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SENATE FINANCE COMMITTEE REPORT

DATE: 3/22/90

FURTHER:

DATE TURNED INTO OFFICE: _____

The Finance Committee considered

SB 317

"An Act relating to forest resources and practices and to the management of forest lands; and providing for an effective date."

and recommended:

- replace with _____ CS _____ same title
 or adopt _____ CS _____ new title
 attached amendment(s) technical title change (HB only)
 _____ letter of intent adopted

- do pass *Hearings 4-6-90*
 do not pass *4-7-90*
 no recommendation *Bill died in subcommittee:*
 individual recommendations *Binkley, Zharoff, Frank, Pearce.*
 further referral to _____

ATTACHES NEW FISCAL NOTE(S):

APPROVES PREVIOUS:

fiscal note(s) _____ Dept/Date: _____

fiscal note(s) _____ Dept/Date: _____

zero fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

1. _____ 2. _____

Co-Chairs: Signatures and Recommendations

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

900529 SE / 33
b

Date of 5-DAY NOTICE 3-15-90
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER

FIN

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 3-22-90

5/3/89
Mr. President:

RES

Committee considered SB 317

forest resources and practices and to the management of forest lands; efd

and recommended:

- replace with CS SB 317 (Res) same title
- attached amendment(s) and new title
- _____ and report it back as follows
- _____ letter of intent adopted

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

SB 317
CS 3 FN

FISCAL NOTE(S) attached zero
 appropriation no FN attached

fiscal impact ^{FTG DNR DEC}
 Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Curtis Jurgensen

[Signature]

Kirk Halford

[Signature]

[Signature]

[Signature] No Rec

Paul Zhanoff No Rec

[Signature] / No Rec
Chair: signature and recommendation

Committee backup attached

Original sponsor(s): Rules/Governor

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE BILL NO. 317 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

10 * Section 1. AS 38.05 is amended by adding new sections to read:

11 Sec. 38.05.112. FOREST LAND USE PLANS. (a) The department may
12 not sell or harvest timber, except for isolated personal use timber
13 harvest, until a site-specific forest land use plan has been adopted.
14 A forest land use plan is required whether or not a regional or area
15 land use plan under AS 38.04.065(a) or a forest management plan under
16 AS 41.17.230 has been adopted.

17 (b) The commissioner shall base a forest land use plan on the
18 best available data, including information provided by other agencies
19 describing the immediate and long-term effects of individual and
20 collective forest activities on the timber base and on other resources
21 and uses.

22 (c) In addition to the requirements of AS 38.04.065(b), a forest
23 land use plan shall consider

24 (1) commercial timber harvesting, including related activ-
25 ities;

26 (2) harvesting of forest products for personal use;

27 (3) fish and wildlife habitat, including

28 (A) identification and protection of important wild-
29 life habitat;

1 (B) retention of riparian, wetland, and ocean-shore-
2 llae vegetation critical for fish and wildlife habitat; and

3 (C) classification of water bodies according to phys-
4 ical characteristics;

5 (4) uses of forest land for nontimber purposes, including

6 (A) recreation, tourism, and related activities;

7 (B) mining, mining claims, mineral leaseholds, and
8 material extraction;

9 (C) uses of fish and wildlife;

10 (D) agriculture, including grazing; and

11 (E) other resources and uses appropriate to the area,
12 including compatible traditional uses;

13 (5) soil characteristics and productivity;

14 (6) water quality; and

15 (7) watershed management.

16 (d) A management plan prepared by the commissioner must consider
17 and permit the uses described in (c) of this section. If the commis-
18 sioner finds that a permitted use is incompatible with one or more
19 other uses in a portion of a state forest, the commissioner shall
20 affirmatively state in the management plan that finding of incom-
21 patibility for the specific area where the incompatibility is antic-
22 ipated to exist and the time period when the incompatibility is antic-
23 ipated to exist together with the reasons for each finding.

24 Sec. 36.05.113. FIVE-YEAR SALE SCHEDULE. (a) The department
25 shall annually prepare a five-year schedule of timber sales planned on
26 all lands managed by the department. The schedule must be of suffi-
27 cient specificity that it provides a basis for the department to
28 allocate its resources in considering and designing sales and in
29 conducting economic and environmental analyses. The schedule must

1 inform the public and the timber products industry of long-term plans
2 and provide a basis for public comment.

3 (b) Except as provided in (c) of this section, a proposed sale
4 may not be held unless it has been included in the two five-year
5 schedules preceding the sale. This requirement does not apply until
6 one year after the first five-year schedule is prepared under this
7 section.

8 (c) The department may adopt regulations exempting small and
9 emergency sales from the requirements of this section.

10 * Sec. 2. AS 41.17.010 is amended to read:

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

13 (1) the forest resources of Alaska are among the most
14 valuable natural resources of the state, and furnish timber and wood
15 products, fish and wildlife, tourism, outdoor recreation, water, soil,
16 air, 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 ensure 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
28 the expertise of professional foresters in conjunction with other
29 disciplines;

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

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

10 (7) except for activities subject to AS 16.05.340 or 16.-
11 05.370 and regulations authorized by those sections, this chapter and
12 regulations adopted under this chapter establish the fish habitat
13 protection standards, policies, and review processes under state law
14 [SUBJECT TO 16 U.S.C. 1456(f) (SEC. 307(f) OF THE COASTAL ZONE MANAGE-
15 MENT ACT OF 1972, P.L. 92-583), THE PROVISIONS OF THIS CHAPTER SHALL
16 BE THE BASIS FOR FOREST MANAGEMENT STANDARDS, POLICIES, AND GUIDELINES
17 DEVELOPED UNDER THE ALASKA COASTAL MANAGEMENT ACT].

18 * Sec. 3. AS 41.17.041 is repealed and reenacted to read:

19 Sec. 41.17.041. BOARD OF FORESTRY. (a) The Board of Forestry
20 is established in the Department of Natural Resources, division of
21 forestry.

22 (b) The board is composed of nine members appointed by the
23 governor:

24 (1) a representative of a statewide commercial fishermen's
25 organization;

26 (2) a representative of a Native corporation established
27 under 43 U.S.C. 1601-1628 (Alaska Native Claims Settlement Act);

28 (3) a representative of an environmental organization;

29 (4) a representative of a forest industry trade

1 association;

2 (5) a professional fish or wildlife biologist who is not
3 employed in that capacity by a state, municipal, or federal government
4 agency, except for university employment;

5 (6) a professional forester who is not employed in that
6 capacity by a state, municipal, or federal government agency, except
7 for university employment;

8 (7) a representative of a statewide mining organization;

9 (8) a representative of a statewide recreational organi-
10 zation; and

11 (9) the state forester, who serves ex officio and without a
12 vote.

13 (c) The state forester is the presiding officer of the board and
14 shall, in consultation with the board, establish procedures for sched-
15 uling and organizing board meetings. Seven voting members of the
16 board constitute a quorum. Each decision of the board requires the
17 affirmative vote of each voting member present less one.

18 (d) A board member who is unable to attend a meeting may desig-
19 nate an alternate who possesses the same qualifications as the board
20 member.

21 (e) The division shall serve as staff to the board. The depart-
22 ment, the Department of Fish and Game, and the Department of Environ-
23 mental Conservation shall provide technical staffing and information
24 as needed by the board.

25 * Sec. 4. AS 41.17.047 is repealed and reenacted to read:

26 Sec. 41.17.047. POWERS AND DUTIES OF BOARD. (a) The board
27 shall review and comment to the commissioner on regulations proposed
28 for adoption under this chapter.

29 (b) The board shall provide a forum for representatives of

1 affected interests to discuss and attempt to resolve issues relevant
2 to this chapter and to the forest resources of the state.

3 (c) The board, working with the department, the Department of
4 Environmental Conservation, the Department of Fish and Game, other
5 affected agencies and parties, and the forest-dependent industries,
6 shall conduct an annual survey of research needs related to forest
7 practices. The board shall review research proposals and shall make
8 recommendations to promote research projects that would address these
9 needs to the governor and the legislature.

10 (d) The board shall coordinate the monitoring of the implementa-
11 tion and effectiveness of this chapter, the regulations, and best
12 management practices adopted under this chapter in meeting state water
13 quality standards, fish and wildlife habitat requirements, and other
14 forestry objectives. The board shall report annually to the
15 legislature and the governor on the effectiveness of this chapter and
16 regulations adopted under it, with its recommendations for changes and
17 for needed research and monitoring. The state forester, the
18 Department of Fish and Game, and the Department of Environmental
19 Conservation shall each present an annual report, independantly, to
20 the board on the effectiveness of this chapter, the regulations, and
21 best management practices adopted under this chapter that protect the
22 resources for which they have statutory responsibility, and shall make
23 recommendations for changes to correct procedural or substantive
24 problems. The board shall forward the reports to the legislature as
25 part of its annual report. The board shall hold hearings at least
26 once annually in southeast, southcentral, and interior Alaska for
27 purposes of taking public testimony on the subjects.

28 * Sec. 5. AS 41.17.055(d) is repealed and reenacted to read:

29 (d) The commissioner may develop regulations under this chapter

1 as part of the state program for control of nonpoint source pollution
2 under the Federal Water Pollution Control Act, as amended. However,
3 the Department of Environmental Conservation is the lead agency for
4 water quality and control of nonpoint source pollution under that Act,
5 and the regulations are therefore subject to the approval of the
6 commissioner of environmental conservation.

7 * Sec. 6. AS 41.17.060(b) is amended to read:

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

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

13 (2) environmentally sensitive areas [AND BEST MANAGEMENT
14 PRACTICES] shall be recognized in the development of regulations and
15 best management practices that are designed to implement [IMPLEMENTA-
16 TION OF ANY] nonpoint source pollution control measures authorized
17 under this chapter;

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

21 (4) to the fullest extent practicable, harvested forest
22 land shall be reforested, naturally or artificially, so as to result
23 in a sustained yield of merchantable timber from that land; if artifi-
24 cial planting is required, silviculturally acceptable seedlings must
25 first be available for planting at an economically fair price in the
26 state; and

27 (5) significant adverse effects of soil erosion and mass
28 wasting on water quality and fish habitat shall be prevented or min-
29 imized.

1 * Sec. 7. AS 41.17.060(c) is amended to read:

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

4 (1) forest land shall be administered for the multiple use
5 of the renewable and nonrenewable resources and for the sustained
6 yield of the renewable resources of the land in the manner that
7 [WHICH] best provides for the present needs and preserves the future
8 options of the people of the state;

9 (2) a [ANY] system of allocating predominant uses or values
10 to particular units within a contiguous area of land shall reflect in
11 reasonable proportion the various resources and values present in that
12 area;

13 (3) to the extent its capacity permits, forest land shall
14 be administered so as to provide for the continuation of businesses,
15 activities, and lifestyles that [WHICH] are dependent upon or derived
16 from forest resources;

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

21 (5) there may not be [ANY] significant impairment of the
22 productivity of the land and water with respect to renewable re-
23 sources; [AND]

24 (6) [WHERE ECONOMICALLY PRACTICABLE,] allowance shall [MAY]
25 be made for scenic quality in or adjacent to areas of substantial
26 importance to the tourism and recreation industry; and

27 (7) allowance shall be made for important fish and wildlife
28 habitat.

29 * Sec. 3. AS 41.17.070(b) is repealed and reenacted to read:

1 (b) To maintain a record of division decision making for public
2 and agency review, the commissioner shall compile and index each de-
3 cision made under this chapter regarding directives, stop work orders,
4 waivers from requirements, decisions of hearing officers, and deci-
5 sions on appeals. The commissioner shall submit a summary of this
6 record annually to the board.

7 * Sec. 9. AS 41.17.080 is repealed and reenacted to read:

8 Sec. 41.17.080. REGULATIONS. (a) The commissioner may adopt
9 regulations necessary to accomplish the purposes of this chapter under
10 AS 44.62 (Administrative Procedure Act) regarding forest practices
11 such as

- 12 (1) road construction and maintenance, including
13 (A) road location, construction, maintenance, and
14 post-operation management or removal;
15 (B) landing location and construction;
16 (C) drainage structures;
17 (D) material sources and spoil disposal sites;
18 (2) timber harvesting, including
19 (A) timber harvest unit planning and design;
20 (B) felling and bucking;
21 (C) cable yarding, shovel, tractor, and wheeled skid-
22 der systems;
23 (D) landing clean-up;
24 (E) slash disposal;
25 (3) log transfer, sort yards, and storage facilities,
26 including
27 (A) location, design, and construction;
28 (B) maintenance;
29 (C) closure;

- 1 (D) log storage, rafting, and identification;
- 2 (4) reforestation, including
- 3 (A) site preparation and rehabilitation;
- 4 (B) prescribed burning;
- 5 (C) exemptions from reforestation requirements;
- 6 (5) prevention and suppression of forest insects and dis-
- 7 eases;
- 8 (6) salvage logging;
- 9 (7) vegetative management; and
- 10 (3) fire and flood hazard management.

11 (b) The commissioner shall adopt regulations specifying the

12 information to be submitted under AS 41.17.090(c) in the detailed plan

13 of operations to enable the division to determine whether the activ-

14 ities comply with the requirements of this chapter.

15 (c) The commissioner may establish regions, districts, or other

16 subdivisions of forest land in the state in which different regu-

17 lations apply to reflect varying conditions in the state or to facil-

18 itate administration. In adopting regulations, the commissioner shall

19 make appropriate distinctions between public and private land.

20 (d) The commissioner shall adopt only those regulations neces-

21 sary to accomplish the purposes of this chapter and shall avoid regu-

22 lations that increase operating costs without yielding significant

23 benefits to public resources.

24 * Sec. 10. AS 41.17 is amended by adding new sections to read:

25 Sec. 41.17.082. CONTROL OF INFESTATIONS AND DISEASE. (a) All

26 forest clearing operations and silvicultural systems must be designed

27 to reduce the likelihood of increased insect infestation and disease

28 infections that threaten forest resources.

29 (b) A forest landowner may not conduct or approve timber

1 clearing activities that create conditions fostering outbreaks of
2 infestation or infection that threaten forest resources on forest
3 lands belonging to another person. If the commissioner finds, after
4 notice and hearing, that there has been a violation of this subsec-
5 tion, the commissioner may

6 (1) require the forest landowner, at that person's expense,
7 to remove promptly or cure the conditions fostering outbreaks of
8 infestation or infection; and

9 (2) require the forest landowner, at that person's expense,
10 to undertake environmentally sound, effective, and cost-efficient
11 actions to control the infestation or infection in the immediate
12 vicinity of the improper timber clearing activity.

13 (c) If a forest landowner does not comply with a final order of
14 the commissioner under (b)(1) or (b)(2) of this section, the commis-
15 sioner may enter onto the land and undertake the actions ordered and
16 the landowner is liable for the cost of the actions. The commissioner
17 shall deliver to the landowner an itemized statement of expenses
18 incurred.

19 (d) The commissioner may undertake surveys and appraisals to
20 obtain data on regional insect infestations and disease conditions.
21 Upon a determination that an area is infested with forest insects or
22 infected with diseases injurious to forest resources and that the
23 infestation or infection threatens the forest land or timber of adja-
24 cent owners, the commissioner may establish the boundaries of an
25 infestation or infection zone. The commissioner may enter into an
26 agreement with an owner or with a governmental agency to control or
27 suppress infestation or infection within the zone. Upon a determina-
28 tion by the commissioner that insect and disease control work within
29 the zone is no longer necessary or feasible, the commissioner shall

1 terminate the zone.

2 Sec. 41.17.083. CLEARING OF FOREST LAND FOR NON-TIMBER PURPOSES.

3 A state agency, municipality, or public utility shall determine whether
4 the timber to be removed has significant salvage value before
5 approving or conducting clearing of forest land for purposes other
6 than timber harvest. If the timber has significant salvage value, the
7 agency or utility shall salvage the timber as part of the clearing
8 process.

9 * Sec. 11. AS 41.17 is amended by adding a new section to read:

10 Sec. 41.17.087. VARIATION FROM REQUIREMENTS. (a) A forest
11 landowner, timber owner, or operator may propose for a particular
12 activity a variation from a requirement imposed by this chapter or the
13 regulations adopted under this chapter. If the state forester deter-
14 mines that the harm intended to be avoided by the requirement is not
15 likely to occur because of site-specific circumstances relating to the
16 particular activity and is not likely to cause significant harm to
17 fish habitat or water quality, the state forester shall agree to the
18 proposed variation. If the state forester does not agree to the
19 proposed variation, a forest landowner, timber owner, or operator may
20 appeal to the commissioner. The appellants shall conform to the
21 requirement during the pendency of the appeal.

22 (b) The commissioner shall adopt regulations that specify the
23 standards under which a variation will be granted for harvesting
24 timber within the riparian area of

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

27 (2) other appropriate water body types.

28 (c) A determination by the state forester under (a) of this
29 section and regulations by the commissioner under (b) of this section

1 shall give due deference under AS 41.17.098.

2 * Sec. 12. AS 41.17.090 is repealed and reenacted to read:

3 Sec. 41.17.090. NOTIFICATION OF PLANS TO HARVEST TIMBER. (a)
4 Operations on forest land shall be reviewed under this section for
5 consistency with the policies and provisions of this chapter and
6 regulations adopted under this chapter.

7 (b) A forest landowner, timber owner, or operator may provide to
8 the commissioner a voluntary plan of operations that describes the
9 long-term plans for timber harvesting. The purpose of a voluntary
10 plan is to give the division and the public an early opportunity to
11 review plans, to identify areas of concern, and to allow the agencies
12 and the public to provide local knowledge and early notice of poten-
13 tial problems to the forest landowner, timber owner, or operator.

14 (c) Before beginning operations on forest land, the operator
15 shall provide the state forester with a detailed plan of operations.
16 The detailed plan of operations must include

17 (1) a description of the proposed operations, identifying
18 the land involved and the action proposed in sufficient detail to
19 inform the public of the nature and location of the proposed opera-
20 tions; the description must include a map and must be in a form suit-
21 able for duplication;

22 (2) the name, address, and approving signature of the
23 forest landowner, timber owner, and operator; and

24 (3) other information required in the regulations adopted
25 under this chapter.

26 (d) Within five days after receipt of a detailed plan of opera-
27 tions under (c) of this section, the state forester shall distribute
28 the information received under (c) of this section to affected state
29 agencies and coastal districts, and shall distribute the information

1 received under (c)(1) of this section to each member of the public who
2 has asked to receive copies of notifications for the affected area.

3 (e) Within 30 days after receipt of a detailed plan of opera-
4 tions, the state forester shall review the plan to determine if the
5 operations are consistent with this chapter and regulations adopted
6 under this chapter. Operations may begin under the plan upon the
7 expiration of the 30-day period or upon notice from the state forester
8 that the review has been completed, whichever occurs first, unless the
9 division has issued a stop work order for a particular portion of the
10 plan or has notified the operator that a one-time, 10-day extension is
11 necessary for agency review under AS 41.17.095(f). The operator may
12 proceed with operations not covered by the stop work order, notice of
13 field inspection, or the agency review. During the review of a de-
14 tailed plan of operations, if a question arises concerning the proper
15 classification of water body type for purposes of the standards in
16 AS 41.17.116(a), the Department of Fish and Game may resolve the
17 question.

18 (f) If the state forester determines that a field inspection is
19 necessary to determine consistency of the detailed plan of operations
20 or a portion of the plan with applicable standards, the state forester
21 shall notify the operator. The notice of field inspection may not
22 cover more than the minimum area necessary to determine compliance
23 with this chapter and applicable regulations. The operator shall
24 inform the state forester when the site will be available for an
25 inspection. The state forester shall conduct the field inspection
26 within 21 days after the date that the site will be accessible and
27 available unless the operator otherwise agrees, and the operator may
28 begin operations at the conclusion of the 21-day period unless the
29 state forester has issued a stop work order under AS 41.17.138.

1 (g) During the review of a detailed plan of operations, modi-
2 fications to accommodate comments may be made without requiring the
3 operator to resubmit the plan. After the review of the detailed plan
4 of operations made under (e) and (f) of this section, an operator
5 shall notify the state forester of a proposed substantial change in
6 operations by following the procedures specified in (c) - (f) of this
7 section.

8 (h) Information and paperwork required of the operator under
9 this section is limited to that necessary to accomplish the purposes
10 of this section.

11 (i) An operator shall renew a detailed plan of operations annu-
12 ally.

13 * Sec. 13. AS 41.17 is amended by adding a new section to read:

14 Sec. 41.17.098. INTERAGENCY COORDINATION AND REEVALUATION. (a)
15 In administering this chapter, the commissioner shall coordinate with
16 other agencies and affected coastal districts that have jurisdiction
17 over activities subject to regulation under this chapter.

18 (b) In a review or implementation of a detailed plan of opera-
19 tions under AS 41.17.090 and in a decision on a proposed variation
20 from requirements under AS 41.17.087, the commissioner shall consider
21 the comments of each affected state agency and, where applicable,
22 coastal districts.

23 (c) The commissioner shall give due deference to the Department
24 of Environmental Conservation in decisions concerning water quality.
25 The commissioner of environmental conservation retains the authority
26 to adopt nonpoint source pollution regulations for activities subject
27 to this chapter to the extent that regulations are not adopted by the
28 commissioner of natural resources and approved by the commissioner of
29 environmental conservation under this chapter. The commissioner of

1 environmental conservation may withdraw approval of regulations adopt-
2 ed by the commissioner of natural resources under this chapter by
3 following the procedure for the adoption, amendment, and repeal of
4 regulations under AS 44.62.180 - 44.62.290.

5 (d) The commissioner shall recognize the expertise of the De-
6 partment of Fish and Game with regard to fish and wildlife habitat.
7 On private land, the commissioner shall give due deference to the
8 Department of Fish and Game regarding effects on fish habitat from
9 timber operations including variations to riparian standards, desig-
10 nation of alternative site-specific riparian protection plans, and
11 road location decision within riparian areas. On public land, the
12 commissioner shall give due deference to the Department of Fish and
13 Game regarding effects on fish and wildlife habitat from timber op-
14 erations including timber harvest in riparian areas, variations to
15 riparian standards, and road location decisions within riparian areas.
16 In making decisions under under AS 41.17.087, the commissioner shall
17 recognize fish habitat as the primary value in riparian areas.

18 (e) In this section, "due deference" means that deference that
19 is appropriate in the context of the agency's expertise and area of
20 responsibility and all the evidence available to support a factual
21 assertion. Where due deference is given, if the commissioner does not
22 agree with a commenting agency, the commissioner shall prepare a
23 written statement of the reasons for the disagreement.

24 (f) If a disagreement described in (e) of this section exists,
25 an officer of an agency may require reevaluation of the disagreement
26 at a higher level within the agencies, or by the governor if
27 necessary, before a decision is made by the commissioner.

28 * Sec. 14. AS 41.17 is amended by adding new sections to read:

29 **ARTICLE 1A. RIPARIAN MANAGEMENT.**

1 Sec. 41.17.115. INTENT FOR RIPARIAN AREAS. The commissioner
2 shall protect riparian areas from the significant adverse effects of
3 timber harvest activities on fish habitat and water quality. The
4 management intent for riparian areas is the adequate preservation of
5 fish habitat by maintaining a short- and long-term source of large
6 woody debris, stream bank stability, channel morphology, water temper-
7 atures, stream flows, water quality, adequate nutrient cycling, food
8 sources, clean spawning gravels, and sunlight. The commissioner shall
9 adopt regulations for the protection of riparian areas; the regu-
10 lations may include higher standards of protection for fish and other
11 public resources on land managed by the department than on other
12 public land or private land. The regulations may vary by region of
13 the state and must take into consideration reasonable classification
14 of water bodies and the economic feasibility of timber operations.

15 Sec. 41.17.116. RIPARIAN STANDARDS FOR PRIVATE LAND. (a)
16 Private forest land adjacent to the following types of waters and
17 located in a coastal forest of spruce or hemlock is subject to the
18 riparian protection standards established in this section:

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

21 (2) along a Type B water body, timber harvest operations
22 within 100 feet of the stream or to the break of the slope, whichever
23 area is smaller, must be conducted in compliance with slope stability
24 standards established in regulations adopted under this chapter;

25 (3) along a Type C water body, timber harvest operations in
26 the area within 50 feet of the stream or to the break of the slope,
27 whichever area is smaller, must be conducted in compliance with slope
28 stability standards established in regulations adopted under this
29 chapter.

1 (b) The commissioner shall adopt regulations for private land
2 outside of the coastal forest of spruce or hemlock that designate the
3 riparian areas to be protected and the restrictions on timber harvest-
4 ing operations within the areas that are necessary for their pro-
5 tection under the management goals established in AS 41.17.115.

6 Sec. 41.17.118. RIPARIAN STANDARDS FOR STATE LAND. (a) The
7 riparian standards for state land are as follows:

8 (1) on state forest land managed by the department that is
9 located north of the Alaska Range, harvest of timber may not be under-
10 taken within 100 feet immediately adjacent to an anadromous or high
11 value resident fish water body unless the division determines that
12 adequate protection remains for the fish habitat;

13 (2) on state forest land managed by the department that is
14 located south of the Alaska Range,

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

18 (B) between 100 and 300 feet from the water body,
19 timber harvest may occur but must be consistent with the mainte-
20 nance of important fish and wildlife habitat.

