

***MAT SU  
HEARING***



# Alaska State Legislature

HOUSE OF REPRESENTATIVES  
COMMITTEE ON RESOURCES

POUCH V  
JUNEAU, ALASKA 99811  
(907) 488-3718

HOUSE RESOURCES COMMITTEE HEARING  
March 11, 1989  
Wasilla City Hall  
Wasilla, Alaska  
9:00a.m.-3:30p.m.

## AGENDA

- 9:00 a.m.            Opening by Chairman Menard
- 9:15                 Marty Welbourn, Division of Land & Water  
Management, Resource Allocation Section, and  
Lance Trasky, Habitat Division, (D&FG) - DNR  
timber management plan.
- Questions from Committee
- 9:45                 John Duffy, Mat-Su Borough, and Bill Luria,  
Resource Management Associates - Mat-Su Borough  
forest plan.
- Questions from Committee
- 10:15                Bob Dick, Director of Forestry; Ted Smith/  
Alan Phipps, Board of Forestry - Forestry  
Budget, Forest Practices & 5-Yr. Plan.
- Questions from Committee
- 11:00                Frank Rue, Director of Habitat (DF&G)-  
Forest Practices Act Review, riparian  
management group.
- Questions from Committee
- 11:30                Alan Phipps, Alaska Center for the Environment-  
Forest Practices Act Review, process group.
- Questions from Committee
- 12:00 - 1:10 p.m.   Brownbag Lunch  
                         Lunch speaker - Dr. John Kim, UAA  
                         Center for International Business
- 1:10                 REDCOR presentation
- Questions from Committee
- 1:35                 Susitna Valley Association presentation
- Questions from Committee

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2:00	Mat-Su Loggers Assn. presentation
	Questions from Committee
2:25	Break
2:30 - 3:30	Public Comment
3:30	Closing by Chairman Menard; ADJOURN Depart for Hatcher Pass
4:30	Independence Mine State Historical Park - Dale Bingham
5:30	Hatcher Pass Lodge
5:00 - 7:00	REDCOR Reception Mat Su Resort

## Chapter 17. Forest Resources and Practices.

### Article

1. Administration and Management (§§ 41.17.055, 41.17.070, 41.17.090)
2. Enforcement (§§ 41.17.120 — 41.17.143)
3. State Forest System (§§ 41.17.200 — 41.17.230)
4. State Land Reforestation (§§ 41.17.300 — 41.17.320)
5. Tanana Valley State Forest (§ 41.17.400)
6. General Provisions (§§ 41.17.900 — 41.17.950)

**Legislative history reports.** — For the governor's transmittal letter on SB 59 (1978), with a sectional analysis, see 1978 Senate Journal, p. 656. AS 41.17 derives from CSSSB 59 (Rules) am H, which was enacted as chapter 108, SLA 1978.

**Opinions of attorney general.** — Proposed regulation establishing compliance with management practice under AS

41.17 and regulations as an affirmative defense to prosecution for alleged water quality violations for the forestry industry alone would cause an equal protection problem; executive agency cannot, by regulation, create an affirmative defense to what the legislature has determined should be prosecuted. 1980 Op. Att'y Gen. No. 10.

### NOTES TO DECISIONS

Cited in Kenai Lumber Co. v. LeResche, Sup. Ct. Op. No. 2516 (File Nos. 5733, 5755), 646 P.2d 215 (1982); Southeast

Alaska Conservation Council, Inc. v. State, Sup. Ct. Op. No. 2662 (File No. 5855), P.2d (1983).

**Collateral references.** — 52 Am. Jur. 2d, Logs and Timbers, § 1 et seq. 98 C.J.S., Woods and Forests, § 1 et seq.

Constitutionality of reforestation or forest conservation legislation, 13 ALR2d 1095.

### Article 1. Administration and Management.

#### Section

10. Declaration of intent
20. Division of forestry established
30. Responsibilities of division
41. Board of forestry
43. Terms of office
45. Removal of members
47. Powers and duties of board
55. Powers and duties of the commissioner

#### Section

60. Regulatory and administrative standards
70. Administrative plan and report
80. Regulations
85. Permit applications
90. Notification and review of operations
100. Deployment of broadcast chemicals
110. Conversion of forest land to other uses

**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 insure 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, 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 16 U.S.C. 1456(f) (§ 307(f) of the Coastal Zone Management Act of 1972, P.L. 92-583), the provisions of this chapter shall be the basis for forest management standards, policies, and guidelines developed under the Alaska Coastal Management Act. (§ 1 ch 108 SLA 1978)

**Opinions of attorney general.** — The allocation of responsibility for administration of the forest practices regulations in coastal management consistency determinations is sufficiently unclear that it seems appropriate for resolution by the adoption of regulations since differing policy considerations emphasized in the Forest Practices Act, the Coastal Management Act, and proposed permit reform regulations will be served to a greater or lesser extent by assigning responsibility for interpreting and

applying the forest practices regulations to more than one agency and since a particular result is not compelled under the various pieces of authorizing legislation. April 20, 1981, Op. Att'y Gen.

The adoption of forest practices regulations by the Department of Natural Resources in 11 AAC 95 has completely preempted the coastal policy council's regulations, 6 AAC 80.100, in regulating timber harvest and processing in the coastal area. April 20, 1981, Op. Att'y Gen.

**Sec. 41.17.020. Division of forestry established.** (a) The governor may establish, within the Department of Natural Resources, a division of forestry to carry out this chapter and other appropriate duties designated by the governor.

(b) The division shall be headed by a director who shall be the state forester, appointed to the partially exempt service in accordance with law by the commissioner, from a list of two or more candidates submitted by the board. The commissioner may reject all candidates, in which case the board shall submit a new list. The state forester shall be a natural resources land manager with generally accepted educational credentials, familiar and experienced with the renewable and nonrenewable resources the values of forest land and the products, benefits, and services obtained from them.

(c) The commissioner shall administer this chapter and is authorized and encouraged to delegate responsibilities for carrying out this chapter to the state forester. (§ 1 ch 108 SLA 1978; am § 42 ch 113 SLA 1981; am § 5 ch 91 SLA 1983)

**Revisor's notes.** — In 1983, this section was reorganized into present subsections (a)-(c) and two other sections. Present (b) was formerly part of (a) and present (c) was formerly designated (b). Former subsections (d)-(i) and (k) were renumbered as AS 41.17.055(a)-(g) and former subsection (j) was renumbered as AS 41.17.900(d).

**Effect of amendments.** — The 1981 amendment substituted "may" for "shall" and "forestry" for "forest, land, and water management" in the first sentence of subsection (a).

The 1983 amendment repealed former subsection (c) of this section.

**Opinions of attorney general.** — The allocation of responsibility for administration of the forest practices regulations in coastal management consistency determinations is sufficiently unclear that it

seems appropriate for resolution by the adoption of regulations since differing policy considerations emphasized in the Forest Practices Act, the Coastal Management Act, and proposed permit reform regulations will be served to a greater or lesser extent by assigning responsibility for interpreting and applying the forest practices regulations to more than one agency and since a particular result is not compelled under the various pieces of authorizing legislation. April 20, 1981, Op. Att'y Gen.

The adoption of forest practices regulations by the Department of Natural Resources in 11 AAC 95 has completely preempted the coastal policy council's regulations, 6 AAC 80.100, in regulating timber harvest and processing in the coastal area. April 20, 1981, Op. Att'y Gen.

**Sec. 41.17.030. Responsibilities of division.** (a) The division shall manage state forests and, as directed by the commissioner, provide technical advice to the division of lands on sound forest practices necessary to ensure the continuous growing and harvesting of commercial forest species on other state land.

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

(c) The division shall provide public information and assistance regarding forest practices and timber management generally. (§ 1 ch 108 SLA 1978)

**Opinions of attorney general.** — The Department of Natural Resources, under the authority of AS 41.17.030(j), cannot preempt the regulatory authority of the commissioner of fish and game under AS 16.05.870 over nonpoint source pollution of anadromous streams caused by logging activities. March 4, 1982, Op. Att'y Gen.

**Sec. 41.17.041. Board of forestry.** (a) The Board of Forestry is established in the Department of Natural Resources, division of forestry.

(b) The board is composed of 14 members appointed by the governor from nominations submitted from the groups listed in (c) of this section. The board shall elect its own presiding officer.

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

- (1) the state forester ex officio has one seat;
- (2) a nominee of the regional forester, United States Forest Service has one seat;
- (3) a nominee of the Society of American Foresters has one seat;
- (4) nominees of Native corporations owning or likely to own commercial timber stands have four seats;
- (5) a nominee of the Alaska Loggers' Association or of a timber processor doing business in Alaska has one seat;
- (6) a nominee of an Alaskan environmental group has one seat;
- (7) a nominee of the Alaska Coastal Management Council has one seat;
- (8) a nominee of unions engaged in processing forest products has one seat;
- (9) a nominee of the United Fishermen of Alaska has one seat;
- (10) a nominee of the Alaska Miners' Association has one seat; and
- (11) a member from the public at large has one seat.

