against fisheries business tax liabilities for 2008-2010 to reduce receipts during FY08-FY11.

The bill also clarifies the definitions of qualified investment and value-added salmon products. These clarifications will improve taxpayer's ability to make investment decisions and avoid unanticipated liabilities.

LEGAL SERVICES

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

(907) 465-3887 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

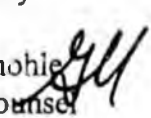
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 29, 2005

SUBJECT: Sectional summary of CSSB 164(FIN), An Act relating to the salmon product development tax credit (Work Order No. 24-LS0589\S)

TO: Senator Bert Stedman
Attn: Tim Barry

FROM: George Utermohle 
Legislative Counsel

You have requested a sectional summary of CSSB 164(FIN), an Act relating to the salmon product development tax credit.

As a preliminary matter, note that a sectional summary of a bill is not an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 of the bill amends AS 43.75.035(b) to extend until December 31, 2008, the period during which new property may be first placed into service to qualify for the salmon product development tax credit.

Section 2 of the bill amends AS 43.75.035(i)(3) by modifying the definition of "qualified investment" to further describe the kinds of tangible personal property that may qualify for the salmon product development tax credit.

Section 3 of the bill amends AS 43.75.035(i) by adding a definition of "value-added salmon product."

Section 4 of the bill amends AS 43.75.035(i)(6), which was added by sec. 3 of the bill, to amend the definition of "value-added salmon product" to exclude canned salmon products other than salmon products in pop-top cans. This section takes effect January 1, 2006.

Section 5 of the bill amends sec. 7, ch. 57, SLA 2003 by delaying the repeal of the salmon product development tax credit until January 1, 2012.

Section 6 of the bill provides that the credit for certain costs associated with the conversion of an existing can seamer to pop-top can production applies to parts first installed on existing seaming equipment on or after January 1, 2005.

Senator Bert Stedman
April 29, 2005
Page 2

Section 7 of the bill provides that sec. 4 of the bill takes effect January 1, 2006.

Section 8 of the bill provides that, except for sec. 4 of the bill, the bill takes effect on the day after the bill becomes law.

GU:jad
05-242.jad



MEMORANDUM

Frank H. Murkowski, Governor

DATE: April 15, 2005

TO: Senator Bert Stedman

FROM: Glenn Haight, Fisheries Development Specialist, Office of Economic Development

Re: Impact of value-added processing equipment on overall investment

CC: Chuck Harlamert, Chief Tax Division, Department of Revenue
Sally Saddler, Legislative Liason, Office of the Commissioner/DCCED

You asked if seafood processor investments into equipment eligible under AS 43.75.035(b) leads to related investments. The quick answer to your question is yes. Purchase of eligible equipment by an Alaska processor often indicates a significant departure from an existing product line such as head & gut, can, round, into new product like fillets, burgers, pouched, etc.

The Office of Economic Development is currently administering over seventy equipment and infrastructure grants through the Fisheries Revitalization Strategy. Over fifty of these grants were to seafood processing operators or seafood related businesses. A number of the grantees sought equipment that could qualify under the salmon tax credit program. Table 1 lists several tax credit qualified investments and the number of purchases supported by the Revitalization Strategy.

Table 1

Equipment	# Purchased
Blast Freezer	17
Fillet Machine	13
Labeler	1
Lox Slicer	1
Mincer	1
Pinbone Machine	18
Smoker	9
Vacuum Packer	17

Through our review of applications and grant administration related to these equipment purchases, we are able to see what it takes to make the eligible equipment productive.

DCCED COMMENTS

The size of the additional investment depends on a number of factors including the existing condition of a plant and the existence of other equipment. Collateral

- Plant layout reconfiguring,
- Increased electrical and water capacity which may require plant improvements (boilers, plumbing, labor/services, drainage improvements, compressors),
- Ineligible, but essential, equipment, including headers, gutters, insulated totes, new tables, trim lines, sanitation improvements,
- Other tools and supplies, like knives, sharpeners, and other hand tools.

Value added equipment also increases economic activity in Alaska.

- Increased processing stretches out the amount of work performed by processing workers. Increasing permanent jobs in seafood processing may increase employment in the plants by Alaska residents.
- Maintenance of value added equipment requires greater work skills leading to higher paying jobs.
- Increasing the amount of economic activity in Alaska directly increases power and other utility use, locally purchased supplies and other direct expenses.
- Increases in value added activity usually requires more inputs, thereby increasing freight activity that should lower freight charges for other products, including consumer goods.

