

ALASKA LEGISLATURE COMMITTEE FILES, 2000-2000 00/2

11726 SENATE COMMUNITY & REGIONAL AFFAIRS

## Summary SB 86 (Liability of State and Municipalities for Attorney Fees)

- Since territorial days, Alaska has had a statutory policy of requiring a losing party in most civil cases to pay a portion of the prevailing party's attorney fees. Soon after statehood, this policy was embodied in Civil Rule 82, which the Supreme Court adopted under a legislative delegation. In most cases, the prevailing party receives a partial fee award, no more than 20 percent of a money judgment or 30 percent of actual fees in a non-monetary case.
- SB 86 addresses the use of state or municipal funds to subsidize certain types of litigation through awards of attorney fees to prevailing parties that are higher than the partial awards that are the norm in Alaska. The legislation would limit these enhanced awards to instances in which the legislature has made a policy judgment to provide for them by statute.
- Enhanced fee awards against state and municipal governments—the amount over normal partial compensation—represents a significant impact on the state fisc and, on a more irregular basis, on local government treasuries. Ordinarily, the basis for these enhanced fee awards has been the judicially-created public interest litigant policy, where selected litigants suing to advance ends deemed by the court to reflect strong public policies are granted full fees as a subsidy from the state treasury.
- For the state alone, over last 10 years that impact averages almost \$600,000 per year above normal "partial" compensation
- SB 86 creates a new provision in the chapter of title 9 devoted to immunities.
- It relies on the legislature's constitutional authorities to regulate suits against the state and to confer immunities on the state and municipalities, as well as on the doctrine of sovereign immunity.
- It sets limits on liability are similar to the limits that courts have found for years to represent fair partial compensation to a prevailing party.
- These limits do not apply to condemnation proceedings or in other instances where the legislature has provided for enhanced fee awards by statute.
- There is also an exception allowing courts to enhance attorneys fees as a sanction for misconduct by a party or their counsel.
- SB 86 asserts legislative control over state expenditures, based on policy priorities determined by the legislature.

5686



FRANK H. MURKOWSKI  
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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 27, 2005

The Honorable Ben Stevens  
President of the Sena  
Alaska State Legislature  
State Capitol, Room 111  
Juneau, AK 99801-1182

Dear President Stevens:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to, as a matter of sovereign immunity, limit the award of attorney's fees against the state and municipalities.

Since territorial days, Alaska has had a statutory policy of requiring the losing party in most litigation to pay a portion of the prevailing party's attorney fees. In recent years, this policy has been embodied primarily in Alaska Rule of Civil Procedure 82, which the Alaska Supreme Court adopted in response to a legislative delegation, made immediately following statehood, in AS 09.60.010. In most cases, the prevailing party receives a partial fee award, equal to no more than 20 percent of a money judgment or 20 percent of actual fees in a non-monetary case.

In cases brought against state or local governments, departures from the general rule of partial fee reimbursement have occurred with some regularity, with the governmental party required to reimburse all of the prevailing party's fees. Ordinarily, the basis for these enhanced fee awards has been the judicially created public interest litigant policy, wherein selected litigants bringing suits to advance ends deemed by the court to reflect strong public policies are granted full fees as a subsidy from the state treasury. The cost of this subsidy has been significant to the state in all recent fiscal years and, on a more irregular basis, has been significant to the municipalities targeted by such lawsuits.

There are instances where a Legislative policy sufficiently supports full attorney fee awards and the legislature has chosen to provide for them by statute. Full reimbursement is also important for eminent domain proceedings. Beyond these contexts, the Legislature has not identified a policy that would support a direct public subsidy to private litigants that goes beyond the traditional norm of partial fee awards. To ensure that public money is not disbursed as a subsidy to these litigants without an appropriate legislative authorization, this bill would provide, as a matter of sovereign immunity, that the state or a municipality would not be liable for an attorney fee award in excess of certain percentages of a money

COMMITTEE COPY

The Honorable Ben Stevens

January 27, 2005

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judgment or, if a money judgment is not recovered, certain percentages of the reasonable actual attorney fees the prevailing party incurred in litigating the issues upon which the party prevailed. This would prevent enhanced fee awards against the state or municipalities that are not authorized by statute, but leave those governments open to the standard partial fee awards called for in the Civil Rule 82 fee schedule.

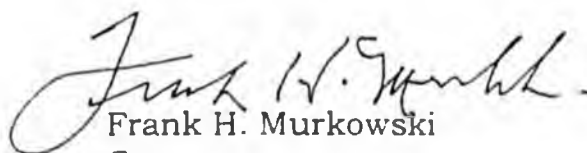
Section 1 of the bill describes the purposes of the Legislation. It notes the fiscal impact of enhanced fee awards, and specifically relies on the legislature's constitutional authorities in regulating this area. Section 1 states clearly that this bill, if enacted into law, would neither preclude nor repeal specific statutes authorizing the award of costs or fees in particular situations.

Section 2 of the bill would create a new provision in the chapter of AS 09 devoted to immunities. It provides that for civil actions or appeals in which a money judgment is recovered, the state and municipalities are not liable to pay more than 20 percent of the money judgment. In civil actions in which no money judgment is recovered, the liability of the state and municipalities for attorney fees for cases that go to trial is capped at 30 percent of the reasonable actual attorney fees that were necessarily incurred in litigating issues on which the party prevailed, and 20 percent for cases that do not go to trial. For appeals in which no money judgment is recovered, the liability of the state and municipalities for attorney fees is capped at 20 percent of reasonable actual attorney fees that were necessarily incurred in litigating issues on which the party prevailed. These limits on liability are very similar to the limits that courts have found for years to represent fair partial compensation to a prevailing party. These limitations do not apply if the statutes provide differently, if the courts determine it is appropriate to award attorney fees as a sanction for misconduct by a party or the party's counsel, or in cases involving the condemnation of property under the power of eminent domain.

Section 3 of the bill would make the bill, if enacted into law, applicable only to civil actions or appeals initiated after it takes effect.

I urge your prompt consideration and passage of this bill.

Sincerely yours,



Frank H. Murkowski  
Governor

Enclosure

## **Sectional Analysis of SB 86 (Liability of State and Municipalities for Attorney Fees)**

SB 86 addresses the use of state or municipal funds to subsidize certain types of litigation through awards of attorney fees to prevailing parties that are higher than the partial awards that are the norm in Alaska. The legislation would limit these enhanced awards to instances where the legislature has made a policy judgment to provide for them by statute.

**Sec. 1.** The findings, purpose, and intent section notes the fiscal impact of enhanced fee awards, and determines that except where provided by specific statute, where needed as a court sanction, or in the context of an exercise of eminent domain, no public policy sufficiently supports such awards to justify their fiscal impact. The section relies on the legislature's constitutional authorities to regulate suits against the State and to confer immunities on the State and municipalities, as well as on the doctrine of sovereign immunity. Section 1 states that this Act neither precludes nor repeals specific statutes authorizing the award of costs or fees in particular situations.

**Sec. 2.** The single substantive provision of the bill creates a new provision in the chapter of title 9 devoted to immunities. It provides that for civil actions or appeals in which a money judgment is recovered, the state and municipalities are not liable to pay more than 20 percent of the money judgment as an attorney fee award to the adverse party. In civil actions where no money judgment is recovered, the liability of the state and municipalities for attorney fees for cases that go to trial is capped at 30 percent of the reasonable actual fees that were necessarily incurred in litigating issues on which the party prevailed, and at 20 percent of the same figure for cases that do not go to trial. For appeals in which no money judgment is recovered, the liability of the state and municipalities for attorney fees is capped at 20 percent of reasonable actual fees that were necessarily incurred in litigating issues on which the party prevailed. These limits do not apply where statutes provide differently, where the courts determine it is appropriate to award attorney fees as a sanction for misconduct by a party or their counsel, or in cases involving the condemnation of property under the power of eminent domain.

**Sec. 3.** The Act will apply only to civil actions or appeals initiated after the Act becomes effective.

**Sec. 4.** The Act will take effect immediately.

Prepared by:

Alaska Department of Law  
February 4, 2005

from:  
Scott  
Brandt-  
Erickson

# THE COMMUNITY OF KETCHIKAN

## ISSUE STATEMENT

### AMENDMENT OF PROPERTY TAX REFUND COSTS

#### ISSUE SUMMARY:

AS 29.45.200 addresses the jurisdiction of the board of equalization. It allows a municipal board of equalization to hear appeals from the determination of the Municipal Assessor. AS 29.45.210 provides that the only grounds for adjustment of assessment are proof of unequal, excessive, improper, or under valuation based on facts that are stated in a valid written appeal or proven at the appeal hearing.

There are two very different types of appeals which find their way to the board of equalization review process. The traditional type is an appeal based on the valuation of the property. The other is an appeal asserting that the property, or some portion of it, is exempt from tax. AS 29.45.200 also allows a taxpayer to appeal the assessor's determination on an exemption directly to Superior Court.

A valuation appeal generally involves a determination of facts as to whether the valuation procedure applied by the assessor was sound and whether other similarly situated properties are valued similarly. More often than not, the determination of entitlement to an exemption involves not just questions of fact, but also questions of law interpreting the mandatory and optional exemptions allowed under AS 29.45.030 and AS 29.45.050. Boards of equalization are often not well suited to make interpretations of law.

While boards of equalization may be well suited to deciding questions of fact, they are rarely trained or well equipped to address questions of law. As a result boards of equalization may concur with the assessor, effectively passing the legal issue of entitlement to an exemption on to the Superior Court. Other times they may seek advice from their municipal attorney. The taxpayer, and the affected municipality are better served if questions of law regarding entitlement to exemptions are determined by the Superior Court on an appeal from the determination of the assessor.

The significance of this issue, and the impact of delay in getting finality of review from the Superior Court on exemption appeals, has resulted in an unintended trap for municipalities. The trap comes from the interrelationship between the timing of Superior Court appeals and the impact of AS 29.45.500.

The Legislature adopted AS 29.45.500 in 1985 as part of the re-write of Title 29. This section has been litigated in four Supreme Court decisions since 1985. Three of the four decisions focused on the entitlement of a taxpayer to its costs incurred in its efforts to recover taxes paid under protest. All three included fact situations where the taxpayer had asserted that it was exempt, paid the taxes under protest, brought a separate suit to recover the taxes paid under protest, and consolidated their appeal from the assessor's determination on an exemption with the suit to recover the taxes. Some taxpayers in cases of this type have argued that they are entitled to their full costs and attorney's fees even if the appeals result in only a nominal reduction in their tax liability. The Alaska Supreme Court in each case has let stand the Superior Court interpretation of AS 29.45.500 allowing the taxpayer to recover all of their costs, including attorneys fees, for all proceedings both before the board of equalization and in the courts.

continued on page 12



# THE COMMUNITY OF KETCHIKAN

continued from page 11

This situation puts an inappropriate level of pressure on boards of equalization which may, in many cases, be composed of lay persons without legal training. It also opens the appeal process to abuse in an attempt to obtain a windfall at the expense of the other taxpayers. As an example, the process can proceed as follows: The assessment is made as of January 1 of the tax year. Notices of assessment are sent out in February, and appeals are dealt with prior to certification of the tax roll. The tax roll must be certified by June 1st, and taxes must be levied by June 15th. Tax bills are sent out in July. A party may appeal their valuation or exemption determination to the board of equalization. This appeal is to be concluded before certification of the tax roll. However, a further appeal to the Superior Court is unlikely to be decided before the June 1 deadline for certification of the assessment roll.

If the roll is certified including a parcel which is or may be appealed to the Superior Court, the taxpayer will receive a bill while the appeal is pending. The taxpayer can then pay the tax under protest and bring a suit under AS 29.45.500 to recover the taxes paid under protest, plus their full costs and attorney's fees. The pendency of a suit to recover taxes paid under protest, and all costs and attorneys fees, raises the stakes for the municipality if any reduction in the tax liability results in full recovery of fees.

