

**DEPARTMENT OF  
NATURAL RESOURCES**



**11 AAC 114**

**Alaska Coastal Management Program**

**Effective July 1, 2004**

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**Frank Murkowski**  
Governor

**Thomas Irwin**  
Commissioner

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### Chapter 114. District Coastal Management Plan Requirements.

#### Article

1. Government Process (11 AAC 114.010 - 11 AAC 114.020)
2. Plan Elements (11 AAC 114.200 - 11 AAC 114.290)
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**Editor's note:** Before Register 170, July 2004, regulations on the subject addressed by this chapter appeared at 6 AAC 85.

#### Article 1. Government Process.

##### Section

10. Public participation and information
20. Program management and coordination

**11 AAC 114.010. Public participation and information.** (a) The office of project management and permitting shall provide adequate, effective, and continuing opportunities for public participation in the Alaska coastal management program. The office shall give notice of when and where opportunities for public participation will be provided before adoption of guidelines and standards, review and approval of district plans and amendments to district plans, and amendments to the program.

(b) The commissioner will not approve a district plan or significant amendment of a district plan unless evidence of significant opportunities for public participation at the district level has been provided.

(c) The office shall make available to the public information and educational materials concerning coastal management including

- (1) a guide for the development of district plans;
- (2) maps and narratives describing physical and biological characteristics to be used in establishing boundaries of coastal areas;
- (3) areas recommended for designation by the office as areas which merit special attention;
- (4) maps showing the distribution and abundance of coastal fish and wildlife species with commercial, recreational, subsistence use, or general ecological importance;
- (5) an identification of major data and information sources concerning coastal management;
- (6) a summary of information regarding coastal regions;
- (7) summaries of public hearings and workshops;
- (8) films and slide programs;
- (9) written material summarizing or explaining the program; and

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(10) the office's annual report to the legislature.

(d) Consistent with AS 44.12.320 – 44.12.340, at public meetings concerning the program, the office shall provide translation into the appropriate Native language, when requested and reasonably necessary. (Eff. 7/1/2004, Register 170; am 10/29/2004, Register 172)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.040  
AS 46.39.030 AS 46.40.030

**11 AAC 114.020. Program management and coordination.** (a) The office is the designated lead agency for the program. The office shall

(1) present the staff position regarding program matters before the commissioner;  
(2) coordinate the activities of state agencies participating in the program; and  
(3) review state and federal actions for consistency with the program, as provided in 11 AAC 110.

(b) The office may initiate an interagency program of comprehensive coastal resource management for each geographic coastal region. The purpose of these regional programs is to

(1) assist the office and districts in identifying uses of state concern and developing management policies for these uses;  
(2) provide resource, social, and economic information on a coordinated regional basis; and  
(3) assist the office and districts to identify existing or potential conflicts and means of resolving those conflicts.

(c) Plans and recommendations developed as part of a regional program described in (b) of this section must be transmitted to the district through the office. District planning efforts must demonstrate review and consideration of these plans and recommendations. If the final plan proposed by a district does not agree with the program plans and recommendations for the applicable region, the differences shall be resolved by the office.

(d) The office shall prepare a compilation of the statutes and regulations of the program to assist in the development of district plans and state agency programs. (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.040  
AS 46.39.030 AS 46.40.030

### Article 2. Plan Elements.

#### Section

- 200. Issues, goals, and objectives
- 210. Organization
- 220. Coastal zone boundaries
- 230. Resource inventory
- 240. Resource analysis
- 250. Subject uses, activities, and designations
- 260. Proper and improper uses and activities

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- 270. District enforceable policies
- 280. Implementation
- 290. Public participation

**11 AAC 114.200. Issues, goals, and objectives.** A district plan must include the district's overall coastal management issues, goals, and objectives or summarize or reference the district's overall coastal management issues, goals, and objectives contained in the district's comprehensive land and resource use plan. The means used to achieve an objective must be stated in the district plan. (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.040  
 AS 46.39.030 AS 46.40.030

**11 AAC 114.210. Organization.** (a) A district plan must describe the organizational structure of the district and state whether the district is a coastal resource service area or a municipality.

(b) A district plan must identify and give addresses for the officials or departments within the district that are assigned to

(1) determine, for the purposes of issuing a municipal authorization or permit, the consistency of proposed uses and activities with the approved district plan;

(2) submit comments to the state under 11 AAC 110. (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.040  
 AS 46.39.030 AS 46.40.030

**11 AAC 114.220. Coastal zone boundaries.** (a) A district plan must include, in a manner sufficient for district plan development and implementation, a map and description of the boundaries of the coastal zone subject to the district plan. The boundaries must be within or coterminous with the district and must include those lands that would reasonably be included in the coastal zone and subject to the district plan if those lands were not subject to the exclusive jurisdiction of the federal government.

(b) Initial coastal zone boundaries must be based on *Biophysical Boundaries for Alaska's Coastal Zone*, developed by the Department of Fish and Game under contract to the former Division of Policy, Development and Planning, Office of the Governor (1978, reprinted January 1985) and must include the zone of direct interaction and the zone of direct influence. The *Biophysical Boundaries for Alaska's Coastal Zone (1978)*, reprinted January 1985, is adopted by reference.

(c) Final coastal zone boundaries may diverge from the initial boundaries so long as the final boundaries

(1) extend inland and seaward to the extent necessary to manage a use or an activity that has or is likely to have a direct and significant impact on coastal waters; and

(2) include the following areas within the district, if present:

(A) transitional and intertidal areas, salt marshes, saltwater wetlands, islands, and beaches; and

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(B) areas that are likely to be affected by or vulnerable to sea level rise.

(d) If the criteria in (c) of this section are met, final coastal zone boundaries may be based on local government boundaries, cultural features, planning areas, watersheds, topographic features, uniform setbacks, or the dependency of uses and activities on water access.

(e) The coastal zone boundaries of a district must be sufficiently compatible with those of an adjoining coastal zone to allow consistent administration of the program.

(f) Notwithstanding any other provision of this section, coastal zone boundaries approved by the former Coastal Policy Council under former 6 AAC 85.040 and 6 AAC 85.150 and the United States Department of Commerce under former 6 AAC 85.175 and in effect on July 1, 2004 remain in effect. (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.040  
AS 46.39.030 AS 46.40.030

**Editor's note:** The *Biophysical Boundaries for Alaska's Coastal Zone*, (1978, reprinted January 1985), adopted by reference in 11 AAC 114.220 is available for inspection at the Department of Natural Resources, Office of Project Management and Permitting, 302 Gold Street, Suite 202, Juneau, AK 99801.

**11 AAC 114.230. Resource inventory.** (a) Resources subject to a district plan are limited to those resources

(1) subject to the uses and activities described in 11 AAC 112.200 – 11 AAC 112.240 and 11 AAC 112.260 – 11 AAC 112.280; and

(2) proposed for designation under 11 AAC 114.250(b) - (i).

(b) For the resources within the district's coastal zone, a district plan must include a resource inventory that describes, as necessary to complete the resource analysis under 11 AAC 114.240 and in a manner sufficient for plan development and implementation,

(1) natural resources such as forests, minerals, soils, wetlands, water, fish and wildlife, and those habitats listed in 11 AAC 112.300, including those important habitats proposed for designation under 11 AAC 114.250(h), if appropriate;

(2) major cultural, historic, prehistoric, and archeological resources;

(3) recreational resources; and

(4) coastal resources important to subsistence uses.

(c) A district plan must describe or map, in a manner sufficient for plan development and implementation,

(1) major land or water uses or activities that are or have been conducted or designated within or adjacent to the district; and

(2) major land and resource ownership, jurisdiction, and management responsibilities within or adjacent to the district.

(d) A district plan may incorporate appropriate and pertinent local knowledge into the resource inventory.

(e) Information in the resource inventory must be substantiated or documented with a citation or reference to the source of that information.

(f) If inventory information is contained in another published source, the relevant

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information must be summarized, referenced in the district plan, and made available upon request. (Eff. 7/1/2004, Register 170; am 10/29/2004, Register 172)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.040  
AS 46.39.030 AS 46.40.030

**11 AAC 114.240. Resource analysis.** (a) A district plan must include an analysis of the impacts of uses and activities identified under 11 AAC 114.250 on the important habitats and resources identified under 11 AAC 114.230(b) within the district's coastal zone boundaries. The analysis must describe, in a manner sufficient for district plan development and implementation,

- (1) the present and reasonably foreseeable needs, demands, and competing uses for coastal zone habitats and resources;
- (2) the reasonably foreseeable direct and indirect impacts of uses and activities;
- (3) the suitability of habitats, natural hazard areas, and resources for development;
- (4) the sensitivity of habitats, natural hazard areas, and resources to development; and
- (5) potentially or reasonably foreseeable conflicts among coastal zone uses and activities.

(b) A district may incorporate appropriate and pertinent local knowledge into the resource analysis required by this section.

(c) A district must document by local usage or scientific evidence a use or resource of unique concern that is the subject of an enforceable policy under 11 AAC 114.270(g). (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.040  
AS 46.39.030 AS 46.40.030

**11 AAC 114.250. Subject uses, activities, and designations.** (a) A district plan must include a description of the land and water uses and activities that are subject to the district plan. The uses and activities subject to a district plan are limited to those included in 11 AAC 112.200 – 11 AAC 112.240, 11 AAC 112.260 – 11 AAC 112.280, and (b) - (i) of this section.

