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State of Alaska

Office of Coastal Management

Uses of State Concern in the Coastal Area of Alaska (Preliminary Draft) Regional Planning Team - 1978

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This project was supported in part by federal Coastal Zone Management Program Development funds (P.L. 92-583, Sec. 305) granted to the State of Alaska by the Office of Coastal Zone Management, National Oceanographic and Atmospheric Administration, U.S. Department of Commerce.

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USES OF STATE CONCERN IN THE COASTAL AREA OF ALASKA

(PRELIMINARY DRAFT)

Prepared by: THE INTER-AGENCY REGIONAL COASTAL PLANNING TEAM

For the

ALASKA COASTAL MANAGEMENT PROGRAM

September, 1978

COASTAL ZONE
INFORMATION CENTER

This project was supported in part by federal Coastal Zone Management Program Development funds (P.L. 92-583, Sec. 305) granted to the State of Alaska by the Office of Coastal Zone Management, National Oceanographic and Atmospheric Administration, U. S. Department of Commerce.

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INTRODUCTION

Regional Programs

While the basic emphasis of the Alaska Coastal Management Program is on local district planning, there is also a need to address uses and resources of statewide and national concern. As envisioned by the Alaska Coastal Management Act, these concerns are to be addressed through a program of regional planning conducted through state agencies. In this way, agencies can coordinate their activites in the context of planning which considers the resources of the entire coastal area, and provide districts with information on areas both within and outside their boundaries.

Specifically the Alaska Coastal Management Act (AS 44.19.89 3(2)) directs the Alaska Coastal Policy Council to:

> "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 geographic region described in sec. 891-(a)(1) of this chapter;..".

An interagency coordinating team was organized which could more concisely bring together a state position regarding the Alaska Coastal Management Program. In addition the team is proposing to anticipate future planning problems and recommend management options which could be instituted to solve them.

Tasks given the team include:

- Identification of geographic areas that are of value for ecological or developmental concerns and prepare appropriate management policies for these "areas meriting special attention."

- Provide information to federal and state agencies, local governments, and the general public regarding uses of state concern and areas meriting special attention in Alaska's coastal regions.

- Define and clarify uses of state concern and prepare policies or criteria which should govern their location and management in the coastal zone.

The sections which follow are intended as a guide to generally describe uses of state concern; to list supporting state and federal implementation authorities; and to outline the management products resulting from the Regional Program. The ultimate objective is to provide a clearly defined and coordinated policy foundation for the administration of existing state authorities within the coastal zone. This will provide a framework within which the local districts will prepare their district coastal management programs.

Uses of State Concern

For the purpose of providing assistance to the Office of Coastal Management and the Alaska Coastal Policy Council, the regional program Team was directed to develop a list of uses of state concern for incorporation in the Alaska Coastal Management Program.

Upon completion of the consolidation and definition of uses of state concern, the Alaska Coastal Policy Council will further refine and apply them for the following purposes:

(1) To identify, avoid, and minimize existing or potential conflicts between coastal resource districts and state and national interests.

(2) To review district plans to insure they are consistent with the policies and criteria for uses of state concern outlined by the regional program.

(3) To review state actions in the coastal zone to insure their consistency with the policies and criteria for uses of state concern and approved district programs.

(4) To identify existing management policies and programs relating to uses of state concern and to recommend management options where gaps occur in order to assure approval and implementation of the Alaska Coastal Management Program.

As well as outlining and defining uses of state concern, the regional program has attempted to address uses of national interest. In Alaska, federal land ownership and federal statutory authority determine uses and resources of national interest. The federal act calls for "adequate consideration of the national interest involved in planning for, and in the siting of, facilities. . . which are necessary to meet requirements which are other than local in nature. (Emphasis added)." Thus, in some cases, the planning and siting of a facility of greater than local concern will be of national interest because of where it is sited (in a national park, or in an endangered species habitat), but in other cases it may be of national interest because of the nature of the facility itself (an oil drilling platform or a military installation, for instance).

Also included in this paper are areas meriting special attention. The regional program was asked to provide greater specificity regarding criteria for the establishment of areas meriting special attention. Section III outlines this more clearly and lists four generic areas, compiled by the Team after an initial survey.

The regional planning element of the Alaska Coastal Management Program is not a comprehensive regional planning in the traditional sense, and it is not intended that the team will develop a regional "plan" for each region of the state. In fact there will be some regional issues which it will not address. Rather, the focus will be to provi- a framework in which the uses of primarily state and national concern are considered and managed on a regional basis.

Methodology

At the direction of the Alaska Coastal Policy Council, the ACMP Regional Planning Team has prepared the attached draft criteria statements for uses of state concern. These uses and activities represent many of the major concerns and authorities of the state. Our objective has been to develop criteria which would (1) be specific enough to eliminate any doubt as to whether or not a use is of "state concern" and; (2) retain a degree of flexibility to allow for the differing range of impacts the same activity might have on a regional and/or statewide basis at different locations now or in the future.

In pursuit of this objective, the Regional Program Team considered three possible approaches. The first was to address all uses over which the state has statutory authority. This would have been the easiest way to define uses of state concern. However, this approach would go against the spirit and intent of the Alaska Coastal Management Act. It is our interpretation of the Act that a use of state concern infers a degree of magnitude resulting in interregional impacts on public resources rather than simply those uses over which the state has some authority. The Alaska Coastal Guidelines and Standards already indicate that nothing in the state program or in any district program may diminish the authority of any state agency with respect to resources in the coastal area. Therefore, it is not necessary to define uses of state concern to cover all statutory authorities of the state.

The second approach was to set quantitative standards which must be met by specific uses and activities to be considered a use of state concern. We pursued this approach quite extensively as we believe it to be the alternative that would offer the clearest possible guidelines. However, after consulting with experts on development of specific uses, we learned that to set standards based solely on physical size, employment generated, quantity of production, etc., does not allow for an adequate determination of a uses impact on a regional or statewide basis. It would be unworkable to set quantitative cut-off points to define all uses of state concern in all situations because so many variables are involved. Such things as the geographic location of the activity, state of the economy, availability of and accessibility to resources, height of technology and cumulative impacts at any given time are too uncertain to determine whether or not a particular activity would have regional or statewide impacts.

Although this approach does not appear to be feasible, we feel that further economic and development/impact studies would be of great benefit in the determination of uses of state concern and should be pursued by appropriate state agencies. In this way we could more easily establish those uses which are obviously of "state concern", those uses which obviously are not, and those uses which may or may not be depending on site-specific considerations.

The final approach, which we have adopted, is to expand the definitions of uses of state concern from the Act, listing specific activities which

generally have a level of impact warranting this designation. We have specified, whenever possible, which of these activities have characteristics which inherently make them a use of state concern. For example, commercial development activities resulting in exportation of products and uses affecting public resources (state parks, fish & wildlife, etc.). For many activities we have also identified development characteristics (physical size, quantity of production, employment generated, etc.) which may singly or cumulatively induce regional or statewide impacts. These development characteristics are not quantified, thus allowing for use of state concern determinations based on factors that may vary depending on the location of the activity or environmental, economic or social conditions which may change in the future. In addition to decisions made directly by the Alaska Coastal Policy Council, these determinations would generally be made, on an ongoing basis, by the state agencies already mandated to make such decisions through the regional planning process. We feel that this approach offers the flexibility required to take variable factors into consideration while maintaining the guidance necessary to determine a use of state concern.

SECTION I

Description of:

- Uses of state concern
- Areas Meriting Special Attention
- Uses of National Interest

The following is a listing of the uses of state concern giving the state agency description (definition or criteria) of each use considered by the Regional Program. For a more detailed outline of each use delineating the justification (rationale and legal) implementing authorities and regional program management products, see the section immediately following this one.

USES OF STATE CONCERN

Description

ENERGY PRODUCTION AND DISTRIBUTION

Energy facilities mean any equipment or facility which is or will be used primarily in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of any energy resource; or for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any activity described above. Facilities include, but are not limited to (1) electric generating plants; (2) petroleum refineries and associated facilities; (3) gasification plants; (4) alternative energy sources (geothermal, wind, solar, biomass); (5) facilities used for the transportation, conversion, treatment, transfer, or storage of liquefied natural gas; (6) uranium enrichment or nuclear fuel processing facilities; (7) oil and gas facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, and refining complexes; (8) facilities including deepwater ports, for the transfer of petroleum; (9) pipelines and transmission facilities; and, (10) terminals which are associated with any of the foregoing."

TRANSPORTATION

Transportation and public facilities include the following categories:

- Highways,
- Roads and trails,
- Airports (land and sea planes),
- Marine Highway System (Ferries) docks, piers, or terminals,
- Boat docks and harbors.

Uses of state concern for these categories include capital projects that have statewide, interregional and interdistrict uses which impact the state's transportation system.

NEW COMMUNITY DEVELOPMENT

New community development includes:

A. All "development cities" located in a coastal area (as defined in AS 29.18.220-460)

B. New or relocated coastal area communities (not classified as development cities) which would "confer significant environmental, social, cultural or economic benefits or burdens beyond a single coastal resource district."

SEWAGE COLLECTION AND DISPOSAL

Any sewage treatment facility which is dependent upon a coastal location, disposes its effluent to waters of the state and which, because of the magnitude of its effect on the economy of the state or surrounding area, is reasonably likely to present issues and/or effects of more than local significance or confer significant environmental, social, cultural or economic benefits or burdens beyond a single coastal resource district by virtue of its size, capital cost to develop, employment generated and/or impact to the quality of state waters is a use of state concern. Such facilities include any structure, disposal outfall, lagoon, pumping station, neutralizing, stabilizing, or disposing of wastewater and sludges resulting therefrom. This does not apply to the use of a septic tank, package plant or soil absorption system.

PUBLIC WATER SUPPLY

A. Any public water supply system which, because of its effects on the economy of the state or the surrounding area, is reasonably likely to present effects or issues of more than local significance or confer significant environmental, social, cultural, or economic benefits or burdens beyond a single coastal resource district by virtue of its size, capital cost to develop, employment generated and/or communities serviced.

B. Such facilities include any source of water, intake works, collection system, treatment works, storage facility, or distribution system from which water is available for human consumption and which services at least twenty-five residents.

SOLID WASTE COLLECTION AND DISPOSAL

A. Any solid waste disposal facility which is dependent upon a coastal location or which, because the magnitude of its effect on the economy of the state or the surrounding area, is reasonably likely to present effects or issues of more than local significance or confer significant environmental, social, cultural or economic benefits or burdens beyond a single coastal resource district by virtue of its size, capital cost to develop, employment generated and/or effects on the quality of the waters of the state.

B. Such facilities include intermediate disposal facilities, landfills, incinerators having a total rated capacity of more than 200 pounds of solid waste per hour, composting plants, or any site utilized for the reduction, consolidation, conversion, processing or disposal of solid waste. They do not include a single-family, duplex residence or farm on which solid waste is generated and disposed of on premises.

HARVEST OF FISH AND WILDLIFE

Any harvest of fish in the state and its contiguous waters and the harvests of all wildlife in the state including subsistence, commercial and sport harvests where harvest includes the taking, pursuing, hunting, fishing, trapping or in any manner disturbing, capturing or killing or attempting to take fish and game.

USES AFFECTING ANADROMOUS STREAMS, RIVERS, LAKES

The use of rivers, lakes, and streams as habitat for anadromous fish is a use of state concern.

All activities affecting rivers, lakes, streams and associated drainages that are important for the spawning, rearing or migration of anadromous fish and that are identified in accordance with Title 16 are of state concern.

HABITAT AND SPECIES ENHANCEMENT PROJECTS AND RESEARCH AND MONITORING ACTIVITIES

A. All fish hatcheries and other aquaculture facilities including state operated and financed; and privately financed aquaculture facilities are a use of state concern.

B. Under cooperative management agreements with federal agencies (USF&W, USFS, BLM, NMFS) the Department of Fish and Game reviews all enhancement programs on federal lands thereby making them a state concern.

C. All habitat enhancement projects which may take place on State land are of state concern.

D. All monitoring of fish and wildlife populations and all research of fish and wildlife populations conducted by the state is of state concern.

USES IN AREAS USED FOR STATE GAME REFUGES, SANCTUARIES AND CRITICAL HABITATS

Critical habitat areas, sanctuaries, and refuges are legislatively designated areas where a more stringent regulation of uses is necessary to protect, conserve, maintain, and develop fish, wildlife and aquatic plant resources. Generally, these habitats: 1) support life stages or functions of important harvestable or protected species, 2) are unique habitats (rare, largest, support endangered species, farthest extent of the range, etc) or; 3) are highly productive commercial fisheries areas. All activities occuring in these areas are of state concern.

USES IN AREAS ESTABLISHED AS STATE PARKS WAYSIDES, OR RECREATIONAL AREAS

All land and water uses in areas established as state parks waysides or recreational areas.

SITING OF INDUSTRIAL OR COMMERCIAL DEVELOPMENT ACTIVITIES

The siting of industrial or commercial development activities which are dependent on a coastal location and which, because of their magnitude, the magnitude of their effect or their cumulative effect on the economy of the state or the surrounding area, are reasonably likely to present issues of more than local significance. Activities to be considered in this regard are:

(1) coal exploration, extraction and coal conversion processing;

(2) exploration for, extraction and processing of, and manufacturing and marketing of products from non-fuel minerals such as aluminum, asbestos, chromium, cobalt, copper, gold, iron, lead, manganese, molybdenum, nickel, phosphate, potassium, silver, sodium, sulphur or zinc;

(3) exploration for, extraction and processing of, and manufacturing and marketing of products from materials such as clay, sand, gravel, rock, or pumice;

(4) enhancement projects for, harvest and processing of, and manufacturing and marketing of products from fish, fish by-products, seafood, marine mammals or other living marine resources;

(5) state forests, forest reserves and forest management projects, harvest and processing of and manufacturing and marketing of products from timber;

(6) agricultural development projects, farming, grazing, food or food by-products processing, and manufacturing and marketing of products from agricultural resources.

Uses of State Concern with respect to these activities include:

A. Commercial resource development activities listed above which result in exportation or interregional transportation and sale of products.

B. Major commercial resource development activities listed above which based on recent environmental studies, resource inventories and current economic indicators are determined by appropriate state agencies to confer or to be likely to confer significant environmental or economic benefits or burdens beyond a single

coastal resource district by virtue of their physical size, quantity of production, capital coast to develop, employment generated, water use and/or residuals generated.

C. The siting of large-scale industrial activities listed above which based on recent environmental studies, resource inventories and current economic indicators are determined by appropriate state agencies to confer or to be likely to confer significant environmental or economic benefits or burdens beyond a single coastal resource district by virtue of their physical size, quantity of production, capital cost to develop, employment generated, water use and/or residuals generated.

D. Major state land sales, grants, exchanges, conveyances or other disposal projects designed to provide land for and enhance development of activities listed above.

AREAS MERITING SPECIAL ATTENTION

Description

AREAS OF RECREATIONAL, SCENIC, CULTURAL, OR SCIENTIFIC SIGNIFICANCE

Areas included in this category include those which are 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, or 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. Further descriptions of these areas follow:

A. Recreational areas which:

1. are formally proposed state or national parks, waysides, or recreation areas by way of state or federal studies, pending bills or resolutions in the state legislature or Congress;

2. draw continous or seasonal usage from recreationalists.

3. because of unique combinations of terrain, climate, proximity of water and vegetation are naturally attractive for interregional recreation activities and appropriate for recreation designation by state or federal agencies;

4. provide important sport hunting, sport fishing or wildlife observation opportunities on a continuous or seasonal basis;

B. Scenic Areas

1. which are formally proposed state or national parks, waysides, or recreation areas via state or federal studies, pending bills or resolutions in the state legislature or Congress;

2. or corridors which draw continuous or seasonal usage from recreationalists, tourists or sightseers;

3. with unique visual or aesthetic qualities which are attractive for interregional sightseeing, viewing or recreational activities. Such areas can include: unique land forms, unique submarine areas accessible by SCUBA diving, wildlife areas, expansive vistas and panoramic view, scenic corridors, areas of unusual landscape diversity, waterfalls, lakes, rivers, gorges and bluffs;

C. Scientific

1. Outstanding examples of geologic formations, geologic features or fossil beds identified by a state or federal agency, that lend themselves to study or viewing by

scientists, students or the general public and contribute to the general understanding of geological or paleontological processes.

2. Areas of outstanding or unique biological or ecological significance identified by a state or federal agency, that lend themselves to study or viewing by scientists, students or the general public and contribute to the general understanding of biological or ecological processes.

3. Areas identified by a state or federal agency to be used for the purpose of scientific monitoring or studies where research activities can be conducted on a long-term basis with minimum interference from other uses.

AREAS OF PREHISTORIC, HISTORIC, OR ARCHAEOLOGICAL OR CULTURAL SIGNIFICANCE

Areas included in this category include those which are 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. Further descriptions of these areas follow:

A. Areas on or identified as eligible for listing in the National Register of Historic Places.

B. Areas containing historic, prehistoric, archaeological, or cultural resources identified or eligible for identification by the State Historic Sites Advisory Committee as important to the study, understanding or illustration of national or state history or prehistory.

C. Areas identified in the Alaska Heritage Resource Inventory maintained by the Alaska Division of Parks, Department of Natural Resources.

NATURAL HAZARD AREAS

Areas identified by districts and state agencies which are known geological hazard areas or areas of high development potential in which there is a substantial possibility that natural hazards may occur and are thus susceptible to property damage and loss of life if developed. Hazardous areas to be considered in this respect shall include:

A. Areas of significant earthquake hazard which are identified on Corps of Engineer's Seismic Risk Map.

B. Areas of active surface faulting encompassing a one mile strip on either side of known active or potentially active faults.

C. Areas of unstable ground conditions capable of mass movements such as landslides, rockfalls, mudflows, slumping, or submarine slides and areas subject to subsidence or uplift.

D. Areas surrounding active volcanoes exposed to the effects of lava flows, mudflows, glacial ice-melt flooding and potentially significant airborne materials including acid rains and ash.

E. Areas which have experienced recurring floods due to heavy rainfall, spring snow and ice melts, ice jamming or storm surge with 100-year recurrence intervals.

F. Areas susceptible to floods due to glacial lake outbursts and identified as known or interred outburst plains in the USGS publication, "Glacier Damned Lakes and Outburst Floods in Alaska."

G. Areas with detectable rates of coastal or riverbank erosion or accretion.

H. Areas of known or interred snow avalanches.

I. Areas known to have been innundated by tsunami or seiches.

J. Areas potentially exposed to the effects of permafrost, ice grounding, ice shove, calving of icebergs or rapid glacier advance.

SPECIAL HABITAT AREAS

Special habitat areas are areas meriting special attention if they are 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 be conflicting or incompatible use, warrants special management attention, or which, because of the value to the general public, should be identified for current or future planning, protection, or acquisition; these areas, more specifically, special habitats are areas which:

A. support critical life stages or functions of important harvestable or protected species including nesting, breeding, spawning, rearing, overwintering and migration;

B. are unique habitats (rare, largest, farthest extent of the range, etc.);

C. are highly productive commercial fisheries areas;

D. are sensitive areas threatened by existing or proposed development;

E. are storage areas needed to support, maintain or replenish coastal lands and resources including but not limited to eelgrass beds, wetlands and barrier islands.

USES OF STATE CONCERN

(OF NATIONAL INTEREST)

Description

NAVIGATIONAL FACILITIES AND SYSTEMS

The siting, construction, and maintenance of navigational facilities and systems, including: U. S. Coast Guard Stations, channel markers; beacons, lighthouses; LORAN and radar facilities, and other aids to navigation, both onshore and offshore are national uses of state concern.

DEFENSE AND SECURITY FACILITIES

The siting of national defense and related facilities which are dependent on coastal locations, including: military bases and installations and associated facilities; aerospace facilities; intelligence, communications and related facilities, is of national interest.

FISH & WILDLIFE AND THEIR HABITAT

A. All fish and wildlife populations under federal jurisdiction including marine mammals, migratory bird species, bald and golden eagles, endangered species and their habitats are of national interest.

B. All fish and wildlife habitats which are given special protection through acts or treaties are of national interest.

C. In addition, the habitats important to propagation and continued maintenance of commercial marine fisheries resources are managed by the federal government and are of national interest.

RESOURCE DEVELOPMENT OF FEDERAL LANDS

All resource development, including activities and the siting of facilities related to: timber harvest; mining; oil and gas development; fisheries; agriculture; road and airstrip construction; recreational facilities; or other industrial, commercial, residential or public development on federal lands or land underlying federal waters, are of national interest.

SECTION II

USES OF STATE CONCERN

ENERGY PRODUCTION AND DISTRIBUTION

I. Description

Energy facilities mean any equipment or facility which is or will be used primarily in the exploration for, or the development, production, conversion, storage, transfer, processing, or transportation of any energy resource; or for the manufacture, production, or assembly of equipment, machinery, products, or devices which are involved in any activity described above. Facilities include, but are not limited to (1) electric generating plants; (2) petroleum refineries and associated facilities; (3) gasification plants; (4) alternative energy sources (geothermal, wind, solar, biomass); (5) facilities used for the transportation, conversion, treatment, transfer, or storage of liquefied natural gas; (6) uranium enrichment or nuclear fuel processing facilities; (7) oil and gas facilities, including platforms, assembly plants, storage depots, tank farms, crew and supply bases, and refining complexes; (8) facilities including deepwater ports, for the transfer of petroleum; (9) pipelines and transmission facilities; and, (10) terminals which are associated with any of the foregoing."

II. Justification

A. Rationale

Alaska holds strategic importance for the national energy program. According to the U. S. Geological Survey, the waters off the Alaskan Coast as well as onshore areas have great potential for petroleum resources. Because of its resources, the state is facing the prospect of nine offshore lease sales in three years (including a joint state/federal sale in the Beaufort Sea) bringing with the sales, the possibility of development of major energy facilities along Alaska's coast. The state also has geothermal resources and the topography and climate for the development of hydroelectric energy for residentail industrial, or export markets.