Arguably, the assessor could omit properties which are under appeal to the Superior Court in order to avoid the problem, but this option has two flaws. First, the time for appeal to the Superior Court may not have run by the time the roll must be certified. Second, if a property owner can delay the duty to pay taxes without penalty by appealing to the Superior Court, it may encourage appeals simply to delay the payment obligation.

A more sensible approach would preclude a suit to recover taxes paid under protest, and the associated potential liability for costs and attorneys fees, until after appeals of the valuation or entitlement to an exemption are finally decided. If a municipality refuses to refund any excess taxes paid after a final adjudication of the amount of the taxpayer's liability, then an award of full costs and attorneys fees would be warranted. However, allowing full costs and attorneys fees where there is an appeal pending imposes an unfair penalty on the municipality. The taxpayer has little incentive in such a situation to seek resolution of the appeal in a low cost expedient manner because they would receive full costs and attorneys fees if they prevail.

Another potential application of this problem arises if the taxpayer does not appeal, but simply waits and pays under protest and sues to recover the amount paid, alleging that the tax is improper because they are exempt. In such a situation the municipality is at a distinct disadvantage.

The proposed bill would address these problems by:

1. Providing that appeals from the assessor's determination as to an exemption are directly to the Superior Court, and not to the board of equalization;
2. Providing that a suit to recover taxes paid under protest, if the protest is based on a dispute as to valuation or entitlement to an exemption, cannot be brought until the underlying appeal from the assessor's determination is concluded and the municipality fails to refund any monies due within 30 days;
3. Providing that a taxpayer who is appealing a determination of the assessor may post a bond with the Court in the amount of the taxes allegedly due in order to avoid late payment penalties.



# FISCAL NOTE

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

Fiscal Note Number: 2  
Bill Version: SB 86  
(S) Publish Date: 1/31/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: LAW  
Title: "An Act relating to the liability of the state and municipalities for attorney fees..." RDU: CIVIL  
Component: Labor & State Affairs  
Sponsor: \_\_\_\_\_ Component No.: \_\_\_\_\_  
Requester: Governor

**Expenditures/Revenues** (Thousands of Dollars)

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

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

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

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

Estimate of any current year (FY2005) cost: 0.0

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

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill would, as a matter of sovereign immunity, limit the award of attorney fees against the state and municipalities. Though the bill will apply to almost all actions against the state and municipalities, it will have a particular effect on attorney fees awarded to parties determined by the courts to be public interest litigants. HB 145, passed by the legislature in 2003, has been challenged in court and found by the superior court to be unconstitutional because it was viewed as requiring a court rule change, thus needing a two-third vote by both houses of the legislature, which it did not receive. In addition the court found it to be an unconstitutional denial of due process and equal protection insofar as it required public interest litigants to pay attorneys fees. That decision is being appealed to the Alaska Supreme Court. This bill responds to the Superior Court decision by narrowly focusing on the award of fees against the state or municipality and limiting the award to the amount applicable under Civil Rule 82 unless

Prepared by: Kathryn Daughhete, Director Phone: 465-3673  
Division: Administrative Services Division Date/Time: 12/9/04 4:09 PM  
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date: 12/9/2004  
Agency: Department of Law

FISCAL NOTE #2

STATE OF ALASKA  
2005 LEGISLATIVE SESSION

BILL NO. SB 86

**ANALYSIS CONTINUATION**

otherwise provided for in specific statutes, or if the courts determine it is appropriate to award attorney fees as a sanction for misconduct by a party or the party's counsel, or in cases involving the condemnation of property under the power of eminent domain.

Passage of this legislation will not have a foreseeable fiscal impact on the Department of Law

# FISCAL NOTE

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

Fiscal Note Number: 1  
 Bill Version: SB 86  
 (S) Publish Date: 1/31/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title: An act relating to liability for attorney RDU: Risk Management  
fees in certain civil actions Component: Risk Management  
 Sponsor: \_\_\_\_\_ Component No: 71  
 Requester: \_\_\_\_\_

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below

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

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

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

Estimate of any current year (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Section 2 provides enhanced immunity for State and municipalities to not be liable to pay attorney fee awards exceeding those provided for in Civil Rule 82 (unless otherwise provided by specific statute).

Risk Management is not affected by this new limitation.

Any monetary judgment awarded on personal injury (tort) actions against the State of Alaska covered by the Risk Management self insurance program are presently addressed by Civil Rule 82 - which remains unchanged.

Prepared by: J. Brad Thompson, Director Phone: 465-5723  
 Division: Risk Management Date/Time: 12/10/04 10:46 AM  
 Approved by: Michael Tibbles, Deputy Commissioner Date: 12/10/2004  
 Agency: Department of Administration

**SB**

**102**

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# Senator Gary Stevens

## Alaska State Legislature

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### SPONSOR STATEMENT

#### SB 102, COASTAL MANAGEMENT PROGRAMS (March 10, 2005)

Senate Bill 102 is a straightforward solution to a problem facing many of Alaska's coastal district management programs. This bill changes the deadline for Alaska's coastal districts to submit their revised coastal management plans to the Department of Natural Resources from July 1, 2005 to July 1, 2006 (established through HB 191 in 2003), and comes in response to requests by municipal planners for more time to complete this time consuming and difficult process.

As the state and federal government work to resolve differences with the state's guidance to local districts regarding the scope and content of the their program, it makes no sense for coastal districts to rush to meet the current July 1, 2005 deadline, only to have to re-revise the plan again in the future. SB 102 will provide ample time and opportunity for coastal districts to ensure an orderly and efficient transition to the new program.

I urge your support of this important measure.



# *Kodiak Island Borough*

## *OFFICE of the MAYOR*

710 Mill Bay Road

Kodiak, Alaska 99615

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

January 14, 2005

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

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

Dear Gary and Gabrielle:

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

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

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

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

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

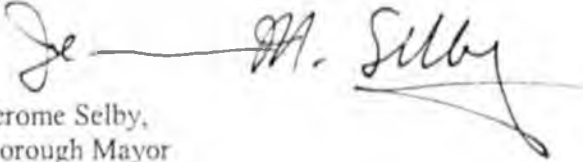
I understand there will be legislative hearings later this month to investigate some of the problems with the ACMP. The Kodiak Island Borough looks forward to participating in these hearings.

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

Sincerely,

OFFICE OF THE BOROUGH MAYOR

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

Jerome Selby,  
Borough Mayor

March 10, 2005,

Senator Gary Stevens

Subject: Testimony Regarding SB 102

Senator Stevens:

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

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

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

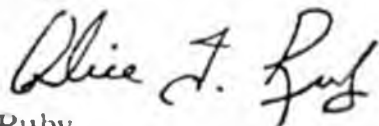
We embarked on our plan updates in good faith. Through no fault of the hard work of a dedicated staff at the Office of Project Management and Permitting, we believe seeking an extension to the deadlines imposed by HB 191 is the best course of action at this point.

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

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

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

Sincerely,

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

Alice Ruby  
Chair, Bristol Bay CRSA

Web posted Tuesday, February 22, 2005

## **Rough times face coastal management** ***Bills seek to extend deadline for districts to update plans***

**By HAL SPENCE**  
Peninsula Clarion

Two bills introduced in the Alaska House and Senate last week seek to provide coastal communities more time to revise their district coastal management plans that currently are due in March.

That's a deadline they are unlikely to meet.

Current law requires coastal municipalities, including the Kenai Peninsula Borough, to submit draft management plan revisions to the Alaska Department of Natural Resources by next month.

That would leave enough time for the drafts to be reviewed, a 21-day public comment period held, and revisions adopted before a July 1, 2005 deadline established by HB 191, a bill that became law in 2003 that created a new coastal management program and established the Coastal Program Evaluation Council.

HB 191 called for updating local coastal plans to conform to the new state program, and the Kenai Peninsula's 15-year-old management plan was no exception. But local districts had to await certain state actions before they could launch their own revision efforts.

The borough was finally able to begin rewriting its local district plan last fall. In September, the Kenai Peninsula Borough Assembly accepted a \$50,000 grant from the Alaska Department of Community and Economic Development and appropriated a \$10,000 match from borough funds to cover the costs of the wholesale update of the borough document.

That left just seven months to meet the March deadline.

Dan Bevington, then the borough's coastal management coordinator, called the March deadline ambitious and unrealistic, yet he warned that future funding for the borough's coastal management program could be put in jeopardy if the borough failed to meet it. Bevington has since resigned his job with the borough.

Now, House Bill 146, offered by Rep. Beth Kerttula, D Juneau, and Senate Bill 102, submitted by Senate Majority Leader Gary Stevens, R-Kodiak, would give communities wrestling to update their out-of-date coastal management plans a reprieve by extending the July 1, 2005, deadline as far out as July 1, 2006.

As local districts pursue that work, the Department of Natural Resources has been trying to make its proposed amendments to the Alaska Coastal Management Program fit provisions of federal coastal management regulations. In September, state officials submitted proposed amendments to the Office of Ocean and Coastal

Resource Management (part of the National Oceanic and Atmospheric Administration), which must, in turn, determine that the proposed state revisions are consistent with the National Environmental Policy Act.

In November, the state was informed its submission was not sufficient for the OCRM to make a finding of preliminary approval. The state submitted a revised amendment Dec. 16.

On Jan. 28, OCRM Director Eldon Hout outlined several issues still to be resolved to ensure compatibility between the state and federal programs and the environmental policy act and said the federal agency still could not issue a finding of preliminary approval.

He noted that failure to meet the July 1 deadline set by HB 191 would leave Alaska with no enforceable statewide coastal management standards, and only the existing, already approved district plans in force.

Hout recommended that the state continue to rely on existing Alaska Coastal Management Plan regulations and that the Legislature remove or extend the July 1 deadline established by HB 101. The bills introduced by Kerttula and Stevens seek to do just that.

Meanwhile, officials from the local districts have expressed concerns that new state regulations, if adopted, would serve to limit the local voice in coastal-management decisions.

Among the ideas included in the yet-to-be-approved state amendments is a concept called "flow from," that would limit the policies local district management plans could enforce. That is, district policies could only "flow from" a list of uses, activities and impacts within the state standards. For example, since state policy standards govern the placement of structures and discharge of dredged material into "coastal waters," a local district plan could not dictate where dredge material might be discharged on shore.

In another example, the proposed state amendments would leave local plans unable to address matters already regulated or authorized by state or federal law without first demonstrating a local concern under specific state statutes.

Thus, districts would have to analyze each intended district enforceable policy "to ensure not only that it 'flows from' an enumerated state standard, but also ascertain whether the matter is already regulated or authorized by state or federal law."

In 2003, backers argued that the new state law was intended to retain the benefits of federal coastal management law while eliminating duplication and complexities contained in the existing state program. Bob Shavelson, director of Cook Inlet Keeper, an environmental group dedicated to protecting the Cook Inlet watershed, had a different opinion.

He said the current difficulties state and local district officials face in writing approvable coastal management policies stem directly from HB 191 itself, which was

an attempt, he said, to "pull the teeth" out of a program "most people see as successful."

That bill, Shavelson said, was "hastily rammed through" by an administration seeking to eliminate local input into coastal management planning that it perceived to be an impediment to future resource development and resource revenue streams.

"The federal law (the Coastal Zone Management Act of 1972) was always envisioned as a local, state and federal partnership," Shavelson said. "Congress recognized you could not have effective coastal management without meaningful participation from local districts."

Sen. Gary Stevens said his bill, along with that of Kerttula, recognized that coastal districts simply need more time.

"The local communities were having too much trouble getting their own plans written," he said.

The same thing applies at the state level, he added.

