

Original sponsor: Rules Committee by  
request of the Governor

Offered: 4/26/78  
Referred: Finance

1 IN THE SENATE BY THE RESOURCES COMMITTEE  
2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 59  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 TENTH LEGISLATURE - SECOND SESSION  
5 A BILL

6 For an Act entitled: "An Act relating to forest resources and practices; and  
7 providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 \* Section 1. AS 41 is amended by adding a new chapter to read:

10 CHAPTER 17. FOREST RESOURCES AND PRACTICES.

11 Sec. 41.17.010. DECLARATION OF INTENT. The legislature declares  
12 that

13 (1) the forest resources of Alaska are among the most valu-  
14 able natural resources of the state, and furnish timber and wood pro-  
15 ducts, fish and wildlife, tourism, outdoor recreation, water, soil, air,  
16 minerals, and general health and welfare;

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

20 (3) the state has a fundamental obligation to insure that  
21 management of forest resources guarantees perpetual supplies of renew-  
22 able resources, provides nonrenewable resources in a manner consistent  
23 with that obligation, and serves the needs of all Alaska for the many  
24 products, benefits, and services obtained from them;

25 (4) government administration of forest resources should  
26 combine professional management services, regulatory measures, and  
27 economic incentives in a complementary fashion, and should draw upon the  
28 expertise of professional foresters in conjunction with other disci-  
29 plines;

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

5 (6) the provisions of this chapter shall be the basis for  
6 forest management standards, policies, and guidelines developed under  
7 the Alaska Coastal Management Act to the extent permitted by law.

8 Sec. 41.17.020. DIVISION OF FORESTRY ESTABLISHED. (a) The divi-  
9 sion of forestry is established in the Department of Natural Resources.

10 (b) The division is headed by the state forester who is appointed  
11 by the commissioner of natural resources. The commissioner shall ad-  
12 minister this chapter and may delegate responsibilities under this  
13 chapter to the state forester.

14 (c) The state forester shall be an experienced practical forester,  
15 possessing appropriate academic degrees and experience for the position.  
16 The state forester shall be generally familiar with western and northern  
17 forestry conditions, experienced in the prevention of forest fires,  
18 possess production experience, and be generally familiar and experienced  
19 with the renewable and nonrenewable resources of forest land and the  
20 products, benefits, and services to be gained from them.

21 (d) After planning and classification procedures under AS 38.05  
22 have been completed, the governor may create, by administrative order,  
23 state forests, to consist of land determined by him to be desirable for  
24 retention in state ownership as multiple-use land.

25 (e) The commissioner may designate and operate experimental and  
26 research forests on state land consistent with the limitations of AS  
27 38.05.300. Laboratories and other facilities may be employed in con-  
28 junction with those forests.

29 (f) The commissioner may establish and maintain forest vegetation

1 nurseries and greenhouses for planting stock to be made available, with  
2 or without charge, to organizations, institutions, government agencies,  
3 individuals, and businesses for reforestation, afforestation, and re-  
4 lated purposes.

5 (g) The commissioner is authorized to undertake cooperative  
6 forestry programs, extension services and education programs, and to  
7 otherwise offer a full range of professional management services to the  
8 interested public. When he considers it beneficial, the commissioner  
9 may participate in federal assistance programs by accepting assistance  
10 in whatever form offered.

11 (h) The commissioner may develop proposed regulations under this  
12 chapter as part of the state program for control of nonpoint source  
13 pollution under the Federal Water Pollution Control Act, as amended, and  
14 shall seek to enter into a cooperative agreement with the commissioner  
15 of environmental conservation for that purpose. However, the Department  
16 of Environmental Conservation is the lead agency for water quality and  
17 control of nonpoint source pollution under that Act, and the regulations  
18 and cooperative agreement are therefore subject to the advance approval  
19 of the commissioner of environmental conservation.

20 (i) In the administration of this chapter, the commissioner shall  
21 consult with and draw upon the expertise of interested organizations,  
22 enterprises, individuals, government agencies, educational institutions,  
23 and landowners. The commissioner may enter into cooperative agreements  
24 and contracts with them to carry out this chapter.

25 (j) The commissioner shall locate department personnel with  
26 forestry expertise throughout the state to facilitate public access to  
27 professional management services and other forest resources programs.