(b) A district shall consider the likelihood of occurrence of natural hazards in the coastal area and may designate natural hazard areas.

(c) A district shall consider and may designate areas of recreational use. Criteria for designation of areas of recreational use are

- (1) the area receives significant use by persons engaging in recreational pursuits; or
- (2) the area has potential for recreational use because of physical, biological, or cultural features.

(d) A district shall consider and may designate areas of tourism use. Criteria for designation of areas of tourism use are the area receives or has the potential to receive significant use by the visitor industry using cruise ships, floatplanes, helicopters, buses, or other means of conveying groups of persons to and within the area.

(e) A district shall consider and may designate, in cooperation with the state, sites

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suitable for the development of major energy facilities.

(f) A district shall consider and may designate areas of the coast suitable for the location or development of facilities related to commercial fishing and seafood processing.

(g) Except in nonsubsistence areas as identified under AS 16.05.258, a district may, after consultation with appropriate state agencies, federally recognized Indian tribes, Native corporations, and other appropriate persons or groups, designate areas in which a subsistence use is an important use of coastal resources and designate such areas.

(h) A district shall consider and may designate portions of habitat areas listed in 11 AAC 112.300(a)(1) – (8) and other habitats in the coastal area as important habitat if

(1) the use of those designated portions have a direct and significant impact on coastal water; and

(2) the designated portions are shown by written scientific evidence to be biologically and significantly productive.

(i) A district shall consider and may designate areas of the coast that are important to the study, understanding, or illustration of national, state, or local history or prehistory.

(j) Areas proposed for designation by a district under (b) – (i) of this section are subject to public review and comment under 11 AAC 114.300 – 11 AAC 114.330 or 11 AAC 114.345(a) - (j) before approval by the commissioner. (Eff. 7/1/2004, Register 170; am 10/29/2004, Register 172; am 6/25/2005, Register 174)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.040  
AS 46.39.030 AS 46.40.030

**11 AAC 114.260. Proper and improper uses and activities.** A district plan must describe the uses and activities, including uses of state concern, that will be considered proper, and the uses and activities, including uses of state concern, that will be considered improper, within the district's coastal zone, including land and water use designations. This description must be based on the district's statement of issues, goals, and objectives under 11 AAC 114.200 and must be consistent with the statewide standards set out in 11 AAC 112. (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.040  
AS 46.39.030 AS 46.40.030

**11 AAC 114.270. District enforceable policies.** (a) The enforceable policies of a district are legally binding and provide the basis for a determination of consistency with the district plan. A district plan may include only enforceable policies developed under AS 46.40.030, AS 46.40.040, and this chapter that will be applied to the subject uses, activities, and resources identified in the district plan under 11 AAC 114.230 and 11 AAC 114.250. District enforceable policies must

(1) address only uses and activities identified in 11 AAC 112.200 - 11 AAC 112.240 and 11 AAC 112.260 - 11 AAC 112.280 and areas designated under 11 AAC 114.250(b) - (i); and

(2) meet the requirements of this section.

(b) A district plan must clearly identify each district enforceable policy. Except for a

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boundary map or description developed under (g) of this section, district enforceable policies must be located in a single section of the district plan.

(c) Except as provided in (d) of this section, a district may not adopt enforceable policies that duplicate, restate, or incorporate by reference statutes or administrative regulations adopted by state or federal agencies, including 11 AAC 112.

(d) Unless a district can demonstrate that a matter is of local concern as defined in AS 46.40.070(a)(2)(C), a district may not adopt, and the commissioner will not approve, an enforceable policy that addresses matters included in the statewide standards contained in 11 AAC 112.200 – 11 AAC 112.240 and 11 AAC 112.260 – 11 AAC 112.280.

(e) A district enforceable policy must

(1) be clear and concise as to the activities and persons affected by the policy and the requirements of the policy;

(2) use precise, prescriptive, and enforceable language;

(3) not address a matter regulated or authorized by state or federal law unless the enforceable policy relates to a matter of local concern as defined in AS 46.40.070(a)(2)(C); and

(4) not arbitrarily or unreasonably restrict or exclude uses of state concern.

(f) In accordance with AS 46.40.040(b), a district may not address a matter regulated by the Department of Environmental Conservation under to AS 46.03, AS 46.04, AS 46.09, and AS 46.14 and the regulations adopted under those statutes.

(g) For an area designated by a district under 11 AAC 114.250(b) - (i), for a special area management plan developed under 11 AAC 114.400, or for an area which merits special attention inside a district developed under 11 AAC 114.420, a district may adopt enforceable policies that will be used to determine whether a specific land or water use or activity will be allowed. An area subject to these policies must be described or mapped at a scale sufficient to determine whether a use or activity is located within the area. A description or map developed under this subsection must be referenced in the applicable enforceable policy and is an enforceable component of the district plan.

(h) In reviewing and approving a district enforceable policy developed under this chapter that addresses a matter of local concern defined in AS 46.40.070(a)(2)(C), the commissioner must find that

(1) the coastal use or resource

(A) is within a defined portion of the district's coastal zone that has been mapped or described under 11 AAC 114.230(c)(1);

(B) has been demonstrated as sensitive to development in the resource analysis developed under 11 AAC 114.240(a);

(C) is not adequately addressed by state or federal law, including consideration of comments by the appropriate state or federal agency in comments on the public hearing draft under 11 AAC.114.315 or during consultation under 11 AAC 114.340(c)(5); and

(D) is of unique concern to the coastal resource district as demonstrated by local usage or scientific evidence that has been documented in a resource analysis under 11 AAC 114.240(c); and

(2) the language and subject matter of the enforceable policies meets the

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requirements of (e) of this section.

(i) Notwithstanding any contrary provision of (e)(3) of this section, enforceable policies contained in a district plan approved by the former Coastal Policy Council under former 6 AAC 85.195 – 6 AAC 85.225 and in effect on July 1, 2004, satisfy the requirements of AS 46.40.070(a)(2)(C)(i) and (iii). However, those enforceable policies must be revised as appropriate to meet all other requirements of AS 46.40.030 and 46.40.070. (Eff. 7/1/2004, Register 170; am 10/29/2004, Register 172)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.040  
AS 46.39.030 AS 46.40.030

**11 AAC 114.280. Implementation.** A district plan must describe

(1) the methods and authorities used to implement, monitor, and enforce the district plan; methods and authorities

(A) must be adequate to ensure plan implementation and enforcement;

(B) must describe implementation responsibilities of cities within coastal resource service areas and boroughs; and

(C) may include, if appropriate,

(i) land and water use plans;

(ii) municipal ordinances and resolutions, including shoreline and zoning ordinances, and building codes;

(iii) state and federal statutes and regulations;

(iv) capital improvement programs;

(v) the purchase, sale, lease, or exchange of coastal zone land and water resources;

(vi) cooperative agreements such as memoranda of understanding;

(vii) tax exemptions for non-development purchase of development rights;

(viii) coordinated project or permit review procedures; and

(ix) the means and procedures to document public need for purposes of submitting comments under 11 AAC 110; and

(2) the planning, implementation, and enforcement relationship between the coastal district and the cities or villages inside the district; the district plan must address consistency reviews, any municipal appeals, planning and plan revisions, applicable municipal land use regulations, and review of applicable municipal land use regulations for consistency with the district plan. (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.040  
AS 46.39.030 AS 46.40.030

**11 AAC 114.290. Public participation.** A district plan must document an effective and significant opportunity for public participation in district plan development under this chapter. (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.040  
AS 46.39.030 AS 46.40.030

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### Article 3. Plan Review Process.

#### Section

- 300. Issues meeting; file maintenance
- 305. Public hearing draft development
- 310. Distribution and notice of public hearing draft
- 315. Comment on public hearing draft
- 320. District action on public hearing draft
- 325. Revised public hearing draft development and review in coastal resource service areas
- 330. Development, coordination, and public review of concept-approved drafts
- 335. Commissioner review of final findings and conclusions and concept-approved drafts of district plans
- 340. Minor amendments
- 345. Transition
- 350. Mediation
- 355. Federal review
- 360. Local adoption and effective date
- 365. Progress reports to office, updates to district plans, and reapproval
- 370. Petition for amendment to an approved district plan regarding uses of state concern
- 375. Petition regarding nonimplementation of a district plan
- 380. General hearing procedures on petitions
- 385. Citizen of a district

**11 AAC 114.300. Issues meeting; file maintenance.** (a) As soon as practicable after a district identifies the district's intent to adopt or amend a district plan, the district shall hold at least one meeting with the office. The meeting may be held by teleconference. The district shall provide public notice of the meeting and identify the manner by which the public can participate in the meeting. The purpose of the meeting is to identify issues that may or must be addressed in the district plan.

(b) The office shall create and maintain a record file containing all material relating to the development and approval of the district plan or an amendment to the district plan. The district shall forward all relevant material to the office for inclusion in the record file for the district plan. (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.040  
AS 46.39.030 AS 46.40.030

**11 AAC 114.305. Public hearing draft development.** (a) At least two public meetings must be held within the district during development of the public hearing draft to inform the public and receive comments concerning the district plan or significant amendment.