A dominance of Alaska in the nation's energy production can mean significant economic development to Alaskans. The state has abundant energy resources which have not been sufficiently investigated to permit formulation of a development scenario. Although unable to establish the stimuli location, time table or sequence, it is, nonetheless, predictable that energy development will occur and that Alaska's coastal zone will be affected. It is important that the state take into consideration the effect of energy development on other resources and the special qualities of Alaska. Any management plan must make provisions for the future reclassification of lands to meet energy needs as development occurs or becomes imminent while also considering the maintenance of high air and water quality, arctic and subarctic

geography, sparse population, subsistence culture, fisheries, wildlife habitats and scenic and recreation areas. It is in the state's interest to satisfy industrial and community energy requirements and, at the same time, to insure that sites chosen for major energy developments minimize adverse environmental and social effects and not unnecessarily restrict other land and water uses.

B. Legal

1. Federal

a. The federal Coastal Zone Management Act states: "Prior to granting approval, the Secretary (of Commerce) shall also find that the (state) program provides 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" (306(e)(2)). Federal regulations suggest that such facilities such as ports and energy production and transmission facilities are uses of regional benefit (92313(d)). Furthermore, to assure that these uses are not arbitrarily or unreasonably restricted, the regulations cite several acceptable management approaches. These include "state-wide siting laws that supercede local regulations when necessary" or "assurance that an adequate amount of specific sites are or can be set aside to meet a projection of reasonable and foreseeable demand for different uses of regional benefit through . . . provision of sites in local maps or ordinances; or state guidelines defining uses of regional benefit and requiring their consideration as local implementation programs are developed" (923.43(c)).

b. The federal act also requires that each state coastal management program include " . . . a planning process for energy facilities likely to be located in the coastal zone and a process for the planning and management of the anticipated impacts from any energy facility;" (305(b)(8)).

2. State

The Alaska Coastal Management Act directs the Alaska Coastal Policy Council to "initiate a process for identifying and managing uses of state concern" . . . the siting of major energy facilities 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;" (AS 46.35.210(6)).

III. Implementation Authorities

A. "AS 38.05.145. LEASING PROCEDURES. (a) Deposits of coal, phosphates, oil shale, sodium, potassium, oil, gas, geothermal resources and state lands containing these deposits are subject to disposition under rules and regulations, recommended by the director (of the Division of Lands) and adopted by the commissioner (of Natural Resources) and the provision of SS 145-181 of this chapter."

B. "AS 38.35.010. LEGISLATIVE DECLARATION OF POLICY. (a) The natural resources of this state in crude oil and natural gas and in its land for transportation of these resources and their products by pipeline toward markets both in and out of the state are capable of making a significant contribution to the general welfare of the people of this state. It is the policy of this state that the development, use, and control of a pipeline transportation system be directed to make the maximum contribtuion to the development of the human resources of this state, the increase in the standard of living for all of its residents the advancement of existing and potential sectors of its economy, the strengthening of freee competition in its private enterprise system, and the careful protection of its incomparable natural environment.

(b) The State of Alaska reserves unto itself all rights, powers, privileges and immunities not preempted by federal interstate commerce laws and regulations in the right-of-way leasing of any state lands for pipeline construction, transmission, or operation within its boundaries."

C. "AS 38.05.020. AUTHORITY AND DUTIES OF THE COMMISSIONER (of Natural Resources) (c) The commissioner has all powers necessary and proper to implement the policy, purposes, and provisions of the Alaska Right-of-Way Leasing Act of 1972 (AS 38.35), so as to subserve, as he in the exercise of his reasoned discretion determines, the public interest, convenience, and necessity, including but not limited to:

(1) granting leases of state land for pipeline right-of-way purposes;

(2) leasing, purchasing, or otherwise acquiring (including condemning by declaration of taking), easements or other interests in land in this state for the purpose of utilizing or granting leases of the land, easements or interests for pipeline right-of-way purposes;

(3) purchasing interests in pipelines in accordance with options included in right-of-way leases; . . .

(5) developing from time to time and maintaining a comprehensive master plan for pipeline transportation development;

(6) developing and promoting programs to foster efficient, economical, and safe pipeline transportation services in the state;

(7) coordinating the activities of the commissioner under this Act with the transportation and other relevant activities of other public agencies and authorities;

(8) constructing, extending, enlarging, improving, repairing, acquiring, operating, or engaging in transportation, service, or sale by any pipeline or providing for these by contract, lease, or other arrangement on those terms that the commissioner may consider necessary, convenient or desirable with any agency, corporation, or person, including but not limited to any carrier or any state agency, when the commissioner determines that a lessee carrier is not willing to undertake and complete the action within a reasonable time, and to sell, lease, grant, and dispose of any property constructed or acquired in the exercise of this power."

D. General permitting, leasing and disposal authority of state owned land resources, particularly tidelands permitting and leasing (Title 38). Agencies also maintain review authority over permits issued by the Army Corps of Engineers in accordance with Section 404 of the Water Pollution Control Act. This includes review of all activities in wetlands.

E. The Department of Natural Resources has the authority to zone in the unorganized borough (AS 38.05.037).

F. State agencies have the authority to allocate and manage all water resources of the state (AS 46.15).

G. Title 16 authorizes the commissioner of Fish and Game to "manage, protect, maintain, improve and extend the fish, game and aquatic plant resources of the state . . . ". Title 16 Sec. 16.05.870 and Sec. 16.10.010 authorizes the Department of Fish and Game to protect anadromous fish habitat in fresh water and to protect salmon spawning habitat in salt water.

H. The Fish and Wildlife coordination act grants review authority of all federal permits.

I. Sec. 46.03.740. No person may discharge, cause to be discharged, or permit the discharge of petroleum, acid, coal, or oil tar, lampblack, aniline, asphalt, bitumen, or a residuary product of petroleum, into, or upon the waters or land of the state except in quantities, and at times and locations or under circumstances and conditions as the department by regulation, permit or where permitted under Article IV of the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended.

J. AS 44.47 establishes the Department of Community and Regional Affairs as a service agency responsible for rendering maximum assistance to government at the community and regional level. One type of assistance is financial assistance. Under the Coastal Energy Impact Program (CEIP) and the Alaska Coastal Management Program, for instance, DCRA is responsible for distributing grants (and providing some technical assistance) to local governments to help them plan for impacts of energy development and to develop district coastal management programs. In awarding and administering the grants, DCRA can shape and monitor the purpose, design and content of CEIP projects and district coastal management programs to be consistent with the federal and state coastal management programs. Grant administration is thus a primary way in which DCRA can insure regard for and consideration of uses of state concern in district coastal management programs.

K. The Alaska Coastal Management Act also extends DCRA's assistance mandate to include, if the Alaska Coastal Policy Council so directs, the preparation of coastal management programs for resource service areas which have failed to organize and are or will be confronted with "major economic development activity" (AS 46.40.170). By definition, "major economic development activity" includes "a call for nomination by the Secretary of the United States, Department of Interior, for leasing of tracts within petroleum basins in waters of the Outer Continental Shelf . . . " (AS 46.40.160(b)).

L. Prior to the passage of the Alaska Coastal Management Act, the commissioner-level coastal management policy committee designated the Department of Community and Regional Affairs lead agency in the development of a workable planning process for energy facility siting. As a result of the designation, DCRA published the Gulf of Alaska OCS Handbook in which policies and preliminary siting and project evaluation criteria are developed for oil and gas facilities most likely to be built in support of development of federal OCS lands. The OCS policies appearing in the OCS Handbook have been endorsed by the Governor, and the Department offers the Handbook as an information source and guide for energy facility planning processes.

M. In AS 44.56 the Alaska Power Authority was created to promote, develop and advance the general prosperity and economic welfare of the people of Alaska by providing a means of constructing, ecquiring, financing and operating hydroelectric and fossil fuel generating projects.

AS 44.33 established the section of power development in Department of Commerce and Economic Development. It's purpose is to conserve, develop, and use the water and other electric power resources of the State, to make an abundant supply of electric power and energy available to the people of the state at the lowest possible rates compatible with and business principles, and to promote and extend the use of electric power and energy in the state for industrial, agricultural, commercial, residential, and other purposes.

N. Federal Implementation Authorities
(see appendix for further explanation)

1. Clean Air Act of 1970

2. Department of Energy Organization Act of 1977

3. Federal Power Act of 1935

4. Federal Water Pollution Control Act of 1972, as amended

5. National Environmental Policy Act

6. Noise Control Act of 1972

7. Outer Continental Shelf Lands Act of 1953, as amended

8. Submerged Lands Act of 1953

IV. Management Products

A. The regional program will identify existing and proposed energy facility sites within the coastal regions on maps.

B. The regional program will recommend management policies to be applied to energy related uses.

TRANSPORTATION

I. Description

Transportation and public facilities include the following categories:

- Highways,
- Roads and trails,
- Airports (land and sea planes),
- Marine Highway System (Ferries) docks, piers, or terminals,
- Boat docks and harbors.

Uses of state concern for these categories include capital projects that have statewide, interregional and interdistrict uses which impact the state's transportation system.

II. Justification

A. Rationale

The State's transportation infrastructure is essential to the economic and social well-being of the public. The goals of transportation relate to the movement of people and goods. Additionally, specialized transportation activity is related to natural resource extraction. The dimensions of transportation relate to local, intra-regional, interregional, interstate, and international service requirements. Historically in Alaska the coastal areas have provided the primary ports of ingress for the movement of the products of commerce. Coastal areas are growing more transportation dependent to support expanding fisheries, offshore oil and gas extraction, industrial facilities and recreational uses.

B. Legal

1. State

a. The Department of Transportation and Public Facilities under the direction of the Commissioner of Transportation and Public Facilities (AS 44.42.010), has authority over design of all state modes of transportation and transportation facilities, communication facilities, docks, floats, breakwaters, buildings and similar facilities. The department is required to consider comprehensive transportation plans, and the economic, social, and environmental impacts of alternative means of transportation.

b. The Department of Transportation and Public Facilities has the authority to exercise the power of eminent domain where the property is necessary for public

use (AS 19.050) in order to support its duty to plan, design, construct and maintain transportation and other public facilities (AS 44.42.020).

c. The Standards of the Alaska Coastal Management Program, as adopted by the Alaska Coastal Policy Council and approved by the Legislature, included the following, under Article 2, "Uses and Activities", for Transportation and Utilities:

> 6 AAC 80.080. TRANSPORTATION AND UTILITIES.
> (a) Transportation utility routes and facilities in the coastal area must be sited, designated, and constructed so as to be compatible with local community goals and desires as expressed in district program and comprehensive plans.
>
> (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 facility. (AS 44.19.893; AS 46.40.040)

III. Implementation

A. The Department of Transportation and Public Facilities is responsible for the construction of transportation modes and in-shore facilities (AS 44.42.020(a)(1)). The department is required to "confer" with the planning commissioner of an affected municipality to determine that the welfare of the public is properly protected by proposed public work. However, an overriding state need may be justification for the imposition of direct state authority over local planning and zoning. When public necessity dictates, the Department of Transportation and Public Facilities may take land by eminent domain (Babinee v. State, P. 2d 563 (Alaska 1973)) and in appropriate cases may include the taking of land for access to shoreline.

B. AS 41.20.050 states that the Department of Transportation and Public Facilities and the Department of Natural Resources shall jointly select sites of ten (10) acres or less for historic or scenic value, for recreation beaches along waterways, and for roadside rests and determine the necessary facilities.

C. The Department of Transportation and Public Facilities exerts locational control over recreational usage. Through the power of eminent domain the department can condemn land for scenic enhancement and landscaping purposes up to 660 feet from the right of way of a highway. It also sets minimum performance standards in regulating outdoor advertising along the highways of the state. Signs which do not comply are a public nuisance and may be removed.

D. Junkyards may not be operated within 1,000 feet of the right of way of interstate, primary or secondary highways, except if they are not visible from the highway or are within areas zoned for industrial use, or are within unzoned industrial areas as defined by the Department of Transportation and Public Facilities regulations. If the owner does not screen the area and the department determines that screening would be infeasible, it may purchase or condemn the area. If the Department determines that screening is feasible, it may screen the area and bill the owner for the expense.

E. AS 19.25.010 and 17 AAC 15 state that persons, political subdivisions, or cooperatives wishing to construct, place, or maintain utilities under, on, in, or over the highway rights-of-way must contact the Department of Transportation and Public Facilities to obtain a Utility Permit. Utilities include railroads and all publicly, privately, or cooperatively owned lines, facilities and systems for producing, transmitting, or distributing communications, telecommunications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, and other similar commodities, including publicly owned fire and police signal, systems, and street lighting systems. A Utility Permit is also necessary to improve, add to, relocate, or change the operating conditions of existing facilities. A single Utility Permit shall authorize only such activities as are reasonably required for the construction and routine maintenance of a separate utility facility upon or within highway rights-of-way.

F. AS 35.30 was amended by the legislature and effective September 16, 1977, stated that:

> Sec. 35.30.010. REVIEW AND APPROVAL BY LOCAL PLANNING AUTHORITIES. (a) Except as provided in (b) of this section, before commencing construction of a public project,
>
> (1) if the project is located in a municipality, the department shall submit the plans for the project to the planning commission of the municipality for review and approval;
>
> (2) if the project is located within two miles of a village, the department shall submit plans to village council for review and comment.
>
> (b) Prior approval by a municipal planning commission may not be required before the commencement of construction of a highway or local service road if:

(1) the Department of Transportation and Public Facilities and the municipality have entered into agreement for the planning of the project under AS 19.20.060 or 19.20.070 and the plans for the project are completed in accordance with the terms of that agreement;

(2) the municipality has adopted a municipal master highway plan under AS 19.20.080 and the highway or local service road is consistent with the plan adopted; or

(3) the Department of Transportation and Public Facilities has entered into agreement with the municipality for the planning of transportation corridors under AS 19.10.280 and the plans for the project are completed in accordance with the provision of that agreement.

(c) If final disapproval by resolution of the governing body of the affected municipality or village is not received within 90 days from the date the project was submitted to the municipality or village, the department may proceed with the project.

Sec. 35.30.020. COMPLIANCE WITH MUNICIPAL ORDINANCES. The department shall comply with local planning and zoning ordinances and other regulations in the same manner and to the same extent as other landowners.

Sec. 35.30.030. WAIVER. If a department clearly demonstrates an overriding state interest, waiver of local planning authority approval and the compliance requirement may be granted by the governor. The governor shall issue specific findings giving reasons for granting any waiver under this section.

G. Federal Implementation Authorities

a. Airport and Airway Development Act of 1970
b. Clean Air Act of 1970
c. Coast Guard Act of 1949
d. Department of Transportation Act of 1966
e. Federal-Aid Highway Act of 1966
f. Federal Aviation Act of 1958
g. National Environmental Policy Act
h. Noise Control Act of 1972
i. Submerged Lands Act of 1953
j. Ports & Waterways Safety Act
k. Rivers and Harbors Act of 1899
l. Submerged Lands Act of 1953
m. Urban Mass Transportation Act of 1970

IV. Management Products

The Regional Program will:

A. Recommend substantive and procedural policies related to transportation facility planning, design, construction, operation, and maintenance.

B. Provide a list of proposed transportation capital improvement projects of local, regional, and statewide significance.

C. Provide maps depicting location of transportation facilities and proposed projects for coastal regions.

NEW COMMUNITY DEVELOPMENT

1. Description

New community development includes:

A. All "development cities" located in a coastal area (as defined in AS 29.18.220-460)

B. New or relocated coastal area communities (not classified as development cities) which would "confer significant environmental, social, cultural or economic benefits or burdens beyond a single coastal resource district."

11. Justification

A. Rationale

The state's interest and objective in new community development is the establishment of free standing new communities in conjunction with resource development activities. Until quite recently, Alaskan communities, a majority of which are unincorporated under Alaska Statutes and support native populations, existed in their traditional lifestyles devoid of pressures characteristic of more urbanized cultures. Among other things, the advent of energy and other resource-related activities and the Alaska Native Claims Settlement Act of 1971 have changed the pressures and concerns confronting communities. Resource development activities have, for instance, generated both physical growth and large cash investments in some communities. Since many of the communities do not have the expertise, governmental and administrative structure, or the financial resources necessary to cope and guide resource development and community expansion, coordinated state oversight during the initial stages is usually necessary to insure the orderly development of well-planned, economically sound new communities.

B. Legal

1. Federal

As stated in the Congressional findings of the federal Coastal Management Act, "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" and "special natural and scenic characteristics are being damaged by ill-planned development that threatens these values." (Sec. 302(e)(f)).

2. State

a. The Alaska Coastal Management Act states that uses of State concern include land and water uses "which confer significant environmental, social, cultural, or economic benefits or burdens beyond a single coastal resource district" (46.40.210(6)(b)).

b. In Title 29 the "Legislature finds that the development of natural resources in isolated and relatively unpopulated areas requires a policy and procedure which will provide planning, financial and other assistance necessary for encouraging orderly development of well-planned, diversified and economically sound new cities necessary to support the sound development of the state's resources by both the private and the public sector" (Section 29.18.220).

111. Implementation Authority

A. Several statutes mandate Department of Community and Regional Affairs' assistance to and authority for new community development. First of all AS 44.47 establishes DCRA as the State agency responsible for rendering maximum assistance to government at the community and regional level. Other statutes which define DCRA's authority with respect to developing communities include:

1. AS 29.18.010-200 Incorporation Requirements and Procedures;

2. AS 44.19.250-340 Local Boundary Commission;

3. AS 29.18.220-260 Development Cities.

These statutes essentially give the authority to approve municipality incorporation and provide a policy and procedure to ensure that new community development and expansion is well planned, geographically self contained, economically sound and provided with local services. The latter statute gives DCRA (i.e., the Local Boundary Commission) the authority to approve

or disapprove petitions to establish development cities. The statute also designates the commissioner of the Department of Community and Regional Affairs an initial member of a development city council.

B. Section 29.18.240(2) gives the Legislature the authority to establish a development city.

C. Sections 29.18.300- 310 give the Division of Policy Development and Planning (DPDP), in conjunction with the Departments of Community and Regional Affairs, Natural Resources, and Environmental Conservation and other departments, responsibilities for the review and approval of preliminary planning reports and basic comprehensive plans for development cities.

IV. Management Products

The Regional Program will identify existing and proposed new community developments in the nine geographic regions defined in AS 44.19.893. The identification will be in map form accompanied with a narrative explaining the issues and problems confronting the communities and the state's interest and involvement with each community.

SEWAGE COLLECTION AND DISPOSAL

1. Description

Any sewage treatment facility which is dependent upon a coastal location, disposes its effluent to waters of the state and which, because of the magnitude of its effect on the economy of the state or surrounding area, is reasonably likely to present issues and/or effects of more than local significance or confer significant environmental, social, cultural or economic benefits or burdens beyond a single coastal resource district by virtue of its size, capital cost to develop, employment generated and/or impact to the quality of state waters is a use of state concern. Such facilities include any structure, disposal outfall, lagoon, pumping station, neutralizing, stabilizing, or disposing of wastewater and sludges resulting therefrom. This does not apply to the use of a septic tank, package plant or soil absorption system.

II. Justification

A. Rationale

One of the biggest sources of water pollution in Alaska has been the discharge of raw or inadequately treated sewage from municipalities. Improperly treated and disposed of sewage can have significant adverse effects upon the public health and welfare. These problems are magnified when the receiving waters to sewage disposal also utilized for drinking water or water-contact recreational activities. Providing sewage capacity to existing

and future community development will to a large extent determine the pace and intensity of growth in these areas. The nature of the communities sewage system layout can govern the type, extent and staging of development in any given locality. Thus, when sewer treatment planning is addressed solely to the primary objective of abating public health hazards, it may also provoke unanticipated and undesired community growth and exacerbate other existing pollution problems.

The state's interest and objective in reviewing and coordinating sewage treatment facility development is the establishment of community growth and development in an environmentally sound manner. The state has strong concern over poorly planned and serviced sewage treatment systems which place additional economic and administrative burdens on the state and threaten the quality of the state's air, land and water resources.

B. Legal

1. Federal

a. Coastal Zone Management Act

As stated in the congressional findings of the federal Coastal Zone Management Act, "there is national interest in the effective management, beneficial use, protection, and development of coastal zone;" and "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;" (Section 302(a)(C)).

b. Coastal Zone Management Program Approval regulations:

Federal regulations suggest that basic criteria for identifying uses of regional benefit would be two-fold: (1) effect on more than one local unit of government, and (2) direct and significant impact on coastal waters. Uses might include those addressed by regional wastewater treatment plans (funded pursuant to Section 208 of the Federal Water Pollution Control Act (923.13(d)).

In addition, uses with the potential for direct and significant coastal impacts on coastal waters include public facilities and water treatment facilities (923.11(c)).

2. State

a. The Alaska Coastal Management states that uses of state concern include land and water uses "which confer significant environmental, social, cultural, or economic benefits or burdens beyond a single coastal resource district"(46.40.210(6) (B)).

b. As stated in the Guidelines and Standards, "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," (6 AAC 80.140).

c. As stated in the Declaration of Policy establishing the Department of Environmental Conservation, "It is the policy of the State to improve and coordinate the environmental plans, functions, powers and programs of the State, in cooperation with the federal governments, other public and private organizations and concerned individuals, and to develop and manage the basic resources of water, land and air to the end that the State may fulfill its responsibility as trustee of the environment for the present and future generations," (AS 46.03.010(B)).

III. Implementation Authorities

A. Sec. 46.03.020. Powers of the Department of Environmental Conservation. The Department may:

Adopt regulations necessary to effectuate the purpose of this chapter, including, by way of example and not limitation, regulations providing for (a) control, prevention and abatement of air, water, or land or subsurface land pollution.

