

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

February 6, 2002

1:10 p.m.

**MEMBERS PRESENT**

Representative Beverly Masek, Co-Chair  
Representative Drew Scalzi, Co-Chair  
Representative Hugh Fate, Vice Chair  
Representative Mike Chenault  
Representative Lesil McGuire  
Representative Gary Stevens  
Representative Mary Kapsner  
Representative Beth Kerttula

**MEMBERS ABSENT**

Representative Joe Green

**COMMITTEE CALENDAR**

HOUSE BILL NO. 131

"An Act relating to standards for forest resources and practices; and providing for an effective date."

- MOVED HB 131 OUT OF COMMITTEE

**PREVIOUS ACTION**

BILL: HB 131

SHORT TITLE:FOREST RESOURCES & PRACTICES STANDARDS

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
02/16/01	0346	(H)	READ THE FIRST TIME - REFERRALS
02/16/01	0346	(H)	FSH, RES
02/16/01	0346	(H)	FN1: ZERO(DNR)
02/16/01	0346	(H)	GOVERNOR'S TRANSMITTAL LETTER
03/19/01		(H)	FSH AT 5:00 PM CAPITOL 124
03/19/01		(H)	Moved Out of Committee
03/19/01		(H)	MINUTE(FSH)
03/22/01	0685	(H)	FSH RPT 6DP 1NR
03/22/01	0685	(H)	DP: DYSON, SCALZI, KAPSNER, KERTTULA,
03/22/01	0685	(H)	WILSON, STEVENS; NR: COGHILL

03/22/01            0685            (H)            FN1: ZERO(DNR)  
02/06/02                       (H)            RES AT 1:00 PM CAPITOL 124

**WITNESS REGISTER**

JEFF JAHNKE, Director  
Division of Forestry  
Department of Natural Resources  
550 West 7th Avenue, Suite 1450  
Anchorage, Alaska 99501-3566  
POSITION STATEMENT:    Testified on HB 131 on behalf of the  
Division of Forestry and the Board of Forestry.

MARTY FREEMAN, Forest Resources Program Manager  
Division of Forestry  
Department of Natural Resources  
550 West 7th Avenue, Suite 1450  
Anchorage, Alaska 99501-3566  
POSITION STATEMENT:    Testified on HB 131 behalf of the Division  
of Forestry.

JAMES DURST, Habitat Biologist  
Division of Habitat and Restoration  
Alaska Department of Fish And Game  
1300 College Road  
Fairbanks, Alaska 99709  
POSITION STATEMENT:    Testified on HB 131 on behalf of the Alaska  
Department of Fish and Game.

RICK SMERIGLIO, Environmental Representative  
Alaska Board of Forestry  
31749 Solar Mountain Road  
Seward, Alaska 99664  
POSITION STATEMENT:    Testified in support of HB 131.

LARRY HARTIG, Recreation Representative  
Alaska Board of Forestry  
180 Botanical Circle  
Anchorage, Alaska 99515  
POSITION STATEMENT:    Testified on HB 131, saying the Forest  
Resources and Practices Act has been very successful.

CHRIS STARK  
Bering Sea Fisherman's Association  
Yukon River Drainage Fisheries Association  
PO Box 80543  
Fairbanks, Alaska

POSITION STATEMENT: Testified that HB 131 is a good bill.

NANCY FRESCO

Northern Alaska Environmental Center  
830 College Road  
Fairbanks, Alaska 99709

POSITION STATEMENT: Testified in support of HB 131.

JANELL WELLBORN (on behalf of JAN DAWE)

Alaska Boreal Forest Council  
PO Box 84536

Fairbanks, Alaska 99708

POSITION STATEMENT: Speaking on behalf of Jan Dawe, Executive Director, Alaska Boreal Forest Council, urged passage of HB 131.

### **ACTION NARRATIVE**

TAPE 02-5, SIDE A  
Number 0001

CO-CHAIR DREW SCALZI called the House Resources Standing Committee meeting to order at 1:10 p.m. Present at the call to order were Representatives Chenault, McGuire, Stevens, Kerttula, Fate, Masek, and Scalzi. Representative Kapsner joined the meeting in progress.

### HB 131-FOREST RESOURCES & PRACTICES STANDARDS

Number 0116

CO-CHAIR SCALZI announced that the only order of business would be HOUSE BILL NO. 131, "An Act relating to standards for forest resources and practices; and providing for an effective date." [There was an unnecessary motion to place the bill before the committee.]