(d) Each group entitled to make nominations under (c) of this section shall submit three names to the governor for the vacancy on the board it is entitled to make nominations for.

(e) Members of the board, except the state forester, do not serve at the pleasure of the governor. (§ 1 ch 108 SLA 1978; am § 87 ch 59 SLA 1982)

**Revisor's notes.** — Formerly AS 41.17.040(a)-(d), (g). Renumbered in 1983. **Effect of amendments.** — The 1982 amendment substituted "division of forestry" for "division of forest, land, water management" in subsection (a).

**Sec. 41.17.043. Terms of office.** The term of office of a member of the board is three years; the governor shall make the initial appointments to the board in such a way that four nominations expire during 1980, four appointments expire during 1981, and three appointments expire during 1982. The state forester serves an indefinite term, ex officio. (§ 1 ch 108 SLA 1978)

**Revisor's notes.** — Formerly AS 41.17.040(e). Renumbered in 1983.

**Sec. 41.17.045. Removal of members.** (a) The governor may initiate the removal of a board member for inefficiency, neglect of duty, or misconduct in office by delivering to the member a written copy of the charges and giving the member an opportunity to be heard in person or by counsel at a public hearing before the governor or the governor's designee on at least 10 days written notice by registered mail. The member has a right of confrontation and cross-examination of witnesses testifying.

(b) The removal is effective 15 days after the governor files a complete statement of all charges made against the member and the findings on those charges, in the main office of the board, except that a member may appeal the findings to the superior court. The court shall limit its review to a determination of whether the findings on the charges are substantiated by the evidence presented. The removal is suspended for any period of time during which an appeal from the findings of the governor or the governor's designee is pending. (§ 1 ch 108 SLA 1978)

**Revisor's notes.** — Formerly AS reorganized into two subsections in 1983.  
41.17.040(h). Renumbered and

**Sec. 41.17.047. Powers and duties of board.** The board shall review and comment to the commissioner on regulations proposed for adoption under this chapter. The board shall also report to the legislature its recommendations for changes in the provisions of this chapter and its comments on the regulations adopted by the commissioner under this chapter. It may also review and advise the legislature on the activities of the division. (§ 1 ch 108 SLA 1978)

**Revisor's notes.** — Formerly AS  
41.17.040(f). Renumbered in 1983.

**Sec. 41.17.055. Powers and duties of the commissioner.** (a) The commissioner 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 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 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 considers it beneficial, the commissioner may participate in federal assistance programs by accepting assistance in whatever form offered.

(d) The commissioner may develop proposed 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, and shall seek to enter into a cooperative agreement with the commission of environmental conservation for that purpose. 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 and cooperative agreement are therefore subject to the advance approval of the commissioner of environmental conservation.

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

(f) The commissioner 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 may take other actions necessary and proper for the administration of this chapter, including the adoption of regulations under the Administrative Procedure Act (AS 44.62) and AS 41.17.047. (§ 1 ch 108 SLA 1978)

**Revisor's notes.** — Formerly AS 41.17.020(d)-(i), (k). Renumbered in 1983.

**Opinions of attorney general.** — The adoption of forest practices regulations by the Department of Natural Resources in

11 AAC 95 has completely preempted the coastal policy council's regulations, 6 AAC 80.100, in regulating timber harvest and processing in the coastal area. April 20, 1981, Op. Att'y Gen.

**Sec. 41.17.060. Regulatory and administrative standards.** (a) All regulations, administrative actions, and other activities and duties undertaken under this chapter shall be in full accordance with the standards set out in this section.

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

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

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

(3) administration of forest land shall consider marketing conditions and other economic constraints affecting the forest landowner, timber owner, or the operator;

(4) to the fullest extent practicable, harvested forest land shall be reforested, naturally or artificially, so as to result in a sustained yield of merchantable timber from that land; if artificial planting is required, silviculturally acceptable seedlings must first be available for planting at an economically fair price in Alaska.

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

(1) forest land shall be administered for the multiple use of the renewable and nonrenewable resources and for the sustained yield of the renewable resources of the land in the manner which best provides for the present needs and preserves the future options of the people of Alaska;

(2) any system of allocating predominant uses or values to particular units within a contiguous area of land shall reflect in reasonable proportion the various resources and values present in that area;

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

(4) timber harvesting is limited to areas where data and information demonstrate that natural or artificial reforestation techniques will result in the production of a sustained yield of merchantable timber from that area;

- (5) there shall be no significant impairment of the productivity of the land and water with respect to renewable resources; and
- (6) where economically practicable, allowance may be made for scenic quality in or adjacent to areas of substantial importance to the tourism and recreation industry. (§ 1 ch 108 SLA 1978)

#### NOTES TO DECISIONS

Applied in Southeast Alaska Conservation Council, Inc. v. State, Sup. Ct. Op. No. 2662 (File No 5855), P 2d (1983).

**Sec. 41.17.070. Administrative plan and report.** (a) The commissioner shall develop and continually maintain a long-range plan for the administration of this chapter which 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 shall maintain a current inventory or assessment of timber on forest land to assist in meeting the requirements of this section.

(b) On December 31, 1980, and at two-year intervals after that date, the commissioner shall submit a detailed report to the legislature reviewing the administration of this chapter over the preceding two years, demonstrating compliance with (a) of this section, and describing how the plan will affect the welfare of the forest products industry and other activities and pursuits derived from or affected by forest resources.

(c) [Repealed, § 108 ch 6 SLA 1984.]

(d) [Repealed, § 108 ch 6 SLA 1984.]; (§ 1 ch 108 SLA 1978; am § 108 ch 6 SLA 1984)

**Effect of amendments.** — The 1984 amendment, effective February 14, 1984, relating to the report and recommendations submitted on December 31, 1980, repealed former subsections (c) and (d).

**Sec. 41.17.080. Regulations.** (a) The commissioner may adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) and AS 41.17.047 governing operations on forest land with respect to the following:

- (1) harvesting and removal from the site of timber and tree products;
- (2) reforestation, revegetation, and prescribed burning;
- (3) brush, slash, and debris, and salvage of trees;
- (4) soil erosion and wasting;
- (5) fire and flood hazards;
- (6) prevention and control of disease and insect infestation.

(b) The commissioner 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.

(c) The commissioner shall adopt only those regulations necessary to accomplish the purposes of this chapter, and shall avoid those which increase operating costs without yielding significant benefits. (§ 1 ch 108 SLA 1978)

**Revisor's notes.** — As enacted, subsections (b) and (c) were subsections (c) and (d), respectively. Former subsection (b) was renumbered as AS 41.17.085 in 1983 and the remaining subsections were redesignated.

**Sec. 41.17.085. Permit applications.** (a) An operator may apply through the commissioner for permits required by other state agencies to operate on forest land, which applications may be forwarded to the commissioner of environmental conservation for procedures in accordance with AS 46.35. The commissioner shall notify the operator of the action taken.

(b) Where practicable and desirable, the commissioner may enter into cooperative agreements with federal agencies authorizing the department to serve as a collection point for federal permit applications. (§ 1 ch 108 SLA 1978)

**Sec. 41.17.090. Notification and review of operations.** (a) Operations on forest land shall be reviewed under this section for consistency with the policies and provisions of this chapter and regulations adopted under this chapter.

(b) The commissioner shall make full use of professional management services and other educational and assistance programs of the department to encourage early contact between operators and the state and to minimize reliance on this section as a principal means of achieving the purposes of this chapter.

(c) Before operating on forest land, an operator shall give notification to the commissioner consisting of

- (1) a brief written description of the proposed operation;
- (2) a USGS map of the largest available scale showing the location of all proposed activities;
- (3) proposed measures for soil conservation and reforestation; and
- (4) evidence that the landowner and timber owner (if different from the operator) have approved the proposed operation.

(d) Within five days after receipt, the commissioner shall distribute the notification materials to affected state agencies. The agencies shall make their recommendations within 20 days after receiving the materials.

(e) Within 30 days of receipt of a notification under (c) of this section, the commissioner may inspect the proposed operation to ensure that the proposed operation is in accord with the standards established by this chapter.

(f) The operator may legally commence operations upon the expiration of the 30-day period or upon notice from the commissioner that the inspection has been completed, whichever occurs first. Whether or not an inspection is conducted, the operator is liable for a violation of this chapter or other violation of law.

(g) An operator shall notify the commissioner of a proposed substantial change in operations by following the procedure specified in (c) — (d) of this section.

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

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

(j) *[Repealed, § 109 ch 6 SLA 1984.]* (§ 1 ch 108 SLA 1978; am § 109 ch 6 SLA 1984)

**Effect of amendments.** — The 1984 amendment, effective February 14, 1984, repealed former subsection (j), relating to operations which began before January 1, 1979.

