

CONFERENCE CS FOR HOUSE BILL NO. 106(fld H)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SPECIAL SESSION

BY THE CONFERENCE COMMITTEE

Amended: 5/14/11

Offered: 5/14/11

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act extending the termination date of the Alaska coastal management program and**
2 **relating to the extension; relating to the review of activities and regulations of the Alaska**
3 **coastal management program; establishing the Alaska Coastal Policy Board; relating to**
4 **the development, review, and approval of district coastal management plans; relating to**
5 **the duties of the Department of Natural Resources relating to the Alaska coastal**
6 **management program; relating to the review of certain consistency determinations;**
7 **providing for an effective date by amending the effective date of secs. 1 - 13 and 18, ch.**
8 **31, SLA 2005; and providing for an effective date."**

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

10 *** Section 1.** AS 44.37.020 is amended by adding a new subsection to read:

11 (c) In administering the Alaska coastal management program under AS 46.39
12 and AS 46.40, the Department of Natural Resources may consider how subsistence

1 uses may be affected.

2 * **Sec. 2.** AS 44.66.020(a) is amended to read:

3 (a) Agency programs and activities listed in this subsection that are
4 specifically designated as provided in AS 44.66.030 are subject to termination during
5 the regular legislative session convening in the month and year set out after each:

6 (1) programs in the budget categories of general government, public
7 protection, and administration of justice - January, 1980;

8 (2) programs in the budget categories of education and the University
9 of Alaska - January, 1981;

10 (3) programs in the budget categories of health and social services -
11 January, 1982;

12 (4) programs in the budget categories of natural resources
13 management, development, and transportation - January, 1983;

14 (5) the Alaska coastal management program (AS 46.40) - January,
15 2017 [2011].

16 * **Sec. 3.** AS 46.39 is amended by adding a new section to article 1 to read:

17 **Sec. 46.39.005. Alaska Coastal Policy Board.** (a) The Alaska Coastal Policy
18 Board is created in the Department of Natural Resources. The board consists of the
19 following:

20 (1) five public members appointed by the governor; the public
21 members shall include

22 (A) one at-large member and an alternate member from any
23 coastal resource district who is a representative of

24 (i) a Native regional corporation established under 43
25 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act);

26 (ii) a mining organization;

27 (iii) an oil and gas organization; or

28 (iv) any other resource development or extraction
29 industry;

30 (B) four members from a list composed of at least three names
31 from each region, and four alternate members from a list composed of at least

1 three names from each region, nominated and submitted by the coastal
 2 resource districts of each region; the governor may reject a list submitted under
 3 this subparagraph and request that subsequent lists with different names be
 4 submitted; one public member and one alternate member shall be appointed
 5 from each of the following regions:

6 (i) northwest Alaska, including, generally, the area of
 7 the North Slope Borough and the Northwest Arctic Borough; and the
 8 Bering Strait area, including, generally, the area of the Bering Strait
 9 regional educational attendance area;

10 (ii) southwest Alaska, including, generally, the area
 11 within the Lower Yukon, Lower Kuskokwim, and Southwest regional
 12 educational attendance areas and the Lake and Peninsula and Bristol
 13 Bay Boroughs; and the Kodiak-Aleutians area, including the area of the
 14 Kodiak Island and Aleutians East Boroughs and the Aleutian, Adak,
 15 and Pribilof regional educational attendance areas;

16 (iii) Upper Cook Inlet area, including the Municipality
 17 of Anchorage and the Matanuska-Susitna Borough; the Lower Cook
 18 Inlet area, including, generally, the Kenai Peninsula Borough; and the
 19 Prince William Sound area, including, generally, the area east of the
 20 Kenai Peninsula Borough to 141 West longitude; and

21 (iv) Southeast Alaska, generally the area east of 141
 22 West longitude;

23 (2) each of the following designated members:

24 (A) the commissioner of environmental conservation;

25 (B) the commissioner of fish and game;

26 (C) a deputy commissioner of natural resources;

27 (D) the commissioner of transportation and public facilities.

