EXECUTIVE ORDER NO. 114

Under the authority of art. III, sec. 23, of the Alaska Constitution, I order the following:

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

   FINDINGS. As governor, I find that the transfer back of certain functions relating to the protection of fish habitat in rivers, lakes, and streams of the state, and related functions regarding fish and game protection, from a deputy commissioner of natural resources to the Department of Fish and Game, would be in the best interests of efficient administration. To restore the statutory balance between stream preservation and forest stewardship, the role currently assigned to the state forester in the division of forestry, Department of Natural Resources, is transferred back to the commissioner of natural resources under AS 41.17 (Forest Resources and Practices Act).

* Sec. 2. AS 16.05 is amended by adding new sections to read:

   Sec. 16.05.841. Fishway required. If the commissioner considers it necessary, every dam or other obstruction built by any person across a stream frequented by salmon or other fish shall be provided by that person with a durable and efficient fishway and a device for efficient passage for downstream migrants. The fishway or device or both shall be maintained in a practical and effective manner in the place, form, and capacity the commissioner approves for which plans and specifications shall be approved by the department upon application. The fishway or device shall be kept open, unobstructed, and supplied with a sufficient quantity of water to admit freely the passage of fish through it.

   Sec. 16.05.851. Hatchery required. If a fishway over a dam or obstruction is considered impracticable by the commissioner because of cost, the owner of the dam
or obstruction, in order to compensate for the loss resulting from the dam or obstruction shall, at the owner's option

(1) pay a lump sum acceptable to the commissioner to the state fish and game fund;

(2) convey to the state a site of a size satisfactory to the commissioner at a place mutually satisfactory to both parties, and erect on it a fish hatchery, rearing ponds, necessary buildings, and other facilities according to plans and specifications furnished by the commissioner, and give a good and sufficient bond to furnish water, lights, and necessary money to operate and maintain the hatchery and rearing ponds; or

(3) enter into an agreement with the commissioner, secured by good and sufficient bond, to pay to the fish and game fund the initial amount of money and annual payments thereafter that the commissioner considers necessary to expand, maintain, and operate additional facilities at existing hatcheries within a reasonable distance of the dam or obstruction.

**Sec. 16.05.861. Penalty for violating fishway and hatchery requirements.**

(a) The owner of a dam or obstruction who fails to comply with AS 16.05.841 or 16.05.851 or a regulation adopted under AS 16.05.841 or 16.05.851 within a reasonable time specified by written notice from the commissioner is guilty of a misdemeanor, and is punishable by a fine of not more than $1,000. Each day the owner fails to comply constitutes a separate offense.

(b) In addition to the fine, the dam or other obstruction managed, controlled, or owned by a person violating AS 16.05.841 or 16.05.851 or a regulation adopted under AS 16.05.841 or 16.05.851 is a public nuisance and is subject to abatement.

* Sec. 3. AS 16.05 is amended by adding new sections to read:

**Sec. 16.05.871. Protection of fish and game.** (a) The commissioner shall, in accordance with AS 44.62 (Administrative Procedure Act), specify the various rivers, lakes, and streams or parts of them that are important for the spawning, rearing, or migration of anadromous fish.

(b) If a person or governmental agency desires to construct a hydraulic project, or use, divert, obstruct, pollute, or change the natural flow or bed of a
specified river, lake, or stream, or to use wheeled, tracked, or excavating equipment or log-dragging equipment in the bed of a specified river, lake, or stream, the person or governmental agency shall notify the commissioner of this intention before the beginning of the construction or use.

(c) The commissioner shall acknowledge receiving the notice by return first class mail. If the commissioner determines that the following information is required, the letter of acknowledgment shall require the person or governmental agency to submit to the commissioner:

(1) full plans and specifications of the proposed construction or work;
(2) complete plans and specifications for the proper protection of fish and game in connection with the construction or work, or in connection with the use; and
(3) the approximate date the construction, work, or use will begin.

(d) The commissioner shall approve the proposed construction, work, or use in writing unless the commissioner finds the plans and specifications insufficient for the proper protection of fish and game. Upon a finding that the plans and specifications are insufficient for the proper protection of fish and game, the commissioner shall notify the person or governmental agency that submitted the plans and specifications of that finding by first class mail. The person or governmental agency may, within 90 days of receiving the notice, initiate a hearing under AS 44.62.370. The hearing is subject to AS 44.62.330 - 44.62.630.