**Sec. 41.17.090. Notification and review of operations.** (a) Operations on forest land shall be reviewed under this section for consistency with the policies and provisions of this chapter and regulations adopted under this chapter.

(b) The commissioner shall make full use of professional management services and other educational and assistance programs of the department to encourage early contact between operators and the state and to minimize reliance on this section as a principal means of achieving the purposes of this chapter.

(c) Before operating on forest land, an operator shall give notification to the commissioner consisting of

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

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

(3) proposed measures for soil conservation and reforestation; and

(4) evidence that the landowner and timber owner (if different from the operator) have approved the proposed operation.

(d) Within five days after receipt, the commissioner shall distribute the notification materials to affected state agencies. The agencies shall make their recommendations within 20 days after receiving the materials.

(e) Within 30 days of receipt of a notification under (c) of this section, the commissioner may inspect the proposed operation to ensure that the proposed operation is in accord with the standards established by this chapter.

(f) The operator may legally commence operations upon the expiration of the 30-day period or upon notice from the commissioner that the inspection has been completed, whichever occurs first. Whether or not an inspection is conducted, the operator is liable for a violation of this chapter or other violation of law.

(g) An operator shall notify the commissioner of a proposed substantial change in operations by following the procedure specified in (c) — (d) of this section.

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

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

(j) Operations which begin before January 1, 1979 have one year to comply with this chapter. (§ 1 ch 108 SLA 1978)

**Sec. 41.17.100. Deployment of broadcast chemicals.** The commissioner of environmental conservation, in consultation with the commissioner, shall formulate necessary plans and measures to ensure that application of broadcast chemicals and other substances foreign to the Alaska forest ecosystem do not lead to results contrary to the objectives and provisions of this chapter and other applicable laws and regulations relating to renewable resources. Regulations adopted by the commissioner of environmental conservation may include requirements for advance testing, posting of security, written reports, and other matters. (§ 1 ch 108 SLA 1978)

**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 finds at any time that the responsible party has failed to conform to the intent to convert as stated in the notification, the commissioner shall revoke approval of the conversion and require full compliance with reforestation requirements. (§ 1 ch 108 SLA 1978)

## Article 2. Enforcement.

Section	Section
120. Inspections and investigations	137. Temporary orders
131. Prohibitions and penalty	139. Procedures
133. Notice and hearing; final orders	141. Enforcement of orders
135. Civil fines	143. Appeals and judicial review

**Sec. 41.17.120. Inspections and investigations.** The commissioner may inspect and investigate forest land and activities on it and may enter upon it in conjunction with any operations as necessary to insure compliance with applicable regulations and requirements and to otherwise enforce the provisions of this chapter. Other state agencies have this same authority to the extent necessary to enforce their own laws and regulations on forest land. Those agencies and the commissioner shall coordinate their actions under this section. (§ 1 ch 108 SLA 1978)

**Sec. 41.17.131. Prohibitions and penalty.** (a) A person may not violate or permit a violation of a provision of this chapter, a regulation adopted under this chapter, or a term or condition of any approval granted under AS 41.17.090 — 41.17.110.

(b) A person who commits a violation is liable for a civil fine to be assessed by the commissioner not to exceed \$10,000. (§ 1 ch 108 SLA 1978)

*Revisor's notes.* — Formerly AS 41.17.130(a). Renumbered and reorganized into two subsections in 1983.

**Sec. 41.17.133. Notice and hearing; final orders.** (a) If an investigation discloses probable cause to believe a violation has occurred, the commissioner shall serve upon the alleged violator (the "respondent") written notice and a formal complaint which describes the alleged violation and requires the respondent to answer the charges at a hearing not more than 10 days thereafter. The respondent shall be granted 10-day extensions up to a total of 60 days upon request. The notice shall also describe any damage which has occurred or might occur as a result of the violation. At the hearing, the state shall show by clear and convincing evidence that the respondent has caused or permitted a violation described in AS 41.17.131.

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

- (1) a directive to stop the violation;
- (2) the imposition of a civil fine under AS 41.17.131, which is payable immediately;
- (3) a directive to repair damages;
- (4) a finding that the charges are wholly or partially unjustified; or
- (5) a combination of (1) — (4) of this subsection. (§ 1 ch 108 SLA 1978)

**Revisor's notes.** — Formerly AS 41.17.130(b), (c). Renumbered in 1983.

**Sec. 41.17.135. Civil fines.** In determining the amount of any civil fine imposed, the following shall be considered, as appropriate:

- (1) the character and degree of injury to forest resources and values;
- (2) the degree of intent or negligence of the respondent in causing or permitting the violation;
- (3) the character and number of past violations caused or permitted by the respondent; and
- (4) if such information is available, the net economic savings realized by the respondent through the violation described in AS 41.17.131. (§ 1 ch 108 SLA 1978)

**Revisor's notes.** — Formerly AS 41.17.130(d). Renumbered in 1983.

**Sec. 41.17.137. Temporary orders.** (a) If the commissioner finds that a violation described in AS 41.17.131 has occurred and that continuation of the violation or failure to repair damage would likely result in irreversible or irretrievable damage to the forest resources or values affected, and it would be prejudicial to the welfare of the state to delay action pending a hearing, the commissioner may, without prior hearing, issue a temporary order in addition to the documents required by AS 41.17.133(a) requiring the respondent to stop the violation or repair damage or both.

(b) The order remains in effect for 21 days unless a final order is issued earlier; an extension of time granted under AS 41.17.133(a) extends the order issued under this subsection until the hearing officer issues a final order under AS 41.17.133(b). Proceedings in conjunction with the alleged violation must otherwise be the same. (§ 1 ch 108 SLA 1978)

**Revisor's notes.** — Formerly AS 41.17.130(e). Renumbered and reorganized into two subsections in 1983.

**Sec. 41.17.139. Procedures.** (a) Unless otherwise specified, proceedings under this section are not subject to the Administrative Procedure Act (AS 44.62). A hearing under this section shall be held before a hearing officer, appointed by the attorney general from among members of the Alaska Bar Association who have been nominated by the Board of Forestry and who are knowledgeable and experienced in the subject matter. A person who has assisted in the preparation of the state's case or who is a state employee is ineligible. Hearings are not limited by common law, statutory, or judicial rules of evidence; however, the hearing officer may admit only that evidence which appears to be reliable and trustworthy. All hearings shall be open to the public. Written or oral testimony may be submitted. A party to a hearing may make written or oral argument, secure the issuance of a subpoena

under AS 44.62.430, offer testimony or other evidence, and cross-examine witnesses. The hearing officer shall endeavor, in conducting any hearing, to insure that the respondent understands the proceedings and that the facts supporting the position of each party have been adequately presented. Hearings shall be held as close as practicable to the location of the alleged violation. Testimony given at the hearing shall be recorded.

(b) If the respondent notifies the commissioner within five days before the hearing provided for in (a) of this section, the following rules and procedures apply to the hearing:

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

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

(3) issue a decision in accordance with the applicable procedures of (a) of this section. (§ 1 ch 108 SLA 1978)

*Revisor's notes.* — Formerly AS 41.17.130(h). Renumbered in 1983.

**Sec. 41.17.141. Enforcement of orders.** (a) If a person fails to comply with an order issued under AS 41.17.133(b) or 41.17.137, the attorney general, at the request of the commissioner, may seek an injunction suspending all or part of the operations being conducted by the respondent until the respondent complies with the order. If the order directs the respondent to repair damage, the commissioner may proceed with department staff or contractors to repair the damage, and the respondent is liable for the cost of the repair after delivery by the commissioner of an itemized statement of expenses incurred.

(b) All orders issued under this section are enforceable by injunction, attachment, garnishment, or other appropriate remedy. (§ 1 ch 108 SLA 1978)

*Revisor's notes.* — Formerly AS 41.17.130(f), (g). Renumbered in 1983.

**Sec. 41.17.143. Appeals and judicial review.** (a) An administrative action of the department under this chapter, except actions under AS 41.17.131 — 41.17.141 and except for adoption of regulations, may be appealed to the commissioner within 30 days after it is taken. The commissioner shall hold a hearing, at which all substantial issues shall be considered, within 15 days after an appeal is filed. The respondent shall be granted 10-day extensions up to a total of 60 days upon request. Within 10 days after conclusion of the hearing, the commissioner shall issue a written decision based upon the evidence, which shall be provided to the appellant. The commissioner may delegate duties, in whole or in part, under this subsection to a hearing officer appointed by the attorney general from among members of the Alaska Bar Association who have been nominated by the Board of Forestry and who are knowledgeable and experienced in the subject matter.

(b) A final decision under (a) of this section or a final order under AS 41.17.133 may be appealed to the superior court within 30 days after it is issued. Judicial review shall be as provided in AS 44.62.560 and 44.62.570.