Stevens said he tried to amend the state law last year in an attempt to extend the deadline, but was unsuccessful. Asked if he thought lawmakers were ready to approve a deadline change now, all he would say was, "I hope they are this time."



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL OCEAN SERVICE  
Silver Spring, Maryland 20913

MAR 3 2005

Fy 1

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

Dear Governor Murkowski:

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

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

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

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

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

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

Sincerely,

Richard W. Spinrad, Ph.D.  
Assistant Administrator

Enclosure



Printed on Recycled Paper



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24-LS0491VC  
Bullock  
5/2/05

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

BY

Offered:  
Referred:

Sponsor(s): SENATORS GARY STEVENS, Olson

A BILL

FOR AN ACT ENTITLED

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

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

5 \* Section 1. The uncodified law of the State of Alaska enacted in sec. 46(c), ch. 24, SLA  
6 2003, is amended to read:

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

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

3 (a) Within 18 months [ONE YEAR] after the effective date of regulations adopted by  
4 the Department of Natural Resources implementing changes to AS 46.40.010 - 46.40.090,  
5 enacted by secs. 8 - 15 and 44, ch. 24, SLA 2003 [OF THIS ACT], or by January 1, 2006  
6 [JULY 1, 2005], whichever is later, coastal resource districts shall review their existing  
7 district coastal management program and submit to the Department of Natural Resources for  
8 review and approval a revised district coastal management plan meeting the requirements of  
9 AS 46.40 [, AS AMENDED BY THIS ACT,] and the implementing regulations.

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

12 Sec. 49. Section 45, ch. 24, SLA 2003, takes effect <sup>March</sup> ~~February~~ 1, 2006.

13 \* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).



Sec. ~~46.40.0964~~ Consistency reviews and determinations.

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

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

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

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

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

(2) prepare proposed consistency determinations;

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

(A) is limited to a review by the department;

(B) may occur only if requested by

(i) the project applicant;

(ii) a state resource agency; or

(iii) an affected coastal resource district; and

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

(4) render the final consistency determination and certification.

(e) *[Repealed, Sec. 9 ch 29 SLA 2002].*

(f) *[Repealed, Sec. 9 ch 29 SLA 2002].*

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

(1) an activity that

AMC  
 JIST - 01-2-2005  
 A. 1/2/2005  
 B. 1/2/2005  
 C. 1/2/2005  
 for review

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

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

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

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

(h) Notwithstanding any other provision of law, and except with respect to an appeal filed by the applicant or an affected coastal resource district, or a claim based on the United States Constitution or the Constitution of the State of Alaska, a consistency determination made under this section is

(1) not subject to review, stay, or injunction by any court; and

(2) effective immediately.

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

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

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

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

(1) activities within the coastal zone; and

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

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

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

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

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

(2) are suspended

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

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

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

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

(q) In this section,

(1) "affected coastal resource district" means a coastal resource district in which a project is proposed to be located or which may experience a direct and significant impact from a proposed project;

(2) "reviewing entity" means the

(A) Department of Natural Resources, for a consistency review subject to AS 46.39.010 ;

(B) state agency identified in (b) of this section, for a consistency review not subject to AS 46.39.010 .

Sec. 46.40.100. Compliance and enforcement.

(a) As provided in AS 46.40.090 and 46.40.096, municipalities and state resource agencies shall administer land and water use regulations or controls in conformity with district coastal management plans approved under this chapter and in effect.

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

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

(d) *[Repealed, Sec. 9 ch 29 SLA 2002].*

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

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

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

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

(g) The opportunity to petition is limited to

(1) a coastal resource district;

(2) a citizen of the coastal resource district; or

(3) a state resource agency.

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

## Article 02. COASTAL MANAGEMENT PLANS IN THE UNORGANIZED BOROUGH

Sec. 46.40.110. Authority in the unorganized borough.

A coastal resource service area in the unorganized borough organized under AS 29.03.020 and AS 46.40.110 - 46.40.180 before May 22, 2003 shall exercise those authorities and perform those duties required under this chapter.

*Sec. 46.40.120, , 46.40.130 Coastal resource service areas; organization of coastal resource service area. [Repealed, Sec. 44 ch 24 SLA 2003].*

Repealed or Renumbered

Sec. 46.40.140. Coastal resource service area boards.

(a) Each coastal resource service area shall have an elected board representing the population of the service area. The board shall have the powers and duties and perform the functions prescribed for or required of coastal resource districts.

(b) A coastal resource service area board shall contain seven members. Board members shall be elected at large by the qualified voters of the coastal resource service area.

*(c) [Repealed, Sec. 44 ch 24 SLA 2003].*

(d) The term of office of a member of a coastal resource service area board is three years. Members serve until their successors are elected and have qualified. This section does not prohibit the reelection of a board member.

(e) The lieutenant governor shall provide for the election of the members of coastal resource service area boards.

(f) Election of members of coastal resource service area boards shall be held annually on the date of election of

AMENDMENT # 1

IN THE SENATE

To: CS SB 102 (FIN)

BY: SENATOR OLSON

TERRIAULT

G. STEVENS

Page 12, line 25:

Delete "(a)"

Page 12, line 31 through page 13, line 2:

Delete all material.

AMENDMENT # 2

OFFERED IN THE SENATE  
TO: CSSB 102(FIN)

BY SENATOR THERRIAULT

OLSON  
G. STEVENS

1 Page 12, line 5:

2 Delete "January 1, 2007"

3 Insert "March 1, 2007"

4

5 Page 12, line 6:

6 Delete "January 1, 2007"

7 Insert "March 1, 2007"

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR

TO: CSSB 102(FIN)

1 Page 12, line 24:

2 Delete "DUTIES OF THE DEPARTMENT OF NATURAL RESOURCES;"

3

4 Page 12, line 25:

5 Delete "(a)"

6

7 Page 12, line 29:

8 Delete "regulated"

9 Insert "that requires the issuance of a permit, certification, approval, or other

10 authorization"

11

12 Page 12, line 31, through page 13. line 2:

13 Delete all material.

AMENDMENT 1

final amdt.  
24-150491/K.1

OFFERED IN THE SENATE

BY SENATOR THERRIAULT

TO: CS SB 102 (FIN)

1. Page 12, line 29, delete "regulated"  
Insert "that requires the issuance of permits, certifications, approval or authorizations" by the department of environmental conservation are repealed and are declared null and void.
2. Page 12, line 31, Sec. 19. (b) delete all material.

EXPLANATION:

Sec. 19 was added in Senate Finance. This amendment modifies the adopted language in two respects:

1. The first part of the amendment is a technical change under subsection (a) conforming the language to track the specific wording contained in AS 46.40.040. The language "any matters regulated" is too broad. Existing law refers to matters that require the issuance of permits, certifications, approval or authorizations by the DEC.
2. The second part of the amendment deletes subsection (b) in its entirety. ((Coastal resource district enforceable policies (sic) that conflict with or address any matter contained in state standards approved under AS 46.40.040 are repealed and are null and void as of January 1, 2006.))

Subsequent review by staff determined this language might conflict with existing law (AS 46.40 as modified by HB 191) and create confusion regarding the status of existing enforceable policies while the new plans by coastal districts are under review.

★ Rush final floor amdt. Jhel x4925

Department of Natural Resources – Testimony  
Senate Bill 102  
Resources Committee  
Wednesday, April 6, 2005

Good afternoon Mr. Chair and members of the committee  
I am Randy Bates, Deputy Director of the Office of Project Management and Permitting  
(OPMP), which is within the Department of Natural Resources  
OPMP is the lead agency for the Alaska Coastal Management Program

I appreciate the request to testify on this bill  
I'd like to provide a brief overview of the ACMP and its current approval status with the  
federal oversight agency, particularly in relation to the bill before you

#### OVERVIEW OF THE ACMP

The ACMP is a voluntary State program

The value of the voluntary program, and the primary reason the State chose to participate,  
is that it provides the State with a formal role in the review and approval of federal  
activities and federally permitted activities that may affect coastal uses or resources  
within the State's coastal zone

The State began developing the ACMP in the mid- to late-70's, and deliberately chose a  
program structure that involved a coordinated project review process at the state  
level, comprised of state and local standards

The ACMP has been in place since 1979

The State component of the program includes the enabling statutes and implementing  
regulations that address the consistency review process, the state standards, and the  
guidance for district plan development

The local component includes an opportunity for a coastal district to develop a district  
coastal management plan that addresses specific and local coastal management issues

The local standards are referred to as district enforceable policies, which are included  
within a district plan; these district enforceable policies add specificity to the  
management of local coastal uses and resources

There are currently 35 coastal districts, 33 of which have approved coastal district plans  
The majority of the plans were developed in the 80's - the average age of a district plan is  
14 years

At current levels, the State receives approximately \$2.6 million dollars annually from the  
Office of Ocean and Coastal Resource Management (OCRM), the federal granting  
and approving agency

These monies, in addition to approximately \$2.0 million dollars of State and matching  
monies, are used to implement the ACMP

The State provides the local districts with approximately \$750.0 thousand dollars  
annually to implement their coastal plans

The State also provides additional funds to districts that are working on plan revisions

The ACMP began experiencing significant problems in the early 1990's

DNR Testimony – Senate Resources  
April 6, 2005

Recognizing the need to evaluate the program, an ACMP Steering Committee conducted a formal "assessment" of the ACMP from 1994-1996

The assessment generated various summary reports and resolutions, and identified many needed changes to the ACMP

Progress on the changes recommended by the ACMP Steering Committee and Coastal Policy Council (CPC), the ACMP's governing body at the time, were slow

Consequently, a bill was introduced in 1998 to repeal the Alaska coastal management program

As an alternative to repealing the program, in 2002 the Legislature passed SB 308, which required a district to amend their coastal plan if it incorporated by reference any statute or regulation adopted by a state agency – this particular issue was identified in the Assessment as a significant problem with a reasonably strategic fix

If a district ignored the mandate, the CPC was to strike those policies from the district's plan

This law, mandating coastal plan revisions, was never implemented; it is important to note, however, that HB 191 was introduced in March 2003, which shelved the planning efforts for compliance with SB 308

By 2003, it was obvious that over the last 20 years the ACMP had become a program that was regulatorily redundant with current state and federal laws, that the program was complex in its implementation, and that state and local enforceable policies were vague and subject to drastically inconsistent application on a case-by-case basis

In addition, the coastal management program was used by many coastal districts as a surrogate for implementing what were properly municipal planning functions through Title 29 of the Alaska Statutes

In 2003, HB 191 was introduced to reform and streamline the ACMP

HB 191 included specific deadlines for achieving ACMP reform

\*\*\* walk through timeline \*\*\*

## CURRENT STATUS OF THE ACMP

### District Plan Submission Deadline – SB 102

- We held a meeting with the coastal district representatives last week that was, in my opinion, very productive
- At the meeting, coastal districts confirmed that they would be able to meet the July 1, 2005 plan submission deadline
- DNR has worked with the district staff, consultants, and municipal officials to make sure they were aware of and understood the deadline and the need to be focused and strategic in their efforts to revise their coastal plans to comply with HB 191
- To assist those districts in plan revisions, we made available \$900.0 thousand dollars
- We also provided opportunities for sharing information and prepared various materials for them to succeed in developing and submitting their plan revisions by the deadline; These materials include a dedicated web site for downloading plan revision guidance, written responses to questions, an annotated bibliography,

DNR Testimony – Senate Resources  
April 6, 2005

sample enforceable policies, timelines for plan revisions and completions, model chapters for districts to cut, paste, and tailor to their district, and other such products