28 (b) Public members serve staggered terms of three years. Except as provided
 29 by (c) of this section, each member serves until a successor is appointed and qualified.
 30 A public member may be reappointed.

31 (c) The board may recommend that the governor remove a public member for

1 cause. With or without a recommendation from the board, the governor may remove a
2 public member for cause after giving the public member written notice of the charges
3 and an opportunity to be heard upon not less than 10 days' notice. If a public member
4 is removed, the alternate member shall serve the remainder of the term, and a new
5 alternate shall be appointed under (a)(1) of this section. In this subsection, "for cause"
6 includes lack of contribution to the board's work, neglect of duty, incompetence,
7 inability to serve, poor attendance, and misconduct in office.

8 (d) The board shall designate co-chairs, one of whom shall be selected from
9 among the public members appointed under (a)(1) of this section and one from among
10 the members designated in (a)(2) of this section.

11 (e) If a member serving under (a)(1) of this section is unable to attend, the
12 alternate may attend. The names of alternates serving under (a)(1) of this section shall
13 be filed with the board.

14 (f) If a member serving under (a)(2) of this section is unable to attend, a
15 deputy commissioner in the same department may attend and act in place of the
16 member. The names of deputy commissioners serving as alternates for members
17 serving under (a)(2) of this section shall be filed with the board.

18 (g) Three public members and three designated members of the board
19 constitute a quorum. However, action may be taken only upon the affirmative vote of
20 at least two-thirds of the full membership of the board.

21 (h) The board shall meet at least four times a year and as often as necessary to
22 fulfill its duties under this chapter and AS 46.40. Meetings may be held and members
23 may vote telephonically, except one board meeting a year shall be held in person.

24 (i) Public members of the board are entitled to per diem and travel expenses
25 authorized by law for members of boards and commissions.

26 (j) Administrative support for the board shall be provided by the division in
27 the department responsible for coastal and ocean management. The director of the
28 division in the department responsible for coastal and ocean management may contract
29 with or employ persons as necessary to assist the board in carrying out the board's
30 duties and responsibilities.

31 (k) The board shall

1 (1) make recommendations to the department relating to the approval
2 or modification of a district coastal management plan under AS 46.40.060(b);

3 (2) provide a forum for the discussion of issues related to this chapter,
4 AS 46.40, and the coastal uses and resources of the state; and

5 (3) annually solicit from state and federal agencies information as to
6 whether they implemented any new statutes or regulations affecting coastal uses or
7 resources to determine if existing enforceable policies duplicate, restate, incorporate
8 by reference, rephrase, or adopt the new state or federal statutes or regulations, and if
9 so, direct a coastal resource district with such enforceable policies to resubmit its
10 coastal management plan for review under this chapter and AS 46.40; and

11 (4) review and provide comments to the department on regulations
12 proposed under this chapter and AS 46.40.

13 * **Sec. 4.** AS 46.39.010 is amended by adding a new subsection to read:

14 (d) Not later than January 20 each year, the department shall prepare an annual
15 report summarizing the department's efforts to draft and adopt regulations under this
16 chapter and AS 46.40 during the prior calendar year. The department shall notify the
17 legislature that the report is available and shall also post the report on the department's
18 Internet website.

19 * **Sec. 5.** AS 46.39.030 is amended to read:

20 **Sec. 46.39.030. Powers of the department.** The department may

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

24 (2) contract for necessary services;

25 (3) consult and cooperate with

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

29 (B) agents and officials of the coastal resource districts of the
30 state, **the Alaska Coastal Policy Board established in AS 46.39.005,** and
31 federal and state agencies concerned with or having jurisdiction over coastal

1 planning and management;

2 (4) take any reasonable action necessary to carry out the provisions of
3 this chapter or AS 46.40.

