

**The Alaska Coastal District Association  
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April 12, 2005

Alaska Legislators  
State Capitol  
Juneau, Alaska 99801-1182

Subject: Alaska Coastal Management Plan Revisions and Deadlines

Dear Coastal Legislators:

Many of you have heard a great deal from the Administration regarding the status of the on going amendment of the Alaska Coastal Management Program (ACMP). Some of you have participated in three hearings held this session that have dealt with the program. If so, you have had the opportunity to hear a somewhat different version of events directly from some of the local coastal districts that under the ACMP represent more than 250 coastal communities within Alaska's coastal zone. Twenty-two of the state's twenty-seven active coastal districts are members of the Alaska Coastal District Association (ACDA).

I write to you today to correct the record on some key points, and specifically to respond to misplaced accusations, most recently reportedly expressed by the Chairman of the Senate Resources Committee, that the districts have in some way been "dragging their feet" in working to satisfy the 2003 mandate of House Bill 191 that revised local plans be submitted to the Department of Natural Resources (DNR) by July 1, 2005.

I am also writing to encourage all of you to consult with your local coastal district contacts and the communities they represent, and support legislation to extend the July 1 deadline. Senate Bill 102, which would have provided an extension for district plans to be revised, appears to be stopped in the Senate Resources Committee. Other bills that would also provide an extension are likewise stalled. I urgently ask that each of you do what you can to get SB 102 or another extension provision moving again.

To set the record straight, the timeline below will provide you a more accurate picture of the challenges faced by local districts as we have diligently worked to meet the July 1, 2005 deadline for plan revisions.

1. House Bill 191, passed in May of 2003, mandated significant revisions to all coastal management plans. The legislation required a revision of coastal

- management regulations, which would then direct how district plans would be revised
2. Districts first saw a draft of the proposed regulations on February 11-13, 2004 at the Statewide ACMP conference in Anchorage.
  3. These draft regulations were revised numerous times before they were signed into public law in July 2004. The final set of regulation revisions was not complete until October 29, 2004.
  4. On October 5, 2004 DNR/OPMP submitted the proposed amendment to the Alaska Coastal Management Program to Office of Coastal Resource Management (OCRM.)
  5. On October 20-22, 2004 DNR/OPMP held a workshop to provide direction to districts and provide a final copy of the regulations. The workshop was supposed to provide sufficient information and clarity for coastal districts and contractors to start writing plan revisions. It became clear, however, that because the draft regulations were so confusing and open to widely divergent interpretations, continuing with plan revisions would be pointless and wasteful of limited resources. Forty-five issues were identified by the workshop participants and DNR as being critical to a working understanding of the regulations. Particularly critical among unresolved issues and central to any effort to revise local plans, was clarity as to what types of enforceable policies could be included in those district plans.
  6. On October 28 2004 DCCED provided grant funding to hire contractors to revise plans. Districts could not complete final contract agreements with contractors, until after this date, because some districts have ordinances that require a lengthy local approval process before hiring a contractor.
  7. On October 29, 2004 a second round of regulations was amended by DNR and became effective.
  8. On November 4, 2004 OCRM sent a letter to Commissioner Irwin informing him the States submission did not contain sufficient information for OCRM to make a finding of preliminary approval of the CZMA section 306(e)(3)(2).
  9. On December 10, 2004 DNR finally provided written answers to the 45 questions from the October workshop. The answers, however, created additional questions that could not be answered consistently and clearly by DNR staff, and there remained a significant continuing need for clarification for districts and contractors.
  10. On December 16, 2004 DNR/OPMP presented a revised amendment request to the federal oversight and approval agency, the Office of Ocean and Coastal Resource Management (OCRM). DNR held a teleconference to discuss outstanding district questions. DNR was still unable to clarify the meaning of the term “adequately addressed” within the context of HB 191’s proscription that local district enforceable policies could not deal with a specific coastal use or resource unless it is not adequately addressed by state or federal law. It emerged that DNR’s extraordinarily broad interpretation is that adequately addressed could mean anything conceivably under any agency's authority. It thus appeared, contrary to direct assurances given by the Administration during testimony on HB 191, that few if any subjects remained upon which districts could write local