Long term benefits include bringing equipment manufactures to relocate certain operations in the State to lower their costs. Increasing efficiencies within the seafood industry allows Alaska production to compete more favorably with low labor cost countries, like China and Thailand. Increasing production over a longer period may require greater local cold storage capacity. Customer driven value-added lots of seafood prepared out of frozen product may increase shipments by air and road to the domestic market, providing important back haul on carriers operating under capacity.

This is a brief qualitative reply to a very important question. The Office may be able to provide a more quantitative report with additional time. If you have any questions regarding this information, please do not hesitate to contact me at 907-465-5464.

Southeast Alaska Fishermen's Alliance

9369 North Douglas Highway
Juneau, AK 99801



Phone 907-586-6652 Fax 907-586-5648 E-mail: seafa@gcl.net

April 7, 2005

Senator Wagner
Senate Resources
Alaska State Legislature
Juneau, AK 99801

Support for SB 164

The Southeast Alaska Fishermen's Alliance supports SB 164, which would provide a tax credit to encourage the industry to invest in new value-added salmon products and salmon utilization. This tax credit has existed the last two years and has helped many processors and direct marketers by providing a tax break for expensive machinery that updates and adds value to our salmon resources.

It is important for the salmon industry to look at investments that will help change the products that we offer in the marketplace to meet current consumer demands. We need to produce more convenient food products such as filleting, meal ready products and we need technology that will help use the lower quality, lower value salmon in a form rather than offering it in the marketplace as frozen, headed and gutted fish.

This legislation was originally discussed and supported by the Salmon Industry Task Force, processors and fishing associations as a way to help the salmon industry move forward. The work towards modernizing our processing plants is not finished and the tax credit will help to continue to encourage innovation and thinking outside of the traditional means.

The Southeast Alaska Fishermen's Alliance is a non-profit membership based fishing organization representing our members involved in the salmon, crab, shrimp and longline fisheries of Southeast Alaska. Please feel free to call us regarding commercial fishing issues if we may be of any help to you or your staff.

Sincerely,

A handwritten signature in black ink that reads "Kathy Hansen".

Kathy Hansen
Executive Director

SUPPORT LETTERS

OCEAN BEAUTY SEAFOODS, INC.

April 7, 2005

Senator Bert Stedman
Alaska State Capital, Room 30
Juneau, AK 99801-1182

RE: *Senate Bill 164*

Dear Senator Stedman:

I am pleased to advise you of Ocean Beauty Seafoods, Inc. support of **Senate Bill 164**, which relates to a salmon product tax credit for the production of value-added salmon.

Ocean Beauty has made significant investments in Value-Added capacity at our Excursion Inlet and Alitak plants in the past year. In both plants we have added equipment that allows us to produce once-frozen PBO fillets. At Excursion Inlet we have also added a state-of-the-art mincing operation that gives us the ability to expand production of burgers and sausages made from Alaskan wild salmon.

Producing once-frozen fillets in Alaska has enabled us to improve product quality, and in the process create jobs and increase the price paid to the fishing fleet. Installing the Excursion Inlet mincing operation expands overall production capacity, giving us the freedom to purchase more fish, and also gives us the ability to keep the plant open later in the season. In both cases, incremental jobs are created, and the mincing operation also extends jobs later into the season.

A 2003 study by the McDowell Group estimated that the economic impact on Southeast Alaska of the Excursion Inlet plant alone at \$23.8 million annually – and this estimate was made before the new VA equipment was in place. A current estimate would be considerably higher.

Do not hesitate to contact me, if I can provide additional information on this matter.

Sincerely,

Mark Palmer

Mark Palmer
Executive Vice-President

Cc: Tim Barry, Office of Senator Bert Stedman
Reed Stoops



UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 110
Juneau, Alaska 99801-1172
(907) 586-2820
(907) 463-2545 Fax
E-Mail: ufa@ufa-fish.org
www.ufa-fish.org

April 12, 2005

Senator Thomas Wagoner, Chair
Senate Resources Committee
Alaska State Legislature
State Capitol (Mail Stop 3100)
Juneau AK 99801-1182

Dear Senator Wagoner,

United Fishermen of Alaska (UFA) supports Senate Bill 164 regarding salmon product development tax credits for value-added equipment.