4 * **Sec. 6.** AS 46.39.040 is amended to read:

5 **Sec. 46.39.040. Duties of the department.** In conformity with 16 U.S.C. 1451
6 - 1464 (Coastal Zone Management Act of 1972), as amended, the department shall

7 (1) develop statewide standards for the Alaska coastal management
8 program, and criteria for the preparation and approval of district coastal management
9 plans in accordance with AS 46.40;

10 (2) establish continuing coordination among state agencies to facilitate
11 the development and implementation of the Alaska coastal management program; in
12 carrying out its duties under this paragraph, the department shall initiate an
13 interagency program of comprehensive coastal resource planning for each geographic
14 region of the state;

15 (3) assure continued provision of [DATA AND] information to coastal
16 resource districts to carry out their planning and management functions under the
17 program; in providing information to a coastal resource district and coastal
18 resource service area under this paragraph, the department shall provide the
19 information by electronic transmission, or by mail if the addressee does not have
20 an electronic mail address, to the presiding officer of the governing body of the
21 coastal resource district and to other persons as may be designated in writing by
22 the district;

23 (4) summarize the minutes of the board's discussion of issues
24 related to this chapter, AS 46.40, and coastal uses and resources of the state;

25 (5) in administering AS 46.40, address conflicts between local
26 knowledge and scientific evidence by determining the relative strengths of the
27 scientific evidence and the evidence supporting the local knowledge, and render a
28 written decision; in this paragraph, "local knowledge" and "scientific evidence"
29 have the meanings given in AS 46.40.210.

30 * **Sec. 7.** AS 46.40.030 is amended to read:

31 **Sec. 46.40.030. Development of district coastal management plans.** (a)

1 Coastal resource districts shall develop and adopt district coastal management plans in
 2 accordance with the provisions of this chapter. The plan adopted by a coastal resource
 3 district shall be based upon a municipality's existing comprehensive plan or a new
 4 comprehensive resource use plan or comprehensive statement of needs, policies,
 5 objectives, and standards governing the use of resources within the coastal area of the
 6 district. The plan must meet the [STATEWIDE STANDARDS AND] district plan
 7 criteria adopted under AS 46.40.040, **may not be inconsistent with the standards**
 8 **adopted under AS 46.40.040**, and must include

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

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

13 (3) a statement of **enforceable** policies to be applied to the land and
 14 water uses subject to the district coastal management plan; **and**

15 (4) [A DESCRIPTION OF THE USES AND ACTIVITIES THAT
 16 WILL BE CONSIDERED PROPER AND THE USES AND ACTIVITIES THAT
 17 WILL BE CONSIDERED IMPROPER WITH RESPECT TO THE LAND AND
 18 WATER WITHIN THE COASTAL AREA; AND

19 (5)] a designation of **any** [, AND THE POLICIES THAT WILL BE
 20 APPLIED TO THE USE OF,] areas **which merit special attention under** [WITHIN]
 21 the **district coastal management plan and a designation of the enforceable policies**
 22 **that will be applicable within those areas which** [RESOURCE DISTRICT THAT]
 23 merit special attention.

24 (b) In developing enforceable policies in its coastal management plan under
 25 (a) of this section, a coastal resource district shall **meet the requirements of**
 26 **AS 46.40.070 and ensure that the enforceable policies**

27 **(1) are clear and concise as to the activities and persons affected by**
 28 **the policies;**

29 **(2) use prescriptive or performance-based standards that are**
 30 **written in precise and enforceable language;**

31 **(3) address a coastal use or resource of concern to the residents of**

1 **the coastal resource district as demonstrated by local knowledge or supported by**
 2 **scientific evidence; and**

3 **(4) employ the least restrictive means to achieve the objective of**
 4 **the enforceable policy** [MEET THE REQUIREMENTS OF AS 46.40.070 AND
 5 MAY NOT DUPLICATE, RESTATE, OR INCORPORATE BY REFERENCE
 6 STATUTES AND ADMINISTRATIVE REGULATIONS ADOPTED BY STATE
 7 OR FEDERAL AGENCIES].