(c) A temporary order issued under AS 41.17.137 may be immediately appealed to the superior court as to its propriety (§ 1 ch 108 SLA 1978)

Revisor's notes. — Formerly AS 41.17.140. Renumbered in 1983.

#### NOTES TO DECISIONS

Quoted in Southeast Alaska Conservation Council, Inc. v. State, Sup. Ct. Op. No. 2662 (File No. 5855), P 2d (1983)

### Article 3. State Forest System.

Section	Section
200. State forest purposes	220. Management of state forests
210. State forests	230. Management plans

**Sec. 41.17.200. State forest purposes.** The purpose of AS 41.17.200 — 41.17.230 is to permit the establishment of designated state-owned or acquired land and water areas as state forests. The primary purpose in the establishment of state forests is the perpetuation of personal, commercial, and other beneficial uses of resources through multiple-use management. (§ 1 ch 91 SLA 1983)

**Sec. 41.17.210. State forests.** (a) The governor may propose to the legislature the establishment of state forests consisting primarily of commercially valuable forest land determined by the governor to be necessary for retention in state ownership for management under the principles of multiple use and sustained yield and consistent with AS 38.04.095. The proposal of the governor shall include a report and recommendations of the commissioner including

- (1) a preliminary forest inventory;
- (2) a summary of the testimony offered at public hearings held on the management of the proposed state forest in communities proximately located to a proposed state forest;
- (3) the findings of the commissioner on anticipated incompatibilities of uses described in AS 41.17.230(e) under AS 41.17.230(f);
- (4) written comments from appropriate state agencies on the compatibility of the uses described in AS 41.17.230(e) within the proposed state forest;
- (5) an estimate of the cost of a full implementation of an operational level forest inventory and the management plan.

(b) A state forest established by the legislature shall be retained in state ownership. (§ 1 ch 91 SLA 1983)

**Sec. 41.17.220. Management of state forests.** Land within a state forest or within a unit of a state forest shall be managed under

- (1) the principles of multiple-use and sustained yield;
- (2) this chapter; and
- (3) a management plan prepared by the department. (§ 1 ch 91 SLA 1983)

**Sec. 41.17.230. Management plans.** (a) The commissioner shall prepare a management plan consistent with AS 38.04.005 and this chapter for each state forest and for each unit of a state forest to assist in meeting the requirements of this chapter. An operational level forest inventory shall be completed before a management plan for the state forest or the unit of a state forest is adopted. The management plan shall be adopted, implemented and maintained within three years of the establishment of a state forest by the legislature.

(b) The commissioner shall review a management plan at least once every five years and may revise the plan when necessary.

(c) A management plan may not be adopted or revised after the establishment of the state forest without prior review by the Board of Forestry and by other appropriate state agencies or without prior public hearings held in a community proximately located to the state forest or to a unit of a state forest.

(d) A copy of a management plan or a revision to a management plan adopted or prepared by the commissioner shall be provided to the legislature within 30 days of its adoption or revision or within the first 10 days of the first regular session of the legislature to convene after its adoption or revision.

(e) The commissioner shall consider and permit the following uses under a management plan prepared under (a) or (b) of this section subject to a determination under (f) of this section:

- (1) commercial timber harvest and related activities;
- (2) harvest of forest products for personal use;
- (3) mining, mining claim, and mineral leasehold location;
- (4) mineral leasing;
- (5) material extraction;
- (6) recreation;
- (7) wildlife and fisheries habitat management including critical habitat management;
- (8) greenbelts;
- (9) trapping and sport and subsistence fishing and hunting;
- (10) grazing;
- (11) watershed management;
- (12) research;
- (13) uses consistent with the policies of AS 38.04.015; and
- (14) other traditional, compatible uses.

(f) A management plan prepared by the commissioner shall consider and permit the uses described in (e) of this section. If the commissioner finds that a permitted use is incompatible with one or more other uses in a portion of a state forest, the commissioner shall affirmatively state in the management plan that finding of incompatibility for the specific area where the incompatibility is anticipated to exist and the time period when the incompatibility is anticipated to exist together with the reasons for each finding. (§ 1 ch 91 SLA 1983)

#### **Article 4. State Land Reforestation.**

##### **Section**

300. State land reforestation fund  
310. Appropriations to state land reforestation fund  
320. Report to the legislature

**Sec. 41.17.300. State land reforestation fund.** A state land reforestation fund is established in the department. The money in the state land reforestation fund may be used only for the reforestation of state land, including site preparation, seed and seedling acquisition and cultivation, planting, and other reforestation measures, timber stand improvement, and the development of materials and techniques for the reforestation of state land. (§ 2 ch 91 SLA 1983)

**Sec. 41.17.310. Appropriations to state land reforestation fund.** (a) The state land reforestation fund consists of money appropriated by the legislature and contributions from private donors. It is the intent of the legislature that the appropriations made to the fund equal no less than 25 percent of the revenues from the sale of timber and other forest products from state land as well as the total revenues from

(1) compensation for loss or damage to land within a state forest; and  
(2) the federal government and other governmental units for reforestation.

(b) Money appropriated to or paid into the state land reforestation fund does not lapse. (§ 2 ch 91 SLA 1983)

**Sec. 41.17.320. Report to the legislature.** The commissioner shall make an annual report to the legislature within the first 10 days of each session of the legislature on the uses of the money in the state land reforestation fund, the proposed uses of the fund in the following fiscal year, and the balance in the fund. (§ 2 ch 91 SLA 1983)

#### **Article 6. General Provisions.**

##### **Section**

900. Applicability

950. Definitions

**Sec. 41.17.900. Applicability.** (a) Unless otherwise specified, this chapter applies to forest land under state, municipal, or private ownership.

(b) The provisions of this chapter applicable to state land are applicable to forest land under federal ownership to the extent permitted by law.

(c) The commissioner 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.

(d) Notwithstanding any other provision of this chapter, 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) if authorized by the commissioner of environmental conservation, regulations relating to control of nonpoint source pollution. (§ 1 ch 108 SLA 1978)

**Revisor's notes.** — Formerly AS 41.17.020(j), 41.17.050. Renumbered in 1983.

**Sec. 41.17.950. Definitions.** In this chapter, unless the context otherwise requires,

(1) "board" means the Board of Forestry established in AS 41.17.043;

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

(A) used for silvicultural management or related purposes;

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

(C) having a foreseeable adverse impact on the welfare of renewable resources, as determined by the commissioner of environmental conservation;

(3) "commissioner" means the commissioner of natural resources;

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

(5) "division" means the division of forestry;

(6) "forest land" means land stocked or having been stocked with forest trees of any size and not currently developed for nonforest use, regardless of whether presently available or accessible for commercial purposes, and includes any such land under state, municipal, or private ownership;

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

(8) "multiple use" means

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

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

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

(9) "operations" means timber harvesting or activities associated with timber harvesting or forest development unless exempted under AS 41.17.900(a)-(c);

(10) "operator" means a person who is engaged in timber harvesting or activities associated with timber harvesting or forest development, or who contracts with others to conduct operations for that person, except a person who is engaged in an operation as an employee with wages or piecework as the sole compensation;

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

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

(13) "silviculture" means the art of producing and tending a forest, the application of the knowledge of silvics in the treatment of a forest, and the theory and practice of controlling and managing forest establishment, composition, and growth;

(14) "state forest" means an area which is retained in state ownership in order to

(A) provide a base for sustained yield management of renewable resources; and

(B) permit a variety of beneficial uses;

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

(16) "timber owner" means a person who owns timber on forest land or who has the rights to timber, but does not own the land itself. (§ 1 ch 108 SLA 1978; am § 88 ch 59 SLA 1982)

**Revisor's notes.** — In 1983 paragraphs (12) — (16) were reorganized to place the terms defined in alphabetical order.

**Effect of amendments.** — The 1982

amendment substituted "forestry" for "forest, land, and water management" in paragraph (5).

#### NOTES TO DECISIONS

The "sustained yield principle" as used in Alas. Const. art. VIII, § 4 accords with the definition set forth in AS 38.04.910(10), and the added language in the definition of "sustained yield" in this section that it "does not require that timber be harvested in a nondeclining yield

basis over a rotation period"; and it should be read as permitting timber cutting at a level that cannot be sustained over a forest rotation period only in unusual circumstances. Southeast Alaska Conservation Council, Inc. v. State, Sup. Ct. Op. No. 2662 (File No. 5855), P.2d (1983).

**CHAPTER 95.  
FOREST RESOURCES AND PRACTICES**

**Article**

1. Forest Practices Procedures  
(11 AAC 95.010-11 AAC 95.060)
2. Forest Practices Standards  
(11 AAC 95.100-11 AAC 95.180)
3. Forest Fire Protection  
(11 AAC 95.400-11 AAC 95.490)
4. Log Brands  
(11 AAC 95.700-11 AAC 95.790)
5. General Provisions (11 AAC 95.900)

**ARTICLE 1.  
FOREST PRACTICES PROCEDURES**

**Section**

10. Purpose
20. Applicability
30. Notification
40. Inspections
50. Forest practices standards
60. Best management practices

11 AAC 95.010. **PURPOSE.** (a) The purpose of 11 AAC 95.010 - 11 AAC 95.180 is to establish forest practices which will carry out the standards contained in AS 41.17.060, recognizing the intent of the legislature set out in AS 41.17.010.

