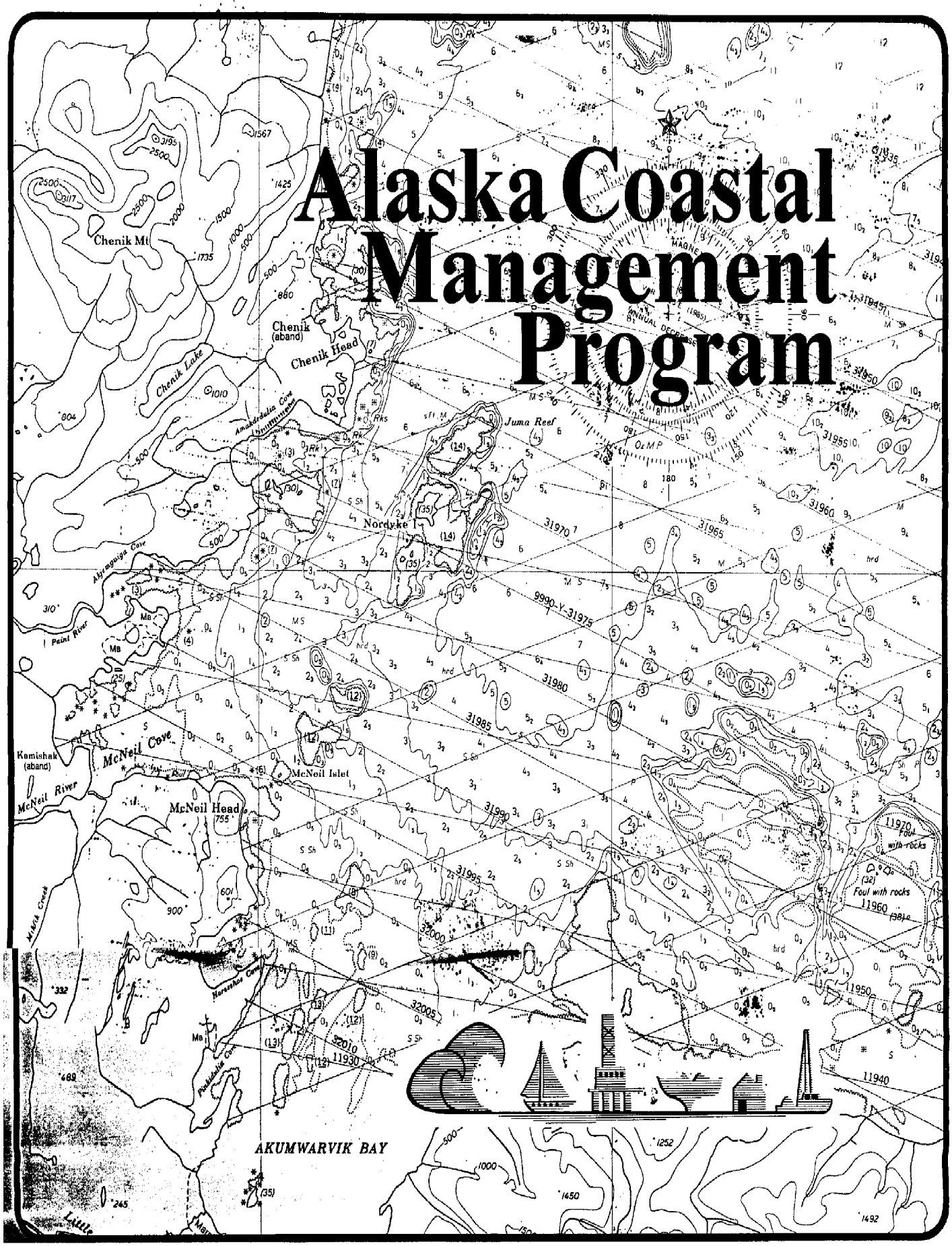
Alaska Coastal Management Program



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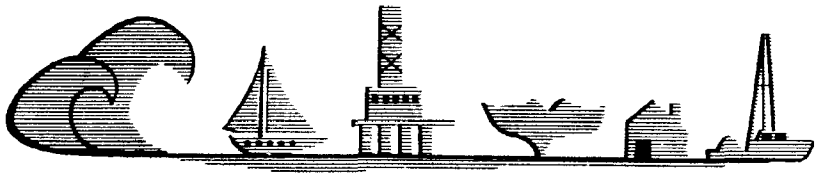
ALASKA COASTAL MANAGEMENT PROGRAM



State of Alaska
Office of the Governor
Division of Governmental Coordination

Steve Cowper, Governor
September 1988

COASTAL ZONE
INFORMATION CENTER

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ACKNOWLEDGEMENTS

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- Alaska Coastal Management Program District Coordinators, Coastal Resource Service Area board members, and local coastal district officials;
- Alaska Division of Governmental Coordination;
- Alaska Department of Community and Regional Affairs;
- Alaska Department of Fish and Game;
- Alaska Department of Natural Resources;
- Alaska Department of Environmental Conservation;
- U.S. Army Corps of Engineers; and
- U.S. Environmental Protection Agency.

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This document was prepared by Ott Engineering, Inc., Anchorage, Alaska.

HOW TO USE THIS DOCUMENT

The on-going activities of the Alaska Coastal Management Program will require this document to be updated frequently. This will ensure it is always current and of the most value to the coastal districts, agencies, and the public. This document has been designed so it can be easily updated. Each page is dated in the lower right-hand corner. When updates or revisions are received, discard the outdated pages according to the accompanying instructions, and insert the new pages.

This document uses distinctive formatting to highlight parts of the text, as shown below:

Federal and state statutes and regulations are reprinted in bold typeface, as shown below:

6 AAC 80.090. FISH AND SEAFOOD PROCESSING.

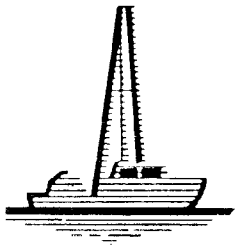
Districts shall identify and may designate areas of the coast suitable for the location or development of facilities relating to commercial fishing and seafood processing. (Eff. 7/18/78, Reg. 67)

Authority: AS 44.19.161
AS 46.40.040

A concise explanation usually follows reach statute or regulation. The explanation is indented, as shown below:

> Fish and seafood processing facilities include aquaculture facilities, hatcheries, seafood processing plants and marine industrial and commercial facilities. The fish and seafood processing standard allows districts to identify and reserve appropriate coastal locations for these facilities.

A broader discussion usually follows the specific explanation of the statute or regulation. It is not indented and is printed in normal typeface.



I — Summary

PURPOSE OF COASTAL MANAGEMENT IN ALASKA

With the passage of the Alaska Coastal Management Act in 1977, local governments, rural regions, and the State of Alaska began to manage cooperatively the use and protection of Alaska's coastal resources. Today, thirty-two coastal communities and regions work closely with the state to prepare plans and establish permitting procedures that guide development in their respective local areas. The Alaska Coastal Management Program (ACMP) serves as a forum for resolving conflicts among coastal communities, state agencies, and potential developers. The program seeks to facilitate the permitting of proposed development projects while helping to ensure that local and state interests in coastal development are met.

The Alaska Coastal Management Program is designed to:

- bring a broad perspective to decisions on coastal uses;
- provide information needed for sound decision-making;
- provide a forum where conflicts can be identified and resolved;
- enhance the State of Alaska's role in federal resource decision-making and the role of local governments in state and federal decision-making; and
- improve the timeliness and coordination of permitting decisions for coastal projects.

COASTAL MANAGEMENT: THE LEGISLATIVE FRAMEWORK

Coastal management planning began at the national level with the enactment of the federal Coastal Zone Management Act (CZMA) of 1972. In the federal act, Congress stated its intent to "develop a national program for the management, beneficial use, protection, and development of land and water resources of the nation's coastal zone." The overall goal of the program is to achieve a proper balance of resource development and protection.

The federal act encourages states to develop coastal management programs tailored to their needs and interests. As an incentive, the federal act authorizes grants to states to develop and implement their programs. The act also requires the federal government, in its discretionary actions, to be consistent with approved state programs.

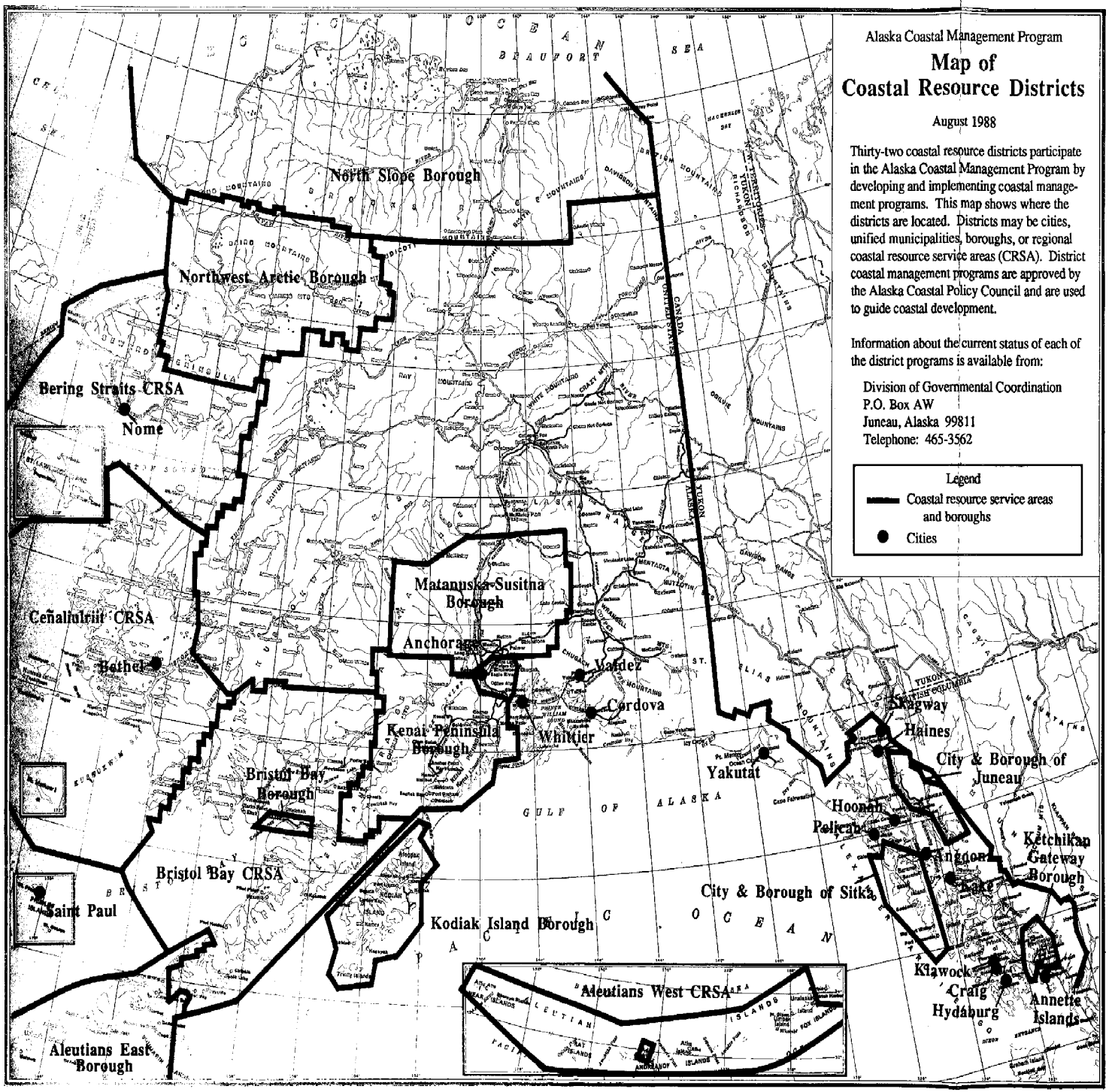
The State of Alaska initiated its coastal management program by adopting the Alaska Coastal Management Act in 1977. The Act received federal approval in 1979. The Alaska Coastal Management Act (ACMA) provides for orderly and balanced development of Alaska's coast, with full opportunity for coastal residents to take part in planning and decision-making.

The state act provides for local communities and regions designated as "coastal districts" to develop proposals for managing their coastal resources. The districts submit their management proposals to the state and then the federal government for approval. When the district's proposal for managing its coastal resources earns state and federal approval, the district is acknowledged to have an "approved district program." These approved district programs, along with the more general standards of the ACMP, set the guidelines for coastal development in Alaska.

The state act establishes coastal districts based on the existing organization of local government. Coastal districts include:

- organized boroughs that exercise planning authority;
- unified home rule municipalities;
- home rule cities, first-class cities, and, under certain circumstances, second-class cities; and
- regional coastal resource service areas directed by elected planning boards.

Figure I-1 is a map of Alaska which shows the 32 organized coastal districts.


Alaska Coastal Management Program
Map of
Coastal Resource Districts
August 1988
Thirty-two coastal resource districts participate in the Alaska Coastal Management Program by developing and implementing coastal management programs. This map shows where the districts are located. Districts may be cities, unified municipalities, boroughs, or regional coastal resource service areas (CRSA). District coastal management programs are approved by the Alaska Coastal Policy Council and are used to guide coastal development.
Information about the current status of each of the district programs is available from:
Division of Governmental Coordination
P.O. Box AW
Juneau, Alaska 99811
Telephone: 465-3562
Legend
Coastal resource service areas and boroughs
Cities
North Slope Borough
Northwest Arctic Borough
Bering Straits CRSA
Nome
Ceñaliulriit CRSA
Bethel
Matanuska-Susitna Borough
Anchorage
Valdez
Cordova
Kenai Peninsula Borough
Whittier
Bristol Bay Borough
Bristol Bay CRSA
Saint Paul
Kodiak Island Borough
Aleutians East Borough
Aleutians West CRSA
Yakutat
Skagway
Haines
City & Borough of Juneau
Hoonah
Pelican
Kake
Kétchikan Gateway Borough
City & Borough of Sitka
Klawock
Craig
Hydaburg
Annette Islands
BEAUFORT SEA
GULF OF ALASKA
PACIFIC OCEAN

THE ALASKA COASTAL POLICY COUNCIL

The Alaska Coastal Policy Council (known as the "Council", or CPC) oversees the ACMP, setting policy and reviewing coastal district programs for approval. The Council represents both local and state interests. The Council is made up of nine locally-elected officials such as mayors, city council or borough assembly members; six state Commissioners and their designees; and the director of the Division of Governmental Coordination (DGC) in the Office of the Governor. Local representatives to the council are nominated by local units of government and appointed by the Governor. The Council receives staff support from DGC. DGC coordinates the development, review, approval, and implementation of district programs, working closely with the public and the state agencies represented on the Council.

ALASKA COASTAL MANAGEMENT PROGRAM STANDARDS

The Council adopted standards to guide coastal development (6 AAC 80.040-80.150; see Chapter V for discussion). These standards are the state coastal program requirements in areas where district programs have not yet been developed and approved. Also, coastal districts consider these standards in developing their local programs.

The ACMP standards address the following topics:

- industrial, commercial, and residential coastal development;
- geophysical hazards;
- recreation;
- energy facilities;
- transportation and utilities;
- fish and seafood processing;
- timber harvest and processing;
- mining and mineral processing;

- o subsistence;
- o habitats;
- o air, land, and water quality; and
- o historic, prehistoric, and archaeological resources.

ALASKA'S COASTAL ZONE BOUNDARIES

The original boundaries of Alaska's coastal zone were defined by the CPC in 1978 based on biological and physical features of Alaska's coastal regions. These boundaries, called the "interim" boundaries, are described in the Biophysical Boundaries of Alaska (1978). The boundaries encompass areas which have direct interaction with or direct influence on coastal waters and resources.

During the coastal planning process, the district may revise these "interim" boundaries, with Council approval. The final boundaries may be changed from the interim boundaries so that the new boundaries: a) extend inland and seaward to the extent necessary to manage uses and activities that have or may have a direct and significant impact on marine coastal waters; and b) include all transitional and intertidal areas, salt marshes, saltwater wetlands, islands, and beaches. The boundaries may also be based on political jurisdiction, planning areas, or topographic features. The current boundaries of Alaska's coastal zone are mapped in an atlas titled Coastal Zone Boundaries of Alaska (June 1988). Copies of the atlas are available from DGC.

COASTAL DISTRICT PLANNING

Each participating local district develops a coastal management program for its community or region. District coastal management programs include:

- o a discussion of community or regional issues, goals, and objectives for coastal management;
- o a coastal resource inventory and analysis;

- a delineation of the district boundaries;
- policies for coastal development and protection; and
- a description of the ways in which the program will be implemented.

Some coastal areas have unique or significant values or uses. Coastal districts can designate these as areas which merit special attention (AMSAs). The districts can propose special management plans for these areas, whether the areas are located inside or outside of the districts' boundaries. The Council has the authority to adopt and administer the special management plans for the AMSAs.

After receiving local, state, and federal approvals, the district programs guide development that is located in the coastal zone or that may affect coastal resources or other uses. The programs are implemented through a number of existing processes:

- the state's consistency review process, in which proposed development projects are reviewed by state resource agencies for consistency with the district program policies and the ACMP standards, triggering the issuance of state permits;

- federal planning and decision-making on development; and

- exercise of local planning authority through measures such as municipal ordinances, zoning, comprehensive planning, and local permits.

THE CONSISTENCY REVIEW PROCESS: HOW IT WORKS

The ACMP consistency review regulations (6 AAC 50) provide a streamlined, coordinated process for reviewing and issuing state permits for proposed development projects affecting natural resources in Alaska's coastal zone. Coastal development projects are reviewed to ensure that they are consistent with ACMP standards and the

policies of approved coastal district programs. Consistency reviews oversee the full range of development activities important to Alaska's economy: oil and gas development; timber harvesting; mining; mariculture; and placement of fill for residential, industrial, and public utilities development, such as docks, breakwaters, and roads.

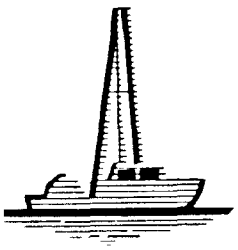
The consistency review process:

- o provides a structure for the project applicant and local residents to take part in state coastal management decisions;
- o assists applicants in applying for and obtaining state and federal permits;
- o provides a mechanism for resolving conflicts between the agencies, applicant, and local residents;
- o eliminates repetitive state agency reviews;
- o provides timely and coordinated state response to proposed coastal development projects; and
- o streamlines reviews and expedites state decisions on coastal projects.

The DGC coordinates the review of projects proposed in Alaska's coastal area whenever projects require permits from two or more state agencies, or when a federal agency permit or activity is involved. The review process includes the applicant, state resource agencies, and affected districts with an approved coastal management program. The three state resource agencies, the Alaska Departments of Environmental Conservation (DEC), Fish and Game (DFG), and Natural Resources (DNR) are the state agencies responsible for managing Alaska's natural resources and always participate in

coordinated consistency reviews. DGC seeks consensus from these agencies, the district and the applicant before making a final decision on whether to allow a project in the coastal area, and under what conditions.

The consistency review takes 30 or 50 days. Once a proposed coastal development project has been found consistent with the ACMP, including the applicable approved district program, and has met other agency permit requirements, state permits are promptly issued.



II — Alaska Coastal Management Program Legislative Framework

FEDERAL

Congress passed the Coastal Zone Management Act (CZMA) in 1972, and amended it in 1983 and 1985. The CZMA (P.L. 92-583) is included in Appendix A. In the CZMA, Congress stated its intent to "develop a national program for the management, beneficial use, protection, and development of land and water resources of the nation's coastal zone." The overall goal of the program was to achieve a proper balance of coastal resource development and protection.

The CZMA offered states two incentives to develop programs tailored to local coastal management needs and interests. First, the CZMA authorized grants to states to develop and implement their programs. The National Oceanic and Atmospheric Administration (NOAA) established the Office of Ocean and Coastal Resource Management (OCRM) (formerly the Office of Coastal Zone Management) to administer the new state programs. Guidelines and requirements for state program development are contained in 15 CFR Part 923, as revised and published March 1, 1978 in the Federal Register.

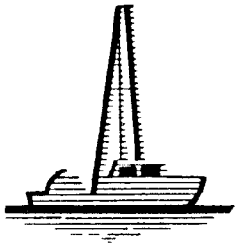
Second, the CZMA required the federal government's discretionary actions to be consistent with approved state programs. Federal regulation 15 CFR 930 guides federal agencies that conduct or support activities directly affecting the coastal zone, or that issue permits for coastal projects. These regulations mandate that federal agencies receive state concurrence that federal activities are consistent with the state's approved management program before the activities can begin. A 1985 amendment excluded Outer Continental Shelf (OCS) oil and gas lease sales from federal consistency requirements.

STATE OF ALASKA

The Alaska Coastal Management Act (ACMA) of 1977 (AS 44.19 and AS 46.40) provides the legislative authority for the ACMP. The Act is included in Appendix A. The ACMA provides for orderly and

balanced development of Alaska's coast, granting coastal residents full opportunity to take part in planning and decision-making.

Two sets of state regulations in the Alaska Administrative Code carry forward the intent of the ACMA. The Council promulgated the first set, 6 AAC 80 and 6 AAC 85, in 1978. These regulations received federal approval in 1979 and have been amended several times. These regulations present substantive standards for coastal development, and guidelines for the development of detailed local coastal management programs by coastal districts. The second set of regulations, 6 AAC 50, governs how the state reviews projects for consistency with the ACMP. These consistency regulations were adopted in 1984.



III — Alaska Coastal Policy Council

MEMBERSHIP

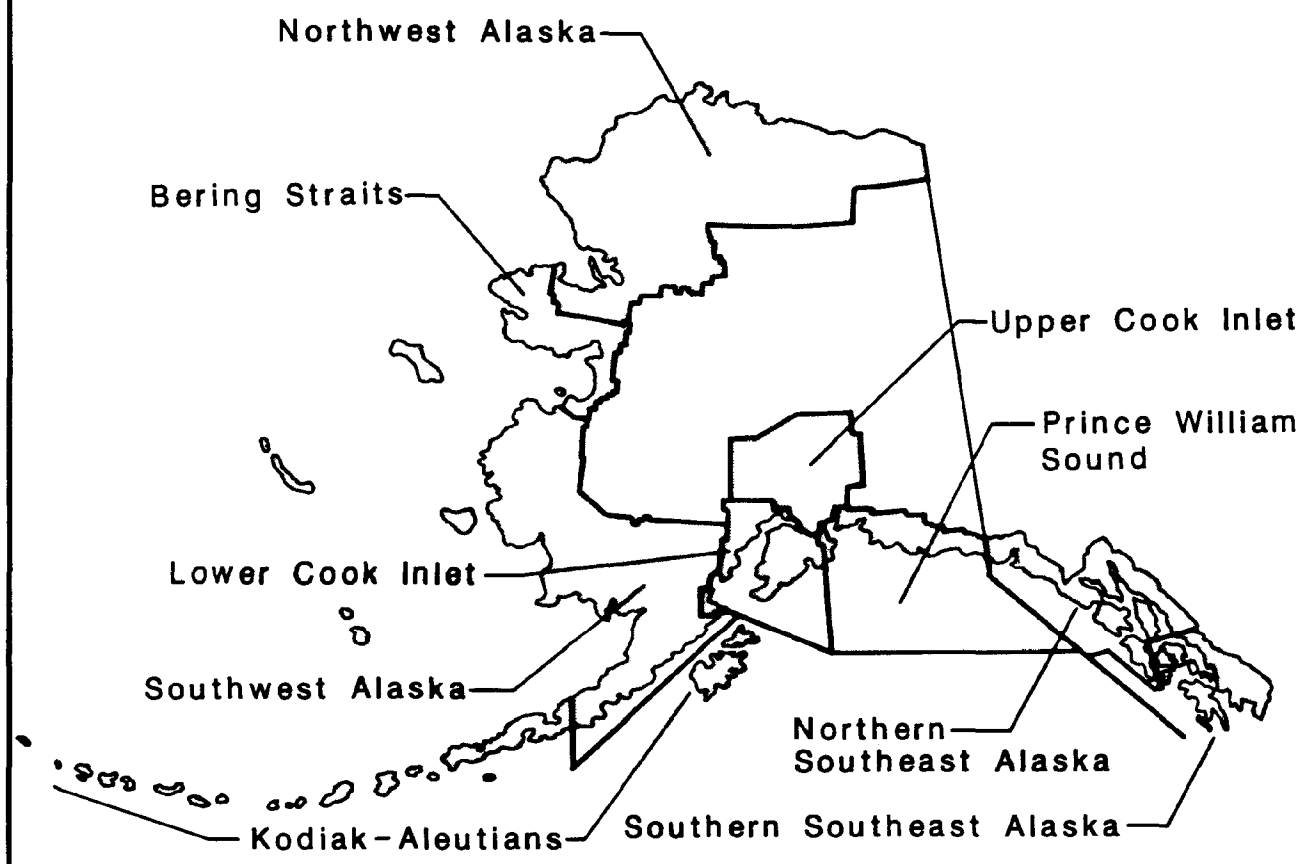
Section 44.19.155 of the ACMA created the sixteen-member Coastal Policy Council. The Council is comprised of seven state agency officials and nine locally-elected officials appointed by the governor. Appendix B includes a list of current Council members.

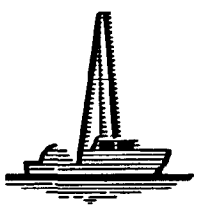
The locally-elected officials are appointed by the Governor to serve two-year terms. Each official represents one of the nine coastal regions listed below and shown in Figure III-1:

- Northwest;
- Bering Straits;
- Southwest;
- Kodiak-Aleutians;
- Upper Cook Inlet;
- Lower Cook Inlet;
- Prince William Sound;
- Northern Southeast; and
- Southern Southeast.

The seven state agency members include:

- the Director of the Division of Governmental Coordination (DGC); and
- the Commissioners, or their designees, of the following state departments:
  - Commerce and Economic Development (DCED);
  - Community and Regional Affairs (DCRA);
  - Environmental Conservation (DEC);
  - Fish and Game (DFG);
  - Natural Resources (DNR); and
  - Transportation and Public Facilities (DOT).





COASTAL MANAGEMENT REGIONS

Figure III-1

RESPONSIBILITIES

The duties of the Council include:

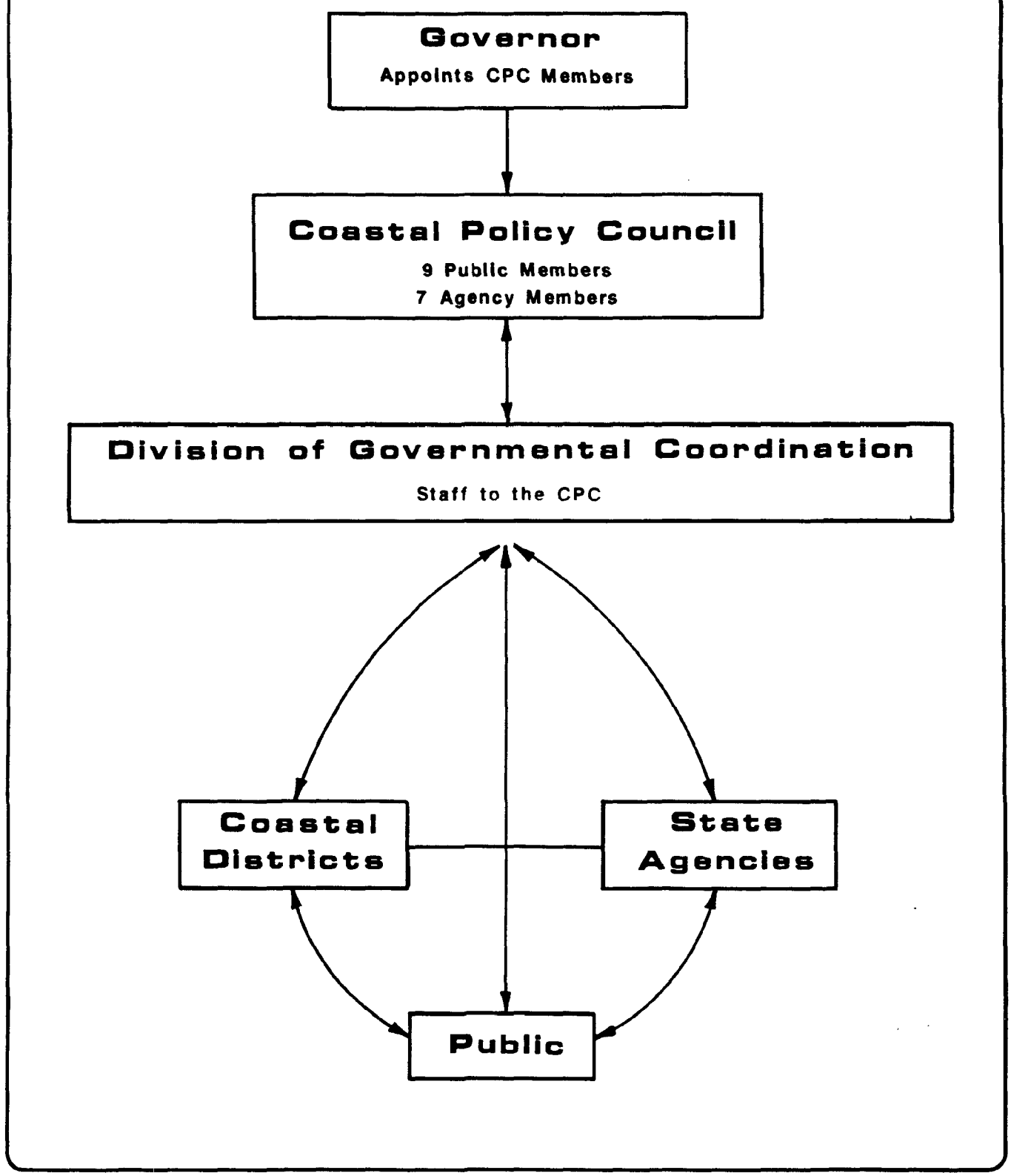
- developing and maintaining a program of technical and financial assistance to help coastal resource districts develop and implement district coastal management programs;

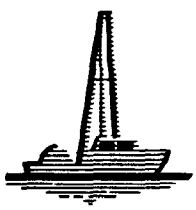
- reviewing and approving district coastal management programs and program amendments in accordance with ACMP standards and guidelines;

- initiating a process for identifying and managing uses of state concern within specific areas of the coast; and

- developing procedures for consultation and coordination with federal agencies that manage land or conduct activities potentially affecting the coastal area of the state.

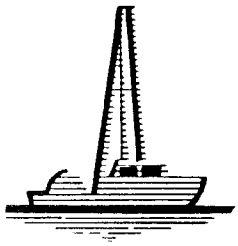
Staff from the DGC assist the Council to carry out its duties. Figure III-2 illustrates the relationship between the Council, DGC, other state agencies, and the public.





COASTAL MANAGEMENT PROGRAM RELATIONSHIPS

Figure III-2



IV — Coastal Districts

INTRODUCTION

The size and diversity of Alaska's coastal area make statewide coastal management exceptionally complex and challenging. To reduce this complexity to a manageable scale, the ACMA provided general guidelines and standards (6 AAC 80 and 85), for the development of district coastal programs. These district coastal management programs are the building blocks of the ACMP. The district programs take over local management duties and establish a partnership between state and local coastal agencies. The Council assumes responsibility for statewide oversight and coordination of the ACMP, while coastal districts develop specific programs for their own coastal areas.

This chapter presents an overview of:

- coastal district participants;
- elements of district programs;
- Areas Which Merit Special Attention;
- public participation;
- district program approval and amendment processes;
- district program implementation; and
- district programs which have been completed and incorporated into the ACMP.

DEFINITION OF COASTAL DISTRICT

Coastal resource districts are the basic planning and management units of the ACMP. A coastal resource district is any of the following which contains a portion of Alaska's coastal area:

- a unified home rule municipality or an organized borough that exercises planning authority;
- a home rule or first-class city, located outside a borough, that exercises planning authority;
- a second-class city, located outside a borough, that exercises planning authority. The city must have a planning commission and, in the judgment of DCRA, have the capability to develop and carry out a coastal program; or
- a coastal resource service area (CRSA) formed in the unorganized borough.

Within organized cities or boroughs, coastal management is the responsibility of the city council or borough assembly. Local officials usually integrate coastal management with other planning authorities and may implement it through land use regulations and other local planning techniques.

The Alaska State Legislature, as part of the ACMP, provided for the creation of CRSAs to give residents in the unorganized borough the opportunity to actively manage their coastal resources despite the absence of local government powers. A CRSA is a special form of coastal district and usually includes a large and often diverse coastal region.

A CRSA is formally organized following a special election by the residents of the region. The DCRA works with the region to prepare

for the election and to determine the appropriate CRSA boundaries. The CRSA boundaries are usually drawn along existing Rural Education Attendance Area (REAA) boundaries. If a majority of voters support establishment of a CRSA, voters then elect a seven-member board to govern the district. Board members serve three-year terms on a staggered basis.

COASTAL DISTRICT PROGRAM DEVELOPMENT

TEN ELEMENTS OF THE PROGRAMS

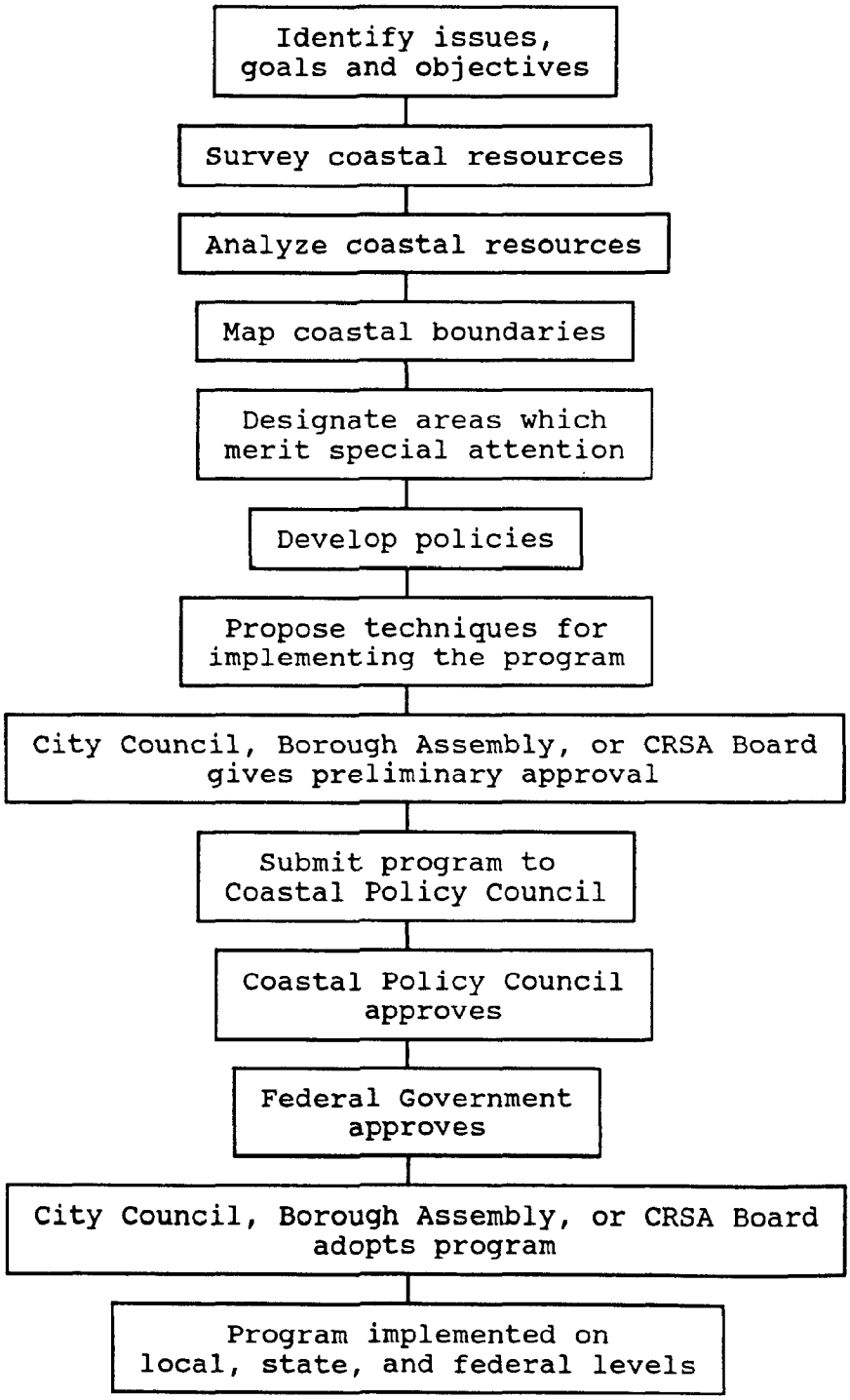
Procedures for developing district coastal management programs and provisions for their review, approval, and implementation are found in the ACMP guidelines (6 AAC 85). The guidelines set forth ten elements that district programs must include. The districts, in developing their programs, can demonstrate compliance with the elements in any sequence or combination. The following pages elaborate on each of the ten elements required for district program approval:

- issues, needs, objectives, and goals;
- organization;
- boundaries;
- resource inventory;
- resource analysis;
- subject uses;
- proper and improper uses;
- policies;
- implementation; and
- public participation.