28 (k) Notwithstanding any other provision of this chapter, the  
29 commissioner may not employ the authority vested by this chapter so as

1 to duplicate or preempt the statutory authority of other state agencies  
2 to adopt regulations or undertake other administrative actions governing  
3 resources, values, or activities on forest land except for (1) regula-  
4 tions under the Coastal Management Act; and (2) if authorized by the  
5 commissioner of environmental conservation, regulations relating to  
6 control of nonpoint source pollution.

7 (1) The commissioner may take other actions necessary and proper  
8 for the administration of this chapter, including the adoption of regu-  
9 lations under the Administrative Procedure Act (AS 44.62).

10 Sec. 41.17.030. RESPONSIBILITIES OF DIVISION OF FORESTRY. (a)  
11 The division shall manage state forests and, as directed by the commis-  
12 sioner, provide technical advice to the division of lands on sound  
13 forest practices necessary to ensure the continuous growing and har-  
14 vesting of commercial forest species on other state land.

15 (b) The division shall regulate operations on private forest land  
16 as authorized by the provisions of this chapter or state law.

17 (c) The division shall provide public information and assistance  
18 regarding forest practices and timber management generally.

19 (d) The division shall assume, on the effective date of this Act  
20 or at a later time designated by the commissioner within six months from  
21 the effective date of this Act, the programs of the Department of  
22 Natural Resources or the division of lands under

23 (1) AS 41.15 (Forests);

24 (2) AS 38.05.115 - 38.05.120; the division shall assume  
25 responsibilities under these sections upon a determination by the com-  
26 missioner under AS 38.05.115 that the timber or other materials should  
27 be sold; and

28 (3) AS 38.05.035(a)(14) after a determination by the commis-  
29 sioner to sell timber or other forest land resources on the terms set by

1 the commissioner.

2 Sec. 41.17.040. BOARD OF FORESTRY. (a) The Board of Forestry is  
3 established in the Department of Natural Resources, division of fores-  
4 try.

5 (b) The board is composed of 12 members appointed by the governor  
6 from nominations submitted from the groups listed in (c) of this sec-  
7 tion. The board shall elect its own presiding officer.

8 (c) Seats on the board shall be allocated as follows:

9 (1) the state forester ex officio has one seat;

10 (2) a nominee of the regional forester, United States Forest  
11 Service has one seat;

12 (3) a nominee of the Society of American Foresters has one  
13 seat;

14 (4) nominees of Native corporations owning or likely to own  
15 commercial timber stands have four seats;

16 (5) a nominee of the Alaska Loggers' Association or of a  
17 timber processor doing business in Alaska has one seat;

18 (6) a nominee of an Alaskan environmental group has one seat;

19 (7) a nominee of the Alaska Coastal Management Council has  
20 one seat;

21 (8) a nominee of unions engaged in processing forest products  
22 has one seat; and

23 (9) a nominee of the United Fishermen's Association has one  
24 seat.

25 (d) Each group entitled to make nominations under (c) of this sec-  
26 tion shall submit three names to the governor for the vacancy on the  
27 board it is entitled to make nominations for.

28 (e) The term of office of a member of the board is three years;  
29 the governor shall make his initial appointments to the board in such a

1 way that four nominations expire during 1980, four appointments expire  
2 during 1981, and three appointments expire during 1982. The state  
3 forester serves an indefinite term, ex officio.

4 (f) The board shall review and comment to the commissioner on  
5 regulations proposed for adoption under this chapter. The board shall  
6 also report to the legislature its recommendations for changes in the  
7 provisions of this chapter and its comments on the regulations adopted  
8 by the commissioner under this chapter. It may also review and advise  
9 the legislature on the activities of the division of forestry in the  
10 Department of Natural Resources.

11 (g) Members of the board, except the state forester, do not serve  
12 at the pleasure of the governor.

13 (h) The governor may initiate the removal of a board member for  
14 inefficiency, neglect of duty, or misconduct in office by delivering to  
15 the member a written copy of the charges and giving the member an oppor-  
16 tunity to be heard in person or by counsel at a public hearing before  
17 the governor or his designee on at least 10 days written notice by  
18 registered mail. The member has a right of confrontation and cross-  
19 examination of witnesses testifying. The removal is effective 15 days  
20 after the governor files a complete statement of all charges made a-  
21 gainst the member and the findings on those charges in the main office  
22 of the board except that a member may appeal the findings to the  
23 superior court. The court shall limit its review to a determination of  
24 whether the findings on the charges are substantiated by the evidence  
25 presented. The removal is suspended for any period of time during which  
26 an appeal from the findings of the governor or his designee is pending.