In 2003, the Joint Legislative Salmon Industry Task Force introduced and passed HB 90. UFA supported this effort at that time as a way to help processors make necessary transition in product development efforts, towards products that can better compete in the changed global salmon markets. Many of these efforts have paid off in new products that are competing successfully in the marketplace. According to the USDA Agricultural Statistics Service, imports of salmon products to the U.S. declined in 2004, for the first time since 1992. UFA feels that the multi-faceted efforts of the Alaska State Legislature, Administration and federal support combined with fishermen and processors are making progress in securing our foothold in the US market while also increasing our salmon exports.

SB 164, with its specific emphasis on tax credits for equipment that adds value to salmon products, is one part of the formula that can result in a positive return on investment to the state. The state and communities will benefit through increased raw fish taxes based on the ex-vessel price to fishermen, if processors raise ex-vessel prices commensurate with the increased wholesale prices they are seeing from these combined efforts.

We appreciate the consideration of the Senate Resources Committee and encourage support of Senate Bill 164.

Sincerely,

Mark Vinsel
Executive Director



ICICLE

April 15, 2004

Senator Thomas Wagoner, Chair
Senate Resources Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

RE: SB 164 Extending salmon product development tax credit

Dear Senator Wagoner and Committee Members,

I wish to express our support for SB 164, an act that would extend the salmon product development tax credit program through 2008.

We utilized the salmon product development tax credit program in 2003 for the purchase of equipment that allows us to produce salmon roe (ikura) that is packaged using a modified atmosphere. These products have a much longer shelf life because they are not subject to oxidation and the formation of bacteria. In this form, the product has higher customer acceptance and can be available over a longer period of time to consumers.

In 2004, we used the salmon utilization tax credit program to install new equipment in the salmon meal and oil production plant at our Seward facility. The new equipment has enabled us to run more pounds of salmon through our facility, make products from salmon parts that would normally be part of our waste stream, and produce salmon oil with a higher quality and value than we were able to previously. In addition, it has allowed us to be more aggressive in purchasing salmon, opened up opportunities that would not have been available to us previously, and more fully utilize everything we purchase. This resulted in benefits for our company, our salmon fleet, the hatcheries, the community of Seward and the State of Alaska.

Properly applied, the salmon product development and utilization tax credit program is beneficial and can provide the incentive to make needed capital improvements a rational choice during economically challenging times.

I encourage your support of SB 164 and respectfully request you consider including tax credits for salmon meal and oil production equipment.

Sincerely,
ICICLE SEAFOODS, INC.

Don Giles
President & CEO

ICICLE SEAFOODS, INC.

4019-21st Avenue West • Seattle, WA 98199



ICICLE

May 6, 2005

Representatives Ralph Samuels and Jay Ramras
Co-chairs, House Resources Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

RE: CS SB 164 Extending salmon product development tax credit

Dear House Resource Committee Members,

I wish to express our support for CS SB 164, an act that would extend the salmon product development tax credit program through 2008.

We utilized the salmon product development tax credit program in 2003 for the purchase of equipment that allows us to produce salmon roe (ikura) that is packaged using a modified atmosphere. These products have a much longer shelf life because they are not subject to oxidation and the formation of bacteria. In this form, the product has higher customer acceptance and can be available over a longer period of time to consumers.

In 2004, we used the salmon tax credit program to install new equipment in the salmon meal and oil production plant at our Seward facility. The new equipment has enabled us to run more pounds of salmon through our facility, make products from salmon parts that would normally be part of our waste stream, and produce salmon oil with a higher quality and value than we were able to previously. In addition, it has allowed us to be more aggressive in purchasing salmon, opened up opportunities that would not have been available to us previously, and more fully utilize everything we purchase. This resulted in benefits for our company, our salmon fleet, the hatcheries, the community of Seward and the State of Alaska.

Properly applied, the salmon product development tax credit program is beneficial and can provide the incentive to make needed capital improvements a rational choice during economically challenging times.

Your support of CS SB 164 would be most appreciated.

Sincerely,
ICICLE SEAFOODS, INC.

Kris Norosz
Government Affairs

PETERSBURG FISHERIES

A DIVISION OF ICICLE SEAFOODS, INC.

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