8 * **Sec. 8.** AS 46.40.030 is amended by adding new subsections to read:

9 (c) In determining whether an enforceable policy employs the least restrictive
 10 means to achieve its objective, the following factors shall be considered:

- 11 (1) alternative methods of achieving the objective of the policy;
 12 (2) local knowledge or scientific evidence supporting each alternative
 13 method; and
 14 (3) how the alternative methods may affect other existing or potential
 15 uses.

16 (d) Additional factors that the department may require be addressed in
 17 determining whether an enforceable policy employs the least restrictive means to
 18 achieve its objective are as follows:

- 19 (1) the economic effects of alternative methods;
 20 (2) the technological feasibility of the alternative methods; and
 21 (3) any other relevant factors.

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

23 (b) **Notwithstanding any other provision of law,** AS 46.03, AS 46.04,
 24 AS 46.09, AS 46.14, and the regulations adopted under those statutes constitute the
 25 exclusive enforceable policies of the Alaska coastal management program for those
 26 purposes. For those purposes only,

- 27 (1) the issuance of permits, certifications, approvals, and
 28 authorizations by the Department of Environmental Conservation establishes
 29 consistency with the Alaska coastal management program for those activities of a
 30 proposed project subject to those permits, certifications, approvals, and authorizations;
 31 (2) for a consistency review of an activity that does not require a

1 Department of Environmental Conservation permit, certification, approval, or
 2 authorization because the activity is a federal activity or the activity is located on
 3 federal land or the federal outer continental shelf, consistency with AS 46.03,
 4 AS 46.04, AS 46.09, and AS 46.14 and the regulations adopted under those statutes
 5 shall be established on the basis of whether the Department of Environmental
 6 Conservation finds that the activity satisfies the requirements of those statutes and
 7 regulations.

8 * **Sec. 10.** AS 46.40.050 is amended by adding a new subsection to read:

9 (c) A coastal resource district shall resubmit its coastal management plan, as
 10 may be directed by the board under AS 46.39.005(k)(3).

11 * **Sec. 11.** AS 46.40.060(a) is amended to read:

12 (a) If, upon submission of a district coastal management plan for approval, the
 13 department finds that the plan meets the provisions of this chapter [AND THE
 14 STATEWIDE STANDARDS AND DISTRICT PLAN CRITERIA ADOPTED BY
 15 THE DEPARTMENT AND DOES NOT ARBITRARILY OR UNREASONABLY
 16 RESTRICT OR EXCLUDE USES OF STATE CONCERN], the department may
 17 approve the district coastal management plan, or may approve portions of the district
 18 plan that meet those requirements.

19 * **Sec. 12.** AS 46.40.060(b) is amended to read:

20 (b) If the department finds that a district coastal management plan is not
 21 approvable or is approvable only in part under (a) of this section, **the department**
 22 **shall explain in writing the basis for its decision. The coastal resource district that**
 23 **submitted the plan may request that the department submit the plan or portions**
 24 **of the plan to the board for review. The board shall review the plan or portions of**
 25 **the plan and make recommendations relating to whether the department should**
 26 **approve or modify the district coastal management plan in whole or in part** [IT
 27 SHALL DIRECT THAT DEFICIENCIES IN THE PLAN SUBMITTED BY THE
 28 COASTAL RESOURCE DISTRICT BE MEDIATED. IN MEDIATING THE
 29 DEFICIENCIES, THE DEPARTMENT MAY CALL FOR ONE OR MORE PUBLIC
 30 HEARINGS IN THE DISTRICT. THE DEPARTMENT SHALL MEET WITH
 31 OFFICIALS OF THE COASTAL RESOURCE DISTRICT IN ORDER TO