21 (b) The commissioner may impose additional riparian protection
22 standards for timber harvest operations through the adoption of land
23 use plans under AS 38.04.065 and under forest management plans and
24 reports under AS 38.05.112 and AS 41.17.230.

25 (c) In the absence of a site-specific determination by the
26 Department of Fish and Game, the commissioner shall presume for plan-
27 ning purposes that a stream is anadromous if it is connected to ana-
28 dromous waters that are without Department of Fish and Game documenta-
29 tion of a physical blockage and has a stream gradient of 8 percent or

1 less.

2 Sec. 41.17.119. MINIMUM RIPARIAN STANDARDS FOR OTHER PUBLIC
3 LAND. On public land other than state land, harvest of timber may not
4 occur

5 (1) within 100 feet from the shore or bank of an anadromous
6 or high value resident fish water body that is located south of the
7 Alaska Range;

8 (2) within 100 feet immediately adjacent to an anadromous
9 or high value resident fish water body north of the Alaska Range
10 unless the commissioner determines that adequate protection remains
11 for the fish habitat.

12 * Sec. 15. AS 41.17 is amended by adding a new section to read:

13 Sec. 41.17.125. ENFORCEMENT COORDINATION. All state agencies
14 with enforcement authority over an activity subject to regulation
15 under this chapter shall establish a uniform enforcement strategy that
16 avoids duplication and inconsistencies. All participating agencies
17 shall agree to and comply with the contents of the uniform strategy.
18 In developing and implementing the uniform strategy, each state agency
19 retains its authority to determine the appropriate remedies under the
20 statutes and regulations it administers.

21 * Sec. 16. AS 41.17.131 is repealed and reenacted to read:

22 Sec. 41.17.131. PENALTIES FOR VIOLATIONS. (a) An operator,
23 forest landowner, or timber owner who violates or permits a violation
24 of this chapter, a regulation adopted under this chapter, a directive
25 issued under AS 41.17.136, or a stop work order issued under AS 41.-
26 17.138 is liable, after notice and hearing, for a civil fine in an
27 amount not to exceed \$10,000 to be assessed by the commissioner. In
28 determining the amount of civil fine, the commissioner shall consider

29 (1) the character and degree of injury to forest resources

1 and values;

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

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

6 (4) if the information is available, the net economic
7 savings realized by the respondent through the violation.

8 (b) An operator, forest landowner, or timber owner that, with
9 criminal negligence, violates or permits a violation of this chapter,
10 a regulation adopted under this chapter, a directive issued under
11 AS 41.17.136, or a stop work order issued under AS 41.17.138 is guilty
12 of a class A misdemeanor. In this subsection, "criminal negligence"
13 has the meaning given in AS 11.31.909(a).

14 (c) Each day that a violation described in this section occurs
15 is a separate violation.

16 (d) If a respondent violates a directive issued under AS 41.-
17 17.136 or a stop work order issued under AS 41.17.138, the attorney
18 general, at the request of the commissioner, may seek an injunction
19 requiring the respondent to suspend all or part of the operations
20 until the respondent complies with the directive or stop work order,
21 and requiring the respondent to repair or correct damage resulting
22 from the violation.

23 (e) If a respondent violates a directive issued under AS 41.-
24 17.136 that requires the respondent to repair or correct damage, the
25 commissioner may proceed to repair or correct the damage using state
26 agency employees or contractors and the respondent is liable for the
27 cost of the repair. The commissioner shall deliver to the respondent
28 an itemized statement of expenses incurred.

29 * Sec. 17. AS 41.17 is amended by adding a new section to read:

1 Sec. 41.17.136. DIRECTIVES. (a) Upon a determination that a
2 planned or ongoing activity violates or would violate this chapter or
3 a regulation adopted under it, the state forester shall notify the
4 respondent in writing and direct the respondent to halt or avoid the
5 violation or to repair or correct any damage resulting from the viola-
6 tion. The written notification must include a summary of the basis
7 for the directive.

8 (b) The respondent may either comply with the directive or
9 request a hearing under AS 41.17.139 within 15 days of receipt of the
10 notification. If a hearing is requested, the respondent may continue
11 with the activity unless the state forester issues a stop work order
12 under AS 41.17.138. If the directive is affirmed by the hearing
13 officer, the respondent shall cease the activity unless a stay is
14 issued under AS 41.17.143(c) or by the superior court.

15 * Sec. 13. AS 41.17 is amended by adding a new section to read:

16 Sec. 41.17.138. STOP WORK ORDERS. (a) Upon a determination
17 that a violation of this chapter or a regulation adopted under it is
18 occurring or is likely to occur and that significant harm to public
19 resources is likely to occur if work is not halted before a hearing
20 can be held, the state forester may issue a stop work order requiring
21 the respondent to stop the violation or otherwise halt the threatened
22 harm. A stop work order must be in writing and must state the facts
23 on which it is based.

24 (b) The state forester shall immediately refer the matter to a
25 hearing officer for determination of the validity of the stop work
26 order under AS 41.17.139. The hearing officer shall consider any
27 arguments and evidence presented by the respondent within five work-
28 days after receipt of the stop work order and shall then make an imme-
29 diate decision sustaining or reversing the stop work order. The stop

1 work order is of no further effect if it is not sustained by the
2 hearing officer within the five-workday period. A stop work order may
3 be sustained only upon the same grounds on which it was originally
4 issued.

5 * Sec. 19. AS 41.17.139 is amended to read:

6 Sec. 41.17.139. HEARING PROCEDURES. (a) Unless otherwise
7 specified, proceedings under AS 41.17.131 - 41.17.139 are not subject
8 to the Administrative Procedure Act (AS 44.62). A hearing under
9 AS 41.17.136 or 41.17.138 [AS 41.17.131 - 41.17.139] shall be held
10 before the state forester, a regional forester, or another employee of
11 the division with similar qualifications acting as a hearing officer.
12 A hearing on an appeal under AS 41.17.087 and a hearing under AS 41.-
13 17.082(b) shall be held before the commissioner or the commissioner's
14 designee [, APPOINTED BY THE ATTORNEY GENERAL FROM AMONG MEMBERS OF
15 THE ALASKA BAR ASSOCIATION WHO HAVE BEEN NOMINATED BY THE BOARD OF
16 FORESTRY AND WHO ARE KNOWLEDGEABLE AND EXPERIENCED IN THE SUBJECT
17 MATTER]. A person who has assisted in the preparation of the di-
18 vision's [STATE'S] case [OR WHO IS A STATE EMPLOYEE] is ineligible.
19 Hearings are not limited by common law, statutory, or judicial rules
20 of evidence; however, the hearing officer may admit only that evidence
21 that [WHICH] appears to be reliable and trustworthy. All hearings
22 shall be open to the public. Written or oral testimony may be submit-
23 ted. A party to a hearing may make written or oral argument, secure
24 the issuance of a subpoena under AS 44.62.430, offer testimony or
25 other evidence, and cross-examine witnesses. The hearing officer
26 shall endeavor, in conducting any hearing, to ensure that the respon-
27 dent understands the proceedings and that the facts supporting the
28 position of each party have been adequately presented. [HEARINGS
29 SHALL BE HELD AS CLOSE AS PRACTICABLE TO THE LOCATION OF THE ALLEGED

1 VIOLATION. TESTIMONY GIVEN AT THE HEARING SHALL BE RECORDED.]

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

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

13 (3) the hearing officer shall issue a decision in accor-
14 dance with the applicable procedures of (a) of this section.

15 * Sec. 20. AS 41.17.139 is amended by adding a new subsection to read:

16 (c) The hearing officer shall select the location of the hear-
17 ing, giving consideration to the convenience of the parties and wit-
18 nesses. The hearing officer may permit witnesses to testify through
19 teleconferencing.

20 * Sec. 21. AS 41.17.143 is repealed and reenacted to read:

21 Sec. 41.17.143. APPEALS AND JUDICIAL REVIEW. (a) A decision by
22 a hearing officer under AS 41.17.136 or 41.17.138 or by the commis-
23 sioner under AS 41.17.052(b), 41.17.087, or 41.17.131(a) constitutes
24 final agency action that may be appealed to the superior court within
25 30 days after it is issued. Judicial review shall be as provided in
26 AS 44.62.560 and 44.62.570.

27 (b) An operator, forest landowner, or timber owner may request
28 the commissioner to reconsider the decision of a hearing officer
29 within 30 days after it is issued. Reconsideration is not a precondi-

1 tion of judicial review under (a) of this section. If reconsideration
2 is requested, the final agency action for purposes of judicial review
3 is a decision by the commissioner to affirm, modify, or reverse the
4 hearing officer or to deny the request for reconsideration.

5 (c) The commissioner may stay or modify a directive or order
6 pending administrative or judicial review. A stay or modification may
7 not be appealed separately from an appeal of the substantive decision.

8 (d) A person, except the aggrieved forest landowner, timber
9 owner, or operator, may not maintain an administrative or judicial ap-
10 peal, or other action or proceeding of any kind, challenging a deci-
11 sion or failure to act by the department with respect to the compli-
12 ance of a timber operation on private forest land with this chapter or
13 a regulation, standard, directive, or order issued under this chapter.
14 This subsection does not prohibit the maintenance of an action:

15 (1) for an alleged violation of a constitutional right; or

16 (2) against the department regarding a regulation, stan-
17 dard, or systematic course of conduct that does not involve a chal-
18 lenge to, or attempt to enjoin, stay, modify, or otherwise affect a
19 timber operation on private forest land subject to this chapter.

20 * Sec. 22. AS 41.17.210(a) is amended to read:

21 (a) The governor may propose to the legislature the establish-
22 ment of state forests consisting primarily of commercially valuable
23 forest land determined by the governor to be necessary for retention
24 in state ownership for management under the principles of multiple use
25 and sustained yield and consistent with AS 38.04.005. The proposal of
26 the governor shall include a report and recommendations of the commis-
27 sioner including

28 (1) a preliminary forest inventory;

29 (2) a summary of the testimony offered at public hearings

1 held on the management of the proposed state forest in communities
2 proximately located to a proposed state forest;

3 (3) the findings of the commissioner on anticipated incompatibilities of uses described in AS 38.05.112(c) [AS 41.17.230(e)]
4 under AS 38.05.112(d) [AS 41.17.230(f)];

5
6 (4) written comments from appropriate state agencies on the
7 compatibility of the uses described in AS 38.05.112(c) [AS 41.17.-
8 230(e)] within the proposed state forest;

9 (5) an estimate of the cost of a full implementation of an
10 operational level forest inventory and the management plan.

11 * Sec. 23. AS 41.17.400(c) is amended to read:

12 (c) In addition to the uses described in AS 38.05.112(c)
13 [AS 41.17.230(e)], the commissioner may establish transportation
14 corridors within the Tanana Valley State Forest.

15 * Sec. 24. AS 41.17.900(b) is repealed and reenacted to read:

16 (b) For Federal Land,

17 (1) the degree of resource protection may not be less than
18 that established by this chapter for state land except that AS 41.17.-
19 119 establishes the minimum riparian standard;

20 (2) a timber harvest activity subject to this chapter shall
21 satisfy the requirement to be consistent to the maximum extent practi-
22 cable with the Alaska coastal zone management program if the federal
23 land management plans, guidelines, and standards applicable to that
24 timber harvest activity provide no less resource protection than the
25 standards that are established in this chapter provide for state land
26 except that

27 (A) AS 41.17.119 establishes the minimum riparian
28 standards; and

29 (B) this paragraph does not apply to a timber harvest

1 activity that requires a state or federal authorization under a
2 provision of law other than this chapter.

3 * Sec. 25. AS 41.17.900 is amended by adding new subsections to read:

4 (e) Subject to 16 U.S.C. 1456(f) (Sec. 207(f) of the Coastal
5 Zone Management Act of 1972, P.L. 92-533) as to private land, this
6 chapter and the regulations adopted under this chapter establish the
7 forest management standards, policies, and review processes under
8 AS 46.40 (Alaska Coastal Management Act). This subsection does not
9 apply to timber harvest activity that requires a state or federal
10 authorization under a provision of law other than this chapter.

11 (f) This chapter does not diminish the rights, privileges, or
12 immunities of Alaska Natives or Alaska Native corporations with re-
13 spect to land conveyed under 43 U.S.C. 1601 - 1628 (Alaska Native
14 Claims Settlement Act), and does not alter or diminish the authority
15 of the Department of Fish and Game under AS 16, of the Department of
16 Environmental Conservation under AS 46, or of a state agency under
17 other law.

18 * Sec. 26. AS 41.17 is amended by adding a new section to read:

19 Sec. 41.17.910. WILDLIFE HABITAT ON PRIVATE LAND. (a) The
20 Department of Fish and Game and the commissioner shall work coopera-
21 tively with private forest landowners and timber owners to protect,
22 maintain, and enhance wildlife habitat to the maximum extent practica-
23 ble, consistent with the interests of the owners in the use of their
24 timber resources.

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

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

7 (d) This section does not alter or diminish the authority and
8 responsibility of the state over wildlife on private land.

9 * Sec. 27. AS 41.17.950 is repealed and reenacted to read:

10 Sec. 41.17.950. DEFINITIONS. In this chapter, unless the con-
11 text otherwise requires,

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

14 (A) is cataloged under AS 16.05.870 as important for
15 anadromous fish; or

16 (B) is not cataloged under AS 16.05.870 as important
17 for anadromous fish but has been determined by the Department of
18 Fish and Game to contain or exhibit evidence of anadromous fish
19 in which event the anadromous portion of the stream or waterway
20 extends up to the first point of physical blockage;

21 (2) "board" means the Board of Forestry established in
22 AS 41.17.041;

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

25 (A) used for silvicultural management or related
26 purposes;

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

29 (C) having a foreseeable adverse impact on the welfare

1 of renewable resources, as determined by the commissioner of
2 environmental conservation;

3 (4) "division" means the division of forestry;

4 (5) "forest land" means land stocked or having been stocked
5 with forest trees of any size and not currently developed for nonfor-
6 est use, regardless of whether presently available or accessible for
7 commercial purposes, and includes any such land under state, municipi-
8 pal, or private ownership;

9 (6) "forest landowner" means a person who owns forest land,
10 but does not include the owner of mineral or subsurface rights only;

11 (7) "high value resident fish" means resident fish popu-
12 lations that are used for recreational, personal use, commercial, or
13 subsistence purposes;

14 (8) "multiple use" means

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

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

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

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

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

9 (11) "other public land" means state land managed by state
10 agencies other than the department, land owned by a municipality, and
11 land owned by the University of Alaska;

12 (12) "person" has the meaning given in AS 01.10.060 and also
13 includes a joint venture;

14 (13) "riparian area" means

15 (A) the areas specified in AS 41.17.116(a) on private
16 land in the coastal forest of spruce or hemlock;

17 (B) the areas specified in regulations adopted by the
18 commissioner under AS 41.17.116(b) on private land outside the
19 coastal forest of spruce or hemlock;

20 (C) the area 100 feet from the shore or bank or an
21 anadromous or high value resident fish water body on state land
22 managed by the department and on other public land;

23 (14) "significant impairment of the productivity of the land
24 and water" means an activity that may foreseeably result in prolonged
25 or substantial damage to renewable resources or prolonged or substan-
26 tial reduction of the continuing capability of the land or water to
27 produce renewable resources at their natural or historic levels;

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

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

3 (16) "state forest" means an area designated by the legis-
4 lature and retained in state ownership in order to

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

7 (B) permit a variety of beneficial uses;

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

14 (18) "timber owner" means a person who owns timber on forest
15 land or who has the rights to timber, but does not own the land it-
16 self;

17 (19) "Type A water body" means an anadromous water body that
18 is

19 (A) a stream or river of any size having an average
20 gradient of eight percent or less, with banks held in place by
21 vegetation, channels that are not incised, and a substrate com-
22 posed of rubble, gravel, sand or silt;

23 (B) wetlands and lakes, including their outlets; and

24 (C) an estuarine area delimited by the presence of
25 salt-tolerant vegetation;

26 (20) "Type B water body" means an anadromous water body that
27 is a fish stream or river of any size having an average gradient of
28 eight percent or less, a channel that is incised and contained by the
29 geomorphology and not by vegetation, and a substrate that ranges from

1 rubble to bedrock; and

2 (21) "Type C water body" means a stream that is tributary to
3 anadromous waters and that is incised greater than 28 degrees, has an
4 average gradient of greater than eight percent, is narrower than 20
5 feet between ordinary high water marks, has a substrate of rubble and
6 bedrock, and is a mountain slope stream at the upper end of the water-
7 shed.

8 * Sec. 28. LEGISLATIVE REVIEW. The legislature acknowledges and recog-
9 nizes that this Act is adopted on an interim basis because it involves a
10 significant increase in agency responsibility, is based on many untested
11 assumptions, and depends for its efficacy on many factors beyond the con-
12 trol of the state. Therefore, it is the intent of the legislature that the
13 operation of this Act and regulations adopted under this Act be fully
14 reviewed and the Act amended as necessary after the second full field
15 season ends in 1992. This period is intended to allow for further research
16 and to gain experience implementing the Act and its regulations. It is the
17 intent of the legislature that a representative group be convened for the
18 review or that it be conducted by the Board of Forestry. It is the intent
19 of the legislature that the review occur with full public input and parti-
20 cipation. No later than January 1, 1993, the Board of Forestry, the De-
21 partment of Natural Resources, the Department of Environmental Conserva-
22 tion, and the Department of Fish and Game shall submit, along with the
23 reports required by AS 41.17.047(d), any proposed amendments to this chap-
24 ter. The legislature may hold hearings to consider these or other amend-
25 ments and may take whatever action is required to accomplish the intent and
26 purposes of this Act.

27 * Sec. 29. INITIAL TERMS OF MEMBERS OF BOARD OF FORESTRY. The initial
28 terms of the members of the Board of Forestry appointed under AS 41.17.041,
29 as enacted by sec. 3 of this Act, are for two members, one year; for three

1 members, two years; and for three members, three years.

2 * Sec. 30. INTERIM RIPARIAN PROTECTION FOR THE COASTAL FOREST. A
3 notification for timber harvest activities within the coastal forest of
4 spruce or hemlock filed under AS 41.17.090 before the effective date of
5 this section shall be reviewed by the commissioner of natural resources to
6 determine if the proposed operations provide protection that is substan-
7 tially equivalent to the fish habitat protection that is provided by
8 AS 41.17.116, as enacted by sec. 14 of this Act. If the commissioner
9 determines that protection that is substantially equivalent to that provid-
10 ed by AS 41.17.116 has been offered or if the forest landowner, timber
11 owner, or operator complies with an alternate protection plan proposed by
12 the commissioner, operations covered by the notification are not subject to
13 AS 41.17.116. If the commissioner determines that the notification does
14 not provide protection that is substantially equivalent to that provided by
15 AS 41.17.116, the operator must either resubmit the notification in confor-
16 mance with this standard or comply with AS 41.17.116. The failure by the
17 commissioner to make a determination on a notification within 30 days from
18 the effective date of this section constitutes a determination that the
19 notification provides protection that is substantially equivalent to the
20 fish habitat protection that is provided by AS 41.17.116.

21 * Sec. 31. INTERIM RIPARIAN PROTECTION OUTSIDE THE COASTAL FOREST.
22 Until regulations are adopted by the commissioner of natural resources
23 under AS 41.17.116(b), as enacted by sec. 14 of this Act, timber harvest
24 operations on forest land within 100 feet from the shore or bank of an
25 anadromous or high value resident fish water body must be sited and de-
26 signed primarily to protect fish habitat and water quality.

27 * Sec. 32. AS 41.17.118, as enacted by sec. 14 of this Act, does not
28 alter the terms of an existing contract or the outcome of litigation pend-
29 ing on the effective date of this Act. An amendment to or renewal of an

1 existing state timber contract must be consistent with AS 38.05 and
2 AS 41.17.

3 * Sec. 33. AS 41.17.133, 41.17.135, 41.17.137, and 41.17.141 are re-
4 pealed.

5 * Sec. 34. AS 41.17.230(e) and 41.17.230(f) are repealed.

6 * Sec. 35. AS 41.17.010(5), as amended in sec. 2 of this Act, takes
7 effect immediately under AS 01.10.070(c).

8 * Sec. 36. Sections 1, 3 - 4, 6 - 8, 10 - 11, 13 - 14, 22 - 23, 27,
9 29 - 32, and 34 of this Act take effect immediately under AS 01.10.070(c).

10 * Sec. 37. Except as provided in secs. 35 and 36 of this Act, this Act
11 takes effect October 1, 1990.

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

May 3, 1989

The Honorable Tim Kelly
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to forest resources and practices and to the management of forest land. This bill would make substantial changes in the Alaska Forest Practices Act to meet the needs of a growing and viable timber industry in Alaska while ensuring the protection of public forest resources, including fish habitat and water quality.

Last year, I directed the state resource agencies to conduct a public review of the Forest Practices Act and to make recommendations for improvement in the Act, its regulations, and implementation. In order to facilitate an objective and balanced review, a steering committee was formed including representatives of timber land owners and operators, state agencies, and users of public resources that are affected by forest practices. Because I felt that it would be possible to review the state's forest practices program and meet both the needs of the state's growing timber industry while achieving appropriate protection for public forest resources, the committee attempted to operate by unanimous consent. This approach ensured that the committee's decisions respected all interests.

The bill provides for a streamside management program that strikes a fair balance between the needs of the timber industry and those of fish habitat and water quality protection. It provides for significant timber harvest while providing appropriate protection for public resources. Riparian standards for timber harvest differ depending upon land ownership, stream type, and region. For example, on private land in southeast Alaska, streamside areas of up to 30 meters will be managed for the protection of water quality and fish habitat, although timber operators will not be required to leave more than five percent of their timber volume for this purpose. In this way, strong resource protection exists without requiring any one private

owner to shoulder an undue portion of the resource protection costs.

The bill provides an improved process for efficient and detailed review of timber harvest plans. This efficient review allows the timber industry to quickly respond to changing timber markets, but ensures that harvest operations conform to forest practice standards and regulations. To coordinate overlapping agency jurisdiction, the provisions of the bill and the regulations will serve, with the approval of the commissioner of environmental conservation, as the forest practice standards for the Department of Environmental Conservation's program to control nonpoint source pollution. Except for activities subject to AS 16.05.840 or AS 16.05.870, the regulations will also serve as the upland fish habitat protection for timber harvest activities.

A system of coordination between state agencies with enforcement authority over timber operations is established to ensure consistent and non-duplicative action. The Department of Natural Resources would have additional enforcement authority, including the authority to issue stop-work orders, to impose civil and criminal penalties, and to issue remedial orders to correct damage resulting from the violation of forest practices standards. The administrative enforcement process is simplified by providing for hearings to be conducted by an employee of the Department of Natural Resources with appeals to the commissioner.

An additional planning process would be required under the bill before state timber sales. The additional planning will improve public review and will require the state to plan timber harvests that fully integrate resource protection into the sale design. The department would also be required to annually prepare a five-year schedule of proposed timber sales for state land. Except for small sales and emergencies such as salvage, a proposed sale would have to appear on the two five-year schedules preceding the sale. The five-year schedule will inform the public and the timber industry of the state's long-term plans.

Finally, the Board of Forestry would be restructured to a smaller, more balanced membership. This balanced board would provide a forum for representatives of affected interests to discuss and resolve forestry issues before they become divisive. The board has the authority to provide advice concerning research and implementation of the Forest Practices Act and regulations. The board would include a member or representative of a fishing orga-

nization, a Native corporation, an environmental organization, and a forest industry trade association as well as a professional fish or wildlife biologist and a professional forester.

Drafts of this bill have been discussed extensively by the members of the Forest Practices Act Steering Committee and with other representatives of the timber industry, environmental groups, and fishing organizations. The bill is the product of discussion and compromise to meet the major concerns of all those affected by its provisions.

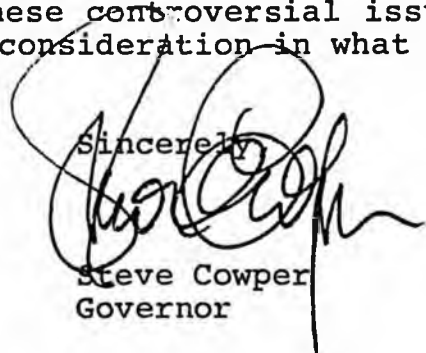
The bill I am transmitting achieves near consensus; it has the support of all but one of the steering committee members. It is supported by representatives of Native corporations, boroughs, fishing groups, and environmental groups but not by the Alaska Loggers Association (ALA).

The ALA objects to a provision of the bill that the association believes would affect harvest on federal land through the Alaska Coastal Management Program. AS 41.17.900(b), in the current law, requires federal harvest to be consistent with the Alaska Forest Practices Act. The bill proposes to amend the law to ensure that the general level of resource protection must be consistent, but that the federal harvest need not follow the specific provisions of that Act. The ALA still fears that this amendment might disrupt an orderly federal planning process that provides sufficient protection.

I realize that it is late in the session for introducing a bill, however, the committee's long and difficult work was not completed until early this week. I felt that it was important to allow the committee to conclude its work and was therefore unable to introduce this bill earlier in the session.

