

**Alaska Coastal Management Program Initiative
Comparison of Initiative Provisions with Past Programs and Legislation**

| Topic | Initiative | June 2011 Program | Pre-2003 Program | CS SB 45 (CRA) am (failed House 6/11) |
|-------------------|---|---|--|--|
| Location | DCCED | DNR | Governor's Office | DNR |
| Board | 13-member board of 9 public members and 4 commissioners (DNR, DFG, DEC and DCCED). | No board - DNR commissioner responsible for all ACMP decisions with no checks and balances. | 15-member board of 9 public members (local elected officials), the director of the Office of Management and Budget, and the commissioners of DCED, DEC, DFG, DNR, and DOTPF. | 9-member board with 5 public members (one representing industry or a Native corporation), a deputy commissioner of DNR, and the commissioners of DEC, DFG, and DOTPF. |
| | Quorum: 5 public members and 2 agency members. | n/a | Quorum: 4 public members & 3 agency members. | Quorum: 3 public members and 3 agency members. |
| | Decisions made by a majority of members present and voting. | n/a | Decisions made by majority vote of those present. | Decisions require 2/3 vote of entire board. |
| | Governor appoints 9 public members from list of nominations from coastal districts. | n/a | Governor appoints 9 public members from a list of nominees from municipalities. | Governor appoints 5 public members; 4 members nominated by districts (may request subsequent lists of nominees). |
| | Board may recommend the Governor remove a public member for cause. | n/a | Public members removed only if they cease to meet qualifications. | Governor may remove public members for cause. |
| | Authority to approve regulations, direct DCCED to seek federal approval of program, approve district programs, establish interagency coordination, and evaluate effectiveness of district programs. | n/a | Authority for grants, adopting regulations (guidelines, standards and consistency reviews), interagency coordination, reviewing district plans, and developing procedures for coordination and consultation with federal agencies. | Advisory board makes recommendations, provides a forum for discussion, comments on regulations and directs districts to resubmit its coastal plan if policies duplicate new laws. Board annually solicits changes to state and federal laws. |
| Boundaries | Incorporates coastal zone boundaries approved by | Coastal zone boundaries were approved by former Coastal | Coastal Policy Council responsible for approving | Coastal zone boundaries were approved by former Coastal |

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| | former Coastal Policy Council. | Policy Council. | coastal zone boundaries. | Policy Council. |
| Regional Planning | Board to initiate a program of strategic regional coastal and ocean planning. | DNR to initiate an interagency program of comprehensive coastal resource planning for each geographic region of state. | Coastal Policy Board to initiate an interagency program of comprehensive coastal resource planning for each geographic region of state. | DNR to initiate an interagency program of comprehensive coastal resource planning for each geographic region of state. |
| Enforceable policies | Policies cannot unreasonably or arbitrarily restrict a use of state concern. | | | |
| | Policies cannot duplicate, restate, or incorporate by reference state or federal statutes or regulations. | | | Policies cannot duplicate, restate, incorporate by reference, rephrase, or adopt state or federal statutes or regulations. |
| | Policies must be clear and concise, cannot address matters preempted by state or federal law, may be prescriptive or performance based, and may address a matter of local concern. | Policies must be clear and concise, address a matter of local concern, be prescriptive, and address a matter of local concern (not adequately addressed by state or federal law). | District programs must be consistent with the standards and guidelines adopted by the Coastal Policy Council. | Policies may not address matters preempted or in conflict with federal law and employ the least restrictive means to achieve objective. State agencies have broad authority to object to a policy. |
| | Designated areas not required. | Designated areas are optional but required by regulation for many subjects of enforceable policies (e.g., subsistence and habitat). DNR denied many of the designated areas proposed by districts. | Designated areas are not required. | Not specifically addressed in statute but DNR testified to the Legislature that it will not require designations in order to establish enforceable policies. |
| | Districts may establish Areas Meriting Special Attention and establish enforceable policies that are applicable only in those areas. | | | |
| Regulations | Board will approve new regulations for project reviews, statewide standards and district plan criteria. | According to DNR testimony to the Legislature, regulations were more stringent than intended by the Legislature. | Regulations were not more stringent than intended by the Legislature. | Amendments to the regulations would be required to implement amendments to the ACMP. |
| Citizen Appeals | Citizen appeals not addressed in bill. | Citizen appeals prohibited. | Citizen lawsuits allowed and pre-decision project petitions allowed pre-2002. | Citizen appeals prohibited. |