1 RESOLVE DIFFERENCES].

2 * **Sec. 13.** AS 46.40.060(c) is amended to read:

3 (c) **After the board has reviewed the district coastal management plan**
 4 **and submitted recommendations under (b) of this section** [IF, AFTER
 5 MEDIATION, THE DIFFERENCES HAVE NOT BEEN RESOLVED], the
 6 department shall enter findings and, by order, may [REQUIRE]

7 (1) **approve the plan or portions of the plan;**

8 (2) **require** that the district coastal management plan be amended to
 9 **meet** [SATISFY] the provisions of this chapter [OR MEET THE STATEWIDE
 10 STANDARDS] and district plan criteria adopted by the department;

11 (3) **require** [(2)] that the district coastal management plan be revised
 12 to accommodate a use of state concern; or

13 (4) **require the coastal resource district to submit additional**
 14 **information if, in the judgment of the department, additional information is**
 15 **necessary for the department to approve the plan or portions of the plan** [(3)
 16 ANY OTHER ACTION BE TAKEN BY THE COASTAL RESOURCE DISTRICT
 17 AS APPROPRIATE].

18 * **Sec. 14.** AS 46.40.060 is amended by adding new subsections to read:

19 (e) Only a coastal resource district affected by a decision of the department
 20 under this section may request reconsideration of the decision. The request must be
 21 made within 15 days after the decision, must be in writing, and must include a
 22 statement of the specific issues and material facts that the coastal resource district
 23 contends that the department overlooked, failed to consider, or misconceived. The
 24 commissioner of natural resources may review the department's decision on the basis
 25 of the request and determine whether the decision should be changed. The
 26 commissioner may issue a determination in writing within 20 days after the issuance
 27 of the decision. If the commissioner has not issued a written decision within the 20-
 28 day period, the request for reconsideration shall be considered as denied. Denial of a
 29 request for reconsideration is a final administrative order and decision of the
 30 department.

31 (f) The superior courts of the state have jurisdiction to enforce orders of the

1 department entered under (c) and (e) of this section.

2 * **Sec. 15.** AS 46.40.070 is repealed and reenacted to read:

3 **Sec. 46.40.070. Requirements for department review and approval.** (a) The
4 department shall approve a district coastal management plan submitted for review and
5 approval if, as determined by the department, the

6 (1) district coastal management plan meets the requirements of this
7 chapter and the district plan criteria adopted by the department; and

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

9 (A) do not duplicate, restate, incorporate by reference,
10 rephrase, or adopt state or federal statutes or regulations;

11 (B) are not preempted by or in conflict with state or federal
12 statutes or regulations;

13 (C) employ the least restrictive means to achieve the objective
14 of the enforceable policies;

15 (D) do not arbitrarily or unreasonably restrict uses of state
16 concern; and

17 (E) meet the requirements of (b) and (c) of this section.

18 (b) The enforceable policies in a district coastal management plan submitted
19 for review under this section must meet the requirements of (a) of this section and may
20 establish new standards or requirements that are within the authority of a state or
21 federal agency unless

22 (1) a state agency specifically objects to the proposed new standards or
23 requirements on the grounds that the proposed standards or requirements

24 (A) are based on scientific evidence or local knowledge relied
25 upon by the coastal resource district to satisfy the requirements of
26 AS 46.40.030 but that conflicts with the agency's interpretation of the scientific
27 evidence within the agency's area of expertise;

28 (B) conflict with the agency's allocation of existing or planned
29 agency resources to meet state policies and objectives; or

30 (C) conflict with agency priorities or objectives, or other state
31 policies;

1 (2) the proposed new standards or requirements address discharges,
 2 emissions, contaminants, conditions, risks, or other matters that fall within the
 3 authority of the Department of Environmental Conservation under AS 46.03,
 4 AS 46.04, AS 46.09, AS 46.14, and regulations adopted under those statutes.