The flow chart in Figure IV-1 shows the process a coastal district follows in preparing a coastal management program.

FIGURE IV-1

FLOWCHART
DISTRICT COASTAL MANAGEMENT PROGRAM DEVELOPMENT



Issues, Needs, Objectives, and Goals

Each district program must describe its coastal management issues, needs, program goals, and objectives. If a district already has a comprehensive plan governing land and water resource uses, the district's coastal program is to be based on the plan.

Needs and issues (any aspect of coastal resources of concern to the community) must first be identified. Examples are:

- How should our coastal area be developed?
- How can oil and gas development occur in a way that protects the fish and wildlife habitat that is important for our subsistence needs?
- Our wetlands are being filled, destroying waterfowl habitat.
- Our rivers need salmon enhancement programs because natural salmon runs have declined.
- There are no public parks along our coast.
- We need to allow for mariculture sites but also to reserve undisturbed areas for recreation and subsistence activities.

Goals are the end results or final purposes which a community wants to achieve. Goals are written as general statements of community intent. Below are examples of goals that coastal districts have used to deal with some of the above-mentioned issues:

- Strive for compatible use of coastal lands and waters for residential, industrial, commercial, recreation,

fish and wildlife needs and open space activities. (Valdez)

- Maintain opportunities to explore and develop the region's oil and gas resources in a manner that will benefit the region's residents and will not adversely impact fish and wildlife populations and habitat. (Bristol Bay)

- Subsistence shall be recognized as an important dimension of the lifestyle of Bethel residents. (Bethel)

Objectives are specific actions or measurable steps to accomplish a goal. Objectives that districts have developed to meet the above-stated goals include:

- Site industrial facilities and industrial parks to minimize damage to the natural setting. (Valdez)

- Identify areas most suitable for oil exploration and development. (Bristol Bay)

- Designate the area most intensively used for subsistence activities by Bethel residents as an Area Which Merits Special Attention (AMSA) and develop an appropriate management plan for it. (Bethel)

Organization

Each district must describe how it has organized its staff and finances. It must name its staff and describe their duties (including the coastal coordinator), and describe financial needs and accountability.

Boundaries

During early development of the ACMP, the State of Alaska identified interim boundaries for coastal areas. The interim boundaries include the "zone of direct interaction" and the "zone of direct influence," identified by DFG in the Biophysical Boundaries for Alaska's Coastal Zone, prepared in 1978. The coastal boundaries were called interim on the assumption that they might change when districts re-evaluated their boundaries and sought approval under the ACMP.

Districts may change their boundaries from the interim boundaries, providing the final boundaries meet the following criteria (taken from 6 AAC 85.040):

> **(1) extend inland and seaward to the extent necessary to manage uses and activities that have or are likely to have a direct and significant impact on marine coastal water[1]; and**
>
> **(2) include all transitional and intertidal areas, salt marshes, saltwater wetlands, islands and beaches (6 AAC 85.040).**

The final boundaries reflect more detailed information on resource presence and distribution, likely coastal development, and the potential for development impacts within the district. The Coastal Policy Council, through its oversight and review functions, is responsible for ensuring that district coastal area boundaries meet the regulatory criteria and are compatible with adjoining districts.

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[1]Marine coastal water means water adjacent to shorelines, including sounds, bays, lagoons, bayous, ponds and estuaries; and the living resources (fish, mammals, and birds) that depend on these bodies of water.

All state, private, and Native lands, whether Native corporation or Native allotment lands, are subject to the jurisdiction of the ACMP and approved district programs.

A district's final boundaries may also encompass federal lands and waters, as long as the boundaries meet 6 AAC 85.040 criteria. Under federal law, federal property is considered to be excluded from the state's coastal zone. However, districts include these lands and consider them during planning. This is prudent, since federal property may transfer to local, state, or private ownership. It also guides federal managers in conducting activities in a manner which will not impact adjacent coastal areas.

Resource Inventory

District programs must contain a resource inventory which describes the resource areas within and adjacent to the district. The resource inventory must include a description of:

- habitats of fish, mammals, and birds;
- major cultural resources (This refers to a broad range of social and cultural factors and man-made facilities, including demographic and financial resources, utilities, major recreational and transportation facilities, etc.);
- major land and water uses and activities;
- major land and resource ownership and management responsibilities; and
- major historic, prehistoric, and archaeological resources.

Resource Analysis

The resource analysis is based on the resource inventory. It must detail:

- o significant changes in any of the resource conditions portrayed in the inventory;
- o an evaluation of environmental sensitivity, and the capacity of resources and habitats to accommodate anticipated uses; and
- o an assessment of present and anticipated demands for coastal resources.

Subject Uses

District programs must describe land and water uses and activities which are subject to the management policies of the program. These uses and activities include:

- o coastal development;
- o development in geophysical hazard areas;
- o recreation;
- o energy facilities;
- o transportation and utilities;
- o fish and seafood processing;
- o timber harvest and processing;
- o mining and mineral processing; and
- o subsistence.

District programs must also address all uses that may affect the three types of resources specifically addressed in the ACMP guidelines and standards. These are:

- o habitats;
- o air, land, and water quality; and
- o historic, prehistoric, and archaeological resources.

Proper and Improper Uses

Each district program must classify potential uses and activities within its boundaries as proper or improper. All land and water uses are considered proper as long as they meet the following criteria: ACMP standards, enforceable policies of an approved district program, and applicable federal and state regulations. A use is considered improper if it is inconsistent with the ACMP standards or the policies of the district program; or if it does not comply with, or cannot be modified to comply with, the applicable federal and state regulations.

Uses of State Concern

Uses of state concern are defined in AS 46.40.210(6) as uses which meet a national interest; are of greater than local concern; or relate to siting of major energy facilities, intraregional communication or transportation needs, or state park and recreation areas. The Coastal Policy Council has further defined them in Resolution No. 13, as amended. They are discussed further in Chapter V.

Policies

The policies of a district program guide the management of land and water uses and activities. Policies must be sufficiently comprehensive to apply to all uses, activities, and areas in need of management. They must also be specific to allow clear understanding of who will be affected by the district program, how they will be affected, and whether specific proposals for land and water uses and activities will be approved. Most importantly, policies must be implementable and enforceable.

Areas Which Merit Special Attention

All districts have the authority to designate areas which merit special attention (AMSAs). AMSAs are areas that have unique or significant values or uses. They are defined in AS 46.40.210(1) and in 6 AAC 80.150-170. An AMSA may encompass areas within the district, or be wholly or partly outside the district. An AMSA allows for detailed planning and regulation of a specific geographic area and also encourages interested state and federal agencies to work closely with the district. The establishment of AMSAs also empowers districts to influence and protect areas outside of their boundaries.

Implementation

District programs must include a description of the techniques and authorities which will be used for implementation. Examples of implementation techniques include:

- participation in coordinated project or permit reviews;
- cooperative agreements and memoranda of understanding;
- promotion of public awareness of coastal issues and policies;
- development of land and water use plans;
- establishment of land use regulations, including zoning, subdivision ordinances, and building codes;
- inclusion of improvements benefitting coastal resources in capital improvements programs;
- purchase, sale, lease, or exchange of coastal land and water resources; and

- purchase of development rights.

A district's choice of implementation techniques depends on the powers vested in the local government. CRSAs and some classes of cities and boroughs may not have authority for zoning and other land use regulations. However, all districts may participate in consistency reviews, enter into cooperative agreements with other agencies, and promote public awareness of coastal issues. Local project reviews and state-coordinated consistency reviews are the most commonly-used techniques for implementing and enforcing coastal policies.

Public Participation

Districts must provide significant and effective opportunities for public participation during program development and implementation. In developing their district programs, coastal districts must follow a public participation and review process specified in state guidelines. The guidelines require the district to develop two draft program documents, the public hearing draft and the conceptually-approved draft, and distribute them widely for public review.

During program development, the district must hold at least two public meetings and a formal public hearing. The meetings inform the public, help district staff to collect comments on the program, and allow the public to present comments directly to the city council, borough assembly, or CRSA Board.

PROGRAM APPROVAL

To maintain statewide consistency, districts must comply with the standards and guidelines of the ACMP. The Coastal Policy Council is required by law to review and approve district programs according to ACMP standards and guidelines. The local assembly, city council,

or CRSA board must approve the district program before it goes to the Council.

After receiving the endorsement of local agencies and undergoing extensive public review, district programs are submitted for Council approval. The programs are then forwarded for approval to OCRM within NOAA in the U.S. Department of Commerce.

The approved district program becomes part of the ACMP as soon as it is filed with the Lieutenant Governor's office. Once the program is filed, all state actions, permits, and licenses for projects in a specific district must be consistent with that district's program. All federal actions, permits, and licenses must also be consistent with the district program, to the extent provided in federal consistency regulations.

Amendments

The district must obtain Council approval for any significant amendments to its district program. Significant amendments include:

- o major revisions, additions, or deletions to policies, implementation methods, or authorities included in the approved district program;
- o altering the district boundaries, other than by technical adjustments;
- o designating or altering an AMSA; and
- o restricting or excluding a use of state concern not previously restricted or excluded.

Any changes to a district's approved program that are not significant are considered to be routine program implementation actions. For consistency purposes, DGC notifies the Council and

the public of routine actions before they take effect. The Council must concur with the DGC's determination that a program change is routine.

COASTAL DISTRICT PROGRAM ABSTRACTS

This section of the chapter summarizes important information on each coastal district with an approved program. The information includes:

- a district staff contact;
- status of the program;
- documents which make up the district program;
- a description of the district's boundary; and
- AMSAs associated with the district, if any.

There are 32 districts located throughout the Alaska coastal zone. (Refer back to Figure I-2 for the coastal districts' locations.)

Coastal boundaries can be more specifically determined through review of district maps which have been prepared at two scales (1 inch = 250,000 feet and 1 inch = 50,000 feet). These are the Coastal Zone Boundaries of Alaska maps, available through DGC. They were prepared by DFG and published in June 1988.

The Council has also designated seven AMSAs outside of coastal districts. Six are located in the southern southeast region on southern Prince of Wales Island. One is at Eyak Lake, adjacent to the City of Cordova.

The following approved district programs are described in the rest of this chapter:

- Aleutians East Borough;
- Municipality of Anchorage;
- Annette Islands Indian Reserve (Metlakatla);
- Bering Straits Coastal Resource Service Area;
- City of Bethel;
- Bristol Bay Borough;
- Bristol Bay Coastal Resource Service Area;
- Ceñaliulriit (Yukon-Kuskokwim) Coastal Resource Service Area;
- City of Cordova;
- City of Craig;
- City of Haines;
- City of Hoonah;
- City of Hydaburg;
- City and Borough of Juneau;
- City of Kake;
- Ketchikan Gateway Borough;

- City of Klawock;
- Kodiak Island Borough;
- Matanuska-Susitna Borough;
- City of Nome;
- North Slope Borough;
- Northwest Arctic Borough;
- City of Pelican;
- City of St. Paul;
- City and Borough of Sitka;
- City of Skagway;
- City of Valdez; and
- City of Yakutat.

ALEUTIANS EAST BOROUGH

(Formerly Aleutians East Coastal Resource Service Area)

DISTRICT CONTACT: Ms. Marjorie Dunaway
Aleutians East Borough
P.O. Box 349
Sand Point, AK 99661
Phone: 383-2699
PROFS: ZCJCALE
Telecopy: 383-3496

STATUS:

- Coastal Policy Council approval: October 30, 1985.
- Federal approval: pending.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Aleutians East Coastal Resource Service Area, Conceptually Approved Coastal Management Program, Volume I, July 1985.
- Resource Inventory for the Aleutians East Coastal Resource Service Area, Volume II, April 1984 (second printing in June 1986).
- An Analysis of Potential Development and Environmental Sensitivity in the Aleutians East Coastal Resource Service Area, Volume III, July 1985.
- Coastal Policy Council Order of Approval, as amended May 22, 1986.

  Note: Changes were made to the policies of the Aleutians East CRSA Coastal Management Program at the time of Coastal Policy Council approval. The program will be reprinted following receipt of federal approval.

BOUNDARY:

The state-approved Aleutians East Borough coastal zone boundary encompasses all lands and waters excluding perennially snow-capped peaks, glaciers, and active volcanic peaks. The seaward limit of the district boundary is three miles offshore.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

No AMSAs have been designated in the Aleutians East Borough.

MUNICIPALITY OF ANCHORAGE

DISTRICT CONTACT: Mr. Mark Dalton
Senior Planner
Municipality of Anchorage
Department of Economic Development and Planning
P.O. Box 196650
Anchorage, AK 99519-6650
Phone: 343-4252
PROFS: ZCCCANC
Telecopy: 274-5718

STATUS:

- Coastal Policy Council approval: January 16, 1980.
- Effective date: June 22, 1981; revision effective September 4, 1987.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Anchorage CMP, Resource Policy Unit Maps, April 1979.
- Anchorage Coastal Resource Atlas, December 1980.
- Anchorage Coastal Scenic Resources and Public Access Plan, 1981.
- Anchorage Wetlands Management Plan, February 1982.
- Anchorage Coastal Management Program (CMP), revised document, June 1987.

BOUNDARY:

The boundary is described in Chapter Two of the June 1987 Anchorage CMP revision. The boundary is also depicted on the Coastal Zone Boundaries of Alaska maps, dated June 1988.

Inland Extent

The inland extent of the Anchorage coastal boundary is 1,320 feet measured horizontally from the 100-year coastal flood line. Where the inland boundary partially touches (1) lakes, (2) bogs, (3) marshes, (4) swamps, (5) areas identified as having natural hazards, (6) water recharge value, (7) floodplains, (8) recreational, (9) scenic, or (10) biological or habitat values, then these areas are included in their entirety within the Anchorage coastal boundary.

In addition, where the inland boundary crosses or passes through any river, stream, or creek, then the Anchorage coastal boundary

extends inland paralleling this water feature up to the 1,000 foot contour level. The width of the Anchorage coastal boundary along rivers, streams, and creeks is the boundary of the 100-Year floodplain or 200 feet on either side of that water body as measured from the center line of the drainage--whichever is greater.

Seaward Extent

The seaward extent of the Anchorage coastal boundary extends to the Municipality's political boundary in Turnagain and Knik Arms.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

The following ten areas which merit special attention were designated at the time of Coastal Policy Council approval of the Anchorage Coastal Management Program:

1. Andesitic Dike at Potter Marsh on the Old Seward Highway;
2. Bird Creek Regional Park;
3. Eagle River Valley Lowlands;
4. Fish Creek;
5. Old Girdwood Townsite South of Seward Highway;
6. Point Campbell Dunes and Delta;
7. Point Campbell-Point Woronzof Coastal Wetlands;
8. Point Woronzof Bluffs;
9. Port of Anchorage Area; and
10. Seward Highway and Turnagain Arm Scenic Corridor.

ANNETTE ISLANDS INDIAN RESERVE (METLAKATLA)

DISTRICT CONTACT: Mr. Gordon Thompson
Natural Resources Department
Metlakatla, AK 99926
Phone: 886-5111

STATUS:

- Coastal Policy Council approval: January 1980.
- Local consistency is applicable. State and federal consistency is not applicable because of the special legal status of the reserve.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Annette Islands Coastal Management Program, November 1979.
- Annette Islands Coastal Management Program Amendments, February 1981.

BOUNDARY:

The coastal management boundary includes all coastal lands and waters within the Annette Islands Reserve. The Reserve includes Annette, Walker, Spire, and Ham Islands, adjoining small islands and waters 3,000 feet offshore from the mean low water line of these islands.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

Three areas have been nominated as AMSAs within the Annette Islands district. They are:

1. Canoe Cove and Watershed;
2. Tamgas Harbor and Watershed; and
3. Port Chester and Watershed.

BERING STRAITS COASTAL RESOURCE SERVICE AREA (BSCRSA)

DISTRICT CONTACT: Mr. Bryan MacLean
c/o City of Unalakleet
Box 28
Unalakleet, AK 99684
Phone: 624-3062
Telecopy: 624-3811

STATUS:

- Coastal Policy Council approval: July 7, 1987.
- Federal approval: pending.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Bering Straits Coastal Resource Service Area (BSCRSA), Resource Inventory, Volume 1, October 1984.
- Bering Straits Coastal Resource Service Area, Conceptually Approved Resource Analysis, Volume 2, October 1986.
- Bering Straits Coastal Resource Service Area, Conceptually Approved Coastal Management Plan, Volume 3, October 1986.
- Coastal Policy Council Order of Approval, July 7, 1987.

BOUNDARY:

The BSCRSA coastal boundary includes areas where activities have or are likely to have direct and significant impacts on coastal resources, including anadromous fish. This includes a combination of selected watersheds, drainage basins, and uniform one-mile corridors from ordinary high water along each side of anadromous fish streams and rivers. The major areas not within the boundary are areas south of St. Michael, the southern portion of the Serpentine River watershed and portions of the Fish River and Tubutulik River watersheds. The seaward limit of the district boundary is three miles offshore.

Permit Notification Areas - Areas within the BSCRSA where there is less certainty that development would cause direct and significant impacts to coastal resources are excluded from the BSCRSA boundary, but are classified as permit notification areas (PNAs). PNAs were developed through CPC recognization of possible impacts to resources within the Bering Straits CRSA coastal boundary could occur, and in such cases, those projects should be subject to a consistency review in accordance with 6 AAC 50. In PNAs, state resource agencies and the Bering Straits CRSA will evaluate the proposed project and information on impacts to determine whether the project is likely to have direct and significant impacts on the resources and habitats of the Bering Straits CRSA coastal zone. This procedure will use the elevation process outlined in 6 AAC 50.070(j) and the authorities

granted to the district by 6 AAC 50.120(a). If the review determines that a proposed project is likely to have such impacts, that project will be subject to a consistency review under 6 AAC 50.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

No AMSA designations are contained in the BSCRSA plan. However, 12 AMSA nominations are proposed. They include:

1. Stuart Island/Klikitarik;
2. Portage Roadhouse;
3. Golovin Bay;
4. Rocky Point;
5. Safety Sound;
6. Cape Nome;
7. Nome River;
8. Pilgrim River;
9. Port Clarence;
10. Cape Prince of Wales;
11. St. Lawrence Island; and
12. Solomon River.

CITY OF BETHEL

DISTRICT CONTACT: Ms. Suzanne Little
ACMP Coordinator
City of Bethel
P.O. Box 388
Bethel, AK 99559
Phone: 543-4456

STATUS:

- Coastal Policy Council approval: September 29, 1983.
- Effective date: January 3, 1984

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- City of Bethel Coastal Management Plan (BCMP), conceptually approved draft, June 1983.
- City of Bethel Drainage Management Plan, December 1985.

BOUNDARY:

The boundary of the Bethel coastal district includes the entire City of Bethel. All of the lands and waters within the Bethel city limits are within the coastal zone.

AREAS WHICH MERIT SPECIAL ATTENTION:

The BCMP does not designate any areas which merit special attention.

BRISTOL BAY BOROUGH

DISTRICT CONTACT: Mr. Dale Peters
Director of Community Development
Bristol Bay Borough
Box 189
Naknek, AK 99633
Phone: 246-4224

STATUS:

- Coastal Policy Council approval: September 29, 1983.
- Effective date: January 3, 1984.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Bristol Bay Borough Coastal Management Program, June 1983.
- Addendum #1 to the Bristol Bay Coastal Management Program, December 28, 1983.

BOUNDARY:

The Bristol Bay Borough coastal district includes the entire Borough.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

The program identifies three areas as appropriate for development of AMSA plans: the marine industrial park site in Naknek; the Paul's Creek/King Salmon Creek area; and the Big Creek and rapids section of the Naknek River. No plans have yet been approved.

BRISTOL BAY COASTAL RESOURCE SERVICE AREA

DISTRICT CONTACT: Ms. Sue Flensburg
Bristol Bay CRSA
P.O. Box 3110
Dillingham, AK 99716
Phone: 842-2666
PROFS: ZCECBRB
Telecopy: (907)842-2438

STATUS:

- Coastal Policy Council approval: February 6, 1985.
- Effective date: February 17, 1987.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Bristol Bay CRSA Coastal Management Program, Volume 1, Resource Inventory, January 1984.
- Bristol Bay CRSA Coastal Management Program, Volume 2, Management Plan, June 1987.

BOUNDARY:

The boundary of the Bristol Bay CRSA includes the interim coastal boundary designated by the state; all water bodies designated in the Catalog of Water Important for Spawning, Rearing, and Migration of Anadromous Fish, plus a one-mile corridor from ordinary high water on each bank; and all tributaries to the water bodies mentioned above, plus a 200-foot corridor from ordinary high water on each bank.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

The Bristol Bay CRSA program did not designate any AMSAs. However, two areas are suggested for further investigation for AMSA designation. These are:

1. Togiak Fishing Grounds - deserves special management attention due to high natural productivity for fish and wildlife and importance as a commercial and subsistence harvest area; and
2. Nushagak/Mulchatna - deserves special management attention due to diversity and abundance of fish and wildlife resources, extensive use of the area by commercial fishermen, subsistence hunting and fishing, and growing use by recreational fishermen.

The CRSA is now working with Department of Fish and Game and the Department of Natural Resources to develop an AMSA plan for the Nushagak/Mulchatna Rivers regions.

CEÑALIULRIIT (YUKON-KUSKOKWIM) COASTAL RESOURCES SERVICE AREA

DISTRICT CONTACT: Ms. Anna Phillip
Coastal Management Coordinator
Ceñaliulriit
P.O. Box 1169
Bethel, AK 99559
Phone: 543-2242

STATUS:

- Coastal Policy Council approval: October 11, 1984.
- Effective date: March 11, 1985.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Ceñaliulriit Coastal Management Program (CCMP), March 1985.

BOUNDARY:

The boundaries of the Ceñaliulriit CRSA include all of Rural Education Attendance Areas #3 and #4 that are within the "Coastal Zone Boundaries of Alaska" except for the City of Bethel.

The district is bounded on the north by Norton Sound, on the northeast by the Nulato Hills, on the southeast by the Kilbuck Mountains, on the south by the Kuskokwim Bay, and on the west by the Bering Sea. The coastal zone extends seaward three miles to the state's offshore limit of jurisdiction. The district also includes two islands: Nunivak Island, located approximately 25 miles offshore; and St. Matthew Island, located 225 miles off shore.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

No AMSAs have been designated.

CITY OF CORDOVA

DISTRICT CONTACT: Mr. Donald Moore
City Manager
P.O. Box 1210
Cordova, AK 99574
Phone: 424-6300
Telecopy: 424-7727

STATUS:

- Coastal Policy Council approval: February 9, 1981; significant amendment approved on May 22, 1986.
- Effective date: November 24, 1986.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Cordova Coastal Management Program, November 1986.
- Eyak Lake Area Which Merits Special Attention (AMSA) Plan, Concept Approved Draft, March 1985.
- Coastal Policy Council Order of Approval for the Eyak Lake AMSA Plan, May 1986.

BOUNDARY:

Not all of the City is included in the coastal area. Areas of the City that are within the coastal boundary are subject to two separate management schemes; one which applies within the Eyak Lake AMSA, and one which applies to coastal areas outside the AMSA.

The City's coastal area (not including the AMSA) extends from the western edge of the right-of-way of the state highway (a combination of New England Cannery Road, Railroad Avenue, Copper River Highway, and Three Mile Road) seaward to the Cordova City limits. There are four exceptions where the zone extends landward of the state highway. These are:

1. the area between Odiak Slough and Odiak Lake, bounded by the Copper River Highway (CRH) on the south, Chase Road on the west and north, and LeFevre Road on the east;
2. Fleming Creek and Lagoon, including land and water within 50 feet of the center of the stream and the mean high tide line along the lagoon;
3. Ski Hill which includes lands designated in the 1976 comprehensive plan as publicly owned, and a large platted but

undeveloped area lying between Ski Hill and the developed area in central Cordova; and

4. the Eyak Lake AMSA.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

The Cordova CMP designates one AMSA (Eyak Lake) that is partly within and partly outside the district boundary.

The Ski Hill and Industrial Park areas were proposed as AMSAs in the Cordova CMP. Plans for these AMSAs have not been developed.

CITY OF CRAIG

DISTRICT CONTACT: Ms. Rochelle Rollenhagen
City Planner
City of Craig
P.O. Box 23
Craig, AK 99921
Phone: 826-3275
Telecopy: 826-3778

STATUS:

- Coastal Policy Council Approval: December 13, 1984.
- Effective date: May 31, 1985.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Concept approved, Craig Coastal Management Program, July 1984.
- Coastal Policy Council Order of Approval, December 13, 1984.

BOUNDARY:

The Craig coastal boundary encompasses the entire corporate limits of the City of Craig. However, the district's policies apply only to the activities occurring in the planning area identified in Figure 2 of the plan. In the remainder of the city, the state standards apply.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

No AMSAs have been designated.

CITY OF HAINES

DISTRICT CONTACT: Mr. Walt Wilcox
City Administrator
City of Haines
P.O. Box 1049
Haines, AK 99827
Phone: 766-2231

STATUS:

- Coastal Policy Council approval: January 16, 1980.
- Effective date: October 22, 1980.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Haines Coastal Management Plan (CMP), October 1979.
- Refinements to the Haines CMP, November 1980.
- Port Chilkoot/Portage Cove AMSA Waterfront Design Study, August 1982.

BOUNDARY:

The Haines district's coastal management boundary corresponds to the corporate boundary of the City of Haines.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

The City of Haines has designated one AMSA: the Port Chilkoot/Portage Cove area.

CITY OF HOONAH

DISTRICT CONTACT: Ms. Sharon Parks
City Clerk
P.O. Box 360
Hoonah, AK 99829
Phone: 945-3663

STATUS:

- Coastal Policy Council approval: June 8, 1984.
- Effective date: November 1984.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Hoonah Coastal Management Program, June 1984.

BOUNDARY:

The boundaries of the Hoonah district encompass the entire corporate limits of the City of Hoonah.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

No AMSAs have been designated.

CITY OF HYDABURG

DISTRICT CONTACT: Mr. Adrian LeCornu
City Administrator
City of Hydaburg
P.O. Box 49
Hydaburg, AK 99922
Phone: 285-3793

STATUS:

- Coastal Policy Council approval: April 29, 1983.
- Effective date: May 15, 1983.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Hydaburg Coastal Management Program, concept approved draft, January 1983.
- Coastal Policy Council Order of Approval, April 29, 1983.
- Areas Which Merit Special Attention in Southern Southeastern Alaska, July 1983. Note: This document replaces Chapter 9 in the Hydaburg CMP, concept approved draft.

BOUNDARY:

The Hydaburg coastal boundary is the same as the corporate limits of the City of Hydaburg.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

The Hydaburg district program has designated one AMSA. The Hydaburg River Tidelands AMSA is partly within and partly outside the district boundaries. Five additional AMSA plans for areas outside the Hydaburg district were approved by the Coastal Policy Council in July 1983.

CITY AND BOROUGH OF JUNEAU

DISTRICT CONTACT: Ms. Karen Boorman/Mr. Murray Walsh
Planning Department
City and Borough of Juneau
155 South Seward Street
Juneau, AK 99801
Phone: 586-5235
PROFS: ZCBCJUN

STATUS:

- Coastal Policy Council approval: May 22, 1986.
- Effective date: November 25, 1986.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Juneau Coastal Management Plan (JCMP), November 1986.
- Downtown Waterfront Plan (DWP), Fall 1985.

BOUNDARY:

The boundaries of the Juneau coastal district include all areas within Juneau's corporate limits which are included in the Coastal Zone Boundaries of Alaska map.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

The Downtown Waterfront Plan designates Juneau's downtown as an AMSA. The enforceable policies relating to this AMSA are repeated in the JCMP. The Juneau district program also nominated Auke Bay as an AMSA. A plan for the area is in progress.

CITY OF KAKE

DISTRICT CONTACT: Mr. Bill Cheney, Coastal Coordinator
City of Kake
P.O. Box 500
Kake, AK 99830
Phone: 785-6448
PROFS: ZCOCKAK

STATUS:

- Coastal Policy Council approval: December 13, 1984.
- Federal and State Consistency effective: May 31, 1985.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Kake Coastal Management Program (KCMP), Concept Approved Draft, June 1984.

BOUNDARY:

The boundary of the Kake coastal district is the corporate limits of the City of Kake, prior to a 1988 annexation of 13.85 square miles. The City is preparing an amendment to their program to incorporate the annexed lands into the district.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

Kake has not designated any AMSAs. However, the KCMP identifies areas beyond the corporate boundaries for resource analysis and inventory purposes. These areas are identified as "planning areas" and "areas of concern".

KETCHIKAN GATEWAY BOROUGH

DISTRICT CONTACT: Mr. Bill Jones
Planning Director
Ketchikan Gateway Borough
334 Front Street
Ketchikan, AK 99901
Phone: 225-6151

STATUS:

- Coastal Policy Council approval: December 18, 1983.
- Effective date: May 15, 1984.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Concept approved, Ketchikan Coastal Management Program (KCMP), July 1983.
- Coastal Policy Council Order of Approval, December 8, 1983.

Note: After the Ketchikan Coastal Management Program was approved, the Borough revised the program document to include changes made by the Council at the time of approval.

BOUNDARY:

The Ketchikan coastal boundary is the same as the corporate limits of the Ketchikan Gateway Borough. However, only a portion of the Borough was selected for the application of district policies. This area encompasses the populated area of the borough. District policies apply to all lands and waters within this area, including the zone beyond direct coastal influence. State standards apply in the remainder of the Borough.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

The Borough has not designated any areas which merit special attention in the district program. The Naha River and Lagoon area may be considered for AMSA designation at a later date.

CITY OF KLAWOCK

DISTRICT CONTACT: Mr. Al Macaset, Sr.
City of Klawock
P.O. Box 113
Klawock, AK 99925
Phone: 755-2261

STATUS:

- Coastal Policy Council approval: December 13, 1984.
- Effective Date: May 31, 1985.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Klawock Coastal Management Plan, Concept approved, June 1984.
- Coastal Policy Council Order of Approval, December 13, 1984.

BOUNDARY:

The boundary of the Klawock coastal management district encompasses the entire corporate limits of the City of Klawock.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

No AMSAs have been designated.

KODIAK ISLAND BOROUGH

DISTRICT CONTACT: Ms. Linda Freed, Director
Community Development Department
Kodiak Island Borough
P.O. Box 1246
710 Mill Bay Road
Kodiak, AK 99615-6340
Phone: 486-5736
Telecopy: 486-5960

STATUS:

- Coastal Policy Council approval: December 8, 1983.
- Effective date: March 15, 1984

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Kodiak Island Borough Coastal Management Program, Concept Approved Draft, June 1983.
- March 1, 1984, addendum to the program (includes amended version of Chapter 5).
- Kodiak Progress Report, reprinted version (contains resource inventory).
- Kodiak CMP Resource Maps.

BOUNDARY:

The Kodiak coastal boundary includes all of the Kodiak Island Borough.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

The Borough program described four areas as worthy of consideration as AMSAs: Shuyak Island, Raspberry Island, Women's Bay, and Karluk Lake. Plans for these areas have not been developed.

MATANUSKA-SUSITNA BOROUGH

DISTRICT CONTACT: Mr. Ken Hudson/Mr. Claud Oxford
Planning Department
Matanuska-Susitna Borough
P.O. Box 1608
Palmer, AK 99645
Phone: 745-9669
PROFS: ZCRCMSB
Telecopy: 745-0886

STATUS:

- Coastal Policy Council approval: December 8, 1983.
- Effective date: February 15, 1984.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Matanuska-Susitna Borough Coastal Management Plan, September 1987.
- Matanuska-Susitna Borough Coastal Management Plan Appendices, September 1987.

BOUNDARY:

The boundaries extend inland to include the Susitna lowlands. All lands and waters within the 100-year floodplain or 200 feet on each side of eighteen important anadromous fish streams, measured from ordinary high water, are also included.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

No AMSAs have been designated within the Borough; however, the district program proposed six areas for future AMSA planning and designation.

CITY OF NOME

DISTRICT CONTACT: Ms. Polly Prchal
City Manager
City of Nome
P.O. Box 281
Nome, AK 99762
Phone: 443-5242

STATUS:

- Coastal Policy Council approval: December 8, 1983.
- Effective date: March 15, 1984.
- Routine Program Implementation: July 13, 1984.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Nome Coastal Management Program, Background Report, Part 1, July 1981.
- Nome Coastal Management Program, Concept Approved, October 1983.
- Minor Amendments to Land Use Designations, July 13, 1984.

BOUNDARY:

The Nome coastal management area includes all lands and waters below the 200-foot elevation contour within the City of Nome corporate boundary.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

No AMSAs have been designated with the City; however, two areas (the Snake River Estuary/Port of Nome and Front Street) are proposed for future AMSA planning and designation.

The City has also identified four areas outside its jurisdiction that are of critical concern to the City. These areas (Moonlight Springs, Nome River, Cape Nome, and Port Safety/Safety Sound) are located within the Bering Straits CRSA. The City of Nome proposes to work with the Bering Straits CRSA in the future to develop AMSA plans for these areas.

NORTH SLOPE BOROUGH (NSB)

DISTRICT CONTACT: Ms. Karla Kolash
ACMP Coordinator
Planning Department
North Slope Borough
P.O. Box 69
Barrow, AK 99723
Phone: 852-2611
PROFS: ZCKCNSB
Telecopy: 852-2679

STATUS:

- Coastal Policy Council approval: April 17, 1985.
- Effective date: May 6, 1988.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Concept Approved NSB Coastal Management Program, 1984.
- NSB Coastal Management Program Background Report, 1984.
- NSB Coastal Management Program Resource Atlas, July 1984.
- NSB Coastal Management Program Policies as Approved by the Coastal Policy Council, April 17, 1985.

BOUNDARY:

The boundary of the NSB Coastal Management Program extends seaward to the three-mile limit, and inland to include the zones of direct interaction and direct influence and corridors (one mile each side of ordinary high water) along known anadromous fish waters, including the Kukpuk River in the Point Hope/Point Lay Area, and fifteen rivers in the Mid-Beaufort area.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

The NSB Coastal Management Program did not designate any areas which merit special attention. However, the Cape Thompson and Kaseguluk Lagoon and Barrier Island System were nominated for future planning and AMSA designation.