- enforceable policies. The next teleconference was scheduled for December 29<sup>th</sup>, 2004 and was changed to January 5, 2005.
11. On January 5, 2005 DNR held a teleconference to clarify answers to questions regarding the meaning of "adequately addressed", and suggested that earlier interpretations from the previous teleconference might be misleading. DNR also indicated that it was still working with OCRM on the highly significant issue of whether under the state's proposed regulations local districts could write policies affecting federal lands and waters. Districts also questioned why sample acceptable local enforceable policies that had been posted on the ACMP website had been removed, and asked that sample policies be reposted.
  12. On January 19, 2005 sample policies were posted back on the DNR/OPMP web for use by districts and contractors.
  13. On January 28, 2005 OCRM sent another letter to the State informing them the States amendment submission did not contain sufficient information for OCRM to make a finding of preliminary approval of the CZMA section 306(e)(3)(2).
  14. On February 3, 2005 a teleconference was held by DNR to answer questions amid continued confusion.
  15. On February 23, 2005 Governor Murkowski sent a letter to Dr. Spinrad, Assistant Administrator of NOAA informing him if OCRM does not abandon the new requirements and broken promises contained in the January 28, 2005 decision the ACMP will expire by operation of law in the summer of 2005.
  16. On February 24 the House state of Affairs held and oversight hearing on the 2003 House Bill 191 and many districts testified to the problems this legislation has imposed.
  17. On March 14, 2005 Senator Gary Stevens took testimony on Senate Bill 102 for the possible extension of the deadline requirements of 2003 HB 191 from July 2005 for one year. All districts that testified supported the extension. The only person testifying against the extension was Mr. Randy Bates of DNR/OPMP.
  18. On March 22, 2005 Governor Murkowski invited all coastal district coordinators to attend a meeting with Mr. Jim Clark, Governors Chief of Staff, Commissioner Tom Irwin of DNR and Mr. Randy Bates of DNR/OPMP to discuss the status of the ACMP.
  19. On March 31, 2005, 23 of the 27 coastal districts still participating in the ACMP meet with Mr. Jim Clark Governors Chief of Staff, Commissioner Tom Irwin of DNR and Mr. Randy Bates of DNR/OPMP and discussed the status of the ACMP.
  20. On April 4, 2005 Senate Resources Committee took testimony on SB 102 for the possible extension of the July 1, 2005 deadline. Only three districts were allowed to testify all three supported the extension and the only person opposing the extension who testified was Mr. Randy Bates of DNR/OPMP.

While we appreciate the workshop, teleconferences, meetings and other efforts of DNR staff to assist the districts in the challenging task of revising our coastal management plans, the bottom line is simply that a lack of clarity in guidance from the agency, and in fact at times an acknowledged confusion on the part of the DNR staff themselves, precluded many districts from fully engaging in plan writing until February of 2005. The one year period for revising plans, which was unreasonably short from the beginning for

an effort of this magnitude, was effectively shortened to five months. A typical plan revision has historically taken a minimum of three years. In many cases, State funds have failed to cover the full cost of plan revisions, and districts have had to use their own funds.

The ACMP is an important program. It is highly valued by your constituents. The districts have in good faith been working for nearly two years now to understand and comply with the mandates of HB 191 and DNR regulations. We believe that the Administration's policy decision to greatly constrict the role of local districts in the ACMP was ill-conceived and is not in the best interests of the State. Nonetheless, each of us has expressed a commitment to meet the July 1, 2005 deadline for submittal of revised local plans to the State. We have to, or risk losing our local plans.

Our submissions will not be the complete revised plans that we hope for and our district residents deserve. We need more time to do the stakeholder outreach and consultation that you must understand is appropriate for a planning process of this consequence to so many coastal communities. DNR will also clearly need more time before beginning the onerous task of reviewing twenty-seven revised plans as it has just been announced that two of four staffers charged with the task have submitted resignations and a third has announced retirement later this year.

We recognize that HB 191 is the law, and now hope for an amended ACMP that complies with federal law and meets the needs of Alaska, and particularly the needs of the great many Alaskans who's cultural, economic, nutritional and spiritual well being are intimately tied to our state's vast coastal zone and bountiful coastal resources. If you share our desire for a continued, strong ACMP, we strongly urge you to seek movement of Senate Bill 102 or other bills extending the July 1 deadline a minimum of six months.

If you have any questions please do not hesitate to contact me at 907-246-3421.

Sincerely,



Marv Smith  
Chairman, Alaska Coastal District Association

CC: All Coastal Districts