- The July 1, 2005 submission deadline gives districts "priority processing" under the regulations such that a revised plan can be reviewed and approved by DNR and OCRM in advance of the sunset deadline in 2006
- A district that fails to meet the submission deadline is not excluded from the ACMP – they can continue to work on plan revisions under the more general regulations at 11 AAC 114
- In addition, once a district has a revised plan in place, they can continue to amend and embellish their policies as they see fit – this is not a one time only planning process
- At the meeting last week, and in the Senate C&RA Committee hearing on SB 102, we did hear that the coastal districts would like more time to evaluate changes and provide more public education and involvement on the plan revisions, but would be able to meet the established deadline
- The CS for SB 102 will result in a fiscal impact – the result of declining and insufficient federal monies needed to keep critical staff on board for the coastal district plan reviews
- With due respect to the sponsor, his initiative, and the coastal districts, we believe the districts can in fact meet the deadline for plan submittals and for all the above reasons
- It is also important for our discussions with OCRM to keep deadlines in place

OCRM Approval

- All deadlines are irrelevant if we do not secure federal approval of the amended ACMP
- We have submitted our ACMP program document to OCRM for review and approval
- Our respective agencies have struggled to reconcile some basic philosophical differences regarding the degree to which the federal agency can mandate what Alaska's coastal program should manage and how that management should occur
- We are working with OCRM on the additional information they need in order to offer us preliminary approval
- OCRM's January 28 letter was a 49-page document setting out the changes they wanted as a condition of federal approval
- The Governor responded on February 23, 2005 that the program, as submitted, is approvable with minor, technical changes, and that Alaska would not further change our program
- We met in person with OCRM on March 9, 2005 to reinforce the Governor's message
- On March 25, OCRM responded with four issues that need to be resolved which supports Alaska's position that our program as prescribed by HB 191, and passed by the Legislature in 2003, is approvable

DNR Testimony – Senate Resources  
April 6, 2005

- We are working on a response to OCRM addressing the remaining four approvability issues
- We are expecting that response to go out today or tomorrow, and will be including a firm deadline for OCRM's response - April 14 – that should be the definitive answer on the approval of the amended ACMP

This overview brings you up to date, and provides background for further testimony you may hear

I am available to answer any questions

# Alaska Coastal Management Program

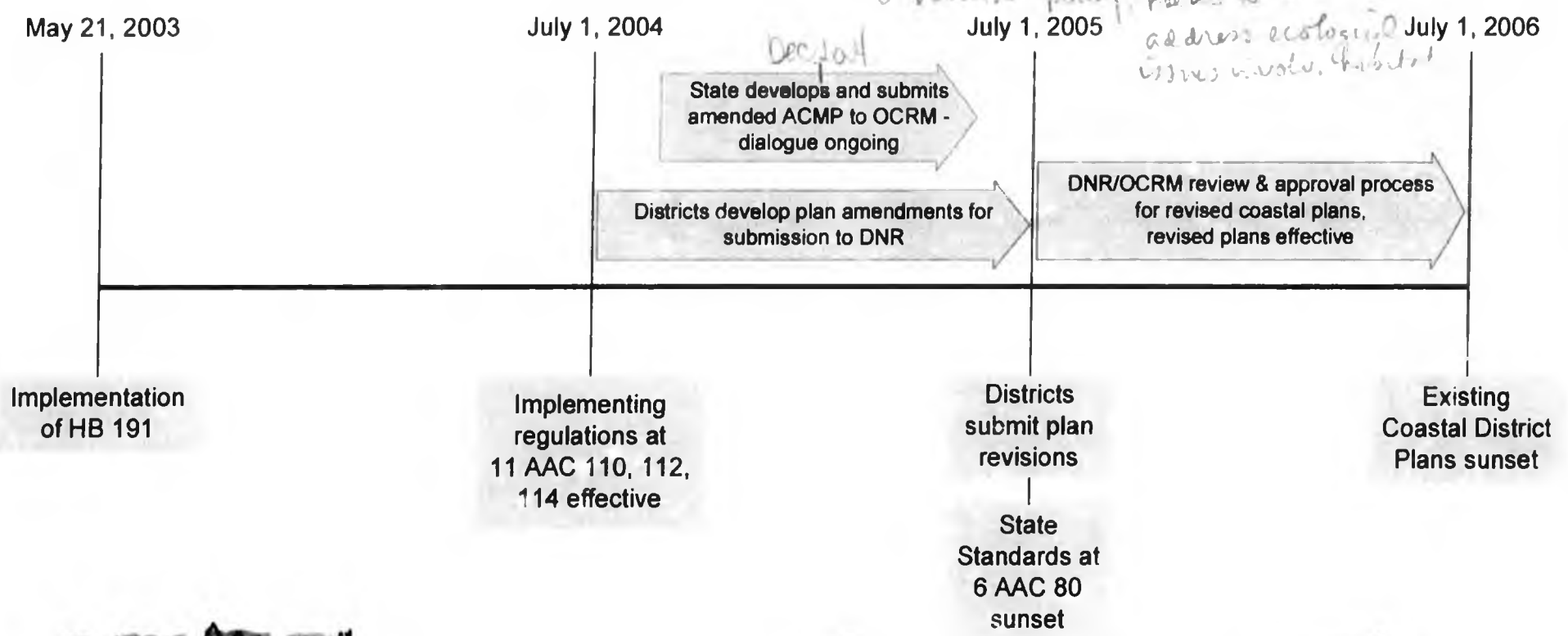
Department of Natural Resources - Office of Project Management and Permitting



Senate Resources Committee Hearing - April 6, 2005

*OCRM 3 issues = fed approvals*

- 1) Scope and Content = sea revisions = implementation related
  - applicable dist policies in design areas
  - local govt (Sunset of state stds./regs)
  - scope & content - must provide description of dist. plans
  - habitat & estuarine needs to address ecological issues involve habitat



ALASKA COASTAL MANAGEMENT PROGRAM

*OCRM*

*decomposing OCRM/decision*

*approval*

*lower by...*



## Alaska State Legislature

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

Sponsor: Senator Gary Stevens  
Current Version: SB 102  
Contact: Doug Letch, 465-4925

### Fact Sheet for: Senate Bill 102

**Short Title:** COASTAL MANAGEMENT PROGRAMS

**Summary:**

- Extends the deadline from July 1, 2005 to July 1, 2006 for coastal resource districts to submit revised district coastal management plans to the Department of Natural Resources for approval.

**Benefits:**

- Gives resource districts more time to submit revised coastal zone management plans while state and federal oversight agencies resolve outstanding issues.

**Background:**

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

# LEGAL SERVICES

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

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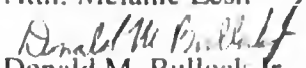
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

March 8, 2005

**SUBJECT:** Sectional Analysis for HB 146, HB 184, and SB 102

**TO:** Senator Gary Stevens  
Attn: Melanie Lesh

**FROM:**   
Donald M. Bullock Jr.  
Legislative Counsel

You have requested a sectional summary of the above-described bills. All three bills amend the Alaska Coastal Management program enacted as ch. 24, SLA 2003, and relate to the effect of NOAA's failure to approve the state's revised coastal management program.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bills as they may apply to a particular set of circumstances, please advise.

### HB 146

Sponsored by Representatives Kertula and LeDoux.

**Section 1.** Amends sec. 46, ch. 24, SLA 2003 to allow a district coastal management program to continue until a revised district coastal management plan is approved by the Department of Natural Resources (DNR). Without this amendment, the management plan would terminate on July 1, 2006, or earlier upon the disapproval or approval of a revised plan by DNR.

**Section 2.** Amends sec. 47(a), ch. 24, SLA 2003 by extending by 6 months (for a total of 18 months) the period in which coastal resource districts are required to review existing district coastal management programs and submit revised plans to DNR. Eliminates July 1, 2005 or the effective date of new regulations as the start of the period of review, and uses the approval date of the state's revised coastal management program by NOAA as the period start date.

**Section 3.** Delays the annulment of 6 AAC 80.010 - 6 AAC 80.900 and 6 AAC 85.020 - 6 AAC 85.900 until the date the commissioner of natural resources notifies the lieutenant governor that NOAA has approved the revised coastal management program. Without this amendment, the regulations would be annulled on July 1, 2005.

Senator Gary Stevens

March 8, 2005

Page 2

**Section 4.** Makes the Act effective immediately and will require a 2/3 vote in each house.

**HB 189**

Sponsored by the House State Affairs Committee.

This bill is identical to HB 146, analyzed above, but has a different sponsor.

**SB 102**

Sponsored by Senators Gary Stevens and Olson.

**Section 1.** Amends sec. 47(a), ch. 24, SLA 2003 by changing July 1, 2005 to July 1, 2006 as the start date for the period in which coastal resource districts are required to review their existing district coastal management programs and submit revisions to DNR.

**Section 2.** Makes the Act effective immediately and will require a 2/3 vote in each house.

DMB.med

05-163.med

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

Reviewer Name \_\_\_\_\_ Agency/Department \_\_\_\_\_ Phone \_\_\_\_\_ E:mail \_\_\_\_\_

### A. Coastal Development Enforceable Policies

**Prioritization of Uses.** The statewide coastal development standard directs coastal districts to prioritize uses and activities in the coastal area based on whether the uses are water dependent, water-related, or neither but without an inland alternative. These terms are broad in scope and an enforceable policy that defines which uses or activities in the district fall into each of the three categories is making the broad standard more specific.

**Placement of Structures and Discharge of Dredged or Fill Material.** The coastal development standard requires compliance "at a minimum" with COE regulations, 33 C.F.R. Parts 320-323. These regulations provide the COE with general permitting authority over the placement of structures and discharge of dredged or fill material into navigable waters; the laws are broad in scope and general in their application. The enforceable policies that relate to this standard provide more specificity to ensure that local issues are addressed.

**Floating Facilities.** Though state and federal agencies require permits prior to approving floating facilities, the laws are broad in scope and general in their application. For example, the laws do not address restrictions based on the location of the facilities. In some cases, there may be a tradition or policy of denying or conditioning permits adjacent to areas such as wilderness areas or anadromous fish streams, but a policy does not carry the force of law. In addition, there is a COE general permit (89-4N) for floating houses, but the permit conditions are not law and cannot be relied upon to always be there. Consequently, additional specificity in district enforceable policies for floating facilities ensures that local issues are addressed.