Number 0158

JEFF JAHNKE, Director, Division of Forestry, Department of Natural Resources (DNR), presented HB 131 [which was introduced by the House Rules Committee by request of the governor]. The result of hard work by many people, he said, HB 131 responds to the board's request several years past to review the Alaska Forest Resources and Practices Act ("Forest Practices Act") and make sure it is up to date. The process began in 1997 in the coastal region, including Southeast Alaska, culminating in SB

12, which passed the legislature in 1999. This bill is in regard to the second of three regions to review in the Interior.

MR. JAHNKE explained that the process started with a Science & Technical Committee that looked at the Interior and made recommendations to protect water quality and fisheries habitat. Those recommendations were taken up by an "implementation committee" of affected parties and stakeholders, and then given to the Board of Forestry, which reviewed them and put forward its own recommendation. Mr. Jahnke said many interests were represented on the board, including the forest industry, Native corporations, commercial fishing interests, environmental organizations, fish and wildlife biologists, recreational organizations, and mining organizations.

Number 0334

MR. JAHNKE said the bill was based on the best available scientific information, was open to the public throughout the process, and involved a wide variety of interests. He said the bill helps ensure that the Act continues to protect water quality and fisheries habitat, as well as allowing for healthy timber and fishing industries. It also makes it easier for the timber industry to meet the requirements of the federal Clean Water Act and the Alaska Coastal Management Act.

Number 0449

MARTY FREEMAN, Forest Resources Program Manager, Division of Forestry, Department of Natural Resources, testified before the committee. She told the committee she was the co-chair of the Science & Technical Committee and implementation group that helped in developing the bill. She advised members, "This is not a wholesale revision of the Forest Practices Act." She said there were many issues for which the Science & Technical Committee and implementation group did not recommend any changes to the existing Act or regulations.

MS. FREEMAN said the major proposed changes affect only the part of the Act that addresses stream classification and riparian management in Region III, which is Interior Alaska north of the Alaska Range. There is also a minor change to the boundary between Region I - the Coastal Region - and Region II - the Southcentral Region on the Kenai Peninsula.

Number 0526

MS. FREEMAN said the Interior had been using interim standards for the riparian management under the Forest Practices Act since its revision in 1990. Under current standards, timber harvesting can occur up to the bank of anadromous waters on both public and private land, under some conditions.

MS. FREEMAN explained that under HB 131, water bodies are classified into three different types in terms of anadromous or high-value resident-fish water bodies. The first are large, nonglacial waters including glacial backwater sloughs. She characterized these as Type III-A waters - clear waters or tannic waters as well as slow waters off to the side of glacial waters.

MS. FREEMAN noted that on private land, there is a 66-foot buffer where cutting is not allowed. The buffer extends to 100 feet on public land. Furthermore, on public land in the buffer area between 66 and 100 feet, harvest can occur with the concurrence of the Alaska Department of Fish and Game (ADF&G). She said the main fish habitat concerns for this type of water are summer water temperatures and large woody debris. She told the committee that the 66-foot distance was developed by looking at the sun angles in the Interior, and what distance was needed to provide adequate shade and large woody debris along riverbanks.

MS. FREEMAN said the second type, Type III-B, is other glacial waters. She gave the example of "main rivers" such as the Tanana River. She said a 66-foot riparian area is established on private land, and a 100-foot riparian area on public land. The half of the riparian area closest to the river is a no-cut buffer. The 50 feet of riparian area away from the river can have up to half its large white spruce trees harvested. This allows landowners to take out some of the large, valuable trees, but still provides for shade and for large woody debris. She said the main concern for this water body type is providing enough large woody debris into the river system as a whole.

MS. FREEMAN addressed the third type of water body, Type III-C. Small, nonglacial streams less than three feet wide, these water body types are bordered by 100-foot special management areas where harvesting can occur, but must be consistent with maintenance of important fish habitat and water quality. She said this is the status quo for that type under the existing Act. She told members ADF&G and DNR must do more research on this particular type in order to look at the degree of overlap between the small streams and commercial forest areas; they must

then determine whether there are different or additional management measures needed for Type III-C.

Number 0751

MS. FREEMAN explained that in Region III, the Forest Practices Act applies to commercial forestry operations on land ownerships where either the operation borders surface waters or a riparian area, or the operation is more than 40 acres in all. It does not apply to land if the landowner owns 160 acres or less.