B. 18 AAC 72.010. Surface Waste Disposal Restrictions. (a) No person may conduct an operation which results in the disposal of wastewater into or upon the waters of the state or surface of the land without obtaining a waste disposal permit from the department under AS 36.03.100.

C. 18 AAC 72.060. Plan Review. (a) No person may construct, alter, or modify a sewerage system or treatment works or any part of one until detailed engineering reports, plans, and specifications are submitted to the department and approved by the department in writing.

D. 18 AAC 72.065. Subdivision Plan Review. (a) Before or within five days after the time of the filing of a proposed subdivision plat is filed with a platting authority, at least 60 days before subdividing, the person proposing the subdivision, unless the subdivision is an isolated subdivision, shall submit to the department information regarding the subdivision's physical layout and its suitability for on-site sewage disposal.

E. 18 AAC 73.010. Construction Grant Project Eligibility. (a) Incorporated Alaska municipalities, and combinations of municipalities, are eligible to apply for state public water supply and sewerage system construction grant funds.

F. 18 AAC 72.040. Sludge Disposal. (a) No person may deposit, cause the deposit, permit or allow the deposit of sludge from septic tanks, holding tanks, cesspools, privies, sewage treatment works, water treatment works, industrial or commercial facilities, or sludges from other wastes to the waters or land without a waste disposal permit. (b) The department may require that sewerage systems or treatment works be designed or operated to accept and treat sludges.

G. Federal Implementation Authorities
(See appendix for further explanation)

1. Environmental Pollution from Federal Facilities (Exec. Order)

2. Federal Water Pollution Control Act of 1972, as amended.

3. Rivers and Harbors Act of 1899

4. Safe Drinking Water Act of 1974

5. Solid Waste Disposal Act of 1965

IV. Management Products

A. Recommend management policies appropriate to sewage treatment facilities of state concern within the coastal boundaries.

B. Map existing sewage treatment facilities of state concern within the coastal boundaries.

PUBLIC WATER SUPPLY

I. Description

A. Any public water supply system which, because of its effects on the economy of the state or the surrounding area, is reasonably likely to present effects or issues of more than local significance or confer significant environmental, social, cultural, or economic benefits or burdens beyond a single coastal resource district by virtue of its size, capital cost to develop, employment generated and/or communities serviced.

B. Such facilities include any source of water, intake works, collection system, treatment works, storage facility, or distribution system from which water is available for human consumption and which services at least twenty-five residents.

II. Justification

A. Rationale

Provision of safe potable water is a basic necessity for man's activities along the coast and will continue to advance or limit the location of these activities in the context of available supplies. The consequences of utilizing water supplies which are not safe can be catastrophic. Outbreaks of waterborne diseases such as hepatitis and dysentery have occurred in Alaska. The state's interest and objective in reviewing and coordinating public water supply systems is to assure that community development does not proceed at the expense of public health or in such a manner that would preclude the community's capability to accommodate economic development along the coast. Poorly planned and developed public water supply systems usually place additional economic and administrative burdens upon the state and may unreasonably restrict many coastal dependent activities requiring public water supplies for their operation.

B. Legal

1. Federal

a. Coastal Zone Management Act:

As stated in the Congressional findings of the federal Coastal Zone Management Act, "there is a national interest in the effective management, beneficial use, protection, and development of the coastal zone;" and "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;" (Section 302 (a)(C)).

b. Coastal Zone Management Program Approval regulations:

Federal regulations suggest the basic criteria for identifying uses of regional benefit should be two-fold: (1) effect on more than one local unit of government, and (2) direct and significant impact on coastal waters. Uses might include those addressed by regional wastewater treatment plans (funded pursuant to Section 208 of the Federal Water Pollution Control Act (923.13(d)). In addition, uses with the potential for direct and significant coastal impacts on coastal waters include public facilities and water treatment facilities (923.11(c)).

2. State

a. Alaska Coastal Management Act

The Act states that uses of state concern include land and water uses "which confer significant environmental, social, cultural, or economic benefits or burdens beyond a single coastal resource district (46.20.210 (6)(B)).

b. As stated in the Guidelines and Standards: "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," (6 AAC 80.140).

c. As stated in the Declaration of Policy establishing the Department of Environmental Conservation: "It is the policy of the state to improve and coordinate the environmental plans, functions, powers and programs of the State, in cooperation with the federal government, regions, local governments, other public and private organizations and concerned individuals, and to develop and manage the basic

resources of water, land and air to the end that the state may fulfill its responsibility as trustee of the environment for the present and future generations," (AS 46.03.010.(B)).

III. Implementation Authorities

A. Sec. 46.03.020. Powers of the Department of Environmental Conservation. The department may: 1. Adopt regulations necessary to effectuate the purpose of this chapter, including by way of example and not limitation, regulations providing for (4) Control, prevention and abatement of air, water, or land or subsurface land pollution.

B. 18 AAC 80.010. Alaska Drinking Water Standards

Subject to sec. 110 of this chapter, no person may cause or allow the use of any water from a public water supply system owned or operated by that person which contains, or has a significant potential for containing: (1) a contaminant or contaminants in compliance with a maximum contaminant concentration established in sec. 50 of this chapter, or (2) any other contaminant in sufficient quantities to make water unfit for human consumption.

C. 18 AAC 80.020. Source Protection. (a) No person may cause pollution or contamination to enter a public water system, or create or maintain a condition which has a significant potential to cause pollution or contamination of a public water system.

D. 18 AAC 80.100. Plan Review. (a) No person may construct, install, alter, renovate, or improve a public water system, or a part of one, before obtaining written approval of engineering plans submitted to the department under this section.

E. 18 AAC 73.010. Construction Grant Project Eligibility. (a) Incorporated Alaska municipalities, and combinations of municipalities, are eligible to apply for state public water supply and sewerage system construction grant funds.

F. 11 AAC 52.160. Watershed Lands

"Watershed lands" means a drainage area which may best be utilized as a public water source (11 AAC 52.220(27)). Watershed lands shall be retained in public ownership and may be leased only for purposes consistent with the public interest.

G. Federal Implementation Authorities
(See appendix for further explanation)

1. Federal Insecticide, Fungicide and Rodenticide Act of 1971

2. Federal Water Pollution Control Act of 1972, as amended

3. Safe Drinking Water Act of 1974

4. Saline Water Conservation Act of 1971

5. Soil Conservation Act of 1935

6. Solid Waste Disposal Act of 1965

7. Watershed Protection and Flood Control Act of 1947

8. Water Resources Planning Act of 1965.

IV. Management Products

The Regional Program will:

A. Recommend management policies appropriate to public water supply systems of state concern within the coastal boundaries.

B. Map existing public water supply systems of state concern within the coastal boundaries.

SOLID WASTE COLLECTION AND DISPOSAL

I. Description

A. Any solid waste disposal facility which is dependent upon a coastal location or which, because the magnitude of its effect on the economy of the state or the surrounding area, is reasonably likely to present effects or issues of more than local significance or confer significant environmental, social, cultural or economic benefits or burdens beyond a single coastal resource district by virtue of its size, capital cost to develop, employment generated and/or effects on the quality of the waters of the state.

B. Such facilities include intermediate disposal facilities, landfills, incinerators having a total rated capacity of more than 200 pounds of solid waste per hour, composting plants, or any site utilized for the reduction, consolidation, conversion, processing or disposal of solid waste. They do not include a single-family, duplex residence or farm on which solid waste is generated and disposed of on premises.

II. Justification

A. Rationale

Improperly disposed of solid wastes can have adverse health effects on both human and other populations of the natural system. Ground and surface waters may become polluted, with serious implications to public health if these waters are also utilized as a drinking water supply. Although the problems inherent in improper solid waste disposal are frequently recognized, most Alaskan communities do not have sufficient resources to establish approved systems. As stated in the congressional findings of the Solid Waste Disposal Act, "that while the

collection and disposal of solid wastes should continue to be primarily the function of state, regional, and local agencies, the problems of waste disposal as set forth above have become a matter national in scope and in concern and necessitate federal action through financial and technical assistance and leadership in the development, demonstration, and application of new and improved methods and processes to reduce the amount of waste and unsalvageable materials and to provide for proper and economical solid waste disposal practices," (section 1002(a)(4)). The state's interest and objective in assessing and coordinating the development of solid waste disposal facilities is the establishment of community development and expansion in an environmentally sound manner. Poorly planned and operated solid waste disposal facilities usually increase the economic and administrative burden placed upon state government and threaten the quality of the state's air, land and water resources.

B. Legal

1. Federal

a. Coastal Zone Management Act:

As stated in the Congressional findings of the federal Coastal Zone Management Act, "there is a national interest in the effective management, beneficial use, protection, and development of the coastal zone;" and "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;" (Section 302(a)(C)).

b. Coastal Zone Management Program Approval Regulations:

Federal regulations suggest that such activities as regional waste treatment plants, multi-district garbage disposal sites or landfills are uses of greater than local concern (923.13(d)).

2. State

a. Alaska Coastal Management Act: The Act states that the uses of state concern include land and water uses "which confer significant environmental, social,

cultural, or economic benefits or burdens beyond a single coastal resource district" (46.40.210(6)(B)).

b. As stated in the Guidelines and Standards, "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," (6 AAC 80.140).

c. As stated in the Declaration of Policy establishing the Department of Environmental Conservation, "It is the policy of the State to improve and coordinate the environmental plans, functions, powers and programs of the State, in cooperation with the federal government, regions, local governments, other public and private organizations and concerned individuals, and to develop and manage the basic resources of water, land and air to the end that the State may fulfill its responsibility as trustee of the environment for the present and future generations," (AS 46.03.010.(B)).

III. Implementation Authorities

A. Sec. 46.03.020. Powers of the Department of Environmental Conservation. The department may:

> Adopt regulations necessary to effectuate the purpose of this chapter, including, by way of example and not limitation, regulations providing for (4) control, prevention and abatement of air, water, or land or subsurface land pollution.

B. 18 AAC 60.020. Solid Waste Management Permit. (a) No person may establish, modify or operate a solid waste disposal facility without a permit.

C. 18 AAC 60.070. Solid Waste Management Responsibility. (a) The aesthetic, nonhazardous and sanitary storage of solid waste is the responsibility of the person owning, operating or managing the property, premise, business establishment or industry where the solid waste is accumulated.

D. 18 AAC 72.010(c) No person may cause or allow the deposit of garbage, refuse, spoils, excrement, animal carcasses or other wastes to waters of the state or to land nearby those waters so that the matter or leachate from it may enter the surface waters of the state, unless permitted by the Department of Environmental Conservation under AS 46.03.100, and the department finds that the deposit will not result in a violation of

this chapter or of the Water Quality Standards found in chapter 70 of this title.

E. Federal Implementation Authority
(See appendix for further explanation)

1. Coastal Zone Management Act of 1972, as amended.

2. Mining and Minerals Policy Act of 1970

3. National Environmental Policy Act

4. Resource Recovery Act of 1970

5. Rivers and Harbors Act of 1899

6. Solid Waste Disposal Act of 1965

IV. Management Products

The Regional Program will:

A. Recommend management policies appropriate to solid waste disposal facilities of state concern within the coastal boundaries.

B. Map existing solid waste disposal facilities of state concern within the coastal boundaries.

HARVEST OF FISH AND WILDLIFE

I. Description

Any harvest of fish in the state and its contiguous waters and the harvests of all wildlife in the state including subsistence, commercial and sport harvests where harvest includes the taking, pursuing, hunting, fishing, trapping or in any manner disturbing, capturing or killing or attempting to take fish and game.

II. Justification

A. Rationale

The fish, wildlife and aquatic plant resources of the State of Alaska are public resources which must be managed in the long term interests of the public. If healthy populations are to be maintained, reasonable harvest quotas should be established.

The benefits of developing sound management plans for the harvest of fish and wildlife will be reflected in the health of fish and wildlife populations and in retention

of the high quality of life and outdoor experience Alaskans now enjoy. Local economies will benefit a great deal from the use of healthy fish and wildlife populations for both commercial and subsistence purposes. Tourism and recreational use of fish and wildlife populations can provide additional economic benefits to local communities. It is therefore in both state and local interests to promote wise use of all fish and wildlife resources.

B. Legal

1. Federal

The Coastal Zone Management Act of 1972 finds that . . . "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;... 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 lands and waters in the coastal zone. . ." (Sec. 302(d)&(h).

2. State

a. The Alaska Coastal Management Act of 1977 finds that it is the policy of the state to "preserve, protect, develop, use and where necessary, restore or enhance the coastal resources of the state for this and succeeding generations;" and to "utilize existing governmental structures and authorities, to the maximum extent feasible, to achieve the policies set out in this section;"

b. The ACMA Section 46.35.210 states that "use of state concern" means those land and water uses which wuld significantly affect the long-term public interest (and) include: uses of more than local concern, including those lands and water uses which confer significant environmental . . . benefits or burdens beyond a single coastal resource district."

c. It is the intent of the state statutes as expressed in Title 16 that the Commissioner of the Department of Fish and Game shall "manage, protect, maintain, improve and extend the fish, game, and aquatic plant resources of the state . . . "

III. Implementation Authorities

A. Title 16

Authorizes the Commissioner of the Department of Fish and Game to "manage, protect, maintain, improve and extend

the fish, game, and aquatic plant resources of the state . . . "

Some species are the sole management responsibility of the Federal Government and as such are not regulated by the state.

B. Title 16 Sec. 16.05.251

Authorizes the Board of Fisheries to make regulations for:

1. establishment of open and closed seasons and areas for the taking of fish;

2. setting quotas and bag limits on the taking of fish;

3. prohibiting the live capture, possession, transport, or release of native or exotic fish or their eggs;

4. establishment of the times and dates during which the issuance of fishing licenses, permits and registrations between registration areas as is allowed.

C. Title 16 Sec. 16.05.255

Authorizes the Board of Game to make the regulations for

1. establishment of open and closed seasons and areas for the taking of game;

2. establishment of the means and methods employed in the pursuit, capture and transport of game;

3. setting quotas and bag limits on the taking of game;

4. prohibiting the live capture, possession, transport, or release of native or exotic game or their eggs.

D. Title 16 Sec. 16.05.257

Further empowers the Board of Game to regulate the harvest of game taken for subsistence purposes.

E. Title 38 Sec. 38.05.127

ACCESS TO NAVIGABLE OR PUBLIC WATERS. (a) Before the sale, lease, grant, or other disposal of any interest in state land adjacent to a body of water or waterway, the Department of Natural Resources shall, . . . (b) upon finding that the body of water or waterway is navigable or public water, provide for the specific easements or right-of-way, or both, reasonably necessary to insure free access to and along the body of water, unless the department finds that regulating or limiting access is necessary for other beneficial uses or public purposes.

IV. Management Products

A. The Department of Fish and Game will provide the state's management policies for the harvest of fish and wildlife based on maintenance of these populations on a sustained yield basis.

B. The Regional Program will develop a map of existing sport, commercial, and subsistence harvest areas.

USES AFFECTING ANADROMOUS STREAMS, RIVERS, LAKES

I. Description

The use of rivers, lakes, and streams as habitat for anadromous fish is a use of state concern.

All activities affecting rivers, lakes, streams and associated drainages that are important for the spawning, rearing or migration of anadromous fish and that are identified in accordance with Title 16 are of state concern.

II. Justification

A. Rationale

All rivers, lakes and streams which support anadromous fish are important public resources because they provide the habitat upon which these commercially and recreationally important fish depend for survival. The benefits of implementing an effective management plan for anadromous rivers, lakes and streams will be reflected in the health of the fish populations and retention of the high quality of life and outdoor experience Alaskans now enjoy. Commercial and sport fishing, subsistence use of fish, benefit from healthy fish populations. It is therefore necessary that these areas receive the type of wise management which will allow those uses which are compatible with the existing value of the area.

As anadromous watersheds a) may extend inland beyond district management boundaries or be included within adjacent districts, b) function as continuous natural systems which include coastal waters, and c) are subject to use which can have a direct and significant impact on coastal waters, anadromous watersheds are defined for the purpose of implementing the Alaska Coastal Management Program as a "Use of State Concern."

B. Legal

1. Federal

The Federal Coastal Zone Management Act of 1972 Sec. 302 finds that "the coastal zone, and the fish, shellfish and other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alteration." . . . and that "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 . . . "

2. State

a. The Constitution of the State of Alaska, Article VIII states:

Section 3. COMMON USE. Wherever occuring in their natural state, fish, wildlife, and waters are reserved to the people for common use."

b. The Alaska Coastal Management Act of 1977 Sec. 2 finds that it is the policy of the state to "preserve, protect, develop, use and where necessary, restore or enhance the coastal resources of the state for this and succeeding generations" and to "utilize existing governmental structures and authorities to the maximum extent feasible, to achieve the policies set out in this section..."

c. The ACMA Section 46.35.210 also states that "use of state concern means those land and water uses which would significantly affect the long-term public interest (and) include: uses of more than local concern, including those land and water uses which confer significant environmental . . . benefits or burdens beyond a single coastal resource district."

d. The standards of the Alaska Coastal Management Program state that, "(rivers, lakes and streams) shall be managed so as to maintain or enhance the biological, physical and chemical characteristics of the habitat and its living resources" and that in addition to that standard rivers, streams and lakes are to be managed to protect habitat and natural water flow.

e. Title 16 of the State Statutes authorizes the commissioner of the Department of Fish and Game to "manage, protect, maintain, improve and extend the fish, game and acquatic plant resources of the state" and to "prohibit interference with salmon spawning waters."

III. Implementation Authorities

A. Department of Fish and Game Authorities include:

Title 16 Sec. 16.10.010 which prohibits interference with salmon spawning and waters, declaring it unlawful for a person to obstruct, divert or pollute waters of the state, either fresh or salt, utilized by salmon in the propagation of the species, by felling trees or timber in those waters, casting, throwing or dumping any tree limbs or foliage underbrush, stumps, rubbish, earth, stones, rock or other debris or refuse of any kind in those waters. Sec 16.05.870 requires a person or governmental agency to apply for and receive a permit before using or obstructing an anadromous river, stream or lake.

The Department lacks the authority to manage riparian buffer strips along anadromous streams and estuarine habitat essential to the health of anadromous fish populations.

B. Title 46 of the Alaska Statutes authorizes the Department of Natural Resources to determine and adjudicate rights in the appropriation and distribution of "all water of the state, surface and subsurfaces, occuring in a natural state, execept mineral and medicinal water." Several sections are quoted here because of their particular relevance.

Sec. 46.15.010 DETERMINATION OF WATER RIGHTS. The Department of Natural Resources shall determine and adjudicate rights in the waters of the state, and in its appropriation and distribution.

Sec. 46.15.030. WATER RESERVED TO THE PEOPLE. Wherever occuring in a normal state, the waters are reserved to the people for common use and are subject to appropriation and beneficial use as provided in this chapter.

Sec. 46.15.260. DEFINITIONS. In this chapter, unless the context otherwise requires, . . . (3) "beneficial use" means a use of water for the benefit of the appropriator, other persons or the public, that is reasonable and consistent with the public interest, including, but not limited to, . . . fish and wildlife, and recreational uses; . . . "

C. The Department of Environmental Conservation has the authority to permit or deny an operation which results in the disposal of wastewater into or upon the waters of the state or surface of the land. Discharge of wastewater or other wastes must not violate state water quality standards (18 AAC 72.010).

D. Federal Implementation Authority
(See appendix for further explanation)

1. Anadromous Fish Conservation Act of 1965

2. Coastal Zone Management Act of 1972, as amended.

3. Federal Insecticide, Fungicide and Rodenticide Act of 1947

4. Federal Water Pollution Control Act of 1972

5. Fish and Wildlife Act of 1956, as amended

6. Fish and Wildlife Coordination Act of 1958

7. Fisheries Continuous Zone Act of 1966

8. Fish Restoration and Management Act of 1950 (Dingell-Johnson)

9. North Pacific Fisheries Act of 1954

10. Rivers and Harbors Act of 1899

11. Soil Conservation Act of 1935

IV. Management Products

A. The Regional Program will map existing anadromous rivers, lakes and streams.

B. The Department of Fish and Game will outline the process for identification of anadromous rivers, lakes and streams and the means by which the anadromous stream catalog can be updated.

C. The Department of Fish and Game will outline the state's management policies for anadromous rivers, lakes and streams.

HABITAT AND SPECIES ENHANCEMENT PROJECTS AND RESEARCH AND MONITORING ACTIVITIES

1. Description

A. All fish hatcheries and other aquaculture facilities including state operated and financed; and privately financed aquaculture facilities are a use of state concern.

B. Under cooperative management agreements with federal agencies (USF&W, USFS, BLM, NMFS) the Department of Fish and Game reviews all enhancement programs on federal lands thereby making them a state concern.

C. All habitat enhancement projects which may take place on State land are of state concern.

D. All monitoring of fish and wildlife populations and all research of fish and wildlife populations conducted by the state is of state concern.

II. Justification

A. Rationale

The benefits of developing enhancement programs and implementing effective management plans will be reflected in the health of the fish and wildlife populations (which are a public resource) as well as the retention of the high quality of life and outdoor experiences Alaskans now enjoy. Commercial and sport fishing, subsistence use of fish and game, tourism and recreation interests will all economically benefit from healthy fish and wildlife populations. It benefits the long-term public interest to maintain enhancement programs which will result in healthy fish and wildlife populations and to promote the research and monitoring of fish and wildlife populations.