NORTHWEST ARCTIC BOROUGH
(Formerly NANA Coastal Resource Service Area)

DISTRICT CONTACT: Mr. Jason Jessup
Planning Director
Northwest Arctic Borough
P.O. Box 1110
Kotzebue, AK 99752
Phone: 442-2500
Telecopy: 442-2930

STATUS:

- Coastal Policy Council approval: May 22, 1986.
- Federal approval: pending.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- NANA Region Coastal Management Plan, October 1985, Volumes 1-3.
- Order of Approval for the NANA CRSA Coastal Management Program by the Alaska Coastal Policy Council, May 22, 1986.

Note: The NANA program will be reprinted, with all of the revisions incorporated, following receipt of federal approval.

BOUNDARY:

The boundary extends seaward to the three-mile limit, and inland to include a combination of selected watersheds, drainages, and uniform corridors along streams and rivers which provide critical spawning, rearing, and overwintering habitats for documented populations of anadromous fish within the region.

Permit Notification Areas - Areas within the Northwest Arctic Borough where it is less certain that development would cause direct and significant impacts to coastal resources are classified as permit notification areas (PNAs). Within the PNA, the state resource agencies and the Northwest Arctic Borough will evaluate the proposed project and information on impacts to determine whether the project is likely to have direct and significant impacts on the resources and habitats of the Northwest Arctic Borough coastal zone. If the review determines that a proposed project is likely to have such impacts, that project will be subject to a consistency review under 6 AAC 50.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

The NANA CRSA program did not designate any areas which merit special attention. However, AMSAs were nominated for future planning and designation in the following areas:

1. City of Kotzebue;
2. Eschscholtz Bay; and
3. Ambler/Bornite.

CITY OF PELICAN

DISTRICT CONTACT: Ms. Jenny Weaver
Coastal Coordinator
P.O. Box 733
Pelican, Alaska 99832
Phone: 735-2202

STATUS:

- Coastal Policy Council approval: June 8, 1984.
- Effective date: October 15, 1984.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Pelican Coastal Management Plan, Concept Approved Draft, March 1984.
- Order of Approval for the Pelican Coastal Management Plan by the Alaska Coastal Policy Council, June 8, 1984.
- Pelican Routine Program Implementation (boundary change to reflect annexation), December 1985.

BOUNDARY:

The boundaries of the Pelican coastal district are the corporate limits of the City of Pelican as of 1983, including an annexation completed in 1983 and excluding an annexation completed in 1987. The 1983 annexation was incorporated into the district as a routine program implementation measure in 1985. The City of Pelican intends to initiate an amendment to the Pelican CMP in fiscal year 1989 in order to incorporate the 1987 annexation into the district.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

There are currently no designated AMSAs in the Pelican district. The 1987 annexed lands include a residential area, a recreational use area, and the watershed for Pelican's drinking water. Pelican intends to develop an AMSA plan for the 1987 annexed lands.

CITY OF ST. PAUL

DISTRICT CONTACT: Mr. Vern McCorkle
City Manager
City of St. Paul
P.O. Box 29
St. Paul, AK 99660
Phone: 546-2331

STATUS:

- Coastal Policy Council approval: March 31, 1988.
- Effective date: pending.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- St. Paul Conceptually Approved Coastal Management Plan, Volume I, September 1987.
- Volume II, St. Paul Coastal Management Plan Resource Inventory and Analysis, September 1987.

BOUNDARY:

The district boundary for the St. Paul Coastal Management Program (CMP) is the same as the corporate boundary for the City of St. Paul. The boundary encloses all territory contained within the perimeter of a three-mile line surrounding the mean low water line around St. Paul, Walrus, and Otter Islands.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

The City of St. Paul did not nominate or designate AMSAs in the St. Paul CMP.

CITY AND BOROUGH OF SITKA

DISTRICT CONTACT: Mr. Stuart Denslow
City Administrator
City and Borough of Sitka
304 Lake St.
Sitka, AK 99835
Phone: 747-3294
PROFS: ZCPCSIT

STATUS:

- Coastal Policy Council approval: December 14, 1981.
- Effective date: February 1982.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Sitka Coastal Management Program, Concept Approved Draft, reprinted version, April 1983.
- Routine Program Implementation, May 31, 1985.

BOUNDARY:

The Sitka coastal district includes all areas in the interim boundary. The coastal zone in Sitka includes the spruce/hemlock coastal forest, freshwater systems where fish spawn and winter over, and the bulk of the habitat use by terrestrial birds and mammals. The seaward boundary of the district coincides with the borough boundary.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

Swan Lake, a 22.25 acre freshwater lake located in the urban Sitka area, has been designated an AMSA in the district program. The AMSA includes the lake, the contiguous marshlands, Wrinkleneck Creek, and Arrowhead Creek.

CITY OF SKAGWAY

DISTRICT CONTACT: Mr. Thomas Healy
City Manager
City of Skagway
P.O. Box 415
Skagway, AK 99840
Phone: 983-2297

STATUS:

- Coastal Policy Council approval: April 29, 1984.
- Effective date: August 15, 1983.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Skagway Coastal Management Program, Concept Approval Draft (amended version), September 1982.
- Coastal Policy Council Order of Approval, April 29, 1983.

BOUNDARY:

The Skagway coastal district includes the area within the Skagway City limits to the three-thousand-foot level, excluding federal land.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

The Skagway district program designates two AMSAs:

1. Pullen Creek-Shoreline Park; and
2. Yakutania Point.

CITY OF VALDEZ

DISTRICT CONTACT: Ms. Pam Ulvestad
City of Valdez
P.O. Box 307
Valdez, AK 99686
Phone: 835-4313
Telecopy: 835-2992

STATUS:

- Coastal Policy Council approval: November 24, 1986.
- Effective date: February 4, 1987.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Valdez Coastal Management Program (CMP), September 1986.
- Valdez CMP Addendum, January 1987.

BOUNDARY:

The boundary of the Valdez coastal district includes all areas at or below the 1500-foot elevation contour within the corporate limits of the City of Valdez. No change was made to the ACMP interim boundary.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

No AMSAs have been designated with the Valdez district, however, the following four areas are proposed for future AMSA planning and designation:

1. Robe Lake;
2. Duck Flats;
3. Mineral Creek Canyon; and
4. Keystone Canyon.

CITY OF YAKUTAT

DISTRICT CONTACT: Ms. Cheryl Easterwood
Planner
City of Yakutat
P.O. Box 6
Yakutat, AK 99689
Phone: 784-3323

STATUS:

- Coastal Policy Council approval: April 8, 1981.
- Effective date: February 1982.

DOCUMENTS COMPRISING DISTRICT PROGRAM:

- Yakutat District Coastal Management Program, concept-approved document, Alaska Consultants, Inc., January 1981.

BOUNDARY:

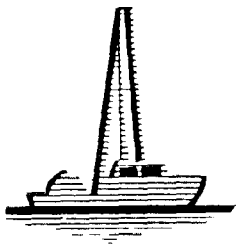
The boundary of the Yakutat coastal resource district is the corporate limits of the City of Yakutat. A petition has been submitted to hold an election on the formation of a coastal resource service area for Yakutat and surrounding areas. Public hearings on the proposed election will be held in the fall of 1988.

AREAS WHICH MERIT SPECIAL ATTENTION (AMSAs):

The City nominated three AMSAs within its boundaries:

1. Shipyard Cove
2. Ankau Lagoon
3. Ophir Creek

These AMSAs have not been designated. The district may conduct additional planning and designate these AMSAs through significant amendments to the district plan. The City also supports the extension of the Ankau Lagoon and Ophir Creek AMSAs outside the Yakutat district boundaries.



V — Alaska Coastal Management Program Standards

REGULATIONS FOR COASTAL DEVELOPMENT AND PROTECTION

Chapter 80 of Part 6 of the Alaska Administrative Code (6 AAC 80) contains standards for districts and state agencies to apply in carrying out their responsibilities under the ACMP. These standards are the basis for consistency determinations and for local district program and policy development. The standards and a discussion of each follows:

6 AAC 80.040. COASTAL DEVELOPMENT.

(a) In planning for and approving development in coastal areas, districts and state agencies shall give, in the following order, priority to: (1) water-dependent uses and activities; (2) water-related uses and activities; and (3) uses and activities which are neither water-dependent nor water-related for which there is no feasible and prudent inland alternative to meet the public need for the use or activity.

"Water-dependent" and "water-related" are defined in 6 AAC 80.900(17) and (18) as follows:

(17) **"water-dependent" means a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body;**

(18) **"water-related" means a use or activity which is not directly dependent upon access to a water body, but which provides goods or services that are directly associated with water-dependence and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered;**

This standard is intended to be applied along a waterfront where competing uses could occur. The standard is intended to establish a priority for certain uses, and to direct other uses away from waterfront locations.

This standard requires that top priority be given to water-dependent uses and activities, lower priority to water-related uses and activities, and final priority to uses and activities which are neither water-dependent nor water-related but for which there is no prudent inland location. Water-dependent activities require direct access to coastal waters. Fishing and port development are examples of water-dependent uses. Water-related activities do not require direct access to coastal waters, but without that access, the quality of goods or services they provide is reduced. Boat repair is an example of a water-related use.

Prime waterfront property is sometimes considered for uses which are totally unrelated to the waterfront, such as supermarkets, liquor stores, and offices. If non-related activities occupy the entire waterfront, water-oriented uses such as air taxi services, fish processing plants, and boat repair shops may be forced to locate in less accessible or desirable places. When districts apply this standard, they ensure that uses which need access to the coast will not be preempted by those that do not.

In areas where there is an approved local coastal management program, the local district program often provides guidance on appropriate waterfront uses. Coastal districts are encouraged to plan for uses along their waterfronts and to ensure that adequate space is reserved for water-dependent and water-related uses. In cases where a local program does not address these uses, or where a local program has not been adopted, the coordinating agency will solicit the views of the local government during project consistency reviews.

(b) The placement of structures and the discharge of dredged or fill material into coastal water must, at a minimum, comply with the standards contained in Parts 320-323, Title 33, Code of Federal

Regulations (Vol. 42 of the Federal Register, pp. 37133 - 47 (July 19, 1977)). (Eff. 7/18/78, Reg. 6.7; am 8/18/79, Reg. 71)

Authority: AS 44.19.161
AS 46.40.040

The coastal development standard also states that structures placed in coastal water, and dredged or fill material discharged into coastal waters, must comply with the standards in Parts 320-323, Title 33, Code of Federal Regulations in effect in 1977. These standards must be met before the U.S. Army Corps of Engineers (COE) may issue a permit for various activities that occur in navigable waters.

6 AAC 80.040(b) incorporates the substantive standards of the COE's regulations in effect on July 19, 1977[2]. Changes to the COE's regulations which have been made after the date specified (July 19, 1977) have not been incorporated into the ACMP. In particular, the "404(b)(1)" guidelines developed by the U.S. Environmental Protection Agency (EPA) in 1980 have not been adopted into the ACMP.

6 AAC 80.050. GEOPHYSICAL HAZARD AREAS.

(a) Districts and state agencies shall identify known geophysical hazard areas and areas of high development potential in which there is a substantial possibility that geophysical hazards may occur.

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[2] The Alaska regulations adopt the COE's regulations, which have already been developed and put into use. The COE's regulations contain considerable guidance for assessing the environmental impacts of proposals and for balancing competing national interests when making a decision on resource management. Incorporating the COE's regulations into the ACMP extends their use to state and local consideration of structure, dredge, and fill operations.

(b) Development in areas identified under (a) of this section may not be approved by the appropriate state or local authority until siting, design, and construction measures for minimizing property damage and protecting against loss of life have been provided. (Eff. 7/18/78, Reg. 67)

Authority: AS 44.19.161
AS 46.40.040.

The definition of "geophysical hazard areas" is given in 6 AAC 80.900(9) as follows:

(9) "geophysical hazard areas," means those areas which present a threat to life or property from geophysical or geological hazards, including flooding, tsunami run-up, storm surge run-up, landslides, snowslides, faults, ice hazards, erosion, and littoral beach process;

The standard for geophysical hazard areas requires districts to identify areas subject to avalanches, earthquakes, tsunamis, floods, erosion, and volcanos and also areas of high development potential where geophysical hazards may occur. This is done as part of the resource inventories which are incorporated into the district's coastal management program.

Districts should direct development away from geophysical hazard areas. Where there is no choice, districts must require that all development which locates in a known hazard area use siting, design, and building measures to reduce property damage and protect against the loss of life. Districts may develop policies which provide more specific precautions for development in hazard areas, or designate geophysical hazard areas as AMSAs (AS 46.40.210 (1)(F).

6 AAC 80.060. RECREATION.

(a) Districts shall designate areas for recreational use. Criteria for designation of areas of recreational use are (1) the area receives significant use by persons engaging in recreational pursuits or is a major tourist destination; or (2) the area has potential for high quality recreational use because of physical, biological, or cultural features.

(b) Districts and state agencies shall give high priority to maintaining and, where appropriate, increasing public access to coastal water (Eff. 7/18/78, Reg. 67; am 8/18/79, Reg. 71).

Authority: AS 44.19.161
AS 46.40.040

The standard for recreation calls for districts to identify recreational use areas in the resource inventory of their coastal management programs. As part of their management programs, districts may designate areas for recreational use or to maintain or increase public access to coastal waters. Districts may develop supplemental district policies to manage recreational use conflicts and protect recreation uses. Additionally, they can plan for recreation areas through an AMSA process (AS 46.40.210(1)(C).

6 AAC 80.070. ENERGY FACILITIES.

(a) Sites suitable for the development of major energy facilities must be identified by districts and the state in cooperation with districts.

(b) The siting and approval of major energy facilities by districts and state agencies must be based, to the extent feasible and prudent, on the following standards:

(1) site facilities so as to minimize adverse environmental and social effects while satisfying industrial requirements;

(2) site facilities so as to be compatible with existing and subsequent adjacent uses and projected community needs;

(3) consolidate facilities;

(4) consider the concurrent use of facilities for public or economic reasons;

(5) cooperate with landowners, developers, and federal agencies in the development of facilities;

(6) select sites with sufficient acreage to allow for reasonable expansion of facilities;

(7) site facilities where existing infrastructure, including roads, docks, and airstrips, is capable of satisfying industrial requirements;

(8) select harbors and shipping routes with least exposure to reefs, shoals, drift ice, and other obstructions;

(9) encourage the use of vessel traffic control and collision avoidance systems;

(10) select sites where development will require minimal site clearing, dredging and construction in productive habitats;

(11) site facilities so as to minimize the probability, along shipping routes, of spills or other forms of contamination which would affect fishing grounds, spawning grounds,

and other biologically productive or vulnerable habitats, including marine mammal rookeries and hauling out grounds and waterfowl nesting areas;

(12) site facilities so that design and construction of those facilities and support infrastructures in coastal areas of Alaska will allow for the free passage and movement of fish and wildlife with due consideration for historic migratory patterns and so that areas of particular scenic, recreational, environmental, or cultural value will be protected;

(13) site facilities in areas of least biological productivity, diversity, and vulnerability and where effluents and spills can be controlled or contained;

(14) site facilities where winds and air currents disperse airborne emissions which cannot be captured before escape into the atmosphere;

(15) select sites in areas which are designated for industrial purposes and where industrial traffic is minimized through population centers; and

(16) select sites where vessel movements will not result in overcrowded harbors or interfere with fishing operations and equipment.

(c) Districts shall consider that the uses authorized by the issuance of state and federal leases for mineral and petroleum resource extraction are uses of state concern. (Eff. 7/18/78, Reg. 67; am 8/18/79, Reg.71)

Authority: AS 44.19.161
AS 46.40.040

"Major energy facility" is defined in 6 AAC 80.900(22) as follows:

(22) "major energy facility" includes marine service bases and storage depots, pipelines and rights-of-way, drilling rigs and platforms, petroleum or coal separation, treatment, or storage facilities, liquid natural gas plants and terminals, oil terminals and other port development for the transfer of energy products, petrochemical plants, refineries and associated facilities, hydroelectric projects, other electric generating plants, transmission lines, minimum enrichment or nuclear fuel processing facilities, and geothermal facilities; "major energy facility," means a development of more than local concern carried out in, or in close proximity to, the coastal area, which meets one or more of the following criteria:

(A) a facility required to support energy operations for exploration or production purposes;

(B) a facility used to produce, convert, process, or store energy resources or marketable products;

(C) a facility used to transfer, transport, import, or export energy resources or marketable products;

(D) a facility used for in-state energy use; or

(E) a facility used primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any activity described in (A) - (D) of this paragraph.

Under the energy facilities standard, districts and the state may cooperate to identify sites suited for major energy facilities. Energy facilities most likely to affect Alaska's coast include the following:

- structures used to explore for and produce oil and gas;
- shore bases and storage areas used to support energy development;
- pipelines and rights-of-way;
- facilities used to separate, treat, and store oil, gas, and coal;
- plants used to condense natural gas into a liquid and transport it;
- ports used to transfer energy products;
- yards used to build concrete platforms for offshore oil and gas production;
- refineries and associated facilities;
- petrochemical plants;
- electric power plants, including hydroelectric projects;
- transmission lines; and
- facilities used to convert energy from the earth's heat (geothermal) to power.

Districts also often incorporate into their coastal management program policies relating to energy facility development, site location and design, and impact mitigation.

6 AAC 80.080 TRANSPORTATION AND UTILITIES.

(a) Transportation and utility routes and facilities in the coastal area must be sited, designed, and constructed so as to be compatible with district programs.

(b) Transportation and utility routes and facilities must be sited inland from beaches and shorelines unless the route or facility is water-dependent or no feasible and prudent inland alternative exists to meet the public need for the route or facility. (Eff. 7/18/78, Reg. 67; am 8/18/79, Reg. 71)

Authority: AS 44.19.161
AS 46.40.040

"Transportation and utility routes and facilities" is defined in 6 AAC 80.900(14) as follows:

(14) "transportation and utility routes and facilities" include power transmission lines, mineral slurry lines, oil and gas pipelines, land and marine corridors, railways, highways, roadways, air terminals, water and sewage transfer, and facilities required to operate and maintain the route or facility;

Transportation or utility routes or facilities on beaches or shorelines could unnecessarily cut off public access to the coast. Such routes or facilities could also adversely impact coastal habitats and limit the shoreline location of water-dependent and water-related uses.

Transportation and utility routes or facilities must be sited inland from beaches and shorelines. There are two exceptions: when these uses depend on direct access to coastal waters; or when there is no feasible and prudent inland alternative. By applying this standard, a district can reserve its coastline for activities that need to be in close proximity to the water. Districts may also adopt specific policies on how transportation and utilities are to be developed.

6 AAC 80.090. FISH AND SEAFOOD PROCESSING.

Districts shall identify and may designate areas of the coast suitable for the location or development of facilities related to commercial fishing and seafood processing. (Eff. 7/18/78, Reg. 67)

Authority: AS 44.19.161
AS 46.40.040

Fish and seafood processing facilities include aquaculture facilities, hatcheries, seafood processing plants, and marine industrial and commercial facilities. The fish and seafood processing standard allows districts to identify and reserve appropriate coastal locations for these facilities.

The success of a commercial fish and seafood processing operation depends on a suitable site to serve a productive fishing area. Suitability of the site is determined by such aspects as a protected harbor, adequate water depth at the dock, availability of good quality fresh water, level land for building, access to transportation, and an existing power source or potential for self-contained power sources. Obviously, suitability depends on the specific needs of the processing operation. Determinations of suitability must also consider the effect each activity would have on surrounding coastal habitats.

6 AAC 80. 100. TIMBER HARVEST AND PROCESSING.

AS [Alaska Statute] 41.17, Forest Resources and Practices, and the regulations and procedures adopted under that chapter with respect to the harvest and processing of timber, are incorporated into the Alaska coastal management program and constitute the components

of the coastal management program with respect to those purposes. (Eff. 7/18/78. Reg. 67; am 8/18/79, Reg. 71; am 3/30/84, Reg. 59. 89)

Authority: AS 44.19.161
AS 46.40.040

The original timber harvest and processing standards of the ACMP were replaced in 1984 with the current reference to AS 41.17, the state Forest Resources and Practices Act. This Act, and the regulations and procedures adopted pursuant to it, constitute the timber standard of the ACMP and preempt the original standard. These regulations apply to timber operations on state, municipal, and private land, and may apply on federal land in some cases.

An operator, timber owner, or landowner must notify the Division of Forestry within DNR before beginning any operation involving harvesting, road construction, site preparation, precommercial thinning, slash treatment or conversion of forest. The Act, and its implementing regulations, set guidelines for timber harvesting and associated activities. The guidelines address road construction, harvesting practices, log storage and transportation, reforestation practices, and insect and disease control. Operators who comply with these guidelines are consistent with the timber harvest standard of the ACMP.

6 AAC 80.110. MINING AND MINERAL PROCESSING.

(a) Mining and mineral processing in the coastal area must be regulated, designed, and conducted so as to be compatible with the standards contained in this chapter, adjacent uses and activities, statewide and national needs, and district programs.

(b) Sand and gravel may be extracted from coastal waters, intertidal areas, barrier islands, and spits, when there is no feasible and

prudent alterative to coastal extraction which will meet the public need for the sand or gravel. (Eff. 7/18/78, Reg. 67; am 8/18/79, Reg. 71)

Authority: AS 44.19.161
AS 46.40.040

This standard requires that mineral production be in accord with other standards, nearby uses and activities, regional programs, and state-wide and national needs. It also limits extraction of sand and gravel from coastal waters, intertidal areas, barrier islands, and spits to circumstances in which there are no reasonable inland sources to meet the public need.

6 AAC 80.120. SUBSISTENCE.

(a) Districts and state agencies shall recognize and assure opportunities for subsistence usage of coastal areas and resources.

(b) Districts shall identify areas in which subsistence is the dominant use of coastal resources.

(c) Districts may, after consultation with appropriate state agencies, Native corporations, and any other persons or groups, designate areas identified under (b) of this section as subsistence zones in which subsistence uses and activities have priority over all non-subsistence uses and activities.

(d) Before a potentially conflicting use or activity may be authorized within areas designated under (c) of this section, a study of the possible adverse impacts of the proposed potentially conflicting use or activity upon subsistence usage must be conducted and appropriate safeguards to assure subsistence usage must be provided.

(e) Districts sharing migratory fish and game resources must submit compatible plans for habitat management. (Eff. 7/1/78, Reg. 67)

Authority: AS 44.19.16
AS 46.40.040

Because many Alaskans value and depend upon a subsistence way of life, this standard requires that districts allow for continued use of coastal areas and resources for subsistence activities. Subsistence has also been classified as a use of state concern.

Districts may identify in their resource inventories areas where subsistence is the major use of coastal resources and designate these areas as "subsistence zones". The ACMP standards allow districts to rank subsistence activities as the priority use within the designated "subsistence zones".

If a use proposed for a subsistence zone appears to conflict with the designated subsistence activities, the district must assess the effects of the proposed use and impose safeguards if necessary.

Fish and game species important to a subsistence life style do not respect political boundaries, but instead move from one area to another as their needs dictate. The subsistence standard, therefore, requires the plans of districts sharing migratory fish and game resources to be compatible.

To date, districts have not used the "subsistence zone" technique. Instead, districts have adopted policies that provide performance standards for development or other activities. These policies help achieve a balance between subsistence and other uses.

The subsistence standard applies to management of subsistence through land use and water use regulations. The standard does not enable districts to allocate subsistence resources among users. Authority to allocate such resources rests solely with the Alaska Board of Fisheries and Board of Game.

6 AAC 80.130. HABITATS.

(a) Habitats in the coastal area which are subject to the Alaska Coastal Management program include:

(1) offshore areas;
(2) estuaries;
(3) wetlands and tideflats;
(4) rocky islands and seacliffs;
(5) barrier islands and lagoons;
(6) exposed high energy costs;
(7) rivers, streams, and lakes; and
(8) important upland habitat.

(b) The habitats contained in (a) of this section must be managed so as to maintain or enhance the biological, physical, and chemical characteristics of the habitat which contribute to its capacity to support living resources.

(c) In addition to the standard contained in (b) of this section, the following standards apply to the management of the following habitats:

(1) offshore areas must be managed as a fisheries conservation zone so as to maintain or enhance the state's sport, commercial, and subsistence fishery;

(2) estuaries must be managed so as to assure adequate water flow, natural circulation patterns, nutrients, and oxygen

levels, and avoid the discharge of toxic wastes, silt, and destruction of productive habitat;

(3) wetlands and tideflats must be managed so as to assure adequate water flow, nutrients, and oxygen levels and avoid adverse effects on natural drainage patterns, the destruction of important habitat, and the discharge of toxic substances;

(4) rocky islands and seacliffs must be managed so as to avoid the harassment of wildlife, destruction of important habitat, and the introduction of competing or destructive species and predators;

(5) barrier islands and lagoons must be managed so as to maintain adequate flows of sediments, detritus, and water, avoid the alteration or redirection of wave energy which would lead to the filling in of lagoons or the erosion of barrier islands, and discourage activities which would decrease the use of barrier islands by coastal species, including polar bears and nesting birds;

(6) high energy coasts must be managed by assuring the adequate mix and transport of sediments and nutrients and avoiding redirection of transport processes and wave energy; and

(7) rivers, streams, and lakes must be managed to protect natural vegetation, water quality, important fish or wildlife habitat and natural water flow.

(d) Uses and activities in the coastal area which will not conform to the standards contained in (b) and (c) of this section may be allowed by the district or appropriate state agency if the following are established:

(1) there is a significant public need for the proposed use or activity;

(2) there is no feasible prudent alternative to meet the public need for the proposed use or activity which would conform to the standards contained in (b) and (c) of this section; and

(3) all feasible and prudent steps to maximize conformance with the standards contained in (b) and (c) of this section will be taken.

(e) In applying this section, districts and state agencies may use appropriate expertise, including regional programs referred to in 6 AAC 80.030(b). (Eff. 7/18/78, Reg. 67)

Authority: AS 44.19.161
AS 46.40.040.

Habitats include offshore areas, estuaries, wetlands and tideflats, rocky island and sea cliffs, barrier islands and lagoons, exposed high energy coasts, rivers, streams, lakes, and important upland habitat. Habitats are to be managed so as to maintain or enhance their ability to support life.

The habitat protection requirements included in the regulations must be met unless there is a significant public need and there are no "feasible and prudent" alternatives to meet that public need. (The term "feasible and prudent" is defined in 6 AAC 80.900(2).) In these instances, the project must still conform with the habitat standards.

6 AAC 80.140. AIR, LAND, AND WATER QUALITY.

Notwithstanding any other provision of this chapter, the statutes pertaining to and the regulations and procedures of the Alaska Department of Environmental Conservation with respect to the protection of air, land, and water quality are incorporated into the Alaska coastal management program and, as administered by that agency, constitute the components of the coastal management program with respect to those purposes. (Eff. 7/18/78, Reg. 67)

Authority: AS 44.19.161
AS 46.40.040

The DEC's standards for air, land and water quality are incorporated into the ACMP. The ACMP uses whatever DEC standards are in effect at the time they are applied. (Note: This is different from the situation with the Corps of Engineers regulations in 6 AAC 80.040(b)).

6 AAC 80.150. HISTORIC, PREHISTORIC, AND ARCHAEOLOGICAL RESOURCES.

Districts and appropriate state agencies shall identify areas of the coast which are important to the study, understanding, or illustration of national, state, or local history or prehistory. (Eff. 7/18/78, Reg. 67)

Authority: AS 44.19.161
AS 46.40.040

Districts identify cultural resource areas when they prepare the resource inventories for their district programs. In addition to areas of historic or prehistoric significance, districts may identify other sites of cultural importance, such as areas where certain traditional activities are conducted. Districts are encouraged to adopt policies which manage and provide protection for these resources.

AREAS WHICH MERIT SPECIAL ATTENTION (6 AAC 80.158-6 AAC 80.170)

DEFINITION

Areas which merit special attention (AMSAs) are areas where resource values or claims on the resources call for detailed planning. As defined in the Alaska Coastal Management Act, an AMSA is:

A delineated geographic area within the coastal area which is sensitive to change or alteration and which, because of plans or commitments or because a claim on the resources within the area delineated would preclude subsequent use of the resources to a conflicting or incompatible use, warrants special management attention, or which, because of its value to the general public, should be identified for current or future planning, protection, or acquisition.

Authority: AS 46.40.210(1)

AMSA DETERMINATIONS

The Alaska Coastal Management Program identifies ten criteria for determining whether or not an area qualifies as an AMSA. These criteria, under AS 46.40.210 and 6 AAC 80.158, include:

1) **areas of unique, scarce, fragile, or vulnerable natural habitat, cultural value, historical significance, or scenic importance;**

2) **areas of high natural productivity or essential habitat for living resources;**

3) **areas of substantial recreational value or opportunity;**

4) **areas where development of facilities is dependent upon the utilization of, or access to, coastal waters;**

5) areas of unique geologic or topographic significance which are susceptible to industrial or commercial development;

6) areas of significant hazard due to storms, slides, floods, erosion, or settlement; and

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

8) areas important for subsistence hunting, fishing, food gathering, and foraging;

9) areas with special scientific values or opportunities, including those areas where ongoing research projects could be jeopardized by development or conflicting uses and activities; and

10) potential estuarine or marine sanctuaries.

Authority: AS 46.40.210(1)
6 AAC 80.158

THE AMSA MANAGEMENT APPROACH

AMSA planning offers the opportunity to develop information and specific policies for sensitive or valuable areas. It also facilitates coordination of planning efforts among districts and state and federal agencies. The management options for AMSAs vary, based on the established policies.

The AMSA management approach "must preserve, protect, enhance, or restore the value or values for which the area was designated," as specified in 6 AAC 80.160(A)(7). It must include:

- a description of the uses and activities that will be considered proper and the use and activities that will

be considered improper with respect to land and water within the area;

- a summary or statement of the policies that will be applied in managing the area; and

- an identification of the authority that will be used to implement the proposed management scheme.

Council approval of an AMSA plan includes both the approval of the AMSA boundaries and of the specific management plan adopted for it. AMSAs can be designated either inside or outside a coastal district's boundaries. AMSAs located entirely within approved district boundaries are managed by the district. AMSAs located partly or entirely outside of district boundaries are managed by the state under the ACMP.

USES OF STATE AND NATIONAL CONCERN

DEFINITION

Many of the land and water uses and activities subject to the coastal management program could, depending on the scope of the use or activity, be of a regional, statewide, or national importance. They could also significantly affect the long-term interest of Alaska and the nation. The legislators drafting the Alaska Coastal Management Act recognized specific uses and activities of regional, state, and national importance by including consideration of "Uses of State Concern" in the act. Section 46.40.210(6) of the Alaska Coastal Management Act defines the term to mean those land and water uses which would significantly affect the long-term public interest. The uses include:

(A) uses of national interest, including resources for the siting of ports and major facilities which contribute to meeting national energy needs, construction and maintenance of

navigational facilities and systems, resource development of federal land, and national defense and related security facilities that are dependent upon coastal locations;

(B) uses of more than local concern, including those land and water uses which confer significant environmental, social, cultural, or economic benefits or burdens beyond a single coastal resource district;

(C) the siting of major energy facilities, activities pursuant to state oil and gas lease, or large-scale industrial or commercial development activities which depend on a coastal location and which, because of their magnitude or the magnitude of their effect on the economy of the state or the surrounding area, are reasonably likely to present issues of more than local significance;

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

(E) uses in areas established as state parks or recreational areas under AS 41.20 or as state game refuges, game sanctuaries, or critical habitat areas under AS 16.20.

Authority: AS 46.40.210(6)

THE COUNCIL'S LIST OF USES OF STATE CONCERN

The statute directed the Alaska Coastal Policy Council to further define uses of state concern. The Council adopted Resolution No. 13, which outlines specific categories and criteria for uses of state concern. These categories and criteria are not intended to be all-inclusive. Uses identified in the resolution include:

- Coastal development:

  - the siting of major energy facilities;
  - large-scale industrial and commercial developments;
  - transportation facilities;
  - new community development;
  - defense and security facilities;

- Renewable and non-renewable resources:

  - management and enhancement of fish and wildlife resources;
  - conservation of anadromous fish waters;
  - harvest of fish and wildlife;
  - disposition of land and water;
  - disposition of forest resources;
  - resource development on federal lands;
  - disposition of energy resources;
  - disposition of minerals and materials;
  - agriculture development and protection;

- Air, land, and water quality:

  - management of state parks, waysides, and recreational areas;
  - management of state historic, prehistoric, and archaeological resources; and
  - management of air quality, water quality, and solid wastes.

Coastal districts must identify and address uses of state concern during development of district programs. The districts may not "arbitrarily or unreasonably restrict or exclude" uses of state concern. The Council reviews district programs prior to approval to make sure that uses of state concern are included. Following program approval, the district and state must continue to ensure

through consistency reviews and local implementation that uses of state concern are not arbitrarily or unreasonably restricted or excluded during program implementation.

CONDITIONS FOR RESTRICTING OR EXCLUDING A USE OF STATE CONCERN

AS 46.40.070(c) allows the CPC to approve a restriction or exclusion of a use of state concern if specific conditions are met. Those conditions are as follows:

(c) In determining whether a restriction or exclusion of a use of state concern is arbitrary or unreasonable, the council shall approve the restriction or exclusion if it finds that

(1) The coastal resource district has consulted with and considered the views of appropriate federal, state, or regional agencies;

(2) The district has based its restriction or exclusion on an analysis showing that the proposed use is incompatible with the proposed site.

Authority: AS 46.40.070(c)

(Note: To date, the Council has not approved any district programs that arbitrarily or unreasonably restrict or exclude a use of state concern.)

In 1986, the Coastal Policy Council added a new section to the ACMP regulations on uses of state concern (6 AAC 85.185). These regulations allow a state agency or other interested party to submit a petition to amend a district program if there is substantial evidence that a use of state concernt is arbitrarily or unreasonably restricted by the program's policies. Any petition submitted must be sent to both DGC and the district, and must:

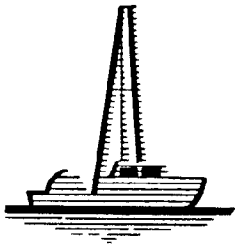
- identify the uses of state concern that allegedly are arbitrarily or unreasonably restricted or excluded by implementation of the program;

- document how the use(s) of state concern is restricted or excluded;

- describe a significant change in circumstances or new information since program approval, that demonstrates that the district has arbitrarily or unreasonably restricted a use of state concern; and

- propose an amendment to the program to correct the problem.

After receipt of the petition, DGC will attempt to resolve the petitioner's concerns within 30 days by working with all concerned parties, including the district, the petitioner, and state agencies. This period can be extended by up to 60 days at the request of the petitioner, district or a state agency. If, at the end of this period, DGC concurs with the petitioner, DGC will investigate the allegedly unfair restrictions on the use(s) of state concern and report its findings to the Council. If the Council agrees with the petitioner, the district must amend its program. The amendment becomes effective when the Lieutenant Governor files the Council decision approving the amendment.



VI — Alaska Coastal Management Program Implementation

INTRODUCTION

This chapter describes how the ACMP is implemented at the federal, state and local levels. It begins with a discussion of the state-coordinated consistency review process, and how districts and the state resource agencies participate in the process. The second section of this chapter explains federal consistency requirements which mandate that federal activities affecting the coastal zone be consistent with the ACMP and federally-approved district programs. The last section of this chapter describes how districts with approved programs implement their district programs through a variety of local implementation techniques.

THE STATE'S CONSISTENCY REVIEW PROCESS

Uses and activities conducted by state agencies in the coastal area must be consistent with the ACMP standards and approved district programs. In state permit decisions, in addition to finding that the use or activity complies with the agency's statutes and regulations, the agency must find that the permitted activity is consistent with the ACMP (see 6 AAC 80.010).

The State of Alaska has implemented regulations by which consistency determinations are made. These regulations, 6 AAC 50.010-6 AAC 50.190, are discussed below.

If a federal permit or permits from more than one state agency are required, the consistency review process is coordinated by a regional office of the Division of Governmental Coordination (DGC). If permits from only one state agency are required, the state agency responsible for issuing those permits coordinates the review.

The state-coordinated review process is outlined in Table VI-1 and discussed below.