27 Sec. 41.17.050. APPLICABILITY. (a) Unless otherwise specified,  
28 this chapter applies to forest land under state, municipal, or private  
29 ownership.

1 (b) The provisions of this chapter applicable to state land are  
2 applicable to forest land under federal ownership to the extent per-  
3 mitted by law.

4 (c) The following operations are exempt from the provisions of  
5 this chapter

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

8 (2) operations on private homesteads, farms, residential or  
9 recreational property, and on all private tracts of 160 acres or less  
10 under single ownership, unless those operations are part of a major  
11 commercial logging network encompassing other tracts of land.

12 Sec. 41.17.060. REGULATORY AND ADMINISTRATIVE STANDARDS. (a) All  
13 regulations, administrative actions, and other activities and duties  
14 undertaken under this chapter shall be in full accordance with the stan-  
15 dards set out in this section.

16 (b) With respect to state, municipal, and private forest land, the  
17 following standards apply:

18 (1) to the maximum extent possible, all applicable data and  
19 information of applicable disciplines shall be updated and used in  
20 making decisions relative to the management of forest resources;

21 (2) environmentally sensitive areas and best management  
22 practices shall be recognized in the implementation of any nonpoint  
23 source pollution control measures authorized under this chapter;

24 (3) where not inconsistent with the other provisions of this  
25 section, administration of forest land shall consider marketing condi-  
26 tions and other economic constraints affecting the operator.

27 (c) With respect to state and municipal forest land only, the  
28 following standards also apply:

29 (1) forest land shall be administered for the multiple use of

1 the renewable and nonrenewable resources and for the sustained yield of  
2 the renewable resources of the land in the manner which best provides  
3 for the present needs and preserves the future options of the people of  
4 Alaska;

5 (2) any system of allocating predominant uses or values to  
6 particular units within a contiguous area of land shall reflect in rea-  
7 sonable proportion the various resources and values present in that  
8 area;

9 (3) to the extent its capacity permits, forest land shall be  
10 administered so as to provide for the continuation of businesses, acti-  
11 vities, and lifestyles which are dependent upon or derived from forest  
12 resources;

13 (4) timber harvesting is limited to areas where data and  
14 information demonstrate that natural or artificial reforestation tech-  
15 niques will result in the production of a sustained yield of merchant-  
16 able timber from that area;

17 (5) there shall be no significant impairment of the produc-  
18 tivity of the land and water with respect to renewable resources; and

19 (6) where economically practicable, allowance may be made for  
20 scenic quality in or adjacent to areas of substantial importance to the  
21 tourism and recreation industry.

22 Sec. 41.17.070. ADMINISTRATIVE PLAN AND REPORT. (a) The com-  
23 missioner shall develop and continually maintain a long-range plan for  
24 the administration of this chapter which demonstrates that the provi-  
25 sions of sec. 10 are being recognized and that the standards of sec. 60  
26 are being met. The commissioner shall maintain a current inventory or  
27 assessment of timber on forest land to assist in meeting the require-  
28 ments of this section.

29 (b) On December 31, 1980, and at two-year intervals after that

1 date, the commissioner shall submit a detailed report to the legislature  
2 reviewing the administration of this chapter over the preceding two  
3 years, demonstrating compliance with (a) of this section, and describing  
4 how the plan will affect the welfare of the forest products industry and  
5 other activities and pursuits derived from or affected by forest re-  
6 sources.

7 (c) As a part of the report to be submitted on December 31, 1980,  
8 under (b) of this section, the commissioner shall, after consultation  
9 with interested constituencies,

10 (1) review the structure and operations of the division of  
11 forest, land, and water management;

12 (2) describe the degree to which the division has established  
13 a high-profile forestry program utilizing the expertise of professional  
14 foresters;

15 (3) describe the responsiveness of the division to the in-  
16 terest of forest resources constituencies; and

17 (4) make recommendations to the legislature respecting the  
18 legal authority of the Department of Natural Resources relating to  
19 forestry, the qualifications of the director of the division, and the  
20 location of the division within the department.

21 (d) On December 31, 1980, the commissioner, after consultation  
22 with the commissioner of revenue, shall transmit to the legislature  
23 recommendations for legislation establishing economic incentives which  
24 would further the purposes of this chapter.