Because of the importance of the bill, and the extraordinary and fragile achievement of reaching near-total consensus on these controversial issues, I urge your prompt and favorable consideration in what little time remains in the session.

Sincerely,



Steve Cowper
Governor

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CS SB 317 (Res) (a)

PUBLISH DATE: 3/22/90

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Forest Resources and Practices
 Act _____
 Sponsor: Rules Committee
 Requestor: Senate Resources Committee

Agency Affected: DEC
 BRU: Environmental Quality
 Components: Environmental Quality

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	173.5	173.5	173.5	173.5	173.5	173.5
TRAVEL	22.0	22.0	22.0	22.0	22.0	22.0
CONTRACTUAL	38.0	38.0	38.0	38.0	38.0	38.0
SUPPLIES	3.5	3.5	3.5	3.5	3.5	3.5
EQUIPMENT	15.1	15.1	15.1	15.1	15.1	15.1
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS,CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	252.1	252.1	252.1	252.1	252.1	252.1

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	252.1	252.1	252.1	252.1	252.1	252.1
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	252.1	252.1	252.1	252.1	252.1	252.1

POSITIONS:

FULL-TIME	3.5	3.5	3.5	3.5	3.5	3.5
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

ANALYSIS ATTACHED

Prepared by: Dave Sturdevant
 Division: Environmental Quality

Phone: 465-2653
 Date: _____

Approved by Commissioner: *ADK*
 Agency: Environmental Conservation

Date: 16 Mar 90

Distribution (by preparer) :
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

The Department is responsible for water quality under State law and the federal Clean Water Act. The revised Forest Resources and Practices Act establishes the Department of Environmental Conservation as the lead agency for water quality and control of nonpoint source pollution in forest practices. The Forest Resources and Practices Act will establish the nonpoint source pollution control requirements under both State law and the Clean Water Act within the forest practices regulations. Major areas of involvement for the Department include:

- participation in development of Forest Practices regulations and best management practices, and approval of the regulations;
- development of a cooperative agreement among the Departments of Natural Resources, Fish and Game, and Environmental Conservation covering regulations, best management practices, permits, inspections, enforcement and training;
- development of an interagency "uniform enforcement policy;"
- review of forest plans and timber harvest contracts on State lands, and review of all plans of operation for timber harvest on private lands;
- inspection of timber harvest operations, provision of technical assistance, and enforcement activities; and
- development of cooperative efforts in water quality monitoring.

The Department presently has one FTE in Forest Practices for all of southeast Alaska, and .5 FTE for all of southcentral Alaska, both newly established in FY 90. To reasonably carry out its responsibilities under the act, the Department will require a minimum of 3.5 additional FTEs. Of these positions, .5 FTE would be added to the existing .5 FTE in southcentral Alaska. Two new positions would be established as field officers in southeast Alaska in addition to the one existing position. These three positions would be located in Ketchikan, Sitka and Juneau. One additional position would be established as the Forest Practices coordinator in the central office, Juneau. Additional contractual money (\$10.0) will be necessary with the Juneau position for support of field monitoring for water quality compliance.

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Ecologist II	52.1	4.0	18.0	1.0	4.3	79.4
Env. Field Officer II	47.7	7.0	8.0	1.0	4.3	68.0
Env. Field Officer II	47.7	7.0	8.0	1.0	4.3	68.0
Ecologist II	26.0	4.0	4.0	0.5	2.2	36.7
	-----	-----	-----	-----	-----	-----
TOTALS	173.5	22.0	38.0	3.5	15.1	252.1

Position Title Ecologist II			No. of Positions 1	Range/Step 18B	Barg. Unit GGU
Time Status Permanent FT	Staff Months 12		Location Juneau		Election District
Type of Expenditure			Justification		
			<p>Timber harvest, roading and log transfer activities have increased dramatically in recent years on private lands, and are continuing on State and federal lands. Increased timber harvest activities bring with them increased potential for water quality impacts. The department has limited capacity to review timber harvest plans, to inspect field operations, to provide technical assistance, or to monitor water quality to ensure water quality standards are met. With passage of the revised Forest Resources and Practices Act, the Department will have an increased role in water quality protection under the Forest Practices program, including approval of the corresponding new Forest Practices regulations. This position is the central coordinator and interagency liaison for the Department's activities: revised regulations; Best Management Practices; water quality monitoring activities; application of water quality standards; uniform enforcement policy; technical training programs; cooperative agreements; and procedural matters. The position will participate in ongoing harvest activities, reviewing private plans of operation and State forest plans. The position also will serve as liaison with the U.S. Forest Service and other federal agencies, participating in similar activities to those described.</p>		
1	2	3			
Salary	\$38,712				
Benefits	13,342				
Premium Pay					
Other					
Total Personal Services		\$52,054			
Travel		4,000			
Contractual		18,000			
Commodities		1,000			
Equipment		4,300			
Other					
Total Cost		\$79,354			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	\$79,354			
GF Program Receipts	1005				
Other					

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component EQ Projects

Page 1 of 1
 Revised Date 2/6/90

FY 91

Position Title Environmental Field Officer II		No. of Positions 1	Range/Step 16B	Barg. Unit GGU
Time Status Permanent FT	Staff Months 12	Location Ketchikan		Election District
Type of Expenditure		Justification		
1	2	3		
Salary	\$35,076	<p>Timber harvest, roading and log transfer activities have increased dramatically in recent years on private lands, and are continuing on State and federal lands. Increased timber harvest activities bring increased potential for water quality impacts. The Department currently has limited capacity to review timber harvest plans, to inspect field operations, to provide technical assistance, or to monitor water quality to ensure water quality standards are met. With passage of the revised Forest Resources and Practices Act, the Department will have an increased role in monitoring and enforcement of Forest Practices. This position will be based in the Ketchikan District Office and will serve that area in Forest Practices matters. This field position, plus a similar new field position in Sitka will increase the field staff in the Southeast Region to 3.0 FTEs. The position will review and comment on plans of operation, State forest plans, and federal EISs and harvest plans; review permit applications for log transfer facilities and logging camp facilities; conduct field inspections and enforcement; and conduct water quality monitoring activities.</p>		
Benefits	12,627			
Premium Pay				
Other				
Total Personal Services	\$47,703			
Travel	7,000			
Contractual	8,000			
Commodities	1,000			
Equipment	4,300			
Other				
Total Cost	\$68,003			
Funding Source for Total Cost				
Federal Receipts	1002			
G. F. Match	1003			
General Fund	1004	\$68,003		
GF Program Receipts	1005			
Other				

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component EQ Projects

Page 1 of 1
 Revised Date 2/8/90

FY 91

Position Title Environmental Field Officer II			No. of Positions 1	Range/Step 16B	Barg. Unit GGU
Time Status Permanent FT	Staff Months 12		Location Sitka		Election District
Type of Expenditure			Justification		
Amount			<p>Timber harvest, roading and log transfer activities have increased dramatically in recent years on private lands, and are continuing on State and federal lands. Increased timber harvest activities bring increased potential for water quality impacts. The Department currently has limited capacity to review timber harvest plans, to inspect field operations, to provide technical assistance, or to monitor water quality to ensure water quality standards are met. With passage of the revised Forest Resources and Practices Act, the Department will have an increased role in monitoring and enforcement of Forest Practices. This position will be based in the Sitka District Office and will serve that area in Forest Practices matters. This field position, plus a similar new field position in Ketchikan, will increase the field staff in the Southeast Region to 3.0 FTEs. The position will review and comment on plans of operation, State forest plans, and federal EISs and harvest plans; review permit applications for log transfer facilities and logging camp facilities; conduct field inspections and enforcement; and conduct water quality monitoring activities.</p>		
1	2	3			
Salary	\$35,076				
Benefits	12,627				
Premium Pay					
Other					
Total Personal Services		\$47,703			
Travel		7,000			
Contractual		8,000			
Commodities		1,000			
Equipment		4,300			
Other					
Total Cost		\$68,003			
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	\$68,003			
GF Program Receipts	1005				
Other					

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component EQ Projects

Page 1 of 1
 Revised Date 2/8/89

FY 91

Position Title Ecologist II		No. of Positions 1	Range/Step 18B	Barg. Unit GGU	
Time Status Permanent PT	Staff Months 6	Location Anchorage		Election District	
Type of Expenditure		Justification			
		<p>Timber harvest, roading and log transfer activities have increased dramatically in recent years on private lands, and are continuing on State and federal lands. Increased timber harvest activities bring increased potential for water quality impacts. The Department currently has limited capacity to review timber harvest plans, to inspect field operations, to provide technical assistance, or to monitor water quality to ensure water quality standards are met. With passage of the revised Forest Resources and Practices Act, the Department will have an increased role in monitoring and enforcement of Forest Practices. This field position, 0.5 FTE, will increase the existing 0.5 FTE in the Anchorage office to 1.0 FTE. This position will serve the entire southcentral region in Forest Practices matters. The position will review and comment on plans of operation, State forest plans, and federal EISs and harvest plans; review permit applications for log transfer facilities and logging camp facilities; conduct field inspections and enforcement; and conduct water quality monitoring activities.</p>			
1	2				3
Salary	\$19,356				
Benefits	6,671				
Premium Pay					
Other					
Total Personal Services					\$26,027
Travel					4,000
Contractual					4,000
Commodities					500
Equipment					2,200
Other					
Total Cost					\$36,727
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	\$36,727			
GI ² Program Receipts	1005				
Other					

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component EQ Projects

Page 1 of 1
 Revised Date 2/8/90

FY 91

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Fish and Game
 Title: Forest Resources and Practices Act BRU: Habitat
 Sponsor: Rules Components: Habitat
 Requestor: Governor

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	297.0	297.0	297.0	297.0	297.0	
TRAVEL	31.5	31.5	31.5	31.5	31.5	
CONTRACTUAL	44.9	44.9	44.9	44.9	44.9	
SUPPLIES	2.0	2.0	2.0	2.0	2.0	
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	375.4	375.4	375.4	375.4	375.4	

CAPITAL	0	0	0	0	0	
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REVENUE	0	0	0	0	0	
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FUNDING: (Thousands of Dollars)

GENERAL FUND	375.4	375.4	375.4	375.4	375.4	
FEDERAL FUNDS	0	0	0	0	0	
OTHER	0	0	0	0	0	
TOTAL	375.4	375.4	375.4	375.4	375.4	

POSITIONS:

FULL-TIME	6.0	6.0	6.0	6.0	6.0	
PART-TIME	0	0	0	0	0	
TEMPORARY	0	0	0	0	0	

ANALYSIS : (Attach a separate page if necessary)

" see attached

Prepared by: Frank Rue, Director *Frank Rue* Phone: 465-4105
 Division: Habitat Date: _____

Approved by Commissioner: *William H. Miller* Date: 3/19/90
 Agency: Department of Fish and Game

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

354

Continuation for CSSB 317 Fiscal Note

The fiscal impact of the Committee Substitute during the last 3 months of 1990 is one quarter of the cost for FY 91

Line 100	74.3
Line 200	7.9
Line 300	11.2
Line 400	0.5
Total Operating	<u>93.9</u>

The line item requirements for the committee substitute are the same as those identified in February 1989 (see attached memorandum) in anticipation of Forest Resources and Practices Act amendments.

The division currently has the equivalent of approximately four full-time positions working on forest practices and forest plans in southeast and southcentral Alaska. This level of staffing is woefully inadequate to deal effectively with the intensive and widespread timber activities on private, state, and federal lands.

The three additional positions for Southeastern and three additional positions for Southcentral requested here will allow the division to do a reasonable job of implementing the new act. Experience clearly shows that the act will only be successfully implemented if we have enough people to work with timber owners as they develop and implement their operations.

MEMORANDUM

State of Alaska

DEPARTMENT OF FISH AND GAME

TO: Bob Loeffler
Resource Allocation
Section
Division of Land and
Water Management
Department of Natural
Resources

DATE: February 22, 1989

FILE NO.:

TELEPHONE NO.: 465-4105

SUBJECT: Forest Practices
Funding

FROM: *Frank Rue*
Frank Rue
Director
Habitat Division
Department of Fish and Game

At last week's Forest Practices Steering Committee meeting, we understood Jim Waldo to request that agencies estimate their additional funding needs for minimum effective implementation of a revised Forest Resources and Practices Act (FPA).

The following estimates are based on the assumptions that 1) an amended FPA or associated regulations will provide performance standards for activities in riparian management zones, 2) we will need to maintain a significantly greater field presence than we are now in order to effectively implement the standards, 3) we will need to spend significantly more time participating in your department's preparation of forest management plans for state lands, and 4) the level of timber harvest north of the Alaska Range does not increase in the immediate future.

Additional Funding Requirement

Sitka Office:

Habitat Biologist II (12 months)	48.4
Line 200	4.5
Line 300	4.3
Line 400	0.5

Petersburg Office:

Habitat Biologist II (12 months)	48.4
Line 200	4.0
Line 300	4.3
Line 400	0.5

Ketchikan Office:

Habitat Biologist II (12 months)	48.4
Line 200	4.5
Line 300	4.3
Line 400	0.5

Douglas Regional Office:

Line 200	2.5
Line 300	2.0
Line 400	0.5

Subtotal 177.6

February 22, 1989

<u>Anchorage Regional Office:</u>	
Habitat Biologist III (12 months)	55.0
Habitat Biologist II (24 months)	96.8
Line 200 (travel to Afognak, Cordova, Valdez, McGrath, Kodiak, Denai, and Mat-Su Valley)	16.0
Line 300 (Contractual for vessel and aircraft charters to reach logging areas for stream surveys and enforcement work)	30.0
Subtotal	<u>197.8</u>
TOTAL	<u>375.4</u>

Once again, these estimates reflect additional funding required for minimum effective implementation of an FPA. We assume that you will distribute this memorandum to steering committee members. If there are questions, please call either me or Bruce Baker (465-4105).

cc: Norman Cohen

FISCAL NOTE

REQUEST:

Revision Date: 5/16/90
Title: Forest Practices Act Revision
Sponsor: _____
Requestor: Governor

Agency Affected: Natural Resources
BRU: Forest Management
Components: Forest Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	285.9	294.5	344.5	354.8	365.4	376.3
TRAVEL	45.0	45.0	53.7	57.7	57.7	59.0
CONTRACTUAL	32.0	32.0	47.1	47.1	47.1	49.0
SUPPLIES	21.1	21.1	22.3	22.3	22.3	24.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	437.7	392.6	467.6	481.9	492.5	508.3
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	437.7	392.6	467.6	481.9	492.5	508.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	6	6	7	7	7	7
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached

Prepared by: George K. Hollett Phone: 762-2503
Division: Forestry Date: 5/16/90
Approved by Commissioner: [Signature] Date: 3/16/90
Agency: _____

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Senate Bill 317

Assumptions: The following list of assumptions have a direct effect on the required funding the first five years after passage of the bill:

1. Much public involvement will be needed in the development of regulations. Travel to areas around the state and public meetings will be necessary.
2. Increased field inspections will be necessary to see that standards are being met and riparian areas are left.
3. Training of state personnel in insect and disease activities will take place.
4. Notifications will continue to increase for the next two years while the markets are high.
5. Appeals of stop-work orders and directives will take place during the first few years as all parties learn the new requirements calling for more enforcement work.
6. Board of Forestry will become more active in their operations by having more meetings and requiring more time and effort by staff.
7. Higher demand by the public for review of notifications.
8. Higher coordination of inspections, review and enforcement activities will be required of state agencies.

DEPARTMENT OF NATURAL RESOURCES
FOREST PRACTICES

Program Summary:

Due to low markets in 1986, the number of notifications received for operations on private lands declined and the division reduced the budget accordingly. Increased timber markets in 1988 has increase notifications by 173%. With no new funding available, the forest practice personnel staff months could not be increased to a level necessary to handle inspection requirements. In FY 1988 a 13% increase in inspections over FY 1987 was accomplished with the present division staff. However, in FY 1989 field inspection accomplishment decreased by 11% below FY 1988 because other duties and increased notifications demanded more office time.

The lack of travel dollars has seriously limited field inspection opportunities. A high level of inspection activity is important to not only ensure compliance with the Forest Practice Act, but to also allow identification of potential problems early enough to prevent violations. Due to the lack of adequate inspections, the character of forest practices administration has been forced away from land owner assistance and targeted toward enforcement.

Total funding needs of \$437,700 is detailed as follows:

Southeast Region - \$123,000

Add one full time Clerk Typist III at Ketchikan. This support staff will free up time now spent in the office by the Forest Practices Foresters doing administrative work and should allow for 30% more field time for necessary inspections. This will also allow the Ketchikan office to be open full time for five days per week.

Add one Natural Resource Manager I to be the Southeast Region Forest Practice Coordinator. This position will also be support forest practice work region-wide on an as needed basis and serve as the liaison between the field staff and other agency personnel.

Added travel funding will meet the necessary inspection schedule for the increased notifications.

Southcentral Region - \$149,600

Add one Forester II to the Kenai-Kodiak Area to work on the additional forest practice work that is occurring on the Kenai Peninsula. Notifications have increased from 4 in 1987 to 10 in 1989 with acres increasing from 3,287 to 41,935 during the period. Presently the only position available for the forest practice work is also responsible for all the timber sales on state land in the area. Because of this dual role neither area of responsibility has been accomplished. The new saw mill at Seward, heavy spruce bark beetle kill and large native ownerships on the Kenai Peninsula all point to increasing forest practice work for the next five years. We estimate notification acres will increase by some 38,000 acres in the next five years

Add one Natural Resource Manager I to regional staff. The senior Forest Practices Forester will handle notifications and inspections on the remainder of the Gulf of Alaska, Valdez-Copper River, Anchorage Mat-Su and Southwest areas. Duties will also include being the coordinator between regional field personnel and other agency employees working in forest practices. The regions forest practice work has increased form 9 notifications in 1987 to 20 in 1989 and acres have increased from 6,287 to 50,286 during the same period. We estimate that at least seven (7) new operations with some 91,000 acres will begin operations in the next five years.

Additional travel and contractual funds are also required to provide the support needed to do the field inspections.

Central Office - \$165,100

Add one Forest Engineer and one Natural Resource Manager II to the staff. The engineer is badly needed to provide expertise in soil stability, logging systems and transportation evaluations. This position would also serve as an expert witness on technical matters. Further responsibilities include research proposal evaluation, support for divisional timber sales, and audit function for Forest Practice compliance on state timber sales.

The Natural Resource Manager II position would serve as a Section Chief to assure consistent direction in state-wide forest practices inspection and enforcement is achieved. This position would also handle data-base management including reforestation verification, forest practices statistics and public notice provisions as well as be available for temporary assignment around the state to assist in field evaluations during peak periods.

FOREST PRACTICES

This position will also act as the Board of Forestry-Division of Forestry Coordinator. Meeting preparation, and gathering of research information are some of the duties that will be performed.

Development of training materials and classes for bringing operators and other agency personnel up to speed on the requirements of the FPA.

Additional travel and contractual funds are required to provide the support needed.

Northern Region

Current markets and market projections indicate a continued increase of interest in both white spruce and hardwoods in the Interior of Alaska. With Native Corporate ownerships well along on completing inventories of timber resource developments will be forthcoming in the next few years. At least one Regional corporation is involved in negotiations for development as well as contracting for feasibility studies. Two village Corporations have active sales under contract.

The increasing thoughts of development of resources along with the increase in spruce bark beetle activity indicate that the Northern Region will become involved in forest practices in the next few years. One Forester II position would need to be added within three years to be in place to handle this increase. Total increased cost in year three would be \$95,000.

P. ST
 DIRECTOR'S OFFICE
 FRI 12:47 PM 1990

Position Title Natural Resource Manager II		No. of Positions 1	Range/Step 20/A	Barg. Unit GGU	
Time Status PFT	Staff Months 12	Location Anchorage		Election District 7	
Type of Expenditure		Justification			
Amount		<p>An additional full time Natural Resource Manager II position would serve as a Section Chief to assure consistent direction in state-wide Forest Practices inspections and enforcement is achieved. The position would also handle data base management including reforestation verification, forest practices statistics and public notice provisions as well as be available for temporary assignment around the state to assist in field inspections during peak periods.</p> <p>This position will also serve as staff to the Board of Forestry. Meeting preparation, taking of minutes and research information gathering are some of the duties that will be performed.</p> <p>Coordination of training opportunities and materials will assure that the same subjects are handled in a similar manner. Working with the Insect and Disease Forester and the U.S. Forest Service training classes both in the office and field will be developed to bring the divisions field staff to a knowledgeable level to handle that portion of the Forest Practice Act.</p>			
1	2				3
Salary* 3590 x 12	43,080				//////////
Benefits* 1217 x 12	14,604				//////////
Premium Pay (Included in Above)	//////////				//////////
Other	//////////				//////////
Total Personal Services	//////////				57.7
Travel					10.0
Contractual					6.5
Commodities					4.1
Equipment		9.4			
Other					
Total Cost		87.7			
Funding Source for Total Cost					
Federal Receipts	1002				
G.F. Hatch	1003				
General Fund	1004		87.7		
Program Receipts/GF	1005				
I-A Receipts	1007				
CIP Receipts	1061				
Other					
* Personal Services Salary and Benefits Costs are from PACS.					

REQUEST FOR
 NEW POSITION

AGENCY Natural Resources
 BRU Forest Management
 COMPONENT Forest Management

Page 1 of 1
 Revised Date

FY 91

Position Title Natural Resource Manager I			No. of Positions 1	Range/Step 18/A	Barg. Unit GG	
Time Status PTF	Staff Months 12		Location Juneau		Election District 4	
Type of Expenditure			Justification			
			<p>The new Forest Practice Act calls for more and better coordination between the State agencies. Field activities are handled by each agency's local personnel but region-wide coordination must take place at a higher level. The addition of one full time Natural Resource Manager I to the division's southeast region office will provide the needed forest practice coordinator. This position will also be able to fill in on forest practice work within the region on an as-needed basis, develop agency and operator training opportunities, meet with the Board of Forestry and act as a hearing officer. This position will be responsible for working on development of the new regulations and handling all of the public process of review within the Southeast Region.</p>			
1		2				3
Salary* 3113 x 12		37,356				//////
Benefits* 1099 x 12		13,188				//////
Premium Pay (Included in Above)		//////				//////
Other		//////				//////
Total Personal Services		//////				50.5
Travel						5.0
Contractual						7.5
Commodities						2.0
Equipment						10.3
Other						
Total Cost						75.3
Funding Source for Total Cost						
Federal Receipts 1002						
G.F. Match 1003						
General Fund 1004			75.3			
Program Receipts/GF 1005						
I-A Receipts 1007						
CIP Receipts 1061						
Other						
* Personal Services Salary and Benefits Costs are from PACS.						

REQUEST FOR
NEW POSITION

AGENCY Natural Resources
 BRU Forest Management
 COMPONENT Forest Management

Page 1 of 1
 Revised Date

FY 91

Position Title Forester II		Us. of Positions 1	Range/Step 16/A	Barg. Unit GG
Time Status REG	Staff Months 12	Location Soldotna		Election District 5
Justification				
Type of Expenditure		Amount		
1	2	3		
Salary* 2895 x 12	34,740	////////////////////		
Benefits* 1049 x 12	12,588	////////////////////		
Premium Pay (Included in Above)	////////////////////	////////////////////		
Other	////////////////////	////////////////////		
Total Personal Services	////////////////////	47.3		
Travel		10.0		
Contractual		3.5		
Commodities		2.0		
Equipment		9.4		
Other				
Total Cost		72.2		
Funding Source for Total Cost				
Federal Receipts 1002				
G.F. Match 1003				
General Fund 1004		72.2		
Program Receipts/GF 1005				
I-A Receipts 1007				
CIF Receipts 1061				
Other				
* Personal Services Salary and Benefits Costs are from PACS.				

The Kenai Peninsula has seen a large increase in Native Land timber operations which have resulted in forest practice notifications. The opening of the Chugach Native Cooperation sawmill at Seward in 1990 will provide the needed log outlet that has been missing to see a major increase of logging activity.

The addition of a full time Forester .II in the Kenai-Kodiak Area office will provide the necessary position to meet the increase and not take the only personnel available for conducting state timber sales away from their job. The spruce beetle kill facing the Kenai Peninsula is demanding all the present forester's time.

With the support staff in place this position will be able to spend full time on forest practice work.

REQUEST FOR
NEW POSITION

AGENCY Natural Resources
 BRU Forest Management
 COMPONENT Forest Management

Page 1 of 1
Revised Date

FY 91

Position Title Logging Engineer		No. of Positions 1	Range/Step 18/A	Barg. Unit GG
Time Status PFT	Staff Months 12	Location Anchorage		Election District 7
Type of Expenditure		Justification		
1	2	3		
Salary* 3113 x 12	37,356	<p>The addition of one full time engineer position will provide expertise in soil stability, logging systems and transportation evaluations. Serve as an expert witness on technical matters. Further responsibilities include research proposal evaluation, and audit function for Forest Practice compliance on state timber sales. New regulations are required to be developed covering areas of road construction, location, maintenance and removal; landing location and construction; drainage construction; material sources and spoil disposal sites; log transfer, sort yards and storage facilities. All of these require the knowledge of an engineer to see that the public is being protected. The division presently does not have an engineer position and this addition will provide the needed expertise to adequately review the above actions as they come in on notifications. This position will be available for statewide work.</p>		
Benefits* 1099 x 12	13,188			
Premium Pay (Included in Above)	//////////			
Other	//////////			
Total Personal Services	//////////			
Travel	50.5			
Contractual	10.0			
Commodities	4.5			
Equipment	3.0			
Other	9.4			
Total Cost	77.4			
Funding Source for Total Cost				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	77.4		
Program Receipts/GF	1005			
I-A Receipts	1007			
CEP Receipts	1061			
Other				
* Personal Services Salary and Benefits Costs are from PACS.				