<b>Policy Name and Text:</b>	<b>Response</b>	<b>Comments/Discussion</b>
<p><b>A-1 Water-Dependent and Water-Related Activities</b> When considering land and water use applications and permits for coastal development, seafood processing and integrated support facilities shall be considered water-dependent uses.</p> <p>1. Does this policy address, or flow from, a use or activity identified in 11 AAC 112.200-112.240, 112.260-280, or 114.250 (b)-(i)? (OPMP will make this determination)</p> <p>2. Is this a matter that the Department of Environmental Conservation has the authority to regulate? (DEC only)</p> <p>3. Does the policy adopt, duplicate, repeat, restate, paraphrase or incorporate by reference a state standard or other state or federal law per 11 AAC 114.270(c)? If Yes, please provide citation and summary of relevant law:</p>	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>	

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

Reviewer Name \_\_\_\_\_ Agency/Department \_\_\_\_\_ Phone \_\_\_\_\_ E-mail \_\_\_\_\_

4. Is the policy clear and concise as to the activities and persons affected by the policies and the requirements of the policies?	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
5. Does the policy use precise, prescriptive and enforceable language?	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
6. Does the policy address a matter regulated by state or federal law? If Yes, please provide the citation and brief summary of the law:	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
7. If Yes to above, discuss the sufficiency of the following (to establish that it is a "matter of local concern"):	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
a. Does the policy relate to a specific coastal use or resource within a defined portion of the district's coastal zone? Is the area defined in narrative or on a map?	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
b. Does the policy relate to a coastal use or resource that is sensitive to development?	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
c. Does the policy address a coastal use or resource that is not adequately addressed by state or federal law?	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
d. Does the policy relate to a coastal use or resource that is of unique concern to the district through documentation of local usage or scientific evidence?	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
e. Are the criteria to establish that the policy addresses a matter of local concern (above) documented?	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
8. Does the policy arbitrarily or unreasonable restrict uses of state concern as defined at 46.40.210(12), referenced in 46.40.060, 114.260 and 114.270(e)(4) and discussed in CPC Resolution #13? (See <a href="http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm">http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm</a> )	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
9. Does the Resource Inventory and Analysis include sufficient analysis of the impacts to the resources and activities that are the subject of this enforceable policy? If No, please identify necessary information in the resource inventory and analysis needed to support the policy.	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
10. Is there sufficient documentation of local usage or scientific evidence regarding a use or resource of unique concern that is the subject of an enforceable policy?	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

Reviewer Name \_\_\_\_\_ Agency/Department \_\_\_\_\_ Phone \_\_\_\_\_ E:mail \_\_\_\_\_

11. Does the policy allow or disallow a use or activity per 11 AAC 114.270(g)? If so, does the policy only apply to a designated area, AMSA or a SAMP?		
12. Is this policy only applicable in a designated area? If so, are federal lands excluded? Is it clear that the policy identifies the designation to which it applies and where the description maps and backup can be found?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
13. Are the maps adequate to support the enforceable policy they relate to? Is the scale sufficient to discern if a project is in or out of the area? Are labels, legends and references accurate?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
14. Can you recommend additional resources or maps that may be helpful to the coastal district regarding this policy?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
15. Geographic Location Description (GLD) - Is it located on federal land? Does it adequately address the reasonably foreseeable coastal effects? Is it adequately mapped or described in narrative form?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
16. Please provide recommended changes or suggested alternative language:		
<b>Policy Name and Text:</b> <b>A-2 Dredge and Fill Requirements</b>  Projects that involve filling in, coastal waters shall be located, designed, constructed, operated, and maintained, and shall implement a Best Management Practices Plan to limit the extent of direct disturbance to the minimum area necessary to accommodate the proposed purpose or use.	<b>Response</b>	<b>Comments/Discussion</b>
1. Does the policy address, or flow from, a use or activity identified in 11 AAC 112.200-112.240, 112.260-280, or 114.250 (b)-(i)? (OPMP will make this determination)	<input type="checkbox"/> Yes <input type="checkbox"/> No	

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

Reviewer Name \_\_\_\_\_ Agency/Department \_\_\_\_\_ Phone \_\_\_\_\_ E-mail \_\_\_\_\_

2. Is this a matter that the Department of Environmental Conservation has the authority to regulate? (DEC only)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3. Does the policy adopt, duplicate, repeat, restate, paraphrase or incorporate by reference a state standard or other state or federal law per 11 AAC 114.270(c)? If Yes, please provide citation and summary of relevant law:	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4. Is the policy clear and concise as to the activities and persons affected by the policies and the requirements of the policies?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
5. Does the policy use precise, prescriptive and enforceable language?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
6. Does the policy address a matter regulated by state or federal law? If Yes, please provide the citation and brief summary of the law:	<input type="checkbox"/> Yes <input type="checkbox"/> No	
7. If Yes to above, discuss the sufficiency of the following (to establish that it is a "matter of local concern"): <ul style="list-style-type: none"> <li>a. Does the policy relate to a specific coastal use or resource within a defined portion of the district's coastal zone? Is the area defined in narrative or on a map?</li> <li>b. Does the policy relate to a coastal use or resource that is sensitive to development?</li> <li>c. Does the policy address a coastal use or resource that is not adequately addressed by state or federal law?</li> <li>d. Does the policy relate to a coastal use or resource that is of unique concern to the district through documentation of local usage or scientific evidence?</li> <li>e. Are the criteria to establish that the policy addresses a matter of local concern (above) documented?</li> </ul>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	
8. Does the policy arbitrarily or unreasonably restrict uses of state concern as defined at 46.40.210(12), referenced in 46.40.060, 114.260 and 114.270(e)(4) and discussed in CPC Resolution #13? (See <a href="http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm">http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm</a> )	<input type="checkbox"/> Yes <input type="checkbox"/> No	

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

Reviewer Name \_\_\_\_\_ Agency/Department \_\_\_\_\_ Phone \_\_\_\_\_ E:mail \_\_\_\_\_

9. Does the Resource Inventory and Analysis include sufficient analysis of the impacts to the resources and activities that are the subject of this enforceable policy? If No, please identify necessary information in the resource inventory and analysis needed to support the policy.	<input type="checkbox"/> Yes <input type="checkbox"/> No		
10. Is there sufficient documentation of local usage or scientific evidence regarding a use or resource of unique concern that is the subject of an enforceable policy?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
11. Does the policy allow or disallow a use or activity per 11 AAC 114.270(g)? If so, does the policy only apply to a designated area, AMSA or a SAMP?			
12. Is this policy only applicable in a designated area? If so, is it on State or private lands? Is it clear that the policy identifies the designation to which it applies and where the description maps and backup can be found?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
13. Are the maps adequate to support the enforceable policy they relate to? Is the scale sufficient to discern if a project is in or out of the area? Are labels, legends and references accurate?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
14. Can you recommend additional resources or maps that may be helpful to the coastal district regarding this policy?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
15. Geographic Location Description (GLD) – Is it located on federal land? Does it adequately address the reasonably foreseeable coastal effects? Is it adequately mapped or described in narrative form?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
16. Please provide recommended changes or suggested alternative language:			
<b>Policy Name and Text:</b>	<b>Response</b>		<b>Comments/Discussion</b>
<b>A-3 Disposal of Dredged Materials</b>			
Dredged materials placed on tidelands shall not cause significant adverse changes to shoreline processes, such as sediment transport, coastal erosion, and deposition patterns. Offshore			

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

Reviewer Name \_\_\_\_\_ Agency/Department \_\_\_\_\_ Phone \_\_\_\_\_ E:mail \_\_\_\_\_

disposal of dredge material shall avoid significant adverse impacts to coastal resources.		
1. Does the policy address, or flow from, a use or activity identified in 11 AAC 112.200-112.240, 112.260-280, or 114.250 (b)-(i)? (OPMP will make this determination)	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
2. Is this a matter that the Department of Environmental Conservation has the authority to regulate? (DEC only)	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
3. Does the policy adopt, duplicate, repeat, restate, paraphrase or incorporate by reference a state standard or other state or federal law per 11 AAC 114.270(c)? If Yes, please provide citation and summary of relevant law:	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
4. Is the policy clear and concise as to the activities and persons affected by the policies and the requirements of the policies?	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
5. Does the policy use precise, prescriptive and enforceable language?	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
6. Does the policy address a matter regulated by state or federal law? If Yes, please provide the citation and brief summary of the law:	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
7. If Yes to above, discuss the sufficiency of the following (to establish that it is a "matter of local concern"):	<input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No	

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

Reviewer Name \_\_\_\_\_ Agency/Department \_\_\_\_\_ Phone \_\_\_\_\_ E:mail \_\_\_\_\_

8. Does the policy arbitrarily or unreasonable restrict uses of state concern as defined at 46.40.210(12), referenced in 46.40.060, 114.260 and 114.270(e)(4) and discussed in CPC Resolution #13? (See <a href="http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm">http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm</a> )	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
9. Does the Resource Inventory and Analysis include sufficient analysis of the impacts to the resources and activities that are the subject of this enforceable policy? If No, please identify necessary information in the resource inventory and analysis needed to support the policy.	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
10. Is there sufficient documentation of local usage or scientific evidence regarding a use or resource of unique concern that is the subject of an enforceable policy?	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
11. Does the policy allows or disallows a use or activity per 11 AAC 114.270(g)? If so, does the policy only apply to a designated area, AMSA or a SAMP?		
12. Is this policy only applicable in a designated area? If so, is it on State or private lands? Is it clear that the policy identifies the designation to which it applies and where the description maps and backup can be found?	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
13. Are the maps adequate to support the enforceable policy they relate to? Is the scale sufficient to discern if a project is in or out of the area? Are labels, legends and references accurate?	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
14. Can you recommend additional resources or maps that may be helpful to the coastal district regarding this policy?	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
15. Geographic Location Description (G.L.D) – Is it located on federal land? Does it adequately address the reasonably foreseeable coastal effects? Is it adequately mapped or described in narrative form?	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
16. Please provide recommended changes or suggested alternative language:		

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

Reviewer Name \_\_\_\_\_ Agency/Department \_\_\_\_\_ Phone \_\_\_\_\_ E:mail \_\_\_\_\_

<b>Policy Name and Text:</b> <b>A-4 Floating Facilities</b>	<b>Response</b>	<b>Comments/Discussion</b>
<p><b>Placement of floating facilities in coastal waters within the AWCRSA shall be sited and operated to use anchoring methods which are able to anchor the facility safely during high winds and extreme tides.</b></p>		
1. Does the policy address, or flow from, a use or activity identified in 11 AAC 112.200-112.240, 112.260-280, or 114.250 (b)-(i)? <i>(OPMP will make this determination)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2. Is this a matter that the Department of Environmental Conservation has the authority to regulate? <i>(DEC only)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3. Does the policy adopt, duplicate, repeat, restate, paraphrase or incorporate by reference a state standard or other state or federal law per 11 AAC 114.270(c)? If Yes, please provide citation and summary of relevant law:	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4. Is the policy clear and concise as to the activities and persons affected by the policies and the requirements of the policies?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
5. Does the policy use precise, prescriptive and enforceable language?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
6. Does the policy address a matter regulated by state or federal law? If Yes, please provide the citation and brief summary of the law:	<input type="checkbox"/> Yes <input type="checkbox"/> No	

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

Reviewer Name \_\_\_\_\_ Agency/Department \_\_\_\_\_ Phone \_\_\_\_\_ E:mail \_\_\_\_\_

<p>7. If Yes to above, discuss the sufficiency of the following (to establish that it is a "matter of local concern"):</p> <p>a. Does the policy relate to a specific coastal use or resource within a defined portion of the district's coastal zone? Is the area defined in narrative or on a map?</p> <p>b. Does the policy relate to a coastal use or resource that is sensitive to development?</p> <p>c. Does the policy address a coastal use or resource that is not adequately addressed by state or federal law?</p> <p>d. Does the policy relate to a coastal use or resource that is of unique concern to the district through documentation of local usage or scientific evidence?</p> <p>e. Are the criteria to establish that the policy addresses a matter of local concern (above) documented?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>8. Does the policy arbitrarily or unreasonable restrict uses of state concern as defined at 46.40.210(12), referenced in 46.40.060, 114.260 and 114.270(e)(4) and discussed in CPC Resolution #13? (See <a href="http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm">http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm</a>)</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
<p>9. Does the Resource Inventory and Analysis include sufficient analysis of the impacts to the resources and activities that are the subject of this enforceable policy? If No, please identify necessary information in the resource inventory and analysis needed to support the policy.</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
<p>10. Is there sufficient documentation of local usage or scientific evidence regarding a use or resource of unique concern that is the subject of an enforceable policy?</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
<p>11. Does the policy allows or disallows a use or activity per 11 AAC 114.270(g)? If so, does the policy only apply to a designated area, AMSA or a SAMP?</p>		
<p>12. Is this policy only applicable in a designated area? If so, is it on State or private lands? Is it clear that the policy identifies the designation to which it applies and where the description maps and backup can be found?</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

Reviewer Name \_\_\_\_\_ Agency/Department \_\_\_\_\_ Phone \_\_\_\_\_ E.mail \_\_\_\_\_

13. Are the maps adequate to support the enforceable policy they relate to? Is the scale sufficient to discern if a project is in or out of the area? Are labels, legends and references accurate?	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
14. Can you recommend additional resources or maps that may be helpful to the coastal district regarding this policy?	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
15. Geographic Location Description (GLD) – Is it located on federal land? Does it adequately address the reasonably foreseeable coastal effects? Is it adequately mapped or described in narrative form?	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
16. Please provide recommended changes or suggested alternative language:		

### B. Habitats Enforceable Policies

The statewide standard for important habitat applies to important habitat designated under 11 AAC 114.250(h). An area that is designated as important habitat must be managed for the special productivity of the habitat in accordance with enforceable policies that are developed to determine whether a specific land or water use or activity will be allowed. Enforceable policies related to this designation provide specific measures for meeting the management requirements for designated important habitat. Other state and federal laws that deal with the type of habitat or issues addressed in these enforceable policies are broad in scope and general in their application.