(b) Regulations contained in this chapter are specifically intended to preempt forest practices regulations promulgated in the form of 6 AAC 80.100 under the Coastal Management Act. (Eff. 2.15.81, Reg. 77)

Authority: AS 41.17.010  
AS 41.17.020  
AS 41.17.080

11 AAC 95.020. **APPLICABILITY.** (a) Unless otherwise noted, 11 AAC 95.010 - 11 AAC 95.180 apply to state, municipal, and private forest land.

(b) 11 AAC 95.010 - 11 AAC 95.180 apply if all of the following criteria are met:

(1) the operation is on forest land as defined by AS 41.17.950(6):

(2) the operation involves any of the following activities:

(A) harvesting, including felling, bucking, yarding, decking, hauling, log dumping, log storage, log rafting, and road construction, improvement and maintenance within the operation area;

(B) road construction, reconstruction, and maintenance of existing roads not within the operation area, but connected with the harvesting operation;

(C) site preparation;

(D) precommercial thinning;

(E) slash treatment; or

(F) any other activity leading to, or connected with, commercial harvest; and

(3) the operation is a commercial operation which equals or exceeds in the aggregate the following acreage, or borders upon surface waters (in Region IIa or IIb):

(A) 10 acres in Region I;

(B) 40 acres in Region IIb; or

(C) 160 acres in Region IIa.  
(Eff. 2/15/81, Reg. 77)

Authority: AS 41.17.020  
AS 41.17.050  
AS 41.17.080

**11 AAC 95.030. NOTIFICATION.** (a) Operations on state-owned forest land are exempt from the notification procedure of AS 41.17.090 and of this section.

(b) Notification must be received by the state forester at least 30 days before commencing an operation on forest land. Notification must be submitted on form 10-1033 (Notification of Operation) and form 10-1034 (Forest Practices Information) which are supplied by the division and available at any of the district or area offices of the division.

(c) Notifications may be mailed or delivered in person to any of the district or area offices of the division. Applications will be accepted only for those portions of the operation which the applicant states will be completed by

December 31 of the year following the year in which the notification is made. If the operation continues, notification must be renewed to reflect changes in or additions to the operation. (Eff. 2/15/81, Reg. 77)

Authority: AS 41.17.020

AS 41.17.090

AS 41.17.080

AS 41.17.120

**11 AAC 95.040. INSPECTIONS.** (a) Forest practices personnel will make every reasonable effort to notify the operator or his representative of a pending inspection at least five days in advance, and will give the operator the opportunity to accompany state personnel during the inspection. This section, however, does not prevent unannounced inspections.

(b) A written forest operation inspection report will be prepared by the forest practices forester after each inspection and will be distributed to the operator, landowner and timber owner.

(c) An inspection under this section may serve as an investigation for purposes of AS 41.17.130(b). (Eff. 2/15/81, Reg. 77)

Authority: AS 41.17.020

AS 41.17.080

AS 41.17.120

**11 AAC 95.050. FOREST PRACTICES STANDARDS.** (a) Forest practices standards are set out in 11 AAC 95.100 – 11 AAC 95.180, and constitute the specific standards which carry out the purposes stated in 11 AAC 95.010. The state forester will, in his discretion, grant a waiver of one or more of the standards contained in 11 AAC 95.100 – 11 AAC 95.180 if, in a specific situation, he finds that the purposes set out in 11 AAC 95.010 would not be furthered by enforcing the standard. Waivers granted under this subsection must be in writing and signed by the state forester, with a copy submitted to the Board of Forestry within 45 days of issuance.

(b) The state forester will act within 30 days in processing a request for a waiver.

(c) Nothing in this section prevents the state forester from granting variances from laws or regulations administered by other agencies if a cooperative agreement is reached between the various agencies which will grant the state

forester this authority. (Eff. 2/15/81, Reg. 77)  
 Authority: AS 41.17.020  
 AS 41.17.080

11 AAC 95.060. **BEST MANAGEMENT PRACTICES.** (a) Best management practices constitute the approved methodology by which the standards referred to in 11 AAC 95.100 – 11 AAC 95.180 may be achieved. Best management practices are contained in the department's "Forest Practices Field Manual" (1st Ed., October, 1981) for the region of the state in which the forest operation occurs and as established by 11 AAC 95.100.

(b) Repealed 11/21/82.  
 (Eff. 2/15/81, Reg. 77; am 11/21/82, Reg. 84)  
 Authority: AS 41.17.020  
 AS 41.17.080

Editor's Note. Copies of the Forest Practices Field Manual are obtainable, in person, from any of the district or area offices of the Division of Forest, Land and Water Management in Anchorage, Delta, Fairbanks, Glennallen, Haines, Juneau, Ketchikan, Soldotna or Wasilla, or in writing from the division at 323 East 4th Avenue, Anchorage, Alaska 99501.

## ARTICLE 2. FOREST PRACTICES STANDARDS

### Section

- 100. Designation of regions
- 110. Road construction and maintenance
- 120. Harvesting
- 130. Cleanup and stabilization
- 140. Aesthetics
- 150. Log transfer and storage facilities
- 160. Slash
- 170. Reforestation
- 180. Insect and disease prevention and control

11 AAC 95.100. **DESIGNATION OF REGIONS.** For the purposes of this chapter, the forest land of the state is divided into regions as follows:

(1) Region I (Coastal Sitka Spruce/Hemlock Region). Forest land comprised primarily of Sitka spruce, western hemlock, mountain hem-

lock, Alaska cedar, red alder, black cottonwood, western red cedar and lodgepole pine, and located within the following area: Beginning at Tongass, Alaska and then in a northwesterly direction along the boundary between Alaska and Canada to Mount Saint Elias; then westerly along the crest of the Chugach Mountains to a point where the Knik River empties into the Knik Arm; then in a southerly direction along the west slope of the Chugach Mountains to Potter; then in a southwesterly direction along the west slope of the Kenai Mountains to the southwestern tip of Tustumena Lake; then in a northwesterly direction to Clam Gulch; then in a northerly direction up Cook Inlet to the mouth of the Susitna River; then in a northerly direction up the Susitna River to its confluence with the Yentna River; then in a northwesterly direction up the Yentna River to a point approximately halfway between Susitna and McDougal; then in a westerly and then southwesterly arc lying north of Beluga Mountain to Mount Spur; then southwesterly along the crest of the Aleutian Range to Cape Igvak; then along a line in a southeasterly direction to Cape Sitkinak on Sitkinak Island; then along a line in a north-easterly direction to Cape Suckling; then along the coastline in a southeasterly direction to Cape Spencer; then in a southeasterly direction along the outer coasts of southeastern Alaska including all the islands of the Alexander Archipelago to Cape Muzon; then in an easterly direction through Dixon Entrance to Tongass, the point of beginning; and

(2) Region II (Interior Spruce/Hardwood Region). Forest land comprised primarily of white spruce, paper birch, balsam poplar, quaking aspen, black spruce, tamarack and black cottonwood, and located within the following area: Beginning at Mount Saint Elias and then in a westerly direction along the crest of the Chugach Mountains to a point where the Knik River empties into the Knik Arm; then in a southerly direction along the west slope of the Chugach Mountains to Potter; then in a southwesterly direction along the west slope of the Kenai Mountains to the southwestern tip of Tustumena Lake; then in a northwesterly direction to Clam Gulch; then in a northerly direction up Cook Inlet to the mouth of the Susitna River; then in a northerly direction up the Susitna River to its confluence with the Yentna River; then in a northwesterly direction

up the Yentna River to a point approximately halfway between Susitna and McDougal; then in a westerly and then southwesterly arc lying north of Beluga Mountain to Mount Spur; then southwesterly along the crest of the Aleutian Range to Cape Igvak; then along a line in a northwesterly direction to Togiak; then along a line in a northwesterly direction to Bethel; then along a line in a northwesterly direction to Mountain Village; then in a northerly direction down the Yukon River to its mouth; then along the shoreline of Norton Sound to Nome; then along a line in a northerly direction to Mount Jarvis in the DeLong Mountains; then in an easterly direction along the crest of the Brooks Range to Demarcation Point; then south along the boundary between Alaska and Canada to Mount Saint Elias, the point of beginning. That portion of Region II lying north and west of the Alaska Range is designated IIa; the portion lying south of the Alaska Range is designated IIb. (Eff. 2/15/81, Reg. 77)

Authority: AS 41.17.020  
AS 41.17.080

**11 AAC 95.110. ROAD CONSTRUCTION AND MAINTENANCE.** (a) No change may be made in the course or channel of natural streams except with the written approval of the Department of Fish and Game under AS 16.05.840 or AS 16.05.870 or, for waters not identified under AS 16.05.840 or AS 16.05.870, of the state forester.