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| ACMP Sunset | No sunset provision. | July 1, 2011 sunset date. No sunset prior to 2005. | No sunset provision. | ACMP sunsets July 2017 unless extended. |
| District Plan Amendments | Plans approved as of June 2011 incorporated into new program. No requirement to resubmit plans. | Districts must resubmit plans every 10 years. | No requirement to resubmit plan every 10 years. | This bill did not change the existing statutory requirement that requires districts to resubmit plans every 10 years. A new provision in the bill requires the board to review all new state and federal laws each year. If a district policy duplicates the new law, the board must direct the district to submit a new plan. |
| DEC Participation | DEC participates in the program the same as DNR and DFG. | DEC Carveout removed DEC permits from ACMP consistency reviews. Legislative intent was for DEC to participate in reviews, it but seldom did. DNR testimony to Legislature indicated districts could establish policies to fill gaps in DEC laws, but none were approved. | DEC participated in the program the same as DNR and DFG. | DEC permits excluded from ACMP project consistency reviews. Board to prepare a report about the DEC Carveout by 2/1/14 and include recommendations for changes to AS 46.40. |
| Review Timelines | Not addressed in bill. | Most reviews must be completed within 90-days even if there is not adequate information for decision | No 90-day limit. | Most reviews must be completed within 90-days even if there is not adequate information for decision. |
| | For reviews with federal permits, federal regulations require notification why there is a delay at 3 months, and review must be completed in 6 months. | | | |
| Elevations (pre-decision appeals) | No details about consistency review process. Regulations would be developed for reviews. | DNR commissioner has sole authority to make decision on elevations. | DEC, DFG & DNR made decision by consensus. | DEC, DFG & DNR decide elevations by written order signed by two resource agencies within 60 days. |

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| Inland Projects | Review of inland projects not addressed. | Projects inland of the coastal zone cannot be reviewed for consistency with the ACMP. | Projects inland of the coastal zone reviewed only if there are impacts to coastal resources or uses. | Projects inland of the coastal zone cannot be reviewed for consistency with the ACMP. |
| | Federally-initiated activities inland of coastal zone reviewed only if there are coastal effects. | | | |
| Outer Continental Shelf (OCS) | Activities in the OCS may be reviewed for consistency with the ACMP. | Activities in the OCS may be reviewed for consistency with the ACMP, but impacts to coastal resources/uses <u>in</u> OCS cannot be considered because of the designated area requirement in the ACMP regulations. | Activities in the OCS may be reviewed for consistency with the ACMP. | Activities in the OCS may be reviewed for consistency with the ACMP. DNR testified to the Legislature that it would remove the designated area requirements. |
| Activities on federal lands & waters | In addition to activities onshore and in state waters, the federal Coastal Zone Management Act (CZMA) allows states to review activities occurring in federal waters or on federal land (i.e., activities initiated or permitted by a federal agency). As described below, the ACMP regulations limited this ability. | | | |
| | The bill does not limit provisions in the CZMA for reviewing activities on federal lands and water. | Due to the designated area requirements in regulation, impacts to coastal resources and lands could only be considered <u>within</u> the designated area. Since the designated areas could not include federal land, the regulation limited powers given to the state in the CZMA. | No limits in bill on provisions in the CZMA for reviewing activities on federal lands and water. | No limits in bill on review of activities on federal lands or waters. Assuming the designated area requirement would be removed from the regulations, this bill would allow consideration of impacts to coastal resources and uses on federal lands and waters. |

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