REQUEST FOR
NEW POSITION

AGENCY Natural Resources
 BRU Forest Management
 COMPONENT Forest Management

Page 1 of 1
 Revised Date

FY 91

Position Title Clerk Typist III		No. of Positions 1	Range/Step B/A	Barg. Unit GG
Time Status PT	Staff Months 12	Location Ketchikan		Election District 1
Type of Expenditure		Justification		
1	2	3		
Salary* 1678 x 12	20,136	////////////////////////////////////		
Benefits* 771 x 12	9,252	////////////////////////////////////		
Premium Pay (Included in Above)	////////////////////////////////////	////////////////////////////////////		
Other	////////////////////////////////////	////////////////////////////////////		
Total Personal Services	////////////////////////////////////	29.4		
Travel		4.5		
Contractual		8.0		
Commodities		5.8		
Equipment		47.7		
Other				
Total Cost				
Funding Source for Total Cost				
Federal Receipts	1002			
G.F. Match	1003	47.7		
General Fund	1004			
Program Receipts/GF	1005			
I-A Receipts	1007			
CIP Receipts	1061			
Other				
* Personal Services Salary and Benefits Costs are from PACS.				

The Ketchikan Area Office had an increase of 27% in forest practice notifications between 1987 and 1988. During 1989 some decrease was noted but the acreage size increased as a way around notification. Without support help in the office the Forest Practice Forester has been required to spend more and more time in doing administrative work. Total number of inspections during 1989 dropped. The addition of a full time Clerk Typist III will allow for about 30% more field time for the forester. With increased notifications and required inspections more field time is needed. More time in the field will help prevent damage from taking place and better cooperation between the operator and the State. Additional office help will also allow for the office to be open full time for the five days per week.

REQUEST FOR
NEW POSITION

AGENCY Natural Resources
 BRU Forest Management
 COMPONENT Forest Management

Page 1 of 1
 Revised Date

FY 91

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Forest Resources & Practices Act

Agency Affected: Environmental Conservation
BRU: Environmental Quality

Sponsor: Rules Committee
Requestor: Governor

Component: Environmental Quality

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		171.1	171.1	171.1	171.1	171.1
TRAVEL		15.0	15.0	15.0	15.0	15.0
CONTRACTUAL		42.0	42.0	42.0	42.0	42.0
SUPPLIES		4.0	4.0	4.0	4.0	4.0
EQUIPMENT		20.0	20.0	20.0	20.0	20.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		252.1	252.1	252.1	252.1	252.1

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		252.1	252.1	252.1	252.1	252.1
FEDERAL FUNDS		-0-	-0-	-0-	-0-	-0-
OTHER		-0-	-0-	-0-	-0-	-0-
TOTAL		252.1	252.1	252.1	252.1	252.1

POSITIONS:

FULL-TIME		4	4	4	4	4
PART-TIME		-0-	-0-	-0-	-0-	-0-
TEMPORARY		-0-	-0-	-0-	-0-	-0-

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Dave Sturdevant Phone: 465-2653
Division: Environmental Quality Date: 5-2-89

Approved by Commissioner: *ADK* Date: 5/2/89
Agency: Environmental Conservation

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Attachment
Forest Practices Act Funding

	WQM Ecol II	WQM CT III	SERO EFO II	SCRO EFO II	Total
100's	51.1	30.0	45.0	45.0	171.1
200's	5.0	0.0	5.0	5.0	15.0
300's	8.0	8.0	13.0 ^{1/}	13.0 ^{1/}	42.0
400's	1.0	1.0	1.0	1.0	4.0
500's	5.0	5.0	5.0	5.0	20.0
Total	70.1	44.0	69.0	69.0	252.1

^{1/} Includes \$5.0 for contractual support of field monitoring for water quality compliance

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Forest Practices Act
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Dept. of Fish and Game
BRU: Habitat
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES	24.8	297.0	297.0	297.0	297.0	297.0
TRAVEL	2.6	31.5	31.5	31.5	31.5	31.5
CONTRACTUAL	3.7	44.9	44.9	44.9	44.9	44.9
SUPPLIES	0.2	2.0	2.0	2.0	2.0	2.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	31.3	375.4	375.4	375.4	375.4	375.4

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	6	6	6	6	6	6
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached

Prepared by: Frank Rupp Director
Division: Habitat

Phone: 465-4105
Date: 5/1/89

Approved by Commissioner: Nancy Bell
Agency: Department of Fish and Game

Date: 5/2/89

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

FISCAL NOTE

This fiscal note is based on the assumptions that 1) an amended FPA or associated regulations will provide performance standards for activities in riparian management zones, 2) we will need to maintain a significantly greater field presence than we are now in order to effectively implement the standards, 3) we will need to spend significantly more time participating in the Department of Natural Resources' preparation of forest management plans for state lands, and 4) the level of timber harvest north of the Alaska Range does not increase in the immediate future.

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Natural Resources
 Title: Forest Practices Act Revisions BRU: Forest Management
 Sponsor: _____ Components: Forest Management
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		306.4				
TRAVEL		40.0				
CONTRACTUAL		32.0				
SUPPLIES		21.1				
EQUIPMENT		38.2				
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		437.7	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		437.7	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL		437.7	0	0	0	0

POSITIONS:

FULL-TIME		6				
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

See attached

Prepared by: George K. Hollett Phone: 465-2491
 Division: Forestry Date: 5-2-89
 Approved by Commissioner: [Signature] Date: 5/1/89
 Agency: _____

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

DEPARTMENT OF NATURAL RESOURCES
FOREST PRACTICES

Program Summary:

Due to low markets in 1986, the number of notifications received for operations on private lands dropped to a level where budget cuts were made. Increased markets in 1988 has brought about a 173% increase in notifications. With no new funding, the forest practice personnel staff months have not increased to a level necessary to handle the inspections necessary with the increased notifications. FY 1988 saw a 16% increase in inspections with present staff but this is far short of what is needed.

Lack of travel dollars has seriously limited field inspection opportunities. A high level of inspection activity not only ensures compliance with the Forest Practice Act, but also allows us to identify potential problems early and prevent violations. Due to the lack of inspections, the character of forest practices administration has been forced away from land owner assistance and toward enforcement.

What we will need to do the new proposal being considered by the Forest Practice Review Committee.

Total funding needs are \$437,700 broken down as follows:

Southeast Region - \$125,000

Add one Clerk Typist III at Ketchikan and replace six months of Federal Funds for a Clerk Typist III at Juneau. This support staff will free up time now spent in the office by the Forest Practices Foresters doing administrative work and should allow for 30% more field time for necessary inspections. Also will allow for the Ketchikan office to be open full time for the five days per week.

Add one Forester III to be the Southeast Region forest practice coordinator. This position will also be able to fill in on forest practice work within the region on an as needed basis and be the liaison between the field staff and other agency personnel.

Added travel funding will meet the necessary inspection schedule of the increased notifications.

Southcentral Region - \$167,800

Add one Forester II to the Kenai-Kodiak Area to work on the additional forest practice work that is taking place on the Kenai Peninsula and in Prince William Sound. Presently the only position available for the forest practice work is also responsible for all the timber sales on state land so both jobs have suffered.

Add one Forester III to regional staff and replace Federal Funds for an Administrative Assistant I in regional office. The senior Forest Practices Forester will handle notifications and inspections on the remainder of the Gulf of Alaska, Valdez-Copper River, Mat-Su and Southwest areas. Duties will also include being the coordinator between regional field personnel and other agency employees working in forest practices.

The Administrative Assistant I will work at providing the necessary budgetary work needed by the regional forest practice personnel so they can spend more time in the field and less on administrative work.

Additional travel and contractual funds are also included to provide the support needed to do the field inspections.

Central Office - \$144,900

Add one Forest Engineer and one Forester II to the staff. The engineer is badly needed to provide expertise in soil stability, logging systems and transportation evaluations. Serve as an expert witness on technical matters. Further responsibilities include research proposal evaluation, support for divisional timber sales, and audit function for Forest Practice compliance on state timber sales. The staff forester position would handle data-base management including reforestation verification, forest practices statistics and public notice provisions as well as be available for temporary assignment around the state to assist in field evaluations during peak periods.

Additional travel and contractual funds are also included to provide the support needed.

Original sponsor(s): Rules/Governor

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 317 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

10 * Section 1. AS 38.05 is amended by adding new sections to read:

11 Sec. 38.05.112. FOREST LAND USE PLANS. (a) The department may
12 not sell or harvest timber, except for isolated personal use timber
13 harvest, until a site-specific forest land use plan has been adopted.
14 A forest land use plan is required whether or not a regional or area
15 land use plan under AS 38.04.065(a) or a forest management plan under
16 AS 41.17.230 has been adopted.

17 (b) The commissioner shall base a forest land use plan on the
18 best available data, including information provided by other agencies
19 describing the immediate and long-term effects of individual and
20 collective forest activities on the timber base and on other resources
21 and uses.

22 (c) In addition to the requirements of AS 38.04.065(b), a forest
23 land use plan shall consider

24 (1) commercial timber harvesting, including related activ-
25 ities;

26 (2) harvesting of forest products for personal use;

27 (3) fish and wildlife habitat, including

28 (A) identification and protection of important wild-
29 life habitat;

1 (B) retention of riparian, wetland, and ocean-shore-
2 line vegetation critical for fish and wildlife habitat; and

3 (C) classification of water bodies according to phys-
4 ical characteristics;

5 (4) uses of forest land for nontimber purposes, including

6 (A) recreation, tourism, and related activities;

7 (B) mining, mining claims, mineral leaseholds, and
8 material extraction;

9 (C) uses of fish and wildlife;

10 (D) agriculture, including grazing; and

11 (E) other resources and uses appropriate to the area,
12 including compatible traditional uses;

13 (5) soil characteristics and productivity;

14 (6) water quality; and

15 (7) watershed management.

16 (d) A management plan prepared by the commissioner must consider
17 and permit the uses described in (c) of this section. If the commis-
18 sioner finds that a permitted use is incompatible with one or more
19 other uses in a portion of a state forest, the commissioner shall
20 affirmatively state in the management plan that finding of incom-
21 patibility for the specific area where the incompatibility is antic-
22 ipated to exist and the time period when the incompatibility is antic-
23 ipated to exist together with the reasons for each finding.

24 Sec. 38.05.113. FIVE-YEAR SALE SCHEDULE. (a) The department
25 shall annually prepare a five-year schedule of timber sales planned on
26 all lands managed by the department. The schedule must be of suffi-
27 cient specificity that it provides a basis for the department to
28 allocate its resources in considering and designing sales and in
29 conducting economic and environmental analyses. The schedule must

1 inform the public and the timber products industry of long-term plans
2 and provide a basis for public comment.

3 (b) Except as provided in (c) of this section, a proposed sale
4 may not be held unless it has been included in the two five-year
5 schedules preceding the sale. This requirement does not apply until
6 one year after the first five-year schedule is prepared under this
7 section.

8 (c) The department may adopt regulations exempting small and
9 emergency sales from the requirements of this section.

10 * Sec. 2. AS 41.17.010 is amended to read:

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

13 (1) the forest resources of Alaska are among the most
14 valuable natural resources of the state, and furnish timber and wood
15 products, fish and wildlife, tourism, outdoor recreation, water, soil,
16 air, 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 ensure 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
28 the expertise of professional foresters in conjunction with other
29 disciplines;

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

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

10 (7) except for activities subject to AS 16.05.840 or 16.-
11 05.870 and regulations authorized by those sections, this chapter and
12 regulations adopted under this chapter establish the fish habitat
13 protection standards, policies, and review processes under state law
14 [SUBJECT TO 16 U.S.C. 1456(f) (SEC. 307(f) OF THE COASTAL ZONE MANAGE-
15 MENT ACT OF 1972, P.L. 92-583), THE PROVISIONS OF THIS CHAPTER SHALL
16 BE THE BASIS FOR FOREST MANAGEMENT STANDARDS, POLICIES, AND GUIDELINES
17 DEVELOPED UNDER THE ALASKA COASTAL MANAGEMENT ACT].

18 * Sec. 3. AS 41.17.041 is repealed and reenacted to read:

19 Sec. 41.17.041. BOARD OF FORESTRY. (a) The Board of Forestry
20 is established in the Department of Natural Resources, division of
21 forestry.

22 (b) The board is composed of nine members appointed by the
23 governor:

24 (1) a representative of a commercial fishermen's organiza-
25 tion;

26 (2) a representative of a Native corporation organized
27 under 43 U.S.C. 1601 - 1629e (Alaska Native Claims Settlement Act);

28 (3) a representative of an environmental organization;

1 (4) a representative of a forest industry trade
2 association;

3 (5) a professional fish or wildlife biologist who is not
4 employed in that capacity by a state, municipal, or federal government
5 agency, except for university employment;

6 (6) a professional forester who is not employed in that
7 capacity by a state, municipal, or federal government agency, except
8 for university employment;

9 (7) a representative of a mining organization;

10 (8) a representative of a recreational organization; and

11 (9) the state forester, who serves ex officio and without a
12 vote.

13 (c) The state forester is the presiding officer of the board and
14 shall, in consultation with the board, establish procedures for sched-
15 uling and organizing board meetings. Seven voting members of the
16 board constitute a quorum. Each decision of the board requires the
17 affirmative vote of each voting member present less one.

18 (d) A board member who is unable to attend a meeting may desig-
19 nate an alternate who possesses the same qualifications as the board
20 member.

21 (e) The division shall serve as staff to the board. The depart-
22 ment, the Department of Fish and Game, and the Department of Environ-
23 mental Conservation shall provide technical staffing and information
24 as needed by the board.

25 * Sec. 4. AS 41.17.047 is repealed and reenacted to read:

26 Sec. 41.17.047. POWERS AND DUTIES OF BOARD. (a) The board
27 shall review and comment to the commissioner on regulations proposed
28 for adoption under this chapter.

29 (b) The board shall provide a forum for representatives of

1 affected interests to discuss and attempt to resolve issues relevant
2 to this chapter and to the forest resources of the state.

3 (c) The board, working with the department, the Department of
4 Environmental Conservation, the Department of Fish and Game, other
5 affected agencies and parties, and the forest-dependent industries,
6 shall conduct an annual survey of research needs related to forest
7 practices. The board shall review research proposals and shall make
8 recommendations to promote research projects that would address the
9 needs to the governor and the legislature.

10 (d) The board shall coordinate the monitoring of the implementa-
11 tion and effectiveness of this chapter, the regulations, and best
12 management practices adopted under this chapter in meeting state water
13 quality standards, fish and wildlife habitat requirements, and other
14 forestry objectives. The board shall report annually to the
15 legislature and the governor on the effectiveness of this chapter and
16 regulations adopted under it, with its recommendations for changes and
17 for needed research and monitoring. The state forester, the
18 Department of Fish and Game, and the Department of Environmental
19 Conservation shall each present an annual report, independently, to
20 the board on the effectiveness of this chapter, the regulations, and
21 best management practices adopted under this chapter that protect the
22 resources for which they have statutory responsibility, and shall make
23 recommendations for changes to correct procedural or substantive
24 problems. The board shall forward the reports to the legislature as
25 part of its annual report. The board shall hold hearings at least
26 once annually in southeast, southcentral, and interior Alaska for
27 purposes of taking public testimony on the subjects.

28 * Sec. 5. AS 41.17.055(d) is repealed and reenacted to read:

29 (d) The commissioner may develop regulations under this chapter

1 as part of the state program for control of nonpoint source pollution
2 under the Federal Water Pollution Control Act, as amended. However,
3 the Department of Environmental Conservation is the lead agency for
4 water quality and control of nonpoint source pollution under that Act,
5 and the regulations are therefore subject to the approval of the
6 commissioner of environmental conservation.

7 * Sec. 6. AS 41.17.060(b) is amended to read:

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

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

13 (2) environmentally sensitive areas [AND BEST MANAGEMENT
14 PRACTICES] shall be recognized in the development of regulations and
15 best management practices that are designed to implement [IMPLEMENTA-
16 TION OF ANY] nonpoint source pollution control measures authorized
17 under this chapter;

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

21 (4) to the fullest extent practicable, harvested forest
22 land shall be reforested, naturally or artificially, so as to result
23 in a sustained yield of merchantable timber from that land; if artifi-
24 cial planting is required, silviculturally acceptable seedlings must
25 first be available for planting at an economically fair price in the
26 state; and

27 (5) significant adverse effects of soil erosion and mass
28 wasting on water quality and fish habitat shall be prevented or min-
29 imized.

1 * Sec. 7. AS 41.17.060(c) is amended to read:

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

4 (1) forest land shall be administered for the multiple use
5 of the renewable and nonrenewable resources and for the sustained
6 yield of the renewable resources of the land in the manner that
7 [WHICH] best provides for the present needs and preserves the future
8 options of the people of the state;

9 (2) a [ANY] system of allocating predominant uses or values
10 to particular units within a contiguous area of land shall reflect in
11 reasonable proportion the various resources and values present in that
12 area;

13 (3) to the extent its capacity permits, forest land shall
14 be administered so as to provide for the continuation of businesses,
15 activities, and lifestyles that [WHICH] are dependent upon or derived
16 from forest resources;

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

21 (5) there may not be [ANY] significant impairment of the
22 productivity of the land and water with respect to renewable re-
23 sources; [AND]

24 (6) [WHERE ECONOMICALLY PRACTICABLE,] allowance shall [MAY]
25 be made for scenic quality in or adjacent to areas of substantial
26 importance to the tourism and recreation industry; and

27 (7) allowance shall be made for important fish and wildlife
28 habitat.

29 * Sec. 8. AS 41.17.070(b) is repealed and reenacted to read:

1 (b) To maintain a record of division decision making for public
2 and agency review, the commissioner shall compile and index each de-
3 cision made under this chapter regarding directives, stop work orders,
4 waivers from requirements, decisions of hearing officers, and deci-
5 sions on appeals. The commissioner shall submit a summary of this
6 record annually to the board.

7 * Sec. 9. AS 41.17.080 is repealed and reenacted to read:

8 Sec. 41.17.080. REGULATIONS. (a) The commissioner may adopt
9 regulations necessary to accomplish the purposes of this chapter under
10 AS 44.62 (Administrative Procedure Act) regarding forest practices
11 such as

12 (1) road construction and maintenance, including

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

15 (B) landing location and construction;

16 (C) drainage structures;

17 (D) material sources and spoil disposal sites;

18 (2) timber harvesting, including

19 (A) timber harvest unit planning and design;

20 (B) felling and bucking;

21 (C) cable yarding, shovel, tractor, and wheeled skid-
22 der systems;

23 (D) landing clean-up;

24 (E) slash disposal;

25 (3) log transfer, sort yards, and storage facilities,
26 including

27 (A) location, design, and construction;

28 (B) maintenance;

29 (C) closure;

- 1 (D) log storage, rafting, and identification;
2 (4) reforestation, including
3 (A) site preparation and rehabilitation;
4 (B) prescribed burning;
5 (C) exemptions from reforestation requirements;
6 (5) prevention and suppression of forest insects and dis-
7 eases;
8 (6) salvage logging;
9 (7) vegetative management; and
10 (8) fire and flood hazard management.

11 (b) The commissioner shall adopt regulations specifying the
12 information to be submitted under AS 41.17.090(c) in the detailed plan
13 of operations to enable the division to determine whether the activ-
14 ities comply with the requirements of this chapter.

15 (c) The commissioner may establish regions, districts, or other
16 subdivisions of forest land in the state in which different regu-
17 lations apply to reflect varying conditions in the state or to facil-
18 itate administration. In adopting regulations, the commissioner shall
19 make appropriate distinctions between public and private land.

20 (d) The commissioner shall adopt only those regulations neces-
21 sary to accomplish the purposes of this chapter and shall avoid regu-
22 lations that increase operating costs without yielding significant
23 benefits to public resources.

24 * Sec. 10. AS 41.17 is amended by adding new sections to read:

25 Sec. 41.17.082. CONTROL OF INFESTATIONS AND DISEASE. (a) All
26 forest clearing operations and silvicultural systems must be designed
27 to reduce the likelihood of increased insect infestation and disease
28 infections that threaten forest resources.

29 (b) A forest landowner may not conduct or approve timber clear-

1 ing activities that create conditions fostering outbreaks of
2 infestation or infection that threaten forest resources on forest
3 lands belonging to another person. If the commissioner finds, after
4 notice and hearing, that there has been a violation of this subsec-
5 tion, the commissioner may

6 (1) require the forest landowner, at that person's expense,
7 to remove promptly or cure the conditions fostering outbreaks of
8 infestation or infection; and

9 (2) require the forest landowner, at that person's expense,
10 to undertake environmentally sound, effective, and cost-efficient
11 actions to control the infestation or infection in the immediate
12 vicinity of the improper timber clearing activity.

13 (c) If a forest landowner does not comply with a final order of
14 the commissioner under (b)(1) or (b)(2) of this section, the commis-
15 sioner may enter onto the land and undertake the actions ordered and
16 the landowner is liable for the cost of the actions. The commissioner
17 shall deliver to the landowner an itemized statement of expenses
18 incurred.

19 (d) The commissioner may undertake surveys and appraisals to
20 obtain data on regional insect infestations and disease conditions.
21 Upon a determination that an area is infested with forest insects or
22 infected with diseases injurious to forest resources and that the
23 infestation or infection threatens the forest land or timber of adja-
24 cent owners, the commissioner may establish the boundaries of an
25 infestation or infection zone. The commissioner may enter into an
26 agreement with an owner or with a governmental agency to control or
27 suppress infestation or infection within the zone. Upon a determina-
28 tion by the commissioner that insect and disease control work within
29 the zone is no longer necessary or feasible, the commissioner shall

1 terminate the zone.

2 Sec. 41.17.083. CLEARING OF FOREST LAND FOR NON-TIMBER PURPOSES.
3 A state agency, municipality, or public utility shall determine wheth-
4 er the timber to be removed has significant salvage value before
5 approving or conducting clearing of forest land for purposes other
6 than timber harvest. If the timber has significant salvage value, the
7 agency or utility shall salvage the timber as part of the clearing
8 process.

9 * Sec. 11. AS 41.17 is amended by adding a new section to read:

10 Sec. 41.17.087. VARIATION FROM REQUIREMENTS. (a) A forest
11 landowner, timber owner, or operator may propose for a particular
12 activity a variation from a requirement imposed by this chapter or the
13 regulations adopted under this chapter. If the state forester deter-
14 mines that the harm intended to be avoided by the requirement is not
15 likely to occur because of site-specific circumstances relating to the
16 particular activity and is not likely to cause significant harm to
17 fish habitat or water quality, the state forester shall agree to the
18 proposed variation. If the state forester does not agree to the
19 proposed variation, a forest landowner, timber owner, or operator may
20 appeal to the commissioner. The appellants shall conform to the
21 requirement during the pendency of the appeal.

22 (b) The commissioner shall adopt regulations that specify the
23 standards under which a variation will be granted for harvesting
24 timber within the riparian area of

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

27 (2) other appropriate water body types.

28 (c) A determination by the state forester under (a) of this
29 section and regulations by the commissioner under (b) of this section

1 shall give due deference under AS 41.17.098.

2 * Sec. 12. AS 41.17.090 is repealed and reenacted to read:

3 Sec. 41.17.090. NOTIFICATION OF PLANS TO HARVEST TIMBER. (a)
4 Operations on forest land shall be reviewed under this section for
5 consistency with the policies and provisions of this chapter and
6 regulations adopted under this chapter.

7 (b) A forest landowner, timber owner, or operator may provide to
8 the commissioner a voluntary plan of operations that describes the
9 long-term plans for timber harvesting. The purpose of a voluntary
10 plan is to give the division and the public an early opportunity to
11 review plans, to identify areas of concern, and to allow the agencies
12 and the public to provide local knowledge and early notice of poten-
13 tial problems to the forest landowner, timber owner, or operator.

14 (c) Before beginning operations on forest land, the operator
15 shall provide the state forester with a detailed plan of operations.
16 The detailed plan of operations must include

17 (1) a description of the proposed operations, identifying
18 the land involved and the action proposed in sufficient detail to
19 inform the public of the nature and location of the proposed opera-
20 tions; the description must include a map and must be in a form suit-
21 able for duplication;

22 (2) the name, address, and approving signature of the
23 forest landowner, timber owner, and operator; and

24 (3) other information required in the regulations adopted
25 under this chapter.

26 (d) Within five days after receipt of a detailed plan of opera-
27 tions under (c) of this section, the state forester shall distribute
28 the information received under (c) of this section to affected state
29 agencies and coastal districts, and shall distribute the information

1 received under (c)(1) of this section to each member of the public who
2 has asked to receive copies of notifications for the affected area.