TABLE VI-1
CONSISTENCY REVIEW SCHEDULE

Step or Action	Final Day for Action: 30-Day Schedule	Final Day for Action: 50-Day Schedule
Early contact with district about project.	--	--
Applicant submits completed packet. Coordinating agency distributes packet and schedule.	2	2
Review period.	17	34
Request information via coordinating agency.	15	25
Request public hearing.	17*	34*
Send comments to coordinating agency. (Verbal comments must be followed up in writing within five days.)	17	34
Coordinating agency develops preliminary position; notifies applicant and districts with approved programs.	24	44
Submit written statement requesting elevation to director level.	29	49
If a consensus is reached, consistency determination is sent to reviewers.	30**	50**
If project is elevated, issues paper sent to reviewers.	30***	50***

* The coordinating agency must decide within seven days whether to hold a hearing. If so, the agency must provide 15-30 days of notice, and provide a summary of the hearing five days afterwards. All parties have the same seven days after receipt of the summary to provide additional comments.

** Agency permits must be issued five days after the consistency determination is received unless this is statutorily impossible.

*** Elevation can take up to 15 days at each level. If no consensus is reached during elevation to the directors, then the project is elevated to the Commissioner for policy direction.

PRE-APPLICATION ASSISTANCE

If the applicant asks for help, DGC or the coordinating state resource agency is responsible for providing the applicant with pre-application assistance. This can take the form of helping the applicant fill out the coastal project questionnaire; or organizing meetings with the applicant, state and federal agencies, and the affected coastal district. These meetings are usually held before the applicant submits his application.

Pre-application meetings generally occur in the regional offices of DGC or the resource agencies. Many of the pre-application meetings may also involve federal resource agencies.

EXPEDITED REVIEW

DGC maintains a list called the "Classification of State Agency Approvals Under 6 AAC 50," (also known as the "A," "B," and "C" lists). This is a list of approvals given for certain activities. These approvals do not require individual consistency reviews and can be given fairly quickly. However, the applicant must obtain all other necessary state and local permits. The list classifies state approvals into three categories: Categorically Consistent Approvals, General Concurrence Determinations, and Individual Project Reviews.

Categorically Consistent Approvals

Categorically Consistent Approvals (also referred to as the "A" list) are granted for activities that the DGC has determined do not have a significant coastal impact as defined by the Alaska Coastal Management Act. Examples of permits that are classified as Categorically Consistent include: air quality control permit to open burn, plan review and approval of sewerage or sewage treatment works, game sanctuary entry permit, gravel sales from previously-approved upland sources, certain water withdrawals on

the North Slope, trapping and remote cabin construction permits, assignment of mineral interests, and notice of intent to explore for surface coal.

General Concurrence Approvals

Activities on the General Concurrence list (also referred to as the "B" list) have been determined to be consistent with the ACMP so long as the activity complies with standard stipulations. Each General Concurrence has been assigned a number and description and is accompanied by a list of standard conditions.

Examples of permits that are classified as General Concurrence include: certain nation-wide permits, COE General Permits, recreational placer mining, temporary navigation sites, access across state park lands, cross-country movement of equipment in winter, certain National Pollutant Discharge Elimination System (NPDES) permits for Norton Sound and Beaufort Sea, surface oiling of roads, and temporary camps on state lands.

Individual Project Reviews

Some projects involve activities that are not categorically consistent and that have not been given a general concurrence determination. These projects must be individually reviewed for consistency with the ACMP and with the approved coastal management program of the district in which they are located.

PROJECTS AFFECTING THE COASTAL ZONE

The state resource agencies will determine if a project[3] is in or may affect the coastal zone. This determination is made using criteria established in 6 AAC 50.190(14). This is important because a proposed project could affect coastal resources or uses even though its activities occur outside the district coastal zone boundary. Projects which meet the criteria are reviewed for consistency with the ACMP, which includes approved district coastal management programs.

THE REVIEW PROCESS

The Schedule

DGC or the coordinating state resource agency completes the review within either 30 or 50 days. The 50-day review schedule is most commonly used.

For a project which includes a disposal of interest in state lands, DGC works with DNR to establish a review schedule[4]. The schedule will synchronize the consistency review schedule and DNR's statutory responsibilities regarding the disposal of interest, allowing both processes to run concurrently.

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[3] "Project" is defined by 6 AAC 50.190(14) as an activity or use which will be located in or may affect the coastal zone of Alaska and which is subject to consistency review under section 307 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. Section 1456), or which requires the issuance of one or more state permits; when a land or water activity is developed or authorized in discrete phases, and each phase requires agency decisions regarding permits, each phase is considered a "project".

[4] The "disposal of interest in state land" means the sale, lease, or other disposition of state-owned or state-managed land or resources by the Department of Natural Resources.

DGC or the coordinating state resource agency may grant extensions to the schedule as provided under 6 AAC 50.110. Deadlines may be extended for the following reasons: at the request of the applicant; to allow field review by an agency; to receive additional information requested by a district or agency; if a public hearing is required; or for other reasons allowed by the regulations.

Requests for Information

Agencies and the affected district may request additional information from the applicant during the review. Day 25 of a 50-day review and Day 15 of a 30-day review are the last days for an agency or district to request additional information. The coordinating agency may stop the review until the additional information is received.

Proposed Consistency Determination

After reviewing comments on the project from the state resource agencies, the coastal district, and the public, DGC or the coordinating state resource agency develops a proposed consistency determination. The proposed determination is presented to the applicant, agencies, and district for their review.

Elevation process

If an applicant, agency, or district disagrees with the proposed determination for the project, he or she may request "elevation", or further review by division directors in the state resource agencies. The directors review the proposed determination and any additional information included in the elevation request. They then issue a second proposed determination.

Upon request, the directors' proposed determination may also be elevated to the commissioners of the resource agencies. Each elevation review can take no longer than 15 days.

If the project requires a federal permit and the applicant disagrees with the state's final conclusive consistency determination, the applicant may also appeal to the U.S. Secretary of Commerce in Washington, D.C., as provided in 15 CFR 930.125(H).

Conclusive determination

A conclusive consistency determination is issued when the applicant, state resource agencies, and coastal district reach agreement on the proposed determination.

Permits

Within five days after the conclusive consistency determination is issued, state agencies must issue the state permits covered by the determination. The agency may delay the permit issuance only if it finds additional review is necessary to fulfill statutory requirements.

PUBLIC INVOLVEMENT

Any member of the public may request a copy of the project application packet and comment in writing on the proposed project. DGC or the coordinating state resource agency may hold a public hearing if a hearing is requested by the last day of the public comment period. The purpose of the hearing must be consideration of issues which have not been adequately addressed during the review.

DGC or the coordinating state resource agency has seven days to decide whether to hold a public hearing. If DGC or the coordinating state resource agency decides to hold the hearing, it usually notifies the public using at least two methods: by placing a public notice in a newspaper of local circulation, and by writing a letter to the local governing body. If the proposed project is

located in the unorganized borough, then public notice is given over the local radio or television station.

If new information is presented at the hearing, DGC or the coordinating state resource agency sends a summary of this new information within five days to all reviewers (state resource agencies and the district), and to any member of the public who wishes to be involved in the review process.

DUE DEFERENCE

In making the consistency finding, the coordinating agency gives "due deference" to the resource agencies and coastal districts with approved programs. Due deference means following the recommendations of the agency or district having the most expertise in a particular field. For example, the local district with an approved program is considered to be the "expert" on interpretation and application of its program, while DEC would be considered the expert on water and air quality; DNR, the expert on oil and gas drilling; DFG on fish, wildlife, and habitat issues. With subsistence issues, DFG might be the expert on some issues, but a local district in a remote region of Alaska would likely be the expert on many aspects of subsistence.

FEDERAL CONSISTENCY REQUIREMENTS

GENERAL DISCUSSION

"Federal consistency" refers to section 307 of the federal Coastal Zone Management Act (CZMA). It requires federal agency actions to comply with the ACMP once the U.S. Secretary of Commerce approves the state's program. Since approved district coastal management programs are part of the state program, federal agency actions must comply with approved district programs as well as with the state's coastal management standards.

The consistency provisions apply to several types of federal actions, including: direct federal activities; activities which require federal licenses and permits; outer continental shelf (OCS) exploration, development and production activities; and federal assistance to state and local governments. Federal leases of OCS resources are exempt from the consistency requirement. Other direct federal activities may also be exempt if other federal laws or unforeseen circumstances prevent full consistency with the state program. However, these exceptions are not frequent.

FEDERAL CONSISTENCY PROCESS

Procedures for determining consistency of federal actions are described in federal regulations (15 CFR Part 930). Federal agencies must determine whether their own proposed activities will "directly affect" the coastal zone. Applicants for federal permits must certify that the proposed action is consistent, to the maximum extent practicable, with the state's coastal management standards and with approved district program policies.

Direct Federal Activities

If a federal agency decides that one of its activities might directly affect the state's coastal area, it determines whether the proposed action complies with the state's coastal management standards and approved district programs. The federal actions with potential direct effects include, but are not limited to:

- all development projects, including planning, construction, modification, or removal of public works, facilities, or other structures;
- acquisition, use, or disposal of land or water resources;
- federal waste disposal plans for a federal facility; and

- other federal agency activities requiring a federal license or permit.

Federal Licenses and Permits

Activities which require federal licenses and permits may affect the state's coastal area. The federal agency responsible for issuing the license or permit directs the applicant to certify that the proposed activity will be consistent with the state's coastal management standards and with any federally-approved district program.

Examples of licenses and permits which could directly affect the state's coastal zone (and the agencies which issue these permits) include:

- permits under Section 404 of the Federal Clean Water Act, authorizing discharges into wetlands (COE);

- permits under Section 9 and 10 of the River and Harbor Act, authorizing the construction of bridges, causeways, dams and dikes, and the obstruction of navigable waters (COE);

- permits and licenses for drilling and mining and related facilities on public lands (Bureau of Land Management);

- permits for siting, construction, and operation of deepwater ports (U.S. Coast Guard);

- permits for new sources of pollution, modifications of existing sources of pollution, and waivers of compliance allowing extensions to meet air quality standards under Section 112(c)(1) of the 1972 Clean Air Act (Environmental Protection Agency (EPA));

- permits for water easements on U.S. Forest Service (USFS) lands (USFS);

- permits for construction and development activities on USFS lands (USFS); and

- approvals for exploration, development, and production of OCS resources (Minerals and Management Service (MMS)).

Federal Assistance Programs

The State of Alaska does not presently review federally-financed activities for consistency with the ACMP.

LOCAL IMPLEMENTATION

Once a district receives approval of its coastal management program, it puts the policies into action through a range of local implementation methods. Local implementation ensures that activities proposed within a district are consistent with the district's approved program.

One of the first steps for implementing the district coastal program is to charge a person with the responsibility for administering the program. Districts may assign this responsibility to the district coordinator, city manager, planning director, public works director, or land administrator. CRSAs use a district coordinator as well as the CRSA board.

Regulations applying to local implementation of approved district programs are found in 6 AAC 85.100. These regulations provide a varied list of implementation techniques available to districts. The appropriateness of a particular implementation technique depends on a district's form of government as well as on staffing levels and local development attitudes.

The 32[5] coastal districts fall into two categories:

1) Districts which are incorporated municipalities with the authority to regulate development using planning, platting, and land use regulations. They include home rule, first- and second-class cities; second-class and home rule boroughs; and unified municipalities. There are 28 districts that fall into this category.

2) Districts within the unorganized borough, called Coastal Resource Service Areas (CRSAs). There are currently four CRSAs in Alaska.

The most important local implementation techniques include consistency reviews, participation in state and federal planning projects, cooperative agreements, and public education and involvement. All districts can employ these techniques. Another powerful implementation technique (available to appropriate cities, boroughs, and municipalities) is enactment of local land use regulations. CRSAs do not have authority to implement land use regulations.

The implementation techniques presented below are currently used by coastal districts:

- o participation in the state and federal consistency review process;

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[5]The Annette Island Indian Reserve (Metlakatla) is a city established under federal law. State and federal consistency do not apply to Annette Island because of its legal status, however, local consistency is applicable. The types of implementation techniques available to the Reserve are the same as for districts which are incorporated communities.

- comprehensive plans and other local land use plans, including:

  - comprehensive development plans;
  - recreation development plans;
  - waterfront development plans;
  - wetland management plans;

- local land use regulations, including:

  - zoning and subdivision ordinances;
  - conditional use permits;
  - performance standards;
  - site plan review;
  - overlay zones;
  - special zoning districts to include protection of floodplains, shorelines, wetlands, views, historic and cultural values, hazards to life, and erosion;
  - subdivision ordinances;

- land use and building permits;

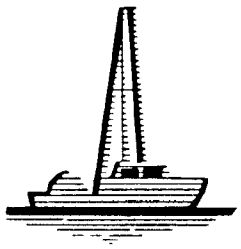
- capital improvements programs;

- land sales, acquisition, or leasing;

- cooperative agreements, including those:

  - between agencies and districts,
  - between districts,
  - between districts and Native corporations, and
  - between districts and villages;

- General Permits, including:
  - Section 10; River and Harbor Act of 1899,
  - Section 404; Clean Water Act;
- participation in state and federal planning projects; and
- public involvement.



VII — Glossary

GLOSSARY

The definitions in **bold** are taken directly from Alaska statutes and regulations. Definitions or commentary in standard typeface derive from other sources.

"A, "B", and "C" Lists - used to refer activities listed in Parts A, B, and C, respectively, of a document titled "Classification of State Agency Approvals under 6 AAC 50.050." Activities listed under Part A (the "A" list) are automatically deemed consistent with the ACMP and do not require an individual consistency review nor any new restrictions on how the activity is undertaken. Activities listed under Part B (the "B" list) are regarded as generally consistent with the ACMP, provided they are conducted in accordance with the standard stipulations included in the "B" list. Activities on the "C" list require an individual consistency review.

ACMP - the Alaska Coastal Management Program, as amended, which was developed as provided in Alaska Statutes (AS) 46.40, 6 AAC 80, and 6 AAC 85, and approved by the Secretary of the United States Department of Commerce under authority of Sec. 305 of the Coastal Zone Management Act of 1972, as amended, 15 U.S.C. S1454. The ACMP includes the standards and guidelines incorporated in 6 AAC 80 and 6 AAC 85, as well as the content of approved district coastal management programs.

Adverse impacts or effects - negative or detrimental effects.

Affected coastal resource district - a coastal resource district (as defined in AS 46.40.210(2)) in which a project is proposed to be located or which may experience direct and significant impacts (to its coastal resources) from

a proposed project. A project outside of a particular district can affect the district's resources.

Approved district program - a coastal resource district program that has been approved by the Alaska Coastal Policy Council and filed by the lieutenant governor's office.

Area which merits special attention, commonly referred to as AMSAs -a delineated geographic area within the coastal area which is sensitive to change or alteration and which warrants special management for several reasons:

- o because of plans or commitments;
- o because a claim on the resources within the area delineated would preclude subsequent use of the resources to a conflicting or incompatible use;
- o because of the area's value to the general public requires that the area be identified for current or future planning, protection, or acquisition.

These areas, subject to council definition of criteria for their identification, include:

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

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

(C) areas of substantial recreational value or opportunity;

(D) areas where development of facilities is dependent upon the utilization of, or access to, coastal waters;

(E) areas of unique geologic or topographic significance which are susceptible to industrial or commercial development;

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

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

(H) areas important for subsistence hunting, fishing, food gathering, and foraging;

(I) areas with special scientific values or opportunities, including those areas where ongoing research projects could be jeopardized by development or conflicting uses and activities; and

(J) potential estuarine or marine sanctuaries.

Areas which merit special attention are often referred to as AMSAs. They are specific areas, either wholly or partially within or outside of established districts, which have been identified as needing close attention in regard to planning and project review.

Barrier islands and lagoons - depositional coastal environments formed by deposits of sediment offshore or coastal remnants which form a barrier of low-lying islands and bars protecting a salt-water lagoon with free exchange of water to the sea.

Beaches - the area affected by wave action directly from the sea.

CMP - Coastal Management Program.

COE - United States Army Corps of Engineers.

CZMA - the federal Coastal Zone Management Act of 1972, as amended, 16 U.S.C. S1451 et seq. This Act provided the basis for the development of the Alaska Coastal Management Program.

Categorically Consistent - permits or projects which fall within a category of development that is consistent with the Alaska Coastal Management program because the activity authorized by the permit has no significant impact in the coastal zone (6 AAC 50.050(b)). These permits are included in the "A" list.

Coastal Coordinator - the individual within either an approved or non-approved coastal district whose responsibilities include: developing and implementing the district's coastal management program; coordinating efforts of agencies and the coastal district; helping project applicants; acting as a liaison between agencies and project applicants; involving the public in coastal management; and, in approved districts, reviewing proposed projects to ensure maximum consistency with the district's approved coastal management program. This term is used interchangeably with district coordinator.

Coastal Management Program (CMP) - the local plan directing coastal management which has been approved by the district and which becomes part of the ACMP after approval by the Coastal Policy Council.

Coastal Policy Council - the Council that oversees the Alaska Coastal Management Program (ACMP), setting statewide

coastal policy and reviewing coastal district programs for approval. The Council is comprised of: nine locally-elected officials from coastal communities who are appointed by the governor; six state agency cabinet officials; and the Director of the Division of Governmental Coordination (DGC) in the Office of the Governor.

Coastal Resource District - any local or regional jurisdiction in Alaska, as listed below, which contains a portion of the coastal area of the state. (These areas are also referred to as coastal districts or districts):

(A) unified municipalities established under AS 29.68.240-29.68.440;

(B) organized boroughs of any class which exercise planning and zoning authority;

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

(D) second class cities of the unorganized borough, or within boroughs which do not exercise planning and zoning authority, which have established a planning commission, and which, in the opinion of the Commissioner of the Department of Community and Regional Affairs have the capability of preparing and implementing a comprehensive district coastal management program under AS 46.40.030;

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

Coastal Resource Service Areas (CRSA) - a special organization that may be formed in the unorganized borough for coastal

management planning purposes. Residents of a region vote on whether to form a CRSA, and then elect a seven-member board from the region to govern the CRSA.

Coastal water - all water bodies in the coastal area, including wetlands and the intertidal area.

Conclusive consistency determination - see determination.

Consistency - compliance with the standards of the ACMP, including the enforceable policies of an approved coastal resource district program.

A project must be consistent with both the ACMP and the approved local district coastal management program in order for it to receive local, state, and federal permits that will allow the project to be conducted.

Consistency determination - see determination.

Coordinating agency - the agency responsible for coordinating and facilitating the review and rendering the consistency determination required by 6 AAC 50.

There are four agencies which may coordinate consistency reviews: DGC, DEC, DNR, and DFG.

Council - State of Alaska Coastal Policy Council.

DCRA - State of Alaska Department of Community and Regional Affairs.

DEC - State of Alaska Department of Environmental Conservation.

DFG - State of Alaska Department of Fish and Game.

DGC - Division of Governmental Coordination within the Office of Management and Budget in Office of the Governor of the State of Alaska.

DNR - State of Alaska Department of Natural Resources.

DOT/PF - State of Alaska Department of Transportation and Public Facilities.

Determination, consistency determination, or conclusive consistency determination -

(A) a document issued by the coordinating agency containing a brief description of the project, and the findings of the consistency review together with any stipulations, conditions, or modifications to the project which must be attached to the applicable permits, and a brief justification for those necessary modifications, conditions, or stipulations, and includes
(B) a response to a consistency certification or determination required or authorized under the CZMA.

Consistency determinations are issued after review of a project is complete.

Direct and significant impact - an effect of a project which will likely contribute or lead to a significant change in or alteration of the natural, social, cultural, or economic characteristics of a coastal resource district.

Disposal of interest in state land - the sale, lease, or other disposition of state-owned or state-managed land or resources by the Department of Natural Resources of the State of Alaska.

District - see coastal resource district.

District Coordinator - the individual within either an approved or non-approved coastal district, responsible for:

a. Developing a coastal management program within a district for approval by the coastal policy council (if the district's program is not yet approved; and

b. Reviewing proposed activities within an approved district to ensure that those activities are consistent to the maximum extent practicable with the district program.

c. Implementing the goals and policies of the district's coastal management program.

District program - a district coastal management program.

Due deference - that deference which is appropriate in the context of the commenter's expertise and area of responsibility, and all the evidence available to support any factual assertions (6 AAC 50.120(a)).

Effective Date - the date that a district program becomes effective and is implemented; also refers to the date that a particular piece of legislation become law.

EPA - United States Environmental Protection Agency.

Elevation - the process of bringing controversial issues identified in a coastal project consistency review to a higher level within the state resource agencies for discussion and decision. Projects are "elevated" from the agency staff level to directors, and then to commissioners.

Estuary - a semi-enclosed coastal body of water which has a free connection with the sea and within which seawater is

measurably diluted with freshwater derived from land drainage.

Emergency Expedited Review - if, due to an emergency as described in AS 26.23 or AS 46.04.080 or other applicable law, an applicant needs an expedited agency permit or consistency review, or if the head of the coordinating agency finds that an expedited review is necessary for the preservation of the public peace, health, safety, or general welfare, the head of the coordinating agency may modify the review process as necessary to meet the emergency. Any modifications in the review process must be made in writing by the head of the coordinating agency, based upon clear and convincing evidence of a need for the modifications.

Expedited Review - when a proposed activity does not need to be individually reviewed by a local district and state agencies because it is categorically consistent or has received general concurrence.

Exposed high-energy coasts - open and unprotected sections of coastline with exposure to ocean-generated wave impacts and usually characterized by coarse sand, gravel, boulder beaches, and well-mixed coastal water.

Facilities related to commercial fishing and seafood processing- includes hatcheries and related facilities, seafood processing plants and support facilities, marine industrial and commercial facilities, and aquaculture facilities.

Feasible and prudent - consistent with sound engineering practice and not causing environmental, social, or economic problems that outweigh the public benefit from compliance with the standard.

FWS - United States Fish and Wildlife Service.

General Concurrence - a consistency determination for a type of project which includes only routine activities, and which can be effectively made consistent with the Alaska Coastal Management Program by imposing standard stipulations on the applicable permit. These projects are listed on the "B" list.

Geophysical hazard areas - areas which present a threat to life or property from geophysical or geological hazards, including flooding, tsunami run-up, storm surge run-up, landslides, snowslides, faults, ice hazards, erosion, and littoral beach process.

Habitat - land or water which supports fish, wildlife, or their foods.

Including - including but not limited to.

Islands - bodies of land surrounded by water on all sides; interior portions of major island may be excluded from the coastal area if uses of these islands do not cause direct and significant impacts on coastal water.

Maintenance, restoration, and enhancement of habitat - maintenance means insuring that the abundance, distribution, and diversity of fish and wildlife populations and their habitats remain within the existing range of natural fluctuations. Restoration means increasing fish or wildlife populations or their habitats artificially to allow full use of available resources with the intent that the increased population levels will be self-sustaining. Enhancement means supplementing numbers of a fish or wildlife population or physically or chemically

altering the habitat to a productivity level above what can be sustained naturally by the existing environment.

Major energy facility - includes marine service bases and storage depots, pipelines and rights-of-way, drilling rigs and platforms, petroleum or coal separation, treatment, or storage facilities, liquid natural gas plants and terminals, oil terminals and other port development for the transfer of energy products, petrochemical plants, refineries and associated facilities, hydroelectric projects, other electric generating plants, transmission lines, minimum enrichment or nuclear fuel processing facilities, and geothermal facilities; "major energy facility," means a development of more than local concern carried out in, or in close proximity to, the coastal area, which meets one or more of the following criteria:

(A) a facility required to support energy operations for exploration or production purposes;

(B) a facility used to produce, convert, process, or store energy resources or marketable products;

(C) a facility used to transfer, transport, import, or export energy resources or marketable products;

(D) a facility used for in-state energy use; or

(E) a facility used primarily for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any activity described in (A) - (D) of this paragraph.

Marine coastal water - water adjacent to shorelines which contains a measurable quantity of seawater, including sounds, bays, lagoons, bayous, ponds, and estuaries, and the

living resources which are dependent on these bodies of water.

Maximum extent practicable - the requirement for federal government activities, including development projects directly affecting the coastal zone of Alaska, to be fully consistent with the Alaska Coastal Management Program unless such compliance would violate another federal law (15 CFR 930.32(a)).

Mining and mineral processing - the development of mineral resources extracted in tidal rivers, coastal water, and on continental shelves of the open sea, and found in surface, subsurface, and aqueous deposits.

NMFS - National Marine Fisheries Service.

NPDES - National Pollution Discharge Elimination System; relating to permits issued by the EPA.

OCS - Outer Continental Shelf.

OMB - Office of Management and Budget in the Office of the Governor.

Offshore areas - submerged lands and waters seaward of the coastline.

PROFS - professional office systems; the computerized communications network used by DGC, resource agencies, and districts.

Permit - a permit, lease, authorization, license or any other determination necessary for completion of a project or a discrete phase of a project.

Project - an activity or use which will be located in or may affect the coastal zone of Alaska and which is subject to consistency review under Sec. 307 of the Coastal Zone Management Act of 1972, as amended (16 U.S.C. S1456), or which requires the issuance of one or more state permits; when a land or water activity is developed or authorized in discrete phases, and each phase requires agency decisions regarding permits, each phase is considered a "project."

Resource agency - the Alaska Department of Environmental Conservation, or the Department of Fish and Game, or the Alaska Department of Natural Resources.

Review or consistency review - the evaluation of a project against the ACMP standards and approved district coastal management program.

Rocky islands and seacliffs - islands of volcanic or tectonic origin with rocky shores and steep faces, offshore rocks, capes, and steep rocky seafronts.

Saltwater wetlands - see wetlands.

Significant amendment - an amendment to an approved district program which

(A) results in a major revision, addition or deletion to the policies or implementation methods or authorities included in the district program under 6 AAC 85.090 and 6 AAC 85.100;

(B) alters the district boundaries, other than by technical adjustments;

(C) designates an area which merits special attention or alters an existing area which merits special attention designation; or

(D) restricts or excludes a use of state concern not previously restricted or excluded.

Stipulations - requirements placed on a development that are incorporated into a state or federal permit to mitigate or reduce the development impacts.

Tideflats - mostly unvegetated areas that are alternately exposed and inundated by the falling and rising of the tide.

Transitional and intertidal areas - areas subject to periodic or occasional inundation by tides, including coastal floodplains, storm surge areas, tsunami and hurricane zones, and washover channels.

Transportation and utility routes and facilities - includes power transmission lines, mineral slurry lines, oil and gas pipelines, land and marine corridors, railways, highways, roadways, air terminals, water and sewage transfer, and facilities required to operate and maintain the route or facility.

Upland - drainages, aquifers, and land, the use of which would have a direct and significant impact on coastal water.

Use of direct and significant impact - a use, or an activity associated with the use, which proximately contributes to a material change or alteration in the natural or social characteristics of a part of the state's coastal area and in which

(A) the use, or activity associated with it, would have a net adverse effect on the quality of the resources of the coastal area;

(B) the use, or activity associated with it, would limit the range of alternative uses of the resources of the coastal area; or

(C) the use would, of itself, constitute a tolerable change or alteration of the resources within the coastal area but which, cumulatively, would have an adverse effect.

Uses of State Concern - those land and water uses which would significantly affect the long-term public interest; these uses, subject to council definition of their extent, include:

(A) uses of national interest, including the use of resources for the siting of ports and major facilities which contribute to meeting national energy needs, construction and maintenance of navigational facilities and systems, resource development of federal land, and national defense and related security facilities that are dependent upon coastal locations;

(B) uses of more than local concern, including those land and water uses which confer significant environmental, social, cultural, or economic benefits or burdens beyond a single coastal resource district;

(C) the siting of major energy facilities, activities pursuant to a state oil and gas lease, or large-scale industrial or commercial development activities which are dependent on a coastal location and which, because of their magnitude or the magnitude of their effect on

the economy of the state or the surrounding area, are reasonably likely to present issues of more than local significance;

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

(E) uses in areas established as state parks or recreational areas under AS 41.21 or as state game refuges, game sanctuaries or critical habitat areas under AS 16.20 (paragraph 4 CH 84 SLA 1977; and paragraph 3 CH 129 SLA 1978).

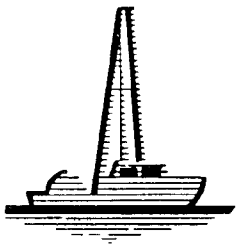
Village - an unincorporated community where at least 25 persons reside as a social unit as determined by the Department of Community and Regional Affairs (S4 CH 84 SLA 1977).

Water-dependent - a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body.

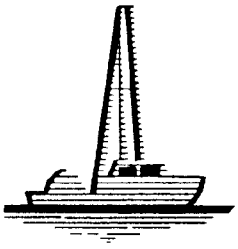
Water-related - a use or activity which is not directly dependent upon access to a water body, but which provides goods or services that are directly associated with water-dependence and which, if not located adjacent to water, would result in a public loss of quality in the goods or services offered.

Wetlands - includes both freshwater and saltwater wetlands. "Freshwater wetlands" means those environments characterized by rooted vegetation which is partially submerged either continuously or periodically by surface freshwater with less than 0.5 parts per thousand salt content and not exceeding three meters in depth. "Saltwater wetlands" means those coastal areas along sheltered shorelines characterized by holophytic

hydrophytes and macroalgae extending from extreme low tide to an area above extreme high tide which is influenced by sea spray or tidally-induced water table changes.



VIII — Appendices



Enabling Legislation

Title 44

Chapter 19. Office of the Governor.

Article 12. Office of Management and Budget.

Section

141. Alaska office of management and budget
142. Director
143. Personnel
144. Powers and duties of the director
145. Functions and duties of the office
152. Definitions

NOTE: Only those sections of Article 12 related to the Alaska Coastal Management Program are reprinted here.

Sec. 44.19.145. Functions and duties of the office. (a) The office shall

(1) provide technical assistance to the governor and the legislature in identifying long range goals and objectives for the state and its political subdivisions;

(2) prepare and maintain a state comprehensive development plan;

(3) provide information and assistance to state agencies to aid in governmental coordination and unity in the preparation of agency plans and programs;

(4) review planning within state government as may be necessary for receipt of federal, state or other funds;

(5) participate with other countries, provinces, states or subdivisions of them in international or interstate planning, and assist Alaska's local governments, governmental conferences and councils, in planning and coordinating their activities;

(6) encourage educational and research programs that further state planning and development, and provide administrative and technical services for them;

(7) publish such statistical information or other documentary material as will further the provisions and intent of AS 44.19.141 — 44.19.152;

(8) assist the governor and the Department of Community and Regional Affairs in coordinating the activities of state agencies which have an impact on the solution of local and regional development problems;

(9) serve as a clearinghouse for information, data, and other materials which may be helpful or necessary to federal, state or local governmental agencies in discharing their respective responsibilities or in obtaining federal or state financial or technical assistance;

(10) review all proposals for the location of capital improvements by any state agency and advise and make recommendations concerning location of these capital improvements;

Consistency Reviews

(11) render, on behalf of the state, all federal consistency determinations and certifications authorized by 16 U.S.C. 1456 (§ 307, Coastal Zone Management Act of 1972), and a conclusive state consistency determination when a project requires two or more state or federal permits, leases, or authorizations.

(b) The office shall, in carrying out its functions, consult with local, regional, state and federal officials, private groups and individuals, and with officials of other countries, provinces and states, and may hold public hearings to obtain information for the purpose of carrying out the provisions of AS 44.19.141 — 44.19.152.

(c) The governor may establish coordinating or advisory planning groups.

(d) The office shall

(1) coordinate its services and activities with those of other state departments and agencies to the fullest extent possible to avoid duplication;

(2) prepare an integrated annual report on the long-range development program of the state and submit it to the governor for incorporation into the governor's report to the legislature;

(3) cooperate with the University of Alaska and other appropriate public and private institutions in research and investigations. (§ 2 ch 103 SLA 1966; am § 2 ch 219 SLA 1970; am § 2 ch 60 SLA 1972; am §§ 8, 10 ch 200 SLA 1972; am § 5 ch 207 SLA 1975; am § 20 ch 63 SLA 1983)

Effect of amendments. — The 1983 amendment, effective July 15, 1983, substituted "office" for "division" throughout the section, made other minor word changes, and in subsection (a) revised the paragraph numbering and added paragraph (11).

Sec. 44.19.152. Definitions. In AS 44.19.141 — 44.19.152,

(1) "director" means the director of the office of management and budget;

(2) "office" means the Alaska office of management and budget. (§ 1 ch 219 SLA 1970; am § 13 ch 207 SLA 1975; am § 21 ch 63 SLA 1983)

Effect of amendments. — The 1983 amendment, effective July 15, 1983, repealed a former definition of "division," in the definition of "director" substituted "office of management and budget" for "division of policy development and planning", added the definition of "office," and ordered the definitions alphabetically.

Article 13. Alaska Coastal Policy Council.

Section	Section
155. Alaska Coastal Policy Council	161. Duties of the council
160. Powers of the council	162. Council staff

Sec. 44.19.155. Alaska Coastal Policy Council. (a) There is created in the Office of the Governor the Alaska Coastal Policy Council. The council consists of the following:

Public Members

(1) nine public members appointed by the governor from a list comprised of at least three names from each region, nominated by the municipalities of each region; the nominees shall be the mayor or member of the assembly or council of a municipality; one public member shall be appointed from each of the following general regions:

(A) northwest Alaska, including, generally, the area of the North Slope Borough and the Northwest Arctic regional educational attendance area;

(B) Bering Straits, including, generally, the area of the Bering Straits regional educational attendance area;

(C) southwest Alaska, including, generally, the area within the Lower Yukon, Lower Kuskokwim, Southwest, and Lake-Peninsula regional educational attendance areas and the Bristol Bay Borough;

(D) Kodiak-Aleutians, including the area of the Kodiak Island Borough and the Aleutian, Adak and Pribilof regional educational attendance areas;

(E) Upper Cook Inlet, including the Municipality of Anchorage and the Matanuska-Susitna Borough;

(F) Lower Cook Inlet, including, generally, the area within the Kenai Peninsula Borough;

(G) Prince William Sound, including, generally, the area east of the Kenai Peninsula Borough to 141° W. longitude;

(H) northern Southeast Alaska, including the area southeast of 141° W. longitude and north of 57° N. latitude, including the entirety of the City and Borough of Sitka; and

(I) southern Southeast Alaska, including that portion of southeastern Alaska not contained within the area described in (H) of this paragraph;

State Members

(2) each of the following:

(A) the director of the office of management and budget;

(B) the commissioner of the Department of Commerce and Economic Development;

(C) the commissioner of the Department of Community and Regional Affairs;

(D) the commissioner of the Department of Environmental Conservation;

(E) the commissioner of the Department of Fish and Game;

(F) the commissioner of the Department of Natural Resources; and

(G) the commissioner of the Department of Transportation and Public Facilities.

Term of Office

(b) Each public member appointed by the governor under (a)(1) of this section serves a term of two years and until his successor is appointed and qualified, except that the term of office of a public mem-

ber first appointed under (a)(1)(A), (a)(1)(C), (a)(1)(E) and (a)(1)(G) of this section shall be one year. A public member may be reappointed.

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

Alternates

(d) Each member of the council shall select one person to serve as a permanent alternate at meetings of the council. If a member of the council is unable to attend, the member shall advise the alternate who may attend and act in the place of the member. The alternate for a public member appointed after July 9, 1978 under (a)(1) of this section shall, at the time of the alternate's designation and throughout the period of service as a permanent alternate, be the mayor or member of the assembly or council of a municipality within the region from which the permanent member is appointed. The alternate for the director of the office of management and budget, serving under (a)(2)(A) of this section, shall be the director's designee within that office. The alternate for a designated member serving under (a)(2)(B) — (G) of this section shall be a deputy commissioner of the department or the director of a division in the department. The names of alternates shall be filed with the council.