Sec. 16.05.881. Construction without approval prohibited. If a person or governmental agency begins construction on a work or project or use for which notice is required by AS 16.05.871 without first providing plans and specifications subject to the approval of the commissioner for the proper protection of fish and game, and without first having obtained written approval of the commissioner as to the adequacy of the plans and specifications submitted for the protection of fish and game, the person or agency is guilty of a misdemeanor. If a person or governmental agency is convicted of violating AS 16.05.871 - 16.05.896 or continues a use, work, or project without fully complying with AS 16.05.871 - 16.05.896, the use, work, or project is a public nuisance and is subject to abatement. The cost of restoring a
specified river, lake, or stream to its original condition shall be borne by the violator
and shall be in addition to the penalty imposed by the court.

Sec. 16.05.891. Exemption for emergency situations. In an emergency
arising from weather or stream flow conditions, the commissioner, through
authorized representatives, shall issue oral permits to a riparian owner for removing
obstructions or for repairing existing structures without the necessity of submitting
prepared plans and specifications as required by AS 16.05.871.

Sec. 16.05.896. Penalty for causing material damage. If a person or
governmental agency fails to notify the commissioner of any construction or use that
causes material damage to the spawning beds or prevents or interferes with the
migration of anadromous fish, or by neglect or noncompliance with plans and
specifications required and approved by the commissioner causes material damage to
the spawning beds or prevents or interferes with the migration of anadromous fish,
the person or governmental agency shall be guilty of a misdemeanor.

Sec. 16.05.901. Penalty for violations of AS 16.05.871 - 16.05.896. (a) A
person who violates AS 16.05.871 - 16.05.896 is guilty of a class A misdemeanor.
(b) The court shall transmit the proceeds of all fines to the proper state
officer for deposit in the general fund of the state.

* Sec. 4. AS 16.05.920(a) is amended to read:

(a) Unless permitted by AS 16.05 - AS 16.40 [BY AS 41.14.] or by
regulation adopted under AS 16.05 - AS 16.40 [OR AS 41.14], a person may not
take, possess, transport, sell, offer to sell, purchase, or offer to purchase fish, game,
or marine aquatic plants, or any part of fish, game, or aquatic plants, or a nest or egg
of fish or game.

* Sec. 5. AS 16.05.925(a) is amended to read:

(a) Except as provided in AS 16.05.430, 16.05.665, 16.05.722, 16.05.723,
16.05.783, 16.05.831, 16.05.861, and 16.05.905, [AND AS 41.14.860,] a person
who violates AS 16.05.920 or 16.05.921, or a regulation adopted under this chapter
or AS 16.20, is guilty of a class A misdemeanor.

* Sec. 6. AS 16.20.070 is amended to read:

Sec. 16.20.070. Relationship to other laws. AS 16.20.050 and 16.05.060 do
not affect **AS 16.05.871 - 16.05.891** [AS 41.14.870 - 41.14.890].

* Sec. 7. AS 41.17.010 is amended to read:

**Sec. 41.17.010. Declaration of intent.** The legislature declares that

(1) the forest resources of Alaska are among the most valuable natural resources of the state, and furnish timber and wood products, fish and wildlife, tourism, outdoor recreation, water, soil, air, minerals, and general health and welfare;

(2) economic enterprises and other activities and pursuits derived from forest resources warrant the continuing recognition and support of the state;

(3) the state has a fundamental obligation to ensure that management of forest resources guarantees perpetual supplies of renewable resources, provides nonrenewable resources in a manner consistent with that obligation, and serves the needs of all Alaska for the many products, benefits, and services obtained from them;

(4) government administration of forest resources should combine professional management services, regulatory measures, and economic incentives in a complementary fashion, and should draw upon the expertise of professional foresters in conjunction with other disciplines;

(5) under the leadership of the Department of Environmental Conservation as lead agency, the state should exercise its full responsibility and authority for control of nonpoint source pollution with respect to the Federal Water Pollution Control Act, as amended;

(6) subject to AS 41.17.098(c), the provisions of this chapter, and regulations adopted under this chapter, with the approval of the Department of Environmental Conservation, establish the nonpoint source pollution requirements under state law and sec. 319 of the Clean Water Act for activities subject to this chapter;

(7) except for activities subject to **AS 16.05.841 or 16.05.871** [AS 41.14.840 OR 41.14.870] and regulations authorized by those sections, this chapter and regulations adopted under this chapter establish the fish habitat protection standards, policies, and review processes under state law.