B. Legal

1. Federal

The Federal Coastal Zone Management Act of 1972

Sec. 303 declares that "it is the national policy to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations and to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through development and implementation of management programs to achieve wise use of the land and water resources . . . "

2. State

a. The Alaska Coastal Management Act Sec. 2 declares that "it is the policy of the state to preserve, protect, develop, use and where necessary, restore or enhance the coastal resources . . . and to utilize existing governmental structures and authorities, to the maximum extent feasible, to achieve this policy . . . "

b. The ACMA also states in Sec. 46.35.210 that "uses of state concern" means "those lands and water uses which would significantly affect the long-term public interest (and) include: uses of more than local concern, including those land and water uses which confer significant environmental . . . benefits and burdens beyond a single coastal resource district."

c. The Standards and Guidelines Sec. 130 also identifies eight coastal habitat types in which the habitats are to 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."

d. Other State Legal Justification

1. Title 16 of the State Statutes authorizes the Commissioner of the Department of Fish and Game to "manage, protect, maintain, improve, and extend the fish and game and aquatic plant resources of the state . . . ". Sec 16.05.092 outlines the Division of Fisheries rehabilitation, enhancement and development powers to "develop and continually maintain a comprehensive, coordinated state plan for the orderly present and long-range rehabilitation, enhancement and development of all aspects of the state's fisheries for the perpetual use, benefit and enjoyment of all citizens . . . "

   Sec. 16.05.050 authorizes the Commissioner to design, and construct hatcheries, pipelines, rearing ponds, fishways and other projects beneficial for the fish and game resources of the state.

   Sec. 16.05.050 also authorizes the Commissioner to collect, classify, and disseminate statistics, data and information at his discretion.

III. Implementation Authorities

A. The Department of Fish and Game exercises the following statutory authorities:

1. Article 8 of Title 16 provides for the establishment of privately owned salmon hatcheries for the purpose of contributing to the rehabilitation of the state's salmon fishery.

2. Sec. 16.05.092 outlines the duties of the division of fisheries rehabilitation, enhancement and development in developing and managing rehabilitation and enhancement programs.

3. Article 4 of Title 16 empowers the Commissioner of the Department of Fish and Game and the Commissioner of the Department of Natural Resources to preserve the natural habitat of species or subspecies of fish and wildlife that are recognized as threatened with extinction.

4. The Fish and Wildlife Coordination Act provides for cooperative management of habitat enhancement projects of federal lands including wildlife refuges.

B. The Department of Environmental Conservation has the authority to permit or deny all activities resulting in the disposal of wastewater into or upon the waters of the state or surface of the land. Discharge of wastewater or other wastes must not violate state water quality standards (18 AAC 72.010).

C. Title 46 of the Alaska Statutes authorizes the Department of Natural Resources to determine and adjudicate rights in the appropriation and distribution of "all water of the state, surface and subsurfaces, occurring in a natural state, except mineral land medicinal water." Several sections are quoted here because of their particular relevance.

> Sec. 46.15.010. DETERMINATION OF WATER RIGHTS. The Department of Natural Resources shall determine and adjudicate rights in the waters of the state, and in its appropriation and distribution.
>
> Sec. 46.15.030. WATERS RESERVED TO THE PEOPLE. Wherever occurring in a natural state, the waters are reserved to the people for common use and are subject to appropriation and beneficial use as provided in this chapter.
>
> Sec. 46.15.080. CRITERIA FOR ISSUANCE OF PERMIT. (a) The commissioner shall issue a permit if he finds that .
>
> 1. the proposed use of water is beneficial; and
> 2. the proposed appropriation is in the public interest.
>
> In determining the public interest, the commissioner shall consider . . .
>
> 3. the effect on fish and game resources and on public recreation opportunities; . . .
>
> Sec. 46.15.260. DEFINITIONS. In this chapter, unless the context otherwise requires, . . . "beneficial use" means a use of water for the benefit of the appropriator, other persons or the public, that is reasonable and consistent with the public interest, including, but not limited to, . . . fish and wildlife, and recreational uses; . . .

D. Federal Implementation Authorities
(See appendix for further explanation)

1. Conservation and Rehabilitation on Military and Public Lands Act of 1960

2. Department of Transportation Act

3. Endangered Species Act of 1966

4. Federal-Aid Highway Act of 1966

5. Federal Aid in Wildlife Restoration Act of 1937 (Pitman-Robertson)

6. Federal Insecticide, Fungicide and Rodenticide Act of 1947

7. Fish and Wildlife Act of 1956 (created the USFWS)

8. Fish and Wildlife Coordination Act of 1958, as amended.

9. Fish Restoration and Management Act of 1950 (Dingell-Thompson)

10. Land and Water Conservation Fund Act of 1965

11. Marine Research Protection and Sanctuaries Act (Title III)

12. National Environmental Policy Act

13. National Estuary Protection Act of 1968

14. Migratory Bird Conservation Act of 1929

15. Migratory Bird Treaty Act of 1918

16. Rivers and Harbors Act of 1899

IV. Management Products

A. The Department of Fish and Game will map existing and proposed hatcheries, aquaculture sites and enhancement projects. Identification will include a description of the purpose of each existing or proposed hatchery site.

B. The Department of Fish and Game through Regional Programs will map areas used by the Department for the purpose of monitoring fish and wildlife populations and areas where research on fish and wildlife are conducted on a long-term basis.

USES IN AREAS USED FOR STATE GAME REFUGES, SANCTUARIES AND CRITICAL HABITATS

I. Description

Critical habitat areas, sanctuaries, and refuges are legislatively designated areas where a more stringent regulation of uses is necessary to protect, conserve, maintain, and develop fish, wildlife and aquatic plant resources. Generally, these habitats: 1) support life stages or functions of important harvestable or protected species, 2) are unique habitats (rare, largest, support endangered species, farthest extent of the range, etc) or; 3) are highly productive commercial fisheries areas. All activities occuring in these areas are of state concern.

II. Justification

A. Rationale

The purpose of establishing critical habitat areas, refuges, and sanctuaries is to protect and preserve habitat areas crucial to the perpetuation of fish and wildlife, and to restrict all other uses not compatible with the primary purpose. The benefits of implementing an effective management plan for specially designated areas will be reflected in the health of the fish and wildlife populations and retention of the high quality of life and outdoor experience Alaskans now enjoy. Commercial and sport fishing, subsistence use of fish and game, tourism and recreation interests will all benefit economically from healthy fish and wildlife populations. It is therefore necessary that these areas receive the type of wise management which will allow those uses whose impacts are compatible with the existing value of the area.

B. Legal

1. Federal

The Federal Coastal Zone Management Act of 1972 Sec. 303 declares that "it is the national policy to preserve, protect, develop, and where possible, to restore or enhance, the resources of the nation's coastal zone for this and succeeding generations and to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through development and implementation of management programs to achieve wise use of the land and water resources . . . "

2. State

a. The Alaska Coastal Management Act Sec. 2 declares that "it is the policy of the state to preserve, protect, develop, and use and where necessary, restore or enhance the coastal resources . . . and to utilize existing governmental structures and authorities, to the maximum extent feasible, to achieve this policy . . . and to authorize and require state agencies to carry out their planning duties, powers and responsibilities."

b. The ACMA Section 46.35.210 also states that uses of state concern include uses in areas established as state game refuges, game sanctuaries or critical habitat areas under AS 16.20.

c. The intent of Title 16, Chapter 20, is to establish state game refuges, game sanctuaries and critical habitats for the purpose of protecting and preserving the natural habitat especially crucial to the perpetuation of fish and wildlife to protect game populations and to restrict all other uses not compatible with that primary purpose.

III. Implementation Authorities

A. Alaska Department of Fish and Game's authority as mandated by Title 16 is to manage, protect, maintain, improve and extend fish, wildlife and aquatic plant resources.

B. Chapter 20 of Title 16 outlines the rules and regulations for conservation and protection of Alaskan wildlife through the state game refuge program, the game sanctuary program and the critical habitat program. The Department of Fish and Game manages these established refuges, sanctuaries and critical habitat areas in accordance with management plans developed by the Department and approved by the Board of Game.

C. The Department of Natural Resources maintains authority for the permitting and leasing of subsurface minerals.

D. Federal Implementation Authority
(See appendix for further explanation)

1. Coastal Zone Management Act of 1972

2. Conservation and Rehabilitation on Military and Public Lands Act of 1960

3. Department of Transportation Act

4. Endangered Species Act of 1966

5. Federal-Aid Highway Act of 1966

6. Federal Aid in Wildlife Restoration Act of 1950 (Dingell-Thompson)

7. Federal Insecticide, Fungicide and Rodenticide Act of 1947

8. Fish and Wildlife Act of 1956 (created the USFWS)

9. Fish and Wildlife Coordination Act of 1958, as amended

10. Fish Restoration and Management Act of 1950 (Dingell-Thompson)

11. Land and Water Conservation Fund Act of 1965

12. Marine Research Protection and Sanctuaries Act (Title III)

13. National Environmental Policy Act

14. National Estuary Protection Act of 1968

15. Migratory Bird Treaty Act of 1918

16. Migratory Bird Conservation Act of 1929

17. Rivers and Harbors Act of 1899

18. Wilderness Act of 1964

IV. Management Products

A. The Department of Fish and Game will provide a map of legislated State game refuges, game sanctuaries and critical habitat areas. Identification will include a description of the sensitivity of each area.

B. The Department of Fish and Game will provide management plans for established game refuges, game sanctuaries and critical habitats.

USES IN AREAS ESTABLISHED AS STATE PARKS WAYSIDES, OR RECREATIONAL AREAS

I. Description

All land and water uses in areas established as state parks waysides or recreational areas.

II. Justification

A. Rationale

Identification of uses in areas established as state parks, waysides, or recreational areas will help preserve these areas for the use, enjoyment and welfare of the citizens of Alaska, visitors to the state and future generations.

B. Legal

1. Federal

a. The federal Coastal Zone Management Act states, "Prior to granting approval, the Secretary shall also find that the program provides . . . for a method of assuring that local land and water use regulations within the coastal zone do not reasonably restrict or exclude land and water uses of regional benefit." (Sec. 306(e)(2)).

b. The federal Coastal Zone Management Program Approval Regulations support the Act, stating: "(a) Requirement. In order to meet the requirements of subsection 306 (e) (2) of the Act, State's must: (1) Identify what constitute uses of regional benefit; and (2) Identify methods that will assure that local land and water use regulations do not unreasonably restrict or exclude land and water uses of regional benefit . . (d) . . . the basic criteria for identifying uses of regional benefit should be two-fold: (1) Effect on more than one local unit of government (effect may be considered to be of a multi-county or intrastate nature), and (2) direct and significant impact on coastal waters. Using these criteria States could identify those uses they perceive will affect or produce some regional benefit in terms of providing services or other benefits to citizens of more than one unit of local general-purpose government . . . Such activities as . . . multi-county parks and beaches might be identified under this approach." (ss923.13).

2. State

a. The Alaska Coastal Management Act defines "uses of state concern" as "those land and water uses which would significantly affect the long-term public interest; these uses, subject to council definition of their extent, include: . . . uses in areas established as state parks or recreational areas under AS 41.20 . . . " (Sec 46.35.210.(f)(E)).

b. Title 41 of the Alaska Statutes indicates the legislative purpose for developing and managing a system of parks and recreation areas stating, "It is the purpose of ss10--40 of this chapter to foster the growth and development of a system of parks and recreation facilities and opportunities in the state, for the general health, welfare, education, and enjoyment of its citizens and for the attraction of visitors to the state ." (AS 41.20.010.).

III. Implementation Authorities

The general state authorities regarding parks and recreation areas are contained in Title 41, Chapters 20 and 21 of the Alaska Statutes. Several sections are quoted here because of their particular relevance.

A. AS 41.20.020. DUTIES OF DEPARTMENT OF NATURAL RESOURCES. The Department of Natural Resources shall: (1) develop a continuing plan for the conservation and maximum use in the public interest of the scenic, historic, archaeologic, scientific, biological, and recreational resources of the state; (2) plan for and develop a system of state parks and recreational facilities, to be established as the legislature authorizes and directs; (3) acquire by gift, purchase, or transfer from state or fedral agencies, or from individuals, corporations, partnerships or associations, land necessary, suitable and proper for roadside, picnic, recreational or park purposes; (4) control, develop and maintain state parks and recreational areas; (6) establish, in accordance with the Administrative Procedure Act (AS 44.62) rules and regulations governing the use and designating incompatible uses within the boundaries of state park and recreational areas to protect the property and to preserve the peace; . . .

B. Sec. 41.20.025. ZONING IN STATE PARKS. (a) The Department of Natural Resources may adopt, in accordance with the Administrative Procedure Act (AS 44.62) zoning regulations governing private property within the boundaries of state parks established under this chapter. (b) Land patented to or under interim conveyance to a regional or village native corporation under the Alaska Native Claims Settlement Act (P.L. 92-203) which falls within a state park boundary is subject to the zoning regulations provided for under (a) of this section only if the affected regional or village native corporation consents to or fails to reject the zoning regulations within 60 days from the date they are submitted to the effected corporation.

C. Sec. 41.20.050. SELECTION OF SITES. The Department of Transportation and Public Facilities and the Department of Natural Resources, jointly, shall select sites of ten acres or less for their historic or scenic value, or for recreation beaches along waterways, roadside rests for travelers resting, camping, or parking, and determine what facilities are necessary or desirable at these sites. Selection of the sites for roadside

rests and recreation beaches shall be based upon the flow of traffic and distances to and between facilities otherwise provided. Insofar as possible, sites shall be located on, or adjacent to, highways rights-of-ways and small boat waterways. The Department of Natural Resources may acquire the sites jointly selected by grant, gift, purchase, lease, dedication or prescription and hold them in the name of the state.

D. Sec. 41.20.080. SELECTION. The Department of Natural Resources, in consultation with the Departments of Fish and Game and Transportation and Public Facilities, shall designate a system of wilderness trails and campsites throughout the state. Significant in the selection shall be the scenic, historic, natural, or cultural qualities of the areas through which the trails may pass. The Department of Natural Resources may acquire the trail sites jointly selected by grant, gift, purchase, lease, dedication or prescription and hold them in the name of the state.

E. Sec. 41.20.355. GRANTS FOR THE ESTABLISHMENT OF TRAILS AND FOOTPATHS. (a) Within the limits of available appropriations, a city or borough of any class is entitled to state grants for the purpose of acquiring land or rights-of-way over land and establishing and maintaining trails and footpaths on that land or those rights-of-way. (b) Within the limits of available appropriations the Department of Transportation and Public Facilities is entitled to state grants for the establishment and maintenance of footpaths and trails along certain designated existing highways or when a highway, road or street is being constructed, reconstructed or relocated . . .

F. Sec. 41.22.010. OUTDOOR RECREATIONAL, OPEN SPACE, AND HISTORIC PROPERTIES DEVELOPMENT FUND. There is in the Department of Natural Resources an outdoor recreational, open space, and historic properties development fund to be administered by the Division of Parks. Appropriations or other money deposited in the fund shall be utilized by the department to pay the non-federal share of costs of projects which are initiated by the state to acquire, develop, or extend outdoor recreation sites and facilities and to acquire, preserve, or protect historic sites, buildings and monuments.

G. With the exception of state owned lands, the state lacks authority to protect areas proposed as state parks or recreation areas prior to formal designation by the state legislature.

IV. Management Products

The regional program will recommend zoning schemes and management policies to be applied to uses in existing state parks, waysides, and recreation areas.

SITING OF INDUSTRIAL OR COMMERCIAL DEVELOPMENT ACTIVITIES

I. Description

The siting of industrial or commercial development activities which are dependent on a coastal location and which, because of their magnitude, the magnitude of their effect or their cumulative effect on the economy of the state or the surrounding area, are reasonably likely to present issues of more than local significance. Activities to be considered in this regard are:

(1) coal exploration, extraction and coal conversion processing;

(2) exploration for, extraction and processing of, and manufacturing and marketing of products from non-fuel minerals such as aluminum, asbestos, chromium, cobalt, copper, gold, iron, lead, manganese, molybdenum, nickel, phosphate, potassium, silver, sodium, sulphur or zinc;

(3) exploration for, extraction and processing of, and manufacturing and marketing of products from materials such as clay, sand, gravel, rock, or pumice;

(4) enhancement projects for, harvest and processing of, and manufacturing and marketing of products from fish, fish by-products, seafood, marine mammals or other living marine resources;

(5) state forests, forest reserves and forest management projects, harvest and processing of and manufacturing and marketing of products from timber;

(6) agricultural development projects, farming, grazing, food or food by-products processing, and manufacturing and marketing of products from agricultural resources.

Uses of State Concern with respect to these activities include:

A. Commercial resource development activities listed above which result in exportation or interregional transportation and sale of products.

B. Major commercial resource development activities listed above which based on recent environmental studies, resource inventories and current economic indicators are determined by appropriate state agencies to confer or to be likely to confer significant environmental or economic benefits or burdens beyond a single coastal resource district by virtue of their physical size, quantity of production, capital coast to develop, employment generated, water use and/or residuals generated.

C. The siting of large-scale industrial activities listed above which based on recent environmental studies, resource inventories and current economic indicators are determined by appropriate state agencies to confer or to be likely to confer significant environmental or economic benefits or burdens beyond a single coastal resource district by virtue of their physical size, quantity of production, capital cost to develop, employment generated, water use and/or residuals generated.

D. Major state land sales, grants, exchanges, conveyances or other disposal projects designed to provide land for and enhance development of activities listed above.

II. Justification

A. Rationale

Commercial and industrial activities may make significant contributions to the state's economy in terms of manufacturing and processing, an improved business climate, and diversification and increase of employment opportunities. The human use of coastal resources through commerce and industry to some degree provides for the economic well-being essential to continued viable human habitation. At the same time these activities may place heavy demands on coastal resources, especially on the use of water and limited land areas. Wastes generated can tax the assimilative capacity of natural systems and natural productivity can be impaired. Sometimes such impacts extend beyond local areas. The need for economic development in coastal areas and the necessity for protection of natural systems make it incumbent upon the state to ensure that the needs of coastal-dependent uses are met and that any negative environmental impacts are mitigated to the greatest extent possible.

B. Legal

1. Federal

a. As stated in the Congressional findings of the federal Coastal Zone Management Act, "there is a national interest in the effective management, beneficial use, protection, and development of the coastal zone;" and "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, wildlif , nutrient-rich areas, permanent and adverse changes to ecological

systems, decreasing open space for public use, and shoreline erosion; . . . " (Sec. 302(a)(c)).

b. The federal Coastal Zone Management Act further states, "Prior to granting approval, the Secretary shall also find that the program provides . . . 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" (Sec. 306(e)(2)).

c. The federal Coastal Zone Management Program Approval Regulations expand on this stating, "Another alternative (with respect to identifying uses of regional benefit) would be for the State to identify those uses which it perceives will affect or produce some regional benefit in terms of providing services or benefits to citizens of more than one unit of local, general-purpose government . . . " (ss923.13(c)).

2. State

The Alaska Coastal Management Act defines uses of state concern as, " . . . those land and water uses which would significantly affect the long-term public interest; these uses, subject to council definition of their extent, include: . . . 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; . . . the siting of major energy facilities 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; . . . " (Sec. 46.35.210.(6)(B),(C)).

3. Other Legal Justification

The Constitution of the State of Alaska grants general authority to the legislature to provide for the utilization, development and conservation of all natural resources belonging to the state, including land and water, for the maximum benefit of the people (Art. VIII, ss2). In addition, Article VIII, sections 8 through 13 deal specifically with authority to provide for leases, permits, sales, grants and other authorities affecting land, water and resources

III. Implemention Authorities

Various state agencies are mandated to manage state lands, waters, and resources and thus have authorities affecting large-scale industrial and commercial development activities. Listed below are specific references to statutory and regulatory authorities followed by quotes from particularly relevant sections.

Activity	Statutory Authority	Regulatory Authority
Coal Development	AS 38.05.125 - .150	11 AAC 84.100 - .170
	AS 38.05.182 - .183	
	AS 38.05.185 - .285	
	AS 41.05.040 - .100	
Non-fuel Mineral Development	AS 38.05.125 - .145	11 AAC 82.100 - .805
	AS 38.05.155	11 AAC 84.100 - .170
	AS 38.05.165 - .175	11 AAC 86.100 - .600
	AS 38.05.182 - .183	11 AAC 96.010 - .150
	AS 38.05.185 - .285	
	AS 41.05.010 - .100	
Materials Development	AS 38.05.110 - .120	11 AAC 76.400 - .550
Fisheries Development	AS 16.10.300 - .370	11 AAC 64.010 - .570
	AS 16.10.500 - .620	
	AS 16.43.010 - .380	
	AS 16.45.010 - .040	
	AS 38.05.082	
Timber Development	AS 38.05.110 - .120	11 AAC 76.005 - .385
	AS 41.15.010 - .700	11 AAC 92.010 - .120
Agriculture Development	AS 03.05.010 - .090	11 AAC 57.010 - .150
	AS 03.10.010 - .060	11 AAC 60.010 - .180
	AS 03.15.010 - .020	
	AS 03.17.010 - .100	
	AS 03.19.010 - .070	
	AS 03.20.010 - .070	
	AS 03.22.010 - .080	
	AS 03.25.010 - .020	
	AS 03.30.010 - .060	
	AS 03.35.010 - .070	
	AS 03.40.010 - .270	
	AS 03.45.010 - .080	
	AS 03.57.010 - .040	
	AS 03.60.010	
	AS 38.05.362	
	AS 38.07.010 - .060	
General Upland, Tideland and Submerged Land Development	AS 29.18.220 - .260	11 AAC 58.010 - .910
	AS 38.05.005 - .040	11 AAC 62.010 - .820
	AS 38.05.070 - .105	
	AS 38.05.300 - .370	
	AS 46.15.010 - .270	

Land Sales, Grants, Exchanges, Conveyances and Other Disposals	AS 38.05.045 - .069 AS 38.05.290 AS 38.08.010 - .120 AS 38.10.010 - .050 AS 38.50.010 - .170 AS 38.05.300 - .370	11 AAC 54.010 - .510 11 AAC 56.010 - .610 11 AAC 57.010 - .150

A. AS 03.05.010. POWERS AND DUTIES OF COMMISSIONER. (a) The commissioner (of the Department of Natural Resources) shall direct, administer, and supervise experiemental work not in conflict with existing federal or state activities for the purpose of promoting and developing the agricultural industry within the state including such fields as horticulture, dairying, cattle raising, fur farming, etc.