Number 0793

MS. FREEMAN told members HB 131 changes the statewide nomenclature for water body classes. The definition of the boundaries between the regions is in the regulations, and the Division of Forestry wants to move them into the Act.

MS. FREEMAN noted that the bill makes a minor change to the boundary between Region I - the Coastal Region - and Region II - the Southcentral Region - on the Kenai Peninsula. She said currently the eastern part of the Kenai Peninsula is in Region I; the bill shifts that boundary westward to better match the change between the coastal Sitka spruce type and the Interior white spruce type. She said most of the land in this area is federal land; thus it has a modicum of an effect on landowners.

Number 0893

REPRESENTATIVE MASEK asked why land was moved from Region II to Region I.

MS. FREEMAN said the existing boundary was very hard to follow on a map. The boundary did not match the change between the Sitka-spruce type and the white-spruce type.

REPRESENTATIVE KERTTULA asked Jim Durst how the 66-foot buffer zones were working out, as opposed to the 100-foot buffers.

Number 1014

JAMES DURST, Habitat Biologist, Division of Habitat and Restoration, Alaska Department of Fish And Game, testified via teleconference. He asked if Representative Kerttula was referring to the difference between public and private land. He then said the department was one of the parties to the consensus process. He noted that he was involved in the science and

technical process that resulted in some of the modifications of the Forest Practices Act in Region I.

MR. DURST said the concept of sharing the value of the forest is a little different on private land than on public land; the difference in buffer zones was based on average tree height and "other biological considerations." He said the department is comfortable with this.

Number 1098

REPRESENTATIVE KERTTULA asked how long the department has been monitoring for the Forest Practices Act, and what types of reports and information have been turned up.

Number 1120

MS. FREEMAN said there are two types of monitoring: implementation monitoring, to make sure the Act is being used properly, and effectiveness monitoring. The agencies have taken the lead on implementation monitoring, especially in Region I; the initial round of monitoring was done in 1999 and the second, in 2001. The initial monitoring showed greater than 90 percent implementation and very good compliance.

REPRESENTATIVE KERTTULA asked if the department is doing any kind of studies on the buffer zone itself.

MS. FREEMAN said that is "effectiveness monitoring." She said several [studies] are looking at that; one has been ongoing for the past seven or eight years, led by the industry but in cooperation with the agencies. She said this study looked at instream characteristics; at the last update, it did not show any adverse impacts. Ms. Freeman said those studies must be long-term because of natural variation.

Number 1238

MS. FREEMAN gave another example of a study done by the department and the University of Alaska, to look at a particular technique called "bio-assessment" that studies macro invertebrates to see whether sedimentation is causing an impact. She said that report is due out in the spring. Ms. Freeman noted that effectiveness monitoring is usually very expensive, but this study is a less expensive method.

Number 1270

CO-CHAIR SCALZI asked if there were a number of forest managers per region.

MR. JAHNKE said that in the eight areas throughout the state, staffing runs from two permanent positions to six or seven, per area. There is a tremendous growth - up to 300 people per area - in staffing during the fire season.

Number 1319

MS. FREEMAN said for "forest practices," specifically, there are 7.9 full-time equivalents, spread statewide.

REPRESENTATIVE MASEK asked if there will be any efforts made for federal regulations on this issues, because it is a public resource near navigable waters.

MR. JAHNKE said the Forest Practices Act serves and meets the requirements of the Clean Water Act. He said this limits the amount of federal process involved in the harvesting of timber, and he does not expect that to change, barring a change in the Clean Water Act or the department's effectiveness.

Number 1420

RICK SMERIGLIO, Environmental Representative, Alaska Board of Forestry, testified that he supports HB 131. He informed the committee that about four years ago, in response to a Alaska Board of Forestry resolution, this process began. He explained that he thinks it is an outstanding process because it's had the ongoing involvement of all of the interested parties, and particularly the affected parties - the wood products industry in the Interior.

MR. SMERIGLIO offered his belief that the Alaska Forest Association had submitted its letter of endorsement of this legislation. He said he believes the best testimony to the good process that agencies and others have used regarding the bill thus far is that last year in the [House Special Committee on Fisheries], there was no significant opposition. He commented that a number of people have spoken in favor of this legislation and that he doesn't recall any opposition to it.