25 Sec. 41.17.080. REGULATIONS. (a) The commissioner may adopt  
26 regulations in accordance with the Administrative Procedure Act (AS  
27 44.62) governing operations on forest land with respect to the follow-  
28 ing:

29 (1) harvesting and removal from the site of timber and tree

1 products;

2 (2) reforestation, revegetation, stocking, prescribed burn-  
3 ing, fertilization, thinning, and other silvicultural activities;

4 (3) brush, slash, and debris, and salvage of trees;

5 (4) soil erosion and wasting;

6 (5) fire and flood hazards;

7 (6) prevention and control of disease and insect infestation.

8 (b) An operator may apply through the commissioner for permits  
9 required by other state agencies to operate on forest land, which appli-  
10 cations may be forwarded to the commissioner of environmental conserva-  
11 tion for procedures in accordance with AS 46.35. The commissioner shall  
12 notify the operator of the action taken. Where practicable and desir-  
13 able, the commissioner may enter into cooperative agreements with  
14 federal agencies authorizing the department to serve as a collection  
15 point for federal permit applications.

16 (c) The commissioner may establish regions, districts, or other  
17 subdivisions of forest land within the state in which different regu-  
18 lations apply to reflect varying conditions within the state, or to  
19 facilitate administration.

20 (d) The commissioner shall adopt only those regulations necessary  
21 to accomplish the purposes of this chapter, and shall avoid those which  
22 increase operating costs without yielding significant benefits.

23 Sec. 41.17.090. REVIEW AND APPROVAL OF OPERATIONS. (a) Opera-  
24 tions on forest land shall be reviewed and approved under this section  
25 for consistency with the policies and provisions of this chapter and  
26 regulations adopted under this chapter.

27 (b) The commissioner shall make full use of professional manage-  
28 ment services and other educational and assistance programs of the  
29 department to encourage early contact between operators and the state

1 and to minimize reliance on this section as a principal means of  
2 achieving the purposes of this chapter.

3 (c) Before operating on forest land, an operator shall give noti-  
4 fication to the commissioner consisting of

5 (1) a brief written description of the proposed operation;

6 (2) a USGS map of the largest available scale showing the  
7 location of all proposed activities;

8 (3) proposed measures for soil conservation and reforesta-  
9 tion; and

10 (4) evidence that the landowner and timber owner (if dif-  
11 ferent from the operator) have approved the proposed operation.

12 (d) Within five days after receipt, the commissioner shall dis-  
13 tribute the notification materials to affected state agencies. The  
14 agencies shall make their recommendations within 20 days after receiving  
15 the materials. The commissioner may extend the review period up to an  
16 additional 20 days only if the subject matter is highly and unusually  
17 complex.

18 (e) Within 10 days after expiration of the review period, the  
19 commissioner shall, as appropriate,

20 (1) grant unconditional approval of the proposed operation;

21 (2) grant conditional approval, imposing necessary terms and  
22 conditions based on the recommendations of the department or another  
23 agency;

24 (3) disapprove the proposed operation, but only if he con-  
25 siders it impossible to take other action under this subsection; or

26 (4) upon the recommendation of the department or another  
27 agency, require the submission of additional plans or descriptions from  
28 the operator, but only to the extent necessary for proper assessment of  
29 the proposed operation; however, any action by the commissioner under

1 this paragraph must be taken within three days after expiration of the  
2 review period.

3 (f) If action is taken under (e)(4) of this section, the commis-  
4 sioner and affected agencies have an additional 20-day review period,  
5 after which time action must be taken under (e)(1), (2), or (3). If the  
6 commissioner takes no action under (e) of this section within the  
7 statutory time limit, he is presumed to have taken action under (e)(1).  
8 Action taken by the commissioner under (e)(2) - (4) of this section  
9 shall be accompanied by a written justification.

10 (g) If recommendations of another state agency are rejected, the  
11 commissioner shall provide the agency with a written statement of the  
12 reasons for that action.

13 (h) Upon receipt of any notification, the commissioner shall  
14 provide copies to the timber owner and landowner, if different from the  
15 operator, and within five days shall publish the brief description  
16 received in a newspaper of general circulation, with an invitation for  
17 public comment. Recommendations received from the public shall be  
18 considered.