5 (c) An approval of a district coastal management plan with enforceable
 6 policies may not affect a person's rights or authorizations under an unexpired permit,
 7 lease, or other valid existing right to explore or develop natural resources that predates
 8 the date that the enforceable policy becomes final. An enforceable policy becomes
 9 final when its adoption is no longer subject to further review through either a judicial
 10 or administrative process.

11 (d) Notwithstanding AS 46.40.030(a)(4), in reviewing and approving a district
 12 coastal management plan under (a) of this section, the department may not require a
 13 district to designate areas for the purpose of developing an enforceable policy.

14 (e) In this section, "specifically objects" means that, during a review of a
 15 district coastal management plan under AS 46.40.050 or 46.40.060 and their
 16 implementing regulations, a written objection to the enforceable policy that establishes
 17 the new standards or requirements is filed with the department by

18 (1) the commissioner or deputy commissioner of a state agency; or

19 (2) the attorney general of the state.

20 (f) Notwithstanding any other provision of this chapter, an enforceable policy
 21 that establishes requirements within the authority of a state or federal agency shall be
 22 superseded upon the enactment of a law or adoption of a regulation that is inconsistent
 23 with the enforceable policy.

24 * **Sec. 16.** AS 46.40.096(d) is amended to read:

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

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

30 (2) prepare proposed consistency determinations;

31 (3) **conduct an elevated review** [COORDINATE SUBSEQUENT

1 REVIEWS] of proposed consistency determinations prepared under (2) of this
 2 subsection; **an elevated** [A SUBSEQUENT] review of a proposed consistency
 3 determination under this paragraph

4 (A) **shall be conducted** [IS LIMITED TO A REVIEW] by the
 5 **commissioners or deputy commissioners of the resource agencies**
 6 [DEPARTMENT];

7 (B) may occur only if requested by

8 (i) the project applicant;

9 (ii) a state resource agency; or

10 (iii) an affected coastal resource district; and

11 (C) shall be completed **with the issuance of a written order**
 12 **signed by at least two of the commissioners or deputy commissioners of**
 13 **the resource agencies** [BY THE DEPARTMENT] within **60** [45] days after
 14 the initial request for **an elevated** [SUBSEQUENT] review under this
 15 paragraph; **if a written order is not issued in accordance with this**
 16 **subparagraph, the proposed consistency determination under (2) of this**
 17 **subsection is the final consistency determination and certification; and**

18 (4) render the final consistency determination and certification
 19 **consistent with this subsection.**

20 * **Sec. 17.** AS 46.40.096(o) is amended to read:

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

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

24 (2) are suspended

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

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

31 (C) during the period of time a consistency review is

1 undergoing **an elevated** [A SUBSEQUENT] review under (d)(3) of this
2 section.

3 * **Sec. 18.** AS 46.40.096(q)(2) is amended to read:

4 (2) "reviewing entity" means the

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

7 (B) **commissioners or deputy commissioners of the resource**
8 **agencies for an elevated review;**

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

11 * **Sec. 19.** AS 46.40.180(b) is amended to read:

12 (b) If a city or village within a coastal resource service area fails to approve a
13 portion of the district coastal management plan prepared and submitted for approval
14 under (a) of this section, the governing body shall advise the coastal resource service
15 area board of its objections to the proposed plan and suggest alternative elements or
16 components for inclusion in the district coastal management plan. New matter
17 submitted by a city or village that **is not inconsistent with the standards adopted**
18 **under AS 46.40.040 and** meets the [STATEWIDE STANDARDS AND] district plan
19 criteria adopted under this chapter shall be accepted and the district coastal
20 management plan modified accordingly. If a city or village fails to provide objections
21 and suggested alternatives within the time limits established in this section, the coastal
22 resource service area board may adopt the district coastal management plan as initially
23 offered.