Quorum

(e) Four public members and three designated members of the council constitute a quorum, but one or more of the members designated by the council may hold hearings. All decisions of the council shall be by a majority vote of the members present and voting.

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

Appointment of Unexpired Terms

(g) If an incumbent public member ceases to meet the qualifications prescribed in (a)(1) of this section for nomination to the council or if a vacancy exists among the public members for any other reason except for a vacancy due to the expiration of the term of a public member, the governor shall, within 30 days of the establishment of the vacancy by lack of qualification or other reason, make an appointment, to be immediately effective, for the unexpired portion of the term. An appointment by the governor made under this subsection to fill an unexpired term of a public member shall comply with the requirements of (a)(1) of this section; however, the governor may appoint from qualified persons without soliciting from municipalities nominations of persons to fill the unexpired portion of the term. (§ 3 ch 84 SLA 1977; am Executive Order No. 39, § 11 (1977); am §§ 4, 5 ch 129 SLA 1978; am §§ 22, 23 ch 63 SLA 1983)

Effect of amendments. — The 1977 amendment substituted "Department of Transportation and Public Facilities" for "Department of Public Works" in (a)(2)(G).

The 1983 amendment, effective July 15, 1983, in (a)(2)(A) substituted "office of management and budget" for "division of policy development and planning", and in subsection (d) added the sentence beginning "The alternate for the director" and made other minor word changes.

Sec. 44.19.160. Powers of the council. The council may

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

(2) contract for necessary services;

(3) consult and cooperate with

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

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

(4) take any reasonable action necessary to carry out the provisions of AS 44.19.155 — 44.19.162. (§ 3 ch 84 SLA 1977)

Sec. 44.19.161. Duties of the council. In conformity with the Coastal Zone Management Act of 1972, as amended (16 U.S.C. 1451 et seq.), the council shall

(1) through the public hearing process and the recording of the minutes of the hearings, develop guidelines and standards for the preparation of, and approve, in accordance with AS 46.40, the Alaska coastal management program;

(2) establish continuing coordination among state agencies to facilitate the development and implementation of the Alaska coastal management program; in carrying out its duties under this paragraph, the council shall initiate an interagency program of comprehensive coastal resource planning for each georgraphic region described in AS 44.19.155(a)(1);

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

(4) submit annually to the legislature, no later than the 10th day of each regular session, the portion of the coastal management program approved or amended by the council during the preceding year. (§ 3 ch 84 SLA 1977)

Sec. 44.19.162. Council staff. The council shall use the staff of the office of coastal management within the office of management and budget in discharging its powers and duties. The coordinator of the office of coastal management, under the direction of the council co-chair who is selected from among the members designated in AS 44.19.155(a)(2), may contract with or employ personnel or consultants the coordinator considers necessary to carry out the powers and duties of the council. (§ 3 ch 84 SLA 1977; am § 24 ch 63 SLA 1983)

Effect of amendments. — The 1983 amendment, effective July 15, 1983, in the first sentence substituted "use" for "utilize" and substituted "office of management and budget" for "division of policy development and planning," and in the second sentence substituted "of coastal management . . . in AS 44.19.155(a)(2)" for ", with the concurrence of the council" and substituted "the coordinator" for "he."

Title 46

Chapter 40. The Alaska Coastal Management Program.

Article

1. Development of Alaska Coastal Management Program (§§ 46.40.010 — 46.40.100)
2. Coastal Management Programs in the Unorganized Borough (§§ 46.40.110 — 46.40.180)
3. General Provisions (§§ 46.40.190 — 46.40.210)

Opinions of attorney general. — The activities of lessees, permittees and other private persons on nonexclusive federal coastal lands remain subject to state regulatory authority — including the coastal management program — unless the particular state regulation is preempted by, irreconcilably conflicts with or frustrates the purpose of another federal law. February 3, 1978, Op. Att'y Gen.

While federal land use decisions will not be governed or controlled by the state's coastal management program, they must, to the degree that they directly affect nonfederal coastal resources, conform to the state program to the maximum extent practicable. February 3, 1978, Op. Att'y Gen.

Article 1. Development of Alaska Coastal Management Program.

Section

10. Development of Alaska coastal management program
20. Objectives
30. Development of district coastal management programs
40. Duties of the Alaska Coastal Policy Council
50. Action and submission by coastal resource districts
60. Review and approval by council
70. Standards for council review and approval
80. Effective date of Alaska coastal management program
90. Implementation of district coastal management programs
100. Compliance and enforcement

Collateral references. — 78 Am. Jur. 2d, Waters, §§ 59-116, 375-438.

65 C.J.S., Navigable Waters, §§ 10-18, 20-132; 93 C.J.S., Waters, §§ 71-85.

Sec. 46.40.010. Development of Alaska coastal management program. (a) The Alaska Coastal Policy Council established in AS 44.19.155 shall approve, in accordance with this chapter, the Alaska coastal management program.

(b) The council may approve the Alaska coastal management program for a portion or portions of the coastal area before approving the complete program under (a) of this section. Portions of the program approved under this subsection shall be incorporated into the Alaska coastal management program.

(c) The Alaska coastal management program shall be reviewed by the council and, when appropriate, revised to

(1) add newly approved district coastal management programs, or revisions and amendments to the Alaska coastal management program;

(2) integrate newly approved district coastal management programs, or revisions and amendments of district coastal management programs, with existing approved programs and with plans developed by state agencies;

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

(4) review the effectiveness of implementation of district coastal management programs; and

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

(d) All reviews and revisions shall be in accordance with the guidelines and standards adopted by the council under AS 46.40.040. (§ 4 ch 84 SLA 1977)

Revisor's notes. — AS 44.19.155 was substituted for AS 44.19.891 in subsection (a) to conform to the renumbering of that section by the revisor of statutes pursuant to AS 01.05.031.

Opinions of attorney general. — The doctrine of federal preemption, derived from the supremacy clause of the United States Constitution, Article VI, clause 2, would not apply to state regulation of outer continental shelf activities in the coastal zone. May 12, 1980, Op. Att'y Gen.

Reasonable restrictions on oil and gas activities embodied in a local coastal management plan, incorporated into the Alaska Coastal Management Program, would be enforceable against off-shore federal lessees. May 12, 1980, Op. Att'y Gen.

Municipal authority to regulate oil and gas activities of federal lessees depends upon whether the leases are on-shore or off-shore. In the case of the former, the doctrine of federal preemption may prohibit local coastal zone ordinances from affecting any measure of control. In the case of the latter, local coastal management programs which are approved by the Alaska Coastal Policy Council and thus part of the Alaska Coastal Management Program will become one of the touchstones in the state consistency determination required by section 307(c)(3) of the Coastal Zone Management Act, 16 U.S.C. § 1451 et seq. May 12, 1980, Op. Att'y Gen.

A municipality enacting a local district coastal management program may restrict or exclude a use of state concern without falling afoul of the constitutional limitations in Alaska Const., art. X, § 11 on the exercise of municipal authority if that restriction or exclusion is reasonable, within the meaning of AS 46.40.070(c). May 12, 1980. Op. Att'y Gen.

The Alaska Oil and Gas Conservation Act, AS 31.05.005 et seq., which mandates the conservation of oil and gas and prohibits their waste, would not be contravened by a local coastal management plan which comports with the Alaska Coastal Management Program. May 12, 1980, Op. Att'y Gen.

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

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

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

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

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

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

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

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

(8) the full and fair evaluation of all demands on the land and water in the coastal area. (§ 4 ch 84 SLA 1977)

Stated in Hammond v. North Slope Borough, Sup. Ct. Op. No. 2499 (File No. 5550, 5558), 645 P.2d 750 (1982).

Sec. 46.40.030. Development of district coastal management programs. Coastal resource districts shall develop and adopt district coastal management programs in accordance with the provisions of this chapter. The program adopted by a coastal resource district shall be based upon a municipality's existing comprehensive plan or a new comprehensive resource use plan or comprehensive statement of needs, policies, objectives and standards governing the use of resources within the coastal area of the district. The program shall be consistent with the guidelines and standards adopted by the council under AS 46.40.040 and shall include:

(1) a delineation within the district of the boundaries of the coastal area subject to the district coastal management program;

(2) a statement, list, or definition of the land and water uses and activities subject to the district coastal management program;

(3) a statement of policies to be applied to the land and water uses subject to the district coastal management program;

(4) regulations, as appropriate, to be applied to the land and water uses subject to the district coastal management program;

(5) a description of the uses and activities which will be considered proper and the uses and activities which will be considered improper with respect to the land and water within the coastal area;

(6) a summary or statement of the policies which will be applied and the procedures which will be used to determine whether specific proposals for land or water uses or activities shall be allowed; and

(7) a designation of, and the policies which will be applied to the use of, areas within the coastal resource district which merit special attention. (§ 4 ch 84 SLA 1977)

Opinions of attorney general. — The adoption of forest practices regulations by the Department of Natural Resources in 11 AAC 95 has completely preempted the coastal policy council's regulations, 6 AAC 80.100, in regulating timber harvest and processing in the coastal area. April 20, 1981, Op. Att'y Gen.

The allocation of responsibility for administration of the forest practices regulations in coastal management consistency determinations is sufficiently unclear that it seems appropriate for resolution by the adoption of regulations since differing policy considerations emphasized in the Forest Practices Act, the Coastal Management Act, and proposed permit reform regulations will be served to a greater or lesser extent by assigning responsibility for interpreting and applying the forest practices regulations to more than one agency and since a particular result is not compelled under the various pieces of authorizing legislation. April 20, 1981, Op. Att'y Gen.

Stated in Hammond v. North Slope Borough, Sup. Ct. Op. No. 2499 (File No. 5550, 5558), 645 P.2d 750 (1982).

Sec. 46.40.040. Duties of the Alaska Coastal Policy Council. Through the public hearing process and the recording of the minutes of the hearings, the Alaska Coastal Policy Council shall

(1) by regulation, adopt under the provisions of the Administrative Procedure Act (AS 44.62) not later than April 15, 1978, for the use of and application by coastal resource districts and state agencies for carrying out their responsibilities under this chapter; guidelines and standards for

(A) identifying the boundaries of the coastal area subject to the district coastal management program;

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

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

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

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

(F) designating and developing policies for the use of areas of the coast which merit special attention; and

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

(2) develop and maintain a program of technical and financial assistance to aid coastal resource districts in the development and implementation of district coastal management programs;

(3) undertake review and approval of district coastal management programs in accordance with this chapter;

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

(5) develop procedures or guidelines for consultation and coordination with federal agencies managing land or conducting activities potentially affecting the coastal area of the state. (§ 4 ch 84 SLA 1977; am § 1 ch 129 SLA 1978)

Effect of amendments. — The 1978 amendment substituted "not later than April 15, 1978" for "within six months of the effective date of this act" in the introductory language of paragraph (1).

Editor's notes. — The regulations referred to in this section went into effect on July 18, 1978 and may be found at 6 AAC 80 and 6 AAC 85.

Sec. 46.40.050. Action and submission by coastal resource districts. Each coastal resource district shall make substantial progress, in the opinion of the council, toward completion of an approvable district coastal management program and shall complete and submit to the council for approval its program within 30 months of June 4, 1977 or within 30 months of certification of the results of the district's organization, whichever is later. If, in the opinion of the council, after receipt of a written request for extension from the district which includes the reasons for the extension, an extension is considered proper, the council may grant an extension to a date which is not later than December 4, 1981, or to a date which is within 54 months of certification of the results of the district's organization, whichever is later. (§ 4 ch 84 SLA 1977; am § 1 ch 66 SLA 1979)

Effect of amendments. — The 1979 amendment added the second sentence.

Sec. 46.40.060. Review and approval by council. (a) If, upon submission of a district coastal management program for approval, the council finds that the program is substantially consistent with the provisions of this chapter and the guidelines and standards adopted by the council and does not arbitrarily or unreasonably restrict or exclude uses of state concern, the council may grant summary approval of the district coastal management program, or may approve portions of the district program which are consistent.

(b) If the council finds that a district coastal management program is not approvable or is approvable only in part under (a) of this section, it shall direct that deficiencies in the program submitted by the coastal resource district be mediated. In mediating the deficiencies, the council may call for one or more public hearings in the district. The council shall meet with officials of the coastal resource district in order to resolve differences.

(c) If, after mediation, the differences have not been resolved to the mutual agreement of the coastal resource district and the council, the council shall call for a public hearing and shall resolve the differences in accordance with the Administrative Procedure Act (AS 44.62). After a public hearing held under this subsection, the council shall enter findings and, by order, may require

(1) that the district coastal management program be amended to make it consistent with the provisions of this chapter or the guidelines and standards adopted by the council;

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

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

(d) The superior courts of the state have jurisdiction to enforce orders of the council entered under (c) of this section. (§ 4 ch 84 SLA 1977)

Opinions of attorney general. — The invalid provisions of AS 46.40.080 are severable from the remainder of the Coastal Management Act. Thus, council guidelines take effect when adopted in accordance with the Administrative Procedure Act, AS 44.62. The effective date of council action on district programs is governed by the council's regulations and this section. April 29, 1980, Op. Att'y Gen.

Council action on a district coastal management plan takes effect upon final council disposition of the plan under 6 AAC 85.150 or AS 44.62.520. April 29, 1980, Op. Att'y Gen.

A municipality enacting a local district coastal management program may restrict or exclude a use of state concern without falling afoul of the constitutional limitations in Alaska Const., art. X, § 11 on the exercise of municipal authority if that restriction or exclusion is reasonable, within the meaning of AS 46.40.070(c). May 12, 1980, Op. Att'y Gen.

Sec. 46.40.070. Standards for council review and approval. (a) The council shall approve a district coastal management program submitted for review and approval if the program is consistent with the provisions of this chapter and the guidelines and standards adopted by the council.

(b) Notwithstanding an inconsistency of a district coastal management program submitted for review and approval with the guidelines and standards adopted, the council shall approve the program if it finds that

(1) strict adherence to the guidelines and standards adopted would result in a violation of another state law or policy;

(2) strict adherence to the guidelines and standards adopted would cause or probably cause substantial irreparable harm to another interest or value in the coastal area of the district; or

(3) the inconsistency is of a technical nature and no substantial harm would result to the policies and objectives of this chapter or the Alaska coastal management program.

(c) In determining whether a restriction or exclusion of a use of state concern is arbitrary or unreasonable, the council shall approve the restriction or exclusion if it finds that

(1) the coastal resource district has consulted with and considered the views of appropriate federal, state or regional agencies;

(2) the district has based its restriction or exclusion on the availability of reasonable alternative sites; and

(3) the district has based its restriction or exclusion on an analysis showing that the proposed use is incompatible with the proposed site.

(d) A decision by the council under this section shall be given within 90 days. (§ 4 ch 84 SLA 1977)

Opinions of attorney general. — Reading subsection (b) as vesting local officials with complete control over policy formulation would probably render the Alaska Coastal Management Act unconstitutional under Alaska Const., art. VIII, § 2. May 12, 1980, Op. Att'y Gen.

Reasonable restrictions on oil and gas activities embodied in a local coastal management plan, incorporated into the Alaska Coastal Management Program, would be enforceable against off-shore federal lessees. May 12, 1980, Op. Att'y Gen.

A municipality enacting a local district coastal management program may restrict or exclude a use of state concern without falling afoul of the constitutional limitations in Alaska Const., art. X, § 11 on the exclusion of municipal authority if that restriction or exclusion is reasonable, within the meaning of subsection (c). May 12, 1980, Op. Att'y Gen.

The Alaska Oil and Gas Conservation Act, AS 31.05.005 et seq., which mandates the conservation of oil and gas and prohibits their waste, would not be contravened by a local coastal management plan which comports with the Alaska Coastal Management Program. May 12, 1980, Op. Att'y Gen.

Sec. 46.40.080. Effective date of Alaska coastal management program. The Alaska coastal management program adopted by the council, and any additions, revisions, or amendments of the program, take effect upon adoption of a concurrent resolution by a majority of the members of each house of the legislature or by a vote of the majority of the members of each house at the time the houses are convened in joint session to confirm executive appointments submitted by the governor. (§ 4 ch 84 SLA 1977)

Opinions of attorney general. — Under the decision in State v. A.L.I.V.E. Voluntary, Sup. Ct. Op. No. 2022 (File No. 3670), 606 P.2d 769 (1980), that the use of legislative resolutions as a veto over regulations, programs or other actions or proposed actions is constitutionally impermissible except as expressly provided by the constitution, this section is invalid. March 6, 1980, Op. Att'y Gen.

The invalid provisions of section are severable from the remainder of the Coastal Management Act. Thus, council guidelines take effect when adopted in accordance with the Administrative Procedure Act, AS 44.62. The effective date of council action on district programs is governed by the council's regulations, and AS 46.40.060. April 29, 1980, Op. Att'y Gen.

Council action on a district coastal management plan takes effect upon final council disposition of the plan under 6 AAC 85.150 or AS 44.62.520. April 29, 1980, Op. Att'y Gen.

Sec. 46.40.090. Implementation of district coastal management programs. (a) A district coastal management program approved by the council and the legislature for a coastal resource district which does not have and exercise zoning or other controls on the use of resources within the coastal area shall be implemented by appropriate state agencies. Implementation shall be in accordance with the comprehensive use plan or the statement of needs, policies, objectives and standards adopted by the district.

(b) A coastal resource district which has and exercises zoning or other controls on the use of resources within the coastal area shall implement its district coastal management program. Implementation

shall be in accordance with the comprehensive use plan or the statement of needs, policies, objectives and standards adopted by the district. (§ 4 ch 84 SLA 1977)

Sec. 46.40.100. Compliance and enforcement. (a) Municipalities and state agencies shall administer land and water use regulations or controls in conformity with district coastal management programs approved by the council and the legislature and in effect.

(b) On petition of a coastal resource district, a citizen of the district, or a state agency, showing that a district coastal management program is not being implemented, enforced or complied with, the council shall convene a public hearing to consider the matter. A hearing called under this subsection shall be held in accordance with the Administrative Procedure Act (AS 44.62). After hearing, the council may order that the coastal resource district or state agency take any action which the council considers necessary to implement, enforce or comply with the district coastal management program.

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(c) In determining whether an approved district coastal management program is being implemented, enforced or complied with by a coastal resource district which exercises zoning authority or controls on the use of resources within the coastal area, the council shall find in favor of the district if

(1) zoning or other regulations have been adopted and are being enforced;

(2) variances are being granted according to procedures and criteria which are elements of the district coastal management program, or the variance is otherwise approved by the council; and

(3) procedures and standards adopted by the coastal resource district as required by this chapter or by the guidelines and standards adopted by the council and subsequently approved by the legislature have been followed and considered.

(d) In determining whether a state agency is complying with a district coastal management program with respect to its exercise of regulation or control of the resources within the coastal area, the council shall find in favor of the agency if

(1) the use or activity for which the permit, license or approval is granted is consistent with the district coastal management program and regulations adopted under it; and

(2) the use or activity for which the permit, license or approval is granted is consistent with requirements imposed by state statute, regulation, or local ordinance applicable to the use or activity.

(e) The superior courts of the state have jurisdiction to enforce lawful orders of the council. (§ 4 ch 84 SLA 1977)

Opinions of attorney general. — As to effective date of coastal management programs, see notes under this heading following AS 46.40.080.

Article 2. Coastal Management Programs in the Unorganized Borough.

Section		Section	
110.	Authority in the unorganized borough	160.	Organization at the direction of the council
120.	Coastal resource service areas	170.	Preparation of district coastal management program by the Department of Community and Regional Affairs
130.	Organization of coastal resource service area	180.	Approval of programs in coastal resource service areas
140.	Coastal resource service area boards		
150.	Elections in coastal resource service areas		

Collateral references. — 78 Am. Jur. 2d, Waters, §§ 59-116, 375-438. 65 C.J.S., Navigable Waters, §§ 10-18, 20-132; 93 C.J.S., Waters, §§ 71-85.

Sec. 46.40.110. Authority in the unorganized borough. Under AS 29.03.020 and 46.40.110 — 46.40.180, the legislature authorizes organization of coastal resource service areas in the unorganized borough and grants authority to the service areas which may be organized to perform the duties required under this chapter. (§ 4 ch 84 SLA 1977)

Sec. 46.40.120. Coastal resource service areas. (a) Except as otherwise provided in this section, each regional educational attendance area established under AS 14.08.031 containing a part of the coastal area may be organized as a coastal resource service area.

Consolidation of REAA's

(b) The commissioner of the Department of Community and Regional Affairs may, after public hearings held in the area affected, consolidate two or more regional educational attendance areas as a single coastal resource service area

(1) if a substantial portion of the coastal area contains land and water area owned by the federal government over which it exercises exclusive jurisdiction or land held in trust by the federal government for Alaska Natives over which the state would not exercise control as to use; or

(2) if, after giving due consideration to the standards applicable to incorporation of borough governments and the likelihood that a borough will be incorporated within the area, the commissioner determines that the functions to be performed under this chapter could be undertaken more efficiently through the combination of two or more regional educational attendance areas as a single coastal resource service area.

(c) A determination under (b) of this section shall be made before organization of the coastal resource service area.

Division of REAA's

(d) For purposes of coastal zone management only, the commissioner of the Department of Community and Regional Affairs may, after pub-

lic hearings held in the regional educational attendance area affected, divide an existing regional educational attendance area into no more than three coastal resource service areas according to geographic, cultural, economic, environmental, or other features relevant to coastal management planning. However

(1) each coastal resource service area formed by dividing an existing regional educational attendance area must contain at least one first class city or home rule city;

(2) a city within a coastal resource service area formed by dividing an existing regional educational attendance area may not elect to exclude itself from the coastal resource service area; and

(3) a coastal resource service area formed before June 1, 1980 may not be divided for coastal management planning purposes.
(§ 4 ch 84 SLA 1977; am § 2 ch 129 SLA 1978; am §§ 1, 2 ch 48 SLA 1980)

Effect of amendments. — The 1978 amendment deleted "and no later than six months from the effective date of this act" from the end of subsection (c).

The 1980 amendment inserted "otherwise" and deleted "(b) of" following "provided in" in subsection (a), and added subsection (d).

Sec. 46.40.130. Organization of coastal resource service area. (a) Organization of a coastal resource service area may be initiated

(1) by submission to the council of a petition signed by a number of registered voters equal to 15 percent of the number of votes cast within the coastal resource service area at the last state general election;

(2) by submission to the council of a resolution approved by the city council or traditional village council of not less than 25 percent of the number of cities and villages within the coastal service area; or

(3) at the direction of a majority of the members of the council in the manner set out in AS 46.40.160.

(b) Acting at the request of the council, the lieutenant governor, not less than 60 nor more than 90 days after receipt of a proper petition under (a)(1) of this section, a proper resolution under (a)(2) of this section, or at the direction of the council under (a)(3) of this section, shall conduct an election on the question of organization of a coastal resource service area. (§ 4 ch 84 SLA 1977)

Revisor's notes. — The word "by" was added preceding "submission" in paragraphs (1) and (2) of subsection (a) and deleted following "may be initiated" in the introductory language of that subsection by the revisor of statutes under AS 01.05.031.

Sec. 46.40.140. Coastal resource service area boards. (a) Each coastal resource service area, upon organization, 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.

Sectional CRSA Elections

(c) The commissioner of the Department of Community and Regional Affairs, after consultation with residents of a coastal resource service area, may divide a service area into sections only for the purpose of nominating and electing board members. Division of a service area into sections for the purpose of nomination and election shall be in accordance with the provisions of AS 14.08.051(a). Division may be proposed in the petition submitted under AS 46.40.130(a)(1), in the resolution submitted under AS 46.40.130(a)(2), at the direction of the council under AS 46.40.130(a)(3), or may be proposed at any time by the members of the coastal resource service area board. If proposed by the board, the division of the service area into sections is subject to approval of a majority of the qualified voters voting on the question in the coastal resource service area at the next regular election or at a special election called for that purpose and, if approved, takes effect at the next regular election of members of the coastal resource service area board.

Term of Office

(d) The term of office of a member of a coastal resource service area board is three years, except that the terms of the members of the first board elected after organization of a coastal resource service area shall be determined by lot, with two members serving one-year terms, two members serving two-year terms, and three members serving three-year terms. Members serve until their successors are elected and have qualified. Nothing in this section prohibits the reelection of a board member.

(e) The lieutenant governor shall provide for the election of the members of coastal resource service area boards. The first election of board members shall occur not less than 60 nor more than 90 days after certification of the results of an organization election under AS 46.40.130(b) in which a majority of votes cast favors organization of the coastal resource service area.

(f) Except for the first election of members of coastal resource service area boards, elections shall be held annually on the date of election of members of regional educational attendance area boards under AS 14.08.071(b).

(g) A vacancy on a coastal resource service area board shall be filled by appointment as provided in AS 14.08.041(a) for vacancies in the membership of regional educational attendance area boards.

(h) Members of coastal resource service area boards are subject to recall on the same grounds and in the same manner as provided for recall of municipal officials in AS 29.28.130 — 29.28.250. The lieutenant governor functions in place of the assembly or council and municipal clerk for receipt and review of recall petitions and the conduct of recall elections. (§ 4 ch 84 SLA 1977)

Sec. 46.40.150. Elections in coastal resource service areas. Organization elections under AS 46.40.130 and other elections, including recall elections conducted under AS 46.40.140, shall be administered by the lieutenant governor in the general manner provided in the Alaska Election Code (AS 15). In addition, the lieutenant governor may adopt regulations necessary to the conduct of coastal resource service area board elections. The state shall pay all election costs. (§ 4 ch 84 SLA 1977)

Editor's notes. — The director of elections has succeeded to most of the administrative duties of the lieutenant governor under AS 15.10.105.

Sec. 46.40.160. Organization at the direction of the council. (a) Whenever it appears that major economic development activity will occur in a coastal resource service area or in waters adjacent to a coastal resource service area which has not been organized, the council may direct the lieutenant governor to submit to the voters of the service area the question of organization. The council may require an election on the question only after holding at least one public hearing within the area proposed for organization.

(b) For purposes of this section, "major economic development activity" includes a call for nomination by the Secretary of the United States Department of the Interior for leasing of tracts within petroleum basins in waters of the outer continental shelf adjacent to the coastal resource service area or any other significant industrial or commercial activity which, in the opinion of the council, would commit the resources of the coastal area to a use of direct and significant impact upon the coastal waters of the state. (§ 4 ch 84 SLA 1977)

Sec. 46.40.170. Preparation of district coastal management program by the Department of Community and Regional Affairs. (a) If residents of a coastal resource service area reject organization of the service area at an election called for the purpose and the council finds, after public hearing, that major economic development activity has occurred or will occur within the service area, the council may direct the Department of Community and Regional Affairs to prepare and recommend for consideration by the council and for submission to the legislature a district coastal management program for the service area.

(b) At the request of the council, the Department of Community and Regional Affairs shall complete the district coastal management program in accordance with this chapter and the guidelines and standards adopted by the council for a coastal resource service area which has been organized but which has failed to make substantial progress in the preparation of an approvable district coastal management program within 18 months of certification of the results of an organization election or which has not submitted for approval to the council a pro-

gram within 30 months of certification of the results of its organization election. Preparation of the program shall be conducted in consultation with the coastal resource service area and shall, to the maximum extent consistent with this chapter, reflect the expressed concerns of the residents of the service area.

(c) Before requesting the department to complete the district coastal management program under (b) of this section, the council shall meet with the members of the coastal resource service area board to determine whether the board is able to complete a district coastal management program within the time limitations established in this section. (§ 4 ch 84 SLA 1977)

Sec. 46.40.180. Approval of programs in coastal resource service areas. (a) Before adoption by a coastal resource service area board, or by the Department of Community and Regional Affairs under AS 46.40.170, a district coastal management program shall be submitted for review to each city or village within the coastal resource service area. The council of a city or traditional village council shall consider the program submitted for review. Within 60 days of submission, the council of a city or traditional village council shall either approve the program or enter objections to all or any portion of the program.

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(b) If a city or village within a coastal resource service area fails to approve a portion of the district coastal management program prepared and submitted for approval under (a) of this section, the governing body shall advise the coastal resource service area board or the department, as applicable, of its objections to the proposed program and suggest alternative elements or components for inclusion in the district coastal management program. New matter submitted by a city or village which is substantially consistent with the guidelines and standards adopted by the council shall be accepted and the district coastal management program modified accordingly. If a city or village fails to provide objections and suggested alternatives within the time limits established in this section, the coastal resource service area board or the department, as applicable, may adopt the district coastal management program as initially offered.

(c) Objection by a city council under (b) of this section is limited to objection to elements of the program affecting resources or the use of resources within the corporate limits of the city. Objection by a traditional village council under (b) of this section is limited to objection to elements of the program affecting resources or the use of resources within the village or within two miles of the village.

(d) For purposes of this section, "village" means an unincorporated community where at least 25 persons reside as a social unit as determined by the Department of Community and Regional Affairs. (§ 4 ch 84 SLA 1977)

Article 3. General Provisions.

Section
190. Cooperative administration
200. State agencies
210. Definitions

Collateral references. — 78 Am. Jur. 2d, Waters, §§ 59-116, 375-438. 65 C.J.S., Navigable Waters, §§ 10-18, 20-132; 93 C.J.S., Waters, §§ 71-85.

Sec. 46.40.190. Cooperative administration. (a) A city within the coastal area which is not part of a coastal resource service area shall be included for purposes of this chapter within an adjacent coastal resource service area unless its governing body, by resolution adopted by a majority of its membership, chooses to exclude the city from an adjacent coastal resource service area and a copy of the resolution is filed with the commissioner of the Department of Community and Regional Affairs.

(b) Nothing in this chapter restricts or prohibits cooperative or joint administration of functions between a municipality and a coastal resource service area organized under the provisions of this chapter upon initiation of a mutual agreement for the purpose. A city which elects to be excluded from an adjacent coastal resource service area under (a) of this section shall enter into a mutual agreement for cooperative or joint administration of functions with the coastal resource service area board from the adjacent coastal resource service area. (§ 4 ch 84 SLA 1977; am § 3 ch 48 SLA 1980)

Effect of amendments. — The 1980 amendment, substituted "a" for "an adjacent" preceding "coastal resource", "shall be included" for "may include itself", "unless" for "if", "chooses to exclude" for "consents to the inclusion of", inserted "from an adjacent coastal resource service area", all in subsection (a); and added the second sentence of subsection (b).

Sec. 46.40.200. State agencies. Upon the adoption of the Alaska coastal management program, state departments, boards and commissions shall review their statutory authority, administrative regulations, and applicable procedures pertaining to land and water uses within the coastal area for the purpose of determining whether there are any deficiencies or inconsistencies which prohibit compliance with the program adopted. State agencies shall, within six months of the effective date of the Alaska coastal management program, take whatever action is necessary to facilitate full compliance with and implementation of the program, including preparation and submission of recommendations to the council for additional or amended legislation. (§ 4 ch 84 SLA 1977)

Sec. 46.40.210. Definitions. In this chapter, unless the context otherwise requires,

(1) "area which merits special attention" means a delineated geographic area within the coastal area which is sensitive to change or alteration and which, because of plans or commitments or because a claim on the resources within the area delineated would preclude subsequent use of the resources to a conflicting or incompatible use, warrants special management attention, or which, because of its value to the general public, should be identified for current or future planning, protection, or acquisition; these areas, subject to council definition of criteria for their identification, include:

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

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

(C) areas of substantial recreational value or opportunity;

(D) areas where development of facilities is dependent upon the utilization of, or access to, coastal waters;

(E) areas of unique geologic or topographic significance which are susceptible to industrial or commercial development;

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

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

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

(A) unified municipalities established under AS 29.68.240 — 29.68.440;

(B) organized boroughs of any class which exercise planning and zoning authority;

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

(D) second class cities of the unorganized borough, or within boroughs which do not exercise planning and zoning authority, which have established a planning commission, and which, in the opinion of the commissioner of the Department of Community and Regional Affairs, have the capability of preparing and implementing a comprehensive district coastal management program under AS 46.40.030;

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

(3) "council" means the Alaska Coastal Policy Council;

(4) "department" means the Department of Community and Regional Affairs;

(5) "use of direct and significant impact" means a use, or an activity associated with the use, which proximately contributes to a material

change or alteration in the natural or social characteristics of a part of the state's coastal area and in which

(A) the use, or activity associated with it, would have a net adverse effect on the quality of the resources of the coastal area;

(B) the use, or activity associated with it, would limit the range of alternative uses of the resources of the coastal area; or

(C) the use would, of itself, constitute a tolerable change or alteration of the resources within the coastal area but which, cumulatively, would have an adverse effect;

(6) "uses of state concern" means those land and water uses which would significantly affect the long-term public interest; these uses, subject to council definition of their extent, include:

(A) uses of national interest, including the use of resources for the siting of ports and major facilities which contribute to meeting national energy needs, construction and maintenance of navigational facilities and systems, resource development of federal land, and national defense and related security facilities that are dependent upon coastal locations;

(B) uses of more than local concern, including those land and water uses which confer significant environmental, social, cultural, or economic benefits or burdens beyond a single coastal resource district;

(C) the siting of major energy facilities, activities pursuant to a state oil and gas lease, or large-scale industrial or commercial development activities which are dependent on a coastal location and which, because of their magnitude or the magnitude of their effect on the economy of the state or the surrounding area, are reasonably likely to present issues of more than local significance;

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

(E) uses in areas established as state parks or recreational areas under AS 41.21 or as state game refuges, game sanctuaries or critical habitat areas under AS 16.20. (§ 4 ch 84 SLA 1977; am § 3 ch 129 SLA 1978)

Effect of amendments. — The 1978 amendment inserted "activities pursuant to a state oil and gas lease" in subparagraph (C) of paragraph (6).

Revisor's notes. — Internal reference in paragraph (6)(E) was revised in 1983.

COASTAL ZONE MANAGEMENT ACT OF 1972

(PL 92-583, 16 U.S.C. 1451 *et seq.*, October 27, 1972; Amended by PL 93-612, January 2, 1975; PL 94-370, July 26, 1976; PL 95-219, December 28, 1977; PL 95-372, September 18, 1978; PL 96-464, October 17, 1980; PL 98-620, November 11, 1984; PL 99-272, April 7, 1986)

SHORT TITLE

SEC. 301. This title may be cited as the "Coastal Zone Management Act of 1972".

CONGRESSIONAL FINDINGS

SEC. 302. The Congress finds that —

(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone.

(b) The coastal zone is rich in a variety of natural, commercial, recreational, ecological, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation.

(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion.

(d) The coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations.

(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost.

[302(f) added by PL 96-464]

(f) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great Lakes, territorial sea, and Outer Continental Shelf are placing stress on these areas and are creating the need for resolution of serious conflicts among important and competing uses and values in coastal and ocean waters. [Former 302(f)—(i) redesignated as (g)—(j) by PL 96-464]

(g) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values.

(h) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate.

(i) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

(j) The national objective of attaining a greater degree of energy self-sufficiency would be advanced by providing Federal financial assistance to meet state and local needs resulting from new or expanded energy activity in or affecting the coastal zone.

CONGRESSIONAL DECLARATION OF POLICY

SEC. 303. The Congress finds and declares that it is the national policy—

(1) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations;

(2) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, which programs should at least provide for—

(A) the protection of natural resources, including wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife and their habitat, within the coastal zone,

(B) the management of coastal development to minimize the loss of life and property caused by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas and in areas of subsidence and saltwater intrusion, and by the destruction of natural protective features such as beaches, dunes, wetlands, and barrier islands.