19 (i) Information and paperwork required of the operator under this  
20 section shall be limited to that necessary to accomplish the purposes of  
21 this section. Site examinations, including an interdisciplinary review,  
22 may be undertaken by the commissioner.

23 (j) An operator may not substantially deviate from plans approved  
24 under this section unless approved in writing by the commissioner after  
25 full consultation with affected agencies.

26 (k) The commissioner may limit the review and approval process  
27 under this section to 10 days where such action is immediately necessary  
28 for the preservation of the public peace, health, safety or general  
29 welfare, and is undertaken in concert with affected agencies.

1 (l) No action taken by the commissioner under this section is an  
2 authorization for an operator to violate applicable laws or regulations.

3 (m) The commissioner may require an operator to post security with  
4 respect to an operation, and to submit written reports.

5 (n) Operations which begin before the effective date of this Act  
6 have one year to comply with this chapter.

7 Sec. 41.17.100. DEPLOYMENT OF BROADCAST CHEMICALS. The commis-  
8 sioner of environmental conservation, in consultation with the commis-  
9 sioner, shall formulate necessary plans and measures to insure that  
10 application of broadcast chemicals and other substances foreign to the  
11 Alaska forest ecosystem do not lead to results contrary to the objec-  
12 tives and provisions of this chapter and other applicable laws and  
13 regulations relating to renewable resources. Regulations adopted by the  
14 commissioner of environmental conservation may include requirements for  
15 advance testing, posting of security, written reports, and other matters.

16 Sec. 41.17.110. CONVERSION OF FOREST LAND TO OTHER USES. An  
17 intention to convert forest land to other uses after timber harvesting  
18 may be stated in the notification submitted under sec. 90 of this chap-  
19 ter. In that event, reforestation requirements adopted under this  
20 chapter do not apply, except that conversion shall be completed during  
21 the time set by regulation for minimum reforestation of the land, and  
22 other requirements for revegetation may be imposed to the extent per-  
23 mitted by law. If the commissioner finds at any time that the respon-  
24 sible party has failed to conform to the intent to convert as stated in  
25 the notification, the commissioner shall revoke approval of the con-  
26 version and require full compliance with reforestation requirements.

27 Sec. 41.17.120. INSPECTIONS, INVESTIGATIONS, AND ENFORCEMENT. The  
28 commissioner may inspect and investigate forest land and activities on  
29 it and may enter upon it in conjunction with any operations as necessary

1 to insure compliance with applicable regulations and requirements and to  
2 otherwise enforce the provisions of this chapter. Other state agencies  
3 have this same authority to the extent necessary to enforce their own  
4 laws and regulations on forest land. Those agencies and the commis-  
5 sioner shall coordinate their actions under this section.

6 Sec. 41.17.130. PROHIBITIONS, PENALTIES, AND ENFORCEMENT PROCE-  
7 DURES. (a) No person may violate or permit a violation of a provision  
8 of this chapter, a regulation adopted under this chapter, or a term or  
9 condition of any approval granted under secs. 90 - 110 of this chapter.  
10 A person who commits a violation is liable for a civil fine to be  
11 assessed by the commissioner not to exceed \$10,000.

12 (b) If an investigation discloses probable cause to believe a  
13 violation has occurred, the commissioner shall serve upon the alleged  
14 violator (the "respondent") written notice and a formal complaint which  
15 describes the alleged violation and requires the respondent to answer  
16 the charges at a hearing not more than 10 days thereafter. The respon-  
17 dent shall be granted 10-day extensions up to a total of 60 days upon  
18 request. The notice shall also describe any damage which has occurred  
19 or might occur as a result of the violation. At the hearing, the state  
20 shall show by a preponderance of the evidence that the respondent has  
21 caused or permitted a violation described in (a) of this section.

22 (c) Within 10 days after the hearing, or upon nonappearance of the  
23 respondent, the hearing officer shall enter a final order. The order  
24 shall be based on the evidence presented at the hearing, and shall be  
25 accompanied by a written opinion stating the reasons for the decision.  
26 The commissioner shall immediately notify the respondent of the order by  
27 registered mail. The order may include:

- 28 (1) a directive to stop the violation;  
29 (2) the imposition of a civil fine under (a) of this section,

1 which is payable immediately;

2 (3) a directive to repair damages;

3 (4) a finding that the charges are wholly or partially un-  
4 justified; or

5 (5) a combination of (1) - (4) of this subsection.