* Sec. 8. AS 41.17.041(e) is amended to read:
(e) The division shall serve as staff to the board. The department, the Department of Fish and Game [DEPUTY COMMISSIONER], and the Department of Environmental Conservation shall provide technical staffing and information as needed by the board.

* Sec. 9. AS 41.17.047(c) is amended to read:

(c) The board, working with the Department [DIVISION], the Department of Environmental Conservation, the Department of Fish and Game [DEPUTY COMMISSIONER], other affected agencies and parties, and the forest-dependent industries, shall conduct an annual survey of research needs related to forest practices. The board shall review research proposals and shall make recommendations to promote research projects that would address these needs to the governor and the legislature.

* Sec. 10. AS 41.17.047(d) is amended to read:

(d) The board shall coordinate the monitoring of the implementation and effectiveness of this chapter, the regulations, and best management practices adopted under this chapter in meeting state water quality standards, fish and wildlife habitat requirements, and other forestry objectives. The board shall report annually to the governor on the effectiveness of this chapter and regulations adopted under it, with its recommendations for changes and for needed research and monitoring. The board shall notify the legislature that the annual report is available. The state forester, the Department of Fish and Game [DEPUTY COMMISSIONER], and the Department of Environmental Conservation shall each present an annual report, independently, to the board on the effectiveness of this chapter, the regulations, and best management practices adopted under this chapter that protect the resources for which they have statutory responsibility, and shall make recommendations for changes to correct procedural or substantive problems. The board shall include the reports as part of its annual report. The board shall hold hearings at least once annually in southeast, southcentral, and interior Alaska for purposes of taking public testimony on the subjects.

* Sec. 11. AS 41.17.055 is amended to read:

Sec. 41.17.055. Powers and duties of the commissioner [STATE
(a) The commissioner [STATE FORESTER] may designate and operate experimental and research forests on state land consistent with the limitations of AS 38.05.300. Laboratories and other facilities may be employed in conjunction with those forests.

(b) The commissioner [STATE FORESTER] may establish and maintain forest vegetation nurseries and greenhouses for planting stock to be made available, with or without charge, to organizations, institutions, government agencies, individuals, and businesses for reforestation, afforestation, and related purposes.

(c) The commissioner [STATE FORESTER] is authorized to undertake cooperative forestry programs, extension services, and education programs, and to otherwise offer a full range of professional management services to the interested public. When the commissioner [STATE FORESTER] considers it beneficial, the commissioner [STATE FORESTER] may participate in federal assistance programs by accepting assistance in whatever form offered.

(d) The commissioner [STATE FORESTER] may develop regulations under this chapter as part of the state program for control of nonpoint source pollution under the Federal Water Pollution Control Act, as amended. However, the Department of Environmental Conservation is the lead agency for water quality and control of nonpoint source pollution under that Act, and the regulations are therefore subject to the approval of the commissioner of environmental conservation.

(e) In the administration of this chapter, the commissioner [STATE FORESTER] shall consult with and draw upon the expertise of interested organizations, enterprises, individuals, government agencies, educational institutions, and landowners. The commissioner [STATE FORESTER] may enter into cooperative agreements and contracts with them to carry out this chapter.

(f) The commissioner [STATE FORESTER] shall locate department personnel with forestry expertise throughout the state to facilitate public access to professional management services and other forest resources programs.

(g) The commissioner [STATE FORESTER] may take other actions necessary and proper for the administration of this chapter, including the adoption of regulations under AS 44.62 (Administrative Procedure Act) and AS 41.17.047.
* Sec. 12. AS 41.17.070(a) is amended to read:

(a) The commissioner [STATE FORESTER] shall develop and continually maintain a long-range plan for the administration of this chapter that demonstrates that the provisions of AS 41.17.010 are being recognized and that the standards of AS 41.17.060 are being met. The commissioner [STATE FORESTER] shall maintain a current inventory or assessment of timber on forest land to assist in meeting the requirements of this section.