Anadromous fish waters as catalogued by the State of Alaska and adjacent riparian management areas as described in the Statewide standard are designated important habitat. (policy B-1)

Coastal waters under state jurisdiction surrounding federal refuges, parks and wilderness areas are designated important habitat. (policy B-2)

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

Reviewer Name \_\_\_\_\_ Agency/Department \_\_\_\_\_ Phone \_\_\_\_\_ E:mail \_\_\_\_\_

<b>Policy Name and Text:</b>	<b>Response</b>	<b>Comments/Discussion</b>
<p><b>B-1 Anadromous Fish Waters</b></p> <p>With the exception of water-dependent structures, uses involving the research, protection, or enhancement of anadromous fish or their habitats, and approved transportation and utility crossings, no development, alteration of natural vegetation, or land clearing shall take place within a minimum distance of 25 feet from the ordinary high water mark of anadromous fish waters (fresh waters). Activities excepted above within 25 feet from the ordinary high water mark shall be constructed and used in a manner which minimizes significant adverse impacts to fish and wildlife habitat. Where practicable, additional setback distances may be required on a site-specific basis in consultation with the resource agencies to protect sensitive fish and wildlife habitats.</p> <p>The following criteria will be considered in evaluating the need for setback variations:</p> <ul style="list-style-type: none"> <li>a) the sensitivity of anadromous fish using the site;</li> <li>b) the nature of the proposed activity and anticipated disturbance, including construction and operation, and the size and configuration of the development with respect to the water body;</li> <li>c) the characteristics and function of existing riparian vegetation; and</li> <li>d) the slope, soil type, and soil stability at the proposed activity site as it affects the potential for erosion problems.</li> </ul>		
<p>1. Does the policy address, or flow from, a use or activity identified in 11 AAC 112.200-112.240, 112.260-280, or 114.250 (b)-(i)? (OPMP will make this determination)</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
<p>2. Is this a matter that the Department of Environmental Conservation has the authority to regulate? (DEC only)</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
<p>3. Does the policy adopt, duplicate, repeat, restate, paraphrase or incorporate by reference a state standard or other state or federal law per 11 AAC 114.270(c)? If Yes, please provide citation and summary of relevant law:</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
<p>4. Is the policy clear and concise as to the activities and persons affected by the policies and the requirements of the policies?</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

Reviewer Name \_\_\_\_\_ Agency/Department \_\_\_\_\_ Phone \_\_\_\_\_ E:mail \_\_\_\_\_

5. Does the policy use precise, prescriptive and enforceable language?	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
6. Does the policy address a matter regulated by state or federal law? If Yes, please provide the citation and brief summary of the law:	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
7. If Yes to above, discuss the sufficiency of the following (to establish that it is a "matter of local concern"):	<input type="checkbox"/> Yes	
a. Does the policy relate to a specific coastal use or resource within a defined portion of the district's coastal zone? Is the area defined in narrative or on a map?	<input type="checkbox"/> No	
b. Does the policy relate to a coastal use or resource that is sensitive to development?	<input type="checkbox"/> Yes	
c. Does the policy address a coastal use or resource that is not adequately addressed by state or federal law?	<input type="checkbox"/> No	
d. Does the policy relate to a coastal use or resource that is of unique concern to the district through documentation of local usage or scientific evidence?	<input type="checkbox"/> Yes	
e. Are the criteria to establish that the policy addresses a matter of local concern (above) documented?	<input type="checkbox"/> No	
8. Does the policy arbitrarily or unreasonable restrict uses of state concern as defined at 46.40.210(12), referenced in 46.40.060, 114.260 and 114.270(e)(4) and discussed in CPC Resolution #13? (See <a href="http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm">http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm</a> )	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
9. Does the Resource Inventory and Analysis include sufficient analysis of the impacts to the resources and activities that are the subject of this enforceable policy? If No, please identify necessary information in the resource inventory and analysis needed to support the policy.	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
10. Is there sufficient documentation of local usage or scientific evidence regarding a use or resource of unique concern that is the subject of an enforceable policy?	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
11. Does the policy allows or disallows a use or activity per 11 AAC 114.270(g)? If so, does the policy only apply to a designated area, AMSA or a SAMP?		

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

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<p>12. Is this policy only applicable in a designated area? If so, is it on State or private lands? Is it clear that the policy identifies the designation to which it applies and where the description maps and backup can be found?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>13. Are the maps adequate to support the enforceable policy they relate to? Is the scale sufficient to discern if a project is in or out of the area? Are labels, legends and references accurate?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>14. Can you recommend additional resources or maps that may be helpful to the coastal district regarding this policy?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>15. Geographic Location Description (GLD) – Is it located on federal land? Does it adequately address the reasonably foreseeable coastal effects? Is it adequately mapped or described in narrative form?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>16. Please provide recommended changes or suggested alternative language:</p>		

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

Reviewer Name \_\_\_\_\_ Agency/Department \_\_\_\_\_ Phone \_\_\_\_\_ E:mail \_\_\_\_\_

<b>Policy Name and Text:</b>	<b>Response</b>	<b>Comments/Discussion</b>
<p><b>B-1 Geophysical Surveys and In-water Use of Explosives</b>                      Geophysical surveys shall, to the extent practicable, be located, designed, and conducted to avoid disturbances to fish and wildlife populations, designated important habitats, and designated subsistence harvest areas (see section D of this chapter). Seasonal restrictions, restrictions on the use of explosives, or restrictions relating to the type of transportation utilized in such operations may be required as necessary to mitigate potential adverse impacts. Geophysical surveys in fresh and marine waters supporting fish or wildlife shall use energy sources such as air-guns, gas exploders, or other sources that have been demonstrated to minimize harm to fish and wildlife. Limited use of explosives to obtain seismic data may be allowed, on a case-by-case basis, if the applicant demonstrates that the use of other non-explosive energy sources is not practicable.</p> <p>The in-water use of explosives for purposes other than geophysical surveys shall be considered on a case by case basis after all steps have been taken to minimize impacts and when no practicable alternatives exist to meet the public need.</p>		
1. Does the policy address, or flow from, a use or activity identified in 11 AAC 112.200-112.240, 112.260-280, or 114.250 (b)-(i)? (OPMP will make this determination)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2. Is this a matter that the Department of Environmental Conservation has the authority to regulate? (DEC only)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3. Does the policy adopt, duplicate, repeat, restate, paraphrase or incorporate by reference a state standard or other state or federal law per 11 AAC 114.270(c)? If Yes, please provide citation and summary of relevant law:	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4. Is the policy clear and concise as to the activities and persons affected by the policies and the requirements of the policies?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
5. Does the policy use precise, prescriptive and enforceable language?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

Reviewer Name \_\_\_\_\_ Agency/Department \_\_\_\_\_ Phone \_\_\_\_\_ E:mail \_\_\_\_\_

<p>6. Does the policy address a matter regulated by state or federal law? If Yes, please provide the citation and brief summary of the law:</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>7. If Yes to above, discuss the sufficiency of the following (to establish that it is a "matter of local concern"):</p> <p>a. Does the policy relate to a specific coastal use or resource within a defined portion of the district's coastal zone? Is the area defined in narrative or on a map?</p> <p>b. Does the policy relate to a coastal use or resource that is sensitive to development?</p> <p>c. Does the policy address a coastal use or resource that is not adequately addressed by state or federal law?</p> <p>d. Does the policy relate to a coastal use or resource that is of unique concern to the district through documentation of local usage or scientific evidence?</p> <p>e. Are the criteria to establish that the policy addresses a matter of local concern (above) documented?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>8. Does the policy arbitrarily or unreasonable restrict uses of state concern as defined at 46.40.210(12), referenced in 46.40.060, 114.260 and 114.270(e)(4) and discussed in CPC Resolution #13? (See <a href="http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm">http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm</a>)</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>9. Does the Resource Inventory and Analysis include sufficient analysis of the impacts to the resources and activities that are the subject of this enforceable policy? If No, please identify necessary information in the resource inventory and analysis needed to support the policy.</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>10. Is there sufficient documentation of local usage or scientific evidence regarding a use or resource of unique concern that is the subject of an enforceable policy?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>11. Does the policy allow or disallow a use or activity per 11 AAC 114.270(g)? If so, does the policy only apply to a designated area, AMSA or a SAMP?</p>		
<p>12. Is this policy only applicable in a designated area? If so, is it on State or private lands? Is it clear that the policy identifies the designation to which it applies and where the description maps and backup can be found?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No	

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13. Are the maps adequate to support the enforceable policy they relate to? Is the scale sufficient to discern if a project is in or out of the area? Are labels, legends and references accurate?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
14. Can you recommend additional resources or maps that may be helpful to the coastal district regarding this policy?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
15. Geographic Location Description (GLD) – Is it located on federal land? Does it adequately address the reasonably foreseeable coastal effects? Is it adequately mapped or described in narrative form?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
16. Please provide recommended changes or suggested alternative language:		

**D. Subsistence Enforceable Policies**

The statewide subsistence standard applies when a district has designated a subsistence area. For a designated area, enforceable policies are used to determine whether a specific land or water use or activity will be allowed. Enforceable policies related to this standard provide more specific measures for protecting the subsistence resource, including ensuring access to the resource. State and federal laws that deal with subsistence relate to management of, rather than impacts to, the resource.

The enforceable policies of this section and the Statewide Subsistence Standard apply to:

- a) Unalaska Island – Broad Bay, Reese Bay and Nateekin Bay (1000' either side of the rivers to 300' offshore);
- b) state coastal waters around Umnak Island, the Pancake Islands and Adugak Island and uplands on the southwest part of Umnak island;
- c) lands and waters of the coastal zone on and around the islands of Samalga, Amutka, Seguam, and Atka and Amlia; and
- d) state coastal waters surrounding the island of Adak.

Refer to maps ESI-W01, ESI-W02, ESI-W03, ESI-W04, ESI-W05, and ESI-W06.