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

18 (f) If the state forester determines that a field inspection is
19 necessary to determine consistency of the detailed plan of operations
20 or a portion of the plan with applicable standards, the state forester
21 shall notify the operator. The notice of field inspection may not
22 cover more than the minimum area necessary to determine compliance
23 with this chapter and applicable regulations. The operator shall
24 inform the state forester when the site will be available for an
25 inspection. The state forester shall conduct the field inspection
26 within 21 days after the date that the site will be accessible and
27 available unless the operator otherwise agrees, and the operator may
28 begin operations at the conclusion of the 21-day period unless the
29 state forester has issued a stop work order under AS 41.17.138.

1 (g) During the review of a detailed plan of operations,
2 modifications to accommodate comments may be made without requiring
3 the operator to resubmit the plan. After the review of the detailed
4 plan of operations made under (e) and (f) of this section, an operator
5 shall notify the state forester of a proposed substantial change in
6 operations by following the procedures specified in (c) - (f) of this
7 section.

8 (h) Information and paperwork required of the operator under
9 this section is limited to that necessary to accomplish the purposes
10 of this section.

11 (i) An operator shall renew a detailed plan of operations annu-
12 ally.

13 * Sec. 13. AS 41.17 is amended by adding a new section to read:

14 Sec. 41.17.098. INTERAGENCY COORDINATION AND REEVALUATION. (a)
15 In administering this chapter, the commissioner shall coordinate with
16 other agencies and affected coastal districts that have jurisdiction
17 over activities subject to regulation under this chapter.

18 (b) In a review or implementation of a detailed plan of opera-
19 tions under AS 41.17.090 and in a decision on a proposed variation
20 from requirements under AS 41.17.087, the commissioner shall consider
21 the comments of each affected state agency and, where applicable,
22 coastal districts.

23 (c) The commissioner shall give due deference to the Department
24 of Environmental Conservation in decisions concerning water quality.
25 The commissioner of environmental conservation retains the authority
26 to adopt nonpoint source pollution regulations for activities subject
27 to this chapter to the extent that regulations are not adopted by the
28 commissioner of natural resources and approved by the commissioner of
29 environmental conservation under this chapter. The commissioner of

1 environmental conservation may withdraw approval of regulations
2 adopted by the commissioner of natural resources under this chapter by
3 following the procedure for the adoption, amendment, and repeal of
4 regulations under AS 44.62.180 - 44.62.290.

5 (d) The commissioner shall recognize the expertise of the De-
6 partment of Fish and Game with regard to fish and wildlife habitat.
7 On private land, the commissioner shall give due deference to the
8 Department of Fish and Game regarding effects on fish habitat from
9 timber operations including variations to riparian standards, desig-
10 nation of alternative site-specific riparian protection plans, and
11 road location decision within riparian areas. On public land, the
12 commissioner shall give due deference to the Department of Fish and
13 Game regarding effects on fish and wildlife habitat from timber op-
14 erations including timber harvest in riparian areas, variations to
15 riparian standards, and road location decisions within riparian areas.
16 In making decisions under under AS 41.17.087, the commissioner shall
17 recognize fish habitat as the primary value in riparian areas.

18 (e) In this section, "due deference" means that deference that
19 is appropriate in the context of the agency's expertise and area of
20 responsibility and all the evidence available to support a factual
21 assertion. Where due deference is given, if the commissioner does not
22 agree with a commenting agency, the commissioner shall prepare a
23 written statement of the reasons for the disagreement.

24 (f) If a disagreement described in (e) of this section exists,
25 an officer of an agency may require reevaluation of the disagreement
26 at a higher level within the agencies, or by the governor if
27 necessary, before a decision is made by the commissioner.

28 * Sec. 14. AS 41.17 is amended by adding new sections to read:

29 **ARTICLE 1A. RIPARIAN MANAGEMENT.**

1 Sec. 41.17.115. INTENT FOR RIPARIAN AREAS. The commissioner
2 shall protect riparian areas from the significant adverse effects of
3 timber harvest activities on fish habitat and water quality. The
4 management intent for riparian areas is the adequate preservation of
5 fish habitat by maintaining a short- and long-term source of large
6 woody debris, stream bank stability, channel morphology, water temper-
7 atures, stream flows, water quality, adequate nutrient cycling, food
8 sources, clean spawning gravels, and sunlight. The commissioner shall
9 adopt regulations for the protection of riparian areas; the regu-
10 lations may include higher standards of protection for fish and other
11 public resources on land managed by the department than on other
12 public land or private land. The regulations may vary by region of
13 the state and must take into consideration reasonable classification
14 of water bodies and the economic feasibility of timber operations.

15 Sec. 41.17.116. RIPARIAN STANDARDS FOR PRIVATE LAND. (a)
16 Private forest land adjacent to the following types of waters and
17 located in a coastal forest of spruce or hemlock is subject to the
18 riparian protection standards established in this section:

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

21 (2) along a Type B water body, timber harvest operations
22 within 100 feet of the stream or to the break of the slope, whichever
23 area is smaller, must be conducted in compliance with slope stability
24 standards established in regulations adopted under this chapter;

25 (3) along a Type C water body, timber harvest operations in
26 the area within 50 feet of the stream or to the break of the slope,
27 whichever area is smaller, must be conducted in compliance with slope
28 stability standards established in regulations adopted under this
29 chapter.

1 (b) The commissioner shall adopt regulations for private land
2 outside of the coastal forest of spruce or hemlock that designate the
3 riparian areas to be protected and the restrictions on timber harvest-
4 ing operations within the areas that are necessary for their pro-
5 tection under the management goals established in AS 41.17.115.

6 Sec. 41.17.118. RIPARIAN STANDARDS FOR STATE LAND. (a) The
7 riparian standards for state land are as follows:

8 (1) on state forest land managed by the department that is
9 located north of the Alaska Range, harvest of timber may not be under-
10 taken within 100 feet immediately adjacent to an anadromous or high
11 value resident fish water body unless the division determines that
12 adequate protection remains for the fish habitat;

13 (2) on state forest land managed by the department that is
14 located south of the Alaska Range,

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

18 (B) between 100 and 300 feet from the water body,
19 timber harvest may occur but must be consistent with the mainte-
20 nance of important fish and wildlife habitat.

21 (b) The commissioner may impose additional riparian protection
22 standards for timber harvest operations through the adoption of land
23 use plans under AS 38.04.065 and under forest management plans and
24 reports under AS 38.05.112 and AS 41.17.230.

25 (c) In the absence of a site-specific determination by the
26 Department of Fish and Game, the commissioner shall presume for plan-
27 ning purposes that a stream is anadromous if it is connected to ana-
28 dromous waters that are without Department of Fish and Game documenta-
29 tion of a physical blockage and has a stream gradient of 8 percent or

1 less.

2 Sec. 41.17.119. MINIMUM RIPARIAN STANDARDS FOR OTHER PUBLIC
3 LAND. On public land other than state land, harvest of timber may not
4 occur

5 (1) within 100 feet from the shore or bank of an anadromous
6 or high value resident fish water body that is located south of the
7 Alaska Range;

8 (2) within 100 feet immediately adjacent to an anadromous
9 or high value resident fish water body north of the Alaska Range
10 unless the commissioner determines that adequate protection remains
11 for the fish habitat.

12 * Sec. 15. AS 41.17 is amended by adding a new section to read:

13 Sec. 41.17.125. ENFORCEMENT COORDINATION. All state agencies
14 with enforcement authority over an activity subject to regulation
15 under this chapter shall establish a uniform enforcement strategy that
16 avoids duplication and inconsistencies. All participating agencies
17 shall agree to and comply with the contents of the uniform strategy.
18 In developing and implementing the uniform strategy, each state agency
19 retains its authority to determine the appropriate remedies under the
20 statutes and regulations it administers.

21 * Sec. 16. AS 41.17.131 is repealed and reenacted to read:

22 Sec. 41.17.131. PENALTIES FOR VIOLATIONS. (a) An operator,
23 forest landowner, or timber owner who violates or permits a violation
24 of this chapter, a regulation adopted under this chapter, a directive
25 issued under AS 41.17.136, or a stop work order issued under AS 41.-
26 17.138 is liable, after notice and hearing, for a civil fine in an
27 amount not to exceed \$10,000 to be assessed by the commissioner. In
28 determining the amount of civil fine, the commissioner shall consider

29 (1) the character and degree of injury to forest resources

1 and values;

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

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

6 (4) if the information is available, the net economic
7 savings realized by the respondent through the violation.

8 (b) An operator, forest landowner, or timber owner that, with
9 criminal negligence, violates or permits a violation of this chapter,
10 a regulation adopted under this chapter, a directive issued under
11 AS 41.17.136, or a stop work order issued under AS 41.17.138 is guilty
12 of a class A misdemeanor. In this subsection, "criminal negligence"
13 has the meaning given in AS 11.81.900(a).

14 (c) Each day that a violation described in this section occurs
15 is a separate violation.

16 (d) If a respondent violates a directive issued under AS 41.-
17 17.136 or a stop work order issued under AS 41.17.138, the attorney
18 general, at the request of the commissioner, may seek an injunction
19 requiring the respondent to suspend all or part of the operations
20 until the respondent complies with the directive or stop work order,
21 and requiring the respondent to repair or correct damage resulting
22 from the violation.

23 (e) If a respondent violates a directive issued under AS 41.-
24 17.136 that requires the respondent to repair or correct damage, the
25 commissioner may proceed to repair or correct the damage using state
26 agency employees or contractors and the respondent is liable for the
27 cost of the repair. The commissioner shall deliver to the respondent
28 an itemized statement of expenses incurred.

29 * Sec. 17. AS 41.17 is amended by adding a new section to read:

1 Sec. 41.17.136. DIRECTIVES. (a) Upon a determination that a
2 planned or ongoing activity violates or would violate this chapter or
3 a regulation adopted under it, the state forester shall notify the
4 respondent in writing and direct the respondent to halt or avoid the
5 violation or to repair or correct any damage resulting from the viola-
6 tion. The written notification must include a summary of the basis
7 for the directive.

8 (b) The respondent may either comply with the directive or
9 request a hearing under AS 41.17.139 within 15 days of receipt of the
10 notification. If a hearing is requested, the respondent may continue
11 with the activity unless the state forester issues a stop work order
12 under AS 41.17.138. If the directive is affirmed by the hearing
13 officer, the respondent shall cease the activity unless a stay is
14 issued under AS 41.17.143(c) or by the superior court.

15 * Sec. 18. AS 41.17 is amended by adding a new section to read:

16 Sec. 41.17.138. STOP WORK ORDERS. (a) Upon a determination
17 that a violation of this chapter or a regulation adopted under it is
18 occurring or is likely to occur and that significant harm to public
19 resources is likely to occur if work is not halted before a hearing
20 can be held, the state forester may issue a stop work order requiring
21 the respondent to stop the violation or otherwise halt the threatened
22 harm. A stop work order must be in writing and must state the facts
23 on which it is based.

24 (b) The state forester shall immediately refer the matter to a
25 hearing officer for determination of the validity of the stop work
26 order under AS 41.17.139. The hearing officer shall consider any
27 arguments and evidence presented by the respondent within five work-
28 days after receipt of the stop work order and shall then make an imme-
29 diate decision sustaining or reversing the stop work order. The stop

1 work order is of no further effect if it is not sustained by the
2 hearing officer within the five-workday period. A stop work order may
3 be sustained only upon the same grounds on which it was originally
4 issued.

5 * Sec. 19. AS 41.17.139 is amended to read:

6 Sec. 41.17.139. HEARING PROCEDURES. (a) Unless otherwise
7 specified, proceedings under AS 41.17.131 - 41.17.139 are not subject
8 to the Administrative Procedure Act (AS 44.62). A hearing under
9 AS 41.17.136 or 41.17.138 [AS 41.17.131 - 41.17.139] shall be held
10 before the state forester, a regional forester, or another employee of
11 the division with similar qualifications acting as a hearing officer.
12 A hearing on an appeal under AS 41.17.087 and a hearing under AS 41.-
13 17.082(b) shall be held before the commissioner or the commissioner's
14 designee [, APPOINTED BY THE ATTORNEY GENERAL FROM AMONG MEMBERS OF
15 THE ALASKA BAR ASSOCIATION WHO HAVE BEEN NOMINATED BY THE BOARD OF
16 FORESTRY AND WHO ARE KNOWLEDGEABLE AND EXPERIENCED IN THE SUBJECT
17 MATTER]. A person who has assisted in the preparation of the di-
18 vision's [STATE'S] case [OR WHO IS A STATE EMPLOYEE] is ineligible.
19 Hearings are not limited by common law, statutory, or judicial rules
20 of evidence; however, the hearing officer may admit only that evidence
21 that [WHICH] appears to be reliable and trustworthy. All hearings
22 shall be open to the public. Written or oral testimony may be submit-
23 ted. A party to a hearing may make written or oral argument, secure
24 the issuance of a subpoena under AS 44.62.430, offer testimony or
25 other evidence, and cross-examine witnesses. The hearing officer
26 shall endeavor, in conducting any hearing, to ensure that the respon-
27 dent understands the proceedings and that the facts supporting the
28 position of each party have been adequately presented. [HEARINGS
29 SHALL BE HELD AS CLOSE AS PRACTICABLE TO THE LOCATION OF THE ALLEGED

1 VIOLATION. TESTIMONY GIVEN AT THE HEARING SHALL BE RECORDED.]

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

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

13 (3) the hearing officer shall issue a decision in accor-
14 dance with the applicable procedures of (a) of this section.

15 * Sec. 20. AS 41.17.139 is amended by adding a new subsection to read:

16 (c) The hearing officer shall select the location of the hear-
17 ing, giving consideration to the convenience of the parties and wit-
18 nesses. The hearing officer may permit witnesses to testify through
19 teleconferencing.

20 * Sec. 21. AS 41.17.143 is repealed and reenacted to read:

21 Sec. 41.17.143. APPEALS AND JUDICIAL REVIEW. (a) A decision by
22 a hearing officer under AS 41.17.136 or 41.17.138 or by the commis-
23 sioner under AS 41.17.082(b), 41.17.087, or 41.17.131(a) constitutes
24 final agency action that may be appealed to the superior court within
25 30 days after it is issued. Judicial review shall be as provided in
26 AS 44.62.560 and 44.62.570.

27 (b) An operator, forest landowner, or timber owner may request
28 the commissioner to reconsider the decision of a hearing officer
29 within 30 days after it is issued. Reconsideration is not a precondi-

1 tion of judicial review under (a) of this section. If reconsideration
2 is requested, the final agency action for purposes of judicial review
3 is a decision by the commissioner to affirm, modify, or reverse the
4 hearing officer or to deny the request for reconsideration.

5 (c) The commissioner may stay or modify a directive or order
6 pending administrative or judicial review. A stay or modification may
7 not be appealed separately from an appeal of the substantive decision.

8 (d) A person, except the aggrieved forest landowner, timber
9 owner, or operator, may not maintain an administrative or judicial ap-
10 peal, or other action or proceeding of any kind, challenging a deci-
11 sion or failure to act by the department with respect to the compli-
12 ance of a timber operation on private forest land with this chapter or
13 a regulation, standard, directive, or order issued under this chapter.
14 This subsection does not prohibit the maintenance of an action

15 (1) for an alleged violation of a constitutional right; or

16 (2) against the department regarding a regulation, stan-
17 dard, or systematic course of conduct that does not involve a chal-
18 lenge to, or attempt to enjoin, stay, modify, or otherwise affect a
19 timber operation on private forest land subject to this chapter.

20 * Sec. 22. AS 41.17.210(a) is amended to read:

21 (a) The governor may propose to the legislature the establish-
22 ment of state forests consisting primarily of commercially valuable
23 forest land determined by the governor to be necessary for retention
24 in state ownership for management under the principles of multiple use
25 and sustained yield and consistent with AS 38.04.005. The proposal of
26 the governor shall include a report and recommendations of the commis-
27 sioner including

28 (1) a preliminary forest inventory;

29 (2) a summary of the testimony offered at public hearings

1 held on the management of the proposed state forest in communities
2 proximately located to a proposed state forest;

3 (3) the findings of the commissioner on anticipated incom-
4 patibilities of uses described in AS 38.05.112(c) [AS 41.17.230(e)]
5 under AS 38.05.112(d) [AS 41.17.230(f)];

6 (4) written comments from appropriate state agencies on the
7 compatibility of the uses described in AS 38.05.112(c) [AS 41.17.-
8 230(e)] within the proposed state forest;

9 (5) an estimate of the cost of a full implementation of an
10 operational level forest inventory and the management plan.

11 * Sec. 23. AS 41.17.400(c) is amended to read:

12 (c) In addition to the uses described in AS 38.05.112(c)
13 [AS 41.17.230(e)], the commissioner may establish transportation
14 corridors within the Tanana Valley State Forest.

15 * Sec. 24. AS 41.17.900(b) is repealed and reenacted to read:

16 (b) For federal land,

17 (1) the degree of resource protection may not be less than
18 that established by this chapter for state land except that AS 41.17.-
19 119 establishes the minimum riparian standard;

20 (2) a timber harvest activity subject to this chapter shall
21 satisfy the requirement to be consistent to the maximum extent practi-
22 cable with the Alaska coastal zone management program if the federal
23 land management plans, guidelines, and standards applicable to that
24 timber harvest activity provide no less resource protection than the
25 standards that are established in this chapter provide for state land
26 except that

27 (A) AS 41.17.119 establishes the minimum riparian
28 standards; and

29 (B) this paragraph does not apply to a timber harvest

1 activity that requires a state or federal authorization under a
2 provision of law other than this chapter.

3 * Sec. 25. AS 41.17.900 is amended by adding new subsections to read:

4 (e) Subject to 16 U.S.C. 1456(f) (Sec. 307(f) of the Coastal
5 Zone Management Act of 1972, P.L. 92-583) as to private land, this
6 chapter and the regulations adopted under this chapter establish the
7 forest management standards, policies, and review processes under
8 AS 46.40 (Alaska Coastal Management Act). This subsection does not
9 apply to timber harvest activity that requires a state or federal
10 authorization under a provision of law other than this chapter.

11 (f) This chapter does not diminish the rights, privileges, or
12 immunities of Alaska Natives or Alaska Native corporations with re-
13 spect to land conveyed under 43 U.S.C. 1601 - 1629e (Alaska Native
14 Claims Settlement Act), and does not alter or diminish the authority
15 of the Department of Fish and Game under AS 16, of the Department of
16 Environmental Conservation under AS 46, or of a state agency under
17 other law.

18 * Sec. 26. AS 41.17 is amended by adding a new section to read:

19 Sec. 41.17.910. WILDLIFE HABITAT ON PRIVATE LAND. (a) The
20 Department of Fish and Game and the commissioner shall work coopera-
21 tively with private forest landowners and timber owners to protect,
22 maintain, and enhance wildlife habitat to the maximum extent practica-
23 ble, consistent with the interests of the owners in the use of their
24 timber resources.

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

1 (c) The Department of Fish and Game and the landowner shall
2 cooperate in identifying areas of important wildlife habitat on pri-
3 vate forest land and in developing methods for their protection.
4 Methods of protection for wildlife habitat may include, with the
5 agreement of the landowner, the purchase of fee title, purchase of
6 conservation easements, and land exchanges.

7 (d) This section does not alter or diminish the authority and
8 responsibility of the state over wildlife on private land.

9 * Sec. 27. AS 41.17.950 is repealed and reenacted to read:

10 Sec. 41.17.950. DEFINITIONS. In this chapter, unless the con-
11 text otherwise requires,

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

14 (A) is cataloged under AS 16.05.870 as important for
15 anadromous fish; or

16 (B) is not cataloged under AS 16.05.870 as important
17 for anadromous fish but has been determined by the Department of
18 Fish and Game to contain or exhibit evidence of anadromous fish
19 in which event the anadromous portion of the stream or waterway
20 extends up to the first point of physical blockage;

21 (2) "board" means the Board of Forestry established in
22 AS 41.17.041;

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

25 (A) used for silvicultural management or related
26 purposes;

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

29 (C) having a foreseeable adverse impact on the welfare

1 of renewable resources, as determined by the commissioner of
2 environmental conservation;

3 (4) "division" means the division of forestry;

4 (5) "forest land" means land stocked or having been stocked
5 with forest trees of any size and not currently developed for nonfor-
6 est use, regardless of whether presently available or accessible for
7 commercial purposes, and includes any such land under state, municipi-
8 pal, or private ownership;

9 (6) "forest landowner" means a person who owns forest land,
10 but does not include the owner of mineral or subsurface rights only;

11 (7) "high value resident fish" means resident fish popu-
12 lations that are used for recreational, personal use, commercial, or
13 subsistence purposes;

14 (8) "multiple use" means

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

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

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

1 (9) "operations" means timber harvesting or activities
2 associated with timber harvesting or forest development unless exempt-
3 ed under AS 41.17.900(a) - (c);

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

9 (11) "other public land" means state land managed by state
10 agencies other than the department, land owned by a municipality, and
11 land owned by the University of Alaska;

12 (12) "person" has the meaning given in AS 01.10.060 and also
13 includes a joint venture;

14 (13) "riparian area" means

15 (A) the areas specified in AS 41.17.116(a) on private
16 land in the coastal forest of spruce or hemlock;

17 (B) the areas specified in regulations adopted by the
18 commissioner under AS 41.17.116(b) on private land outside the
19 coastal forest of spruce or hemlock;

20 (C) the area 100 feet from the shore or bank or an
21 anadromous or high value resident fish water body on state land
22 managed by the department and on other public land;

23 (14) "significant impairment of the productivity of the land
24 and water" means an activity that may foreseeably result in prolonged
25 or substantial damage to renewable resources or prolonged or substan-
26 tial reduction of the continuing capability of the land or water to
27 produce renewable resources at their natural or historic levels;

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

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

3 (16) "state forest" means an area designated by the legis-
4 lature and retained in state ownership in order to

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

7 (B) permit a variety of beneficial uses;

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

14 (18) "timber owner" means a person who owns timber on forest
15 land or who has the rights to timber, but does not own the land it-
16 self;

17 (19) "Type A water body" means an anadromous water body that
18 is

19 (A) a stream or river of any size having an average
20 gradient of eight percent or less, with banks held in place by
21 vegetation, channels that are not incised, and a substrate com-
22 posed of rubble, gravel, sand or silt;

23 (B) wetlands and lakes, including their outlets; and

24 (C) an estuarine area delimited by the presence of
25 salt-tolerant vegetation;

26 (20) "Type B water body" means an anadromous water body that
27 is a fish stream or river of any size having an average gradient of
28 eight percent or less, a channel that is incised and contained by the
29 geomorphology and not by vegetation, and a substrate that ranges from

1 rubble to bedrock; and

2 (21) "Type C water body" means a stream that is tributary to
3 anadromous waters and that is incised greater than 28 degrees, has an
4 average gradient of greater than eight percent, is narrower than 20
5 feet between ordinary high water marks, has a substrate of rubble and
6 bedrock, and is a mountain slope stream at the upper end of the water-
7 shed.

8 * Sec. 28. LEGISLATIVE REVIEW. The legislature acknowledges and recog-
9 nizes that this Act is adopted on an interim basis because it involves a
10 significant increase in agency responsibility, is based on many untested
11 assumptions, and depends for its efficacy on many factors beyond the con-
12 trol of the state. Therefore, it is the intent of the legislature that the
13 operation of this Act and regulations adopted under this Act be fully
14 reviewed and the Act amended as necessary after the second full field
15 season ends in 1992. This period is intended to allow for further research
16 and to gain experience implementing the Act and its regulations. It is the
17 intent of the legislature that a representative group be convened for the
18 review or that it be conducted by the Board of Forestry. It is the intent
19 of the legislature that the review occur with full public input and parti-
20 cipation. No later than January 1, 1993, the Board of Forestry, the De-
21 partment of Natural Resources, the Department of Environmental Conserva-
22 tion, and the Department of Fish and Game shall submit, along with the
23 reports required by AS 41.17.047(d), any proposed amendments to this chap-
24 ter. The legislature may hold hearings to consider these or other amend-
25 ments and may take whatever action is required to accomplish the intent and
26 purposes of this Act.

27 * Sec. 29. INITIAL TERMS OF MEMBERS OF BOARD OF FORESTRY. The initial
28 terms of the members of the Board of Forestry appointed under AS 41.17.041,
29 as enacted by sec. 3 of this Act, are for two members, one year; for three

1 members, two years; and for three members, three years.

2 * Sec. 30. INTERIM RIPARIAN PROTECTION FOR THE COASTAL FOREST. A
3 notification for timber harvest activities within the coastal forest of
4 spruce or hemlock filed under AS 41.17.090 before the effective date of
5 this section shall be reviewed by the commissioner of natural resources to
6 determine if the proposed operations provide protection that is substan-
7 tially equivalent to the fish habitat protection that is provided by
8 AS 41.17.116, as enacted by sec. 14 of this Act. If the commissioner
9 determines that protection that is substantially equivalent to that provid-
10 ed by AS 41.17.116 has been offered or if the forest landowner, timber
11 owner, or operator complies with an alternate protection plan proposed by
12 the commissioner, operations covered by the notification are not subject to
13 AS 41.17.116. If the commissioner determines that the notification does
14 not provide protection that is substantially equivalent to that provided by
15 AS 41.17.116, the operator must either resubmit the notification in confor-
16 mance with this standard or comply with AS 41.17.116. The failure by the
17 commissioner to make a determination on a notification within 30 days from
18 the effective date of this section constitutes a determination that the
19 notification provides protection that is substantially equivalent to the
20 fish habitat protection that is provided by AS 41.17.116.