(C) priority consideration being given to coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports and transportation, and the location, to the maximum extent practicable, of new commercial and industrial developments in or adjacent to areas where such development already exists,

(D) public access to the coasts for recreation purposes,

(E) assistance in the redevelopment of deteriorating urban waterfronts and ports, and sensitive preservation and restoration of historic, cultural, and esthetic coastal features,

(F) the coordination and simplification of procedures in order to ensure expedited governmental decision-making for the management of coastal resources,

(G) continued consultation and coordination with, and the giving of adequate consideration to the views of, affected Federal agencies,

(H) the giving of timely and effective notification of, and opportunities for public and local government participation in, coastal management decisionmaking, and

(I) assistance to support comprehensive planning, conservation, and management for living marine resources, including planning for the siting of pollution control and aquaculture facilities within the coastal zone, and improved coordination between State and Federal coastal zone management agencies and State and wildlife agencies; and

(3) to encourage the preparation of special area management plans which provide for increased specificity in protecting significant natural resources, reasonable coastal-dependent economic growth, improved protection of life and property in hazardous areas, and improved predictability in governmental decisionmaking; and

(4) to encourage the participation and cooperation of the public, state and local governments, and interstate and other regional agencies, as well as of the Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this title.

[303 revised by PL 96-464]

DEFINITIONS

SEC. 304. For the purposes of this title —

(1) The term "coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

[304(2) added by PL 96-464]

(2) The term "coastal resource of national significance" means any coastal wetland, beach, dune, barrier island, reef, estuary, or fish and wildlife habitat, if any such area is determined by a coastal state to be of substantial biological or natural storm protective value. [Former 304(2)—(16) redesignated as (3)—(17) by PL 96-464]

(3) The term "coastal waters" means (A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (B) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

(4) The term "coastal state" means a state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern

Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa.

[304(4) amended by PL 96-464]

(5) The term "coastal energy activity" means any of the following activities if, and to the extent that (A) the conduct, support, or facilitation of such activity requires and involves the siting, construction, expansion, or operation of any equipment or facility; and (B) any technical requirement exists which, in the determination of the Secretary, necessitates that the siting, construction, expansion, or operation of such equipment or facility be carried out in, on in close proximity to, the coastal zone of any coastal state:

(i) Any outer Continental Shelf energy activity.

(ii) Any transportation, conversion, treatment, transfer, or storage of liquefied natural gas.

(iii) Any transportation, transfer, or storage of oil, natural gas, or coal (including, but not limited to, by means of any deep-water port, as defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(10))).

For purposes of this paragraph, the siting, construction, expansion, or operation of any equipment or facility shall be "in close proximity to the coastal zone of any coastal state if such siting, construction, expansion, or operation has, or is likely to have, a significant effect on such coastal zone.

(6) The term "energy facilities" means any equipment or facility which is or will be used primarily —

(A) in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of, any energy resource; or

(B) for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any activity described in subparagraph (A).

The term includes, but is not limited to (i) electric generating plants; (ii) petroleum refineries and associated facilities; (iii) gasification plants; (iv) facilities used for the transportation, conversion, treatment, transfer, or storage of liquefied natural gas; (v) uranium enrichment or nuclear fuel processing facilities; (vi) oil and gas facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, and refining complexes; (vii) facilities including deepwater ports, for the transfer of petroleum; (viii) pipelines and transmission facilities; and (ix) terminals which are associated with any of the foregoing.

(7) The term "estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

(8) The term "estuarine sanctuary" means a research area which may include any part or all of an estuary and any island, transitional area, and upland in, adjoining, or adjacent to such estuary, and which constitute to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

(9) The term "Fund" means the Coastal Energy Impact Fund established by section 308(h).

(10) The term "land use" means activities which are conducted in, or on the shorelands within, the coastal zone, subject to the requirements outlined in section 307(g).

(11) The term "local government" means any political subdivision of, or any special entity created by, any coastal state which (in whole or part) is located in, or has authority over, such state's coastal zone and which (A) has authority to levy taxes, or to establish and collect user fees, or (B) provides any public facility or public service which is financed in whole or part by taxes or user fees. The term includes, but is not limited to, any school district, fire district, transportation authority, and any other special purpose district or authority.

(12) The term "management program" includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the state in accordance with the provisions of this title, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone.

(13) The term "outer continental shelf energy activity" means any exploration for, or any development or production of, oil or natural gas from the outer continental shelf (as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), or the siting, construction, expansion, or operation of any new or expanded energy facilities directly required by such exploration, development, or production.

(14) The term "person" means any individual; any corporation, partnership, association, or other entity organized or existing under the laws of any state; the Federal Government; any state, regional, or local government; or any entity of any such Federal, state, regional, or local government.

(15) The term "public facilities and public services" means facilities or services which are financed, in whole or in part, by any state or political subdivision thereof, including, but not limited to, highways and secondary roads, parking, mass transit, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care. Such term may also include any other facility or service so financed which the Secretary finds will support increased population.

(16) The term "Secretary" means the Secretary of Commerce.

(17) The term 'special area management plan' means a comprehensive plan providing for natural resource protection and reasonable coastal-dependent economic growth containing a detailed and comprehensive statement of policies; standards and criteria to guide public and private uses of lands and waters; and mechanisms for timely implementation in specific geographic areas within the coastal zone.

[304(17) added by PL 96-464]

(18) The term "water use" means activities which are conducted in or on the water; but does not mean or include the establishment of any water quality standard or criteria or the regulation of the discharge or runoff of water pollutants except the standards, criteria, or regulations which are incorporated in any program as required by the provisions of section 307(f).

MANAGEMENT PROGRAM DEVELOPMENT GRANTS

SEC. 305. (a) The Secretary may make grants to any coastal state —

(1) under subsection (c) for the purpose of assisting such state in the development of a management program for the land and water resources of its coastal zone; and

(2) under subsection (d) for the purpose of assisting such state in the completion of the development, and the initial implementation, of its management program before such state qualifies for administrative grants under section 306.

(b) The management program for each coastal state shall include each of the following requirements:

(1) An identification of the boundaries of the coastal zone subject to the management program.

(2) A definition of what shall constitute permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal waters.

(3) An inventory and designation of areas of particular concern within the coastal zone.

(4) An identification of the means by which the state proposes to exert control over the land uses and water uses referred to in paragraph (2), including a listing of relevant constitutional provisions, laws, regulations, and judicial decisions.

(5) Broad guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.

(6) A description of the organizational structure proposed to implement such management program, including the responsibilities and interrelationships of local, areawide, state, regional, and interstate agencies in the management process.

(7) A definition of the term 'beach' and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value.

(8) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including, but not limited to, a process for anticipating and managing the impacts from such facilities.

(9) A planning process for (A) assessing the effects of shoreline erosion (however caused), and (B) studying and evaluating ways to control, or lessen the impact of, such erosion, and to restore areas adversely affected by such erosion.

No management program is required to meet the requirements in paragraphs (7), (8), and (9) before October 1, 1978.

(c) The Secretary may make a grant annually to any coastal state for the purposes described in subsection (a)(1) if such state reasonably demonstrates to the satisfaction of the Secretary that such grant will be used to develop a management program consistent with the requirements set forth in section 306. The amount of any such grant shall not exceed 80 per centum of such state's costs for such purposes in any one year. No coastal state is eligible to receive more than four grants pursuant to this subsection. After the initial grant is made to any coastal state pursuant to this subsection, no subsequent grant shall be made to such state pursuant to this subsection unless the Secretary finds that such state is satisfactorily developing its management program.

(d)(1) The Secretary may make a grant annually to any coastal state for the purposes described in subsection (a)(2) if the Secretary finds that such state meets the eligibility requirements set forth in paragraph (2). The amount of any such grant shall not exceed 80 per centum of the costs for such purposes in any one year.

(2) A coastal state is eligible to receive grants under this subsection if it has —

(A) developed a management program which —

(i) is in compliance with the rules and regulations promulgated to carry out subsection (b), but

(ii) has not yet been approved by the Secretary under section 306;

(B) specifically identified, after consultation with the Secretary, any deficiency in such program which makes it ineligible for approval by the Secretary pursuant to section 306, and has established a reasonable time schedule during which it can remedy any such deficiency;

(C) specified the purposes for which any such grant will be used;

(D) taken or is taking adequate steps to meet any requirement under section 306 or 307 which involves any Federal official or agency; and

(E) complied with any other requirement which the Secretary, by rules and regulations, prescribes as being necessary and appropriate to carry out the purposes of this subsection.

(3) No management program for which grants are made under this subsection shall be considered an approved program for purposes of section 307.

(e) Grants under this section shall be made to, and allocated among, the coastal states pursuant to rules and regulations promulgated by the Secretary; except that —

(1) no grant shall be made under this section in an amount which is more than 10 per centum of the total amount appropriated to carry out the purposes of this section, but the Secretary may waive this limitation in the case of any coastal state which is eligible for grants under subsection (d); and

(2) no grant shall be made under this section in an amount which is less than 1 per centum of the total amount appropriated to carry out the purposes of this section, but the Secretary shall waive this limitation in the case of any coastal state which requests such a waiver.

(f) The amount of any grant (or portion thereof) made under this section which is not obligated by the coastal state concerned during the fiscal year for which it was first authorized to be obligated by such state, or during the fiscal year immediately following, shall revert to the Secretary who shall add such amount to the funds available for grants under this section.

(g) With the approval of the Secretary, any coastal state may allocate to any local government, to any areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, to any region agency, or to any interstate agency, a portion of any grant received by it under this section for the purpose of carrying out the provisions of this section.

(h) Any coastal state which has completed the development of its management program shall submit such program to the Secretary for review and approval pursuant to section 306. Whenever the Secretary approves the management program of any coastal state under section 306, such state thereafter —

(1) shall not be eligible for grants under this section; except that such state may receive grants under subsection (c) in order to comply with the requirements of paragraphs (7), (8), and (9) of subsection (b); and

(2) shall be eligible for grants under section 306.

(i) The authority to make grants under this section shall expire on September 3, 1979.

ADMINISTRATIVE GRANTS

SEC. 306. (a) The Secretary may make grants to any coastal state for the purpose of administering that state's management program, if the state matches any such grant according to the following ratios of Federal to state contributions for the applicable fiscal year: 4 to 1 for fiscal year 1986; 2.3 to 1 for fiscal year 1987; 1.5 to 1 for fiscal year 1988; 1 to 1 for any fiscal year after fiscal year 1988. The Secretary may make the grant only if the Secretary—

(1) finds that such program meets the requirements of section 305(b);

(2) approves such program in accordance with subsections (c), (d) and (e); and

(3) finds, if such program has been administered with financial assistance under this section for at least one year, that the coastal state will expend an increasing proportion of each grant received under this section (but not more than 30 per centum of the grant unless the state chooses to expend a higher percentage) on activities that will result in significant improvement being made in achieving the coastal management objectives specified in section 303(2)(A) through (I).

For purposes of this subsection, the costs of administering a management program includes costs incurred in the carrying out, in a manner consistent with the procedures and processes specified therein, of projects and other activities (other than those of a kind referred to in clauses (A), (B), or (C) of section 306A(c)(2) that are necessary or appropriate to the implementation of the management program.

[306(a) revised by PL 96-464; PL 99-272]

(b) Such grants shall be allocated to the states with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors: *Provided*, That no annual grant made under this section shall be less than 1 per centum of the total amount appropriated to carry out the purposes of this section: *And provided further*, That the Secretary shall waive the application of the 1 per centum minimum requirement as to any grant under this section, when the coastal State involved requests such a waiver.

[306(b) amended by PL 93-612; PL 96-464]

(c) Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that:

(1) The state has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities,

and other interested parties, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303 of this title.

(2) The state has:

(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency; and

(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title; except that the Secretary shall not find any mechanism to be 'effective' for purposes of this subparagraph unless it includes each of the following requirements:

(i) Such management agency is required, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, to send a notice of such management program decision to any local government whose zoning authority is affected thereby.

(ii) Any such notice shall provide that such local government may, within the 30-day period commencing on the date of receipt of such notice, submit to the management agency written comments on such management program decision, and any recommendation for alternatives thereto, if no action is taken during such period which would conflict or interfere with such management program decision, unless such local government waives its right to comment.

(iii) Such management agency, if any such comments are submitted to it, with such 30-day period, by any local government —

(I) is required to consider any such comments,

(II) is authorized, in its discretion, to hold a public hearing on such comments, and

(III) may not take any action within such 30-day period to implement the management program decision, whether or not modified on the basis of such comments.

(3) The state has held public hearings in the development of the management program.

(4) The management program and any changes thereto have been reviewed and approved by the Governor.

(5) The Governor of the state has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

(6) The state is organized to implement the management program required under paragraph (1) of this subsection.

(7) The state has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

(8) The management program provides for adequate consideration of the national interest involved in planning for, and in the siting of, facilities (including energy facilities in, or which significantly affect, such state's coastal zone) which are necessary to meet requirements which are other than local in nature. In the case of such energy facilities, the Secretary shall find that the state has given such consideration to any applicable interstate energy plan or program.

(9) The management program makes provision for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, or esthetic values.

(d) Prior to granting approval of the management program, the Secretary shall find that the state, acting through its chosen agency or agencies, including local governments, areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, regional agencies, or interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power —

(1) to administer land and water use regulations, control development in order to ensure compliance with the management program, and to resolve conflicts among competing uses; and

(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(e) Prior to granting approval, the Secretary shall also find that the program provides:

(1) for any one or a combination of the following general techniques for control of land and water uses within the coastal zone:

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;

(B) Direct state land and water use planning and regulation; or

(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any state or local authority or private developer, with power to ap-

prove or disapprove after public notice and an opportunity for hearings.

(2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

(f) With the approval of the Secretary, a state may allocate to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of the grant under this section for the purpose of carrying out the provisions of this section. *Provided*. That such allocation shall not relieve the state of the responsibility for ensuring that any funds so allocated are applied in furtherance of such state's approved management program.

(g) Any coastal state may amend or modify the management program which it has submitted and which has been approved by the Secretary under this section, pursuant to the required procedures described in subsection (c), and subject to the following conditions:

(1) The state shall promptly notify the Secretary of any proposed amendment, modification or other program change and submit it for Secretarial approval. The Secretary may suspend all or part of any grant made under this section pending state submission of the proposed amendments, modification or other program change.

(2) Within 30 days from the date on which the Secretary receives any proposed amendment, the Secretary shall notify the state whether the Secretary approves or disapproves the amendment, or whether the Secretary finds it is necessary to extend the review of the proposed amendment for a period not to exceed 120 days from the date the Secretary received the proposed amendment. The Secretary may extend this 120-day period only as necessary to meet the requirements of the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

(3) The state may not implement any proposed amendment as part of its approved program pursuant to section 306, until after the proposed amendment has been approved by the Secretary.

[306(g) revised by PL 99-272]

(h) At the discretion of the state and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs. *Provided*. That the state adequately provides for the ultimate coordination of the various segments of the management program into a single unified program and that the unified program will be completed as soon as is reasonably practicable.

(i) The coastal states are encouraged to provide in their management programs for—

(A) the inventory and designation of areas that contain one or more coastal resources of national significance; and

(B) specific and enforceable standards to protect such resources.

If the Secretary determines that a coastal state has failed to make satisfactory progress in the activities described in this subsection by September 30, 1984, the Secretary shall not make any grants to such state provided under section 306A after such date.

[306(i) added by PL 96-464]

[*Editor's note:* Section 5(b) of PL 96-464 provides:

"(b) The amendments made by subsection (a)(1) and (2)* of this section apply with respect to grants made after September 30, 1980, under section 306 of the Coastal Zone Management Act of 1972 and, within two hundred and seventy days after such date, the Secretary of Commerce shall issue regulations relating to the administration of subsection (a) of such section 306 (as so amended by such subsection (a)(1))."]

RESOURCE MANAGEMENT IMPROVEMENT GRANTS
[306A added by PL 96-464]

SEC. 306A. (a) For purposes of this section—

(1) The term 'eligible coastal state' means a coastal state that for any fiscal year for which a grant is applied for under this section—

((A) has a management program approved under section 306; and

(B) in the judgment of the Secretary, is making satisfactory progress in activities designed to result in significant improvement in achieving the coastal management objectives specified in section 303(2)(A) through (I).

(2) The term 'urban waterfront and port' means any developed area that is densely populated and is being used for, or has been used for, urban residential recreational, commercial, shipping or industrial purposes.

(b) The Secretary may make grants to any eligible coastal state to assist that state in meeting one or more of the following objectives:

*Subsections (a)(1) and (2) amended Section 306(a) and (h), respectively, of this Act.

(1) The preservation or restoration of specific areas of the state that (A) are designated under the management program procedures required by section 306 (c)(9) because of their conservation recreational, ecological, or esthetic values, or (B) contain one or more coastal resources of national significance.

(2) The redevelopment of deteriorating and underutilized urban waterfronts and ports that are designated under section 305(b)(3) in the state's management program as areas of particular concern.

(3) The provision of access of public beaches and other public coastal areas and to coastal waters in accordance with the planning process required under section 305(b)(7).

(c) (1) Each grant made by the Secretary under this section shall be subject to such terms and conditions as may be appropriate to ensure that the grant is used for purposes consistent with this section.

(2) Grants made under this section may be used for—

(A) the acquisition of fee simple and other interests in land;

(B) low-cost construction projects determined by the Secretary to be consistent with the purposes of this section, including but not limited to, paths, walkways, fences, parks, and the rehabilitation of historic buildings and structures; except that not more than 50 per centum of any grant made under this section may be used for such construction projects;

(C) in the case of grants made for objectives described in subsection (b)(2)—

(i) the rehabilitation or acquisition of piers to provide increased public use, including compatible commercial activity,

(ii) the establishment of shoreline stabilization measures including the installation or rehabilitation of bulkheads for the purpose of public safety or increasing public access and use, and

(iii) the removal or replacement of pilings where such action will provide increased recreational use of urban waterfront areas,

but activities provided for under this paragraph shall not be treated as construction projects subject to the limitations in paragraph (B);

(D) engineering designs, specifications, and other appropriate reports; and

(E) educational, interpretive, and management costs and such other related costs as the Secretary determines to be consistent with the purposes of this section.

(d)(1) The Secretary may make grants to any coastal state for the purpose of carrying out the project or purpose for which such grants are awarded, if the state matches any such grant according to the following ratios of Federal to state contribution for the applicable fiscal year: 4 to 1 for fiscal 1986; 2.3 to 1 for fiscal year 1987; 1.5 to 1 for fiscal year 1988; and 1 to 1 for each fiscal year after fiscal year 1988.

[Former 306A(d)(1) deleted and new (d)(1) added by PL 99-272]

(2) Grants provided under this section may be used to pay a coastal state's share of costs required under any other Federal program that is consistent with the purposes of this section.

(3) The total amount of grants made under this section to any eligible coastal state for any fiscal year may not exceed an amount equal to 10 per centum of the total amount appropriated to carry out this section for such fiscal year.

(e) With the approval of the Secretary, an eligible coastal state may allocate to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, a regional agency, or an interstate agency, a portion of any grant made under this section for the purpose of carrying out this section; except that such an allocation shall not relieve that state of the responsibility for ensuring that any funds so allocated are applied in furtherance of the state's approved management program.

(f) In addition to providing grants under this section, the Secretary shall assist eligible coastal states and their local governments in identifying and obtaining other sources of available Federal technical and financial assistance regarding the objectives of this section.

COORDINATION AND COOPERATION

SEC. 307. (a) In carrying out his functions and responsibilities under this title, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

(b) The Secretary shall not approve the management program submitted by a state pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered.

(c)(1) Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

(2) Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with approved state management programs.

(3)(A) After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone of that state shall

provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds, after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

(B) After the management program of any coastal state has been approved by the Secretary under section 306, any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and regulations under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any land use or water use in the coastal zone of such state, attach to such plan a certification that each activity which is described in detail in such plan complies with such state's approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such state or its designated agency receives a copy of such certification and plan, together with any other necessary data and information, and until —

(i) such state or its designated agency, in accordance with the procedures required to be established by such state pursuant to subparagraph (A), concurs with such person's certification and notifies the Secretary and the Secretary of the Interior of such concurrence;

(ii) concurrence by such state with such certification is conclusively presumed as provided for in subparagraph (A), except if such state fails to concur with or object to such certification within three months after receipt of its copy of such certification and supporting information, such state shall provide the Secretary, the appropriate federal agency, and such person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if such statement is not so provided, concurrence by such state with such certification shall be conclusively presumed; or

[(ii) revised by PL 95-372, September 18, 1978]

(iii) the Secretary finds, pursuant to subparagraph (A), that each activity which is described in detail in such plan is consistent with the objectives of this title or is otherwise necessary in the interest of national security.

If a state concurs or is conclusively presumed to concur, or if the Secretary makes such a finding, the provisions of subparagraph (A) are not applicable with respect to such person, such state, and any Federal license or permit which is required to conduct any activity affecting land uses or water uses in the coastal zone of such state which is described in detail in the plan to which such concurrence or finding applies. If such state objects to such certification and if the Secretary fails to make a finding under clause (iii) with respect to such certification, or if such person fails substantially to comply with such plan as submitted, such person shall submit an amendment to such plan, or a new plan, to the Secretary of the Interior. With respect to any amendment or new plan submitted to the Secretary of the Interior pursuant to the preceding sentence, the applicable time period for purposes of concurrence by conclusive presumption under subparagraph (A) is 3 months.

(d) State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

(e) Nothing in this title shall be construed —

(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common

agency of two or more states or of two or more states and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

(f) Notwithstanding any other provision of this title, nothing in this title shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or (2) established by the Federal Government or by any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this title and shall be the water pollution control and air pollution control requirements applicable to such program.

(g) When any state's coastal zone management program, submitted for approval or proposed for modification pursuant to section 306 of this title, includes requirements as to shorelands which also would be subject to any Federally supported national land use program which may be hereafter enacted, the Secretary, prior to approving such program, shall obtain the concurrence of the Secretary of the Interior, or such other Federal official as may be designated to administer the national land use program with respect to that portion of the coastal zone management program affecting such inland areas.

(h) In case of serious disagreement between any Federal agency and a coastal state —

(1) in the development or the initial implementation of a management program under section 305; or

(2) in the administration of a management program approved under section 306;

the Secretary, with the cooperation of the Executive Office of the President, shall seek to mediate the differences involved in such disagreement. The process of such mediation shall, with respect to any disagreement described in paragraph (2), include public hearings which shall be conducted in the local area concerned.

COASTAL ENERGY IMPACT PROGRAM

[308 revised by PL 95-372, September 18, 1978]

SEC. 308. (a) (1) The Secretary shall administer and coordinate, as part of the coastal zone management activities of the Federal Government provided for under this title, a coastal energy impact program. Such program shall consist of the provision of financial assistance to meet the needs of coastal states and local governments in such states resulting from specified activities involving energy development. Such assistance, which includes —

(A) grants, under subsection (b), to coastal states for the purposes set forth in subsection (b)(5) with respect to consequences resulting from the energy activities specified therein;

(B) grants, under subsection (c)(1), to coastal states for study of, and planning for, consequences relating to new or expanded energy facilities in, or which significantly affect, the coastal zone;

(C) grants, under subsection (c)(2), to coastal states to carry out their responsibilities under the Outer Continental Shelf Lands Act;

(D) loans, under subsection (d)(1), to coastal states and units of general purpose local government to assist such states and units to provide new or improved public facilities or public services which are required as a result of coastal energy activity;

(E) guarantees, under subsection (d)(2) and subject to the provisions of subsection (f), of bonds or other evidences of indebtedness issued by coastal states and units of general purpose local government for the purpose of providing new or improved public facilities or public services which are required as a result of coastal energy activity;

(F) grants or other assistance, under subsection (d)(3), to coastal states and units of general purpose local government to enable such states and units to meet obligations under loans or guarantees under subsection (d) (1) or (2) which they are unable to meet as they mature, for reasons specified in subsection (d)(3); and

(G) grants, under subsection (d)(4), to coastal states which have suffered, are suffering, or will suffer any unavoidable loss of a valuable environmental or recreational resource;

shall be provided, administered, and coordinated by the Secretary in accordance with the provisions of this section and under the rules and regulations required to be promulgated pursuant to paragraph (2). Any such financial assistance shall be subject to audit under section 313.

(2) The Secretary shall promulgate, in accordance with section 317, such rules and regulations (including, but not limited to, those required under subsection (e) as may be necessary and appropriate to carry out the provisions of this section.

(b) (1) The Secretary shall make grants annually to coastal states, in accordance with the provisions of this subsection.

(2) Subject to paragraph (3), the amounts payable to coastal states under this subsection shall be, with respect to any such state for any fiscal year, the sum of the amounts calculated, with respect to such state, pursuant to subparagraphs (A), (B), and (C):

(A) An amount which bears, to one-half of the amount appropriated for the purpose of funding grants under this subsection for such fiscal year, the same ratio that the amount of outer Continental Shelf acreage which is adjacent to such state and which is newly leased by the Federal Government in the immediately preceding fiscal year bears to the total amount of outer Continental Shelf acreage which is newly leased by the Federal Government in such preceding year.

(B) An amount which bears, to one-quarter of the amount appropriated for such purpose for such fiscal year, the same ratio that the volume of oil and natural gas produced in the immediately preceding fiscal year from the outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal Government bears to the total volume of oil and natural gas produced in such year from all of the outer Continental Shelf acreage which is leased by the Federal Government.

(C) An amount which bears, to one-quarter of the amount appropriated for such purpose for such fiscal year, the same ratio that the volume of oil and natural gas produced from outer Continental Shelf acreage leased by the Federal Government which is first landed in such state in the immediately preceding fiscal year bears to the total volume of oil and natural gas produced from all outer Continental Shelf acreage leased by the Federal Government which is first landed in all of the coastal states in such year.

(3)(A)(i) After making the calculations required under paragraph (2) for any fiscal year, the Secretary shall —

(I) with respect to any coastal state which, based on such calculations, would receive an amount which is less than 2 per centum of the amount appropriated for such fiscal year, increase the amount appropriated for such fiscal year, increase the amount payable to such coastal state to 2 per centum of such appropriated amount; and

(II) with respect to any coastal state which, in such fiscal year, would not receive a grant under paragraph (2), make a grant to such coastal state in an amount equal to 2 per centum of the total amount appropriated for making grants to all states under paragraph (2) in such fiscal year if any other coastal state in the same region will receive a grant under such paragraph in such fiscal year, except that a coastal state shall not receive a grant under this subclause unless the Secretary determines that it is being or will be impacted by outer Continental Shelf energy activity and that it will be able to expend or commit the proceeds of such grant in accordance with the purposes set forth in paragraph (5).

(ii) For purposes of this subparagraph —

(I) the states of Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, and Virginia, the Commonwealth of Puerto Rico, and the Virgin Islands (the Atlantic coastal states) shall constitute one 'region';

(II) the states of Alabama, Florida, Louisiana, Mississippi, and Texas (the Gulf coastal states) shall constitute one 'region'.

(III) the states of California, Hawaii, Oregon, and Washington (the Pacific coastal states) shall constitute one 'region' and

(IV) the state of Alaska shall constitute one 'region

(B) If, after the calculations required under subparagraph (A), the total amount of funds appropriated for making grants to coastal states in any fiscal year pursuant to this subsection is less than the total amount of grants payable to all coastal states in such fiscal year, there shall be deducted from the amount payable to each coastal state which will receive more than 2 per centum of the amount of funds so appropriated an amount equal to the product of —

(i) the amount by which the total amount of grants payable to all coastal states in such fiscal year exceeds the total amount of funds appropriated for making such grants; multiplied by

(ii) a fraction, the numerator of which is the amount of grants payable to such coastal state in such fiscal year reduced by an amount equal to 2 per centum of the total amount appropriated for such fiscal year and the denominator of which is the total amount of grants payable to coastal states which, in such fiscal year, will receive more than 2 per centum of the amount of funds so appropriated, reduced by an amount equal to the product of 2 per centum of the total amount appropriated for such fiscal year multiplied by the number of such coastal states.

(C)(i) If, after the calculations required under subparagraph (B) for any fiscal year, any coastal state would receive an amount which is greater than 37½ per centum of the amount appropriated for such fiscal year, the Secretary shall reduce the amount payable to such coastal state to 37½ per centum of such appropriated amount.

(ii) Any amount not payable to a coastal state in a fiscal year due to a reduction under clause (i) shall be payable proportionately to all coastal states which are to receive more than 2 per centum and less than 37½ per centum of the amount appropriated for such fiscal year, except that in no event shall any coastal state

receive more than 37½ per centum of such appropriated amount.

(iii) For purposes of this subparagraph, the term 'payable proportionately' means payment in any fiscal year in accordance with the provisions of paragraph (2), except that in making calculations under such paragraph the Secretary shall only include those coastal states which are to receive more than 2 per centum and less than 37½ per centum of the amount appropriated for such fiscal year.

(4)(A) The Secretary shall determine annually the amounts of the grants to be provided under this subsection and shall collect and evaluate such information as may be necessary to make such determinations. Each Federal department, agency, and instrumentality shall provide to the Secretary such assistance in collecting and evaluating relevant information as the Secretary may request. The Secretary shall request the assistance of any appropriate state agency in collecting and evaluating such information.

(B) For purposes of making calculations under paragraph (2), outer Continental Shelf acreage is adjacent to a particular coastal state if such acreage lies on that state's side of the extended lateral seaward boundaries of such state. The extended lateral seaward boundaries of a coastal state shall be determined as follows:

(i) If lateral seaward boundaries have been clearly defined or fixed by an interstate compact, agreement, or judicial decision (if entered into, agreed to, or issued before the date of the enactment of this paragraph), such boundaries shall be extended on the basis of the principles of delimitation used to so define or fix them in such compact, agreement, or decision.

(ii) If no lateral seaward boundaries, or any portion thereof, have been clearly defined or fixed by an interstate compact, agreement, or judicial decision, lateral seaward boundaries shall be determined according to the applicable principles of law, including the principles of the Convention on the Territorial Sea and the Contiguous Zone, and extended on the basis of such principles.

(iii) If, after the date of enactment of this paragraph, two or more coastal states enter into or amend an interstate compact or agreement in order to clearly define or fix lateral seaward boundaries, such boundaries shall thereafter be extended on the basis of the principles of delimitation used to so define or fix them in such compact or agreement.

(C) For purposes of making calculations under this subsection, the transitional quarter beginning July 1, 1976, and ending September 30, 1976, shall be included within the fiscal year ending June 30, 1976.

(5) Each coastal state shall use the proceeds of grants received by it under this subsection for the following purposes (except that priority shall be given to the use of such proceeds for the purpose set forth in subparagraph (A):

(A) The retirement of state and local bonds, if any, which are guaranteed under subsection (d) (2); except that, if the amount of such grants is insufficient to retire both state and local bonds, priority shall be given to retiring local bonds.

(B) The study of, planning for, development of, and the carrying out of projects and programs in such state which are —

(i) necessary to provide new or improved public facilities and public services which are required as a result of outer Continental Shelf energy activity;

(ii) of a type approved by the Secretary as eligible for grants under this paragraph, except that the Secretary may not disapprove any project or program for highways and secondary roads, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care.

The Secretary may, pursuant to criteria promulgated by rule, describe geographic areas in which public facilities and public services referred to in clause (i) shall be presumed to be required as a result of outer Continental Shelf energy activity for purposes of disbursing the proceeds of grants under this subsection.

(C) The prevention, reduction, or amelioration of any unavoidable loss in such state's coastal zone of any valuable environmental or recreational resource if such loss results from coastal energy activity.

(6) The Secretary, in a timely manner, shall determine that each coastal state has expended or committed, and may determine that such state will expend or commit, grants which such state has received under this subsection in accordance with the purposes set forth in paragraph (5). The United States shall be entitled to recover from any coastal state an amount equal to any portion of any such grant received by such state under this subsection which —

(A) is not expended or committed by such state before the close of the fiscal year immediately following the fiscal year in which the grant was disbursed, or

(B) is expended or committed by such state for any purpose other than a purpose set forth in paragraph (5). Before disbursing the proceeds of any grant under this subsection to any coastal state, the Secretary shall require such state to provide adequate assurances of being able to return to the United States any amounts to which the preceding sentence may apply.

(c)(1) The Secretary shall make grants to any coastal state if the Secretary finds that the coastal zone of such state is being, or is likely to be significantly affected by the siting, construction, expansion, or operation of new

or expanded energy facilities. Such grants shall be used for the study of, and planning for (including, but not limited to, the application of the planning process included in a management program pursuant to section 305(b)(8)) any economic, social, or environmental consequence which has occurred, is occurring, or is likely to occur in such state's coastal zone as a result of the siting, construction, expansion, or operation of such new or expanded energy facilities. The amount of any such grant shall not exceed 80 per centum of the cost of such study and planning.

(2) The Secretary shall make grants under this paragraph to any coastal state which the Secretary finds is likely to be affected by outer Continental Shelf energy activities. Such grants shall be used by such state to carry out its responsibilities under the Outer Continental Shelf Lands Act. The amount of any such grant shall not exceed 80 per centum of the cost of carrying out such responsibilities.

(3) (A) The Secretary shall make grants to any coastal state to enable such state to prevent, reduce, or ameliorate any unavoidable loss in such state's coastal zone of any valuable environmental or recreational resource, if such loss results from the transportation, transfer, or storage of coal or from alternative ocean energy activities.

(B) Such grants shall be allocated to any such state based on rules and regulations promulgated by the Secretary which shall take into account the number of coal or alternative ocean energy facilities, the nature of their impacts, and such other relevant factors deemed appropriate by the Secretary.

[308(c)(3) added by PL 96-464]

(d)(1) The Secretary shall make loans to any coastal state and to any unit of general purpose local government to assist such state or unit to provide new or improved public facilities or public services, or both, which are required as a result of coastal energy activity. Such loans shall be made solely pursuant to this title, and no such loan shall require as a condition thereof that any such state or unit pledge its full faith and credit to the repayment thereof. No loan shall be made under this paragraph after September 30, 1986.

(2) The Secretary shall, subject to the provisions of subsection (f), guarantee, or enter into commitments to guarantee, the payment of interest on, and the principal amount of, any bond or other evidence of indebtedness if it is issued by a coastal state or a unit of general purpose local government for the purpose of providing new or improved public facilities or public services, or both, which are required as a result of a coastal energy activity.

(3) If the Secretary finds that any coastal state or unit of general purpose local government is unable to meet its obligations pursuant to a loan or guarantee made under paragraph (1) or (2) because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable such state or unit to meet such obligations in accordance with the appropriate repayment schedule, the Secretary shall, after review of the information submitted by such state or unit pursuant to subsection (e)(3), take any of the following actions:

(A) Modify appropriately the terms and conditions of such loan or guarantee.

(B) Refinance such loan.

(C) Make a supplemental loan to such state or unit the proceeds of which shall be applied to the payment of principal and interest due under such loan or guarantee.

(D) Make a grant to such state or unit the proceeds of which shall be applied to the payment of principal and interest due under such loan or guarantee.

Notwithstanding the preceding sentence, if the Secretary —

(i) has taken action under subparagraph (A), (B), or (C) with respect to any loan or guarantee made under paragraph (1) or (2), and

(ii) finds that additional action under subparagraph (A), (B), or (C) will not enable such state or unit to meet, within a reasonable time, its obligations under such loan or guarantee and any additional obligations related to such loan or guarantee; the Secretary shall make a grant or grants under subparagraph (D) to such state or unit in an amount sufficient to enable such state or unit to meet such outstanding obligations.

(4) [308(d)(4) deleted by PL 96-464]

(e) Rules and regulations with respect to the following matters shall be promulgated by the Secretary as soon as practicable, but not later than 270 days after the date of the enactment of this section:

(1) A formula and procedures for apportioning equitably, among the coastal states, the amounts which are available for the provision of financial assistance under subsection (d). Such formula shall be based on, and limited to, the following factors:

(A) The number of additional individuals who are expected to become employed in new or expanded coastal energy activity, and the related new population, who reside in the respective coastal states.

(B) The standardized unit costs (as determined by the Secretary by rule), in the relevant regions of such states, for new or improved public facilities and public services which are required as a result of such expected employment and the related new population.

(2) Criteria under which the Secretary shall review each coastal state's compliance with the requirements of subsection (g)(2).