- (b) A district shall provide the public, in a timely manner, information explaining
- (1) the program;
  - (2) the district plan or significant amendment;

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(3) the requirement of public participation during the development of the district plan or significant amendment;

(4) how and when the public may participate in the development of the district plan or significant amendment;

(5) what information is available on the development of the district plan or significant amendment; and

(6) where the information described in this subsection may be obtained.

(c) A district shall provide the public an opportunity for participation during development of the public hearing draft.

(d) A district shall submit the public hearing draft to the office for review before distribution under 11 AAC 114.310. Within 15 days of receipt of the public hearing draft, the office shall determine whether the public hearing draft is complete for review. A public hearing draft is complete for review if

(1) the draft contains all the information required by 11 AAC 114.200 - 11 AAC 114.290;

(2) the district provided the meetings, information, and opportunity for public participation required by 11 AAC 114.300 and (a) - (c) of this section; and

(3) the district provides the office, for review and approval, a mailing list of the persons whom the district considers to be interested in the district plan or significant amendment; in compiling this mailing list, the district shall consult with the office to ensure that interested persons are included; the office may add names of persons to the mailing list as a part of the office's approval under this paragraph.

(e) If the office determines under (d) of this section that the public hearing draft is not complete for review, the office may

(1) request more information from the district; or

(2) require the district to postpone distribution of the public hearing draft until the draft is complete for review. (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.040

AS 46.39.030 AS 46.40.030

**11 AAC 114.310. Distribution and notice of public hearing draft.** (a) The district shall distribute the public hearing draft to each person on the mailing list approved under 11 AAC 114.305(d). A transmittal letter that states the comment deadline and identifies the recipient of comments must be sent with the public hearing draft.

(b) Public notice of the availability of the public hearing draft must be given to a person who has requested notice in writing and through advertisement in a newspaper of general circulation within the district. Notice must also be posted in cities and villages within the district as determined appropriate by the district.

(c) If a district is a coastal resource service area, the district shall notify each governing body or village within the district of the provisions of this chapter and AS 46.40.180.

(d) At least a 45-day review and comment period must be provided if the district is a city or unified municipality. At least a 60-day review and comment period must be provided if the district is a borough or coastal resource service area.

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(e) During the review and comment period, the district shall hold at least one meeting for federal and state agency representatives. If the district is a coastal resource service area, the district shall hold at least one meeting for representatives of an affected city or village within the district boundaries. A meeting may be held by teleconference.

(f) During the review and comment period, the district shall hold at least one public hearing. At least 30 days before the hearing, notice of the time and place of the hearing must be provided by the district to each recipient of the public hearing draft, advertised in a newspaper of general circulation within the district or by an announcement on radio or television that broadcasts within the district, and advertised in a newspaper of general circulation within the state. At the public hearing, the district shall give a person the opportunity to present statements orally or in writing. As the district considers necessary, and consistent with AS 44.12.320 – 44.12.340, a district shall provide appropriate Native language translation. In addition, the district shall provide the office with a transcript or electronic recording of the hearing. (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.040  
AS 46.39.030 AS 46.40.030 AS 46.40.180

**11 AAC 114.315. Comment on public hearing draft.** (a) A person may comment on the public hearing draft by

- (1) submitting written comments so that the district receives those comments within the review and comment period set under 11 AAC 114.310(d); or
- (2) testifying at a public hearing held under 11 AAC 114.310(f).

(b) A city or village within a coastal resource service area may comment on the public hearing draft. To submit a comment on the public hearing draft, a city or village within a coastal resource service area must

- (1) submit that comment in the form of a resolution; and
- (2) timely deliver that resolution so that the district receives the resolution within the review and comment period set under 11 AAC 114.310(d).

(c) A city or village within a coastal resource service area shall adopt a resolution described in (b) of this section at a public hearing. Notice of the time and place for that hearing must be posted in the city or village, given to a person who has requested notice in writing, and advertised in a newspaper of general circulation within the city or village, by an announcement on a radio or television station that broadcasts to the city or village, or through another similar means for public notice.

(d) To ensure that the changes requested by a city or village within a coastal resource service area are incorporated into the concept-approved draft as described in 11 AAC 114.325(d), a city or village must

- (1) comment in accordance with (b) of this section and enter any objections on an element of the plan affecting resources or the use of resources within the corporate limits of the city or within two miles of the village; and
- (2) provide a recommendation for a deletion or an alternative relating to any objection made.

(e) A state agency that comments on the public hearing draft shall submit the agency's

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comments to both the office and the district. (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.040  
AS 46.39.030 AS 46.40.030 AS 46.40.180

**11 AAC 114.320. District action on public hearing draft.** (a) The district shall consider all comments and resolutions received during the review and comment period set under 11 AAC 114.310(d) or at a public hearing held under 11 AAC 114.310(f).

(b) Within 30 days after the end of the review and comment period, the office shall summarize the comments submitted by state agencies. This summary represents the tentative position of the state on the public hearing draft and the office shall prepare the summary in consultation with the state agencies that commented. The office shall coordinate among state agencies and the district to resolve a significant difference between a state agency comment and the public hearing draft.

(c) Following receipt of the office summary prepared under (b) of this section, the district shall

(1) consolidate all public comments and identify issues raised during the review and comment period under 11 AAC 114.310(d) or a public hearing under 11 AAC 114.310(f);

(2) address any outstanding issues; if the district and a commentator cannot resolve an outstanding issue, the district or commentator may request that the office consider the issue and provide a recommendation for resolution to the district;

(3) incorporate any necessary change into

(A) a revised public hearing draft prepared under (d) of this section; or

(B) a public hearing draft that is to be presented for conceptual approval under 11 AAC 114.330(a); and

(4) issue to each person who submitted timely comments or testimony during the review and comment period

(A) a copy of all comments received during that period; and

(B) a written response explaining how the district considered all comments and testimony received during that period.

(d) Except when 11 AAC 114.325 requires a coastal resource service area to prepare a revised public hearing draft, a district may prepare and distribute a revised public hearing draft to allow for additional review and comment. A coastal resource service area shall incorporate into the revised public hearing draft any new matter requested by a city or village inside the coastal resource service area, if that city or village submits a resolution in accordance with 11 AAC 114.315(b) and (c) that meets the requirements of AS 46.40.180. (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.040  
AS 46.39.030 AS 46.40.030 AS 46.40.180

**11 AAC 114.325. Revised public hearing draft development and review in coastal resource service areas.** (a) After complying with 11 AAC 114.320, and before conceptual approval under 11 AAC 114.330, a coastal resource service area shall provide to an affected city or village

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(1) the revised public hearing draft that the coastal resource service area proposes to present to the board of the coastal resource service area for conceptual approval under 11 AAC 114.330(a);

(2) a 60-day period for the city or village to review and comment on that draft; and

(3) a transmittal letter that states the deadline for receipt of the city or village's comments, identifies the recipient of the comments, and identifies the relevant provisions of this chapter and AS 46.40.180.

(b) An affected city or village may waive by resolution the right to review and comment on the revised public hearing draft. Adoption of that resolution must comply with 11 AAC 114.315(b) and (c), as if those provisions applied to a waiver described in this subsection.

(c) In order to have a requested change incorporated into the concept-approved draft under (d) of this section, an affected city or village

(1) must submit a comment as a resolution, following the provisions of 11 AAC 114.315(b) and (c), except that the coastal resource service area must receive that resolution within the period described in (a)(2) of this section;

(2) may comment only upon an element of the plan

(A) that has changed since the review and comment period under 11 AAC 114.310, or to which the city or village objected in accordance with 11 AAC 114.315; and

(B) that affects resources or the use of resources within the corporate limits of the city or within two miles of the village; and

(3) must provide a recommendation for a deletion or an alternative relating to the objection made.

(d) A coastal resource service area shall incorporate into the concept-approved draft new matter requested by an affected city or village that meets the requirements of AS 46.40.180.

(Eff. 7/1/2004, Register 170)

Authority:	AS 46.39.010	AS 46.39.040	AS 46.40.040
	AS 46.39.030	AS 46.40.030	AS 46.40.180

**11 AAC 114.330. Development, coordination, and public review of concept-approved drafts.** (a) A district shall conceptually approve the district plan before submitting the plan to the office. Conceptual approval must be by resolution of

(1) the governing body of a municipality that is a district; or

(2) the board of a district that is a coastal resource service area.

(b) As soon as practicable after conceptually approving the district plan, the district shall submit to the office, and to state agencies that the office identifies as interested in that district plan,

(1) the concept-approved draft;

(2) the name and address, if known, of each person who provided a written comment during the review and comment period under 11 AAC 114.310(d) or testified at a public hearing under 11 AAC 114.310(f); and

(3) a copy of the comments submitted and the district's response to the comments

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and testimony required by 11 AAC 114.320(c)(4)(B).

(c) No later than 21 days after a state agency receives the concept-approved draft, the state agency may comment on the draft to the office and the district. To be considered by the office, a state agency must focus the agency's comment on an element of the plan that has changed since the review under 11 AAC 114.310 - 11 AAC 114.325, or to which the state agency objected in comments submitted under 11 AAC 114.315.