(b) Road design standards and specifications must be adapted to the terrain and soil materials in order to minimize surface disturbance and to minimize impact on water quality.

(c) Water-crossing structures must provide for passage and movement of fish, as required by the Department of Fish and Game under AS 16.05.840, and minimize impact on water quality. Structures for permanent roads must also accommodate the 25-year frequency storm and passage of upstream debris. Where storm data does not exist, it will be estimated from stream scour marks, existing debris, and other data customarily used to determine the history of storms in the area.

(d) Water-crossing structures must be installed in a manner to minimize disturbance of streambed or streambank, erosion, or other adverse

impacts on water quality and fish habitat; and at a time of year that minimizes interference with spawning or migration of fish, as required by the Department of Fish and Game.

(e) In Region IIa, ice bridges must be constructed following accepted practices. In all cases, ice bridges must be constructed so as to go out with natural ice breakup or be breached before breakup if necessary to protect downstream structures or resources.

(f) Construction equipment and machinery may not be operated in or through surface water except with the written approval of the Department of Fish and Game under AS 16.05.870 or, for waters not identified under AS 16.05.870, by the state forester.

(g) Areas of exposed soil must be stabilized to the extent feasible at the normal angle of repose, or less, to minimize soil erosion and subsequent siltation of surface waters.

(h) Vegetative debris deposited as a result of an operation must be removed from surface water which supports fish, or has a permitted use under AS 46.15, within 48 hours of its deposition to avoid toxic leaching or obstruction of streamflow.

(i) Rock, overburden, and other materials associated with road construction must be placed so as to minimize the possibility of their entry into surface waters.

(j) No petroleum product may be allowed to enter surface waters.

(k) Drainage features and structures such as ditches, cross-drains, crowning, out-sloping, culverts, and bridges must be maintained to prevent blockage and erosion during periods that the road is in use, and stabilized and maintained or removed once the road has been abandoned or its use otherwise terminated.

(l) Any quarry or borrow site for road construction and maintenance purposes under this chapter which is located on state land must have the approval required by AS 38.05.330. Any quarry or borrow site for road construction and maintenance purposes under this chapter which is located within a 25-year

floodplain must have the approval of the Department of Fish and Game under AS 16.05.840 or AS 16.05.870, or the state forester for waters within a 25-year floodplain which are not subject to AS 16.05.840, AS 16.05.870, or AS 38.05.330.

(m) Upon abandonment of upland quarry or borrow sites as a source of material, the banks, headwall, and other exposed surfaces of the site must be stabilized to the extent necessary to prevent soil erosion or mass soil movement.

(n) For operations on state-owned forest land, a detailed transportation plan must be developed by the district involved and approved by the state forester before commencement of road building activities. The plan must recognize the long-range transportation needs of the area with regard to forest management and associated uses, and must be revised and updated at five-year intervals unless circumstances indicate more frequent revisions should be undertaken. Before approving any plan, the state forester will consult with and consider the views of the Department of Environmental Conservation and the Department of Fish and Game. (Eff. 2/15/81, Reg. 77)

Authority: AS 41.17.020  
AS 41.17.080

**11 AAC 95.120. HARVESTING.** (a) Felling, bucking, and yarding must be conducted so as to

(1) avoid depositing vegetative material in surface waters to the extent feasible; if vegetative material enters surface waters, it must be removed as an ongoing process during harvesting activities;

(2) protect the integrity of the streambank and its vegetative cover;

(3) provide for shading and water filtering effects of vegetation along streams when necessary to protect water quality and aquatic habitat; and

(4) minimize soil erosion from the cutover area.

(b) Landings, skid trails, and fire trails must be located, constructed, maintained, and revegetated, if necessary, to minimize siltation of surface waters.

(c) On state and municipal forest land, harvesting plans must recognize, and operations protect, species and their habitats identified by the Department of Fish and Game as threatened or endangered.

(d) On state and municipal forest land, a buffer 330 feet in radius must be retained around each bald eagle nesting tree.

(e) For operations on state-owned forest land, a detailed harvesting plan must be developed by the district involved and approved by the state forester before harvesting commences. The plan must take into consideration other forest resources and the extent to which these resources will be affected by the harvesting activities. Before approving any plan, the state forester will consult with and consider the views of the Department of Environmental Conservation and the Department of Fish and Game. (Eff. 2/15/81, Reg. 77)

Authority: AS 41.17.020  
AS 41.17.080

**11 AAC 95.130. CLEANUP AND STABILIZATION.** (a) Waste material, such as crankcase oil, fuel, grease, filters, hydraulic fluid, and their containers, resulting from road construction and harvesting activity must be disposed of in accordance with provisions of 18 AAC 60.

(b) Machine parts, wire rope, or similar scrap wastes must be disposed of in a stable location where there is no realistic potential of their entering surface waters or becoming a hazard to big game.

(c) Drainage systems must be provided and maintained to control the dispersal of runoff water from exposed soils on landings, skid trails, fire trails, and other unstable or erodible areas to minimize soil erosion and subsequent siltation of surface waters.

(d) Unstable or erodible exposed soils must be stabilized by a suitable method to minimize siltation of surface waters. (Eff. 2/15/81, Reg. 77)

Authority: AS 41.17.020  
AS 41.17.080

**11 AAC 95.140. AESTHETICS.** Where major scenic attractions, highways, recreation areas,

or other high-use areas are located on state or municipally owned forest land, special consideration must be given to scenic values by the layout and design of cutting units in these areas to minimize visual impact and by prompt cleanup and regeneration after harvesting. (Eff. 2/15/81, Reg. 77)

Authority: AS 41.17.020  
AS 41.17.080

**11 AAC 95.150. LOG TRANSFER AND STORAGE FACILITIES.** (a) Where feasible, preference must be given to onshore storage and barging of logs.

(b) Sites for in-water dumping and in-water storage of logs must be minimized, and must be selected in areas having the steepest and the least productive intertidal and subtidal zones to minimize detrimental impact to land and water resources. Safety considerations will be taken into account in selection of in-water dumping and storage sites

(c) Intertidal sites within 300 feet of the mouths of anadromous streams or in areas known to be important for fish spawning or rearing are prohibited unless prior written approval is obtained from the Department of Fish and Game. (Eff. 2/15/81, Reg. 77)

Authority: AS 41.17.020  
AS 41.17.080

**11 AAC 95.160. SLASH.** (a) In areas where slash treatment is necessary to prevent or reduce the spread of fire, concentrations of slash must be reduced by scattering, piling or windrowing, mechanized chipping, compacting, burying, or controlled burning.

(b) When slash is to be disposed of by burning, vegetative buffers must be protected from fire, and the burning must be accomplished under weather conditions that will minimize air-quality degradation and fire escape.

(c) Unstable slash concentrations around landings must be disposed of or dispersed to prevent their entry into streams and other water bodies.

(d) Within Region II, when beetle brood is present in concentrations of white spruce slash with an outside bark diameter greater than five inches, it must be treated by burning or by some

other method to destroy developing insects and prevent bark-beetle buildup. (Eff. 2/15/81, Reg. 77)

Authority: AS 41.17.020  
AS 41.17.080

**11 AAC 95.170. REFORESTATION.** (a) On forest land economically suited for growing and harvesting commercial wood products, reforestation must be accomplished following a harvest, except when the silvicultural objective is to thin the existing stand, in which case the residual stocking must be at the recommended level as defined in the reforestation guidelines of the manual referred to in 11 AAC 95.060(a) for the region of the state in which the forest operation is located.

(b) Reforestation must be accomplished following harvest within

(1) five years in Region I;

(2) 10 years in Region IIa; or

(3) seven years in Region IIb.

(c) Seedlings must be evenly distributed over the area at a minimum density per acre as defined in the reforestation guidelines of the manual referred to in 11 AAC 95.060(a) for the region in which the operation is located, or at least equivalent to the original stand. Seedlings may be established naturally, or by seeding or planting.

(d) On forest land where artificial reforestation has been selected as the management option and suitable seedlings or seeds from appropriate seed source zones are unavailable, or weather conditions or other circumstances beyond the landowner's control require delay in planting or seeding, a reasonable extension of time will be allowed by the state forester.

(e) On forest land, seedlings must have survived two winters on the site, and must exhibit growth, before they can be considered established.

(f) Reforestation will be encouraged, but will not be required on forest land when harvesting of insect- and disease-killed, fire-killed, or wind-thrown timber reduces stocking levels below the acceptable limit.

(g) Trees left for future harvest must be adequately protected from damage resulting from harvest operations to assure their survival and growth. (Eff. 2/15/81, Reg. 77)

Authority: AS 41.17.020  
AS 41.17.080

**11 AAC 95.180. INSECT AND DISEASE PREVENTION AND CONTROL.** (a) Silvicultural systems employed on state and municipally owned forest land must be designed to prevent or control insect infestations and disease infection.