Number 1483

MR. SMERIGLIO addressed the scientific foundation under this legislation. He said the Science & Technical Committee that did the [research] published an annotated bibliography of all the research and literature with any bearing on this particularly complex ecosystem and hydrology in the Interior.

MR. SMERIGLIO offered that the key point was coming up with a classification system, which is in the bill, to make some sense out of the warm water upwellings, the glacial backwater sloughs, and all of the water that has a bearing on the forest in the Interior; without that, he doesn't think the legislation would have come this far, because people did look to the factual and scientific basis of coming up with this law.

MR. SMERIGLIO commented that of all of the people involved in this [research], there were five University of Alaska professors - not advocates or agency personnel, but disinterested experts who had some particular knowledge of trees and water in the Interior. He noted that their input was invaluable. He reiterated that he believes that is one reason that the legislation has come this far.

Number 1583

MR. SMERIGLIO explained that a couple of years ago, the legislature "tweaked" the Forest Practices Act so that all fish streams in the Coastal Region have buffers. If [HB 131] goes forward, it will result in buffers for all Interior fish streams, which will send a good, clear message regarding how forestry is done in Alaska. Currently, statutory language allows for logging up to a creek in the Interior if adequate protection remains; he indicated there are arguments about what is adequate protection. He said this bill narrows it down to a certain footage that [defines] "adequate"; there really shouldn't be much argument after that, he concluded.

Number 1611

MR. SMERIGLIO explained that as the Environmental Representative on the Alaska Board of Forestry, he believes this legislation represents good forestry; nationwide, this is what it is coming to: fish streams are buffered, which is good forestry. He noted that he was previously a forester and is still a member of the Society of American Foresters. He stated that as an environmentalist and a former forester, he supports good forestry, which is why he supports HB 131. He urged the committee to support it as well.

Number 1680

LARRY HARTIG, Recreation Representative, Alaska Board of Forestry, began by saying that the issue of whether the riparian standards were protective of fish - in accord with the purposes of the Forest Practices Act - became a real issue in Region I, the coastal area that includes Juneau and Southeast Alaska, about five or six years ago. At the time, there wasn't much of a consensus. Therefore, the Board of Forestry tried to develop a process that would lead toward a consensus.

MR. HARTIG explained that what makes the Forest Practices Act work is building a consensus among the stakeholders and the three resources agencies that administer the Act. He commented that in his opinion - and that of others who've worked with the Act - it has been a very successful Act. He suggested that the reason is because of this consensus-building process. He explained that the Board of Forestry consists of representatives from various interest groups. He pointed out that Rick Smeriglio is a representative from the environmental organizations; Bill Jeffress is a representative from the mining group.

MR. HARTIG advised the committee that Mr. Smeriglio, Environmental Representative, Alaska Board of Forestry, wanted to inform the committee that the mining group of the board supports HB 131.

MR. HARTIG, returning to the process by which something passes from the board, explained that in order for something to pass from the board, it must pass with either unanimous consent or unanimous consent less one. Therefore, consensus building among the group is forced. Furthermore, it causes the stakeholders and interested parties to bring issues to the board in order to resolve issues. He said he feels that over the years the board has been able to forge consensus and hopefully save the legislature time in dealing with forestry issues.

MR. HARTIG reported that the board has three meetings a year. In the Fairbanks meetings, he has noticed a growing concern regarding the forest industry in Interior Alaska. There seems to be a desire for the same sort of protection of riparian areas as in Region I. Therefore, the [board] felt it was timely to address the arboreal forest in Interior Alaska. As mentioned earlier, the process utilized in Region I was used in Interior Alaska, and was used on the technical and implementation level,

which resulted in the package before the committee [HB 131]. Mr. Hartig concluded by urging the passage of HB 131. He also commended the agencies and Ms. Freeman, who did a lot of hard work on this.

Number 1919

CHRIS STARK, Bering Sea Fisherman's Association; Yukon River Fisheries Drainage Association, informed the committee that he is a research associate with the University of Alaska, is the environmental representative on the Tanana Valley State Forest Community Advisory Committee, and is a fisheries biologist for the Board of Fisheries. Mr. Stark said HB 131 is a good bill that is well based in science. Additionally, this legislation grew from a large consensus base; the industry, the environmental organizations, and the agencies are in [support] of this. Mr. Stark pointed out that this is probably one of the last areas in North America that isn't buffered, and thus [the legislation] is a positive step. Furthermore, this bill will assist in the next area, Region II - the Kenai Peninsula area - which has similar issues.