(d) Within 15 days following the end of the period for state agency comments under (c) of this section, the office shall prepare proposed findings and conclusions on the concept-approved draft. The proposed findings and conclusions represent the tentative position of the state on the concept-approved draft, and the office shall prepare the proposed findings and conclusions in consultation with the state agencies that commented. The office shall coordinate among state agencies and the district to resolve a significant difference between the state agency comments and the concept-approved draft.

(e) Following completion of the proposed findings and conclusions by the office,

(1) as soon as practicable and unless otherwise agreed by the office and the district, the district shall distribute the

(A) concept-approved draft;

(B) proposed findings and conclusions; and

(C) copies of the district's responses required by 11 AAC 114.320(c)(4)(B) to all comments and testimony; and

(2) the district may distribute the material described in (1) of this subsection only after providing the office, for review and approval, a mailing list of the persons described in (f) of this section.

(f) The material described in (e)(1) of this section must be distributed to

(1) each person who provided comments during the review and comment period under 11 AAC 114.310(d) or testified at a public hearing under 11 AAC 114.310(f);

(2) each person that the district or office identifies as having a significant interest in the district plan;

(3) each city or village within a coastal resource service area that commented under 11 AAC 114.315 or 11 AAC 114.325; and

(4) each state agency that commented under 11 AAC 114.315 or (c) of this section.

(g) An interested person may comment on the material distributed under (f) of this section. For the office to consider comments from that interested person,

(1) the office must receive the comments within 21 days following the date set for distribution of that material; the office may extend the comment period as appropriate; and

(2) a comment must focus on an element of the plan that has changed since the review under 11 AAC 114.310 - 11 AAC 114.325, or to which the commentator objected in those comments that the commentator had previously submitted.

(h) Within 15 days following the comment deadline under (g) of this section, the office shall

(1) determine whether the final concept-approved draft meets the requirements of 11 AAC 114.200 - 11 AAC 114.290;

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(2) consider the comments received under (g) of this section and consult with the district to resolve any significant differences between the requirements of AS 46.40.030, AS 46.40.040, and this chapter and the district plan;

(3) prepare final findings and conclusions as the office's recommendation to the commissioner on the plan; and

(4) distribute the final findings and conclusions and the supporting materials as provided in 11 AAC 114.335(b).

(i) If the office and the district cannot resolve an outstanding issue, or a coastal resource service area does not agree with the change required by a resolution submitted by a city or village in accordance with 11 AAC 114.325(c), the district may request in the district's response to the office's final findings and conclusions that the commissioner consider the issue and any recommendation presented by the district on the issue. The commissioner will review the district's recommendation as part of the commissioner's review of the district plan or significant amendment as described in 11 AAC 114.335(e) and (f).

(j) With the agreement of the district, the office may extend the deadlines in this section. (Eff. 7/1/2004, Register 170)

Authority:	AS 46.39.010	AS 46.40.030	AS 46.40.070
	AS 46.39.030	AS 46.40.040	AS 46.40.180
	AS 46.39.040	AS 46.40.060	

**11 AAC 114.335. Commissioner review of final findings and conclusions and concept-approved drafts of district plans.** (a) A district plan and significant amendment must be approved by the commissioner.

(b) The office shall distribute to the commissioner and, as applicable, each person who makes a written request for that material, each person who testified at a public hearing under 11 AAC 114.310(f) or presented written comments during the review and comment period under 11 AAC 114.310(d), and each city or village that submitted comments under 11 AAC 114.325 the following:

(1) the concept-approved draft;

(2) the office's final findings and conclusions;

(3) the district's recommendation under 11 AAC 114.330(i), if any, in response to the office's final findings and conclusions;

(4) the comments received during the comment period described in 11 AAC 114.330(g);

(5) the office's response to the comments received during the comment period described in 11 AAC 114.330(g); and

(6) the comments and the district's response to those comments as described in 11 AAC 114.320(c)(4).

(c) If an item for distribution, as described in this (b) of this section, was previously distributed by the district or the office under 11 AAC 114.330(e) and has not been amended, the office need not redistribute that item to a recipient.

(d) The office shall give notice of the availability of the material described in (b) of this section to each person who has requested notice in writing and through advertisement in a

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newspaper of general circulation in the district.

(e) Subject to (f) of this section, within 15 days of the distribution of the material described in (b) of this section, the commissioner will approve or disapprove the district plan or significant amendment, in whole or in part, and issue a decision with findings and conclusions based on the information distributed by the office under (b) of this section and relevant portions of the record file described in 11 AAC 114.300. The commissioner may adopt the findings and conclusions of the office by reference.

(f) If a coastal resource service area has submitted a recommendation under 11 AAC 114.330(i), and if that recommendation differs from the new matter that a city or village within that coastal resource service area has requested under 11 AAC 114.325, then in order for the commissioner to approve the coastal resource service area's recommendation, the coastal resource service area must demonstrate that the new matter requested by the city or village is not substantially consistent with the guidelines and standards contained in AS 46.40, this chapter, 11 AAC 112, or the district plan.

(g) With the agreement of the district, the commissioner may extend the time for the commissioner's action under (e) of this section.

(h) The office shall distribute the commissioner's decision to the persons identified in (b) of this section and to each person who has requested a copy of the decision in writing. The office shall publish notice of the commissioner's decision in a newspaper of general circulation in the district. (Eff. 7/1/2004, Register 170)

Authority:	AS 46.39.010	AS 46.40.040	AS 46.40.070
	AS 46.39.030	AS 46.40.060	AS 46.40.180
	AS 46.39.040		

**11 AAC 114.340. Minor amendments.** (a) Notwithstanding any other provision of this chapter, this section and 11 AAC 114.360 govern a minor amendment to an approved district plan. A minor amendment must be approved by the commissioner.

(b) A minor amendment to an approved district plan includes

(1) a revision, an addition, or a deletion to the issues, goals, and objectives included in the approved district plan, if that change

(A) improves clarity or specificity, or reflects the district's current views;

and

(B) subject to (4) of this subsection, does not result in a modification of an enforceable policy developed under 11 AAC 114.270;

(2) a revision, an addition, or a deletion to the resource inventory developed under 11 AAC 114.230;

(3) a revision, an addition, or a deletion to the resource analysis developed under 11 AAC 114.240;

(4) a revision, an addition, or a deletion to an enforceable policy, if that change

(A) improves specificity or clarity, and does not modify the goals, objectives, or intent of the approved district plan;

(B) changes that policy to be consistent with an ordinance or federal or state statute or regulation; or

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- (C) adopts, as an enforceable policy, text that
  - (i) the office or a district has previously developed as part of a grant project that receives federal money under 16 U.S.C. 1455 or 16 U.S.C. 1456b (Coastal Zone Management Act);
  - (ii) the office has approved, through a public review process that includes public notice and a 30-day public comment period, as text that a district may adopt with minimal change;
  - (iii) the United States Secretary of Commerce has approved under 16 U.S.C. 1455;
  - (iv) receives, at the most, minimal change by the district adopting the text; and
  - (v) receives, in the district adopting that text, a public review that includes at least public notice and a 30-day public comment period;
- 114.270(g), so long as the alteration does not otherwise change an enforceable policy;
  - (5) an alteration of a boundary map or description developed under 11 AAC 114.270(g), so long as the alteration does not otherwise change an enforceable policy;
  - (6) a deletion of a local ordinance, state statute or regulation, or federal law or regulation from the enforceable policies of a district plan;
  - (7) a revision, an addition, or a deletion of a local ordinance, state statute or regulation, or federal law or regulation that is contained within an appendix of a district plan;
  - (8) a revision, an addition, or a deletion to the implementation methods or authorities included in the district plan under 11 AAC 114.280, and in which
    - (A) a coastal resource service area becomes a borough;
    - (B) an area which merits special attention outside a district is annexed to a municipality; or
    - (C) a borough delegates coastal management planning or municipal implementation responsibility to a city inside a borough, as provided in AS 29.40.010(b);
  - (9) an alteration of a coastal resource service area or municipal corporate boundary by annexing land
    - (A) where
      - (i) an existing district plan does not apply; and
      - (ii) the district designates the initial biophysical coastal zone boundary, as described in 11 AAC 114.220(b), as the final coastal zone boundary; or
    - (B) already covered by a district plan, so long as the district does not
      - (i) make a significant change to an enforceable policy that applies to the area annexed; or
      - (ii) change the coastal zone boundary in the area annexed; and
  - (10) an editorial change, a reprint, a change of format or plan layout, or a translation into another language or dialect.
- (c) To make a minor amendment, a district shall submit a request to the office. The request must include
  - (1) a brief description of the proposed change and an enclosure containing the actual change;

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(2) the basis upon which the district considers the amendment to be a minor plan amendment;

(3) the reason that the change is necessary;

(4) an assessment of the effects or potential effects of the change on the implementation of the district plan;

(5) documentation that the district has consulted the Department of Natural Resources, Department of Environmental Conservation, and Department of Fish and Game about the proposed change; this documentation may include a district's response to those state agencies' comments;

(6) a letter of support for the change from the coastal resource service area board for the district, municipal planning commission, or governing body, as applicable;

(7) documentation that the district has consulted each federal agency responsible for managing lands within the boundaries of the district; this documentation may include the district's response to any comments by those federal agencies; and

(8) a letter of support from a governing body or village, if the city or village is located within a coastal resource service area and is affected by the minor amendment.