* Sec. 13. AS 41.17.070(b) is amended to read:

(b) To maintain a record of division decision making for public and agency review, the commissioner [STATE FORESTER] shall compile and index each decision made under this chapter regarding directives, stop work orders, waivers from requirements, decisions of hearing officers, and decisions on appeals. The commissioner [STATE FORESTER] shall submit a summary of this record annually to the board.

* Sec. 14. AS 41.17.080 is amended to read:

Sec. 41.17.080. Regulations. (a) The commissioner [STATE FORESTER] may adopt regulations necessary to accomplish the purposes of this chapter under AS 44.62 (Administrative Procedure Act) regarding forest practices such as

(1) road construction and maintenance, including

(A) road location, construction, maintenance, and post-operation management or removal;

(B) landing location and construction;

(C) drainage structures;

(D) material sources and spoil disposal sites;

(2) timber harvesting, including

(A) timber harvest unit planning and design;

(B) felling and bucking;

(C) cable yarding, shovel, tractor, and wheeled skidder systems;

(D) landing clean-up;

(E) slash disposal;
(3) log transfer, sort yards, and storage facilities, including

(A) location, design, and construction;
(B) maintenance;
(C) closure;
(D) log storage, rafting, and identification;

(4) reforestation, including

(A) site preparation and rehabilitation;
(B) prescribed burning;
(C) exemptions from reforestation requirements;

(5) prevention and suppression of forest insects and diseases;

(6) salvage logging;

(7) vegetative management; and

(8) fire and flood hazard management.

(b) The commissioner [STATE FORESTER] shall adopt regulations specifying the information to be submitted under AS 41.17.090(c) in the detailed plan of operations to enable the division to determine whether the activities comply with the requirements of this chapter.

(c) The commissioner [STATE FORESTER] may establish regions, districts, or other subdivisions of forest land in the state in which different regulations apply to reflect varying conditions in the state or to facilitate administration. In adopting regulations, the commissioner [STATE FORESTER] shall make appropriate distinctions between public and private land.

(d) The commissioner [STATE FORESTER] shall adopt only those regulations necessary to accomplish the purposes of this chapter and shall avoid regulations that increase operating costs without yielding significant benefits to public resources.

* Sec. 15. AS 41.17.087(b) is amended to read:

(b) The commissioner [STATE FORESTER] shall adopt regulations that specify the standards under which a variation will be granted for harvesting timber within the riparian area of

(1) a low gradient Type I-A water body with a width of five feet or
less; and

(2) other appropriate water body types.

* Sec. 16. AS 41.17.087(c) is amended to read:

(c) A determination by the state forester under (a) of this section and regulations by the commissioner [STATE FORESTER] under (b) of this section shall give due deference under AS 41.17.098.

* Sec. 17. AS 41.17.090(b) is amended to read:

(b) A forest landowner, timber owner, or operator may provide to the commissioner [STATE FORESTER] a voluntary plan of operations that describes the long-term plans for timber harvesting. The purpose of a voluntary plan is to give the division and the public an early opportunity to review plans, to identify areas of concern, and to allow the agencies and the public to provide local knowledge and early notice of potential problems to the forest landowner, timber owner, or operator.

* Sec. 18. AS 41.17.090(d) is amended to read:

(d) Within five days after receipt of a detailed plan of operations under (c) of this section, the state forester shall distribute the information received under (c) of this section to [THE DEPUTY COMMISSIONER,] affected state agencies[,] and coastal districts, and shall distribute the information received under (c)(1) of this section to each member of the public who has asked to receive copies of notifications for the affected area.