(b) When the commissioner finds forest land or timber that is infested by forest insect pests, infected by forest tree disease, or threatened by insect pests or forest tree disease, he will determine whether measures of control are necessary and available and to which areas the control measures should be applied. Thereafter, the commissioner will, in his discretion, designate a disease or insect control area with definite boundaries. The area may include threatened forest land or timber as well as forest land or timber already affected.

(c) The commissioner will immediately notify in writing all owners of forest land or timber within the designated control areas. The notice will be served by delivery of a copy of the notice to the owner, or by mail addressed to the owners' last known place of address. In addition, the commissioner will publish a legal description of the designated control area at least once a week for two consecutive weeks in one or more newspapers of general circulation in or near the designated control area.

(d) The commissioner will assist, upon request of the owners of forest land or timber within the designated control area, with the control and salvage measures necessary, to the extent that there is available funding for undertaking the assistance.

(e) When the commissioner determines that forest insect pest or forest tree disease control work within the designated control area is no longer necessary or feasible, the commissioner will terminate the designation.

(f) When trees on state and municipally owned forest land contain insects or disease which pose

a significant threat to surrounding healthy trees, they must be salvaged as rapidly as is practicable, dependent upon access and marketability, to prevent spread of the forest pests or disease. Trees must also be salvaged where environmental catastrophes such as wind or flooding cause them to be highly susceptible to bark-beetle infestation.

(g) Where salvage of trees killed by insects or disease is conducted for the sole purpose of using wood fiber and is consistent with the management objectives for state and municipal forest land, salvage should occur before wood deterioration results, if a significant loss of merchantability is to be avoided. (Eff. 2/15/81, Reg. 77)

Authority: AS 41.17.020  
AS 41.17.080

### ARTICLE 3. FOREST FIRE PROTECTION

#### Section

- 400. Purpose
- 410. Permit
- 420. Content of permit
- 430. Denial, suspension, or revocation of permit
- 440. Place of burning
- 450. Emergency closure
- 460. Public notice
- 470. Environmental control
- 480. Additional equipment for operations
- 490. Other governmental laws

**11 AAC 95.400. PURPOSE.** It is the purpose of 11 AAC 95.400 – 11 AAC 95.490 to provide for the protection of forested land from fire. (Eff. 2/15/81, Reg. 77)

Authority: AS 41.15.020  
AS 41.17.020  
AS 41.17.080

**11 AAC 95.410. PERMIT.** (a) A burning permit is required during the fire season for the burning of any material in areas designated by the commissioner. A burning permit is not required when the burning is contained within an approved device, or for cooking, warming, or signaling fires.

(b) A burning permit may be obtained by applying to the commissioner. The applicant

shall provide the commissioner with information as to the type, location, and person in charge of the burning, the area and material to be burned, and the number of persons controlling the burn.

(c) An applicant issued a burning permit may not burn any material covered by the permit unless he has the permit in his possession. The permit must be displayed to a designee of the commissioner upon request.

(d) Before issuing a permit, the commissioner will, in his discretion, require that he inspect the area and material to be burned. (Eff. 2/15/81, Reg. 77)

Authority: AS 41.15.020 AS 41.17.020  
AS 41.15.060 AS 41.17.080

**11 AAC 95.420. CONTENT OF PERMIT.** (a) Each permit must be on a form provided by the department and must contain

- (1) the name and address of permittee;
- (2) the name of the person designated by the commissioner to issue the permit;
- (3) the forest protection area where the burning will be conducted;
- (4) the dates of issuance and expiration of the permit;
- (5) a detailed description of the area where the burning will be conducted, designated by borough, subdivision, section, township, range, meridian, and local landmarks; and
- (6) the amount of acres or area to be burned.

(b) Each permit may provide

- (1) a specific time and date for the burn;
- (2) the minimum number of persons and equipment employed to control or extinguish the burn; and

(3) limitation as to the size of the burn and the number of burns. (Eff. 2/15/81, Reg. 77)

Authority: AS 41.15.020  
AS 41.15.050  
AS 41.17.080

**11 AAC 95.430. DENIAL, SUSPENSION, OR REVOCATION OF PERMIT.** (a) A burning permit will be denied, in the commissioner's discretion, if the commissioner is not permitted to inspect the area and material to be burned. The commissioner will, in his discretion, deny, suspend or revoke a permit, to protect life or property.

(b) A permit is suspended by an emergency closure to burning in the permit area. If the emergency closure remains in effect past the expiration date of a permit, the permit is revoked, and a new permit must be obtained. (Eff. 2/15/81, Reg. 77)

Authority: AS 41.15.020 AS 41.15.090  
AS 41.15.050 AS 41.17.080  
AS 41.15.060

**11 AAC 95.440. PLACE OF BURNING.** A permitted burn must be confined to an area surrounded by mineral soil, gravel or rock, or must be surrounded by a natural or constructed firebreak. (Eff. 2/15/81, Reg. 77)

Authority: AS 41.15.020 AS 41.15.090  
AS 41.15.050 AS 41.17.080  
AS 41.15.060

**11 AAC 95.450. EMERGENCY CLOSURE.** The commissioner will, in his discretion, during the fire season, close an area to setting of fires, burning, smoking, entry, or other use of land, when, in his judgment, the activities would unduly increase the fire danger. (Eff. 2/15/81, Reg. 77)

Authority: AS 41.15.020  
AS 41.15.050  
AS 41.17.080

**11 AAC 95.460. PUBLIC NOTICE.** An emergency closure will be announced by publication in a newspaper of general circulation in the area closed of a public notice issued by the commissioner specifying the area closed and the effective date of closure. (Eff. 2/15/81, Reg. 77)

Authority: AS 41.15.020 AS 41.15.060  
AS 41.15.050 AS 41.17.080

**11 AAC 95.470. ENVIRONMENTAL CONTROL.** Any burning authorized by a permit obtained under this chapter must be conducted in the manner required by 18 AAC 50, Air Quality Control Regulations, and 18 AAC 60, Solid

Waste Regulations. (Eff. 2/15/81, Reg. 77)  
 Authority: AS 41.15.020 AS 41.15.060  
 AS 41.15.050 AS 41.17.080

**11 AAC 95.480. ADDITIONAL EQUIPMENT FOR OPERATIONS.** (a) All saws must be equipped with a spark-arresting device constructed to retain or destroy 90 percent or more of the carbon particles having a major diameter greater than 0.023 inches (0.584 mm). A spark-arresting device equipped with a woven screen with a maximum opening size of 0.023 inches (0.584 mm), constructed of heat- and corrosion-resistant wire at least 0.013 inches (0.330 mm) in diameter, will be considered in compliance with the requirement if the total screen opening area is not less than 125 percent of the engine exhaust-port area. The unit must be constructed to permit easy removal of the screen for field inspection, replacement, and cleaning.

(b) The commissioner will, in his discretion, in writing, modify or waive any requirement of this section if he finds that conditions so warrant. The commissioner will take into consideration factors including, but not limited to, the type, size, and location of the operation and type of equipment in use, in making his decision. (Eff. 2/15/81, Reg. 77)

Authority: AS 41.15.020  
 AS 41.17.080

**11 AAC 95.490. OTHER GOVERNMENTAL LAWS.** A permit issued under 11 AAC 95.400 – 11 AAC 95.430 is subject to local laws and regulations which are more restrictive. (Eff. 2/15/81, Reg. 77)

Authority: AS 41.15.050  
 AS 41.15.060

#### ARTICLE 4. LOG BRANDS

##### Section

- 700. Log brand
- 710. Barged logs
- 720. Brand design
- 730. Acceptance or rejection of application
- 740. Cancellation of registration
- 750. Fees for registration or transfer of registration
- 760. Reservation of brands
- 770. Registration upon transfer
- 780. Use of unregistered brand
- 790. Notice or demand

**11 AAC 95.700. LOG BRAND.** In this chapter and in AS 45.50.210 – 45.50.325, "brand" means

(1) a mark or other designation that has been registered with the department; or

(2) an impression stamped on timber property with a branding hammer. (Eff. 2/15/81, Reg. 77)

Authority: AS 38.05.020  
 AS 45.50.315  
 AS 45.50.325

**11 AAC 95.710. BARGED LOGS.** Timber property transported by a self-dumping barge will be presumed, upon being loaded on the barge, to be intended to be put in a waterway of the state within the meaning of AS 45.50.230(a). (Eff. 2/15/81, Reg. 77)

Authority: AS 38.05.020  
 AS 45.50.230(a)  
 AS 45.50.315

**11 AAC 95.720. BRAND DESIGN.** (a) A diagram or design on paper, within the meaning of AS 45.50.210(b), will be considered acceptable if it is a sketch or drawing with exact dimensions shown, or a paint or ink impression of the brand. The department will, in its discretion, request the owner of a brand to furnish a paint or ink impression of the brand on paper at any time in order to confirm that the owner's branding hammer conforms to the design of the brand as registered.