(b) The commissioner shall procure and preserve all information pertaining to the development of the agricultural industry and disseminate that information to the public.

(c) The commissioner may regulate and control the entry into the state and the transportation, sale or use inside the state of plants, seeds, vegetables, fruits and berries, nursery stock, animal feeds, remedies and mineral supplements, fertilizers, and agricultural chemicals in order to prevent the spread of pests, diseases, or toxic substances injurious to the public interest, and to protect the agricultural industry against fraud, deception and misrepresentation. In this connection he may require registration, inspection, and testing, and establish procedures and fees.

(d) The commissioner shall provide prospective settlers and other desiring to engage in the agricultural industry in the state with information concerning areas suitable for agriculture and other
information concerning areas suitable for agriculture and other
information essential to the development of the agricultural industry in the state.

(e) The commissioner shall make a study of the marketing of agricultural products inside the state including transportation with special emphasis upon local production and shall negotiate for the marketing of agricultural products of the state with federal and state agencies operating in the state.

(f) The commissioner may issue rules, orders, regulations and quarantines necessary to carry out the purpose of this title in regard to:

1. the examination and inspection of premises containing products, articles or commodities carrying pests;

2. establishment of quarantines for eradication of pests;

3. standards and labels pertaining to the sale of agricultural and vegetable seeds;

4. analyzing and testing and the giving of notice for hearings to determine whether stop orders or quarantine shall issue;

5. the cooperation with federal and state agencies to carry out the purposes of this title.

B. AS 03.10.010. DECLARATION OF POLICY. It is the policy of this chapter to promote the more rapid development of agriculture as an industry throughout the state by means of long-term low-interest loans.

AS 03.10.020. POWERS OF THE DEPARTMENT. The department (of Natural Resources) may

1. make loans to individual resident farmers, homesteaders. and partnerships or corporations composed of farmers and homesteaders, for development of farms, storage and processing of farm produce, livestock and machinery and to individuals, partnerships or corporations, for storage and processing plants for agricultural products;

2. designate agents and delegate its powers to them as necessary;

3. adopt rules and regulations necessary to carry out its functions;

4. establish amortization plans for repayment of loans, which may include delayed payments of principal and interest for not to exceed five years;

5. enter into agreements with private lending institutions, other state agencies or agencies of the federal government, to carry out the purposes of this chapter.

C. AS 03.17.040. MILK MARKETING ORDERS. (a) The director (of the Division of Agriculture) may, with the advice of the milk advisory board, issue, change, or repeal marketing orders to regulate the marketing of milk in specified regions of the state. His actions are subject to the provisions of the Administrative Procedure Act (AS 44.62) and ss60 of this chapter. A milk marketing order may be issued to:

1) establish orderly marketing of milk;

2) provide for uniform grading and classification of milk;

3) provide for the proper preparation of milk for market;

4) insure an adequate supply of milk;

5) eliminate unfair competitive practices;

6) assist producers to adjust to changing conditions;

7) maintain incentive for the production of high quality milk under the most sanitary conditions;

8) conduct research and provide information for the benefit of the producer and the consumer.

(b) A milk marketing order shall be limited to a specific area or areas in the state.

D. AS 03.19.010. ESTABLISHMENT OF PROGRAM. The division of agriculture shall establish and administer a small grain incentive program according to the provisions of this chapter.

E. AS 16.10.300. DECLARATION OF POLICY. It is the policy of the state under ss300 - 370 of this chapter, to promote the rehabilitation of the state's fisheries, the development of a predominantly resident fishery, and the continued maintenance of commercial fishing gear and vessels throughout the state by means of long-term low-interest loans.

AS 16.10.310. POWERS OF THE DEPARTMENT. (a) The department (of Commerce) may:

1) make loans to:

(a) individual commercial fishermen who have been state residents for a continuous period of five years and have had a commercial fishing license for three years for the repair, restoration or upgrading of existing vessles and gear and for the purchase of entry permits and gear and the construction and purchase of vessels; and

(b) repealed by ss2 ch 190 SLA 1976.

2) designate agents and delegate its powers to them as necessary;

3) adopt rules and regulations necessary to carry out its functions;

4) establish amortization plans for repayment of loans, which may include extensions for poor fishing seasons;

5) enter into agreements with private lending institutions, other state agencies or agencies of the federal government, to carry out the purposes of ss300 - 370 of this chapter.

6) The department shall consult with the Department of Fish and Game on regulations and procedures established under this chapter.

F. AS 16.10.500. DECLARATION OF POLICY. It is the policy of the state, under ss500 - 550 of this chapter, to promote the enhancement of the state's fisheries by means of grants for organizational and planning purposes to regional associations which have qualified under ss380 of this chapter, and by means of long-term low-interest loans for hatchery planning, construction, and operation.

AS 16.10.505 FISHERIES ENHANCEMENT REVOLVING LOAN FUND. There is created within the Department of Commerce and Economic Development a revolving fund to be known as the fisheries enhancement revolving loan fund. The fund shall be used to carry out the purposes of ss500 - 550 of this chapter and for no other purpose.

G. AS 16.43.010. PURPOSE AND FINDINGS OF FACT. (a) It is the purpose of this chapter to promote the conservation and the sustained yield management of Alaska's fishery resource and the economic health and stability of commercial fishing in Alaska by regulating and controlling entry into the commercial fisheries in the public interest and without unjust discrimination.

The legislature finds that commercial fishing for fishery resources has reached levels of participation, on both a statewide and area basis, that have impaired or threaten to impair the economic welfare of the fisheries of the state, the overall efficiency of the harvest, and the sustained yield management of the fishery resource.

AS 16.43.100 GENERAL POWERS. (a) To accomplish the purposes set out in ss10 of this chapter, the (Alaska Commercial Fisheries Entry) commission shall:

1) regulate entry into the commercial fisheries for all fishery resources in the state;

2) establish priorities for the application of the provisions of this chapter to the various commercial fisheries of the state;

3) establish administrative areas suitable for regulating and controlling entry into the commercial fisheries;

4) establish, for all types of gear, the maximum number of entry permits for each administrative area;

5) designate, when necessary to accomplish the purposes of this chapter, particular species for which separate interim-use permits or entry permits will be issued;

6) establish qualifications for the issuance of entry permits;

7) issue entry permits to qualified applicants;

8) issue interim-use permits as provided in ss210 - 220 of this chapter.

9) establish, for all types of gear, the optimum number of entry permits for each administrative area;

10) administer the buy-back program provided for in ss310 - 320 of this chapter to reduce the number of outstanding entry permits to the optimum number of entry permits;

11) provide for the transfer and reissuance of entry permits to qualified transferees;

12) provide for the transfer and reissuance of entry permits for alternative types of legal gear, in a manner consistent with the purposes of this chapter;

13) administer the collection of the annual fees provided for in ss160 of this chapter;

14) The commission may do all things necessary to the exercise of its powers under this chapter, whether or not specifically designated in this chapter.

H. AS 29.18.220. LEGISLATIVE FINDINGS. The legislature finds that the development of natural resources in isolated and relatively unpopulated areas requires a policy and procedure which will provide planning, financial and other assistance necessary for encouraging orderly development of well-planned, diversified and economically sound new cities necessary to support the sound development of the state's resources by both the private and public sector. It is the purpose of ss220 - 460 of this chapter to set out the mutual responsibilities of the private and public sectors to achieve these objectives with a view to securing information valuable to future legislatures so that general legislation applicable to the establishment of development cities may be perfected.

I. AS 38.05.035. POWERS AND DUTIES OF THE DIRECTOR. (a) The director (of the Division of Lands) shall:

1) have general charge and supervision of the division and may exercise the powers specifically delegated to him;

2) manage, inspect, and control state lands and improvements on them belonging to the state and under the jurisdiction of the division;

3) execute laws, rules, regulations and orders adopted by the commissioner (of the Department of Natural Resources).

4) prescribe application procedures and practices for the sale, lease or other disposition of available lands, resources, property, or interest in them;

5) prescribe fees or service charges, with the consent of the commissioner, for any public service rendered;

6) under the conditions and limitations imposed by law and the commissioner, issue deeds, leases, or other conveyances disposing of available lands, resources, property or any interests in them;

7) have jurisdiction over state lands, except those lands acquired by the Alaska World War II Veterans Board and the Agricultural Loan Board or the departments or agencies succeeding to their respective

functions through foreclosure or default; to this end the director possesses the powers and, with the approval of the commissioner, shall perform the duties necessary to protect the state's rights and interest in state lands, including the taking of all necessary action to protect and enforce the state's contractual or other property rights; . . .

14) when he makes a written finding that the interests of the state will be best served, he may, with the consent of the commissioner, approve contracts for the sale, lease, or other disposal of available lands, resources, property or interests in them, and in addition to the conditions and limitations imposed by law, he may impose additional conditions or limitations in the contracts as he, with the consent of the commissioner, determines will best serve the interests of the state; . . .

J. AS 38.05.037. ZONING REGULATIONS IN THE UNORGANIZED BOROUGH TO FACILITATE FEDERAL LAND SALES. (a) In areas of the state outside first, second or third class boroughs where there is no municipality with a zoning power, the division of lands shall exercise the zoning power by adopting zoning regulations.

(b) The division of lands may exercise its zoning power:

(1) within federal lands in the unorganized borough only at the times and in the areas it is requested to do so by the Secretary of the Interior to facilitate sales of federal lands within the unorganized borough under P. L. 88-608, 78 Stat. 988;

(2) within any portion of a third class borough covered by the Alaska coastal management program adopted in accordance with the provisions of AS 46.35 if the municipality has not done so.

(c) Any zoning done by the division of lands under (b) of this section is final unless disapproved by concurrent resolution at the next regular session of the legislature.

K. AS 38.05.045. GENERALLY. All lands owned in fee by the state or to which the state may become entitled, excepting tide, submerger (sic) or shorelands, and timber or grazing lands, may be sold as provided in ss45 - 69 of this chapter. However, this section does not prevent the disposition of lands as provided in ss300 - 348 of this chapter.

AS 38.05.050. FIXING SALE. The director (of the Division of Lands), with the approval of the commissioner (of the Department of Natural Resources), shall determine the lands to be sold, the limitations and conditions which attach to the lands sold, and the terms of the sale. The director shall fix the time of sale and the manner of giving notice of the sale. The sale

shall take place at the time and location specified in the notice of sale and within the recording district where the property is located.

L. AS 38.05.070. GENERALLY. (a) Land, including tide, submerged or shoreland, to which the state holds title or to which it may become entitled, may be leased, except for the extraction of natural resources, in the manner provided in ss70 - 105 of this chapter.

(b) The director (of the Division of Lands), with the approval of the commissioner (of the Department of Natural Resources), shall determine the land to be leased and the limitations, conditions and terms of the lease.

M. AS 38.05.082. LEASES FOR SHORE FISHERIES DEVELOPMENT. (a) The director (of the Division of Lands), with the approval of the commissioner (of the Department of Natural Resources), may lease tide and submerged lands for fisheries development. Fisheries development includes the utilization of shore gill nets or set nets for the taking of fish. Every lease issued under this section shall reserve to the public a right-of-way for access to navigable waters and other tide and submerged lands . . .

N. AS 38.05.110. SALE OF TIMBER AND MATERIALS. The director (of the Division of Lands) shall provide (sic) for cruises of timber and appraisals of other materials in or upon lands and transmit this data to the commissioner, (of the Department of Natural Resources), together with his recommendations with respect to (1) the timber and other materials which should be offered for sale, and (2) the terms of sale of the timber or other materials.

AS 38.05.115. LIMITATIONS AND CONDITIONS OF SALE. (a) The commissioner, upon recommendations of the director, shall determine the timber and other materials to be sold, and the limitations, conditions and terms of the sale. The limitations, conditions and terms shall include the utilization, development and maintenance of the sustained yield principle, subject to preference among other beneficial uses. The director may negotiate sales of timber or materials without advertisement and on the limitations, conditions, and terms which he considers are in the best interests of the state, subject to the approval of the commissioner . . .

O. AS 38.05.125. RESERVATION. Each contract for the sale, lease or grant of state land, and each deed to state land, properties or interest in state land, made under ss15 - 325 of this chapter, ss45 - 120 of this chapter, or chapter 50 of this title except provided in AS 38.50.050 is subject to the following reservations: "The party of the first part, Alaska, hereby expressly saves, excepts and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, all oils, gases, coal, ores, minerals, fishsionable materials, and fossils, and it

also hereby expressly saves and reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right to enter by itself, its or their agents, attorneys, and servants upon said lands, or any part of parts thereof, at any and all times for the purpose of opening, developing, drilling, and working mines or wells on these or other lands and taking out and removing therefrom all such oils, gases, coal, ores, minerals, fissionable materials and fossils, and to that end it further expressly reserves out of the grant hereby made, unto itself, its lessees, successors, and assigns forever, the right by its or their agents, servants and attorney at any and all times to erect, construct, maintain, and use all such buildings, machinery, roads, pipelines, power-lines, railroads, sink such shafts, drill such wells, remove such soil, and to remain on said lands or any part thereof for the foregoing purposes and to occupy as much of said lands as may be necessary or convenient for such purposes hereby expressly reserving to itself, its lesses, successors, and assigns, as aforesaid, generally all rights and power in, to, and over said land, whether herein expressed or not, reasonably necessary or convenient to render beneficial and efficient the complete enjoyment of the property and rights hereby expressly reserved."

P. AS 38.05.135. GENERALLY. (a) Except as otherwise provided, valuable minerals deposits in lands belonging to the state shall be open to exploration, development, and the extraction of minerals. All lands, together with tide, submerged, or shore-lands, to which the state holds title to or to which the state may become entitled, may be obtained by permit or lease for the purpose of exploration, development, and the extraction of minerals. Except as specifically limited by ss135 - 181 of this chapter, lands may be withheld from lease application on a first-come, first-served basis and offered only on a competitive bid basis when determined by the commissioner (of the Department of Natural Resources) to be in the best interests of the state. In unproven areas the commissioner may offer additional incentives, including a reduction of royalty to a minimum of five percent in the case of oil and gas, and other terms in and granting permit or lease for exploration and development whenever it appears to be in the best interests of the state to do so.

Q. AS 38.05.185. GENERALLY. (a) The acquisition and continuance of rights in and to deposits on state lands of minerals which on January 3, 1959, were subject to location under the mining laws of the United States shall be governed by ss185 - 280 of this chapter. Nothing in ss185 - 280 of this chapter affects the law pertaining to the acquisition of rights to mineral deposits owned by any other person or government. The director (of the Division of Lands), with the approval of the commissioner (of the Department of Natural Resources), shall determine those lands from which mineral deposits may be mined only under lease, and, subject to the limitations of ss300 of t' s chapter, those lands which shall be closed to mining.

R. AS 38.05.330. PERMITS. The director (of the Division of Lands), without the prior approval of the commissioner (of the Department of Natural Resources), may issue permits, rights-of-way or easements on state land for roads, trails, ditches, field gathering lines or transmisssion and distribution pipelines not subject to AS 38.35, telephone and transmission lines, log storage, oil well drilling sites and production facilities for the purpose of recovering minerals from adjacent lands under valid lease, and other similar uses or improvements, or for the limited personal use of timber or materials. The commissioner, upon recommendations of the director, shall establish a reasonable rate or fee schedule to be charged for these uses. In the granting, suspension or revocation of a permit or easement of lands, the director shall give preference to that use of the land which will be of greatest economic benefit to the state and the development of its resources. However, first preference shall be granted to the upland owner for the use of a tract of tideland, or tideland and contiguous submerged land, which is seaward of the upland property of the upland owner and which is needed by the upland owner for any of the purposes of which the use may be granted.

S. AS 38.07.010. SELECTION AND LEASE. (a) The commissioner (of the Department of Natural Resources) may select areas of state land classified as agricultural and contract for the land to be cleared or drained or both at state expense. In this selection and contracting, the commissioner shall be guided by the recommendations of the U. S. Soil Conservation Service. (b) The land thus cleared or drained shall be put up for competitive lease in lots of not less than 320 acres each.

T. AS 38.50.010. AUTHORIZATION. Subject to the requirements of this chapter, the director (of the Division of Lands), with the concurrence of the commissioner (of the Department of Natural Resources), is authorized to dispose of state land or interest in land by exchanging it for land, interest in land, or other consideration. Exchanges shall be for the purpose of consolidating state land holdings, creating land ownership and use patterns which will permit more effective administration of the state public domain, facilitating the objectives of state programs, or other public purposes.

U. AS 41.05.060. OPERATION OF THE BOARD. (a) The (Mineral Resources Fund) board (created within the Department of Natural Resources) shall administer the (mineral resource revolving) fund and, in so doing, may in its discretion, buy and sell minerals, and locate markets for their sale. The board shall conduct its business according to its judgement as guided by ss40 - 100 of this chapter and other applicable laws.

V. AS 46.15.010. DETERMINATION OF WATER RIGHTS. The Department of Natural Resources shall determine and adjudicate rights in the waters of the state, and in its appropriation and distribution.

AS 46.15.030. WATERS RESERVED TO THE PEOPLE. Wherever occuring in a natural state, the waters are reserved to the people for common use and are subject to appropriation and beneficial use as provided in this chapter.

AS 46.15.040. RIGHT TO APPROPRIATE. (a) A right to appropriate water can be acquired only as provided in this chapter. No right to the use of water either appropriated or unappropriated shall be acquired by adverse use or possession . . .

W. Sec. 44.33.020. Duties of the Department. The Department of Commerce and Economic Development shall:

(12) conduct studies, enter into contracts and agreements, and make surveys relating to the economic development of the state and, when appropriate, assemble, analyze, and disseminate the findings obtained;

(13) provide factual information and technical assistance for potential industrial and commercial investors;

(14) receive gifts, grants, and other aid that facilitate the power and duties of the department from agencies and instrumentalities of the United States or other public or private sources;

(15) establish and activate programs to achieve balanced economic development in the state and advise the governor on economic development policy matters;

(16) formulate a continuing program for the basic economic development and for the necessary promotion, planning and research which will advance the economic development of the state;

(17) cooperate with private, governmental and other public institutions and agencies in the execution of economic development programs;

(18) review the programs and annual reports of other departments and agencies as they are related to economic development and prepare an annual report on the economic growth of the state;

(19) administer the economic development programs of the state;

(20) perform all other duties and powers necessary or proper in relation to economic development and planning for the state;

X. Sec. 44.33.030. Section of power development in Department of Commerce and Economic Development. There is a section of power development in the Department of Commerce and Economic Development to conserve, develop, and use the water and other electric power resources of the state, to make an abundant supply of electric power and energy available to the people of the state at the lowest possible rates compatible with sound business principles, and to promote and extend the use of electric power and energy in the state for industrial, agricultural, commercial, residential and other purposes.

Y. Sec. 44.33.040. Duties. The section of power development shall

(1) study the state's waters, fossil fuel, and other power resources and collect and disseminate information relating to them;

(2) compile and maintain an inventory of electric generation transmission, and distribution facilities in the state insofar as they are used to furnish central station electric service; other electric generation, transmission and distribution facilities shall be included if, in the opinion of the section, they influence or affect the development of electric power resources of the use or need for existing or additional electric power facilities;

(3) study existing and potential uses and markets for electric power and energy and promote and encourage these uses and the development of major markets;

(4) prepare, after public hearings and reasonable consultation with government and other agencies, private companies and associations having a primary interest in it, a plan for the orderly development of the state's power resources; the plan shall be amended, revised and expanded as is necessary to reflect changing conditions and requirements;

(5) promote and foster the assimilation of accurate information concerning the state's power resources through expanded federal programs for stream gauging and other detailed studies;

(6) coordinate and represent the state's interest in securing federal participation in the development and financing of large-scale, low-cost power projects through the construction of multiple-purpose dams, fossil fuel and nuclear power plants, or otherwise, and the construction and installation of inter-tie and other transmission facilities essential to these projects;

(7) promote and encourage rural electrification and the extension of central station electric service in the state;

(8) assist communities, associations, and others to furnish or improve central station electric service by collecting and providing information concerning assistance available from federal, state, or other sources for this purpose and by establishing and maintaining a clearinghouse of information concerning essential materials and equipment available in the state and elsewhere;

(9) encourage and assist in the creation of power grids and power pools to facilitate the efficient use of generation facilities;

(10) cooperate with federal, state, and local agencies and associations or private companies interested in the generation, transmission and distribution of electric power, or in its use, or in the economic and social development of the state, including the Bureau of Reclamation, United States Army Corps of Engineers, Rural Electrification Administration, Alaska Rural Electric Cooperative Association, Alaska Chamber of Commerce, the League of Alaska Cities, and the Alaska State Federation of Labor;

(11) hold hearings throughout the state to determine public need in the field of power. (ss3 ch 135 SLA 1970)

Sec. 44.33.120. Alaska Division of Tourism. (a) There is created in the Department of Commerce and Economic Development the Alaska Division of Tourism.

The Alaska Division of Tourism shall:

(1) cooperate with organizations in the private sector for the promotion and development of tourism and conventions into and within Alaska;

(2) coordinate with municipal, state and federal agencies for the development and promotion of tourism resources and conventions in Alaska;

(3) assist potential investors in creating new tourist facilities;

(4) administer any program of the state in which the state provides matching funds for potential subdivisions or nonprofit organizations that undertake the promotion and development of tourism;

(5) administer visitor information centers which participate in state funds.

AA. Sec. 44.33.130. Division contract. The division (of Tourism) may, with the approval of the governor, contract with private nonprofit organizations formed under AS 10.20, structured for the marketing of tourism into, and inside, the state for the performance of any of the duties specified in ss120 of this chapter if the organization participates in the cost by providing at least 15 percent of the total funds required to complete the project.