(d) Within 30 days after submission of the request under (c) of this section, the office shall

(1) review the proposed amendment and the material submitted under (c) of this section;

(2) discuss the proposed amendment with each person the district or the office considers to be interested, including

(A) a state or federal agency; and

(B) a district other than the district proposing the amendment; and

(3) prepare an analysis of the amendment, with a recommendation that the commissioner

(A) approve the amendment in whole or in part as a minor amendment;

(B) approve the amendment so long as the district makes each change that the office considers necessary for the amendment not to be treated as a significant amendment; or

(C) identify the amendment as a significant amendment and require that the amendment undergo the review set out in 11 AAC 114.305 - 11 AAC 114.335.

(e) The district may modify a proposed minor amendment to address the concerns identified by a person considered by the office under (d)(2) of this subsection as interested or by the office.

(f) Unless otherwise agreed by the office and the district, the office shall give notice of the availability of the proposed amendment and the office's analysis and recommendation, as well as notice of the opportunity for public comment under (g) of this section, to any person who has requested that notice in writing and through advertisement in a newspaper of general circulation in the district.

(g) The office shall provide at least a 30-day public comment period on the proposed amendment and the office's analysis and recommendation. At the close of the comment period, the office shall submit the proposed amendment, the office's analysis and recommendation on the

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proposed amendment, and all timely comments to the commissioner.

(h) Within 15 days after the close of the comment period, the commissioner will act on the proposed amendment. The commissioner may adopt the recommendation of the office by reference. In the determination, the commissioner will

- (1) approve the amendment in whole or in part as a minor amendment;
- (2) approve the amendment so long as the district makes each change that the commissioner considers necessary for the amendment not to be treated as a significant amendment;
- (3) identify the amendment as a significant amendment and require that the amendment undergo the review set out in 11 AAC 114.305 - 11 AAC 114.335; or

(4) disapprove the amendment. (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.40.030 AS 46.40.070  
AS 46.39.030 AS 46.40.040 AS 46.40.180  
AS 46.39.040 AS 46.40.060

**11 AAC 114.345. Transition.** (a) Notwithstanding another provision of 11 AAC 114.300 - 11 AAC 114.385, only this section and 11 AAC 114.350 - 11 AAC 114.360 govern the review procedures for amendments to an approved district plan in effect on July 1, 2004 that are required to satisfy sec. 47(a), ch. 24, SLA 2003, as amended by sec. 17, ch. 31, SLA 2005.

(b) District plan amendments under this section are limited to

- (1) a revision, addition, or deletion to the issues, goals, and objectives to meet 11 AAC 114.200, if the change improves clarity or specificity or reflects the district's current views;
- (2) a revision to the organization element to meet 11 AAC 114.210;
- (3) a revision, addition, or deletion to the resource inventory to meet 11 AAC 114.230;
- (4) a revision, addition, or deletion to the resource analysis to meet 11 AAC 114.240;
- (5) a revision, addition, or deletion to the uses, activities, and resources subject to the plan to meet 11 AAC 114.250;
- (6) a revision, addition, or deletion to the proper and improper uses and activities subject to the plan to meet 11 AAC 114.260;
- (7) a revision, addition, or deletion to an enforceable policy to meet 11 AAC.114.270;
- (8) a revision, addition, or deletion of a boundary map or description to meet 11 AAC 114.270(g);
- (9) a revision, addition, or deletion of
  - (A) a local ordinance; or
  - (B) a reference to a state or federal statute or regulation that is contained within an appendix of a district plan;
- (10) a revision, addition, or deletion to the implementation methods or authorities included in the district plan to meet 11 AAC 114.280;
- (11) an alteration of a district's coastal zone boundary within the municipal

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corporate boundary if the district designates the initial biophysical coastal zone boundary, as provided in 11 AAC 114.220(b), as the final coastal zone boundary for any new areas.

(c) In developing plan amendments under this section, a district shall

(1) consult with state and federal agencies that have authority for the subject matter addressed in the district enforceable policies to be amended; this consultation must be coordinated with the office;

(2) develop draft plan amendments that meet the requirements of AS 46.40 and this chapter;

(3) provide at least a 21-day public review and comment period on the draft plan amendments and maintain a list of persons that provided comments;

(4) obtain a resolution of support for the changes from the coastal resources service area board for the district, municipal planning commission, or governing body, as applicable; and

(5) obtain a resolution of support for the changes from a city council or traditional village council, if the city or village, as applicable, is located within a coastal resource service area and is affected by the district plan amendments.

(d) No later than March 1, 2006, a district developing plan amendments under this section shall submit a request to the office to review and approve those amendments. The request must include

(1) a complete draft of each plan amendment that has been prepared to meet the requirements of AS 46.40 and this chapter;

(2) documentation of the consultation with state and federal agencies under (c)(1) of this section;

(3) the resolution of support for the changes from the coastal resource service area board for the district, municipal planning commission, or governing body, as applicable, obtained under (c)(4) of this section;

(5) the resolution of support for the changes from a city council or traditional village council obtained under (c)(5) of this section, if the city or village, as applicable, is located within a coastal resource service area and is affected by the district plan amendments; and

(6) the list of parties that provided comments during the public review and comment period maintained under (c)(3) of this section.

(e) Within 30 days of receiving a request under (d) of this section, the office shall determine whether the request is complete and notify the district accordingly. If the request is not complete, the office shall inform the district what information or documentation is necessary to complete the request.

(f) Within 30 days of receiving the office's notification that a request under (d) of this section is incomplete, the district shall provide the office with the necessary information or documentation identified by the office.

(g) Within 60 days after receipt of a complete submission under (d) or (f) of this section, the office shall

(1) coordinate a plan amendment review of the request and any supporting material submitted by the district with state and federal agencies and any other district that has indicated an interest in the request for plan amendments;

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- (2) prepare an analysis of the request for plan amendments against the requirements of AS 46.40, 11 AAC 112, 11 AAC 114.200 – 11 AAC 114.290, and this section, with a preliminary recommendation that the commissioner
  - (A) approve the request in whole or in part;
  - (B) approve the request if the district makes each change that the office considers necessary to comply with the requirements of AS 46.40, 11 AAC 112, 11 AAC 114.200 – 11 AAC 114.290, and this section;
  - (C) identify the request in whole or in part as outside the scope of amendments under this section; and
- (3) issue a notice informing the public of the availability of the proposed plan amendments and the office's analysis and preliminary recommendation, as well as notice of the opportunity for public participation under (h) of this section; notice shall be given
  - (A) to any person who
    - (i) has requested that notice in writing;
    - (ii) commented during the public review and comment period provided under (c)(3) of this section; or
    - (iii) is on the list required by (d)(6) of this section; and
  - (B) through advertisement in a newspaper of general circulation within the district.
- (h) The office shall provide a 30 day period for review and comment on the proposed plan amendments and the office's analysis and preliminary recommendations.
- (i) The district may modify the proposed plan amendments to address the recommendations identified in the office's analysis and preliminary recommendations.
- (j) Within 30 days after the close of the public review and comment period provided under (h) of this section, the office shall
  - (1) consider timely comments and attempt to negotiate resolution of any issues with the district; and
  - (2) submit a final recommendation to the commissioner.
- (k) Within 15 days after receiving the final recommendation of the office, the commissioner will
  - (1) approve the request for plan amendments in whole or in part;
  - (2) approve the request if the district makes each change that the office considers necessary to comply with the requirements of AS 46.40, 11 AAC 112, 11 AAC 114.200 – 11 AAC 114.290, and this section; or
  - (3) determine that all or part of the request is outside the scope of amendments under (b) of this section and require that those amendments undergo a significant amendment review under 11 AAC 114.300 - 11 AAC 114.360; or
  - (4) disapprove the request in whole or in part.
- (l) The office shall distribute a copy of the commissioner's decision to each person identified in (g)(3)(A) of this section and to each other person who has requested a copy of the decision in writing.
- (m) The office may extend a deadline contained in (e) - (k) of this section for good cause.

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(n) Under sec. 47(c), ch. 24, SLA 2003, the deadline established in AS 46.40.070(b) does not apply to an amendment subject to this section. (Eff. 7/1/2004, Register 170; am 6/1/2005, Register 175)

Authority:	AS 46.39.010	AS 46.40.040	AS 46.40.180
	AS 46.39.030	AS 46.40.060	Sec. 47(c), ch. 24, SLA 2003
	AS 46.39.040	AS 46.40.070	

**11 AAC 114.350. Mediation.** (a) If the commissioner's decision under 11 AAC 114.335 or 11 AAC 114.345 disapproves the district plan or significant amendment, in whole or in part, the district may

(1) amend the district plan or revise the significant amendment to comply with the commissioner's directive; or

(2) submit the disapproved portion to mediation as set out in (b) - (i) of this section.

(b) Before the mediation session, the office may call for a public hearing in the district to discuss the part of the plan or significant amendment subject to mediation. The office shall issue public notice of the hearing at least 30 days before the hearing. Upon request and consistent with AS 44.12.320 – 44.12.340, a district shall provide translation into and out of a Native language prevalent within the district. The public hearing must be electronically recorded. A person may submit oral or written testimony. The oral and written testimony constitutes the hearing record, which shall be transmitted to the mediator.