21 * Sec. 31. INTERIM RIPARIAN PROTECTION OUTSIDE THE COASTAL FOREST.
22 Until regulations are adopted by the commissioner of natural resources
23 under AS 41.17.116(b), as enacted by sec. 14 of this Act, timber harvest
24 operations on forest land within 100 feet from the shore or bank of an
25 anadromous or high value resident fish water body must be sited and de-
26 signed primarily to protect fish habitat and water quality.

27 * Sec. 32. AS 41.17.118, as enacted by sec. 14 of this Act, does not
28 alter the terms of an existing contract or the outcome of litigation pend-
29 ing on the effective date of this Act. An amendment to or renewal of an

1 existing state timber contract must be consistent with AS 38.05 and
2 AS 41.17.

3 * Sec. 33. AS 41.17.133, 41.17.135, 41.17.137, and 41.17.141 are re-
4 pealed.

5 * Sec. 34. AS 41.17.230(e) and 41.17.230(f) are repealed.

6 * Sec. 35. AS 41.17.010(5), as amended in sec. 2 of this Act, takes
7 effect immediately under AS 01.10.070(c).

8 * Sec. 36. Sections 1, 3 - 4, 6 - 8, 10 - 11, 13 - 14, 22 - 23, 27,
9 29 - 32, and 34 of this Act take effect immediately under AS 01.10.070(c).

10 * Sec. 37. Except as provided in secs. 35 and 36 of this Act, this Act
11 takes effect October 1, 1990.

South-Central Timber Development, Inc.

6 April 1990

Senator Rick Uehling, Co-Chairman
Senate Finance Committee
P.O. Box V
Juneau, Alaska 99811

SB 317

Dear Rick:

Re: CSSB 317 - Forest Practices Act

I have been fighting a lonely and losing battle against this great intrusion of the State of Alaska into private property.

The state forester told the Alaska Board of Forestry that enforcement would cost at least \$1.2 million per year. This expenditure is essential if the state is to busybody itself on the private forest land of Alaska. So while everybody talks about reducing the budget, this bill adds an outlay of over \$1 million annually, and involves the addition of many more "warm bodies" to the state payroll.

Some of the Native corporations owning timber have expressed themselves in favor of this because they fear the imposition of something worse from the Alaska Department of Fish and Game. Further, certain fisherman groups have been influential with the Native owners, persuading them to accept this big new dose of regulation, planning and governmental control. The truth is, the total fish take reached a record in 1989, even in the Ketchikan area where timber harvest has been intense for over 40 years. That logging is the enemy of fish is essentially a myth.

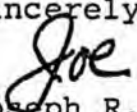
The bill represents unfounded anxiety for fish resources, and undoubtably has the hidden purpose of down playing timber harvesting, private property rights and free enterprise. Instead of Juneau's constantly discouraging industrial development, it would be a pleasant change to see some bill which actually helped people engaged in industry, creating jobs and paying taxes.

I would like to confer with you as to how to stop this onslaught.

For your information I enclose letters previously written to Senator Fahrenkamp and Representative Furnace.

With kind regards and thanks for your attention, I am,

Sincerely yours,


Joseph R. Henri
President

South-Central Timber Development, Inc.

30 March 1990

Representative Walt Furnace
P.O. Box V
Juneau, Alaska 99811

Dear Walt:

Re: H.B. 331 and S.B. 317, Forest Practices Revisions

Regarding the teleconference hearing yesterday on H.B. 331, thank you for the only bit of friendliness emitting from the Committee. Per your request, I enclose a copy of my letter to Senator Fahrenkamp dated 6 March 1990.

Walt, this is an absolutely horrible enactment. I cannot believe our legislature would seriously consider such a gross intrusion into private rights, the creation of all sorts of crimes where none previously existed, and making the Administrative Procedures Act inapplicable to proceedings under this new statute--to obtain quick and effortless dominion by the public official over the private citizen.

If the people who own a good timber tract of 40 acres or 160 acres knew what the Alaska Legislature was about to do to them, they would promptly rise up and make their complaints known. There are many hundreds of Alaskans so situated in the Kenai and Matanuska-Susitna Boroughs, among other places. If these smaller tracts of private property happen to adjoin or contain a stream, wetland or estuary, a 66' buffer on all sides is mandated. Depending on the configuration of the timbered land and the water bodies, the small property owner may end up not being able to cut any trees at all. Koncor, agreeing to this legislation, is sacrificing 1.5% of billions of board feet. The 40 acre property owner may be sacrificing 100% of his meager wealth.

The injustice of this enactment is appalling. It will just snuff out more "little guys" who have neither the wherewithal nor the stomach to appeal to the courts for redress, if any could be found there after making the effort.

I sincerely hope some way could be found to stop this avalanche of environmental despotism.

Sincerely yours,

Joe
Joseph R. Henri
President

JRH/df
Enclosure

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South-Central Timber Development, Inc.

6 March 1990

Senator Bettye M. Fahrenkamp &
Members of the Senate Resources Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fahrenkamp & Members of the Committee:

Re: S.B. 317 or H.B. 331
Forest Practices Act Revisions

This bill is an astounding attack on private property rights. It is destructive of freedom, an Alaskan's most precious right, after life itself. It materially advances state control over production and the means of production. As the long-tormented countries of Eastern Europe try to shake off socialism and restore capitalism and liberty, the state government of Alaska, imitating the U.S. federal government, is bent on an ever-expanding take over of private property rights. The state is pursuing, in Friederick Hayek's phrase, a "fatal conceit": "The government knows best." "Only the government can competently manage the resources." We have very little private land of any kind in Alaska, compared to the total acres of uplands and tidelands. The privately owned forest lands of Alaska constitute no more than perhaps five percent of the total acreage within Alaska's boundaries; this private land has been extracted from the public domain over a painstakingly long period of time, and by a very arduous course; but apparently the state government cannot bear to part with significant and thorough-going control over the small percentage of Alaska not owned by a government.

This legislation is not destined to expand Alaska's forestry economy, or even to retain the level now realized. It is regressive and punishing and tinged in totalitarianism. It creates an omnipotent state apparatus over the privately owned forest lands of our state.

The cost to the state treasury of this newest intrusion of state government into private rights and property is conservatively estimated at \$1.2 million per year. Much more could be spent on these questionable and reprehensible activities; no doubt, in future years, the agencies will require a greatly expanded budget for these good socialist works. Thus, at a time when all the political talk is about reducing state expenditures, along comes this act to spend more money; hire more government inspectors, naysayers and gumshoes; and put state spending further out of control. Is anyone serious about reducing the budget?

I was in the audience in the Capitol when the House and Senate Resources Committees held a joint hearing on the Forest Practices Amendments on 31 January 1990. Regrettably, I did not realize I had to sign up as a witness, and so missed the opportunity to give these views.

Though Mr. Sturgeon, Chairman of the Forestry Board, did not give you my name, I am the representative of the Alaska Miners Association on the Alaska Board of Forestry. The proposed legislation eliminates the Miner's slot on the Board. Mr. Steve Borell, Executive Director of the Alaska Miners, has already written to you protesting the deletion.

1. The Board: Poorly Constituted and Non-Functioning.

The Forestry Board, under the new legislation, would likely end up with a majority of anti-development forces. Only two of the six voting members would have to be connected with forestry. The peculiar consensus required for the Board to act [AS 41.17.041(c) requires near unanimity] is a special hamstringing device. Your own intimate experience with obtaining eleven votes, or twenty-one votes, is proof enough that government by consensus will not be a government of accomplishment.

2. Alaska Will Plan Forever, but Probably Never Achieve A Big Forest Products Industry.

AS 38.05.112(a) requires a site-specific forest land use plan in spite of the fact that regional or area plans have already been accomplished. The intent is for "plans, plans, plans"! Wood markets may crash before Alaska is ever ready to enter seriously into the world of timber production and manufacturing. This reluctance to act--this same propensity to plan endlessly--is also evident in the statute under which state forests are to be created [AS 41.17.200 et seq.]: Notwithstanding that land has already been classified for "forestry" under the Alaska Lands Act, upon the creation of a state forest, entirely new plans are required, no doubt in the hope that some or most of the forest land will be dedicated to other purposes. State forests are "multi-purpose." If at least two purposes must be stipulated for a particular forest area, they may be "scenic quality," and "recreation," even though the land is a "state forest."

3. A Bureaucratic Straitjacket.

Alaska forestry on state lands is put into a strait jacket in AS 38.05.113(b). The provision that a proposed sale must have been on the schedule for two full years before an actual sale can take place destroys flexibility and dynamism. In truth, the last thing either sought by the authors or to be realized from this legislation would be a dynamic forest industry in Alaska.

4. "Scenic Quality" Is a Concept Peculiar To the Eye
Of the Beholder.

AS 41.17.060(c)(6) compels the state to harvest its lands or not harvest at all, in deference to "scenic quality" in "areas of substantial importance to the tourism and recreation industry." This is an entirely subjective and maundering "standard" that will result in endless debate and delay. Is "scenic quality" the "forest primeval" or a carefully kept and supervised forest? What is an "area of substantial importance?" What is the "tourism and recreation industry?" Who is to say that tourists would not want to see some human progress and the intelligent activity of homo sapiens occurring on the forest lands of Alaska? Tourists get bored with endless miles of untouched woods.

5. Industry Will Be Suffocated By Regulations.

AS 41.17.080(d) expresses the pietistic hope that the commissioner will avoid making regulations which increase costs, but yield no benefits to public resources. The whole tenor and spirit of the legislation proposed is that timber cutting is detrimental to "public resources." Under the aura of this act the commissioner will be able to find no regulation which does not somehow benefit the public resource.

6. Statute Declares Timber Harvesting A Deleterious Activity.

As a matter of fact, under AS 41.17.115, the bill would have the State of Alaska declare by statute that timber harvest activities do, in fact, have significant adverse effects on fish habitat and water quality. This is nothing less than an outrage. In truth, timber harvest activities may benefit fish habitat and water quality.

7. The State Commands: Thou Shalt Be Naked To Thine Enemies.

If a private land owner decides to timber his land he must submit to the state government, in advance of logging, and each year thereafter, detailed plans of his proposed operations so that both the state and "members of the public who have asked to receive copies of notifications for the affected areas" can be fully informed about the private owner's business plans. Both the preservationists as well as business competitors and people bearing malice towards the applicant will have a powerful weapon to wield against this poor private land owner. Why should the State of Alaska force such public disclosure? The State bears no risk in such compulsion for disclosure, but the State certainly increases the risk of the private land owner. The total business intentions of the logger as to the entire drainage must be disclosed, for the current year and for all future years. This is communism at its best. No matter how many years contemplated operations may take, the operator must renew this plan every year. This fantastic onus should assure that a large cadre of bureaucrats will be fully employed while there are trees to cut in Alaska. "Private property" is a noun without much content at

the rate the State proposes to take away rights historically associated with private property. [AS 41.17.090 (a)]

8. The Confusion of Multiple Regulators All From The State of Alaska.

The proposed statute builds in conflict and practically assures conflict, controversy and turf battles by having two departments--two commissioners--both in charge of regulating nonpoint source pollution. Must we, with malice aforethought, make life so complicated, difficult and impossible to live? [AS 41.17.098 (c)]

9. The Act Will Drive Away New Forest Industry and Fetter What We Already Have; We Could Have a Massive Forest Products Economy.

I am told that only six or seven states in the nation have adopted a forest practices act of any sort, governing all forestry operations on private lands. Alaska was in the "vanguard" in adopting such legislation in 1978, under the sponsorship of then Representative Mike Miller of Juneau. Now, this new proposal would gild the lily and drive industry away, and it will prevent the expansion of existing industry. With energy, imagination and dedication, Alaska could attain a wood products industry with an annual value in the billions of dollars. That will take certain statutory assistance; it will take a commitment and resolve on the part of the state government and its bureaucracy. Senate Bill 317 and House Bill 331 go in the opposite direction; it's "killer legislation," and constitutes a vast harassment of the present and future industry, and an impenetrable discouragement to economic expansion.

10. This Legislation May Destroy Any Economic Activity In the Buffer Zone.

Before commencing "operations" on forest land, the operator or owner must provide the state forester with a comprehensive plan of operations. I take this legislation to mean that before someone can clear a riverside or lakeside woods for a non-timberlands use, such as a lodge or camp, the would-be developer or entrepreneur will have to first seek the permission of this state, which may never be given because of the buffer rules in this legislation.

11. Laws and Regulations Amount to Strangulation.

The additional regulations hurled upon Alaska citizens under this proposed act are heaped upon the already vast array of federal and state permits, interactions and jurisdictional overlaps already on the statute books. Even before this proposal is enacted, or if it is never enacted, the mass of permitting and regulatory interference in the natural resource industries is bewildering, appalling and in opposition to economic development and expansion. Indeed, economic activity in the resource

development field has already contracted in Alaska; we have become a highly undesirable place in which to do business.

12. Why Prefer Fish Over Timber? Timber Will Be More Valuable.

In the sections on riparian management, the rights of fish over timber are baldly enunciated. The state is making a clear and unequivocal preference for fish, though, in time, the economic value of timber can be expected to substantially exceed that of the fish affected by the riparian regime.

13. The Pillage of Private Property.

The application of these stringent water body buffer area standards to private land amounts to the pillage of Alaskans owning forests bordering on water bodies. People owning a few acres of land containing timber, if they happen to be in a riparian area, could stand to lose their right to harvest any timber whatsoever, depending on how any of the state agencies may interpret AS 41.17.117(a). It is said that some of the Alaska Native Corporations owning substantial volumes of timber under grants from the United States through ANILCA have received legal advice to the effect that the Forest Practices Act amendments affecting private property would not constitute a "taking" under the federal or state constitutions. What amounts to an illegal "taking" is being constantly litigated. Legal rulings change with changing attitudes towards socialism and capitalism. Judge Robert Bork's book, The Tempting of America, will act as a catalyst to restore devotion to private property. The U.S. Supreme Court has arrested its flirtation with totalitarian government by its pro-private property decisions in Nollan and First Evangelical Lutheran Church. Furthermore, there is no compulsion on the Alaska legislature to enact this huge attack on the rights of private property. If Alaska stands for anything, it ought to stand for individual freedom and the right to be left alone. Why must we seek to create an anti-property, socialist state in the far north?

14. Buffers Around Wetlands and Estuaries, Too.

It may be that your land is not along a river or a lake; it may border a wetland or an estuary. Nevertheless, a large buffer or ring of trees is commanded to be left standing, under penalty of \$10,000 per day fines or jail, or both.

15. The Regulations Not Yet Written May Do the Most Mischief of All.

AS 41.17.116 leaves much mischief to be done at the hands of the commissioner who will write and adjust regulations regarding private property timber. I would think if the state has decided to take away private property and private rights, it could at least do so by passing legislation. However, the regulation method can be blamed upon the work of a faceless bureaucrat, instead of an elected official. The full extent of the

devastation this bill will foist upon Alaska is as yet undisclosed.

16. The Bias Against Tree Harvesting.

In AS 41.17.116(a)(1)(D) the commissioner has the discretion to let the operator harvest timber in the buffer zone, provided that the operator leaves timber standing somewhere else; this other place does not have to be a riparian area. Why must such timber be left standing? This is one of many places reflecting the bias against timber harvesting.

17. The Dead Hand of a Rule Running for a Hundred Years.

The operating plan put upon the land prevents harvesting of timber outside an "operating area" until the "next rotation period." This latter phrase is never defined, but it could easily exceed a time span of over 100 years; apparently, the operating plan would constitute some sort of covenant running with the land. It may be that the spruce bark beetle would devour the trees the state forester would not allow to be cut, but no human being shall be so allowed under penalty of fine and imprisonment. Already, spruce under state management and control for many years has been killed by the beetle in volumes of hundreds of millions of board feet, but clearly there is more joy to the bureaucrat in lording it over human beings than over beetles. [AS 41.17.117(b)]

18. Compensation Provisions Arbitrary and Capricious.

The state forester is authorized to prevent an owner from cutting his timber even if that prevention will result in more than 5% of the basal area being left standing. The forester may do this by paying (whom?) for this timber at the "current market value"; this means "current" as of the time the operating plan is submitted and approved, but the harvest may not have occurred under the plan for another several years, which makes this cash payment provision utterly arbitrary and unfair. No one knows what the timber will be worth several years hence. [AS 41.17.117(c)(3)]

19. AS 41.17.117, the Heart of the Compromise, Is Fuzzy Obfuscatory, and the Poorest Kind of Law.

If a law drafter had deliberately attempted to make a statute's meaning fuzzy or obfuscated, he could not have done much better than Section 117. The strains of the so called "consensus" which generated this extremely critical section caused a lack of clear understanding of what the collectivity compromised upon. Is it a true compromise or is it a white washing of irreconcilable differences? And, of course, this section of the law, as a clear guide to the bureaucrats in charge of its administration, fails absolutely.

20. In State Lands, Vast Swaths of Trees Are Forbidden To Be Cut.

The state land standards differ from the private land standards; in fact, state timber north of the Alaska Range is treated differently than that south of the Range. Apparently, the environmentalists are less concerned about Interior Alaska. That is at least lucky for the Interior. In state timber the new law contemplates an absolute preference for fish and wildlife habitat over timber interests in a 600' wide riparian swath, extending the length or circumference of the water body.

21. Endless Harrassment By Multiple State Agencies.

AS 41.17.125 contains the noble invitation to all state agencies concerned to avoid duplication and inconsistency in their enforcement. Contrarily, however, all agencies keep their own rights to determine and exact remedies. Therefore, there will be little uniformity, but a great multiplicity of harassment or worse.

22. Big Penalties For All Concerned.

In the sections devising civil and criminal penalties it seems that a land owner or a timber owner can be fined or jailed if he "permits" a violation, even if the violator is a different person called an "operator." If one allows an operator to harvest trees perhaps that is "permitting a violation." This statute, obviously, would much prefer that the land owner and timber owner protect themselves by not allowing anyone to harvest timber. [AS 41.17.131]

23. An Arbitrary Hearing Procedure Lacking in Fundamental Justice.

The new hearing procedures have deleted the requirement that the hearing officer be trained in the law and admitted to its practice. [AS 41.17.139] People in the Division of Forestry will now appoint the judges in these grave judicial proceedings, but they shall not be people of the law, but rather employees of the Department of Natural Resources.

The Administrative Procedures Act of Alaska is not applicable to these kangaroo court proceedings. There is no requirement that any witness be required to give evidence under oath. The former rule that hearings be recorded has now been deleted, presumably so that the arbitrariness in these proceedings taking away one's property and one's right to operate one's business and one's right to work is hidden from view--a sort of Star Chamber approach.

24. The Delusion of No Third Party Suits.

The people in the so-called "consensus group" who believe they have obtained a great benison in AS 41.17.143(d), whereby

third parties are not allowed to file suits under the statute, are probably deluding themselves. I would think in a short time this provision will either be deleted or else found to be unconstitutional in Alaska.

25. Eliminating the Constitutional Provision of Preferences Among Beneficial Uses.

Under the definitions, the "significant impairment of productivity" rule apparently compels that Alaska land and water keep producing renewable resources at their natural or historic levels, making no provision for what Article VIII of our state constitution calls "preferences among beneficial uses." [AS 41.17.950(6) (C) and (12)]

26. A State Forest Without Timber.

The definition of a state forest never mentions trees, silviculture or forestry; it simply talks about "renewable resources" and "a variety of beneficial uses." What an utter farce! (AS 41.17.950(14))

27. No Stability, Peace or Consensus.

At the late January hearing in the capitol, a number of pro-passage witnesses testified that this new legislation would bring "stability" and "predictability." The implication is that the environmentalists and the developers will achieve a long term armistice, and enjoy years of mutual cordiality and deference. The history of the Tongass Forest legislation over the past 15 years, and the governmental activity in the Chugach National Forest utterly belie this naive contention. The legislature meets every year, and the opposing parties can be expected to seek changes favorable to themselves when the occasion arises. A new legislature is not bound by this so-called "consensus." In fact, the last section of this proposed legislation classifies the law as "interim" because it is "based on many untested assumptions." The silliest untested assumption of all is that this zombie will bring "stability" to the parties.

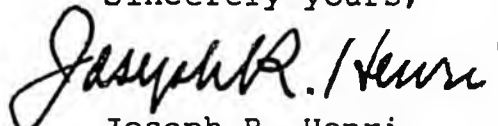
It has often been said that Alaska is a land full of rugged individualists, yet over the last 15 years we have witnessed an almost pathological quest to have government run or regulate everything. The clear implication of so much regulation is that those who own land and timber are not to be trusted with the running of their own affairs. Under the new laws and regulations, the Alaskan government will act as trustee and guardian. But it will be a bad trustee and a faithless guardian because its efforts are not to benefit the owners of the land, but rather to serve the new religion of environmentalism at the expense of the beneficiary of the trust. Alaskans are becoming wards of the state, in the worst connotation of that phrase.

In an article entitled "Profits Are For Rape and Pillage," Forbes Magazine of 5 March 1990, makes an astute observation:

At the very time when government regulation is discredited and out of favor nearly everywhere, it is making a comeback in the environmental field. Although political and economic arguments for socialism are derided around the world--and the power of the market to allocate resources intelligently is widely acclaimed--environmentalism is being used as an excuse for the government to move back into managing the minutiae of our lives.

No matter that private property rights are pushed aside or despised, no matter that the cost to the state treasury is in seven figures annually to perpetrate the violation of private property, no matter that hirelings, agents, inspectors, and gumshoes will be added to the ever-swelling ranks of the state bureaucracy, this cause of so controlling the five percent of Alaska having privately owned forests is a holy calling, a crusade, a zealot's hegira. As Robert Crandall of the Brookings Institute says, "When you're carrying out a crusade, you don't ask what's the cost of the religion."

Sincerely yours,



Joseph R. Henri
President

JRH/df

cc: Members of the House Resources Committee
Phil Holdsworth, Alaska Miners Association
Kent Dawson, Alaska Miners Association
Steve Borell, Alaska Miners Association
Becky Gay, Resource Development Council
Thyes Schaub, Alaska Loggers Assn., Juneau

Alaska State Legislature

Senate Resources Committee

Senator Bettye Fahrenkamp, Chairman
Senator Jay Kerttula, Vice Chairman
Senator Dick Eliason
Senator Steve Frank
Senator Rick Hallford
Senator Arliss Sturgulevski
Senator Fred Zhareff



P.O. Box V
Juneau, Alaska 99811
(907) 465-4907

To: Senate Resources Committee
From: Staff, Senate Resources Committee
Re: CS SB 317 (Resources) draft 3/21/90 g00529SE

CS SB 317 (Res) SB 317

Sec. 1	was Sec 1 and Sec 26 1 (d)
Sec. 2	was Sec 2 and Sec 4
Sec 3	was Sec 5
Sec 4	was Sec 7
Sec 5	was Sec 8
Sec 6	was Sec 9 and 10
Sec 7	was Sec 11 and 12
Sec 8	was Sec 13
Sec 9	was Sec 14
Sec 10	was Sec 15
Sec 11	was Sec 16
Sec 12	was Sec 17
Sec 13	was Sec 18
Sec 14	was Sec 19
Sec 15	was Sec 20
Sec 16	was Sec 21
Sec 17	was Sec 22
Sec 18	was Sec 23
Sec 19	was Sec 24
Sec 20	was Sec 24 (c)
Sec 21	was Sec 25
Sec 22	is new

*Remove
"Statewide"*

*Bob Coiselle
present 2/1/90*

95233

9 member - 15/1/90

Sec 23	is new
Sec 24 CS SB 317 (Res)	was Sec 27 SB 317
Sec 25 (e) (f)	was Sec 3 was Sec 28
Sec 26	was Sec 29
Sec 27	was Sec 30
Sec 28	was Sec 31
Sec 29	was Sec 6
Sec 30	is new
Sec 31	was Sec 19 41.17.116 (b) (in part)
Sec 32	was Sec 19 41.17.118 (3)
Sec 33	was Sec 32
Sec 34 - 37	are new

Alaska State Legislature

Senate Resources Committee

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Senator Steve Frank
Senator Rick Halford
Senator Arliss Sturgulewski
Senator Fred Zharoff



P.O. Box V
Juneau, Alaska 99811
(907) 465-4907

To: Senate Resources Committee members
From: Nancy Petersen
Staff, Senate Resources Committee
Re: CS SB 317 (Res) ~~9005295E~~
Date: March 21, 1990

Changes to the bill:

Throughout the bill meters are converted to feet.

Section 2

(6) technical change, replace [SET OUT] with establish.

Section 3

Increased the board membership to add two members:

a representative of a statewide mining organization

a representative of a statewide recreational organization

The quorum changed from five to seven.

Section 11

AS 41.17.087

(a) technical [CONSISTENT WITH AS 41.17.098]

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

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

(2) other appropriate water body types.

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

Section 13 Interagency Coordination.

(f) If a disagreement referenced in (e) exists an officer of the agency may require reevaluation of the disagreement at a higher level within the agencies, or by the Governor, if necessary, before a decision is rendered by the commissioner.