BB. Sec. 44.33.140. Grants for tourist development. A political subdivision of the state, a nonprofit organization formed under AS 10.20.010-10.20.060, or a bona fide nonprofit civic, fraternal, or service organization which is certified by the director of tourism as qualified as developing tourist attractions as one of its purposes is elegible to receive tourist attraction development matching money from the state.

CC. Sec. 44.33.285. Action by governor. The governor may, upon recommendation of the commissioner of the Department of Commerce and Economic Development, designate by proclamation an area as an area impacted by an economic disaster. When an area is so designated assistance grants shall be made by the Department of Commerce and Economic Development as provided in AS 37.11-100 and the governor may recommend in his budget submission that capital projects planned for the area be accelerated and that new projects be funded for the area. The proclamation may provide that waivers of capital projects requirements, as authorized in ss300 of this chapter, become effective only to the extent set out in the proclamation.

IV. Management Products

The Regional Program shall:

A. Map identification of existing sites for industrial or commercial development activities within a region.

B. Provide recommendations for management policies for these activities.

C. Formulate recommendations for an ongoing process for identifying potential sites for industrial or commercial development activities within a region.

D. Map identification of industrial outfalls in the state.

SECTION III

AREAS MERITING SPECIAL ATTENTION

INTRODUCTION - AREAS MERITING SPECIAL ATTENTION

The following definitions have been developed in accordance with the Policy Council's May 1978 request that the Regional Planning Team provide greater specificity regarding the criteria for Areas Meriting Special Attention. The State and Federal Acts define Areas Meriting Special Attention as those coastal areas (generic or site specific) which because of their sensitivity to change or alteration or because of their value to the general public warrant special management attention.

The Alaska Coastal Management Act Sec. 46.35.210 states:

(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 or 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.

As the need for special management and planning in Alaska is subject to change because of numerous factors including variations in natural systems, increased knowledge, natural disasters, new development and evolving cultural and socio-economic conditions, the Regional Planning Team recognizes that the development of special management programs must be an ongoing process if it is to provide an effective response to future management requirements.

The seven areas meriting special attention which have been enumerated in the Alaska Coastal Management Act have been addressed in the following four definitions.

AREAS OF RECREATIONAL, SCENIC, CULTURAL, OR SCIENTIFIC SIGNIFICANCE

I. Description

Areas included in this category include those which are 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, or 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. Further descriptions of these areas follow:

A. Recreational areas which:

1. are formally proposed state or national parks, waysides, or recreation areas by way of state or federal studies, pending bills or resolutions in the state legislature or Congress;

2. draw continous or seasonal usage from recreationalists.

3. because of unique combinations of terrain, climate, proximity of water and vegetation are naturally attractive for interregional recreation activities and appropriate for recreation designation by state or federal agencies;

4. provide important sport hunting, sport fishing or wildlife observation opportunities on a continuous or seasonal basis;

B. Scenic Areas

1. which are formally proposed state or national parks, waysides, or recreation areas via state or federal studies, pending bills or resolutions in the state legislature or Congress;

2. or corridors which draw continuous or seasonal usage from recreationalists, tourists or sightseers;

3. with unique visual or aesthetic qualities which are attractive for interregional sightseeing, viewing or recreational activities. Such areas can include: unique land forms, unique submarine areas accessible by SCUBA diving, wildlife areas, expansive vistas and panoramic view, scenic corridors, areas of unusual landscape diversity, waterfalls, lakes, rivers, gorges and bluffs;

C. Scientific

1. Outstanding examples of geologic formations, geologic features or fossil beds identified by a state or federal agency, that lend themselves to study or viewing by scientists, students or the general public and contribute to the general understanding of geological or paleontological processes.

2. Areas of outstanding or unique biological or ecological significance identified by a state or federal agency, that lend themselves to study or viewing by scientists, students or the general public and contribute to the general understanding of biological or ecological processes

3. Areas identified by a state or federal agency to be used for the purpose of scientific monitoring or studies where research activities can be conducted on a long-term basis with minimum interference from other uses.

II. Justification

A. Rationale

Identification and management of areas of recreational, scenic, and scientific significance will help preserve these valuable resources for the general health, education and enjoyment of visitors to the state, the citizens of Alaska, and future generations.

B. Legal

1. Federal

a. The federal Coastal Zone Management Act makes numerous references to the designation of areas of recreation, scenic, or scientific significance. The federal Act states, "The management progams for each coastal state shall include . . . An inventory and designation of areas of particular concern within the coastal zone." (Sec. 305 (b) (3)).

In addition the federal act states, "Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that the management program makes provisions for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, or esthetic values" (Sec. 306 (c)(9)).

The federal Act also requires that, "The management program for each coastal state shall include . . . 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" (Sec. 305(b)(7)).

b. The federal Coastal Zone Management Program Approval Regulations explain and support the federal Act, "In developing the criteria for designating areas of particular concern and in making the designations, States shall inventory their natural and manmade coastal zone resources and shall consider whether the following represent areas of concern requiring special management:

(i) Areas of . . . unique or fragile, physical figuration (sic) (as for example, Niagra Falls), historical significance, cultural value or scenic importance (including resources on or determined to be eligible for the National Register of Historic Places.) . . .

(iii) Areas of substantial recreational value and/or opportunity; . . . " (s 923.21(d)(1)).

Sections in the federal Approval Regulations also go on to state: "The basic purpose in focusing special planning attention on shorefront access and protection is to express more than local concern with respect to additional access or protection needs for public beaches and other public coastal areas of environemntal, recreational, historic, esthetic, ecological or cultural value and to include these areas for special management attention within the purview of the State's management program. If appropriate, this special management attention may be achieved by designation of public shorefront areas requiring additional access or protection as areas of particular concern or areas for preservation or res toration . . . " (s 923.25(1)).

2. State

a. The Alaska Coastal Management Act defines "area which merits special attention" as 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; . . .

(C) areas of substantial recreational value or opportunity . . .

(E) areas of unique geologic or topographic significance which are susceptible to industrial or commercial development; . . . " (Sec. 46.35.201.(1)).

b. The ACMP Guidelines and Standards states: "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." (6 AAC 80.060.)

c. Other State Legal Justification

Article VIII, Section 7, of the State Constitution and title 41, Chapters 20 and 35 of the Alaska Statutes indicate legislative purpose and policy for the acquisition, development and maintenance of area of recreation, scenic, cultural or scientific significance.

1. Section 7. SPECIAL PURPOSE SITES. The legislature may provide for the acquisition of sites, objects, and areas of natural beauty, or of historic, cultural, recreational or scientific value. It may reserve them from the public domain and provide for their administration and preservation for the use, enjoyment, and welfare of the people.

2. AS 41.20.010. DECLARATION OF PURPOSE. It is the purpose of ss10-40 of this chapter to foster the growth and development of a system of parks and recreation facilities and opportunities in the state, for the general health, welfare, education and enjoyment of its citizens and for the attraction of visitors to the state.

III. Implementation Authorities

A. AS.41.20.020. DUTIES OF DEPARTMENT OF NATURAL RESOURCES. The Department of Natural Resources shall:

(1) develop a continuing plan for the conservation and maximum use in the public interest of the scenic, historic, archaeological, scientific, biological, and recreational resources of the state; (2) plan for and develop a system of state parks and recreational facilities, to be established as the legislature authorizes and directs; (3) acquire by gift, purchase, or transfer from state or federal agencies, or from individuals, corporations, partnerships or associations, land necessary, suitable and proper for roadside, picnic, recreational or park purposes . . .

(4) control, develop and maintain state parks and recreational areas;

(5) provide for the acquisition, care, control, supervision improvement, development, extension and maintenance of public recreational lands, and make necessary arrangements, contracts or commitments for the improvement and development of lands acquired under ss10 - 40 of this chapter;

(6) establish, in accordance with the Administrative Procedure Act, rules and regulations governing the use and designating incompatible uses within the boundaries of state park and recreational areas to protect the property and to preserve the peace;

(7) cooperate with the United States and its agencies and local subdivisions of the state to secure the effective supervision, improvement, development, extension, and maintenance of state parks, state monuments, state historical areas, and state recreational areas, and secure agreements or contracts for the purpose of ss10 - 40 of this chapter;

(8) encourage the organization of state public park and recreational activities in the local political subdivisions of the state;

(9) provide for consulting service designed to develop local park and recreation facilities and programs;

(10) provide clearinghouse services for other state agencies concerned with park and recreation matters; and

(11) perform other duties as are prescribed by executive order or by law. (ss2 ch 158 SLA 1959, am ss1 ch 233 SLA 1970).

B. Title 38 of the Alaska statutes gives the Department of Natural Resources the authority to zone in the unorganized borough.

C. With the exception of state owned lands, the state lacks authority to protect areas as state parks or recreation areas prior to formal designation by the state legislature.

D. The "Area Meriting Speical Attention" designation carries no official management status unless it can be backed by other existing regulatory authorities.

E. Federal Implementation Authorities (See appendix for further explanation)

1. Alaska Native Claims Settlement Act of 1971

2. Land and Water Conservation Act of 1968

3. National Environmental Policy Act

4. National Park Service Organic Act of 1916, as amended.

5. National Historic Preservation Act

6. National Trails Act of 1968

7. Wild and Scenic Rivers Act of 1968

8. Wilderness Act of 1964

IV. Management Products

A. The Regional Program will identify areas proposed for formal designation as state parks, recreation areas, and waysides.

B. The regional program will also identify specific sites appropriate for the protection of their recreation, scenic, or scientific values and recommend interim and final management policies to be applied by local or state governments.

AREAS OF PREHISTORIC, HISTORIC, OR ARCHAEOLOGICAL OR CULTURAL SIGNIFICANCE

I. Description

Areas included in this category include those which are 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. Further descriptions of these areas follow:

A. Areas on or identified as eligible for listing in the National Register of Historic Places.

B. Areas containing historic, prehistoric, archaeological, or cultural resources identified or eligible for identification by the State Historic Sites Advisory Committee as important to the study, understanding or illustration of national or state history or prehistory.

C. Areas identified in the Alaska Heritage Resource Inventory maintained by the Alaska Division of Parks, Department of Natural Resources.

II. Justificaiton

A. Rationale

Identification of areas of historic, prehistoric, archaeologic, or cultural significance will help preserve and protect heritage resources for the general welfare, education, and enjoyment of visitors to the state, the citizens of Alaska, and future generations.

B. Legal

1. Federal

a. The federal Coastal Zone Management Act cites historic areas as one type of an area of particular concern. The Act states, "The management program for each coastal state shall include . . . An inventory and designation of areas of particular concern within the coastal zone" (Sec. 305(b)(3)).

b. The federal act also states, "Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that . . . The management program makes provisions for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological or esthetic values . . . " (Sec 306(c)(9)).

c. Historic resources should also be protected through the state's program of planning for public coastal areas. The federal act requires that "The management program for each coastal state shall include . . . A definition of, and access to, public beaches and the public coastal areas of environmental, recreational, historical, esthetic, ecological or cultural value . . . " (Sec. 305(b)(7)).

d. The federal Coastal Zone Management Program Approval Regulations explain and support the federal act stating, "In developing the criteria for designating areas of particular concern and in making the designations, states shall inventory their natural and manmade coastal zone resources and shall consider whether the following represent areas of concern requiring special management: (i) Areas of unique, scarce, fragile or vulnerable natural habitat, unique or fragile, physical, figuration (sic) (as, for example, Niagra Falls), historical significance, cultural value or scenic importance (including resources on or determined to be eligible for the National Register of Historic Places.) . . . " (Sec. 923.21(d)(1)).

e. Other sections in the federal Coastal Zone Management Program Approval Regulations support the act: Sec. 923. 25(b)(1) The basic purpose in focusing special planning attention on shorefront access and protection is to express more than local concern with respect to additional access or protection needs for public beaches and other public coastal areas of environmental, recreational, historic, esthetic, ecological or cultural value and to include these areas for special management attention within the purview of the state's management program . . . Sec. 923.25(c)(5) . . . Existing public shorefront attractions may be broadly construed to include, but need not be limited to: public recreation areas, scenic natural areas, threatened or endangered floral or faunal habitat, wetlands, bluffs, historic, cultural or archaeological artifacts, and urban waterfronts.

2. State

a. The Alaska Coastal Management Act defines an "area which merits special attention" as a "delineated geographic areas 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; . . . " (Sec. 46.35.210.(1)).

b. The Alaska Coastal Management Program Guidelines and Standards addresses this use of state concern in Article 3, Section 150:

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."

c. The Alaska Historic Preservation Act (AS 41.35) expresses the state's policy with regard to the preservation and protection of historic, prehistoric, and archaeologic resources: Sec. 41.35.010. "DECLARATION OF POLICY. It is the policy of the state to preserve and protect the historic, prehistoric, and archaeological resources of Alaska from loss, desecration, and destruction so that the scientific, historic, and cultural heritage embodied in these resources may pass undiminished to future generations. To this end the legislature finds and declares that the historic, prehistoric, and archaeological resources of the state are properly the subject of concerted and coordianted efforts exercised on behalf of the general welfare of the public in order that these resources may be located preserved, studied, exhibited and evaluated.

III. Implementation Authorities

A. The National Historic Preservation Act of 1966, Public Law 89-665 (80 Stat. 915).

B. The Alaska Historic Preservation Act (AS 41.35) is generally applicable, but several particularly relevant sections are cited here:

AS 41.35.010. DECLARATION OF POLICY. It is the policy of the state to preserve and protect the historic, prehistoric and archaeological resources of Alaska from loss, desecration and destruction so that the scientific, historic, and cultural heritage embodied in these resources may pass undiminished to future generations. To this end, the legislature finds and declares that the historic, prehistoric and archaeological resources of the state are properly the subject of concerted and coordinated efforts exercised on behalf of the general welfare of the public in order that these resources may be located, preserved, studied, exhibited and evaluated.

Sec. 41.35.020. TITLE TO HISTORIC, PREHISTORIC AND ARCHAEOLOGICAL RESOURCES: LOCAL DISPLAY. (a) The state

reserves to itself title to all historic, prehistoric, and archaeological resources situated on land owned or controlled by the State, including tideland and submerged land, and reserves to itself the exclusive right of field archaeology on state-owned or controlled land. However, nothing in this chapter diminishes the cultural rights and responsibilities of person of aboriginal descent or infringes upon their right of possession and use of those resources which may be considered of historic, prehistoric or archaeological value.

Sec. 41.35.030 DESIGNATION OF MONUMENTS AND HISTORIC SITES. Upon the recommendation of the Historic Sites Advisory Committee, the Governor may declare by public order any particular historic, prehistoric, or archaeological structure, deposit, site or other object of scientific or historic interest that is situated on land owned or controlled by the state to be a state monument or site as much land as is considered necessary for the proper access, care and management of the object or site to be protected. When an object or site is situated on land held in private ownership, it may be declared a state monument or historic site in the same manner, with the written consent of the owner. (ss ch 130 SLA 1971).

Sec. 41.35.060 POWER TO ACQUIRE HISTORIC, PREHISTORIC, OR ARCHAEOLOGICAL PROPERTIES. (a) The Department of Natural Resources, with the recommendation of the Historic Advisory Committee, may acquire real and personal properties that have statewide historic, prehistoric or archaeological significance by purchase, devise or bequest. The department shall preserve and administer property so acquired. The department may acquire property adjacent to the property having historic, prehistoric or archaeological significance when it is determined to be necessary for the proper use and administration of the significant property. (b) If an historic, prehistoric, or archaeological property which has been found by the department, upon the recommendation of the Historic Sites Advisory Committee, to be important for state ownership is in danger of being sold or used so that its historic, prehistoric, or archaeological value will be destroyed or seriously impaired, or is otherwise in danger of destruction or serious impairment, the department may establish the use of the property in a manner necessary to preserve its historic, prehistoric, or archaeological character or value. If the owner of the property does not wish to follow the restrictions of the department, the department may acquire the property by eminent domain under AS 09.55.240-09.55.460 (ss 1 ch 130 SLA 1971).

Sec. 41.35.070. PRESERVATION OF HISTORIC, PREHISTORIC, AND ARCHAEOLOGICAL RESOURCES THREATENED BY PUBLIC CONSTRUCTION. (b) Before public construction or public involvement of any nature is undertaken the state, or by a governmental agency of the state or by a private person under contract with or licensed by the state or governmental agency of the state, the department may survey the affected area to determine if the area contains historic, prehistoric, or archaeological values.

Sec. 41.35.180. DUTIES OF THE COMMITTEE. The Historic Sites Advisory Committee shall: (1) develop criteria for the evaluation of state monuments and historic sites and all real and personal property which may be considered to be of historic, prehistoric, or archaeological significance as would justify their acquisition and ownership by the state; (2) cooperate with the Department of Natural Resources in formulating and administering a statewide historic sites survey under the National Historic Preservation Act of 1966, Public Law 89-665 (80 Stat. 915); (3) review those surveys and historic preservation plans that may be required and approve properties for nomination to the National Register as provided for in the National Historic Preservation Act of 1966, Public Law 89-665 (80 Stat. 915).

C. AS 41.20.020. DUTIES OF DEPARTMENT OF NATURAL RESOURCES. The Department of Natural Resources shall (1) develop a continuing plan for the conservation and maximum use in the public interest of the scenic, historic, archaeological, scientific, biological and recreational resources of the state; . . .

D. AS 41.22.010. OUTDOOR RECREATIONAL, OPEN SPACE, AND HISTORIC PROPERTIES DEVELOPMENT FUND. There is in the Department of Natural Resources an outdoor recreational, open space, and historic properties development fund to be administered by the division of parks. Appropriations or other money deposited in the fund shall be utilized by the department to pay the non-federal share of costs of projects which are initiated by the state to acquire, develop or extend outdoor recreation sites and facilities and to acquire, preserve, or protect historic sites, building, and monuments . . .

E. Title 38, Sec. 38.05.037 Authorizes the Department of Natural Resources through its Division of Lands to exercise the zoning power by adopting zoning regulations in the unorganized borough.

F. The state's authority to protect historic resources on private land is limited since the owner must consent to the management policies or the state must acquire the site.

G. Until a site is formally designated by the state or federal government, no management standards or procedures exist to protect the site unless it is on state or federal land.

H. Federal Implementation Authorities (See appendix for further explanation)

1. Alaska Native Claims Settlement Act of 1971

2. Antiquities Act of 1906

IV. Management Products

A. The Regional Program will map areas meriting special attention for their prehistoric, historic, archaeological, or cultural values.

B. The Regional Program shall recommend management policies which should be applied to these areas.

NATURAL HAZARD AREAS

I. Description

Areas identified by districts and state agencies which are known geological hazard areas or areas of high development potential in which there is a substantial possibility that natural hazards may occur and are thus susceptible to property damage and loss of life if developed. Hazardous areas to be considered in this respect shall include:

A. Areas of significant earthquake hazard which are identified on Corps of Engineer's Seismic Risk Map.

B. Areas of active surface faulting encompassing a one mile strip on either side of known active or potentially active faults.

C. Areas of unstable ground conditions capable of mass movements such as landslides, rockfalls, mudflows, slumping, or submarine slides and areas subject to subsidence or uplift.

D. Areas surrounding active volcanoes exposed to the effects of lava flows, mudflows, glacial ice-melt flooding and potentially significant airborne materials including acid rains and ash.

E. Areas which have experienced recurring floods due to heavy rainfall, spring snow and ice melts, ice jamming or storm surge with 100-year recurrence intervals.

F. Areas susceptible to floods due to glacial lake outbursts and identified as known or interred outburst plains in the USGS publication, "Glacier Damned Lakes and Outburst Floods in Alaska."

G. Areas with detectable rates of coastal or riverbank erosion or accretion.

H. Areas of known or interred snow avalanches.

I. Areas known to have been innundated by tsunami or seiches.

J. Areas potentially exposed to the effects of permafrost, ice grounding, ice shove, calving of icebergs or rapid glacier advance.

II. Justification

A. Rationale

The geographic setting of Alaska and the geologic processes at work in the state make it particularly vulnerable to natural hazards. Expanding population and development in the state increases potential hazard danger to people, property and the environment. A coordinated process is needed to identify and develop management policies for hazard areas taking agency and local concerns into consideration. Identification of such areas could prevent or reduce the harmful and destructive consequences of disaster.

B. Legal

1. Federal

a. The federal Coastal Zone Management Act states, "The Secretary is authorized to make annual grants to any coastal state for the purpose of assisting in the development of a management program for the land and water resources of its coastal zone. Such management program shall include: . . . a planning process that will assess the effects of shoreline erosion and evaluate methods of control, lessen the impact of, or otherwise restore areas adversely affected by such erosion, whether caused by natural or maninduced actions. (AS 305(b)(3)(9)).

b. The federal Coastal Zone Management Program Approval Regulations state, "In developing criteria for designating areas of particular concern and in making the designation, states shall review their natural and manmade coastal zone resources and shall consider whether the following represent areas of concern requiring special management . . . Areas of significant hazard if developed, due to storms, slides, floods, erosion, settlement, etc." (AS 923.21(d)(1)(vii).

2. State

a. The Alaska Coastal Management Act defines "area which merits special attention" as "a delineated geographic area within the coastal area which is sensitive to change or alteration and which because of plan or commitments or because of 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: . . . areas of significant hazard due to storms, slides, floods, erosion or settlement . . . " (AS 46.35.210(1)(f)).

b. The Alaska Coastal Management Program Guidelines and Standards state, "GEOPHYSICAL HAZARD AREAS. (a) Districts and state agencies shall identify known geological hazard areas and areas of high development potential in which there is a substantial possibility that geophysical hazards may occur. (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." (6 AAC 80.050.)