24 * **Sec. 20.** AS 46.40.210 is amended by adding new paragraphs to read:

25 (13) "board" means the Alaska Coastal Policy Board established in
26 AS 46.39.005;

27 (14) "commissioners" means the commissioners of the resource
28 agencies;

29 (15) "elevated review" means a review of a proposed consistency
30 determination by the commissioners or deputy commissioners of the resource
31 agencies;

1 (16) "local knowledge" means a body of knowledge or information
 2 about the coastal environment or the human use of that environment, including
 3 information passed down through generations, if that information is

4 (A) derived from experience and observations; and

5 (B) generally accepted by the local community;

6 (17) "scientific evidence" means facts or data that are

7 (A) premised upon established chemical, physical, biological,
 8 or ecosystem management principles as obtained through scientific method and
 9 submitted to the division in the department responsible for ocean and coastal
 10 management to furnish proof of a matter required under this chapter;

11 (B) in a form that would allow resource agency review for
 12 scientific merit; and

13 (C) supported by one or more of the following:

14 (i) written analysis based on field observation and
 15 professional judgment along with photographic documentation;

16 (ii) written analysis from a professional scientist with
 17 expertise in the specific discipline; or

18 (iii) site-specific scientific research that may include
 19 peer-review level research or literature.

20 * **Sec. 21.** AS 46.39.005 is repealed.

21 * **Sec. 22.** AS 46.40.060(d) is repealed.

22 * **Sec. 23.** The uncodified law of the State of Alaska is amended by adding a new section to
 23 read:

24 TRANSITION: MEMBERS OF THE ALASKA COASTAL POLICY BOARD;
 25 STAGGERED TERMS. (a) Notwithstanding AS 46.39.005(a), added by sec. 3 of this Act,
 26 within 30 days after the effective date of this section, the municipalities of each region
 27 identified in AS 46.39.005(a)(1)(B) shall submit to the governor the names of three persons to
 28 be considered for appointment as public members, and the names of three persons to be
 29 considered as alternate members, from the region qualified under AS 46.39.005(a), added by
 30 sec. 3 of this Act. Notwithstanding AS 46.39.005, added by sec. 3 of this Act, within 60 days
 31 after the effective date of this section, the governor shall appoint, from the lists of names

1 submitted under AS 46.39.005(a)(1)(B), one member and one alternate member from each
2 region, or request subsequent lists of names in accordance with AS 46.39.005(a)(1)(B), and
3 shall appoint one at-large member and one alternate member to serve on the Alaska Coastal
4 Policy Board established by AS 46.39.005, added by sec. 3 of this Act. The governor shall
5 appoint the public members to three-year staggered terms. The alternate member for each
6 public member shall serve the same term as the public member. The governor shall specify
7 the term of each public member appointed subject to this section.

8 (b) Notwithstanding the requirements of AS 46.40.060(b), as amended by sec. 12 of
9 this Act, a review by the Alaska Coastal Policy Board relating to a district coastal
10 management plan, or a portion of a district coastal management plan, shall be delayed until all
11 the public members and alternate members of the board are appointed under (a) of this
12 section.

13 * **Sec. 24.** The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 **TRANSITION: PENDING DISTRICT COASTAL MANAGEMENT PLANS.** If a
16 plan of a coastal resource district was submitted to the Department of Natural Resources
17 before the effective date of this section, but is pending approval in its entirety before the
18 effective date of this section, the coastal resource district shall resubmit the entire plan to the
19 Department of Natural Resources for approval using the standards set out in AS 46.39 and
20 AS 46.40, as modified by this Act.

21 * **Sec. 25.** The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

23 **REVIEW AND REPORTS BY THE ALASKA COASTAL POLICY BOARD.** (a)
24 Before February 1, 2013, the Alaska Coastal Policy Board shall review AS 46.40.040(b), as
25 amended by sec. 9 of this Act, AS 46.40.040(c), and AS 46.40.096(i), their implementing
26 regulations, and related federal and state statutes and regulations, and prepare a report to the
27 governor and the legislature on any proposed changes to the provisions of AS 46.40.