(b) The actual size of the brand must be at least two inches in diameter or dimensions. (Eff. 2/15/81, Reg. 77)

Authority: AS 38.05.020  
 AS 45.50.210  
 AS 45.50.315

**11 AAC 95.730. ACCEPTANCE OR REJECTION OF APPLICATION.** No application will be accepted unless accompanied by the registration fee and, if requested by the department, an impression of the brand and additional descriptive information. (Eff. 2/15/81, Reg. 77)

Authority: AS 45.50.210(b) AS 45.50.260  
 AS 45.50.220 AS 45.50.315

**11 AAC 95.740. CANCELLATION OF REGISTRATION.** (a) The department will, in its

discretion, cancel a brand registration, following notice and an opportunity to be heard

(1) if the owner fails to furnish an impression of the brand or information about the brand or use of the brand when requested to do so by the department;

(2) upon conviction under AS 45.50.320; or

(3) if the applicant or owner fails to reply to a certified or registered letter from the department requesting information concerning the log brand within a specified period of time; the time period will not be less than 15 days from the date the letter is metered.

(b) A brand registration will be cancelled by request of its owner. The cancellation will be effective upon receipt by the department of a written notice from the owner requesting the cancellation. (Eff. 2/15/81, Reg. 77)

Authority: AS 38.05.020 AS 45.50.315  
AS 45.50.210 AS 45.50.320

**11 AAC 95.750. FEES FOR REGISTRATION OR TRANSFER OF REGISTRATION.** (a) The fee for registration or transfer of a registration is set out in a fee schedule posted in the district offices of the division.

(b) The fee may be forfeited if an application is rejected.

(c) The fee is forfeited if a brand registration is cancelled before the expiration of the period of registration. (Eff. 2/15/81, Reg. 77)

Authority: AS 38.05.020 AS 45.50.260  
AS 45.50.210 AS 45.50.280  
AS 45.50.220 AS 45.50.315

**11 AAC 95.760. RESERVATION OF BRANDS.** When an acceptable application has been received for registration or renewal of brand registration, the brand will be reserved to the applicant. (Eff. 2/15/81, Reg. 77)

Authority: AS 38.05.020  
AS 45.50.315

**11 AAC 95.770. REGISTRATION UPON TRANSFER.** No registered brand may be transferred to or used by or on behalf of a third party except after prior written notice to the department, accompanied by a true copy of the

instrument of transfer as required by AS 45.50.260, together with the registration fee. Upon receipt and filing for record of a copy of the transfer instrument and the fee, the department will register the brand and issue a certificate to the new owner. (Eff. 2/15/81, Reg. 77)

Authority: AS 38.05.020 AS 45.50.280  
AS 45.50.260 AS 45.50.315

**11 AAC 95.780. USE OF UNREGISTERED BRAND.** Logs branded with an unregistered brand, or with a registered brand used by a person not authorized to use it, will be considered for all purposes to be unbranded. (Eff. 2/15/81, Reg. 77)

Authority: AS 38.05.020  
AS 38.50.315  
AS 38.50.320

**11 AAC 95.790. NOTICE OR DEMAND.** Any notice or demand under this chapter or under AS 45.50.215 - AS 45.50.325 must be in writing, and must be sent by certified or registered mail to the other party at the address of record. Either party may designate in writing a new address to which the notice or demand is to be mailed. A written notice or demand is considered delivered when mailed from a U.S. general or branch post office. (Eff. 2/15/81, Reg. 77)

Authority: AS 38.05.020  
AS 38.50.315  
AS 38.50.320

## ARTICLE 5. GENERAL PROVISIONS

### Section 900. Definitions

**11 AAC 95.900. DEFINITIONS.** In this chapter, unless the context otherwise requires

(1) "abandonment" will be considered to have occurred where the operator leaves a site intending not to return, or has not used a site for a period of one year;

(2) "alternative practice" means a practice which, in the judgment of the operator, is equal to or better than a practice identified in the manual referred to in 11 AAC 95.060(a) for the region in which the forest operation is located;

(3) "approved device" includes conventional and portable stoves, fireplaces, and incinerators with adequate safeguards to prevent escapement of fire;

(4) "aquatic and terrestrial habitat" means habitat normally used by fish or wildlife to sustain life;

(5) "beach log salvage" means the recovery of timber property that is no longer in possession or control of its owner or rightful transporter;

(6) "borrow site" means an excavation site outside the limits of construction to provide materials necessary to that construction, such as fill material;

(7) "burning" includes setting fires and excludes smoking;

(8) "commercial operation" means an operation or harvest producing wood products for sale;

(9) "commissioner" means the commissioner of natural resources or his authorized designee;

(10) "cooking, warming, or signaling fire" means a small fire, contained within a natural or artificial barrier to prevent its escape, used for cooking, signaling, or warming, and attended at all times;

(11) "cross-drain" means a cross ditch used to move water from one side of a road to the other to prevent accumulation of runoff without the need of a culvert or bridge;

(12) "crowning" means to shape the running surface of a road higher in the center in order to direct runoff to roadside ditches rather than channel it down the centerline;

(13) "department" means the Department of Natural Resources;

(14) "display" or "displayed" means situated or placed in a readily discernible manner on timber property;

(15) "division" means the division of forestry in the Department of Natural Resources;

(16) "feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, technical, and safety factors;

(17) "forest land," in 11 AAC 95.010 - 11 AAC 95.180, is as defined by AS 41.17.950(6);

(18) "forested land," in 11 AAC 95.400 - 11 AAC 95.490, is as defined by AS 41.15.170(3);

(19) "forest practices forester" means the field person assigned by the department to implement the Act;

(20) "land economically suited for the growing and harvesting of wood products" means forest land capable of producing repeated crops of forest products including, but not limited to, sawlogs, pulpwood, and firewood;

(21) "material" includes any organic or inorganic flammable substance such as trees, brush, weeds, grass, wood, lumber, trash, papers, clothes, tires, and chemicals;

(22) "mineral soil" means a soil containing insufficient organic material to sustain fire;

(23) "normal angle of repose" means the angle at which cut slopes will stand naturally, and varies by type of material;

(24) "operation," in 11 AAC 95.010 - 11 AAC 95.180, is as defined by AS 41.17.950(6); in 11 AAC 95.400 - 11 AAC 95.490, "operation" has the same meaning, plus land clearing activities on forested land;

(25) "outsloping" means to shape the running surface of a road in a manner to carry runoff to the downslope side of the road, and is used for roads without roadside ditches;

(26) "permit" means burning permit;

(27) "stabilize" means to make resistant to shifting or erosion by mechanical or other means;

(28) "state forester" means the state forester or his authorized representative;

(29) "surface waters" means ponds and lakes greater than 10 acres in size, and streams, creeks, and rivers which are valuable for domestic use, spawning, rearing, or migration of fish, or have value to protect water quality;

(30) "upstream debris" means slash or debris located 50 feet or less upstream from a culvert or bridge that may reasonably be expected to plug the inlet or damage the structure; and

(31) "waiver" means a deviation from standards set out in 11 AAC 95.100 - 11 AAC 95.180 which is approved by the state forester with the concurrence of the Department of Fish and Game and the Department of Environmental Conservation. (Eff. 2/15/81, Reg. 77: am 11/21/82, Reg. 84)

Authority: AS 41.15.050                      AS 41.17.020  
                   AS 41.15.060                      AS 41.17.080  
                   AS 41.15.090

## CHAPTER 96. MISCELLANEOUS LAND USE

### Article

1. Provisions for General Land Use Activity (11 AAC 96.010-11 AAC 96.150)
2. Additional Provisions for Geophysical Exploration and Stratigraphic Tests (11 AAC 96.210-11 AAC 96.240)
3. General Provisions (11 AAC 96.250)

### ARTICLE 1. PROVISIONS FOR GENERAL LAND USE ACTIVITY

#### Section

10. Operations requiring permits
20. Equipment use not requiring a permit
30. Application
40. Term and conditions
50. Effective date
60. Bonds
70. Completion of operations
80. Confidential status of information
90. Inspection of operation
100. Penalty
110. Appeals
120. Purpose
130. Applicability
140. General stipulations
150. (Repealed)

**11 AAC 96.010. OPERATIONS REQUIRING PERMITS.** A permit is required for the following activities on state lands:

(1) activity requiring

(A) the use of explosives and explosive devices, except firearms;

(B) the use of any equipment not included in the list specified in 11 AAC 96.020;

(C) the use of hydraulic prospecting or mining equipment methods;

(D) drilling to a depth in excess of 300 feet, including exploratory drilling or stratigraphic test wells on state land not under oil or gas lease;

(E) conducting geophysical exploration for oil or gas resources;



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