The Guidelines and Standards further define "geophysical hazards" to include potential flooding, tsunami run-up landslides, snowslides, severe faults, and ice hazards;" (6 AAC 80.170.(9)).

c. Other Supporting State Legal Justification

The Alaska Disaster Act identifies the legislative purpose for identifying natural hazard areas:

Sec. 26.23.010. "PURPOSES. The purposes of this chapter are to:

(1) reduce the vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from a disaster . . .

(4) clarify and strengthen the roles of the governor, state agencies, and local governments in prevention of, preparation for, response to and recovery from a disaster;

(5) authorize and provide for the coordination of activities relating to disaster prevention preparedness, response, and recovery by agencies and officers of the state, and similar state-local, inter-state, federal-state, and foreign activities in which the aggravated by inadequate planning for, and regulation of, public and private facilities and land use."

(7) assist in the prevention of disasters caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use."

III. Implementation Authorities

A. AS 41.08.020 "POWERS AND DUTIES. (a) The state geologist shall conduct geological and geophysical surveys to determine . . . the potential geologic hazards to buildings, roads, bridges and other installations and structures; and shall conduct such other surveys and investigations as will advance knowledge of the geology of Alaska."

B. AS 26.23.040. "DUTIES OF THE ALASKA DIVISION OF EMERGENCY SERVICES. (a) The Alaska Division of Emergency Services shall prepare and maintain a state emergency plan and keep it current. The plan may include provisions for . . .

(4) identification of geographical areas, municipalities, cities or villages especially vulnerable to a disaster;
(5) recommendations for zoning, building, and other land-use controls, . . . and other preventive and preparedness measures designed to eliminate or reduce disasters of their impact . . ."

C. AS 26.23.150. DISASTER PREVENTION. (a) In addition to disaster prevention measures as included in the state, local and interjurisdictional disaster plans, the governor shall

consider, on a continuing basis, steps that could be taken to prevent or reduce the harmful consequences of disasters. At his direction, and under any other authority and competence they have, state agencies, including but not limited to those charged with responsibilities in connection with floodplain management, stream encroachments and flow regulations, weather modification, fire prevention and control, air quality, public works, land use and land use planning and construction standards, shall make studies of disaster-prevention-related matters . . . (b) Appropriate departments, in conjunction with the Alaska Division of Emergency Services shall keep land uses and location of structures and other facilities under continuing study, and identify areas which are particularly susceptible to severe land shifting, subsidence, flood, or other catastrophic occurrence. The studies under this subsection shall concentrate on means of reducing or avoiding the dangers caused by this occurrence or the consequences of it."

D. The state lacks direct authority to impose regulations and management policies for areas on the basis of hazardous conditions. The only present authorities for this would be indirect and relate to the state's general authorities to regulate and manage state lands and zone in the unorganized borough.

E. There is currently no standardized, coordinated system among state agencies to identify, record, or develop management policy for areas susceptible to natural hazards. However, power granted to the Division of Emergency Services through the Alaska Disaster Act may authorize the establishment of such a system.

F. Federal Implementation Authority
(See appendix for further explanation)

1. National Environmental Policy Act

2. National Flood Insurance Act

3. Soil Conservation Act of 1935

4. Water Resources Development Act 1974

5. Watershed Protection and Flood Control Act of 1954

IV. Management Products

A. The Regional Program will map identification of known hazard areas.

B. The Regional Program shall present recommendations for management policies within identified natural hazard areas.

SPECIAL HABITAT AREAS

I. Description

Special habitat areas are areas meriting special attention if they are 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 be conflicting or incompatible use, warrants special management attention, or which, because of the value to the general public, should be identified for current or future planning, protection, or acquisition; these areas, more specifically, special habitats are areas which:

A. support critical life stages or functions of important harvestable or protected species including nesting, breeding, spawning, rearing, overwintering and migration;

B. are unique habitats (rare, largest, farthest extent of the range, etc.);

C. are highly productive commercial fisheries areas;

D. are sensitive areas threatened by existing or proposed development;

E. are storage areas needed to support, maintain or replenish coastal lands and resources including but not limited to eelgrass beds, wetlands and barrier islands.

II. Justification

A. Rationale

The purpose in identifying special habitat areas is to maintain the carrying capacity of fish and wildlife habitats. Because special habitat areas, support critical life stages or are functions of important harvestable or protected species; are unique habitats (rare, largest, farthest extent or the range, etc.) or are highly productive commercial fisheries areas; they are of public interest and should be managed for these values. Loss of storage areas will undermine an entire system of life support and can thus impact fish and wildlife populations.

The benefit of implementing an effective management plan for special habitat areas will be reflected in the health of the fish and wildlife populations and retention of the high quality of life and outdoor experience Alaskans now enjoy.

Commercial and sport fishing, subsistence use of fish and game, tourism and recreation interests will all economically benefit from healthy fish and wildlife populations. It is therefore necessary that special habitat areas receive the type of wise management which will allow those uses which are compatable with the existing value of the area.

B. Legal

1. Federal

The Coastal Zone Management Act of 1972 Sec. 303 declares that it is the national policy to preserve, protect, develop, and where possible, to restore or enhance, the resources of the nation's coastal zone for this and succeeding generations and to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through development and implementation of management programs to achieve wise use of the land and water resources...

2. State

a. The State Coastal Management Act Sec. 2 declares that it is the policy of the state to preserve, protect, develop, use and where necessary, restore or enhance the coastal resources . . . and to utilize existing governmental structures and authorities, to the maximun extent feasible, to achieve this policy . . . and to authorize and require state agencies to carry out their planning duties, powers and responsibilities.

Special habitats are defined as areas which merit special attention as outlined in the ACMA. "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 incompatable 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;

b. Alaska Coastal Management Program

Eight coastal habitats in the coastal zone are identified which shall 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." In order to do this it is essential to manage special habitat areas to support fish and wildlife populations at their present levels.

III. Implementation Authorities

A. Title 16 Article 4 empowers the commissioners of the Department of Fish and Game and Natural Resources to take measures to preserve the natural habitat of species or subspecies of fish and wildlife that are recognized as threatened with extinction.

B. Title 38 of the Alaska Statutes authorizes the Department of Natural Resources through its Division of Lands to manage all state lands including tide and submerged lands. This is accomplished through its authority to classify, lease, permit and otherwise dispose of state lands and to zone in the unorganized borough.

C. The Department of Natural Resources may designate as "Special Use Lands", lands having special scenic, historic, archaeologic, scientific, biological, recreational, or other special resource values. Surface activities occurring in this area will subsequently require a Miscellaneous Land Use Permit which includes stipulations for the protection of the natural environment and fish and wildlife habitat...(11 AAC 96.010)

D. Under the proposed revisions of the state's land classification regulations a new category, wildlife habitat, would be established. Wildlife habitat is land which has as its primary resource value habitat for mammals, birds, fish or other animals.

The primary management goal is the maintenance of the habitat's productivity, with provisions for human use of the fish and wildlife resources present.

Uses allowed on wildlife habitat land, if performed in a manner compatible with the management goal and approved by the commissioner of the Department of Fish and Game, include but are not limited to fishing, hunting, trapping, habitat manipulation, recreation, research, resource exploration and extraction, and human habitation in remote cabins . . . Wildlife habitat land may be leased for grazing under Ch. 67 of this title only if such leasing:

(1) does not create competition with resident wildlife for forage;

(2) does not present a risk of disease transmission between livestock and wildlife;

(3) does not require or increase the need for predator control;

(4) does not require the erection of fences or other barricades that would interfere with movement of wildlife;

(5) does not result in a demand for water which would diminish the existing quality of lakes and streams;

(6) is approved by the Commissioner of the Department of Fish and Game (11 AAC 55.220)

E. Federal Implementation Authority
(See appendix for further explanation)

1. Anadromous Fish Conservation Act of 1965

2. Bald and Golden Eagle Protection Act of 1940

3. Coastal Zone Management Act of 1972

4. Endangered Species Act of 1906

5. Federal Aid in Wildlife Restoration Act of 1937

6. Fish and Wildlife Act of 1956

7. Fishery Conservation and Management Act of 1976

8. Fish Restoration and Management Act of 1950

9. Fur Seal Act of 1966

10. Lacey Act of 1948

11. Marine Mammal Protection Act of 1972

12. Migratory Bird Conservation Act of 1929

13. Predatory Mammal Control Act of 1931

IV. Management Products

The Department of fish and Game will map areas of special habitat. Identification will include a description of the sensitivity of each special habitat area. The product will conform to the definition of "areas which merit special attention" in the Alaska Coastal Management Act.

SECTION IV

USES OF NATIONAL INTEREST

NAVIGATIONAL FACILITIES AND SYSTEMS

I. Description

The siting, construction, and maintenance of navigational facilities and systems, including: U. S. Coast Guard Stations, channel markers; beacons, lighthouses; LORAN and radar facilities, and other aids to navigation, both onshore and offshore are national uses of state concern.

II. Justification

A. Rationale

Navigational facilities and systems are critical to safe local, state, interstate, and international trade and commerce; to the public's safe use and enjoyment of the nation's waterways, and to the nation's security and defense.

B. Legal

1. Federal

a. Coastal Zone Management Act Sec. 306(c)(8) states:

"The management program (must) provide for adequate consideration of the national interest involved in planning for, or in the siting of, facilities . . . which are necessary to meet requirements which are other than local in nature."

b. The federal Coastal Zone Management Program Approval Regulations (15 CFR 923.52) Table 1 specifies "aids to navigation, including Coast Guard Stations . . . as being of potential national concern.

2. State

The Alaska Coastal Management Act covers this use of state concern when it states " . . . uses of national interest . . . (include) navigational facilities and systems . . . " (AS 46.40.210(6)(A).

III. Implementation Authorities

A. Federal

The major agency responsible for navigational facilities and systems is the U. S. Coast Guard. In addition to

Constitutional authorities, major legislation includes:

1. Coast Guard Act of 1949

2. National Environmental Policy Act of 1969

3. Outer Continental Shelf Lands Act of 1953

4. Ports and Waterways Safety Act

5. Rivers and Harbors Act of 1899

6. Submerged Land Act of 1953

IV. Management Products

Regional Programs will establish and maintain a contact with appropriate federal agencies in order to exchange information useful to one or both parties, such as plans to install additional navigational aids in the coastal waters.

DEFENSE AND SECURITY FACILITIES

I. Description

The siting of national defense and related facilities which are dependent on coastal locations, including: military bases and installations and associated facilities; aerospace facilities; intelligence, communications and related facilities, is of national interest.

II. Justification

A. Rationale

National defense and security are, by their very nature, of national interest. It is not left to the states to defend themselves, but to the federal government. Our national defense and security capabilities are dependent on a nationwide network of facilities, many of which are dependent on a coastal location. Moreover, Alaska holds a strategic position in national defense because of its location, and thus the siting of defense-related facilities is of national interest.

B. Legal

1. Federal

a. Coastal Zone Management Act Sec. 30[illegible](c)(8) "The (state) management program (must) provide for adequate consideration of the national interest involved in

planning for, and in the siting of, facilities . . . which are necessary to meet requirements which are other than local in nature."

b. 15 CFR 923.52 Table I specifies national defense and aerospace uses as being of potential national interest.

2. State

The Alaska Coastal Management Act states:

" . . . uses of national interest . . . (include) the use of resources for . . . national defense and related security facilities that are dependent upon coastal locations . . . ". (AS 46.40.210(6)(A)

III. Implementation Authorities

The major federal agencies are the Department of Defense, Department of Commerce, and NASA. In addition to constitutional authority the major legislation includes:

(See appendix for further explanation)

1. Coastal Zone Management Act of 1972

2. Easements for Rights-of-Way on Military Lands Act of 1956

3. Military Withdrawals Act of 1958

4. Oil Pollution Act of 1961

IV. Management Products

Regional Programs will establish and maintain a contact with appropriate federal agencies in order to exchange information useful to one or both parties, such as planned military installations in the coastal zone.

FISH & WILDLIFE AND THEIR HABITAT

I. Description

A. All fish and wildlife populations under federal jurisdiction including marine mammals, migratory bird species, bald and golden eagles, endangered species and their habitats are of national interest.

B. All fish and wildlife habitats which are given special protection through acts or treaties are of national interest.

C. In addition, the habitats important to propagation and continued maintenance of commercial marine fisheries resources are managed by the federal government and are of national interest.

II. Justification

A. Rationale

Alaska's abundant fish and wildlife populations represent a large portion of the nation's fish and wildlife resources. In addition some of these populations, such as the fur seals and bottom fish, are commercially valuable on an international scale.

The benefits of implementing sound management plans for Alaska's fish and wildlife populations and their habitats will be reflected in the health of those systems and in the retention of the high quality of life and outdoor experience Alaskan's and visitors to the state now enjoy. Tourism and recreational and commercial use of fish and wildlife populations provide economic and esthetic benefits to local, state and national interests. It is therefore, in the national interest to promote wise use of all fish and wildlife resources.

B. Legal

1. Federal

The Federal Coastal Zone Management Act of 1972 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, industrial and esthetic resources of immediate and potential value to the present and future well-being of the Nation;"

and that "The Congress finds and declares that it is the national policy:

a. 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. The Alaska Coastal Management Act of 1977 finds that "use 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 . . . ".

3. Other Legal Justification

   a. Numerous federal acts as well as the U. S. Fish and Wildlife's mandate to conserve and manage fish and wildlife establish the nation's interest in fish and wildlife resources.

   b. Section 16.05.050 - The Commissioner has the power to: "assist the United States Fish and Wildlife Service in the enforcement of federal laws and regulations pertaining to fish and game."

III. Implementation Authorities

A. The Fishery Conservation and Management Act of 1976 established the North Pacific Fisheries Management Council and mandated the council to, " . . . conserve and manage the fishery resources found off the coasts of the United States and the anadromous species and Continental Shelf fishery resources of the United States . . . "

B. The national mission of the U. S. Fish and Wildlife Service is to "Provide the federal leadership to conserve, protect and enhance fish and wildlife and their habitats for the continuing benefit of the people."

C. The national mission of the National Marine Fisheries Service is to protect and provide for the rational use of living marine resources for their aesthetic, economic and recreational value.

D. The national mission of the Bureau of Land Management is to ensure that " . . . public lands be managed in a manner . . . to preserve and protect certain public lands in their natural condition; to provide food and habitat for fish and wildlife . . . ". (P.L. 94-579)

E. The mission of the U. S. Forest Service is to manage Forest Service Lands to promote outdoor recreation, range, timber, watershed, wildlife, and fish purposes. The Sikes Act directs the U. S. Forest Service to develop and implement co-operative fish and wildlife management plans.

F. The mission of the National Park Service is to "promote and regulate the . . . national parks, monuments and reserves . . . to conserve the scenery and natural and historic objects and wildlife to provide for the scenery and natural and historic objects and wildlife to leave them unimpaired for the enjoyment of future generations.

G. The following congressional Acts are a partial list of the authorities by which federal agencies manage fish and wildlife resources. (See appendix for further explanation).

1. Alaska Native Claims Settlement Act of 1971
2. Anadromous Fish Conservation Act of 1956
3. The Bald and Golden Eagle Protection Act of 1940
4. Endangered Species Act of 1973
5. Federal Aid in Fish Restoration Act of 1950
6. Marine Research Protection and Sanctuaries Act of 1972
7. Migratory Bird Conservation Act of 1929
8. Migratory Bird Treaty Act of 1918
9. National Estuary Protection Act of 1968
10. The National Wildlife Refuge Administration Act of 1966
11. Federal Aid to Wildlife Restoration Act of 1973
12. The Federal Power Act of 1920
13. Federal Water Project Recreation Act of 1965
14. Fish and Wildlife Act of 1956
15. Fur Seal Act of 1966
16. Marine Mammals Protection Act of 1972
17. Naval Petroleum Reserves Production Act of 1976
18. Recreational Use of Conservation Areas Act of 1962
19. Wetlands Acquisition Act of 1961
20. Wilderness Act of 1964
21. The Fish and Wildlife Co-ordination Act of 1934
22. The Fisheries Conservation and Management Act of 1976.

IV. Management Products

The Regional Program will establish and maintain management, planning and administration liaison with appropriate federal agencies.

RESOURCE DEVELOPMENT OF FEDERAL LANDS

I. Description

All resource development, including activities and the siting of facilities related to: timber harvest; mining; oil and gas development; fisheries; agriculture; road and airstrip construction; recreational facilities; or other industrial, commercial, residential or public development on federal lands or land underlying federal waters, are of national interest.

II. Justification

A. Rationale

Alaska possesses a large share of the nation's resources, including oil and gas, minerials, fisheries, timber and recreational potentials. A large amount of these resources lie on federal land, and thus their extraction is by definition of national interest. Some of these resources such as oil, gas, coal and certain minerals are considered to be of strategic importance in terms of national security, and are of vital importance to a healthy national economy. Other resources of national importance, such as areas of high recreational potential, are invaluable and irreplaceable.

B. Legal

1. Federal

a. Coastal Zone Management Act 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, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the nation . . . "

b. Coastal Zone Management Act Sec. 306(c)(8)

" The (state) management plan (must) provide for adequate consideration of the national interest involved in planning for, and in the siting of, facilities . . . which are necessary to meet requirements which are other than local in nature."

c. 15 CFR 923.52 (Please see table 1. and table 2. on the following pages.)

TABLE 1. - Facilities in which there may be a national interest in planning or siting

Uses	Associated facilities	Associated Federal Agencies
National defense and aerospace	Military bases and installations; defense manufacturing facilities aerospace facilities	Dept. of Defense, National Aeronautics and Space Administration
Energy production and transmission.	Oil & gas rigs, storage distribution and transmission facilities; power plants; deep-water ports; LNG Facilities; geothermal facilties; coal mining facilities	Departments of: Energy, Interior, Commerce, and Transportation: Corps of Engineers
Recreation	National seashores, parks, forests; large and outstanding beaches and recreational waterfronts	Dept. of Interior, Dept. of Agriculture
Transportation	Interstate highways, railroads; airports; ports; aids to navigation, including Coast Guard stations	Dept. of Transportation Dept. of Commerce, Corps of Engineers
Regional water treatment plants.	Sewage treatment plants; desalizination plants	Environmental Protection Agency, Dept. of Interior

TABLE 2. - Resources in which there may be a national interest

Resources	Major related federal legislation	Associated Federal agencies
Water	Federal Water Pollution Control Act	Environmental Protection Agency, Corps of Engineers
Air	Clean Air Act	Environmental Protection Agency

Wetlands	Federal Water Pollution Control Act; Fish & Wildlife Coordination Act	Corps of Engineers, Environmental Protection Agency, Dept. of Interior, Dept. of Commerce
Endangered flora and fauna	Endangered Species Act	Dept. of Interior, Dept. off Commerce
Flood plains & erosion hazard areas	Flood Insurance Act	Housing & Urban Development, Corps of Engineers, Dept. of Agriculture
Barrier Islands and beaches	Coastal Zone Management Act	Dept. of Interior, Dept. of Commerce, Corps of Engineers
Historical & cultural resources	National Historic Preservation Act	Advisory Council on Historic Preservation
Wildlife refuges & reserves	Pitman-Robinson Act Dingall-Johnson Act; Land and Water Conservation Fund Act	Dept. of Interior, Dept. of Commerce
Areas of unique cultural significance	National Historic Preservation Act	Advisory Council on Historic Preservation, Dept. of Interior
Minerals	Mineral Leasing Act	Dept. of the Interior
Prime agricultural lands	Homestead Act	Dept. of Agriculture
Forests	National Forest Management Act	Dept. of Agriculture, Dept. of Interior
Living marine resources	Fisheries Conservation & Management Act; Marine Mammals Protection Act	Dept. of Commerce, Dept. of Interior

2. State

Alaska Coastal Management Act

a. AS 46.40.020 The Alaska Coastal Management Program shall be consistent with the following objectives:

" . . . (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 . . . "

b. The state Act goes on to state:

" . . . (A) uses of national interest, (include) . . . resource development of federal land . . . " AS 46.40. 210(b).

III. Implementation Authorities

A. Section 307 of the Coastal Zone Management Act of 1972, as amended, states:

1. "(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."

Sections(c)(3) (A) and (B) require any person submitting an application for a federal license or permit or a plan for exploration or development of or production from an area leased under the Outer Continental Shelf Lands Act affecting any land use or water use in the coastal zone to attach a certification that such activity complies with the state's approved management program and will be carried out in a manner consistent with the program.

Section (d) states that state and local applications for federal assistance under other Federal programs affecting the coastal zone shall not be approved if the proposed projects are inconsistent with a state's management program.

The federal act goes on to state that:

"(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 . . . (2) as superceding, modifying or repealing existing laws applicable to the various Federal agencies . . . "

B. Section 202 of the Federal Land Policy and Management Act of 1976 requires that the Secretary of Interior develop land use plans which provide for use of the federal lands. In these

plans, the Secretary shall "provide for compliance with applicable pollution control laws, including state and federal air, water, noise, or other pollution standards for implementation plans; and . . . to the extent consistent with the laws governing the administration of the public lands, coordinate the land use inventory, planning, and management activities of or for such lands within the land use planning and management programs . . . of the state . . . "

C. AS 46.40.040(5) states that the Alaska Coastal Policy Council shall "develop procedures or guidelines for consultation and coordination with federal agencies managing land or conducting activities potentially affecting the coastal area of the state."

D. Memorandum of Agreement - Cooperative Planning and Management in Alaska, by State of Alaska, Alaska Federation of Natives, U. S. Department of Agriculture, U. S. Department of the Interior (June 29, 1978). The purpose of this agreement is to "promote coordinated land planning and cooperative resource management" through the Alaska Land Managers Cooperative Task Force. The Task Force will identify general areas needing coordination, work on specific cooperative agreements and projects, and identify specific geographic areas requiring cooperative planning and management.

E. Cooperative Agreement between Governor of Alaska and State Director, Bureau of Land Management, U. S. Department of Interior. (May 2, 1978). This agreement provides for mutual cooperation in inventory data collection and exchange and in the development and implementation of land use plans and policies for the management of public lands and resources, and for various other cooperative activities.