* Sec. 19. AS 41.17.090(e) is amended to read:

(e) Within 30 days after receipt of a detailed plan of operations, the state forester shall review the plan to determine if the operations are consistent with this chapter and regulations adopted under this chapter. Operations may begin under the plan upon the expiration of the 30-day period or upon notice from the state forester that the review has been completed, whichever occurs first, unless the division has issued a stop work order for a particular portion of the plan or has notified the operator that a one-time, 10-day extension is necessary for agency review under AS 41.17.098(f). The operator may proceed with operations not covered by the stop work order, notice of field inspection, or the agency review. During the review of a detailed plan of operations, if a question arises concerning the proper classification
of water body type for purposes of the standards in AS 41.17.116(a), the Department of Fish and Game [DEPUTY COMMISSIONER] may resolve the question.

* Sec. 20. AS 41.17.098(a) is amended to read:

(a) In administering this chapter, the commissioner [STATE FORESTER] shall coordinate with other agencies [, THE DEPUTY COMMISSIONER,] and affected coastal districts that have jurisdiction over activities subject to regulation under this chapter.

* Sec. 21. AS 41.17.098(b) is amended to read:

(b) In a review or implementation of a detailed plan of operations under AS 41.17.090 and in a decision on a proposed variation from requirements under AS 41.17.087, the commissioner [STATE FORESTER] shall consider the comments of [THE DEPUTY COMMISSIONER,] each affected state agency and, where applicable, coastal districts.

* Sec. 22. AS 41.17.098(c) is amended to read:

(c) The commissioner [STATE FORESTER] shall give due deference to the Department of Environmental Conservation in decisions concerning water quality. The commissioner of environmental conservation retains the authority to adopt nonpoint source pollution regulations for activities subject to this chapter to the extent that regulations are not adopted by the commissioner of natural resources [STATE FORESTER] and approved by the commissioner of environmental conservation under this chapter. The commissioner of environmental conservation may withdraw approval of regulations adopted by the commissioner of natural resources [STATE FORESTER] under this chapter by following the procedure for the adoption, amendment, and repeal of regulations under AS 44.62.180 - 44.62.290.

* Sec. 23. AS 41.17.098(d) is amended to read:

(d) The commissioner [STATE FORESTER] shall recognize the expertise of the Department of Fish and Game [DEPUTY COMMISSIONER] with regard to fish and wildlife habitat. On private land, the commissioner [STATE FORESTER] shall give due deference to the Department of Fish and Game [DEPUTY COMMISSIONER] regarding effects on fish habitat from timber operations.
including variations to riparian standards, designation of alternative site-specific riparian protection plans, and road location decisions within riparian areas. On public land, the commissioner [STATE FORESTER] shall give due deference to the Department of Fish and Game [DEPUTY COMMISSIONER] regarding effects on fish and wildlife habitat from timber operations including timber harvest in riparian areas, variations to riparian standards, and road location decisions within riparian areas. In making decisions under AS 41.17.087, the commissioner [STATE FORESTER] shall recognize fish habitat as the primary value in riparian areas.

* Sec. 24. AS 41.17.098(e) is amended to read:

    (e) In this section, "due deference" means that deference that is appropriate in the context of the agency's [OR DEPUTY COMMISSIONER'S] expertise and area of responsibility and all the evidence available to support a factual assertion. Where due deference is given, if the commissioner [STATE FORESTER] does not agree with a commenting agency [OR THE DEPUTY COMMISSIONER], the commissioner [STATE FORESTER] shall prepare a written statement of the reasons for the disagreement.

* Sec. 25. AS 41.17.110 is amended to read:

    Sec. 41.17.110. Conversion of forest land to other uses. An intention to convert forest land to other uses after timber harvesting may be stated in the notification submitted under AS 41.17.090. In that event, reforestation requirements adopted under this chapter do not apply, except that conversion shall be completed during the time set by regulation for minimum reforestation of the land, and other requirements for revegetation may be imposed to the extent permitted by law. If the commissioner [STATE FORESTER] finds at any time that the responsible party has failed to conform to the intent to convert as stated in the notification, the commissioner [STATE FORESTER] shall revoke approval of the conversion and require full compliance with reforestation requirements.

* Sec. 26. AS 41.17.115 is amended to read:

    Sec. 41.17.115. Management of riparian areas; regulations. (a) The commissioner [STATE FORESTER] shall protect riparian areas from the significant adverse effects of timber harvest activities on fish habitat and water quality. The
management intent for riparian areas is the adequate preservation of fish habitat by
maintaining a short- and long-term source of large woody debris, stream bank
stability, channel morphology, water temperatures, stream flows, water quality,
adequate nutrient cycling, food sources, clean spawning gravels, and sunlight.