28 (b) On or before January 1, 2015, the Alaska Coastal Policy Board shall report to the
29 governor and legislature on the effectiveness of AS 46.39 and AS 46.40 and regulations
30 adopted under those chapters, with its recommendations for any proposed changes to any
31 provision of AS 46.39 or AS 46.40.

1 * **Sec. 26.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 RETROACTIVITY AND REVIVAL. (a) The amendment to AS 44.66.020(a)(5)
4 made by sec. 2 of this Act is retroactive to January 1, 2011.

5 (b) If, under AS 01.10.070(c), sec. 28 of this Act takes effect on or after July 1, 2011,
6 sec. 28 of this Act is retroactive to July 1, 2011, and provisions repealed by sec. 18, ch. 31,
7 SLA 2005, are revived. If a revived provision is amended by secs. 1, 2, 4 - 20, or 22 of this
8 Act, it is revived as amended by secs. 1, 2, 4 - 20, and 22 of this Act. The revived provisions
9 are subject to repeal under sec. 22, ch. 31, SLA 2005, as amended by sec. 28 of this Act.

10 (c) If, under AS 01.10.070(c), this section takes effect on or after July 1, 2011,
11 AS 46.39.005, added by sec. 3 of this Act and repealed by sec. 21 of this Act, is revived.
12 AS 46.39.005, as revived, is subject to repeal under secs. 21 and 29 of this Act and sec. 22,
13 ch. 31, SLA 2005, as amended by sec. 28 of this Act.

14 * **Sec. 27.** The uncodified law of the State of Alaska is amended by adding a new section to
15 read:

16 CONDITIONAL EFFECT. Section 21 of this Act takes effect only if secs. 1 - 13 and
17 18, ch. 31, SLA 2005, take effect.

18 * **Sec. 28.** The uncodified law of the State of Alaska enacted in sec. 22, ch. 31, SLA 2005, is
19 amended to read:

20 Sec. 22. Sections 1 - 13 and 18, ch. 31, SLA 2005, [OF THIS ACT] take effect
21 July 1, 2017 [2011, UNLESS THE STATE'S REVISED COASTAL
22 MANAGEMENT PROGRAM HAS NOT BEEN APPROVED BY THE NATIONAL
23 OCEANIC AND ATMOSPHERIC ADMINISTRATION, OFFICE OF OCEAN AND
24 COASTAL RESOURCE MANAGEMENT, UNITED STATES DEPARTMENT OF
25 COMMERCE, UNDER 16 U.S.C. 1455 AND 1457 (COASTAL ZONE
26 MANAGEMENT ACT OF 1972) BEFORE JANUARY 1, 2006. IF THE STATE'S
27 REVISED COASTAL MANAGEMENT PROGRAM IS NOT APPROVED
28 BEFORE JANUARY 1, 2006, BY THE NATIONAL OCEANIC AND
29 ATMOSPHERIC ADMINISTRATION, OFFICE OF OCEAN AND COASTAL
30 RESOURCE MANAGEMENT, UNITED STATES DEPARTMENT OF
31 COMMERCE, THEN SECS. 1 - 13 AND 18 OF THIS ACT TAKE EFFECT MAY

1 10, 2006. THE COMMISSIONER OF NATURAL RESOURCES SHALL NOTIFY
2 THE REVISOR OF STATUTES ON FEBRUARY 1, 2006, WHETHER THE
3 REVISED COASTAL MANAGEMENT PROGRAM HAS BEEN APPROVED AS
4 DESCRIBED IN THIS SECTION].

5 * **Sec. 29.** If sec. 21 of this Act takes effect, it takes effect on the date that secs. 1 - 13 and
6 18, ch. 33, SLA 2005, take effect.

7 * **Sec. 30.** Except as provided in sec. 29 of this Act, this Act takes effect immediately under
8 AS 01.10.070(c).