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<b>Policy Name and Text:</b>	<b>Response</b>	<b>Comments/Discussion</b>
<b>D-1 Development Impacts</b>  Projects in areas designated for subsistence shall be located, designed, constructed and operated to minimize impacts to subsistence resources and activities, including access.		
1. Does the policy address, or flow from, a use or activity identified in 11 AAC 112.200-112.240, 112.260-280, or 114.250 (b)-(i)? (OPMP will make this determination)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2. Is this a matter that the Department of Environmental Conservation has the authority to regulate? (DEC only)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3. Does the policy adopt, duplicate, repeat, restate, paraphrase or incorporate by reference a state standard or other state or federal law per 11 AAC 114.270(c)? If Yes, please provide citation and summary of relevant law:	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4. Is the policy clear and concise as to the activities and persons affected by the policies and the requirements of the policies?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
5. Does the policy use precise, prescriptive and enforceable language?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
6. Does the policy address a matter regulated by state or federal law? If Yes, please provide the citation and brief summary of the law:	<input type="checkbox"/> Yes <input type="checkbox"/> No	

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

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<p>7. If Yes to above, discuss the sufficiency of the following (to establish that it is a "matter of local concern"):</p> <p style="margin-left: 20px;">a. Does the policy relate to a specific coastal use or resource within a defined portion of the district's coastal zone? Is the area defined in narrative or on a map?</p> <p style="margin-left: 20px;">b. Does the policy relate to a coastal use or resource that is sensitive to development?</p> <p style="margin-left: 20px;">c. Does the policy address a coastal use or resource that is not adequately addressed by state or federal law?</p> <p style="margin-left: 20px;">d. Does the policy relate to a coastal use or resource that is of unique concern to the district through documentation of local usage or scientific evidence?</p> <p style="margin-left: 20px;">e. Are the criteria to establish that the policy addresses a matter of local concern (above) documented?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>8. Does the policy arbitrarily or unreasonably restrict uses of state concern as defined at 46.40.210(12), referenced in 46.40.060, 114.260 and 114.270(e)(4) and discussed in CPC Resolution #13? (See <a href="http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm">http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm</a>)</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
<p>9. Does the Resource Inventory and Analysis include sufficient analysis of the impacts to the resources and activities that are the subject of this enforceable policy? If No, please identify necessary information in the resource inventory and analysis needed to support the policy.</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
<p>10. Is there sufficient documentation of local usage or scientific evidence regarding a use or resource of unique concern that is the subject of an enforceable policy?</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
<p>11. Does the policy allow or disallow a use or activity per 11 AAC 114.270(g)? If so, does the policy only apply to a designated area, AMSA or a SAMP?</p>		
<p>12. Is this policy only applicable in a designated area? If so, is it on State or private lands? Is it clear that the policy identifies the designation to which it applies and where the description maps and backup can be found?</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	

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13. Are the maps adequate to support the enforceable policy they relate to? Is the scale sufficient to discern if a project is in or out of the area? Are labels, legends and references accurate?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
14. Can you recommend additional resources or maps that may be helpful to the coastal district regarding this policy?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
15. Geographic Location Description (GID) – Is it located on federal land? Does it adequately address the reasonably foreseeable coastal effects? Is it adequately mapped or described in narrative form?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
16. Please provide recommended changes or suggested alternative language:		

### E. Transportation, Coastal Access and Utilities Enforceable Policies

The statewide coastal access standard is a very broad standard. The enforceable policies related to this standard provide more specific direction for providing appropriate public access to, from, and along coastal water. No state or federal laws deal specifically with providing coastal public access.

The statewide transportation and utility routes and facilities standards are limited to addressing impacts to surface and groundwater drainage patterns, wildlife transit and traditional access. Enforceable policies that relate to these standards provide more specific measures to address route and facilities concerns not included in the statewide standards. Other state and federal laws that deal with the permitting of transportation and utility routes and facilities are broad in scope and general in their application. This includes state law related to fish stream crossings; AS 41.14.840 gives the deputy commissioner the discretion to require efficient fish passage, it is not mandatory and there are no specific requirements identified. Consequently, additional specificity in district enforceable policies for fish stream crossings ensures that local issues are addressed.

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Reviewer Name \_\_\_\_\_ Agency/Department \_\_\_\_\_ Phone \_\_\_\_\_ E:mail \_\_\_\_\_

<b>Policy Name and Text:</b> <b>E-1 Maintaining Coastal Access</b>	<b>Response</b>	<b>Comments/Discussion</b>
Elements of coastal access include roads, waterways, trails, portages, campsites, picnic sites, and marine anchorages.		
1. Does the policy address, or flow from, a use or activity identified in 11 AAC 112.200-112.240, 112.260-280, or 114.250 (b)-(i)? (OPMP will make this determination)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2. Is this a matter that the Department of Environmental Conservation has the authority to regulate? (DEC only)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3. Does the policy adopt, duplicate, repeat, restate, paraphrase or incorporate by reference a state standard or other state or federal law per 11 AAC 114.270(c)? If Yes, please provide citation and summary of relevant law.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4. Is the policy clear and concise as to the activities and persons affected by the policies and the requirements of the policies?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
5. Does the policy use precise, prescriptive and enforceable language?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
6. Does the policy address a matter regulated by state or federal law? If Yes, please provide the citation and brief summary of the law:	<input type="checkbox"/> Yes <input type="checkbox"/> No	

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

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<p>7. If Yes to above, discuss the sufficiency of the following (to establish that it is a "matter of local concern"):</p> <p style="margin-left: 20px;">a. Does the policy relate to a specific coastal use or resource within a defined portion of the district's coastal zone? Is the area defined in narrative or on a map?</p> <p style="margin-left: 20px;">b. Does the policy relate to a coastal use or resource that is sensitive to development?</p> <p style="margin-left: 20px;">c. Does the policy address a coastal use or resource that is not adequately addressed by state or federal law?</p> <p style="margin-left: 20px;">d. Does the policy relate to a coastal use or resource that is of unique concern to the district through documentation of local usage or scientific evidence?</p> <p style="margin-left: 20px;">e. Are the criteria to establish that the policy addresses a matter of local concern (above) documented?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>8. Does the policy arbitrarily or unreasonably restrict uses of state concern as defined at 46.40.210(12), referenced in 46.40.060, 114.260 and 114.270(e)(4) and discussed in CPC Resolution #13? (See <a href="http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm">http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm</a>)</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
<p>9. Does the Resource Inventory and Analysis include sufficient analysis of the impacts to the resources and activities that are the subject of this enforceable policy? If No, please identify necessary information in the resource inventory and analysis needed to support the policy.</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
<p>10. Is there sufficient documentation of local usage or scientific evidence regarding a use or resource of unique concern that is the subject of an enforceable policy?</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
<p>11. Does the policy allow or disallow a use or activity per 11 AAC 114.270(g)? If so, does the policy only apply to a designated area, AMSA or a SAMP?</p>		
<p>12. Is this policy only applicable in a designated area? If so, is it on State or private lands? Is it clear that the policy identifies the designation to which it applies and where the description maps and backup can be found?</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

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13. Are the maps adequate to support the enforceable policy they relate to? Is the scale sufficient to discern if a project is in or out of the area? Are labels, legends and references accurate?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
14. Can you recommend additional resources or maps that may be helpful to the coastal district regarding this policy?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
15. Geographic Location Description (GLD) - Is it located on federal land? Does it adequately address the reasonably foreseeable coastal effects? Is it adequately mapped or described in narrative form?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
16. Please provide recommended changes or suggested alternative language:		

**Policy Name and Text:**

**E-2 Shoreline Setback and Consolidation**

To the extent practicable, transportation, access and utility corridors and their integrated support facilities, except for facilities or activities that are directly water dependent, shall be set back 25 feet horizontally from the ordinary high water line of inland lakes and streams and Mean High Water (MHW) line of marine waters. Transportation, access and utility corridors, and their integrated support facilities, shall be sited, designed, constructed, and operated, using the following standards:

**Response**

**Comments/Discussion**

1. Does the policy address, or flow from, a use or activity identified in 11 AAC 112.200-112.240, 112.260-280, or 114.250 (b)-(i)? (OPMP will make this determination)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
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2. Is this a matter that the Department of Environmental Conservation has the authority to regulate? (DEC only)	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. Does the policy adopt, duplicate, repeat, restate, paraphrase or incorporate by reference a state standard or other state or federal law per 11 AAC 114.270(c)? If Yes, please provide citation and summary of relevant law:	<input type="checkbox"/> Yes <input type="checkbox"/> No
4. Is the policy clear and concise as to the activities and persons affected by the policies and the requirements of the policies?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. Does the policy use precise, prescriptive and enforceable language?	<input type="checkbox"/> Yes <input type="checkbox"/> No
6. Does the policy address a matter regulated by state or federal law? If Yes, please provide the citation and brief summary of the law:	<input type="checkbox"/> Yes <input type="checkbox"/> No
7. If Yes to above, discuss the sufficiency of the following (to establish that it is a "matter of local concern"):	<input type="checkbox"/> Yes <input type="checkbox"/> No
a. Does the policy relate to a specific coastal use or resource within a defined portion of the district's coastal zone? Is the area defined in narrative or on a map?	<input type="checkbox"/> Yes <input type="checkbox"/> No
b. Does the policy relate to a coastal use or resource that is sensitive to development?	<input type="checkbox"/> Yes <input type="checkbox"/> No
c. Does the policy address a coastal use or resource that is not adequately addressed by state or federal law?	<input type="checkbox"/> Yes <input type="checkbox"/> No
d. Does the policy relate to a coastal use or resource that is of unique concern to the district through documentation of local usage or scientific evidence?	<input type="checkbox"/> Yes <input type="checkbox"/> No
e. Are the criteria to establish that the policy addresses a matter of local concern (above) documented?	<input type="checkbox"/> Yes <input type="checkbox"/> No
8. Does the policy arbitrarily or unreasonable restrict uses of state concern as defined at 46.40.210(12), referenced in 46.40.060, 114.260 and 114.270(c)(4) and discussed in CPC Resolution #13? (See <a href="http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm">http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm</a> )	<input type="checkbox"/> Yes <input type="checkbox"/> No

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9. Does the Resource Inventory and Analysis include sufficient analysis of the impacts to the resources and activities that are the subject of this enforceable policy? If No, please identify necessary information in the resource inventory and analysis needed to support the policy.	<input type="checkbox"/> Yes <input type="checkbox"/> No	
10. Is there sufficient documentation of local usage or scientific evidence regarding a use or resource of unique concern that is the subject of an enforceable policy?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
11. Does the policy allow or disallow a use or activity per 11 AAC 114.270(g)? If so, does the policy only apply to a designated area, AMSA or a SAMP?		
12. Is this policy only applicable in a designated area? If so, is it on State or private lands? Is it clear that the policy identifies the designation to which it applies and where the description maps and backup can be found?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
13. Are the maps adequate to support the enforceable policy they relate to? Is the scale sufficient to discern if a project is in or out of the area? Are labels, legends and references accurate?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
14. Can you recommend additional resources or maps that may be helpful to the coastal district regarding this policy?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
15. Geographic Location Description (GLD) – Is it located on federal land? Does it adequately address the reasonably foreseeable coastal effects? Is it adequately mapped or described in narrative form?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
16. Please provide recommended changes or suggested alternative language:		

### G. Natural Hazard Areas Enforceable Policies

The natural hazards statewide standard provides general appropriate measures for the siting and operation of activities within designated areas. In addition, 11 AAC 114.270(g) allows districts to adopt enforceable policies that will be used to determine whether a use or activity will be allowed within a designated areas. Enforceable policies related to this

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

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standard provide specific measures to help minimize impacts within designated areas and to ensure that local issues are addressed. Policies also identify specific disallowed uses within designated areas and the criteria that will be used to determine whether a use will be allowed. Other state and federal laws that deal with development activities in hazard areas are broad in scope and general in their application.

The entire Aleutian Trench is an earthquake zone and as such the area within the boundaries of the AWCERSA is a designated Natural Hazard Area. In addition, the climate, topography and soils contribute to erosion-prone conditions throughout the chain. (Refer to Volume II, Chapter 3).