(c) Parties to the mediation are the office and the district. The parties shall, within 10 days after the date of the commissioner's decision under 11 AAC 114.335 or 11 AAC 114.345, agree upon the selection of a mediator. If the parties cannot agree, the parties shall immediately, in writing, ask the Federal Mediation and Conciliation Service to appoint a mediator. If that mediator is unacceptable to either party, that party shall request the Federal Mediation and Conciliation Service to submit to the parties the names of three qualified mediators. Upon receipt of these names, each party shall strike one name from the list and the remaining name shall be the mediator. If each party strikes the same name, the Federal Mediation and Conciliation Service shall select the mediator from the remaining two names. A mediator shall perform duties in a manner consistent with the standards of conduct set out in the Code of Professional Conduct for Labor Mediators, set out as an appendix to 29 C.F.R. Part 1400 (July 1, 2003), adopted by reference.

(d) A mediation session must be held within the district. The mediator shall schedule a session, with due regard for the convenience of the parties, upon at least seven days' notice, except that the parties may, by mutual consent, waive the notice period. The parties shall mutually agree upon the place of the meeting.

(e) The mediator shall schedule the first mediation session to be held as soon as possible after the mediator has been selected. At the initial session, the mediator shall establish reasonable rules of procedure. A mediation session must be conducted in a manner so that the parties are assured and confident that information disclosed to the mediator will remain confidential. The mediator shall determine the length and frequency of a mediation session. If an accord is not reached within 60 days after the initial session, the mediator shall declare an

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impasse, except that the parties and the mediator may agree to extend the 60-day period by no more than 30 days.

(f) If the mediator determines that an impasse has been reached, the mediator shall notify the parties in writing within 10 days after the determination is made.

(g) If the mediator determines that an accord has been reached, the mediator shall direct the parties to set out in writing the terms of the agreement. This agreement signifies the final agreement of the dispute, subject to review and approval of the commissioner and to review and ratification by the district at a public meeting within 20 days after the parties reach the accord. With the approval of the parties, mediation may be used to resolve a difference that may arise as the result of the commissioner's review or the district's public meeting. After approval by the commissioner and ratification by the district, the agreement may be set aside only for fraud, misconduct, or gross mistake.

(h) If the accord reached under (g) of this section becomes binding, the office shall, within 20 days after approval by the commissioner and ratification by the district, distribute a modified commissioner's decision that reflects the accord to the district and each person who was served with the commissioner's decision under 11 AAC 114.335(h) or 11 AAC 114.345(l) and shall place the modified decision in the record file. The modified decision will contain findings and conclusions, based on the record file and additional material presented during mediation, necessary to demonstrate that the modified decision is consistent with AS 46.40, this chapter, and 11 AAC 112.

(i) If a binding accord is not reached under (g) of this section, the commissioner will, consistent with AS 46.40.060(c), enter a final order resolving the dispute as the commissioner determines appropriate. (Eff. 7/1/2004, Register 170)

Authority:	AS 46.39.010	AS 46.40.030	AS 46.40.070
	AS 46.39.030	AS 46.40.040	AS 46.40.180
	AS 46.39.040	AS 46.40.060	

**11 AAC 114.355. Federal review.** Within 30 days after a commissioner approval under 11 AAC 114.335, 11 AAC 114.340, or 11 AAC 114.345, a modified decision under 11 AAC 114.350(h), or a final order under 11 AAC 114.350(i), the office shall submit the district plan or amendment to the United States Department of Commerce for review under 16 U.S.C. 1455 (Coastal Zone Management Act). (Eff. 7/1/2004, Register 170)

Authority:	AS 46.39.010	AS 46.39.040	AS 46.40.060
	AS 46.39.030	AS 46.40.040	AS 46.40.070

**11 AAC 114.360. Local adoption and effective date.** (a) Within 90 days after the commissioner has approved a district plan or amendment under 11 AAC 114.335, 11 AAC 114.340, or 11 AAC 114.345, issued a modified decision approving a district plan or amendment under 11 AAC 114.350(h), or a final order approving a district plan or amendment under 11 AAC 114.350(i), and unless the United States Department of Commerce has not within that period fully approved that plan or amendment under 16 U.S.C. 1455 (Coastal Zone Management Act), the district shall approve or disapprove the district plan or amendment in its entirety. If the district

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(1) is a municipality, the district shall adopt the district plan or amendment by ordinance;

(2) is a coastal resource service area, the district shall

(A) adopt the district plan or amendment by resolution of the coastal resource service area board at a public hearing; and

(B) at least five days before that hearing, provide public notice of the hearing

(i) through advertisement in a newspaper of general circulation within the coastal resource service area, or through announcements on a radio or television station that broadcasts within the coastal resource service area; and

(ii) to each person who has requested a copy of the public notice in writing.

(b) The office shall waive the requirements of (a) of this section for a minor amendment that the commissioner has approved under 11 AAC 114.340 and that does not change an enforceable policy as described under 11 AAC 114.270, so long as the waiver is consistent with the provisions of AS 46.40 and this chapter.

(c) A district plan or amendment to a district plan that has been approved by the district under (a) of this section takes effect as part of the program 30 days after the lieutenant governor files the commissioner's decision or order approving the district plan or amendment, along with a copy of the district ordinance or resolution, as applicable, adopting the plan, unless local adoption is waived under (b) of this section. (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.060  
AS 46.39.030 AS 46.40.040 AS 46.40.070

**11 AAC 114.365. Progress reports to office, updates to district plans, and reapproval.** (a) After a district plan or amendment takes effect under 11 AAC 114.360(c), the district shall submit annually to the office a brief progress report concerning plan implementation during the state fiscal year. The district shall submit the report by August 15, after the state fiscal year for which the report is made ends. The report must include

(1) a statement describing the district's progress in fulfilling a condition that the commissioner placed upon approval of the district plan or an amendment;

(2) a summary, on a form provided by the office, of significant district land and water use decisions, enforcement actions, activities, and accomplishments in the district during the state fiscal year;

(3) a description of each minor amendment adopted into the district plan during the year;

(4) the district's response to any request made by the office for plan amendments or implementation; and

(5) identification of any problems encountered in implementing the district plan, and a recommendation for solving each problem.

(b) Subject to (c) of this section, the district shall review and submit the district's coastal management plan to the office for reapproval every 10 years after the plan first takes effect under 11 AAC 114.360(c). The submittal shall include an evaluation of the plan effectiveness and

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implementation, a presentation of any new issues, and a recommendation for resolving any problems that have arisen.

(c) Approval of a significant amendment to a district plan under 11 AAC 114.335 or 11 AAC 114.345 begins a new 10 year period before the district must review and submit the district plan for reapproval under AS 46.40.050(a).

(d) The office may at any time require a district to amend the district plan to resolve a problem with implementing the district plan, or to update part of the district plan that is outdated, if the amendment is necessary to conform to the provisions of AS 46.40 and this chapter. (Eff. 7/1/2004, Register 170)

Authority:	AS 46.39.010	AS 46.39.040	AS 46.40.060
	AS 46.39.030	AS 46.40.040	AS 46.40.070

**11 AAC 114.370. Petition for amendment to an approved district plan regarding uses of state concern.** (a) A state agency or other interested person may submit a petition for amendment to a district plan if there is substantial evidence that a use of state concern is arbitrarily or unreasonably restricted or excluded by the district plan. An amendment to a district plan under this section must be approved by the commissioner.

(b) The petitioner shall submit the petition to the office and to the district. The petition must include the following information:

- (1) identification of a use of state concern that is arbitrarily or unreasonably restricted or excluded by implementation of the district plan;
- (2) specific documentation of how the use of state concern is being arbitrarily or unreasonably restricted or excluded;
- (3) a description of a significant change in circumstances or new information that has arisen since approval of the district plan and that provides a reasonable basis for concluding that the district plan arbitrarily or unreasonably restricts or excludes a use of state concern; and
- (4) the proposed district plan amendment.

(c) The office shall review the petition for completeness and distribute the petition to interested state agencies. Within 30 days after the petition is submitted, the office shall, in consultation with the district and the petitioner, attempt to resolve the petitioner's concerns without initiating a district plan amendment. The office may extend the 30 day consultation period by up to 60 days.

(d) If the petitioner's concerns are not resolved through consultation and if the office, in consultation with the district, the interested state agencies, and the petitioner, determines that after original approval of the district plan a significant change in circumstances has occurred or new information has developed that might cause the plan to arbitrarily or unreasonably restrict or exclude a use of state concern, the procedure described in (e) of this section applies.

(e) When required by (d) of this section, the office shall, within 20 days after the consultation period under (c) of this section, distribute the petition, an evaluation of the proposed amendment, and the district's response to the petition to the commissioner and to each person identified as having a significant interest in the district plan, including a person described in 11 AAC 114.310(a). The office's evaluation must include

- (1) a summary of the proposed amendment;

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(2) an analysis of the evidence that the criteria stated in (b) of this section have been satisfied; and

(3) an evaluation of the amendment's consistency with AS 46.40 and 11 AAC 112.

(f) If the criteria for a petition stated in (b) of this section are not met, then the office shall report this finding to the commissioner. The office shall distribute the finding to each person involved during the consultation period specified in (c) of this section.

(g) The procedures set out in 11 AAC 114.335(b) - (h) for the commissioner's review of district plans apply to review of a petition under this section, except that the material to be distributed under 11 AAC 114.335(b) consists of the material identified for distribution under (e) of this section.