Section 14

Riparian Standards for Private Land

Previously buffers were designed on a formula which requires a 50 foot no cut zone, allowed 50 % of the next 50 foot zone to be harvested with a maximum buffer volume not exceeding 5% of the commercial timber in the watershed. The formula was dropped and a 66 foot buffer was established as follows:

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

Riparian Standards for State Land:

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

Riparian standards for other public land:

On public land other than state land, harvest of timber may not occur

(1) within 100 feet from the shore or bank of an anadromous or high value resident fish water body that is located south of the Alaska Range;

(2) within 100 feet immediately adjacent to an anadromous or high value resident fish water body north of the Alaska Range unless the commissioner determines that adequate protection remains for the fish habitat.

Section 16

Technical correction. New language reads:

(c) Each day that a violation described in this section occurs is a separate violation. The sentence is rewritten to be consistent with other penalty provisions in current law.

Section 21

Technical change:

(d) [NO] A person, except the aggrieved forest landowner, timber owner, or operator, may [NOT] not maintain an administrative or judicial appeal, or other action or proceeding of any kind, challenging a decision or failure to act by the department with respect to the compliance of a timber operation on private forest land with this chapter or a regulation, standard, directive or order issued under this chapter.

Section 22 Technical change.

This section is added to cross reference language moved to Title 38.

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 38.04.005. 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 38.05.112 (c) [AS 41.17.230 (e)] under AS 38.05.112 (d) [AS 41.17.230 (f)];
- (4) written comments from appropriate state agencies on the compatibility of the uses described in AS 38.05.112 (d) [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.

Section 23

This section is added to cross reference language moved to Title 38.

(c) In addition to the uses described in AS 38.05.112 (c) [AS 41.17.230(e)], the commissioner may establish transportation corridors within the Tanana Valley State Forest.

Section 24

(b) For federal land,

- (1) the degree of resource protection may not be less than that established by this chapter for state land except that AS 41.17.119 establishes the minimum riparian standard;
- (2) a timber harvest activity subject to this chapter shall satisfy the requirement to be consistent to the maximum extent practicable with the Alaska coastal zone management program if the federal land management plans, guidelines, and standards applicable to that timber harvest activity provide no less resource protection than the standards that are established in this chapter provide for state land except that
 - (A) AS 41.17.119 establishes the minimum riparian standards;

and

 - (B) this paragraph does not apply to a timber harvest activity that requires a state or federal authorization under a provision of law other than this chapter.

Section 25

(e) Subject to 16 U.S.C. 1456 (f) (Sec. 307 (f) of the Coastal Zone Management Act of 1972, P.L. 92-583) as to private land, this chapter and the regulations adopted under this chapter establish the forest management standards, policies, and review processes under AS 46.40 (Alaska Coastal Management Act). This subsection does not apply to timber harvest activity that requires a state or federal authorization under a provision of law other than this chapter.

Section 27 Definitions:

Definitions were added:

(1) "Anadromous" waterbody means that portion of any freshwater body, or estuarine area, that:

(A) is catalogued under AS 16.05.870 as important for anadromous fish; or

(b) is not catalogued under AS 16.05.870 as important for anadromous fish but has been determined by the Department of Fish and Game to contain or exhibit evidence of anadromous fish in which event the anadromous portion of the stream or waterway extends up to the first point of physical blockage;

(7) "high value resident fish" means resident fish populations that are used for recreational, personal use, commercial, or subsistence purposes;

Section 28 The dates were changed to add one year to reflect a two year review which was originally intended.

Section 30 Interim Riparian Protection for the Coastal Forest.

This is a new section to provide for interim riparian protection.

Section 35

Originally the bill had an effective date of January 1, 1990. Under the CS, under section 2, AS 41.17.010 (5) has an immediate effective date.

Section 36

Sections 1, 3 -4, 6 -8, 10 -11, 13 -14, 22 -23, 27, 29 -32, and 34 take effect immediately .

Section 37

And the CS provides that except for those sections listed in Sec. 35 and Sec. 36, the bill takes effect October 1, 1990.

Alaska State Legislature

Senate Resources Committee

Senator Bettye Fahrenkamp, Chairman
Senator Jay Kertula, Vice Chairman
Senator Dick Eliason
Senator Steve Frank
Senator Rick Halford
Senator Arliss Sturgulewski
Senator Fred Zharoff



P.O. Box V
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To: Senate Resources Committee

From: Nancy Petersen
Staff, Senate Resources Committee

Date: March 21, 1990 ~~900529SE~~ *CS SB 317 (Res)*
~~Senate Resources~~ *CS*

Re: SB 317, Forest Practices Act Sectional Analysis

Sec. 1. 38.05.112, Forest Land Use Plans, 5 Year Schedule
This section requires additional planning prior to state timber sales. The division of forestry must prepare a site-specific plan before all state timber sales that fully integrates appropriate resource protection measures into the sale design. This site-specific design would also improve public review of individual timber sales.

This section requires the department to annually prepare a five-year timber schedule of the proposed state timber sales. Except for small and emergency sales such as salvage, a proposed sale would be required to be on the five-year schedules for two years preceding the sale.

Sec. 2. 41.17.010, Declaration of Intent

This section coordinates overlapping agency jurisdiction regulating timber harvest activities. Regulations of the amended forest practices act will serve as timber harvest standards for non-point source pollution, with DEC as lead agency. Regulations of the amended forest practices act provide the fish and habitat protection standards except for those activities subject to AS 16.06.840 and 16.05.870.

Sec. 3 41.17.041, Board of Forestry

This section restructures and reduces the current board from a 14 member to a 9 member board. Drops U.S. Forest Service member, Society of American Foresters member, and adds a professional forester not employed by government, except the university. Drops the Alaska Logger Assn. member. The new board would consist of:

- 1) a representative of a statewide commercial fishermen's organization;
- 2) a representative of a Native corporation established under ANCSA;
- 3) a member of an environmental organization;
- 4) a representative of a forest industry trade association;
- 5) a professional fish or wildlife biologist not employed in that capacity, by government, except the university;
- 6) a professional forester not employed in that capacity by government, except the university;

- 7) a representative of a statewide mining organization;
- 8) a member of a statewide recreational organization; and
- 9) the state forester, who serves ex officio and without a vote.

Sec. 4 41.17.047, Duties of the Board

This section expands the existing duties to include providing a forum for resolving forestry issues; coordinating an annual survey of research needs; monitoring the implementation, taking public testimony statewide, reviewing and making recommendations for changes to the forest practices act. Current duties include commenting on regulations. It is intended to be a consensus decision making body.

Sec. 5 41.17.055 (d)

Establishes DEC as lead agency for water quality and control of nonpoint source pollution and the regulations adopted become the state program for control of nonpoint source pollution, subject to approval of the DEC commissioner.

Sec. 6 41.17.060 (b), State, municipal, and private forest land standards. Subsection (2) is a technical change to clarify existing law regarding environmentally sensitive areas in non-point pollution control measures. Subsection (5) Adds to the list of standards established for forest practices to include: significant adverse effects of soil erosion and mass wasting on water quality and fish habitat.

Sec. 7 41.17.060 (c) Additional standards for state and municipal forest land: Under (6) Changes the standard for scenic quality by requiring that allowance shall be made for scenic quality in or adjacent to areas of substantial importance to the tourism and recreation industry, and under (7) Adds new language that an allowance shall be made for important fish and wildlife habitat.

Sec. 8 41.17.070 (b) Changes the reporting requirement to the legislature from 2 years to annually. Requires the department to record decisions made under the act for use by the public and state agencies in assessing the effectiveness of implementation of the act.

Section 9 41.17.080

Expands the list of regulations the commissioner may adopt regarding forest practices to include all phases of timber harvest and to make appropriate distinctions between public and private land; and directs the commissioner to only adopt those regulations that yield significant benefits to public resources.

Section 10 41.17.082, Control of Infestations and Disease.

Adds a new section to require the commissioner to take action to control forest infestation and disease outbreaks that threaten forest resources. It establishes the procedures for remedy of creating such conditions to include requirements for removing the conditions at the owner's expense. It establishes authority, under non-compliance, for the commissioner to enter onto the land and

take necessary action. And authority to undertake surveys to obtain data on regional insect infestation.

Section 11 41.17.087, Variation from requirements.

Adds a new section that allows a landowner or operator variation from requirements or regulations under this chapter on a site-specific basis. The commissioner shall adopt regulations that specify the standards under which a variation will be granted for harvesting timber within the riparian area.

Sec. 12 41.17.090 Notification of Plans to Harvest Timber.

This section provides an improved process for efficient and detailed review of timber harvest plans which allows the timber industry to respond to changing timber markets but ensures that harvest operations conform to forest practices standards and regulations. It allows forest landowners and operators to file a voluntary plan of operations for long term plans for timber harvesting in order to give the public an opportunity to review plans and establishes that unless a stop work order is issued, the operations may begin under the plan after 30 days, or within the time period upon notice that the review is completed. It allows for a onetime 10 day extension for the agency review.

Subsection (f) establishes a field inspection when necessary to determine consistency of the detailed plan of operations upon notification to the operator and that the scope shall be limited to the minimum area necessary to determine compliance with this chapter. The operator shall inform the state forester when the site is available for inspection. If not conducted within 21 days, or unless otherwise agreed upon by the operator and state forester, operations may begin. Subsection (g) allows for modifications to accommodate comments without requiring the operator to resubmit the plan.

Sec. 13 41.17.098, Inter-agency Coordination.

Since there is an overlapping agency expertise for issues concerning timber harvest, this section provides coordination mechanisms for DNR, F&G and DEC. It retains DNR as the lead agency but ensures that the appropriate agency expertise from F&G and DEC is included for issues that directly are within their expertise. Adds a new section which requires the DNR commissioner to coordinate with other agencies that have jurisdiction over activities subject to forest practices and affected coastal districts.

Sec. 14 41.17.115, Intent for Riparian Areas.

→ Private Lands:

Along Type A water body, 66 feet no cut zone

Along Type B water body, 100 foot conditional harvest zone, in compliance with slope stability standards

Along Type C water body, 50 foot conditional harvest in compliance with slope stability standards

→ State Land: North of the Alaska Range:

On anadromous or high value resident fish water body:

100 foot no cut zone, unless the division determines adequate protection for the fish habitat remains.

→ State Land: South of the Alaska Range:

On anadromous or high value resident fish water body:

100 foot no cut zone

100 - 300 foot conditional harvest zone, consistent with the maintenance of important fish and wildlife habitat.

→ Other Public Land: North of the Alaska Range::

On anadromous or high value resident fish water body:

100 foot no cut zone, unless the commissioner determines that adequate protection remains for fish habitat.

Other Public Land: South of the Alaska Range:

100 foot no cut zone subject to variance procedures.

Sec. 16:, 41.17.131, Penalties

This section streamlines existing procedures for levying civil penalties of up to \$10,000 per violation and adds additional authority to allow the state to issue citations for a class A misdemeanor for violations of this act.

Sec. 17, Directives

This section provides that DNR may issue enforceable, written orders directing that timber operations that violate or would violate this act or its regulations be changed. These directives may be written as part of the DNR office or field review of private timber operations as provided under Section 12 of the act. Directives may be appealed and operations may continue pending the outcome of the appeal.

Sec. 18, Stop Work Orders

This section provides that DNR may issue Stop Work orders if the forester determines a violation of the act or its regulation is occurring, or is likely to occur, and that significant harm to public resources will result if work is not halted. A stop-work order may be written as part of the DNR office or field review of private timber operations as provided under Section 12 of this act. Stop-work orders may be appealed, but the operation must stop pending the outcome of the appeal.

Section 19, and 20 Hearing Procedures. This section amends the hearing process by deleting the requirement that hearings be held before a lawyer appointed by the attorney general. Under the new process hearing officers may be an employee of the department. The new process should be less costly for the department and more efficient for both the landowner and the department.

Sec. 21, Appeals and Judicial Review

This section provides appeal procedures from DNR department decisions. It also provides that parties other than an aggrieved forest landowner, timber owner, or operator may not receive judicial review of individual timber harvest decisions. Third parties may, however, seek judicial review of regulations or of a systematic error in DNR decisions.

Sec. 22, 41.17.210 (a), and Sec. 23, 41.17.400 (c):

Technical amendments which cite title 38. Sections 41.17.230 (e) and (f) were moved under AS 38.05.112 (c). These sections were more appropriate to public lands.

Sec. 24 41.17.900 (b) Federal lands standard.

This section would require that the degree of resource protection may not be less than that established for state lands, and be consistent with the Alaska Coastal Management Program, except that minimum riparian standards are established under 41.17.119 (other public lands). Activities that require state or federal authorization under other laws are subject to the routine Alaska Coastal Management Program (ACMP) standards and procedures.

Sec. 25 41.17.900 (e) Private lands standard.

This section establishes that the amended forest practices act will serve as the Alaska Coastal Management Program for harvest activities on private lands.

Sec. 26

This section provides that state agencies and private landowners will establish cooperative, voluntary processes for protection of wildlife habitat on private land.

Sec. 27

This section provides definitions.

Sec. 28

This section provides for legislative review.

Sec. 29

This section provides for the initial terms of members of the Board of Forestry.

Sec. 30

This section provides for interim riparian protection for the coastal forest. Notification filed prior to the effective date of this section shall be reviewed by the commissioner to determine if the proposed operations provide protection that is substantially equivalent to the fish habitat protection that is provided under 41.17.116 (private lands). If not, the operator shall comply. If the operator has not received notification within 30 days, the plan is considered substantially equivalent to the fish habitat protection under 41.17.116.

Sec. 31

Provides interim protection for riparian protection outside the coastal forest. Timber harvest within 100 feet from the shore or bank of an anadromous or high value resident fish water body must be sited and designed to protect fish habitat and water quality.

Sec. 32

Provides that existing contracts or pending litigation are not altered by the act.

Sec. 33

Repeals 41.17.133, 41.17.135, 41.17.137, and 41.17.141.

Sec. 34. Repeals 41.17.230 (e) and 41.17.230 (f) as those sections were moved to Title 38.

Sec. 35. 41.17.010 (5) becomes effective immediately.

Sec. 36. Provides an immediate effective date for those sections affected.

Sec. 37. Provides for an immediate effective date for all other sections.

South-Central Timber Development, Inc.

6 April 1990

Senator Rick Uehling, Co-Chairman
Senate Finance Committee
P.O. Box V
Juneau, Alaska 99811

Dear Rick:

Re: CSSB 317 - Forest Practices Act

I have been fighting a lonely and losing battle against this great intrusion of the State of Alaska into private property.

The state forester told the Alaska Board of Forestry that enforcement would cost at least \$1.2 million per year. This expenditure is essential if the state is to busybody itself on the private forest land of Alaska. So while everybody talks about reducing the budget, this bill adds an outlay of over \$1 million annually, and involves the addition of many more "warm bodies" to the state payroll.

Some of the Native corporations owning timber have expressed themselves in favor of this because they fear the imposition of something worse from the Alaska Department of Fish and Game. Further, certain fisherman groups have been influential with the Native owners, persuading them to accept this big new dose of regulation, planning and governmental control. The truth is, the total fish take reached a record in 1989, even in the Ketchikan area where timber harvest has been intense for over 40 years. That logging is the enemy of fish is essentially a myth.

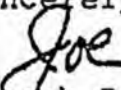
The bill represents unfounded anxiety for fish resources, and undoubtably has the hidden purpose of down playing timber harvesting, private property rights and free enterprise. Instead of Juneau's constantly discouraging industrial development, it would be a pleasant change to see some bill which actually helped people engaged in industry, creating jobs and paying taxes.

I would like to confer with you as to how to stop this onslaught.

For your information I enclose letters previously written to Senator Fahrenkamp and Representative Furnace.

With kind regards and thanks for your attention, I am,

Sincerely yours,


Joseph R. Henri
President

255 EAST FIREWEED LANE
SUITE 104
JRH/df

ANCHORAGE, ALASKA 99503

TELEPHONE: 279-1493
TELEX 090 26-246
CABLE ADDRESS: SCTDANC

South-Central Timber Development, Inc.

30 March 1990

Representative Walt Furnace
P.O. Box. V
Juneau, Alaska 99811

Dear Walt:

Re: H.B. 331 and S.B. 317, Forest Practices Revisions

Regarding the teleconference hearing yesterday on H.B. 331, thank you for the only bit of friendliness emitting from the Committee. Per your request, I enclose a copy of my letter to Senator Fahrenkamp dated 5 March 1990.

Walt, this is an absolutely horrible enactment. I cannot believe our legislature would seriously consider such a gross intrusion into private rights, the creation of all sorts of crimes where none previously existed, and making the Administrative Procedures Act inapplicable to proceedings under this new statute--to obtain quick and effortless dominion by the public official over the private citizen.

If the people who own a good timber tract of 40 acres or 150 acres knew what the Alaska Legislature was about to do to them, they would promptly rise up and make their complaints known. There are many hundreds of Alaskans so situated in the Kenai and Matanuska-Susitna Boroughs, among other places. If these smaller tracts of private property happen to adjoin or contain a stream, wetland or estuary, a 66' buffer on all sides is mandated. Depending on the configuration of the timbered land and the water bodies, the small property owner may end up not being able to cut any trees at all. Koncor, agreeing to this legislation, is sacrificing 1.5% of billions of board feet. The 40 acre property owner may be sacrificing 100% of his meager wealth.

The injustice of this enactment is appalling. It will just snuff out more "little guys" who have neither the wherewithal nor the stomach to appeal to the courts for redress, if any could be found there after making the effort.

I sincerely hope some way could be found to stop this avalanche of environmental despotism.

Sincerely yours,

Joe
Joseph R. Henri
President

JRH/df
Enclosure

255 EAST FIREWEED LANE
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South-Central Timber Development, Inc.

6 March 1990

Senator Bettye M. Fahrenkamp &
Members of the Senate Resources Committee
P.O. Box V
Juneau, Alaska 99811

Dear Senator Fahrenkamp & Members of the Committee:

Re: S.B. 317 or H.B. 331
Forest Practices Act Revisions

This bill is an astounding attack on private property rights. It is destructive of freedom, an Alaskan's most precious right, after life itself. It materially advances state control over production and the means of production. As the long-tormented countries of Eastern Europe try to shake off socialism and restore capitalism and liberty, the state government of Alaska, imitating the U.S. federal government, is bent on an ever-expanding take over of private property rights. The state is pursuing, in Friederick Hayek's phrase, a "fatal conceit": "The government knows best." "Only the government can competently manage the resources." We have very little private land of any kind in Alaska, compared to the total acres of uplands and tidelands. The privately owned forest lands of Alaska constitute no more than perhaps five percent of the total acreage within Alaska's boundaries; this private land has been extracted from the public domain over a painstakingly long period of time, and by a very arduous course; but apparently the state government cannot bear to part with significant and thorough-going control over the small percentage of Alaska not owned by a government.

This legislation is not destined to expand Alaska's forestry economy, or even to retain the level now realized. It is regressive and punishing and tinged in totalitarianism. It creates an omnipotent state apparatus over the privately owned forest lands of our state.

The cost to the state treasury of this newest intrusion of state government into private rights and property is conservatively estimated at \$1.2 million per year. Much more could be spent on these questionable and reprehensible activities; no doubt, in future years, the agencies will require a greatly expanded budget for these good socialist works. Thus, at a time when all the political talk is about reducing state expenditures, along comes this act to spend more money; hire more government inspectors, naysayers and gumshoes; and put state spending further out of control. Is anyone serious about reducing the budget?

255 EAST FIREWEED LANE
SUITE 104

ANCHORAGE, ALASKA 99503

TELEPHONE: 279-1493
TELEX 090 25-246
CABLE ADDRESS: SCTDANC

PO 4

04.06.90 03:01PM *SCTD 907-279-1493

I was in the audience in the Capitol when the House and Senate Resources Committees held a joint hearing on the Forest Practices Amendments on 31 January 1990. Regrettably, I did not realize I had to sign up as a witness, and so missed the opportunity to give these views.

Though Mr. Sturgeon, Chairman of the Forestry Board, did not give you my name, I am the representative of the Alaska Miners Association on the Alaska Board of Forestry. The proposed legislation eliminates the Miner's slot on the Board. Mr. Steve Borell, Executive Director of the Alaska Miners, has already written to you protesting the deletion.

1. The Board: Poorly Constituted and Non-Functioning.

The Forestry Board, under the new legislation, would likely end up with a majority of anti-development forces. Only two of the six voting members would have to be connected with forestry. The peculiar consensus required for the Board to act [AS 41.17.041(c) requires near unanimity] is a special hamstringing device. Your own intimate experience with obtaining eleven votes, or twenty-one votes, is proof enough that government by consensus will not be a government of accomplishment.

2. Alaska Will Plan Forever, but Probably Never Achieve A Big Forest Products Industry.

AS 38.05.112(a) requires a site-specific forest land use plan in spite of the fact that regional or area plans have already been accomplished. The intent is for "plans, plans, plans"! Wood markets may crash before Alaska is ever ready to enter seriously into the world of timber production and manufacturing. This reluctance to act--this same propensity to plan endlessly--is also evident in the statute under which state forests are to be created [AS 41.17.200 et seq.]: Notwithstanding that land has already been classified for "forestry" under the Alaska Lands Act, upon the creation of a state forest, entirely new plans are required, no doubt in the hope that some or most of the forest land will be dedicated to other purposes. State forests are "multi-purpose." If at least two purposes must be stipulated for a particular forest area, they may be "scenic quality," and "recreation," even though the land is a "state forest."

3. A Bureaucratic Straitjacket.

Alaska forestry on state lands is put into a strait jacket in AS 38.05.113(b). The provision that a proposed sale must have been on the schedule for two full years before an actual sale can take place destroys flexibility and dynamism. In truth, the last thing either sought by the authors or to be realized from this legislation would be a dynamic forest industry in Alaska.

4. "Scenic Quality" Is a Concept Peculiar To the Eye Of the Beholder.

AS 41.17.060(c)(6) compels the state to harvest its lands or not harvest at all, in deference to "scenic quality" in "areas of substantial importance to the tourism and recreation industry." This is an entirely subjective and maundering "standard" that will result in endless debate and delay. Is "scenic quality" the "forest primeval" or a carefully kept and supervised forest? What is an "area of substantial importance?" What is the "tourism and recreation industry?" Who is to say that tourists would not want to see some human progress and the intelligent activity of homo sapiens occurring on the forest lands of Alaska? Tourists get bored with endless miles of untouched woods.

5. Industry Will Be Suffocated By Regulations.

AS 41.17.080(d) expresses the pietistic hope that the commissioner will avoid making regulations which increase costs, but yield no benefits to public resources. The whole tenor and spirit of the legislation proposed is that timber cutting is detrimental to "public resources." Under the aura of this act the commissioner will be able to find no regulation which does not somehow benefit the public resource.

6. Statute Declares Timber Harvesting A Deleterious Activity.

As a matter of fact, under AS 41.17.115, the bill would have the State of Alaska declare by statute that timber harvest activities do, in fact, have significant adverse effects on fish habitat and water quality. This is nothing less than an outrage. In truth, timber harvest activities may benefit fish habitat and water quality.

7. The State Commands: Thou Shalt Be Naked To Thine Enemies.

If a private land owner decides to timber his land he must submit to the state government, in advance of logging, and each year thereafter, detailed plans of his proposed operations so that both the state and "members of the public who have asked to receive copies of notifications for the affected areas" can be fully informed about the private owner's business plans. Both the preservationists as well as business competitors and people bearing malice towards the applicant will have a powerful weapon to wield against this poor private land owner. Why should the State of Alaska force such public disclosure? The State bears no risk in such compulsion for disclosure, but the State certainly increases the risk of the private land owner. The total business intentions of the logger as to the entire drainage must be disclosed, for the current year and for all future years. This is communism at its best. No matter how many years contemplated operations may take, the operator must renew this plan every year. This fantastic onus should assure that a large cadre of bureaucrats will be fully employed while there are trees to cut in Alaska. "Private property" is a noun without much content at

the rate the State proposes to take away rights historically associated with private property. [AS 41.17.090(a)]

8. The Confusion of Multiple Regulators All From The State of Alaska.

The proposed statute builds in conflict and practically assures conflict, controversy and turf battles by having two departments--two commissioners--both in charge of regulating nonpoint source pollution. Must we, with malice aforethought, make life so complicated, difficult and impossible to live? [AS 41.17.098(c)]

9. The Act Will Drive Away New Forest Industry and Fetter What We Already Have; We Could Have a Massive Forest Products Economy.

I am told that only six or seven states in the nation have adopted a forest practices act of any sort, governing all forestry operations on private lands. Alaska was in the "vanguard" in adopting such legislation in 1978, under the sponsorship of then Representative Mike Miller of Juneau. Now, this new proposal would gild the lily and drive industry away, and it will prevent the expansion of existing industry. With energy, imagination and dedication, Alaska could attain a wood products industry with an annual value in the billions of dollars. That will take certain statutory assistance; it will take a commitment and resolve on the part of the state government and its bureaucracy. Senate Bill 317 and House Bill 331 go in the opposite direction; it's "killer legislation," and constitutes a vast harassment of the present and future industry, and an impenetrable discouragement to economic expansion.