<b>Policy Name and Text:</b> <b>G-1 Consultation</b>  The Local Emergency Planning Committee shall be consulted when development is proposed in a natural hazard area.	<b>Response</b>	<b>Comments/Discussion</b>
1. Does the policy address, or flow from, a use or activity identified in 11 AAC 112.200-112.240, 112.260-280, or 114.250 (b)-(i)? (OPMP will make this determination)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2. Is this a matter that the Department of Environmental Conservation has the authority to regulate? (DEC only)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3. Does the policy adopt, duplicate, repeat, restate, paraphrase or incorporate by reference a state standard or other state or federal law per 11 AAC 114.270(c)? If Yes, please provide citation and summary of relevant law:	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4. Is the policy clear and concise as to the activities and persons affected by the policies and the requirements of the policies?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
5. Does the policy use precise, prescriptive and enforceable language?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
6. Does the policy address a matter regulated by state or federal law? If Yes, please provide the citation and brief summary of the law:	<input type="checkbox"/> Yes <input type="checkbox"/> No	

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<p>7. If Yes to above, discuss the sufficiency of the following (to establish that it is a "matter of local concern"):</p> <p style="margin-left: 20px;">a. Does the policy relate to a specific coastal use or resource within a defined portion of the district's coastal zone? Is the area defined in narrative or on a map?</p> <p style="margin-left: 20px;">b. Does the policy relate to a coastal use or resource that is sensitive to development?</p> <p style="margin-left: 20px;">c. Does the policy address a coastal use or resource that is not adequately addressed by state or federal law?</p> <p style="margin-left: 20px;">d. Does the policy relate to a coastal use or resource that is of unique concern to the district through documentation of local usage or scientific evidence?</p> <p style="margin-left: 20px;">e. Are the criteria to establish that the policy addresses a matter of local concern (above) documented?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>8. Does the policy arbitrarily or unreasonable restrict uses of state concern as defined at 46.40.210(12), referenced in 46.40.060, 114.260 and 114.270(e)(4) and discussed in CPC Resolution #13? (See <a href="http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm">http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm</a>)</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
<p>9. Does the Resource Inventory and Analysis include sufficient analysis of the impacts to the resources and activities that are the subject of this enforceable policy? If No, please identify necessary information in the resource inventory and analysis needed to support the policy</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
<p>10. Is there sufficient documentation of local usage or scientific evidence regarding a use or resource of unique concern that is the subject of an enforceable policy?</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
<p>11. Does the policy allows or disallows a use or activity per 11 AAC 114.270(g)? If so, does the policy only apply to a designated area, AMSA or a SAMP?</p>		
<p>12. Is this policy only applicable in a designated area? If so, is it on State or private lands? Is it clear that the policy identifies the designation to which it applies and where the description maps and backup can be found?</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	

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13. Are the maps adequate to support the enforceable policy they relate to? Is the scale sufficient to discern if a project is in or out of the area? Are labels, legends and references accurate?	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
14. Can you recommend additional resources or maps that may be helpful to the coastal district regarding this policy?	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
15. Geographic Location Description (GLD) – Is it located on federal land? Does it adequately address the reasonably foreseeable coastal effects? Is it adequately mapped or described in narrative form?	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
16. Please provide recommended changes or suggested alternative language:		

***Policy Name and Text:***

**G-2 Erosion**

To the extent practicable, development activities shall minimize impacts on existing vegetative cover and avoid contributing to increased geophysical hazards in erosion-prone areas.

- a) Where development necessitates removal of vegetation, erosion shall be minimized through replanting or by other appropriate erosion control measures.
- b) Resource extraction activities shall be sited and constructed to minimize accelerated coastal erosion that could result in the creation of geophysical hazards.

<b><i>Response</i></b>	<b><i>Comments/Discussion</i></b>
1. Does the policy address, or flow from, a use or activity identified in 11 AAC 112.200-112.240, 112.260-280, or 114.250 (b)-(i)? <i>(OPMP will make this determination)</i>	<input type="checkbox"/> Yes
	<input type="checkbox"/> No
2. Is this a matter that the Department of Environmental Conservation has the authority to regulate? <i>(DEC only)</i>	<input type="checkbox"/> Yes
	<input type="checkbox"/> No

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

Reviewer Name \_\_\_\_\_ Agency/Department \_\_\_\_\_ Phone \_\_\_\_\_ E:mail \_\_\_\_\_

<p>3. Does the policy adopt, duplicate, repeat, restate, paraphrase or incorporate by reference a state standard or other state or federal law per 11 AAC 114.270(c)? If Yes, please provide citation and summary of relevant law:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>4. Is the policy clear and concise as to the activities and persons affected by the policies and the requirements of the policies?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>5. Does the policy use precise, prescriptive and enforceable language?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>6. Does the policy address a matter regulated by state or federal law? If Yes, please provide the citation and brief summary of the law:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>7. If Yes to above, discuss the sufficiency of the following (to establish that it is a "matter of local concern"):</p> <p>a. Does the policy relate to a specific coastal use or resource within a defined portion of the district's coastal zone? Is the area defined in narrative or on a map?</p> <p>b. Does the policy relate to a coastal use or resource that is sensitive to development?</p> <p>c. Does the policy address a coastal use or resource that is not adequately addressed by state or federal law?</p> <p>d. Does the policy relate to a coastal use or resource that is of unique concern to the district through documentation of local usage or scientific evidence?</p> <p>e. Are the criteria to establish that the policy addresses a matter of local concern (above) documented?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>8. Does the policy arbitrarily or unreasonable restrict uses of state concern as defined at 46.40.210(12), referenced in 46.40.060, 114.260 and 114.270(e)(4) and discussed in CPC Resolution #13? (See <a href="http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm">http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm</a>)</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	
<p>9. Does the Resource Inventory and Analysis include sufficient analysis of the impacts to the resources and activities that are the subject of this enforceable policy? If No, please identify necessary information in the resource inventory and analysis needed to support the policy.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

Reviewer Name \_\_\_\_\_ Agency/Department \_\_\_\_\_ Phone \_\_\_\_\_ E.mail \_\_\_\_\_

10. Is there sufficient documentation of local usage or scientific evidence regarding a use or resource of unique concern that is the subject of an enforceable policy?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
11. Does the policy allow or disallow a use or activity per 11 AAC 114.270(g)? If so, does the policy only apply to a designated area, AMSA or a SAMP?		
12. Is this policy only applicable in a designated area? If so, is it on State or private lands? Is it clear that the policy identifies the designation to which it applies and where the description maps and backup can be found?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
13. Are the maps adequate to support the enforceable policy they relate to? Is the scale sufficient to discern if a project is in or out of the area? Are labels, legends and references accurate?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
14. Can you recommend additional resources or maps that may be helpful to the coastal district regarding this policy?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
15. Geographic Location Description (GLD) – Is it located on federal land? Does it adequately address the reasonably foreseeable coastal effects? Is it adequately mapped or described in narrative form?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
16. Please provide recommended changes or suggested alternative language:		

### H. Recreation Enforceable Policies

In order to have enforceable policies related to recreation, a district must designate an area for that use. For a designated recreation area, the "matter of local concern" test does not apply unless a proposed enforceable policy addresses a matter regulated or authorized by some other state or federal law not enumerated in the statewide standards. State and federal laws that deal with recreation are broad in scope and general in application; district enforceable policies enacted for a designated area provide specific management measures for addressing uses or activities within the area.

The following areas are designated recreational use areas:

- a) Unalaska Island – Broad Bay, Reese Bay, Nateekin Bay, Morse Bay, Kaletkin Bay and Humpy Cove (1000' either side of the rivers to 300' offshore);
- b) Beaches located within incorporated boundaries of Atka and Nikolski village townsites IRA (refer to maps ESI-W01, ESI-W03 and ESI-W05).

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

Reviewer Name \_\_\_\_\_ Agency/Department \_\_\_\_\_ Phone \_\_\_\_\_ E:mail \_\_\_\_\_

<b>Policy Name and Text:</b>	<b>Response</b>	<b>Comments/Discussion</b>
<b>H-1 Protection of Recreation Values</b>  Projects, activities, and uses located within designated recreation areas shall be located, designed, constructed, and operated to minimize adverse impacts to the physical, biological and cultural resources upon which the recreation depends.		
1. Does the policy address, or flow from, a use or activity identified in 11 AAC 112.200-112.240, 112.260-280, or 114.250 (b)-(i)? (OPMP will make this determination)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
2. Is this a matter that the Department of Environmental Conservation has the authority to regulate? (DEC only)	<input type="checkbox"/> Yes <input type="checkbox"/> No	
3. Does the policy adopt, duplicate, repeat, restate, paraphrase or incorporate by reference a state standard or other state or federal law per 11 AAC 114.270(c)? If Yes, please provide citation and summary of relevant law:	<input type="checkbox"/> Yes <input type="checkbox"/> No	
4. Is the policy clear and concise as to the activities and persons affected by the policies and the requirements of the policies?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
5. Does the policy use precise, prescriptive and enforceable language?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
6. Does the policy address a matter regulated by state or federal law? If Yes, please provide the citation and brief summary of the law:	<input type="checkbox"/> Yes <input type="checkbox"/> No	

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<p>7. If Yes to above, discuss the sufficiency of the following (to establish that it is a "matter of local concern"):</p> <p style="margin-left: 20px;">a. Does the policy relate to a specific coastal use or resource within a defined portion of the district's coastal zone? Is the area defined in narrative or on a map?</p> <p style="margin-left: 20px;">b. Does the policy relate to a coastal use or resource that is sensitive to development?</p> <p style="margin-left: 20px;">c. Does the policy address a coastal use or resource that is not adequately addressed by state or federal law?</p> <p style="margin-left: 20px;">d. Does the policy relate to a coastal use or resource that is of unique concern to the district through documentation of local usage or scientific evidence?</p> <p style="margin-left: 20px;">e. Are the criteria to establish that the policy addresses a matter of local concern (above) documented?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No	
<p>8. Does the policy arbitrarily or unreasonable restrict uses of state concern as defined at 46.40.210(12), referenced in 46.40.060, 114.260 and 114.270(e)(1) and discussed in CPC Resolution #13? (See <a href="http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm">http://www.alaskacoast.state.ak.us/Plans/PlanAmendmentResources.htm</a>)</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
<p>9. Does the Resource Inventory and Analysis include sufficient analysis of the impacts to the resources and activities that are the subject of this enforceable policy? If No, please identify necessary information in the resource inventory and analysis needed to support the policy.</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
<p>10. Is there sufficient documentation of local usage or scientific evidence regarding a use or resource of unique concern that is the subject of an enforceable policy?</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	
<p>11. Does the policy allows or disallows a use or activity per 11 AAC 114.270(g)? If so, does the policy only apply to a designated area, AMSA or a SAMP?</p>		
<p>12. Is this policy only applicable in a designated area? If so, is it on State or private lands? Is it clear that the policy identifies the designation to which it applies and where the description maps and backup can be found?</p>	<input type="checkbox"/> Yes  <input type="checkbox"/> No	

## Aleutians West CRSA Coastal Management Plan: Policy Analysis Table for OPMP and Agency Reviewers

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13. Are the maps adequate to support the enforceable policy they relate to? Is the scale sufficient to discern if a project is in or out of the area? Are labels, legends and references accurate?	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
14. Can you recommend additional resources or maps that may be helpful to the coastal district regarding this policy?	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
15. Geographic Location Description (GLD) – Is it located on federal land? Does it adequately address the reasonably foreseeable coastal effects? Is it adequately mapped or described in narrative form?	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
16. Please provide recommended changes or suggested alternative language:		

<b>Policy Name and Text:</b>	<b>Response</b>	<b>Comments/Discussion</b>
<b>H-2 Conflict Mitigation</b>		
Where practicable, projects within designated recreation areas shall be located, designed, constructed and operated in a manner that minimizes conflicts with competing recreational uses of the area. If minimization of such conflicts is impracticable, alternative recreation opportunities or access shall be provided by the applicant to the extent practicable.		
1. Does the policy address, or flow from, a use or activity identified in 11 AAC 112.200-112.240, 112.260-280, or 114.250 (b)-(i)? (OPMP will make this determination)	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
2. Is this a matter that the Department of Environmental Conservation has the authority to regulate? (DEC only)	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	
3. Does the policy adopt, duplicate, repeat, restate, paraphrase or incorporate by reference a state standard or other state or federal law per 11 AAC 114.270(c)? If Yes, please provide citation and summary of relevant law:	<input type="checkbox"/> Yes	
	<input type="checkbox"/> No	