(h) The procedure for mediation set out in 11 AAC 114.350 applies if the district is dissatisfied with the commissioner's decision on the petition.

(i) An amendment to a district plan approved by the commissioner under (g) of this section takes effect upon the lieutenant governor's filing of the commissioner's decision approving the amendment. If mediation regarding the amendment occurs under 11 AAC 114.350, an amendment to a district plan takes effect upon the lieutenant governor's filing of the commissioner's order either approving the results of the mediation under 11 AAC 114.350(g) or resolving the dispute under 11 AAC 114.350(i). (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.060  
AS 46.39.030 AS 46.40.040 AS 46.40.070

**11 AAC 114.375. Petition regarding nonimplementation of a district plan.** (a) A petition under AS 46.40.100 must be decided by the commissioner.

(b) The petition must be submitted in writing to the office. The petition must

(1) include the petitioner's name, mailing address, and street address and must also include a telephone number, and any facsimile number or electronic mail address, at which the petitioner may be reached;

(2) specify whether the petitioner is a district, a citizen of the district, or a state resource agency;

(3) identify the district that is the subject of the petition;

(4) include a list of points that the petitioner intends to argue in the petition;

(5) explain how the approved district plan is not being implemented; and

(6) suggest an alternative action that will implement the plan.

(c) The office shall serve a copy of the petition on the district that is the subject of the petition. The district shall serve any response to the petition on the office and the petitioner within 20 days after receipt of the petition.

(d) Within 20 days after the hearing conducted under 11 AAC 114.380, the hearing officer shall prepare and submit to the commissioner, the petitioner, the affected district, and the office draft written findings and a draft written decision, along with the record developed at the hearing. The commissioner may

(1) adopt as the commissioner's findings and decision the draft findings and decision of the hearing officer;

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(2) modify the draft findings and decision and adopt the modified findings and decision as the commissioner's; or

(3) reject the draft findings and decision and return the matter to the hearing officer, with instructions as the commissioner determines appropriate.

(e) Within five days after the commissioner's decision is issued, the office shall distribute the decision to

(1) the petitioner;

(2) the district whose plan was the subject of the petition; and

(3) each state agency and person that the office identifies as having an interest in the petition.

(f) The effective date of a commissioner decision under this section is the date the office distributes the decision. As of the date of distribution, the commissioner's decision is a final administrative decision under the program. (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.100  
AS 46.39.030

**11 AAC 114.380. General hearing procedures on petitions.** (a) The office shall conduct a hearing on a petition that meets the requirements of 11 AAC 114.375(b).

(b) The commissioner will appoint a department employee or departmental contractor as hearing officer to conduct a petition hearing. The hearing officer shall convene the hearing within 60 days after a petition under 11 AAC 114.375 is submitted to the office. The parties to the hearing are the petitioner and the district whose plan is the subject of the petition. The parties and the hearing officer may agree to a reasonable time extension for convening the hearing.

(c) In a hearing held on a petition,

(1) the hearing may be conducted by teleconference;

(2) testimony must be given under oath;

(3) the burden of proof is on the petitioner;

(4) the hearing officer may allow admission of material evidence of the type on which a reasonable person might rely in the conduct of serious business affairs; and

(5) formal rules of evidence need not apply. (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.100  
AS 46.39.030

**11 AAC 114.385. Citizen of a district.** (a) For purposes of AS 46.40 and this chapter, a citizen of a district is a natural person who has been domiciled in the district for a minimum of 30 days with the intent to remain in the district indefinitely.

(b) A petitioner who is a citizen of the district shall submit with the petition filed under 11 AAC 114.375 at least one of the following items to demonstrate that the petitioner meets the requirements of (a) of this section:

(1) a copy of the petitioner's current voter registration;

(2) a copy of the petitioner's current driver's license;

(3) a copy of the petitioner's current motor vehicle registration;

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(4) a statement identifying the petitioner's domicile.

(c) The office may request additional information the office considers necessary to aid the office's determination regarding whether a petitioner is a citizen of the district. (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.100  
AS 46.39.030

### **Article 4. Special Area Management Plans and Areas Which Merit Special Attention.**

#### **Section**

- 400. Special area management plans
- 410. Types of areas to be designated as areas which merit special attention
- 420. Areas which merit special attention inside districts
- 430. Areas which merit special attention outside districts

**11 AAC 114.400. Special area management plans.** A district may develop a special area management plan to manage a specific resource or activity within the district. Examples of a special area management plan include a harbor management plan, an ocean resource management plan, a public use management plan, a recreation management plan, a watershed management plan, and a wetlands management plan. A special area management plan may provide for increased specificity in protecting significant natural resources, coastal-dependent economic growth, improved protection of life and property in hazardous areas, and improved predictability in governmental decision making. Development and commissioner approval of a special area management plan for inclusion in the program must follow the procedures for approval of a district plan or significant amendment as described in 11 AAC 114.300 - 11 AAC 114.360. (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.040  
AS 46.39.030 AS 46.40.030

**11 AAC 114.410. Types of areas to be designated as areas which merit special attention.** (a) A district may develop a plan for an area which merits special attention. The development and approval of a plan for an area which merits special attention is subject to 11 AAC 114.420 and 11 AAC 114.430, as applicable.

(b) An area which merits special attention includes the following, in addition to the categories included as examples in AS 46.40.210:

- (1) an area important for subsistence uses;
- (2) coastal resources important to subsistence uses;
- (3) an area with special scientific value, including an area where an ongoing research project could be jeopardized by development or a conflicting use or activity; and
- (3) a potential estuarine or marine sanctuary. (Eff. 7/1/2004, Register 170; am 10/29/2004, Register 172)

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Authority: AS 46.39.010 AS 46.39.040 AS 46.40.040  
AS 46.39.030 AS 46.40.030

**11 AAC 114.420. Areas which merit special attention inside districts.** (a) A person may recommend to a district that an area inside the district be submitted to the office for approval as an area which merits special attention. A district may include in the proposed district plan, or submit for approval as a significant amendment to the district's plan, a plan for an area which merits special attention.

(b) A plan for an area which merits special attention must include

- (1) how the area meets the descriptions contained in AS 46.40.210 or 11 AAC 114.410;
- (2) a map showing the geographical location, surface area, and, if appropriate, bathymetry of the area, along with a legal and narrative description of the boundaries and a justification of the size of the area which merits special attention;
- (3) the district plan elements described in 11 AAC 114.200 - 11 AAC 114.290;
- (4) a summary of the resource values and use conflicts, if any, in the area; and
- (5) an analysis showing that designation of an area which merits special attention is the district's preferred planning and management mechanism for meeting the objectives of the proposal and the program.

(c) Development and office approval of a plan for an area which merits special attention inside a district must follow the procedures for approval of a district plan or significant amendment as described in 11 AAC 114.300 - 11 AAC 114.360.

(d) A plan for an area which merits special attention inside a district must preserve, protect, enhance, or restore each value for which the area was designated. (Eff. 7/1/2004, Register 170)

Authority: AS 46.39.010 AS 46.39.040 AS 46.40.040  
AS 46.39.030 AS 46.40.030

**11 AAC 114.430. Areas which merit special attention outside districts.** (a) After satisfying the meeting requirements imposed upon a district under 11 AAC 114.300(a), a person may recommend to the office that an area within the coastal zone but outside a coastal resource district be designated as an area which merits special attention.

(b) A recommendation to the office for an area which merits special attention outside a district must be submitted to the office and must include

- (1) the basis for designation;
- (2) a map showing the geographical location of the area, a legal and narrative description of the area's boundaries, and a justification for the size of the area;
- (3) a summary of the resource values and use conflicts, if any, in the area;
- (4) a statement of the purpose and objectives to be met through a plan for an area which merits special attention;
- (5) a tentative schedule for completion of planning tasks and reviews;
- (6) the source of financing for developing the area which merits special attention plan;

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(7) a list of persons with interests in or adjacent to the proposed area who may be affected by the proposed designation and a description of how these persons would be involved in plan development;

(8) a letter commenting on the proposed area from

(A) a state agency that would implement the plan for that area; or

(B) a district, state agency, or federal agency that is interested, or identified as interested, in the development of that plan;

(9) a written summary of the issues discussed and the participants involved in the meeting that the person recommending the area which merits special attention outside of a district is required to satisfy under (a) of this section; and

(10) an analysis showing that a plan for an area which merits special attention is the planning and management mechanism that the state agencies responsible for implementation prefer for meeting the objectives of the proposal and the program.

(c) A plan for an area which merits special attention outside a district must preserve, protect, enhance, or restore each value for which the area is designated.

(d) Upon receipt of a recommendation for designation of an area which merits special attention outside of a district, the office shall give notice of a public hearing on the recommendation. In addition to providing public notice of that hearing, the office shall give direct notice to each person identified under (b)(7) of this section. The office shall make the recommendation available for public inspection at the time of the public notice.

(e) The office shall detail the office's reasons and either authorize additional planning for the area which merits special attention or reject the recommendation. The office's authorization of additional planning does not constitute approval of or financing for a final plan for that area.