Number 2064

NANCY FRESCO, Northern Alaska Environmental Center, testified via teleconference, voicing support for HB 131 on behalf of the Northern Alaska Environmental Center. She echoed earlier testimony that this is a terrific example of legislation that has been reviewed by all the stakeholders, which she said makes all the difference. She stated, "We all got a compromise that we could live with. And we all got a compromise that was solidly based on the scientific recommendations that had been handed to us." She expressed hope that the legislature will support HB 131.

Number 2190

JANELL WELLBORN announced that she would be speaking on behalf of JAN DAWE, Executive Director, Alaska Boreal Forest Council. She provided the following testimony:

The council is a 501(c)(3) community-based forest education and research organization. [The council's] mission is to sustain the boreal forest ecosystem of Alaska by helping integrate community values, ecosystem health, and economic development, and by

promoting informed public participation in decision making.

Through inclusive forums, programs, and service, the council works to present and discuss all sides of an issue so that individuals have the information they need to make their own decision. This background is provided to underscore the fact that it is highly unusual for the council to take a stand on an individual piece of legislation. In fact, this is the first time we've done so since our incorporation in 1997.

The council applauds the efforts that stand behind HB 131. We urge its passage, which we see as fundamental to creating sound forest policy for Interior Alaska. The bill represents a broad-based consensus of the best management practices for forestry activities in riparian areas, and will help ensure that Region III standards protect fish habitat and water quality to support healthy timber and fishing industries, and incorporate the best available science into management procedures. The Board of Forestry and the Department of Natural Resources, as well as everyone who participated on the science and technical and implementation subcommittees of the board, are to be congratulated for this work. Thank you.

CO-CHAIR SCALZI asked whether anyone else wished to testify; there being no response, he closed public testimony.

Number 2307

REPRESENTATIVE FATE echoed the earlier comments that HB 131 is one of the few bills that has experienced such consensus. He noted his hope that the committee would move the bill.

CO-CHAIR MASEK turned to the Analysis section of the fiscal note. She pointed out that it says:

If the amount of harvesting on non-state land increases substantially, or if [Forest Resources and Practices Act] (FRPA) funding, including federal Section 319 funding, declines significantly, additional funds would be needed for field inspections of riparian buffers. On state land, the revised

riparian standards can be incorporated into the existing sale design process.

MR. JAHNKE explained that at the current levels of harvest and funding, DNR feels comfortable that it will be able to successfully implement the Forest Practices Act. He noted that the current level of funding includes general fund (GF) money and some Section 319 funds, both of which are crucial to reaching an effective level of implementation.

MR. JAHNKE mentioned that this was discussed at the recent Board of Forestry meeting. However, he identified the following as possible concerns in regard to the future ability to implement the Forest Practices Act. First, the Section 319 funding is federal funding and thus is always in question. Second, an increase in activity would be of concern because the current level of activity in the Forest Practices Act is down somewhat. Therefore, it has allowed more monitoring and review of the Forest Practices Act. If activity increased, there would probably be a reduced level of monitoring, and some consideration would have to be given regarding whether to use some of the Resource Management Program funding to help support the Forest Practices Act.

Number 2514

CO-CHAIR MASEK asked whether the number of people using the buffer zones has increased or decreased.

MR. JAHNKE noted that it would be based on the market for forest products, which [the department] has a limited opportunity to control. That market "drives" the number of people harvesting, which drives the department's activity associated with the Forest Practices Act.

MR. JAHNKE pointed out that the market for forest products is a volatile market with many fluctuations. When the market is down, the focus is on rounding out the program by diverting some funds to monitoring and developing updated statutes, policies, and regulations.

MS. FREEMAN interjected that the amount of activity varies from area to area, as well as year to year. For example, this year in southern Southeast Alaska, the number of new notifications was down, while it was up in northern Southeast Alaska.

Number 2603

REPRESENTATIVE McGUIRE requested that Mr. Jahnke provide her with information regarding the GF dollars in order to be aware of that when the budget [is debated].

MR. JAHNKE agreed to provide that information.

REPRESENTATIVE McGUIRE commended everyone on the process.

MR. JAHNKE remarked that accomplishing something [like HB 131] is helpful to all interests.

Number 2690

REPRESENTATIVE FATE moved to report HB 131 out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, HB 131 was moved out of the House Resources Standing Committee.

#### **ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at approximately 1:50 p.m.