6 (d) In determining the amount of any civil fine imposed, the  
7 following shall be considered, as appropriate:

8 (1) the character and degree of injury to forest resources  
9 and values;

10 (2) the degree of intent or negligence of the respondent in  
11 causing or permitting the violation;

12 (3) the character and number of past violations caused or  
13 permitted by the respondent; and

14 (4) if such information is available, the net economic  
15 savings realized by the respondent through the violation described in  
16 (a) of this section.

17 (e) If the commissioner finds that a violation described in (a) of  
18 this section has occurred and that continuation of the violation or  
19 failure to repair damage would likely result in irreversible or irre-  
20 trievable damage to the forest resources or values affected, and it  
21 would be prejudicial to the welfare of the state to delay action pending  
22 a hearing, the commissioner may, without prior hearing, issue a tempo-  
23 rary order in addition to the documents required by (b) of this section  
24 requiring the respondent to stop the violation or repair damage or both.  
25 The order remains in effect for 21 days unless a final order is issued  
26 earlier; an extension of time granted under (b) of this section extends  
27 the order issued under this subsection until the hearing officer issues  
28 a final order under (c) of this section. Proceedings in conjunction  
29 with the alleged violation must otherwise be the same.

1 (f) If a person fails to comply with an order issued under (c) or  
2 (e) of this section, the attorney general, at the request of the com-  
3 missioner, may seek an injunction suspending all or part of the opera-  
4 tions being conducted by the respondent until the respondent complies  
5 with the order. If the order directs the respondent to repair damage,  
6 the commissioner may proceed with department staff or contractors to  
7 repair the damage, and the respondent is liable for the cost of the  
8 repair after delivery by the commissioner of an itemized statement of  
9 expenses incurred.

10 (g) All orders issued under this section are enforceable by in-  
11 junction, attachment, garnishment, or other appropriate remedy.

12 (h) Unless otherwise specified, proceedings under this section are  
13 not subject to the Administrative Procedure Act (AS 44.62). A hearing  
14 under this section shall be held before a hearing officer, appointed by  
15 the attorney general from among members of the Alaska Bar Association  
16 who have been nominated by the Board of Forestry and who are knowledge-  
17 able and experienced in the subject matter. A person who has assisted  
18 in the preparation of the state's case or who is a state employee is  
19 ineligible. Hearings are not limited by common law, statutory, or  
20 judicial rules of evidence; however, the hearing officer may admit only  
21 that evidence which appears to him to be reliable and trustworthy. All  
22 hearings shall be open to the public. Written or oral testimony may be  
23 submitted. A party to a hearing may make written or oral argument,  
24 secure the issuance of a subpoena under AS 44.62.430, offer testimony or  
25 other evidence, and cross-examine witnesses. The hearing officer shall  
26 endeavor, in conducting any hearing, to insure that the respondent  
27 understands the proceedings and that the facts supporting the position  
28 of each party have been adequately presented. Hearings shall be held as  
29 close as practicable to the location of the alleged violation. Testi-

1 money given at the hearing shall be recorded.

2 (i) If the respondent notifies the commissioner within five days  
3 before the hearing provided for in (h) of this section, the following  
4 rules and procedures apply to the hearing:

5 (1) the hearing shall be a nonadversary proceeding, with the  
6 hearing officer fully and impartially representing the interests of the  
7 state and the respondent;

8 (2) the hearing officer shall thoroughly investigate the  
9 facts and circumstances relating to the alleged violation, including  
10 taking testimony from appropriate persons, collecting and examining  
11 documents and other evidence, and performing other actions consistent  
12 with due process of law;

13 (3) issue a decision in accordance with the applicable pro-  
14 cedures of (h) of this section.

15 (j) For purposes of this section, "damage" includes any unsatis-  
16 factory condition resulting from an alleged violation, and an order to  
17 "repair damage" may direct correction of any unsatisfactory condition.

18 Sec. 41.17.140. APPEALS AND JUDICIAL REVIEW. (a) An administra-  
19 tive action of the department under this chapter, except actions under  
20 sec. 130 of this chapter and except for adoption of regulations, may be  
21 appealed to the commissioner within 30 days after it is taken. The  
22 commissioner shall hold a hearing, at which all substantial issues shall  
23 be considered, within 15 days after an appeal is filed. The respondent  
24 shall be granted 10-day extensions up to a total of 60 days upon re-  
25 quest. Within 10 days after conclusion of the hearing, the commissioner  
26 shall issue a written decision based upon the evidence, which shall be  
27 provided to the appellant. The commissioner may delegate his duties, in  
28 whole or in part, under this subsection to a hearing officer appointed  
29 by the attorney general from among members of the Alaska Bar Association

1 who have been nominated by the Board of Forestry and who are knowledge-  
2 able and experienced in the subject matter.