(f) If the office authorizes additional planning under this section, the office shall

(1) provide public notice by advertisement in a newspaper of general circulation in the affected area and in one of general circulation in the state; and

(2) with assistance from the person recommending the designation, compile a mailing list of state and federal agencies, interested cities and villages, landowners, and other interested persons and notify each person on the list that development of a plan may occur for the area which merits special attention outside a district.

(g) A plan for an area which merits special attention outside a district must

(1) contain the district plan elements described in 11 AAC 114.200 - 11 AAC 114.290; and

(2) include the information required under (b) of this section.

(h) Designation of an area which merits special attention outside a district and the development of a plan for that area must be in accordance with the procedures for approval of a district plan or significant amendment to a district plan, as described in 11 AAC 114.305 – 11 AAC 114.320 and 11 AAC 114.330. For the purposes of those sections, the person recommending the designation of the area must meet each requirement that a district would have to meet under those sections,

(1) except that submission of the concept-approved draft under 11 AAC 114.330 occurs without conceptual approval by resolution under (a) of that section; and

(2) unless the context of 11 AAC 114.305 - 11 AAC 114.320 or 11 AAC 114.330

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indicates otherwise.

(i) The commissioner will approve or disapprove the designation of and plan for an area which merits special attention outside a district. The provisions of 11 AAC 114.335 apply to a decision under this subsection. Within 30 days after commissioner approval, the office shall submit that designation and plan for federal review as described in 11 AAC 114.355. The designation of and plan for that area takes effect as part of the program 30 days after the lieutenant governor files the commissioner's decision approving the designation of and plan for that area. (Eff. 7/1/2004, Register 170)

Authority:	AS 46.39.010	AS 46.39.040	AS 46.40.030
	AS 46.39.030	AS 46.40.010	AS 46.40.040

### Article 5. General Provisions.

#### Section

- 900. Computation of time
- 990. Definitions

**11 AAC 114.900. Computation of time.** A time period under this chapter must be calculated using calendar days. An action required to be taken on a specific day must be taken no later than 5:00 p.m. that day, except that an action required to be taken on a Saturday, Sunday, or state or federal holiday must be taken no later than 5:00 p.m. the next working day. (Eff. 7/1/2004, Register 170)

Authority:	AS 46.39.010	AS 46.39.040	AS 46.40.030
	AS 46.39.030	AS 46.40.010	AS 46.40.040

**11 AAC 114.990. Definitions.** Unless the context indicates otherwise, in this chapter

- (1) "affected city or village" means a city or village that may object under AS 46.40.180(b);
- (2) "approved district plan" means a
  - (A) district plan approved under 11 AAC 114.335, 11 AAC 114.355, and 11 AAC 114.360; and
  - (B) district plan approved by the former Coastal Policy Council and in effect under sec. 46(c), ch. 24, SLA 2003, as amended by sec. 16, ch. 31, SLA 2005;
- (3) "area which merits special attention" has the meaning given in AS 46.40.210;
- (4) "beach" means an area affected by wave action directly from the sea;
- (5) "city" has the meaning given in AS 29.71.800;
- (6) "commissioner" means the commissioner of the department;
- (7) "coastal area" has the meaning given in 11 AAC 112.990;
- (8) "coastal use or resource" has the meaning given in AS 46.40.210;
- (9) "coastal water" has the meaning given in 11 AAC 112.990;
- (10) "concept-approved draft" means a proposed district plan or significant

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amendment that has received district approval under 11 AAC 114.330(a), but that has not received commissioner approval under 11 AAC 114.335;

(11) "department" has the meaning given in AS 46.40.210;

(12) "designate" has the meaning given in 11 AAC 112.990;

(13) "direct and significant impact" means an effect of a use, or an activity associated with the use, that will proximately contribute to a material change or alteration of the coastal waters, and in which

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

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

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

(14) "district" means a coastal resource district as defined in AS 46.40.210;

(15) "district enforceable policy" has the meaning given in 11 AAC 110.990;

(16) "district plan"

(A) means a district coastal management plan established under AS 46.40.060 or a district coastal management program approved by the former Coastal Policy Council and in effect under sec. 46(c), ch. 24, SLA 2003, as amended by sec. 16, ch. 31, SLA 2005;

(B) includes special area management plans under 11 AAC 114.400 and district-initiated plans for areas which merit special attention described in 11 AAC 114.420 and 11 AAC 114.430;

(17) "facilities related to commercial fishing and seafood processing" includes hatcheries and related facilities, seafood processing plants and support facilities, marine industrial and commercial facilities, and aquaculture facilities;

(18) "federally recognized Indian tribe" has the meaning given "Indian tribe" in 25 U.S.C. 450b;

(19) "governing body" has the meaning given in AS 29.71.800;

(20) "important habitat" has the meaning given in 11 AAC 112.300;

(21) "island" means a body of land surrounded by water on all sides;

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

(A) derived from experience and observations; and

(B) generally accepted by the local community;

(23) "local usage" means current and actual use of a coastal resource by residents of the locality in which the resource is found;

(24) "major energy facility" has the meaning given in 11 AAC 112.990;

(25) "matter of local concern" has the meaning given in AS 46.40.070(a)(2)(C);

(26) "municipality" has the meaning given in AS 29.71.800;

(27) "Native corporation" means a regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

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- (28) "natural hazard areas" has the meaning given in 11 AAC 112.990;
- (29) "natural hazards" has the meaning given in 11 AAC 112.990;
- (30) "new matter" means new language or deletions;
- (31) "office" means the office of project management and permitting within the department;
- (32) "person" means
  - (A) an individual;
  - (B) a corporation, partnership, association, or other entity organized or existing under the laws of a state;
  - (C) the federal government;
  - (D) a state, regional, or local government; or
  - (E) an entity of the federal government or of a state, regional, or local government;
- (33) "program" has the meaning given in 11 AAC 110.990;
- (34) "public hearing draft" means a proposed district plan or significant amendment, as developed
  - (A) through the hearing and review process under 11 AAC 114.300 - 11 AAC 114.325; and
  - (B) before conceptual approval by a district under 11 AAC 114.330;
- (35) "public need" means a documented need of the general public and not that of a private person;
- (36) "reasonably foreseeable" has the meaning given in 11 AAC 110.990;
- (37) "resource agency" has the meaning given in AS 46.39.010;
- (38) "revised public hearing draft" means a public hearing draft that includes changes resulting from the review process under 11 AAC 114.320(d) or 11 AAC 114.325;
- (39) "saltwater wetlands" has the meaning given in 11 AAC 112.990;
- (40) "scientific evidence" means facts or data that are
  - (A) premised upon established chemical, physical, biological, or ecosystem management principles as obtained through scientific method and submitted to the office to furnish proof of a matter required under this chapter;
  - (B) in a form that would allow resource agency review for scientific merit; and
  - (C) supported by one or more of the following:
    - (i) written analysis based on field observation and professional judgment along with photographic documentation;
    - (ii) written analysis from a professional scientist with expertise in the specific discipline; or
    - (iii) site-specific scientific research that may include peer-review level research or literature;
- (41) "sensitivity" means the tendency to be altered easily or to be vulnerable to changes from other forces, uses, or activity in the environment;
- (42) "significant amendment" means an amendment to an approved district plan that, except as provided under 11 AAC 114.340(b),

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- (A) results in a major revision, addition, or deletion to
    - (i) an enforceable policy developed under 11 AAC 114.270; or
    - (ii) the implementation methods or authorities included in the district plan under 11 AAC 114.280;
  - (B) alters the district boundaries, other than by technical adjustments;
  - (C) designates and develops a plan for an area which merits special attention or special area management plan under 11 AAC 114.400; or
  - (D) restricts or excludes a use of state concern not previously restricted or excluded;
  - (43) "suitability" means the fitness and appropriateness of the coastal environment to support a given use or activity;
  - (44) "traditional village council" means
    - (A) a council organized under 25 U.S.C. 476 (Indian Reorganization Act);
    - (B) a council recognized by the United States as eligible for federal aid to Indians; or
    - (C) a village entity recognized by the commissioner of the Department of Community and Economic Development under 3 AAC 190.110 - 3 AAC 190.150;
  - (45) "transitional and intertidal area" means an area subject to periodic or occasional inundation by tides, including coastal floodplains, storm surge areas, tsunami and hurricane zones, and washover channels;
  - (46) "use of state concern" has the meaning given in AS 46.40.210;
  - (47) "village" means an unincorporated community
    - (A) where at least 25 persons reside within the village boundary as a social unit, as determined by the Department of Community and Economic Development; and
    - (B) that has a traditional village council;
  - (48) "village boundary" means
    - (A) the area within a three mile radius of the post office in the village; or
    - (B) if there is no post office in the village, the area within a three mile radius of a site designated by the commissioner of the Department of Community and Economic Development;
  - (49) "zone of direct influence" means the portion of the coastal zone extending seaward and landward from the zone of direct interaction;
  - (50) "zone of direct interaction" means the portion of the coastal zone where physical and biological processes are a function of direct contact between land and sea;
  - (51) "subsistence uses" has the meaning given in AS 16.05.940. (Eff. 7/1/2004, Register 170; am 10/29/2004, Register 172; am 6/1/2005, Register 175)
- Authority: AS 46.39.010 AS 46.40.010 AS 46.40.060  
AS 46.39.030 AS 46.40.040 AS 46.40.070  
AS 46.39.040