(3) Criteria and procedures for evaluating the extent to which any loan or guarantee under subsection (d)(1) or (2) which is applied for by any coastal state or unit of general purpose local government can be repaid through its ordinary methods and rates for generating tax revenues. Such procedures shall require such state or unit to submit to the Secretary such information which is specified by the Secretary to be necessary for such evaluation, including, but not limited to —

(A) a statement as to the number of additional individuals who are expected to become employed in the new or expanded coastal energy activity involved, and the related new population, who reside in such state or unit;

(B) a description, and the estimated costs of the new or improved public facilities or public services needed or likely to be needed as a result of such expected employment and related new population;

(C) a projection of such state's or unit's estimated tax receipts during such reasonable time thereafter, not to exceed 30 years, which will be available for the repayment of such loan or guarantee; and

(D) a proposed repayment schedule.

The procedures required by this paragraph shall also provide for the periodic verification, review, and modification (if necessary) by the Secretary of the information or other material required to be submitted pursuant to this paragraph.

(4) Requirements, terms, and conditions (which may include the posting of security) which shall be imposed by the Secretary, in connection with loans and guarantees made under subsections (d)(1) and (2), in order to assure repayment within the time fixed, to assure that the proceeds thereof may not be used to provide public services for an unreasonable length of time, and otherwise to protect the financial interests of the United States.

(5) Criteria under which the Secretary shall establish rates of interest on loans made under subsections (d)(1) and (3). Such rates shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such loans.

In developing rules and regulations under this subsection, the Secretary shall, to the extent practicable, request the views of, or consult with, appropriate persons regarding impacts resulting from coastal energy activity.

(f)(1) Bonds or other evidences of indebtedness guaranteed under subsection (d)(2) shall be guaranteed on such terms and conditions as the Secretary shall prescribe, except that —

(A) no guarantee shall be made unless the indebtedness involved will be completely amortized within a reasonable period, not to exceed 30 years;

(B) no guarantee shall be made unless the Secretary determines that such bonds or other evidences of indebtedness will —

(i) be issued only to investors who meet the requirements prescribed by the Secretary, or, if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

(ii) bear interest at a rate found not to be excessive by the Secretary; and

(iii) contain, or be subject to, repayment, maturity, and other provisions which are satisfactory to the Secretary;

(C) the approval of the Secretary of the Treasury shall be required with respect to any such guarantee, unless the Secretary of the Treasury waives such approval; and

(D) no guarantee shall be made after September 30, 1986.

(2) The full faith and credit of the United States is pledged to the payment, under paragraph (5), of any default on any indebtedness guaranteed under subsection (d)(2). Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligation involved for such guarantee, and the validity of any such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation, except for fraud or material misrepresentation on the part of the holder, or known to the holder at the time acquired.

(3) The Secretary shall prescribe and collect fees in connection with guarantees made under subsection (d)(2). These fees may not exceed the amount which the Secretary estimates to be necessary to cover the administrative costs pertaining to such guarantees.

(4) The interest paid on any obligation which is guaranteed under subsection (d)(2) and which is received by the purchaser thereof (or the purchaser's successor in interest), shall be included in gross income for the purpose of chapter 1 of the Internal Revenue Code of 1954. The Secretary may pay out of the Fund to the coastal state or the unit of general purpose local government issuing such obligations not more than such portion of the interest on such obligations as exceeds the amount of interest that would be due at a comparable rate determined for loans made under subsection (d)(1).

(5)(A) Payments required to be made as a result of any guarantee made under subsection (d)(2) shall be made by the Secretary from sums appropriated to the Fund or from moneys obtained from the Secretary of the Treasury pursuant to paragraph (6).

(B) If there is a default by a coastal state or unit of general purpose local government in any payment of principal or interest due under a bond or other evidence of indebtedness guaranteed by the Secretary under subsection (d)(2), any holder of such bond or other evidence of indebtedness may demand payment by the Secretary of the unpaid interest on and the unpaid principal of such

obligation as they become due. The Secretary, after investigating the facts presented by the holder, shall pay to the holder the amount which is due such holder, unless the Secretary finds that there was no default by such state or unit or that such default has been remedied.

(C) If the Secretary makes a payment to a holder under subparagraph (B), the Secretary shall —

(i) have all of the rights granted to the Secretary or the United States by law or by agreement with the obligor; and

(ii) be subrogated to all of the rights which were granted such holder, by law, assignment, or security agreement between such holder and the obligor.

Such rights shall include, but not be limited to, a right of reimbursement to the United States against the coastal state or unit of general purpose local government for which the payment was made for the amount of such payment plus interest at the prevailing current rate as determined by the Secretary. If such coastal state, or the coastal state in which such unit is located, is due to receive any amount under subsection (b), the Secretary shall, in lieu of paying such amount to such state, deposit such amount in the Fund until such right of reimbursement has been satisfied. The Secretary may accept, in complete or partial satisfaction of any such rights, a conveyance of property or interests therein. Any property so obtained by the Secretary may be completed, maintained, operated, held, rented, sold, or otherwise dealt with or disposed of on such terms or conditions as the Secretary prescribes or approves. If, in any case, the sum received through the sale of such property is greater than the amount paid to the holder under subparagraph (D) plus costs, the Secretary shall pay any such excess to the obligor.

(D) The Attorney General shall, upon the request of the Secretary, take such action as may be appropriate to enforce any right accruing to the Secretary or the United States as a result of the making of any guarantee under subsection (d)(2). Any sums received through any sale under subparagraph (C) or recovered pursuant to this subparagraph shall be paid into the Fund.

(6) If the moneys available to the Secretary are not sufficient to pay any amount which the Secretary is obligated to pay under paragraph (5), the Secretary shall issue to the Secretary of the Treasury notes or other obligations (only to such extend and in such amounts as may be provided for in appropriation Acts) in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury prescribes. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States on comparable maturities during the month preceding the issuance of such notes or other obligations. Any sums received by the Secretary through such issuance shall be deposited in the Fund. The Secretary of the Treasury shall purchase any notes or other obligations issued under this paragraph, and for this purpose such Secretary may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under that Act are extended to include any purchase of notes or other obligations issued under this paragraph. The Secretary of the Treasury may at any time sell any of the notes or other obligations so acquired under this paragraph. All redemptions, purchases, and sales of such notes or other obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States.

(g)(1) No coastal state is eligible to receive any financial assistance under this section unless such state —

(A) has a management program which has been approved under section 306;

(B) is receiving a grant under section 305(c) or (d); or

(C) is, in the judgment of the Secretary, making satisfactory progress toward the development of a management program which is consistent with the policies set forth in section 303.

(2) Each coastal state shall, to the maximum extent practicable, provide that financial assistance provided under this section be apportioned, allocated, and granted to units of local government within such state on a basis which is proportional to the extent to which such units need such assistance.

(h) There is established in the Treasury of the United States the Coastal Energy Impact Fund. The Fund shall be available to the Secretary without fiscal year limitation as a revolving fund for the purposes of carrying out subsections (c) and (d). The Fund shall consist of—

(1) any sums appropriated to the Fund;

(2) payments of principal and interest received under any loan made under subsection (d)(1);

(3) any fees received in connection with any guarantee made under subsection (d)(2); and

(4) any recoveries and receipts under security, subrogation, and other rights and authorities described in subsection (f).

All payments made by the Secretary to carry out the provisions of subsections (c), (d), and (f) (including reimbursements to other Government accounts) shall be paid from the Fund, only to the extent provided for in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of subsections (c), (d),

and (f) shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

[308(h) amended by PL 99-272]

(i) The Secretary shall not intercede in any land use or water use decision of any coastal state with respect to the siting of any energy facility or public facility by making siting in a particular location a prerequisite to, or a condition of, financial assistance under this section.

(j) The Secretary may evaluate, and report to the Congress, on the efforts of the coastal states and units of local government therein to reduce or ameliorate adverse consequences resulting from coastal energy activity and on the extent to which such efforts involve adequate consideration of alternative sites.

(k) To the extent that Federal funds are available under, or pursuant to, any other law with respect to —

(1) study and planning for which financial assistance may be provided under subsection (b)(4)(B) and (c)(1), or

(2) public facilities and public services for which financial assistance may be provided under subsection (b)(4)(B) and (d), the Secretary shall, to the extent practicable, administer such subsections —

(A) on the basis that the financial assistance shall be in addition to, and not in lieu of, any Federal funds which any coastal state or unit of general purpose local government may obtain under any other law; and

(B) to avoid duplication.

(l) As used in this section —

(1) The term 'retirement,' when used with respect to bonds, means the redemption in full and the withdrawal from circulation of those which cannot be repaid by the issuing jurisdiction in accordance with the appropriate repayment schedule.

(2) The term 'unavoidable,' when used with respect to a loss of any valuable environmental or recreational resource, means a loss, in whole or in part —

(A) the costs of prevention, reduction, or amelioration of which cannot be directly or indirectly attributed to, or assessed against, any identifiable person; and

(B) cannot be paid for with finds which are available under, or pursuant to, any provision of Federal law other than this section.

(3) The term 'unit of general purpose local government' means any political subdivision of any coastal state or any special entity created by such a state or subdivision which (in whole or part) is located in, or has authority over, such state's coastal zone, and which (A) has authority to levy taxes or establish and collect user fees, and (B) provides any public facility or public service which is financed in whole or part by taxes or user fees.

INTERSTATE GRANTS

[309 revised by PL 96-464]

SEC. 309. (a) The coastal States are encouraged to give high priority—

(1) to coordinating State coastal zone planning, policies, and programs with respect to contiguous areas of such States;

(2) to studying, planning, and implementing unified coastal zone policies with respect to such areas; and

(3) to establishing an effective mechanism, and adopting a Federal-State consultation procedure, for the identification, examination, and cooperative resolution of mutual problems with respect to the marine and coastal areas which affect, directly or indirectly, the applicable coastal zone.

The coastal zone activities described in paragraphs (1), (2), and (3) of this subsection may be conducted pursuant to interstate agreements or compacts. The Secretary may make grants annually, in amounts not to exceed 90 percent of the cost of such activities, if the Secretary finds that the proceeds of such grants will be used for purposes consistent with sections 305 and 306.

(b) The consent of the Congress is hereby given to two or more coastal States to negotiate, and to enter into, agreements or compacts, which do not conflict with any law or treaty of the United States, for—

(1) developing and administering coordinated coastal zone planning, policies, and programs pursuant to sections 305 and 306; and

(2) establishing executive instrumentalities or agencies which such States deem desirable for the effective implementation of such agreements or compacts.

Such agreements or compacts shall be binding and obligatory upon any State or party thereto without further approval by the Congress.

(c) Each executive instrumentality or agency which is established by an interstate agreement or compact pursuant to this section is encouraged to give high priority to the coastal zone activities described in subsection (a). The Secretary, the Secretary of the Interior, the Chairman of the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Secretary of the department in which the Coast Guard is operating, and the Secretary of Energy, or their designated representatives, shall participate ex officio on behalf of the Federal Government whenever any such Federal-State consultation is requested by such an instrumentality or agency. .

(d) If no applicable interstate agreement or compact exists, the Secretary may coordinate coastal zone activities described in subsection (a) and may make grants to assist any group of two or more coastal States to create and maintain a temporary planning and coordinating entity to carry out such activities. The

amount of such grants shall not exceed 90 percent of the cost of creating and maintaining such an entity. The Federal officials specified in subsection (c), or their designated representatives, shall participate on behalf of the Federal Government, upon the request of any such temporary planning and coordinating entity for a Federal-State consultation.

(e) A coastal State is eligible to receive financial assistance under this section if such State meets the criteria established under section 308(g)(1).

RESEARCH AND TECHNICAL ASSISTANCE FOR COASTAL ZONE MANAGEMENT

SEC. 310 [Repealed]

[310 repealed by PL 99-272]

PUBLIC HEARINGS

SEC. 311. All public hearings required under this title must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency.

REVIEW OF PERFORMANCE

[312 revised by PL 96-464]

SEC. 312. (a) The Secretary shall conduct a continuing review of the performance of coastal states with respect to coastal management. Each review shall include a written evaluation with an assessment and detailed findings concerning the extent to which the state has implemented and enforced the program approved by the Secretary, addressed the coastal management needs identified in section 303(2)(A) through (I), and adhered to the terms of any grant, loan, or cooperative agreement funded under this title.

(b) For the purpose of making the evaluation of a coastal state's performance, the Secretary shall conduct public meetings and provide opportunity for oral and written comments by the public. Each such evaluation shall be prepared in report form and the Secretary shall make copies thereof available to the public.

(c) The Secretary shall reduce any financial assistance extended to any coastal state under section 306 (but not below 70 per centum of the amount that would otherwise be available to the coastal state under such section for any year), and withdraw any unexpended portion of such reduction, if the Secretary determines that the coastal state—

(1) is failing to make significant improvement in achieving the coastal management objectives specified in section 303(2)(A) through (I); or

(2) is failing to make satisfactory progress in providing in its management program for the matters referred to in section 306(i)(A) and (B).

[312(c) amended by PL 99-272]

(d) The Secretary shall withdraw approval of the management program of any coastal state, and shall withdraw any financial assistance available to that state under this title as well as any unexpended portion of such assistance, if the Secretary determines that the coastal state is failing to adhere to, is not justified in deviating from (1) the management program approved by the Secretary, or (2) the terms of any grant or cooperative agreement funded under section 306, and refuses to remedy the deviation.

(e) Management program approval and financial assistance may not be withdrawn under subsection (d), unless the Secretary gives the coastal state notice of the proposed withdrawal and an opportunity for a public hearing on the proposed action. Upon the withdrawal of management program approval under this subsection (d), the Secretary shall provide the coastal state with written specifications of the actions that should be taken, or not engaged in, by the state in order that such withdrawal may be canceled by the Secretary.

(f) The Secretary shall carry out research on, and offer technical assistance to the coastal states with respect to, those activities, projects, and other relevant matters evaluated under this section that the Secretary considers to offer promise toward improving coastal zone management.

[*Editor's note:* Section 9(b) of PL 96-464 provides:

"(b) Within two hundred and seventy days after the date of the enactment of this Act, the Secretary of Commerce shall issue such regulations as may be necessary or appropriate to administer section 312 of the Coastal Zone Management Act of 1972 (as amended by subsection (a)* of this section)."]

RECORDS AND AUDIT

SEC. 313. (a) Each recipient of a grant under this title or of financial assistance under Sec. 308 shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant and of the proceeds of such assistance, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

*Subsection (a) revised Section 312 of this Act.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall —

(1) after any grant is made under this title or any financial assistance is provided under section 308(d); and

(2) until the expiration of 3 years after —

(A) completion of the project, program, or other undertaking for which such grant was made or used, or

(B) repayment of the loan or guaranteed indebtedness for which such financial assistance was provided,

have access for purposes of audit and examination to any record, book, document, and paper which belongs to or is used or controlled by, any recipient of the grant funds or any person who entered into any transaction relating to such financial assistance and which is pertinent for purposes of determining if the grant funds or the proceeds of such financial assistance are being, or were, used in accordance with the provisions of this title.

ADVISORY COMMITTEE

SEC. 314. [Repealed]

[314 repealed by PL 99-272]

NATIONAL ESTUARINE RESERVE RESEARCH SYSTEM

SEC. 315. (a) Establishment of the System.—There is established the National Estuarine Reserve Research System (hereinafter referred to in this section as the 'System') that consists of—

(1) each estuarine sanctuary designated under this section as in effect before the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985; and

(2) each estuarine area designated as a national estuarine reserve under subsection (b).

Each estuarine sanctuary referred to in paragraph (1) is hereby designated as a national estuarine reserve.

(b) Designation of National Estuarine Reserves.—After the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985, the Secretary may designate an estuarine area as a national estuarine reserve if—

(1) the Governor of the coastal State in which the area is located nominates the area for that designation; and

(2) the Secretary finds that—

(A) the area is a representative estuarine ecosystem that is suitable for long-term research and contributes to the biogeographical and typological balance of the System;

(B) the law of the coastal State provides long-term protection for reserve resources to ensure a stable environment for research;

(C) designation of the area as a reserve will serve to enhance public awareness and understanding of estuarine areas, and provide suitable opportunities for public education and interpretation; and

(D) the coastal State in which the area is located has complied with the requirements of any regulations issued by the Secretary to implement this section.

(c) Estuarine Research Guidelines.—The Secretary shall develop guidelines for the conduct of research within the System that shall include—

(1) a mechanism for identifying, and establishing priorities among, the coastal management issues that should be addressed through coordinated research within the System;

(2) the establishment of common research principles and objectives to guide the development of research programs within the System;

(3) the identification of uniform research methodologies which will ensure comparability of data, the broadest application of research results, and the maximum use of the System for research purposes;

(4) the establishment of performance standards upon which the effectiveness of the research efforts and the value of reserves within the System in addressing the coastal management issues identified in subsection (1) may be measured; and

(5) the consideration of additional sources of funds for estuarine research than the funds authorized under this Act, and strategies for encouraging the use of such funds within the System, with particular emphasis on mechanisms established under subsection (d).

In developing the guidelines under this section, the Secretary shall consult with prominent members of the estuarine research community.

(d) Promotion and Coordination of Estuarine Research.—The Secretary shall take such action as is necessary to promote and coordinate the use of the System for research purposes including—

(1) requiring that the National Oceanic and Atmospheric Administration, in conducting or supporting estuarine research give priority consideration to research that uses the System; and

(2) consulting with other Federal and State agencies to promote use of one or more reserves within the System by such agencies when conducting estuarine research.

(e) Financial Assistance.—(1) The Secretary may, in accordance with such rules and regulations as the Secretary shall promulgate, make grants—

(A) to a coastal State—

(i) for purposes of acquiring such lands and waters, and any property interests therein, as are necessary to ensure the appropriate long-term management of an area as a national estuarine reserve,

(ii) for purposes of operating or managing a national estuarine reserve and constructing appropriate reserve facilities, or

(iii) for purposes of conducting educational or interpretive activities; and

(B) to any coastal State or public or private person for purposes of supporting research and monitoring within a national estuarine reserve that are consistent with the research guidelines developed under subsection (c).

(2) Financial assistance provided under paragraph (1) shall be subject to such terms and conditions as the Secretary considers necessary or appropriate to protect the interests of the United States, including requiring coastal States to execute suitable title documents setting forth the property interest or interests of the United States in any lands and waters acquired in whole or part with such financial assistance.

(3)(A) The amount of the financial assistance provided under paragraph (1)(A)(i) of subsection (e) with respect to the acquisition of lands and waters, or interests therein, for any one national estuarine reserve may not exceed an amount equal to 50 per centum of the costs of the lands, waters, and interests therein or $4,000,000, whichever amount is less.

(B) The amount of the financial assistance provided under paragraph (1)(A)(ii) and (iii) and paragraph (1)(B) of subsection (e) may not exceed 50 per centum of the costs incurred to achieve the purposes described in those paragraphs with respect to a reserve.

(f) Evaluation of System Performance.—(1) The Secretary shall periodically evaluate the operation and management of each national estuarine reserve, including education and interpretive activities, and the research being conducted within the reserve.

(2) If evaluation under paragraph (1) reveals that the operation and management of the reserve is deficient, or that the research being conducted within the reserve is not consistent with the research guidelines developed under subsection (c), the Secretary may suspend the eligibility of that reserve for financial assistance under subsection (e) until the deficiency or inconsistency is remedied.

(3) The secretary may withdraw the designation of an estuarine area as a national estuarine reserve if evaluation under paragraph (1) reveals that—

(A) the basis for any one or more of the findings made under subsection (b)(2) regarding that area no longer exists; or

(B) a substantial portion of the research conducted within the area, over a period of years, has not been consistent with the research guidelines developed under subsection (c).

(g) Report.—The Secretary shall include in the report required under section 316 information regarding—

(1) new designations of national estuarine reserves;

(2) any expansion of existing national estuarine reserves;

(3) the status of the research program being conducted within the System; and

(4) a summary of the evaluations made under subsection (f).

[315 amended by PL 96-464; revised by PL 99-272]

COASTAL ZONE MANAGEMENT REPORT

[316 head revised by PL 96-464]

SEC. 316. (a) The Secretary shall consult with the Congress on a regular basis concerning the administration of this title and shall prepare and submit to the President for transmittal to the Congress a report summarizing the administration of this title during each period of two consecutive fiscal years. Each report, which shall be transmitted to the Congress not later than April 1 of the year following the close of the biennial period to which it pertains, shall include, but not be restricted to (1) an identification of the state programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this title and a description of the status of each state's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allocation of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved and a statement of the reasons for such action; (5) a summary of evaluation findings prepared in accordance with subsection (a) of section 312, and a description of any sanctions imposed under subsections (c) and (d) of this section; (6) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 307, are not consistent with an applicable approved state management program; (7) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (8) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, state, and local responsibilities and functions therein; (9) a summary of outstanding problems arising in the administration of this title in order of priority; (10) a description of the economic, environmental, and social consequences of energy activity affecting the

coastal zone and an evaluation of the effectiveness of financial assistance under section 308 in dealing with such consequences; (11) a description and evaluation of applicable interstate and regional planning and coordination mechanisms developed by the coastal states; (12) a summary and evaluation of the research, studies, and training conducted in support of coastal zone management; and (13) such other information as may be appropriate.

[316(a) amended by PL 96-464]

(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation.

(c) (1) The Secretary shall conduct a systematic review of Federal programs, other than this title, that affect coastal resources for purposes of identifying conflicts between the objectives and administration of such programs and the purposes and policies of this title. Not later than 1 year after the date of the enactment of this subsection, the Secretary shall notify each Federal agency having appropriate jurisdiction of any conflict between its program and the purposes and policies of this title identified as a result of such review.

(2) The Secretary shall promptly submit a report to the Congress consisting of the information required under paragraph (1) of this subsection. Such report shall include recommendations for changes necessary to resolve existing conflicts among Federal laws and programs that affect the uses of coastal resources.

[316(c) added by PL 96-464]

RULES AND REGULATIONS

SEC 317. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 318. (a) There are authorized to be appropriated to the Secretary —

[318(a) revised by PL 96-464]

(1) such sums, not to exceed $35,000,000 for the fiscal year ending September 30, 1986, not to exceed $36,600,000 for the fiscal year ending September 30, 1987, $37,900,00 for the fiscal year ending September 30, 1988, $38,800,000 for the fiscal year ending September 30, 1989, and $40,600,000 for the fiscal year ending September 30, 1990, as may be necessary for grants under sections 306 and 306A, to remain available until expended.

[318(a)(1) revised by PL 99-272]

(2) such sums, not to exceed $75,000,000 for each of the fiscal years occurring during the period beginning October 1, 1980, and ending September 30, 1988, as may be necessary for grants under section 308(b);

[318(a)(2) deleted and (a)(3) redesignated as (2) by PL 99-272]

(3) such sums, not to exceed $1,000,000 for the fiscal year ending September 30, 1986, and not to exceed $1,500,000 for each of the fiscal years occurring during the period beginning October 1, 1986, and ending September 30, 1990, as may be necessary for grants under section 309, to remain available until expended;

(4) such sums, not to exceed $2,500,000 for the fiscal year ending September 30, 1986, not to exceed $3,800,000 for the fiscal year ending September 30, 1987, $4,500,000 for the fiscal year ending September 30, 1988, $5,000,000 for the fiscal year ending September 30, 1989, and $5,500,000 for the fiscal year ending September 30, 1990, as may be necessary for grants under section 315, to remain available until expended; and

(5) such sums, not to exceed $3,300,000 for the fiscal year ending September 30, 1986, not to exceed $3,300,000 for the fiscal year ending September 30, 1987, $3,300,000 for the fiscal year ending September 30, 1988, $4,000,000 for the fiscal year ending September 30, 1989, and $4,000,000 for the fiscal year ending September 30, 1990, as may be necessary for administrative expenses incident to the administration of this title.

[318(a)(4)—(6) revised and redesignated as (3)—(5) by PL 99-272]

(b) There are authorized to be appropriated until October 1, 1986, to the Fund, such sums, not to exceed $800,000,000, for the purposes of carrying out the provisions of section 308, other than subsection (b), of which not to exceed $150,000,000 shall be for purposes of subsections (c)(1), (c)(2) and (c)(3) of such section.

[318(b) amended by PL 96-464]

(c) Federal funds received from other sources shall not be used to pay a coastal state's share of costs under section 306 or 309.

[318(c) amended by PL 96-464]

[*Editor's note:* In addition to amending existing sections of the Coastal Zone Management Act of 1972 and adding new sections to the Act, PL 94-370 includes the following sections:]

SEC. 15. ADMINISTRATION

(a) [Repealed by PL 95-219]

(b) [Superseded by subsection (b) of PL 95-219. See editor's note below.]

(c) [Repealed by PL 99-272]

SEC. 16. SHELLFISH SANITATION REGULATIONS.

(a) The Secretary of Commerce shall —

(1) undertake a comprehensive review of all aspects of the molluscan shellfish industry, including, but not limited to, the harvesting, processing, and transportation of such shellfish; and

(2) evaluate the impact of Federal law concerning water quality on the molluscan shellfish industry.

The Secretary of Commerce shall, not later than April 30, 1977, submit a report to the Congress of the findings, comments, and recommendations (if any) which result from such review and evaluation.

(b) The Secretary of Health, Education, and Welfare shall not promulgate final regulations concerning the national shellfish safety program before June 30, 1977. At least 60 days prior to the promulgation of any such regulations, the Secretary of Health, Education, and Welfare, in consultation with the Secretary of Commerce, shall publish an analysis (1) of the economic impact of such regulations on the domestic shellfish industry, and (2) the cost of such national shellfish safety program relative to the benefits that it is expected to achieve.

[*Editor's note:* In addition to repealing Section 15(a) of PL 94-370, subsection (b) of PL 95-219 amended Section 5316 of Title 5, United States Code as follows:

"(140) Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

(141) Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

(142) Assistant Administrators (3), National Oceanic and Atmospheric Administration.

(143) General Counsel, National Oceanic and Atmospheric Administration."]

[*Editor's note:* Sections 2 through 11 and 13 of PL 96-464 amended and have been incorporated into the existing language of this Act. Section 12 of PL 96-464 follows:]

SEC. 12. CONGRESSIONAL DISAPPROVAL PROCEDURE.

(a) (1) The Secretary, after promulgating a final rule, shall submit such final rule to the Congress for review in accordance with this section. Such final rule shall be delivered to each House of the Congress on the same date and to each House of the Congress while it is in session. Such final rule shall be referred to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House, respectively.

(2) Any such final rule shall become effective in accordance with its terms unless, before the end of the period of sixty calendar days of continuous session, after the date such final rule is submitted to the Congress, both Houses of the Congress adopt a concurrent resolution disapproving such final rule.

(b) (1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise in the rulemaking power of the House of Representatives and as such they are deemed a part of the Rules of the House of Representatives but applicable only with respect to the procedure to be followed in the House of Representatives in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time in the same manner and to the same extent as in the case of any other rule of that House.

(2) Any concurrent resolution disapproving a final rule of the Secretary shall, upon introduction or receipt from the other House of the Congress, be referred immediately by the presiding officer of such House to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Merchant Marine and Fisheries of the House, as the case may be.

(3) (A) When a committee has reported a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be highly privileged in the House of Representatives, and shall not be debatable. An amendment to such motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate in the House of Representatives on the concurrent resolution shall be limited to not more than ten hours which shall be divided equally between those favoring and those opposing such concurrent resolution and a motion further to limit debate shall not be debatable. In the House of Representatives, an amendment to, or motion to recommit, the concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such concurrent resolution was agreed to or disagreed to.

(4) Appeals from the decision of the Chair relating to the application of the rules of the House of Representatives to the procedure relating to a concurrent resolution shall be decided without debate.

(5) Notwithstanding any other provision of this subsection, if a House has approved a concurrent resolution with respect to any final rule of the Secretary, then it shall not be in order to consider in such House any other concurrent resolution with respect to the same final rule.

(c) (1) If a final rule of the Secretary is disapproved by the Congress under subsection (a)(2), then the Secretary may promulgate a final rule which relates to the same acts or practices as the final rule disapproved by the Congress in accordance with this subsection. Such final rule—

(A) shall be based upon—

(i) the rulemaking record of the final rule disapproved by the Congress; or

(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the Secretary in accordance with section 553 of title 5, United States Code, in any case in which the Secretary determines that it is necessary to supplement the existing rulemaking record; and

(B) may contain such changes as the Secretary considers necessary or appropriate.

(2) The Secretary after promulgating a final rule under this subsection, shall submit the final rule to the Congress in accordance with subsection (a)(1).

(d) Congressional inaction on, or rejection of a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the final rule involved, and shall not be construed to create any presumption of validity with respect to such final rule.

(e) (1) Any interested party may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this section. The district court immediately shall certify all questions of the constitutionality of this section to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) Notwithstanding any other provision of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than twenty days after the decision of the court of appeals.

(3) [Repealed]

[12(e)(3) repealed by PL 98-620]

(f) (1) For purposes of this section—

(A) continuity of session is broken only by an adjournment sine die; and

(B) days on which the House of Representatives is not in session because of an adjournment of more than five days to a day certain are excluded in the computation of the periods specified in subsection (a)(2) and subsection (b).

(2) If an adjournment sine die of the Congress occurs after the Secretary has submitted a final rule under subsection (a)(1), but such adjournment occurs—

(A) before the end of the period specified in subsection (a)(2); and

(B) before any action necessary to disapprove the final rule is completed under subsection (a)(2);

then the Secretary shall be required to resubmit the final rule involved at the beginning of the next regular session of the Congress. The period specified in subsection (a)(2) shall begin on the date of such resubmission.

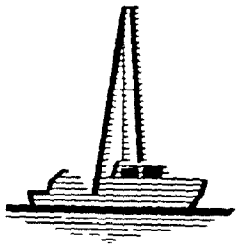
(g) For purposes of this section:

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "concurrent resolution" means a concurrent resolution the matter after the resolving clause of which is as follows: "That the Congress disapproves the final rule promulgated by the Secretary of Commerce dealing with the matter of which final rule was submitted to the Congress on (The blank spaces shall be filled appropriately.)

(3) The term "rule" means any rule promulgated by the Secretary pursuant to the Coastal Zone Management Act (16 U.S.C. 1450 et. seq.).

(h) The provisions of this section shall take effect on the date of the enactment of this Act and shall cease to have any force or effect after September 30, 1985.



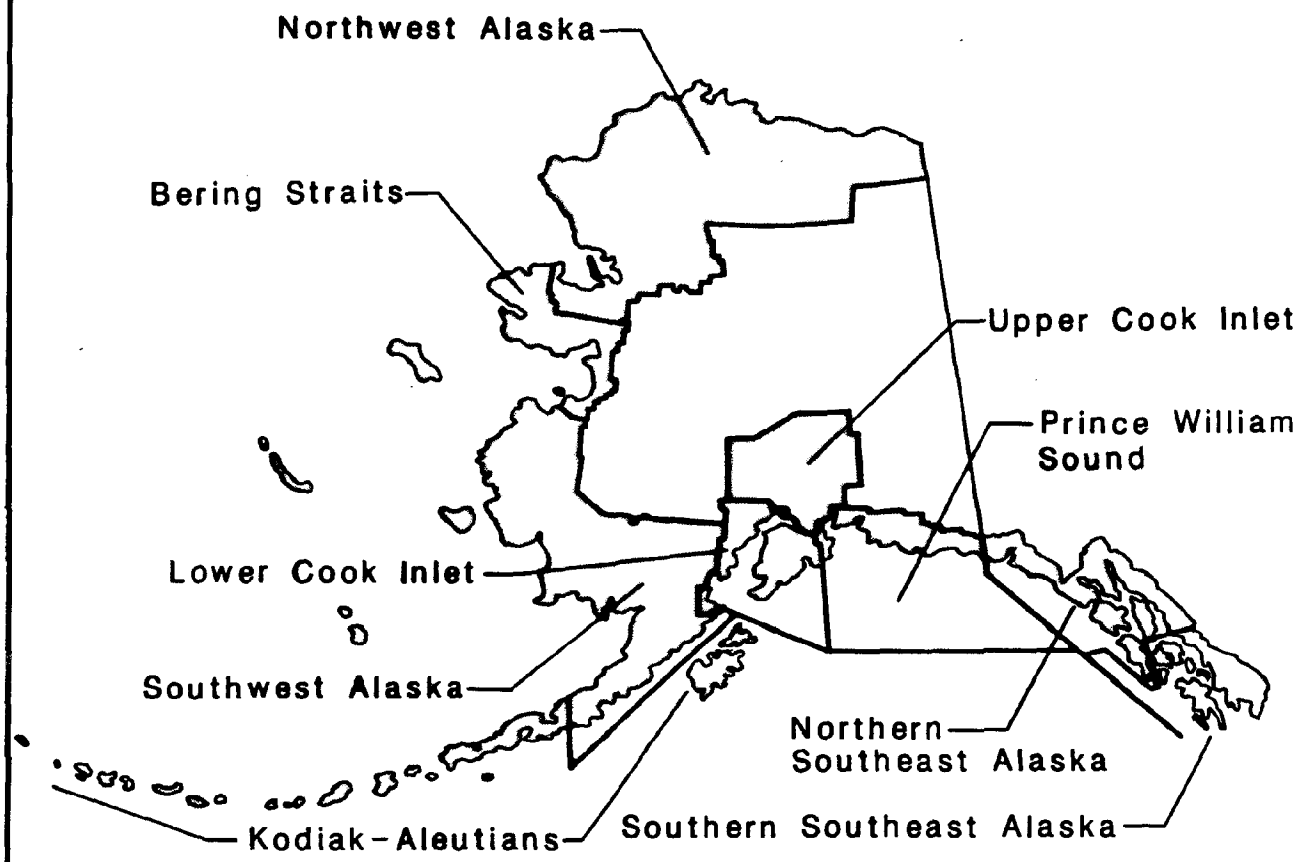
Key Players

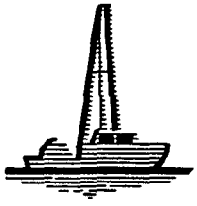
APPENDIX B

KEY PLAYERS

Key Players are people whose names and phone numbers may be needed in reference to the Alaska Coastal Management Program. Key Players include coastal management staffs from the Division of Governmental Coordination (DGC) and other state agencies, Coastal Policy Council members, and district coastal coordinators. The **bold** subheadings in the following tables correspond to the geographical regions shown on Figures VIII-B.1 and VIII-B.2.

Table VIII-B.1	Coastal Policy Council Members and Alternates
Table VIII-B.2	Coastal District Coordinators
Table VIII-B.3	DGC Coastal Management Staff Contacts by District
Table VIII-B.4	Department of Community and Regional Affairs (DCRA) Coastal Management Staff by District
Table VIII-B.5	State of Alaska Resource Agency Contacts by Region
Figure VIII-B.1	Coastal management regions (for determining which coastal staff to contact, based on location of proposed project)
Figure VIII-B.2	Agency regions (for determining which state or federal staff to contact, based on location of proposed project)





COASTAL MANAGEMENT REGIONS

Figure VIII-B.1

TABLE VIII-B.1

ALASKA COASTAL POLICY COUNCIL MEMBERS AND ALTERNATES

LOCAL REPRESENTATIVES

NOTE: The date in parentheses beside each member's name indicates the expiration date of his or her CPC term. Provided they retain their local elective office, public members serve until a replacement is appointed.