3 (b) A final decision under (a) of this section or a final order  
4 under sec. 130 of this chapter may be appealed to the superior court  
5 within 30 days after it is issued. Judicial review shall be as provided  
6 in AS 44.62.560 and 44.62.570.

7 (c) A temporary order issued under sec. 130 of this chapter may be  
8 immediately appealed to the superior court as to its propriety.

9 Sec. 41.17.950. DEFINITIONS. In this chapter, unless the context  
10 otherwise requires,

11 (1) "board" means the Board of Forestry established in sec.  
12 40 of this chapter;

13 (2) "broadcast chemicals" includes pesticides, herbicides,  
14 fungicides, fertilizers, poisons, and any other substances

15 (A) used for silvicultural management or related pur-  
16 poses;

17 (B) not native to the ecosystem in which they are being  
18 applied; and

19 (C) having a foreseeable adverse impact on the welfare  
20 of renewable resources, as determined by the commissioner of en-  
21 vironmental conservation;

22 (3) "commissioner" means the commissioner of natural re-  
23 sources;

24 (4) "department" means the Department of Natural Resources;

25 (5) "forest land" means land stocked or having been stocked  
26 with forest trees of any size and not currently developed for nonforest  
27 use, regardless of whether presently available or accessible for com-  
28 mercial purposes, and includes any such land under state, municipal, or  
29 private ownership;

1 (6) "forest landowner" means a person who owns forest land;

2 (7) "multiple use" means

3 (A) the management of all the various resources of  
4 forest land so that they are used in the combination that will best  
5 meet the needs of the citizens of Alaska, making the most judicious  
6 use of the land for some or all of these resources or related  
7 values, benefits, and services over areas large enough to provide  
8 sufficient latitude for periodic adjustments in use to conform to  
9 changing needs and conditions;

10 (B) that some land will be used for less than all of the  
11 resources; and

12 (C) harmonious and coordinated management of the various  
13 resources, each with the other, without significant impairment of  
14 the productivity of the land and water, with consideration being  
15 given to the relative values of the various resources, and not  
16 necessarily the combination of uses that will give the greatest  
17 dollar return or the greatest unit output;

18 (8) "operations" means timber harvesting or activities  
19 associated with timber harvesting or forest development unless exempted  
20 under sec. 30 of this chapter;

21 (9) "operator" means a person who is engaged in timber har-  
22 vesting or activities associated with timber harvesting or forest  
23 development himself, or who contracts with others to conduct operations  
24 on his behalf, except a person who is engaged in an operation as em-  
25 ployee with wages or piecework as his sole compensation;

26 (10) "person" includes a joint venture as well as the entities  
27 set out in AS 01.10.060(7);

28 (11) "silviculture" means the art of producing and tending a  
29 forest, the application of the knowledge of silvics in the treatment of

1 a forest, and the theory and practice of controlling and managing forest  
2 establishment, composition, and growth;

3 (12) "sustained yield" means the achievement and maintenance  
4 in perpetuity of a high level annual or regular periodic output of the  
5 various renewable resources of forest land and water without significant  
6 impairment of the productivity of the land and water, but does not  
7 require that timber be harvested in a non-declining yield basis over a  
8 rotation period;

9 (13) "timber owner" means a person who owns timber on forest  
10 land or who has the rights to timber, but does not own the land itself;  
11 and

12 (14) "significant impairment of the productivity of the land  
13 and water" means any activity which may foreseeably result in prolonged  
14 or substantial damage to renewable resources or prolonged or substantial  
15 reduction of the continuing capability of the land or water to produce  
16 renewable resources at their natural or historic levels.

17 \* Sec. 2. AS 39.25.120 is amended by adding a new paragraph to read:

18 (10) the state forester, in the Department of Natural Re-  
19 sources.

20 \* Sec. 3. This Act takes effect January 1, 1979. However, the commis-  
21 sioner of natural resources is not precluded from undertaking preparatory  
22 activities in the interim.