(b) The commissioner [STATE FORESTER] shall adopt regulations for the
protection of riparian areas; the regulations may include higher standards of
protection for fish and other public resources on land managed by the department
than on other public land or private land. The regulations may vary by region of the
state and must take into consideration reasonable classification of water bodies and
the economic feasibility of timber operations.

* Sec. 27. AS 41.17.116(c) is amended to read:

(c) Private forest land adjacent to the following types of waters and located
in Region III is subject to the riparian protection standards established in this
subsection:

(1) along a Type III-A water body, harvest of timber may not be
undertaken within 66 feet of the water body;

(2) along a Type III-B water body, harvest of timber may not be
undertaken within 33 feet of the water body; between 33 and 66 feet from the water
body, up to 50 percent of standing white spruce trees having at least a nine-inch
diameter at breast height may be harvested without requiring a variation;

(3) along a Type III-C water body, harvest of timber within 100 feet
of the water body must be located and designed primarily to protect fish habitat and
surface water quality as determined by the commissioner [STATE FORESTER]
with due deference to the Department of Fish and Game [DEPUTY
COMMISSIONER].

* Sec. 28. AS 41.17.118 is amended to read:

Sec. 41.17.118. Riparian standards for state land. (a) The riparian
standards for state land are as follows:

(1) on state forest land managed by the department that is in Region
I,

(A) harvest of timber may not be undertaken within 100 feet
immediately adjacent to an anadromous or high value resident fish water body;

(B) between 100 and 300 feet from the water body, harvest of timber may occur but must be consistent with the maintenance of important fish and wildlife habitat as determined by the commissioner [STATE FORESTER] with due deference to the Department of Fish and Game [DEPUTY COMMISSIONER];

(2) on state forest land managed by the department that is in Region II,

(A) along a Type II-A water body, harvest of timber may not be undertaken within 150 feet of the water body; additionally, harvest of timber may not be undertaken along outer bends subject to erosion within 225 feet of the water body or to the terrace top break, whichever is smaller;

(B) along a Type II-B water body, harvest of timber may not be undertaken within 150 feet of the water body; additionally, harvest of timber may not be undertaken along outer bends subject to erosion within 325 feet of the water body or to the terrace top break, whichever is smaller;

(C) along a Type II-C water body, harvest of timber may not be undertaken within 100 feet of the water body;

(D) along a Type II-D water body, there is a 100-foot riparian area; harvest of timber may not be undertaken within 50 feet of the water body;

(E) the length of the augmented buffer along an outer bend subject to erosion in (A) or (B) of this paragraph must be equal to a distance eight times the stream width measured on a reach between bends at a point not widened by a point bar or channel movement; the augmented buffer must be located so that three stream widths are upstream and five stream widths are downstream of the point opposite the apex of the point bar;

(F) where an estuarine area is adjacent to an anadromous or high value resident fish water body, the riparian retention area for the adjacent water body applies to the estuarine area;
(G) along Type II-A, II-B, II-C, and II-D water bodies, harvest of timber may occur between the landward extent of the riparian retention area and 300 feet from the water body, consistent with the maintenance or enhancement of important wildlife habitat as determined by the commissioner [STATE FORESTER] with due deference to the Department of Fish and Game [DEPUTY COMMISSIONER];

(3) on state forest land managed by the department that is in Region III,

(A) along a Type III-A water body, harvest of timber may not be undertaken within 100 feet of the water body; however, between 66 feet and 100 feet from the water body, harvest of timber may be undertaken where consistent with the maintenance of important fish and wildlife habitat as determined by the commissioner [STATE FORESTER] with the concurrence of the Department of Fish and Game [DEPUTY COMMISSIONER];

(B) along a Type III-B water body, harvest of timber may not be undertaken within 50 feet of the water body; between 50 feet and 100 feet from the water body, up to 50 percent of standing white spruce trees having at least a nine-inch diameter at breast height may be harvested;

(C) along a Type III-C water body, harvest of timber within 100 feet of the water body must be consistent with the maintenance of important fish and wildlife habitat as determined by the commissioner [STATE FORESTER] with due deference to the Department of Fish and Game [DEPUTY COMMISSIONER].