Northwest Region

The Honorable Willie Goodwin, Jr. (9/88)
Mayor, City of Kotzebue
P.O Box 334
Kotzebue, Alaska 99752

Alternate: Vacant

Bering Straits Region

Mr. Johnson Eningowuk (9/89)
Shishmaref City Council
P.O. Box 72009
Shishmaref, Alaska 99772

Alternate:

The Honorable Tim Towarak
Mayor, City of Unalakleet
P.O. Box 89
Unalakleet, Alaska 99684

Southwest Region

Ms. Cheryl (Chow) Taylor (9/88)
Dillingham City Council
P.O. Box 10051
Dillingham, Alaska 99576

Alternate:

Mr. Harry Wilde, Sr.
Mountain Village City Council
P.O. Box 32085
Mountain Village, Alaska 99559

Upper Cook Inlet Region

Mr. Joseph Evans (9/88)
Anchorage Assembly
4741 Southpark Bluff Drive
Anchorage, Alaska 99516

Alternate:

Mr. Craig Campbell
Anchorage Assembly
18324 Parkview Terrace Loop
Eagle River, Alaska 99577

Kodiak-Aleutians Region

The Honorable Alex Samuelson (9/89)
Mayor, City of King Cove
P.O. Box 37
King Cove, Alaska 99516

Alternate: Vacant

Lower Cook Inlet Region

Mr. John L. Crawford (9/89)
Kenai Borough Assembly
Drawer M
Seldovia, Alaska 99663

Alternate:

Ms. Betty Glick
Kenai Borough Assembly
Box 528
Kenai, Alaska 99611

Prince William Sound

Mr. George Maykowskyj (9/88)
Valdez City Council
P.O. Box 307
Valdez, Alaska 99686

TABLE VIII-B.1 (Continued)

ALASKA COASTAL POLICY COUNCIL MEMBERS AND ALTERNATES

LOCAL REPRESENTATIVES

Alternate:

The Honorable Georgia Buck
Mayor, City of Whittier
P.O. Box 608
Whittier, Alaska 99693

Northern Southeast Region

The Honorable Lawrence E. Powell
(9/89)
Mayor, City of Yakutat
P.O. Box 159
Yakutat, Alaska 99689

Alternate: Vacant

Southern S.E. Region

Dennis L. McCarty, Esq. (9/89)
Ketchikan Gateway Borough
320 Bawden Street, #309
Ketchikan, Alaska 99901

Alternate:

The Honorable Donald James, Sr.
Mayor, City of Kake
P.O. Box 500
Kake, Alaska 99830

STATE REPRESENTATIVES

Division of Governmental Coordination

Mr. Robert L. Grogan, Director
P.O. Box AW (MS 0165)
Juneau, Alaska 99811
(907) 465-3562

Alternate: Vacant

Department of Commerce and Economic Development

The Honorable Anthony Smith,
Commissioner
P.O. Box D (MS 0800)
Juneau, Alaska 99811
(907) 465-2500

Alternate:

Mr. John Williams, Deputy
Commissioner
P.O. Box D (MS 0800)
Juneau, Alaska 99811
(907) 465-2500

Department of Community and Regional Affairs

The Honorable David Hoffman,
Commissioner
P.O. Box B (MS 2100)
Juneau, Alaska 99811
(907)465-4700

Alternate:

Ms. Marty Rutherford, Director
Municipal and Regional
Assistance Division
949 East 36th Ave., Suite 404
Anchorage, Alaska 99508
(907) 561-8586

Department of Environmental Conservation

The Honorable Dennis Kelso,
Commissioner
P.O. Box O (MS 1800)
Juneau, Alaska 99811
(907) 465-2600

TABLE VIII-B.1 (Continued)

ALASKA COASTAL POLICY COUNCIL MEMBERS AND ALTERNATES

STATE REPRESENTATIVES (Continued)

Alternate:

Ms. Amy Kyle, Deputy Commissioner
P.O. Box O (MS 1800)
Juneau, Alaska 99811
(907) 465-2600

Department of Fish and Game

The Honorable Don Collinsworth, Commissioner
P.O. Box 3-2000 (MS 1100)
Juneau, Alaska 99802
(907) 465-4100

Alternate:

Mr. Norman A. Cohen, Deputy Commissioner
P.O. Box 3-2000 (MS 1100)
Juneau, Alaska 99802
(907) 465-4100

Department of Natural Resources

The Honorable Judith Brady, Commissioner
P.O. Box M (MS 1000)
Juneau, Alaska 99811
(907) 465-2400

Alternate:

Ms. Lennie Gorsuch, Deputy Commissioner
P.O. Box M (MS 1000)
Juneau, Alaska 99811
(907) 465-2400

Department of Transportation and Public Facilities

The Honorable Mark Hickey, Commissioner
P.O. Box Z (MS 2500)
Juneau, Alaska 99811
(907) 465-3900

Alternate:

Mr. Jeffrey Ottesen, Director
Engineering and Operation
P.O. Box Z (MS 2500)
Juneau, Alaska 99811
(907) 465-2951

TABLE VIII-B.2

COASTAL DISTRICT COORDINATORS

NORTHWEST REGION

North Slope Borough

Ms. Karla Kolash, ACMP Coordinator
North Slope Borough
P.O. Box 69
Barrow, Alaska 99723
PROFS: ZCKCNSB
Phone: 852-2611

Northwest Arctic Borough

Mr. Jason Jessup
Planning Director
Northwest Arctic Borough
P.O. Box 1110
Kotzebue, Alaska 99752
Phone: 442-2500

BERING STRAITS REGION

City of Nome

Ms. Polly Prchal, City Manager
City of Nome
P.O. Box 281
Nome, Alaska 99762
Phone: 443-5242

Bering Straits Coastal Resource Service Area

Mr. Bryan MacLean, Program Director
c/o City of Unalakleet
Box 28
Unalakleet, Alaska 99684
PROFS: ZCGCBRS
Phone: 624-3062

SOUTHWEST REGION

Bristol Bay Borough

Mr. Dale Peters
Bristol Bay Borough
P.O. Box 189
Naknek, Alaska 99633
Phone: 246-4224

City of Bethel

Ms. Suzanne Little, Planner
City of Bethel
P.O. Box 388
Bethel, Alaska 99559
Phone: 543-4456

Bristol Bay Coastal Resource Service Area

Ms. Sue Flensburg
Bristol Bay CRSA
P.O. Box 3110
Dillingham, Alaska 99576
PROFS: ZCECBRB
Phone: 842-2666

Ceñaliulriit (Yukon-Kuskokwim) Coastal Resource Service Area

Ms. Anna Phillip
Coastal Management Coordinator
Ceñaliulriit CRSA
P.O. Box 1169
Bethel, Alaska 99559
PROFS: ZCACCEN
Phone: 543-2243

TABLE VIII-B.2 (Continued)

COASTAL DISTRICT COORDINATORS

KODIAK-ALEUTIANS REGION

Kodiak Island Borough

Ms. Linda Freed, Director
Community Development Department
Kodiak Island Borough
P.O. Box 1246
Kodiak, Alaska 99615-6340
Phone: 486-5736

Aleutians East Borough

Ms. Marjorie Dunaway
Aleutians East CRSA
P.O. Box 349
Sand Point, Alaska 99661
PROFS: ZCJCALE
Phone: 383-2699

Aleutians West Coastal Resource Service Area

Mr. Darcy Lockhart
Aleutians West CRSA
P.O. Box 100460
Anchorage, Alaska 99510-0460
Phone: 276-7569
PROFS: ZCGCAWC

City of St. Paul

Mr. Vern McCorkle, City Manager
City of St. Paul
P.O. Box 29
St. Paul, Alaska 99660
Phone: 546-2331

UPPER COOK INLET REGION

Municipality of Anchorage

Mr. Mark Dalton
Department of Economic Development and Planning
Municipality of Anchorage
P.O. Box 196650
Anchorage, Alaska 99519-6650
PROFS: ZCCCANC
Phone: 343-4252

Matanuska-Susitna Borough

Mr. Claud Oxford
Planning Department
Matanuska-Susitna Borough
P.O. Box 1608
Palmer, Alaska 99645
PROFS: ZCRCMSB
Phone: 745-9669

LOWER COOK INLET REGION

Kenai Peninsula Borough

Ms. Sylvia Spearow
Kenai Peninsula Borough
P.O. Box 850
Soldotna, Alaska 99669
PROFS: ZCQCKPB
Phone: 262-4441

PRINCE WILLIAM SOUND REGION

City of Cordova

Mr. Donald Moore
City Manager
City of Cordova
P.O. Box 1210
Cordova, Alaska 99574
Phone: 424-6300

TABLE VIII-B.2 (Continued)

COASTAL DISTRICT COORDINATORS

City of Valdez

Ms. Pam Ulvestad
City of Valdez
P.O. Box 307
Valdez, Alaska 99686
Phone: 835-4313

City of Whittier

Mr. Doug Bolle
City of Whittier
P.O. Box 608
Whittier, Alaska 99693
Phone: 472-2330

NORTHERN SOUTHEAST REGION

City of Angoon

Ms. Pauline Johnson
ACMP Coastal Coordinator
P.O. Box 189
Angoon, Alaska 99820
Phone: 788-3653

City of Haines

Mr. Walt Wilcox
City Administrator
City of Haines
P.O. Box 1049
Haines, Alaska 99827
Phone: 766-2231

City of Hoonah

Ms. Sharon Parks, Clerk
City of Hoonah
P.O. Box 360
Hoonah, Alaska 99829
Phone: 945-3663

City and Borough of Juneau

Ms. Karen Boorman/
Mr. Murray Walsh
Planning Department
City and Borough of Juneau
155 South Seward Street
Juneau, Alaska 99801
Phone: 586-5235

City of Kake

Mr. Bill Cheney
Coastal Coordinator
City of Kake
P.O. Box 500
Kake, Alaska 99830
PROFS: ZCCCKAK
Phone: 785-6448

City of Pelican

Ms. Jenny Weaver
Coastal Planner
City of Pelican
P.O. Box 733
Pelican, Alaska 99832
Phone: 735-2202

City and Borough of Sitka

Mr. Stuart Denslow
City Administrator
City and Borough of Sitka
304 Lake Street
Sitka, Alaska 99835
Phone: 747-3294

City of Skagway

Mr. Thomas Healy, City Manager
City of Skagway
P.O. Box 415
Skagway, Alaska 99840
Phone: 983-2297

TABLE VIII-B.2 (Continued)

COASTAL DISTRICT COORDINATORS

City of Yakutat

Ms. Cheryl Easterwood, Planner
City of Yakutat
P.O. Box 6
Yakutat, Alaska 99689
Phone: 784-3323

City of Klawock

Mr. Al Macasaet, Sr.
City of Klawock
P.O. Box 113
Klawock, Alaska 99925
Phone: 755-2261

SOUTHERN SOUTHEAST REGION

Annette Islands Indian Reserve
(Metlakatla)

Mr. Gordon Thompson
Natural Resources Department
Metlakatla, Alaska 99926
Phone: 886-5111

City of Craig

Ms. Rochelle Rollenhagen
City Planner
City of Craig
P.O. Box 23
Craig, Alaska 99921
PROFS: ZCVCCRG
Phone: 826-3273

City of Hydaburg

Mr. Adrian LeCornu
City Administator
City of Hydaburg
P.O. Box 49
Hydaburg, Alaska 99922
Phone: 285-3793

Ketchikan Gateway Borough

Mr. Bill Jones, Planning Director
Ketchikan Gateway Borough
334 Front Street
Ketchikan, Alaska 99901
PROFS: ZCHCKET
Phone: 225-6151

TABLE VIII-B.3

DEPARTMENT OF GOVERNMENTAL COORDINATION
COASTAL MANAGEMENT STAFF CONTACTS
BY DISTRICT

NORTHWEST REGION

North Slope Borough
Northwest Arctic Borough

Jan Caulfield
Coastal Program Coordinator
PROFS: GCHCJCM
Phone: 465-3562

BERING STRAITS REGION

City of Nome
Bering Straits CRSA

Nancy Holguin
PROFS: GCHCNAH
Phone: 465-3562

SOUTHWEST REGION

Bristol Bay Borough
Bristol Bay CRSA

Sara Hunt
PROFS: GCHCSLH
Phone: 465-3562

City of Bethel
Ceñaliulriit (Yukon-Kuskokwim) CRSA

Joaqlin Estus
PROFS: GCHCJME
Phone: 465-3562

KODIAK - ALEUTIANS REGION

Kodiak Island Borough

Sara Hunt
PROFS:
Phone: 465-3562

Aleutians East Borough

Jan Caulfield
Coastal Program Coordinator
PROFS; GCHCJCM
Phone: 465-3562

Aleutians West CRSA,
City of St. Paul

Joaqlin Estus
PROFS: GCHCJME
Phone: 465-3562

UPPER COOK INLET REGION

Municipality of Anchorage
Matanuska-Susitna Borough

Nancy Holguin
PROFS: GCHCNAH
Phone: 465-3562

LOWER COOK INLET REGION

Kenai Peninsula Borough

Nancy Holguin
PROFS: GCHCNAH
Phone: 465-3562

PRINCE WILLIAM SOUND REGION

City of Cordova
City of Valdez
City of Whittier

Sara Hunt
PROFS:
Phone: 465-3562

TABLE VIII-B.3 (Continued)

DEPARTMENT OF GOVERNMENTAL COORDINATION
COASTAL MANAGEMENT STAFF CONTACTS
BY DISTRICT

NORTHERN SOUTHEAST REGION

City of Angoon
City and Borough of Juneau
City of Kake
City of Pelican

Sara Hunt
PROFS:
Phone: 465-3562

City of Haines
City of Hoonah
City and Borough of Sitka
City of Skagway
City of Yakutat

Joaqlin Estus
PROFS: GCHCJME
Phone: 465-3562

SOUTHERN SOUTHEAST REGION

Annette Islands Indian Reserve
(Metlakatla)
City of Craig
City of Hydaburg
Ketchikan Gateway Borough
City of Klawock

Nancy Holguin
PROFS: GCHCNAH
Phone: 465-3562

TABLE VIII-B.4

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS
COASTAL MANAGEMENT STAFF
BY DISTRICT

NORTHWEST REGION

North Slope Borough

Diane Stevens
Fairbanks
Phone: 452-7126

Northwest Arctic Borough

Clovis Bowles
Nome
Phone: 443-5457

BERING STRAITS REGION

City of Nome
Bering Straits CRSA

Clovis Bowles
Nome
Phone: 443-5457

SOUTHWEST REGION

Bristol Bay Borough
Bristol Bay CRSA

Chow Taylor
Dillingham
Phone: 842-5135

City of Bethel
Ceñaliulriit (Yukon-Kuskowim) CRSA

Jim Duffy
Bethel
Phone: 543-3475

KODIAK-ALEUTIANS REGION

Kodiak Island Borough

Tom Peterson
Kodiak
Phone: 486-7536

Aleutians East CRSA

John Gliva
Anchorage
Phone: 561-8586
PROFS: JTLC 358

Aleutians West CRSA

Christy Miller
Anchorage
Phone: 561-8586

UPPER COOK INLET REGION

Municipality of Anchorage

Dave Tremont
Anchorage
Phone: 561-8586
PROFS: JTLC358

Matanuska-Susitna Borough

Christy Miller
Anchorage
Phone: 561-8586
PROFS: JTLC358

LOWER COOK INLET REGION

Kenai Peninsula Borough

Tom Peterson
Kodiak
Phone: 486-7536

TABLE VIII-B.4 (Continued)

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS
COASTAL MANAGEMENT STAFF
BY DISTRICT

PRINCE WILLIAM SOUND

City of Cordova
City of Valdez
City of Whittier

John Gliva
Anchorage
Phone: 561-8586
PROFS: JTLC358

NORTHERN SOUTHEAST REGION

City of Haines
City of Pelican

Tom Lane
Juneau
Phone: 465-4750
PROFS: JTLC301

City of Angoon
City and Borough of Juneau
City of Kake
City of Hoonah
City and Borough of Sitka
City of Skagway
City of Yakutat

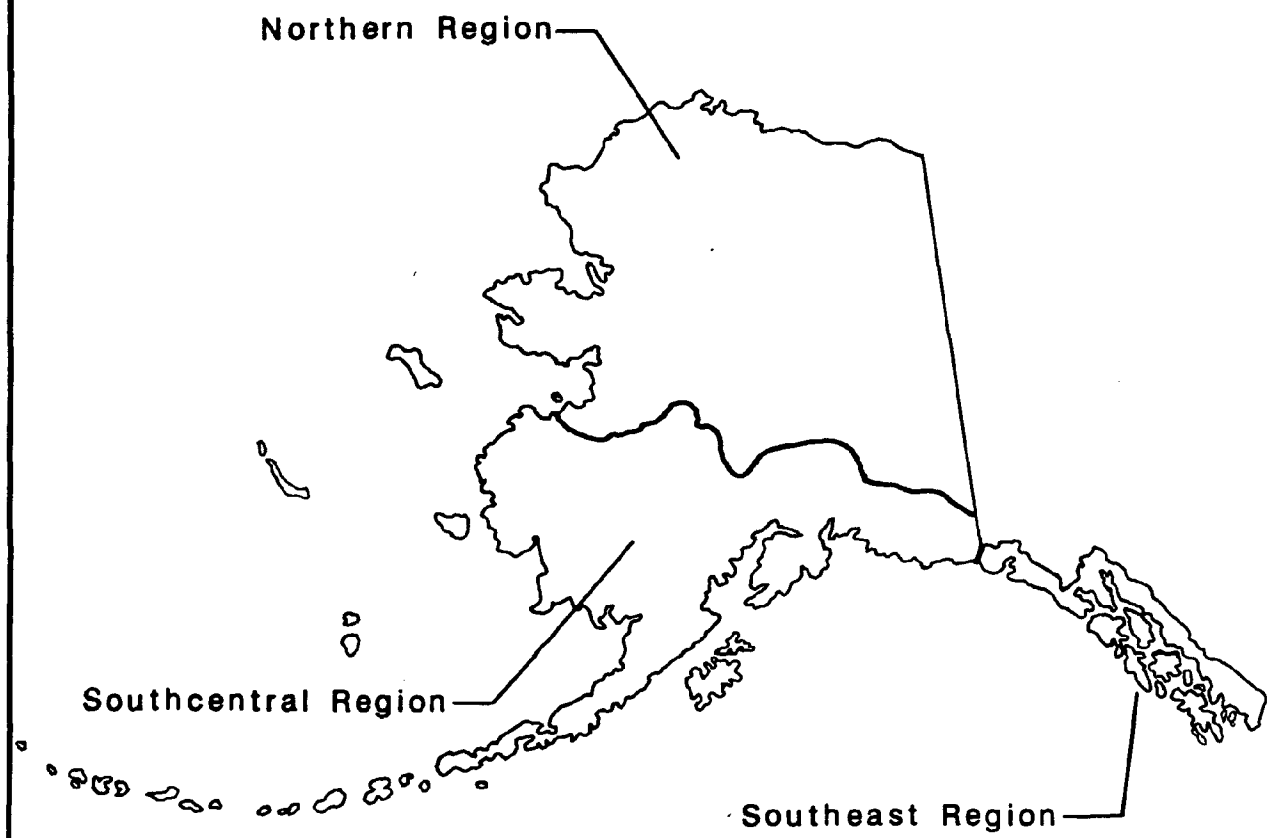
Peter McKay
Juneau
Phone: 465-4750
PROFS: JTLC304

SOUTHERN SOUTHEAST REGION

Annette Islands Indian Reserve
(Metlakatla)

City of Craig
Ketchikan Gateway Borough
City of Klawock

Peter Freer
Juneau
Phone: 465-4750
PROFS: JTLC308



AGENCY REGIONS

Figure VIII-B.2

TABLE VIII-B.5

STATE OF ALASKA RESOURCE AGENCY CONTACTS
BY REGION

SOUTHEAST REGION

DEPARTMENT OF NATURAL RESOURCES

Oil and Gas Activities

DNR/Oil and Gas
Box 107034
Anchorage, Alaska 99510-7034
(907) 762-2547
CONTACT: Bill Van Dyke

Mining Activities

DNR/Mining
Box 107016
Anchorage, Alaska 99510-7016
(907) 762-2163
CONTACT: Jerry Gallagher

Forestry Activities

DNR/Forestry
400 Willoughby Ave.
Juneau, Alaska 99801-1796
(907) 465-2491
CONTACT: Jim McAllister

Agriculture Activities

DNR/Agriculture
915 S. Bailey
P.O. Box 949
Palmer, Alaska 99645-0949
(907) 745-7200
CONTACT: Mark Weaver

Activities on State Park Lands

DNR/Parks
400 Willoughby Ave.
Juneau, Alaska 99801-1796
(907) 465-4563
CONTACT: Linda Kruger

All Other Activities

Southeast District Office
DNR/Land and Water Management
400 Willoughby Ave.
Juneau, Alaska 99801-1796
(907) 465-3400
CONTACT: Andy Pekovitch

DEPARTMENT OF FISH AND GAME

Habitat Division

Department of Fish and Game
P.O. Box 20
Douglas, Alaska 99824-0020
(907) 465-4290, 465-4291
CONTACT: Janet Hall
RESPONSIBLE FOR: Haines, Juneau, Skagway

Department of Fish and Game
P.O. Box 667
Petersburg, Alaska 99833
(907) 772-3801
CONTACT: Don Cornelius
RESPONSIBLE FOR: Kake, Petersburg, Wrangell

Department of Fish and Game
2030 Sealevel Drive, Room 205
Ketchikan, Alaska 99901
(907)225-2027
CONTACT: Jack Gustafson
RESPONSIBLE FOR: Craig, Hydaburg, Klawock, Ketchikan

Department of Fish and Game
State Office Building
P.O. Box 510
Sitka, Alaska 99835
(907)747-5828
CONTACT: Dave Hardy
RESPONSIBLE FOR: Angoon, Hoonah, Pelican, Sitka

TABLE VIII-B.5 (Continued)

STATE OF ALASKA RESOURCE AGENCY CONTACTS
BY REGION

Hatchery Permits

DFG/FRED Division
1255 West Eighth Street
P.O. Box 3-2000
Juneau, Alaska 99802-2000
(907) 465-4160
CONTACT: Jerry Madden
Kevin Duffy

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

DEC/Southeast Office
P.O. Box 2420
9000 Old Glacier Highway
Juneau, Alaska 99803
(907) 789-3151
CONTACT: Dick Stokes

DIVISION OF GOVERNMENTAL COORDINATION

Division of Governmental
Coordination
Pouch AW
431 N. Franklin Street
Juneau, Alaska 99811-0165
(907) 465-3562
CONTACT: Diane Mayer
Lorraine Marshall

SOUTHCENTRAL REGION

DEPARTMENT OF NATURAL RESOURCES

Oil and Gas Activities

DNR/Oil and Gas
Box 107034
Anchorage, Alaska 99510-7034
(907) 762-2547
CONTACT: Bill Van Dyke

Mining Activities

DNR/Mining
Box 107016
Anchorage, Alaska 99510-7016
(907) 762-4222
CONTACT: Jerry Gallagher

Forestry Activities

DNR/Forestry
Box 107005
Anchorage, Alaska 99510-7005
(907) 762-2123
CONTACT: Dan Ketchum

Agriculture Activities

DNR/Agriculture
915 S. Bailey
P.O. Box 949
Palmer, Alaska 99645
(907) 745-7200
CONTACT: Dean Brown

Activities on State Park Lands

DNR/Parks
Box 107001
Anchorage, Alaska 99510-7001
(907) 762-4565
CONTACT: Al Meiners

TABLE VIII-B.5 (Continued)

STATE OF ALASKA RESOURCE AGENCY CONTACTS

All Other Activities

Public Information
Southcentral District Office
DNR/Land and Water Management
Box 107005
Anchorage, Alaska 99510-7005
(907) 762-2270
CONTACT: Janetta Pritchard

DEPARTMENT OF FISH AND GAME

DFG/Habitat Division
333 Raspberry Road
Anchorage, Alaska 99518-1599
CONTACT: Phil Brna
RESPONSIBLE FOR:Kenai, Anch.

CONTACT: Gary Liepitz
RESPONSIBLE FOR:Cordova, Valdez
(907) 267-2284

CONTACT: Wayne Dolezal
RESPONSIBLE FOR:Aleutians East, Aleutians West, Bristol Bay CRSA, Cenaliulriit, Bethel, Kodiak)

CONTACT: Cevin Gilleland
RESPONSIBLE FOR: Matanuska-Susitna Borough

Hatchery Permits

DFG/FRED Division
1255 W. Eight Street
P.O. Box 3-2000
Juneau, Alaska 99802-2000
(907)465-4160
CONTACT: Jerry Madden
Kevin Duffy

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

DEC/Southcentral Office
437 E Street, Second Floor
Anchorage, Alaska 99501
(907) 274-2533
CONTACT: Tim Rumfelt

DIVISION OF GOVERNMENTAL COORDINATION

Division of Governmental Coordination
2600 Denali Street, Suite 700
Anchorage, Alaska 99503-2798

NORTHERN REGION

DEPARTMENT OF NATURAL RESOURCES

Oil and Gas Activities

DNR/Oil and Gas
Box 107034
Anchorage, Alaska 99510-7034
(907) 762-2547
CONTACT: John Wharam

Mining Activities

DNR/Mining
Box 107016
Anchorage, Alaska 99510-7016
(907) 762-4222
CONTACT: Jerry Gallagher

TABLE VIII-B.5 (Continued)

STATE OF ALASKA RESOURCE AGENCY CONTACTS

Forestry Activities

DNR/Forestry
Box 107005
Anchorage, Alaska 99510-7005
(907) 762-4500
CONTACT: Dan Ketchum

Agriculture Activities

DNR/Agriculture
915 S. Bailey
P.O. Box 949
Palmer, Alaska 99645
(907) 745-7200
CONTACT: Mark Weaver

Activities on State Park Lands

DNR/Parks
4418 Airport Way
Fairbanks, Alaska 99709
(907) 479-4136
CONTACT: Al Meiners
Dave Snarski

All Other Activities

North Central District Office
DNR/Land and Water Management
4420 Airport Way
Fairbanks, Alaska 99709
(907) 479-2243
CONTACT: Gayle Berger

DEPARTMENT OF FISH AND GAME

DFG/Habitat Division
1300 College Road
Fairbanks, Alaska 99709
(907) 452-1531
CONTACT: Al Townsend (placer mining)
Bob McLean (non-placer mining)
CONTACT: Carl Hemming, CRSA
RESPONSIBLE FOR: Bering Straits, Nome, North Slope Borough

CONTACT: Matt Robus (Red Dog)
Al Townsend (placer)
RESPONSIBLE FOR: Northwest Arctic Borough

Hatchery Permits

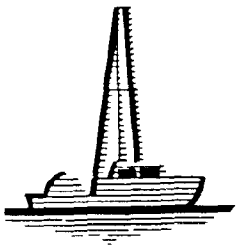
DFG/FRED Division
1255 West Eighth Street
P.O. Box 3-2000
Juneau, Alaska 99802-2000
(907) 465-4160
CONTACT: Jerry Madden
Kevin Duffy

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

DEC/Northern Office
1001 Noble Street, Suite 350
Fairbanks, Alaska 99701
(907) 452-1714
CONTACT: Paul Bateman (Arctic)
Joyce Beelman(Interior)

DIVISION OF GOVERNMENTAL COORDINATION

Division of Governmental Coordination
675 Seventh Avenue, Station H
Fairbanks, Alaska 99701-4596
(907) 451-2818
CONTACT: Elizabeth Benson
Patti Wightman



List of Federal Permits Requiring Consistency Review

FEDERAL PERMITS APPLICABLE TO COASTAL MANAGEMENT

U.S. Army Corps of Engineers Section 404 Permit
Discharge of Dredged or Fill Material into Waters of the United States.

Purpose: The Discharge of Dredge or Fill Material Permit is issued to insure that all factors which may be relevant to the proposal will be considered. Among these factors are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, navigation, recreation, water quality and, in general, the needs and welfare of the people.

Description: All individuals, organizations, commercial enterprises and federal, State and local agencies must contact the Army Corps of Engineers in order to receive authorization for the discharge of dredged or fill material into U.S. waters.

The permit applies to all tidal influenced waters shoreward to the extreme high tide line and their adjacent wetlands, and all other waters of the United States landward to the ordinary high water line and their adjacent wetlands. Permits under this section will also require that the applicant obtain a 401 Water Quality Certification from the State of Alaska. The application for a Corps Permit will serve as an application for the State certification under a joint memorandum of understanding.

Requirements: Applicants should contact the Corps of Engineers to obtain an application form (Form 4345) and information about this permit.

Within 15 days after receiving a completed application, a public notice, normally allowing a 30-day comment period, is issued to all known interested individuals, groups and governmental agencies. Substantive comments received in response to the public notice are furnished to the applicant to afford him an opportunity to resolve or rebut the comments or objections. If there are no substantive objections to the proposed activity, a permit can usually be issued within 90 days after receipt of a completed application. The permittee then normally has one year from the date of permit issuance to start work and must complete work within three years of the permit issuance date. Permit fees are: $100.00 if proposed activity is for commercial or industrial use; $10.00 if the proposed activity is for noncommercial use. The fee is not due until approval is granted.

A public hearing will be held if there is sufficient interest to warrant such action. The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity and its intended use on the public interest.

Authority: 33 USC 1344. Permits for Dredged or Fill Material.

U.S. Army Corps of Engineers Section 10 Permit
Structures on Work in or Affecting Navigable Waters of the United States.

Purpose: The Permit for Structures or Work in or Affecting Navigable Waters of the U.S. is issued in order to insure that all factors which may be relevant to the proposal will be considered. Among these factors are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, navigation, recreation, water quality, and, in general, the needs and welfare of the people.

Description: All individuals, organizations, commercial enterprises, and federal, State and local agencies must contact the U.S. Army Corps of Engineers in order to receive authorization for the construction of any structure in or over a navigable water of the U.S., the excavation of material in such waters, or the accomplishment of any other work affecting the course, location, condition or capacity of such waters.

Requirements: Applicants should contact the Corps of Engineers to obtain an application form (Form 4345) and information about this permit.

Within 15 days after receiving a complete application, a public notice, normally allowing a 30-day comment period, is issued to all known interested individuals, groups and governmental agencies. Substantive comments received in response to the public notice are furnished to the applicant to afford him an opportunity to resolve or rebut the comments or objections. If there are no substantive objections to the proposed activity, a permit can usually be issued within 90 days after receipt of a completed application. The permittee then normally has one year from the date of permit issuance to start work and must complete work within three years of the permit issuance date. Permit fees are: $100.00 if the proposed activity is for commercial or industrial use; $10.00 if the proposed activity is for noncommercial use. Fee is not due until approval is granted.

A public hearing may be held if there is sufficient interest to warrant such action. The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity and its intended use on the public interest.

Certain Section 10 activities may require that the applicant obtain a 401 Water Quality Certification from the State of Alaska (Department of Environmental Conservation). The Corps permit application will serve as the application for State certification under a joint memorandum of understanding.

Authority: 33 USC 403. Obstruction of Navigable Waters Generally: Wharves, Piers, etc.: Excavation and Filling In.

U.S. Environmental Protection Agency Section 402 Permit
Wastewater Discharge Permit; National Pollutant Discharge Elimination System.

Purpose: The purpose of the National Pollutant Discharge Elimination System is to prevent water pollution by monitoring and controlling the discharge of waste.

Description: The owner and/or operator of any activity or wastewater system, publicly or privately owned, which discharges from one of more point sources into a waterway, must obtain a permit for such discharges. This permit is a part of the Environmental Protection Agency's (EPA) National Pollutant Discharge Elimination System (NPDES).

A "point source" is any discernible, confined and discrete conveyance including but not limited to a pipe, ditch, canal, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft from which pollutants are, or may be, discharged.

Applicants are not required to obtain NPDES permits for the following types of waste discharges:

1. Sewage discharged from vessels (e.g., ships).

2. Water, gas or other materials injected into a well to facilitate production of oil and gas; or water derived in association with oil and gas; or water derived in association with oil and gas production and disposed of in a well where authorized by the state in which the well is located.

3. Dredged or fill material.

4. Discharges from properly functioning marine engines.

5. Those discharges conveyed directly to a publicly or privately-owned waste treatment facility (however, discharges originating from publicly or privately-owned waste treatment facilities are not excluded).

6. Most discharges from separate storm sewers. Discharges from storm sewers which receive industrial, municipal and/or agricultural wastes or which are considered by EPA or the state to be significant contributors to pollution, are not excluded.

Requirements: There are two sets of National Pollution Discharge Elimination System forms which may be used, short forms (A, B, C, D) and standard forms (A and C). The standard forms are requested for the larger and more significant discharges as defined in 40 CFR 125.12.

Short Forms - $10.00 application fee
- Short Form A - Municipal Wastewater Discharges
- Short Form B - Agriculture
- Short Form C - Manufacturing Establishments and Mining
- Short Form D - Services, Wholesalers and Retail Trade, and all other commercial establishments, including vessels not engaged in manufacturing or agriculture.

Standard Forms - $100.00 application fee for first discharge; $ 50.00 for each additional discharge.

- Form A - Municipal Waste Systems
- Form C - Manufacturing and Commercial (including mining and vessel discharge)

Federal, State or local governments are not required to pay any fee.

The discharge permit is good for up to a maximum of five years and is renewable.

Permits establish schedules for achieving the required degree of treatment, limit the volume and quality of discharges and periodically require monitoring reports.

The application must be filed 180 days prior to commencing the discharge. There is a 30-day review by the State for certification (Department of Environmental Conservation). A public hearing may be held if it is in the public interest. Potential new source applications will be required to complete a questionnaire provided by EPA. If the activity is determined to be a new source, a NEPA (National Environmental Policy Act) review will be necessary. Additional time may be required to complete this process before construction and/or discharging may commence.

Authority: PL 92-500, Section 402. Federal Water Pollution Control Act (FWPCA) Amendments of 1972 (see sections 306, 502, 511).

40 CFR 125. National Pollutant Discharge Elimination System.

FEDERAL ACTS APPLICABLE TO COASTAL MANAGEMENT

National Environmental Policy Act (NEPA) of 1969 as Amended

Purpose: The purpose of the National Environmental Policy Act (NEPA) and the Environmental Impact Statement (EIS) is to insure that environmental information is available to public officials and citizens before decisions are made and before activities begin. The regulations are intended to help public officials make decisions that are based on an understanding of the environmental consequences, and to take actions that protect, restore and enhance the environment.

Coastal Zone Management Act of 1972 as Amended

Purpose: Section 307(c) requires federal agencies conducting activities which could directly affect the Alaskan coastal area to comply, to the maximum extent practicable, with an approved state coastal management program and approved district coastal management programs (e.g. North Slope Borough Coastal Management Program). Non-federal applicants for federal permits are required to submit certification that the proposed activity will comply with the approved state coastal management program.

Fish and Wildlife Coordination Act

Purpose: Act requires any federal agency which proposes to control or modify a body of water to first consult with the U.S. Fish and Wildlife Service, the National Marine Fisheries Service and, as appropriate, the Alaska Department of Fish and Game.

National Historic Preservation Act of 1966

Purpose: Act authorizes the Advisory Council on Historic Preservation to review and comment upon any activities authorized by the federal government which would have an affect on properties listed in or eligible for listing in the National Register of Historic Places.

Endangered Species Act of 1973

Purpose: This act requires federal agencies to use their authority to carry out programs for the conservation of endangered or threatened species and to insure that any authorized action does not jeopardize the continued existence of such endangered or threatened species or results in destruction or modification of its habitat.

Marine Mammal Protection Act of 1972

Purpose: The act expresses the intent of Congress that marine mammals be protected and encouraged to develop in order to maintain the health and stability of the marine ecosystem.

FEDERAL EXECUTIVE ORDERS APPLICABLE TO COASTAL MANAGEMENT

Executive Order 11988, Floodplain Management

Purpose: The main purpose of Executive Order 11988 is to avoid, to the extent possible, long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct and indirect support of floodplain development wherever there is practicable alternatives.

Executive Order 11990 Protection of Wetlands

Purpose: The main purpose of Executive Order 11990 is to avoid, to the extent possible, the long and short term adverse impacts associated with the destruction or modification of wetlands and to avoid direct or indirect support of new construction in wetlands whenever there is a practicable alternative. This order applies only to federally owned or controlled wetlands.

Alaska Coastal Management Prog

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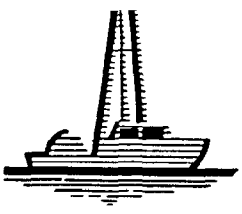

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