F. Federal Implementation Authorities (See appendix for further explanation)

1. Alaska Native Claims Settlement Act

2. Common Varieties Act of 1955

3. Environmental Pollution From Federal Facilities (Executive Order)

4. Federal Land Policy and Management Act of 1976

5. Forest and Rangeland Renewable Resources Act of 1974

6. Wilderness Act of 1964

7. Forest Service Organic Administration Act of 1897

8. Mineral Leasing For Acquired Lands Act of 1947

9. Mining Act of 1872, as amended

10. Mining and Mineral Policies Act of 1970

11. Mining on Indian Reservations Act of 1938

12. Multiple-Use Sustained Yield Act of 1960

13. National Park Service Organic Act of 1916

14. National Wildlife Refuge System Administration Act of 1966

15. Outer Continental Shelf Lands Act

16. Pickett Act of 1910

17. Wild and Scenic Rivers Act of 1968

18. Taylor Grazing Act of 1934

19. National Environmental Policy Act of 1969

IV. Management Products

The Regional Program will establish and maintain contact with appropriate federal agencies and cooperative programs in order to exchange information, such as major planned resource developments within the coastal area.

APPENDIX

SUPPORTING FEDERAL LEGISLATION

In alphabetical order listing:

- primary purpose
- management tools employed

Airport and Airway Development Act of 1970, as amended

(49 USC 1701 *et seq*.)

Primary Purpose: To provide federal funding for the planning and construction of public airports.

Management Tools Employed: National airport system plan, capital expenditures funding, procedural requirements, land acquistion, eminent domain, requirements of "reasonable consistency" with areawide plans, protection against adverse environmental impacts.

Alaska Native Claims Settlement Act of 1971, as amended

(33 USC 1601-33)

Primary Purpose: To provide grants of land and money to the Alaskan Natives to insure more rapid development of the state's resources, and to authorize certain federal land withdrawals for inclusion in the national park, national forest, national wildlife refuges and wild and scenic rivers systems, and other federal land withdrawals.

Management Tools Employed: Land selections (including surface and subsurface estates), review authority, procedural requirements, land disposal dedication, coordination of native lands selections with statehood act land selections, establishment of joint Federal State Land Use Planning Commission.

Anadromous Fish Conservation Act of 1965, as amended

(16 USC 757a-f)

Primary Purpose: To conserve, develop, and protect and enhance anadromous fishery resources.

Management Tools Employed: Capital expenditures funding, agreements with states, recommendations, and studies.

Antiquities Act of 1906, as amended

(16 USC 431-33, see also 461-67)

Primary Purpose: To authorize proclamation of historic landmarks, historic and prehistoric structures and other objects of historic and scientific significance.

Management Tools Employed: Presidential proclamation of national monuments on public lands, acquistion of historic and archaeologic sites by Department of Interior, permits for eploration, criminal penalties.

Bald and Golden Eagle Protection Act of 1940, as amended

(16 USC 668)

Primary Purpose: To provide protection for bald and golden eagles.

Management Tools Employed: Civil and criminal penalties, seizures, investigations, and exemptions.

Clean Air Act of 1970, as amended

(42 USC 1857 *et seq.*)

Primary Purpose: To protect and enhance the quality of the nations's air resources so as to promote the public health and welfare and productive capacity of its population.

Management Tools Employed: Environmental protection law, procedural requirements permit systems, review authority, classification system, non-deterioration policy, state implementation plans, emergency actions, and inspections.

Coast Guard Act of 1949, as amended

(14 uSC 2 *et seq.*)

Primary Purpose: To establish the authority of the Coast Guard to protect natural maritime resources and aid navigation.

Management Tools Employed: Administration of all laws on high seas and territorial waters not specifically delegated to other agencies, construction and permitting of aids to navigation, oceanographic research, regulations governing oil spills, transportation of hazardous cargoes.

Conservation and Rehabilitation Programs on Military and Public Lands Act of 1960, as amended

(16 USC 670a, 670o)

National Forest Management of 1976

(16 USC 1600 *et seq*.)

Primary Purpose: To provide for the Forest Service and the Department of Agriculture, in cooperation with other agencies, to develop a national renewable resources program; to assess use demand for and supply of renewable resources; to provide for effective management, use, and protection of the Nation's renewable resources.

Management Tools Employed: Standards and guidelines for development of management plans, development of management plans regulations.

National Historic Preservation Act of 1966, as amended

(16 USC 470-470m)

Primary Purpose: To encourage preservation of historic, archaeological, architectural, and cultural resources.

Management Tools Employed: Procedural requirements, National Register of Historic Places.

National Park Service Organic Act of 1916, as amended

(16 USC 1 *et seq*.)

Primary Purpose: To create the national park system for public recreation and conservation of scenery, natural and historic objects, and wildlife.

Management Tools Employed: Dedication by Congress, land acquisition, management in order to leave "unimpaired for future generations," comprehensive study of all public park, parkway, and recreation.

National Trails Act of 1968, as amended

(16 USC 1241-49)

Primary Purpose: To establish a system of national trails, including recreation, scenic, and connecting side trails.

Management Tools Employed: Dedications by Congress, Department of Interior or U.S. Department of Agriculture, land acquisition, easements, rights, of-way, land disposals, and feasibility studies for additional trails.

National Wildlife Refuge Administration Act of 1966, as amended

(16 USC 668dd-jj)

Primary Purpose: To conserve and protect fish and wildlife in designated areas by consolidating federal wildlife holdings into a national wildlife refuge system.

Management Tools Employed: Restrictions on disposal of land, land exchanges, restrictions on fishing and hunting, criminal penalities, easements, and mining laws also applicable.

Noise Control Act of 1972

(42 USC 4901-18)

Primary Purpose: To establish an national policy of protecting the public health and welfare from the effects of noise.

Management Tools Employed: Environmental protection law, noise emission standards (particularily aircraft noise), civil and criminial penalties, and a research activity.

North Pacific Fisheries Act of 1954

(16 USC 1021-32)

Primary Purpose: To implement the International Convention for the High Seas fisheries of the North Pacific area.

Management Tools Employed: Enforcement authority and inspections.

Oil Pollution Act of 1961, as amended

(33 USC 1001-15)

Primary Purpose: To prohibit discharges of oil and oily mixtures from United States ships.

Management Tools Employed: Civil and criminal penalties, enforcement authority, construction standards for vessels.

Outer Continental Shelf Lands Act of 1953,

(43 USC 1301-03, 1331-43)

Primary Purpose: To establish a jurisdiction of the federal government over the mining resources on the outer continental

shelf and, to provide leasing procedures for mineral development.

Management Tools Employed: Mineral leases, environmental protection regulations, civil and criminal penalties.

Ports and Waterways Safety Act of 1972

(33 USC 1221, 46 USC 391 et seq.)

Primary Purpose: to provide for regulation of Marine Transportation and combat marine pollution.

Management Tools Employed: Safety regulations, design standards, certificates of inspections, investigations, civil and criminal penalties.

Predatory Mammal Control Act of 1931

(7 USC 426-426b)

Primary Purpose: To control and/or eradicate predatory mammals on public lands, and on state, territorial and privately owned lands.

Management Tools Employed: Necessary actions (limited by Executive Order), emergency actions, and research.

Rivers and Harbors Act of 1899, as amended.

(33 USC 401 et seq.)

Primary Purpose: To establish the authority of the Corps of Engineers to ensure the navigability of the navigable waters of the U.S.

Management Tools Employed: Permit systems, civil and criminal penalties, and injunctions.

Rivers and Harbors Acts of 1888 and 1935

(33 USC 608 and 33 USC 540)

Primary Purpose: To authorize the construction of fishways when river and harbor projects obstruct the passage of fish, and give "due regard" to wildlife conservation in these projects.

Management Tools Employed: Construction of fishways, "due regard" to wildlife conservation.

Safe Drinking Water Act of 1974, as amended

(42 USC 300f-j-9)

Primary Purpose: To establish national drinking water standards for public water supplies, including underground sources, to protect and improve the quality of drinking water.

Management Tools Employed: Environmental protection law, national standards, certification of state programs, civil penalties, injunctions, exemptions, survey rural water supplies, research, and permits for underground injections.

Saline Water Conversion Act of 1971

(42 USC 1959-1959h)

Primary Purpose: To develop the technology for water desalinization plants and plants to convert other chemically contaminated water to a quality suitable for benefical use.

Management Tools Employed: Research activities and necessary actions.

Soil Conservation Act of 1935

(16 USC 590a-590p-1)

Primary Purpose: To provide permanently for the control and prevention of soil erosion and thereby perserve natural resources, control floods, prevent impairment of resources and maintain the navigability of rivers and harbors.

Management Tools Employed: Soil and water conservation districts, land use restrictions, land and snow surveys, investigations, land acquisitions, eminent domain, capital expenditures financing technical assistance.

Soild Waste Disposal Act of 1976

(42 USC 6901 et seq.)

Primary Purpose: To promote the demonstration, construction, and application of solid waste management and resource recovery systems.

Management Tools Employed: Environmental protection law, guidelines for State or regional waste plans with federal funding assistance, research activities, and demonstration projects.

State Commercial Fisheries Research Act of 1964, as amended

(16 USC 779-779F)

Primary Purpose: To encourage research and development of commercial fisheries resources.

Management Tools Employed: Capital expenditures funding, research activities.

Submerged Lands Act of 1953

(43 USC 1311-15)

Primary Purpose: To grant offshore lands on the continental shelf within three miles of shore and lands beneath navigable waters of the federal government to the states.

Management Tools Employed: Grant of submerged lands.

Taylor Grazing Act of 1934, as amended

(43 USC 315-16)

Primary Purpose: To provide authority to manage and protect the unappropriated, unreserved lands of the public domain, particularily with respect to grazing.

Management Tools Employed: Grazing districts, grazing permits, "multiple use", perferred uses in Alaska, land exchanges, land disposal.

Urban Mass Transit Act of 1964, as amended by Urban Mass Transit Act of 1970

(49 USC 1601 *et seq*.)

Primary Purpose: To provide federal funding for acquisition, construction, and improvement of mass transit.

Management Tools Employed: Capital expenditures funding, procedural requirements, land acquisition, eminent domain, consistency with areawide planning protection against environmental impacts.

Water Resources Planning Act of 1965, as amended

(42 USC 1962 *et seq*.)

Primary Purpose: To encourage conservation, development, and utilization of water and related resources on a comprehensive and coordinated basis.

Management Tools Employed: Research activities, river basins commissions, river basin and regional plans.

Watershed Protection and Flood Control Act of 1954, as amended

(16 USC 1001-09)

Primary Purpose: To provide stream channelization, reservoirs, and other measures to protect watersheds and control flooding.

Management Tools Employed: Small watershed program consisting of surveys technical assistance, land inventory, capital expenditures funding, loans, easements, agreements with land owners.

Wild and Scenic Rivers Act of 1968, as amended

(16 USC 1271-87)

Primary Purpose: To create a national system to preserve wild, scenic, and recreational rivers.

Management Tools Employed: Dedication by Congress, feasibility studies, classification system, prohibitions on federal licenses, grants, development, land acquistion, eminent domain, easements.

Wilderness Act of 1964, as amended

(16 USC 1131-36)

Primary Purpose: To secure for the American people of present and future generations the benefits of an enduring resource of wilderness, a National Wilderness Preservation System is created, composed of federally owned lands designated by Congress as wilderness areas.

Management Tools Employed: Dedication by Congress, wilderness study areas, restriction on use and access, exemption from mining activities, land acquistions, and eminent domain for nonconforming uses.

(except for Alaskan Natives), permits, marine mammal commission, criminal and civil penalties, seizures/forfeiture of prohibited cargo, and research program.

Marine Research Protection and Sanctuaries Act of 1972, as amended

(33 USC 1401 et seq.)

Primary Purpose: To provide for the regulations of ocean dumping, to foster research on the effects of ocean dumping, and to provide for the establishment of marine sanctuaries.

Management Tools Employed: Environmental protection law, permit system, civil penalties, research activities and dedication of marine sanctuaries.

Migratory Bird Conservation Act of 1929, as amended

(16 USC 715 et seq.)

Primary Purpose: To provide for the conservation of migratory birds by authorizing additions to the national wildlife refuge system.

Management Tools Employed: Land acquisition, eminent domain, easements, refuge revenue sharing fund.

Migratory Bird Treaty Act of 1918, as amended

(16 USC 701-711)

Primary Purpose: To provide protection for migratory birds.

Management Tools Employed: Refuge zones, closed seasons, criminal penalties (exemptions for Eskimos and Indians).

Military Withdrawals Act of 1958

(43 USC 155-58)

Primary Purpose: To require an Act of Congress for military withdrawals, reservations, and restrictions on public lands over five thousand acres (not applicable to naval petroleum, oil, shale or coal reserves, or to certain federal lands and waters off of the coast of Alaska.)

Management Tools Employed: Procedural requirements.

Primary Purpose: To provide for the protection, development, and environmental enhancement of the national forest system.

Management Tools Employed: Renewable resource assessment, renewable resource program, resource inventory, plans for development, protection, and management of national forest system.

Forest Service Organic Administration Act of 1897, as amended

(16 USC 471 et seq.)

Primary Purpose: To provide for the establishment of national forests in order to improve and protect forest lands for the purpose of securing favorable conditions of water flow and furnishing a continous supply of timber.

Management Tools Employed: Dedication by the President or Congress, eminent domain and land acquisition.

Fur Seal Act of 1966

(16 USC 1151-87)

Primary Purpose: To protect and preserve fur seals and fur otters and provide for the administration of the Pribilof Islands as a special reservation.

Management Tools Employed: Environmental protection law, and permits with exemption for Indians, Eskimos and Aleuts.

Lacey Act of 1948, as amended

(18 USC 42-44)

Primary Purpose: To provide penalties for the violation of various foreign, United States or state laws protecting wildlife.

Management Tools Employed: Civil and criminal penalties, inspections, regulations for the transportation of wildlife.

Marine Mammals Protection Act of 1972

(16 USC 1361, 1362, 1371-84, 1401-07)

Primary Purpose: To provide protection for marine mammals and their ecosystems.

Management Tools Employed: Environmental protection law, moratorium

Primary Purpose: To provide federal matching funds to state fish and game agencies for the acquisition and restoration of fish habitats.

Managment Tools Employed: Fish and management projects, land acquisition, eminent domain, capital facilities funding comprehensive fish and wildlife plans, and statement or management plans on fish restoration project for State to qualify for funding.

Fish and Wildlife Act of 1956, as amended

(16 USC 742a-754)

Primary Purpose: To provide for the development, management, advancement, conservation and protection of fish and wildlife resources.

Management Tools Employed: Land acquisition for refuges, research/ studies, and prohibition of airborne hunting.

Fish and Wildlife Coordination Act of 1958, as amended

(16 USC 661-667e)

Primary Purpose: To provide that wildlife conservation receives equal consideration with other goals of federal water resource development projects.

Management Tools Employed: Consultation requirements, land acquistion, procedural requirements, and modification projects.

Fisheries Conservation and Managment Act of 1976

(16 USC 1801 *et seq*.)

Primary Purpose: To provide U.S. jurisdiction over fisheries within 200 nautical miles from the baseline from which the territorial sea is measured.

Management Tools Employed: Establishment of regulatory area, provision for establishment of national standards for fisheries conservation and managment, permits, criminal and civil penalties.

Forest and Range Land Renewable Resources Planning Act of 1974

(16 USC 1601-1610)

Primary Purpose: To provide for a comprehensive program to regulate the manufacture, the distribution, and use of all pesticides.

Management Tools Employed: Environmental protection law, registration, classification, cancellation/suspension, certification of operators, exemptions, inspections, resource activities, civil and criminal penalties and scientific advisory panel.

Federal Land Policy and Mangement Act of 1976

(43 USC 1701 et seq.)

Primary Purpose: To provide for a period and systematic inventory of public lands and their present and future uses with future use project by a land use process co-ordinated with other federal and State planning efforts.

Management Tools Employed: Regulations for implementation of management, use and protection, acquisition, use permits, civil and criminal penalties.

Federal Power Act of 1920, as amended

(16 USC 791a et seq.)

Primary Purpose: To provide for the regulations of water power development.

Management Tools Employed: Procedural requirements, licenses, standards, conditions, and project modifications.

Federal Water Pollution Control Act of 1972, as amended

(33 USC 1251 et seq.)

Primary Purpose: To restore and maintain the chemical, physical, and biological integrity of the nation's waters.

Managment Tools Employed: Environmental protection law, procedural requirements, capital expenditures funding, permit systems, emergency actions, inspections, and various planning requirements.

Fish Restoration and Management Act of 1950, as amended

(15 USC 777-777k)

Multiple-Use Sustained Yield Act of 1960

(16 USC 528-31)

Primary Purpose: To administer the national forest for outdoor recreation, range, timber, watershed and wildlife and fish purposes.

Management Tools Employed: Administration based on "multiple use", "sustained yield" terms from Act.

National Environmental Policy Act of 1969, as amended

(42 USC 4321 et seq.)

Primary Purpose: To encourage productive and enjoyable harmony between man and his environment, to promote efforts to prevent or eliminate damage to the environment and biosphere, and to stimulate the health and welfare of man.

Management Tools Employed: Policy statement of the Act in conjunction with its procedural requirements and environmental impact statements.

National Estuary Protection Act of 1968, as amended

(16 USC 1221-26)

Primary Purpose: To provide a means for protection, conservation and restoration of estuaries.

Management Tools Employed: Inventory of estuaries, recommendations, conditions, land acquisition through funds of other acts.

National Flood Insurance Program of 1968, as amended

(42 USC 4001-27)

Primary Purpose: To provide flood insurance to property owners in flood-prone areas and foster sound land use management to reduce property losses as a result of flooding.

Management Tools Employed: Subsidize flood insurance, land use criteria, sanctions (restrictions on availablility of other federal financing in non-compliance communities), minimum construction standards.

Mining on Indian Reservation Acts of 1938

(25 USC 396)

Primary Purpose: To provide for mineral leasing on Indian lands.

Management Tools Employed: Mining leases and conditions.

Mining Act of 1872, as amended

(30 USC 22 *et seq.*)

Primary Purpose: To confer title to prospectors, under certain conditions, to public lands containing valuable hard rock materials for the development and extractions of these minerals.

Management Tools Employed: Mining claims procedural requirements, patents (title to lands to applicants).

Mineral Leasing Act for Acquired Lands of 1947.

(30 USC 351-59)

Primary Purpose: To provide for the leasing of minerals on lands acquired by the federal government from private owners.

Management Tools Employed: Same as Mineral Leasing Act of 1920.

Mineral Leasing Act of 1920, as amended

(30 USC 181-287)

Primary Purpose: To provide for mineral leasing procedures on federal lands for nonmetalliferous materials.

Management Tools Employed: Mining leases, prospecting permits, procedural requirements, and conditions.

Mining in Mineral Policy Law of 1970

(30 USC 21)

Primary Purpose: To establish the basic policies to be utilized in implementing the mining statutes.

Management Tools Employed: Policy statement and annual report.

Primary Purpose: To provide for fish, wildlife, and game conservation and rehabilitation programs on military reservations, lands under the jurisdiction of the Departments of Interior and Agriculture, and lands under the jurisdiction of the National Aeronautics and Space Administration, and the Department of Energy.

Management Tools Employed: Comprehensive plans, conservation and rehabilitation programs, criminal penalties, enforcement authority, public land management staffs, and exemptions for "Indian Tribes."

Department of Energy Organization Act of 1977

(42 USC 7111 et seq.)

Primary Purpose: Established Department of Energy to achieve effective management of energy functions within the federal government, including consultation with other federal departments and agencies to establish and observe policies consistent with a co-ordinated energy policy. Transferred functions from other agencies related to energy to Department of Energy.

Management Tools Employed: Regulatory powers on oil pricing, conservation, natural gas import and export, transportation of oil by pipeline, etc.; land acquisition for development of facilities for research technology development, and commercial application; permits for natural gas energy facilities, licensing of hydroelectric facilities, etc.

Department of Transportation Act 1966, as amended

(49 USC 1651 et seq.)

Primary Purpose: To establish the Department of Transporation and to regulate and provide a system for transporation activities.

Management Tools Employed: Transportation plans, safety regulations, and protection for park, recreation, wildlife and historic areas.

Endangered Species Act of 1966, as amended

(16 USC 1531 et seq.)

Primary Purpose: To provide protection for animal and plant species which are threatended with extinction.

Management Tools Employed: Environmental protection law, land acquisitions, civil and criminal penalties, restruction of federal activities, a listing of endangered or threatened species, exemption for Alaskan Natives, permits, and hardship exemptions.

Environmental Pollution from Federal Facilities

(Executive Order 11752, 38 Federal Register 34793) 1973)

Primary Purpose: To prevent, control, and abate pollution from federal facilities.

Management Tools Employed: Compliance with applicable environmental protection laws, annual plans, review authority and exemptions.

Federal Aid Highway and Revenue Act of 1956, as amended

(23 USC 101229; 30406)

Primary Purpose: To provide federal funding for the planning and construction of interstate, primary, secondary and urban highways.

Management Tools Employed: Capital expenditures funding, precedural requirements, relocation assistance, land acquisition eminent domain consistency with areawide planning, protection for park, recreation, wildlife, and historic areas.

Federal Aid in Wildlife Restoration Act of 1937, as amended

(16 USC 669a-i)

Primary Purpose: To provide federal matching funds to state fish and game agencies for the acquisition and restoration of wildlife habitats.

Managment Tools Employed: Land acquisition, eminent domain capital facilities funding, comprehensive fish and wildlife plans, management plans, and statements of wildlife restoration projects.

Federal Insecticide, Fungicide, and Rodenticide Act of 1947, as amended

(7 USC 135 et seq.)

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