(b) The commissioner [DEPARTMENT] may impose additional riparian protection standards for timber harvest operations through the adoption of land use plans under AS 38.04.065. Within a state forest established under AS 41.17.200 - 41.17.230, riparian standards adopted by the commissioner under this subsection may not exceed the standards established under (a) of this section unless the commissioner makes a finding of compelling state interest.

(c) In the absence of a site-specific determination by the Department of
Fish and Game [DEPUTY COMMISSIONER], the commissioner [STATE FORESTER] shall presume for planning purposes that a stream is anadromous if it is connected to anadromous waters that are without Department of Fish and Game [DEPARTMENT] documentation of a physical blockage and has a stream gradient of 8 percent or less.

* Sec. 29. AS 41.17.120 is amended to read:

Sec. 41.17.120. Inspections and investigations. The commissioner [STATE FORESTER] may inspect and investigate forest land and activities on it and may enter upon it in conjunction with any operations as necessary to ensure compliance with applicable regulations and requirements and to otherwise enforce the provisions of this chapter. Other state agencies [AND THE DEPUTY COMMISSIONER] have this same authority to the extent necessary to enforce their own laws and regulations on forest land. Those agencies [, THE DEPUTY COMMISSIONER,] and the commissioner [STATE FORESTER] shall coordinate their actions under this section.

* Sec. 30. AS 41.17.900(c) is amended to read:

(c) The commissioner [STATE FORESTER] shall exempt by regulation from the provisions of this chapter

(1) minor, small scale, or incidental commercial operations of little significance with respect to the purposes of this chapter; and

(2) operations for primarily noncommercial purposes, including but not limited to the harvesting of timber for personal use.

* Sec. 31. AS 41.17.900(d) is amended to read:

(d) Notwithstanding any other provision of this chapter, the [STATE FORESTER AND THE] commissioner may not employ the authority vested by this chapter so as to duplicate or preempt the statutory authority of other state agencies to adopt regulations or undertake other administrative actions governing resources, values, or activities on forest land except for

(1) regulations under the Coastal Management Act; and

(2) regulations, if authorized by the commissioner of environmental conservation, relating to control of nonpoint source pollution.
* Sec. 32. AS 41.17.910(a) is amended to read:

(a) The Department of Fish and Game [DEPUTY COMMISSIONER] and the commissioner [STATE FORESTER] shall work cooperatively with private forest landowners and timber owners to protect, maintain, and enhance wildlife habitat to the maximum extent practicable, consistent with the interests of the owners in the use of their timber resources.

* Sec. 33. AS 41.17.910(b) is amended to read:

(b) The Department of Fish and Game [DEPUTY COMMISSIONER] shall provide educational and technical assistance and extension services to owners of private forest land or timber to assist in identifying important wildlife habitat and to assist in designing voluntary management techniques that minimize adverse effects on wildlife habitat.

* Sec. 34. AS 41.17.910(c) is amended to read:

(c) The Department of Fish and Game [DEPUTY COMMISSIONER] and the landowner shall cooperate in identifying areas of important wildlife habitat on private forest land and in developing methods for their protection. Methods of protection for wildlife habitat may include, with the agreement of the landowner, the purchase of fee title, purchase of conservation easements, and land exchanges.

* Sec. 35. AS 41.17.950(1) is amended to read:

(1) "anadromous water body" means the portion of a fresh water body or estuarine area that

(A) is cataloged under AS 16.05.871 [AS 41.14.870] as important for anadromous fish; or

(B) is not cataloged under AS 16.05.871 [AS 41.14.870] as important for anadromous fish but has been determined by the Department of Fish and Game [DEPUTY COMMISSIONER] to contain or exhibit evidence of anadromous fish in which event the anadromous portion of the stream or waterway extends up to the first point of physical blockage;

* Sec. 36. AS 44.62.330(a)(30) is amended to read:

(30) the Department of Fish and Game [NATURAL RESOURCES] as to functions relating to the protection of fish and game under AS 16.05.871
Sec. 37. AS 46.15.020(b) is amended to read:

(b) The commissioner shall

1. adopt procedural and substantive regulations to carry out the provisions of this chapter, taking into consideration the responsibilities of the Department of Environmental Conservation under AS 46.03 and the Department of Fish and Game under AS 16;

2. develop and maintain a standardized procedure for processing applications and the issuance of authorizations, permits, and certifications under this chapter; shall keep a public record of all applications for permits and certificates and other documents filed in the commissioner's office; shall record all permits and certificates and amendments and orders affecting them and shall index them in accordance with the source of the water and the name of the applicant or appropriator; shall require that temporary water use authorizations are valid only to the extent that the water withdrawal and use complies with applicable requirements of AS 16.05.871 [AS 41.14.870]; and shall make the record of applications, including temporary water use applications under AS 46.15.155 that have been accepted as complete, authorizations, permits, certificates, amendments, and orders affecting them available to the public on the Internet;

3. cooperate with, assist, advise, and coordinate plans with the federal, state, and local agencies, including local soil and water conservation districts, in matters relating to the appropriation, use, conservation, quality, disposal, or control of waters and activities related thereto;

4. prescribe fees or service charges for any public service rendered consistent with AS 37.10.050 - 37.10.058, except that the department may charge under regulations adopted by the department an annual $50 administrative service fee to maintain the water management program and a water conservation fee under AS 46.15.035;

5. before February 1 of each year, prepare a report describing the activities of the commissioner under AS 46.15.035 and 46.15.037; the commissioner shall notify the legislature that the report is available; the report must include...
(A) information on the number of applications and appropriations for the removal of water from one hydrological unit to another that were requested and that were granted and on the amounts of water involved;

(B) information on the number and location of sales of water conducted by the commissioner and on the volume of water sold;

(C) recommendations of the commissioner for changes in state water law; and

(D) a description of state revenue and expenses related to activities under AS 46.15.035 and 46.15.037.


* Sec. 39. The uncodified law of the State of Alaska is amended by adding a new section to read:

RETIREMENT SYSTEM STATUS OF CERTAIN TRANSFERRED EMPLOYEES. (a) Notwithstanding sec. 4, ch. 27, SLA 1983, an employee of the Department of Fish and Game who, on the day before the effective date of this Order, as authorized by sec. 4, ch. 27, SLA 1983 is accruing service credit as a peace officer under AS 39.35 by virtue of having been, on June 23, 1983, in a position as a "qualified employee of the Department of Fish and Game," whose position was transferred to the Department of Natural Resources as a result of Executive Order 107 and whose position is transferred back to the Department of Fish and Game as a result of this Order, continues to accrue service credit as a peace officer under AS 39.35 after the transfer as long as the employee remains in a position described in this subsection, in the Department of Fish and Game.

(b) Nothing in this section may be construed as guaranteeing continued employment rights to any state employee.

(c) In this section, "qualified employee of the Department of Fish and Game" has the meaning given in AS 39.35.680 as that statute existed on June 22, 1983.

* Sec. 40. The uncodified law of the State of Alaska is amended by adding a new section
TRANSITION. (a) Litigation, hearings, investigations, and other proceedings pending under a law repealed by this Order, or in connection with functions transferred by this Order, continue in effect and may be continued and completed notwithstanding a transfer or repeal provided in this Order.

(b) Regulations adopted to implement former AS 16.05.840 - 16.05.860, former AS 16.05.870 - 16.05.895, and former AS 44.37.055 and 44.37.060, and to implement AS 41.14 and AS 41.17 and in effect on July 1, 2008, remain in effect and may continue to be implemented and enforced, consistent with the changes made by this Order, until amended or repealed.

(c) Contracts, rights, liabilities, and obligations created by or under a law repealed by this Order, and in effect on June 30, 2008, remain in effect notwithstanding this Order's taking effect. Records, equipment, appropriations, and other property of an agency of the state whose functions are transferred under this Order shall be transferred to implement the provisions of this Order.

* Sec. 41. This Order takes effect July 1, 2008.

DATED: ____________________________

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Sarah Palin
Governor