10. This Legislation May Destroy Any Economic Activity In the Buffer Zone.

Before commencing "operations" on forest land, the operator or owner must provide the state forester with a comprehensive plan of operations. I take this legislation to mean that before someone can clear a riverside or lakeside woods for a non-timberlands use, such as a lodge or camp, the would-be developer or entrepreneur will have to first seek the permission of this state, which may never be given because of the buffer rules in this legislation.

11. Laws and Regulations Amount to Strangulation.

The additional regulations hurled upon Alaska citizens under this proposed act are heaped upon the already vast array of federal and state permits, interactions and jurisdictional overlaps already on the statute books. Even before this proposal is enacted, or if it is never enacted, the mass of permitting and regulatory interference in the natural resource industries is bewildering, appalling and in opposition to economic development and expansion. Indeed, economic activity in the resource

development field has already contracted in Alaska; we have become a highly undesirable place in which to do business.

12. Why Prefer Fish Over Timber? Timber Will Be More Valuable.

In the sections on riparian management, the rights of fish over timber are baldly enunciated. The state is making a clear and unequivocal preference for fish, though, in time, the economic value of timber can be expected to substantially exceed that of the fish affected by the riparian regime.

13. The Pillage of Private Property.

The application of these stringent water body buffer area standards to private land amounts to the pillage of Alaskans owning forests bordering on water bodies. People owning a few acres of land containing timber, if they happen to be in a riparian area, could stand to lose their right to harvest any timber whatsoever, depending on how any of the state agencies may interpret AS 41.17.117(a). It is said that some of the Alaska Native Corporations owning substantial volumes of timber under grants from the United States through ANILCA have received legal advice to the effect that the Forest Practices Act amendments affecting private property would not constitute a "taking" under the federal or state constitutions. What amounts to an illegal "taking" is being constantly litigated. Legal rulings change with changing attitudes towards socialism and capitalism. Judge Robert Bork's book, The Tempting of America, will act as a catalyst to restore devotion to private property. The U.S. Supreme Court has arrested its flirtation with totalitarian government by its pro-private property decisions in Nollan and First Evangelical Lutheran Church. Furthermore, there is no compulsion on the Alaska legislature to enact this huge attack on the rights of private property. If Alaska stands for anything, it ought to stand for individual freedom and the right to be left alone. Why must we seek to create an anti-property, socialist state in the far north?

14. Buffers Around Wetlands and Estuaries, Too.

It may be that your land is not along a river or a lake; it may border a wetland or an estuary. Nevertheless, a large buffer or ring of trees is commanded to be left standing, under penalty of \$10,000 per day fines or jail, or both.

15. The Regulations Not Yet Written May Do the Most Mischief of All.

AS 41.17.116 leaves much mischief to be done at the hands of the commissioner who will write and adjust regulations regarding private property timber. I would think if the state has decided to take away private property and private rights, it could at least do so by passing legislation. However, the regulation method can be blamed upon the work of a faceless bureaucrat, instead of an elected official. The full extent of the

devastation this bill will foist upon Alaska is as yet undisclosed.

16. The Bias Against Tree Harvesting.

In AS 41.17.116(a)(1)(D) the commissioner has the discretion to let the operator harvest timber in the buffer zone, provided that the operator leaves timber standing somewhere else; this other place does not have to be a riparian area. Why must such timber be left standing? This is one of many places reflecting the bias against timber harvesting.

17. The Dead Hand of a Rule Running for a Hundred Years.

The operating plan put upon the land prevents harvesting of timber outside an "operating area" until the "next rotation period." This latter phrase is never defined, but it could easily exceed a time span of over 100 years; apparently, the operating plan would constitute some sort of covenant running with the land. It may be that the spruce bark beetle would devour the trees the state forester would not allow to be cut, but no human being shall be so allowed under penalty of fine and imprisonment. Already, spruce under state management and control for many years has been killed by the beetle in volumes of hundreds of millions of board feet, but clearly there is more joy to the bureaucrat in lording it over human beings than over beetles. [AS 41.17.117(b)]

18. Compensation Provisions Arbitrary and Capricious.

The state forester is authorized to prevent an owner from cutting his timber even if that prevention will result in more than 5% of the basal area being left standing. The forester may do this by paying (whom?) for this timber at the "current market value"; this means "current" as of the time the operating plan is submitted and approved, but the harvest may not have occurred under the plan for another several years, which makes this cash payment provision utterly arbitrary and unfair. No one knows what the timber will be worth several years hence. [AS 41.17.117(c)(3)]

19. AS 41.17.117, the Heart of the Compromise, Is Fuzzy Obfuscatory, and the Poorest Kind of Law.

If a law drafter had deliberately attempted to make a statute's meaning fuzzy or obfuscated, he could not have done much better than Section 117. The strains of the so called "consensus" which generated this extremely critical section caused a lack of clear understanding of what the collectivity compromised upon. Is it a true compromise or is it a white washing of irreconcilable differences? And, of course, this section of the law, as a clear guide to the bureaucrats in charge of its administration, fails absolutely.

20. In State Lands, Vast Swaths of Trees Are Forbidden To Be Cut.

The state land standards differ from the private land standards; in fact, state timber north of the Alaska Range is treated differently than that south of the Range. Apparently, the environmentalists are less concerned about Interior Alaska. That is at least lucky for the Interior. In state timber the new law contemplates an absolute preference for fish and wildlife habitat over timber interests in a 500' wide riparian swath, extending the length or circumference of the water body.

21. Endless Harrassment By Multiple State Agencies.

AS 41.17.125 contains the noble invitation to all state agencies concerned to avoid duplication and inconsistency in their enforcement. Contrarily, however, all agencies keep their own rights to determine and exact remedies. Therefore, there will be little uniformity, but a great multiplicity of harassment or worse.

22. Big Penalties For All Concerned.

In the sections devising civil and criminal penalties it seems that a land owner or a timber owner can be fined or jailed if he "permits" a violation, even if the violator is a different person called an "operator." If one allows an operator to harvest trees perhaps that is "permitting a violation." This statute, obviously, would much prefer that the land owner and timber owner protect themselves by not allowing anyone to harvest timber. [AS 41.17.131]

23. An Arbitrary Hearing Procedure Lacking in Fundamental Justice.

The new hearing procedures have deleted the requirement that the hearing officer be trained in the law and admitted to its practice. [AS 41.17.139] People in the Division of Forestry will now appoint the judges in these grave judicial proceedings, but they shall not be people of the law, but rather employees of the Department of Natural Resources.

The Administrative Procedures Act of Alaska is not applicable to these kangaroo court proceedings. There is no requirement that any witness be required to give evidence under oath. The former rule that hearings be recorded has now been deleted, presumably so that the arbitrariness in these proceedings taking away one's property and one's right to operate one's business and one's right to work is hidden from view--a sort of Star Chamber approach.

24. The Delusion of No Third Party Suits.

The people in the so-called "consensus group" who believe they have obtained a great benison in AS 41.17.143(d), whereby

third parties are not allowed to file suits under the statute, are probably deluding themselves. I would think in a short time this provision will either be deleted or else found to be unconstitutional in Alaska.

25. Eliminating the Constitutional Provision of Preferences Among Beneficial Uses.

Under the definitions, the "significant impairment of productivity" rule apparently compels that Alaska land and water keep producing renewable resources at their natural or historic levels, making no provision for what Article VIII of our state constitution calls "preferences among beneficial uses." [AS 41.17.950(6) (C) and (12)]

26. A State Forest Without Timber.

The definition of a state forest never mentions trees, silviculture or forestry; it simply talks about "renewable resources" and "a variety of beneficial uses." What an utter farce! (AS 41.17.950(14))

27. No Stability, Peace or Consensus.

At the late January hearing in the capitol, a number of pro-passage witnesses testified that this new legislation would bring "stability" and "predictability." The implication is that the environmentalists and the developers will achieve a long term armistice, and enjoy years of mutual cordiality and deference. The history of the Tongass Forest legislation over the past 15 years, and the governmental activity in the Chugach National Forest utterly belie this naive contention. The legislature meets every year, and the opposing parties can be expected to seek changes favorable to themselves when the occasion arises. A new legislature is not bound by this so-called "consensus." In fact, the last section of this proposed legislation classifies the law as "interim" because it is "based on many untested assumptions." The silliest untested assumption of all is that this zombie will bring "stability" to the parties.

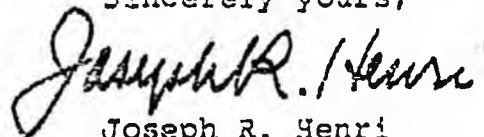
It has often been said that Alaska is a land full of rugged individualists, yet over the last 15 years we have witnessed an almost pathological quest to have government run or regulate everything. The clear implication of so much regulation is that those who own land and timber are not to be trusted with the running of their own affairs. Under the new laws and regulations, the Alaskan government will act as trustee and guardian. But it will be a bad trustee and a faithless guardian because its efforts are not to benefit the owners of the land, but rather to serve the new religion of environmentalism at the expense of the beneficiary of the trust. Alaskans are becoming wards of the state, in the worst connotation of that phrase.

In an article entitled "Profits Are For Rape and Pillage," Forbes Magazine of 5 March 1990, makes an astute observation:

At the very time when government regulation is discredited and out of favor nearly everywhere, it is making a comeback in the environmental field. Although political and economic arguments for socialism are derided around the world--and the power of the market to allocate resources intelligently is widely acclaimed--environmentalism is being used as an excuse for the government to move back into managing the minutiae of our lives.

No matter that private property rights are pushed aside or despised, no matter that the cost to the state treasury is in seven figures annually to perpetrate the violation of private property, no matter that hirelings, agents, inspectors, and gumshoes will be added to the ever-swelling ranks of the state bureaucracy, this cause of so controlling the five percent of Alaska having privately owned forests is a holy calling, a crusade, a zealot's hegira. As Robert Crandall of the Brookings Institute says, "When you're carrying out a crusade, you don't ask what's the cost of the religion."

Sincerely yours,



Joseph R. Henri
President

JRH/df

cc: Members of the House Resources Committee
Phil Holdsworth, Alaska Miners Association
Kent Dawson, Alaska Miners Association
Steve Borell, Alaska Miners Association
Becky Gay, Resource Development Council
Thyes Schaub, Alaska Loggers Assn., Juneau



TESTIMONY OF ROBERT W. LOESCHER
BEFORE THE SENATE FINANCE COMMITTEE
REGARDING CSSB 317

MY NAME IS ROBERT W. LOESCHER AND I AM SEALASKA CORPORATION'S EXECUTIVE VICE PRESIDENT OF RESOURCE MANAGEMENT. FOR THE PAST EIGHTEEN MONTHS, SEALASKA HAS BEEN EXTENSIVELY INVOLVED IN, AND A STRONG SUPPORTER OF, THE CONSENSUS PROCESS FOR REVISING OUR STATE'S FOREST PRACTICES ACT. AS A RESULT OF THE DEDICATED EFFORT OF EVERY PARTICIPANT IN THE FOREST PRACTICES STEERING COMMITTEE, YOU HAVE BEFORE YOU LEGISLATION THAT HAS BEEN AGREED TO BY A WIDE RANGE OF FOREST USERS.

THE LEGISLATION IS NOT ONLY CONSENSUS LEGISLATION, IT IS GOOD LEGISLATION. IT STRIKES A FAIR BALANCE BETWEEN THE COMPETING INTERESTS AFFECTED BY THE BILL. THE RIPARIAN PROTECTION MEASURES IN THE BILL, FOR EXAMPLE, PROVIDE ADEQUATE PROTECTION FOR FISHERIES RESOURCES. AT THE SAME TIME, THE PROVISIONS ARE SUFFICIENTLY FLEXIBLE SO AS TO ENSURE THAT THE BILL'S BUFFER ZONE REQUIREMENTS -- REQUIREMENTS THAT WILL RESULT IN SUBSTANTIAL COSTS TO INDUSTRY -- CAN BE TAILORED TO SITE SPECIFIC CONDITIONS. TO THIS END, THE

BILL PROVIDES THAT THE DEPARTMENT OF NATURAL RESOURCES, IN CONSULTATION WITH THE DEPARTMENT OF FISH AND GAME, WILL GRANT VARIANCES FROM THE LEGISLATION'S RIPARIAN REQUIREMENTS IN THOSE CASES WHERE THE COST OF LEAVING RIPARIAN TIMBER WILL NOT YIELD CORRESPONDING BENEFITS TO FISHERIES RESOURCES.

THE BALANCE STRUCK IN THE LEGISLATION, HOWEVER, CANNOT BE ACHIEVED UNLESS BOTH DNR AND ADF&G ARE GIVEN SUFFICIENT FIELD POSITIONS TO CONDUCT THE INSPECTIONS NECESSARY TO DETERMINE WHETHER THE RIPARIAN PROTECTION REQUIREMENTS SHOULD BE MODIFIED IN INDIVIDUAL CASES. THE PURPOSE OF THIS BILL IS TO TAKE FOREST PRACTICES' DECISION MAKING OUT OF THE OFFICE, AND INTO THE FIELD. THE FISCAL NOTE BEFORE YOU REPRESENTS THE MINIMUM COMMITMENT OF RESOURCES NECESSARY TO ALLOW DNR AND ADF&G TO PROPERLY TAILOR THE BILL'S RIPARIAN REQUIREMENTS TO ACTUAL FISHERIES NEEDS.

SEALASKA RECOGNIZES, OF COURSE, THE SERIOUSNESS OF ANY NEW PROGRAM EXPENDITURES IN THESE DAYS OF DWINDLING STATE REVENUES. HOWEVER, THE COST TO THE STATE OF INADEQUATELY FUNDING THIS LEGISLATION IS LIKELY TO BE SIGNIFICANTLY GREATER. IF, FOR BUDGETARY REASONS, DNR AND ADF&G ARE FORCED TO MAKE CRITICAL DECISIONS FROM A DISTANT BUREAUCRACY, THE TIMBER AND FISHING INDUSTRIES WILL BOTH SUFFER. LACKING THE ABILITY TO CONDUCT ADEQUATE FIELD INSPECTIONS WILL LIKELY RESULT IN BOTH:

1. LOST REVENUE, AND LOST JOBS IN THE TIMBER INDUSTRY AS A RESULT OF THE EXCESSIVE RETENTION OF HIGH VALUE TIMBER WITHOUT ANY CORRESPONDING ENVIRONMENTAL BENEFITS; AND

2. IMPAIRMENT OF FISHERIES RESOURCES BECAUSE OF THE AGENCY'S INABILITY TO ADDRESS THE PARTICULARIZED NEEDS OF SPECIFIC FISH HABITATS.

IN OTHER JURISDICTIONS, FOREST PRACTICES IN GENERAL, AND BUFFER ZONES IN PARTICULAR, HAVE BEEN THE SUBJECT OF HEATED CONTROVERSY. CONSIDERABLE PUBLIC RESOURCES HAVE BEEN SQUANDERED IN THE ARGUMENT ITSELF, AND A WIDE RANGE OF FOREST VALUES HAVE BEEN COMPROMISED WHILE THE DEBATE CONTINUES. IN ALASKA, WE HAVE THE OPPORTUNITY TO ACHIEVE PEACE IN THE WOODS, AND OPTIMIZE THE LONG TERM ECONOMIC VALUE OF ALL THE RESOURCES OF THE FOREST. FOR THOSE BENEFITS, THE FISCAL NOTE ATTACHED TO THIS LEGISLATION IS A RELATIVELY SMALL PRICE TO PAY.

ON BEHALF OF SEALASKA, THANK YOU FOR THE PROMPT CONSIDERATION THAT I KNOW THIS COMMITTEE WILL GIVE TO THE LEGISLATION.

Testimony of Robert G. Loiselle
For The Forest Alliance
Senate Finance Committee Hearing
SB 317
April 6, 1990
Juneau, Alaska

The Forest Alliance is a broadly constituted organization of forest land owners, manufacturers, loggers and others having commercial and professional interests in the proper management and development of forest lands. The members of the Alliance include all of the major private timber owners in the state of Alaska. The Alliance was formed in late 1989, and has undertaken the special mission of bringing the broad support of the timber industry to the Forest Practices Act, Senate Bill 317 and House Bill 331.

The bill before you has the support of major environmental, fishing, landowner, and forest industry groups, as well as that of the state resource agencies. This bill incorporates a number of carefully drawn provisions reflecting compromise on issues of great importance to the interested parties. In our view, it can establish a new framework for environmentally sound development of Alaska's forested lands. We respectfully urge you to adopt this bill without significant change.

With regard to the aspect of the bill of particular interest to this committee, we strongly urge that it be funded at the level requested in the fiscal note (\$1.2 million). While we believe that funding is an important issue to all interested parties, it is particularly critical to forest landowners and operators.

As a result of recent negotiations which finally brought all parties to agreement, a number of changes were made to the bill.

Among the more significant changes was a change in the buffer strip standard for private land. The previous system was much more complex, but provided the landowner with the certainty that no more than 5% of his timber would have to be devoted to buffer strips. The new standard, while much simpler and easier to administer, provides no such assurance. The only assurance that the landowner now has is that variances from the standard will be granted for small, low value streams.

In order to obtain these variances, it will be necessary that adequate agency field personnel are available to handle landowner requests. Beyond this extremely important function, this act will impose additional administrative, educational and enforcement requirements.

We have seen time and again that when agency and industry personnel can get together in the field, problems or potential problems are often readily resolved. This feature will be especially important in the new operating environment created by this act. This act will be impossible to properly administer without the requested funding. To pass it without funding would impose an impossible burden on all concerned, particularly on our industry, which has already sacrificed greatly to help bring this new forest practices act to fruition.

Thank you very much for this opportunity to testify. I would be happy to answer any questions you might have.

April 6, 1990

KFP
Koncor Forest Products Company

3501 Denali, Suite 202
Anchorage, Alaska 99503
(907) 562-3335 FAX (907) 562-0599

Senate Finance Committee
Alaska State Senate
Juneau, Alaska

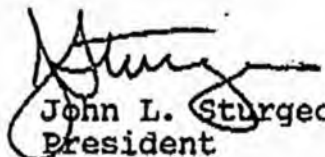
Dear Senate Finance Committee Members:

Koncor Forest Products would like to express our strong support for the \$1.2 million dollars appropriation to fund the revised Forest Practices Law. We support it for the following reasons:

- 1) To adequately enforce the laws applying to the harvesting of timber, adequate manpower is needed. Without adequate enforcement public confidence will be eroded and will eventually reduce the ability of native corporations to harvest their timber.
- 2) The funding will assure that problems are solved prior to an operation starting. Inadequate funding means Division of Forestry and Alaska Department of Fish and Game can only occasionally visit a site. When they do visit the site they will be inspecting areas that have already been harvested. This means they will be spending their limited time issuing citations rather than helping timber operators do their work properly. They will be forced to function as 'policeman' rather than professional technical advisors helping to prevent environmental damage.
- 3) If the State of Alaska truly wants to strengthen and diversify its economy it must make this kind of investment. Without adequate enforcement and government supervision of resource development, little progress can be expected. Without adequate funding the State can expect continued conflict between the pro and anti development types. This means less jobs and a smaller 'non-oil' tax base.
- 4) The Forest Practices revision was an extremely difficult compromise to secure. The funding of \$1.2 million dollars was a major component of that compromise. Without the funding there is no compromise and the bill will be endangered.

Thank you for the opportunity to express my thoughts.

Sincerely,


John L. Sturgeon
President

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: Corrected 4/19/90
CS SB 317 SFC

PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: 4/17/90 Agency Affected: DEC
 Title: Forest Resources and Practices BRU: Environmental Quality
Act
 Sponsor: Rules Committee Components: Environmental Quality
 Requestor: Senate Resources Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	164.4	164.4	164.4	164.4	164.4	164.4
TRAVEL	22.0	22.0	22.0	22.0	22.0	22.0
CONTRACTUAL	38.0	38.0	38.0	38.0	38.0	38.0
SUPPLIES	3.5	3.5	3.5	3.5	3.5	3.5
EQUIPMENT	15.1	15.1	15.1	15.1	15.1	15.1
LAND&STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	243.0	243.0	243.0	243.0	243.0	243.0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	243.0	243.0	243.0	243.0	243.0	243.0
FEDERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
OTHER	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	243.0	243.0	243.0	243.0	243.0	243.0

POSITIONS:

FULL-TIME	3.5	3.5	3.5	3.5	3.5	3.5
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

ANALYSIS ATTACHED

Prepared by: Dave Sturdevant
 Division: Environmental Quality

Phone: 465-2653
 Date: _____

Approved by Commissioner: ADKyle
 Agency: Environmental Conservation

Date: 4/17/90

Distribution (by preparer) :
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

The Department is responsible for water quality under State law and the federal Clean Water Act. The revised Forest Resources and Practices Act establishes the Department of Environmental Conservation as the lead agency for water quality and control of nonpoint source pollution in forest practices. The Forest Resources and Practices Act will establish the nonpoint source pollution control requirements under both State law and the Clean Water Act within the forest practices regulations. Major areas of involvement for the Department include:

- participation in development of Forest Practices regulations and best management practices, and approval of the regulations;
- development of a cooperative agreement among the Departments of Natural Resources, Fish and Game, and Environmental Conservation covering regulations, best management practices, permits, inspections, enforcement and training;
- development of an interagency "uniform enforcement policy;"
- review of forest plans and timber harvest contracts on State lands, and review of all plans of operation for timber harvest on private lands;
- inspection of timber harvest operations, provision of technical assistance, and enforcement activities; and
- development of cooperative efforts in water quality monitoring.

The Department presently has one FTE in Forest Practices for all of southeast Alaska, and .5 FTE for all of southcentral Alaska, both newly established in FY 90. To reasonably carry out its responsibilities under the act, the Department will require a minimum of 3.5 additional FTEs. Of these positions, .5 FTE would be added to the existing .5 FTE in southcentral Alaska. Two new positions would be established as field officers in southeast Alaska in addition to the one existing position. These three positions would be located in Ketchikan, Sitka and Juneau. One additional position would be established as the Forest Practices coordinator in the central office, Juneau. Additional contractual money (\$10.0) will be necessary with the Juneau position for support of field monitoring for water quality compliance.

<u>Position</u>	<u>100</u>	<u>200</u>	<u>300</u>	<u>400</u>	<u>500</u>	<u>Total</u>
Ecologist II	50.4	4.0	18.0	1.0	4.3	77.7
Env. Field Officer II	44.4	7.0	8.0	1.0	4.3	64.7
Env. Field Officer II	44.4	7.0	8.0	1.0	4.3	64.7
Ecologist II	25.2	4.0	4.0	0.5	2.2	35.9
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TOTALS	164.4	22.0	38.0	3.5	15.1	243.0

Position Title Ecologist II		No. of Positions 1	Range/Step 18A	Barg. Unit GGU	
Time Status Permanent FT	Staff Months 12	Location Juneau		Election District	
Type of Expenditure		Justification			
		<p>Timber harvest, roading and log transfer activities have increased dramatically in recent years on private lands, and are continuing on State and federal lands. Increased timber harvest activities bring with them increased potential for water quality impacts. The department has limited capacity to review timber harvest plans, to inspect field operations, to provide technical assistance, or to monitor water quality to ensure water quality standards are met. With passage of the revised Forest Resources and Practices Act, the Department will have an increased role in water quality protection under the Forest Practices program, including approval of the corresponding new Forest Practices regulations. This position is the central coordinator and interagency liaison for the Department's activities: revised regulations; Best Management Practices; water quality monitoring activities; application of water quality standards; uniform enforcement policy; technical training programs; cooperative agreements; and procedural matters. The position will participate in ongoing harvest activities, reviewing private plans of operation and State forest plans. The position also will serve as liaison with the U.S. Forest Service and other federal agencies, participating in similar activities to those described.</p>			
Amount					
1	2				3
Salary	\$37,356				
Benefits	13,037				
Premium Pay					
Other					
Total Personal Services					\$50,393
Travel					4,000
Contractual					18,000
Commodities					1,000
Equipment					4,300
Other					
Total Cost					\$77,693
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	\$77,693			
Gr. Program Receipts	1005				
Other					

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component EQ Projects

Page 1 of 1
 Revised Date 2/6/90

FY 91

Position Title Environmental Field Officer II			No. of Positions 1	Range/Step 16A	Barg. Unit GGU
Time Status Permanent FT	Staff Months 12		Location Ketchikan		Election District
Type of Expenditure			Amount		
1		2	3		
Salary		\$32,424			
Benefits		11,929			
Premium Pay					
Other					
Total Personal Services			\$44,353		
Travel			7,000		
Contractual			8,000		
Commodities			1,000		
Equipment			4,300		
Other					
Total Cost			\$64,653		
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004		\$64,653		
GF Program Receipts	1005				
Other					
Justification					
<p>Timber harvest, roading and log transfer activities have increased dramatically in recent years on private lands, and are continuing on State and federal lands. Increased timber harvest activities bring increased potential for water quality impacts. The Department currently has limited capacity to review timber harvest plans, to inspect field operations, to provide technical assistance, or to monitor water quality to ensure water quality standards are met. With passage of the revised Forest Resources and Practices Act, the Department will have an increased role in monitoring and enforcement of Forest Practices. This position will be based in the Ketchikan District Office and will serve that area in Forest Practices matters. This field position, plus a similar new field position in Sitka will increase the field staff in the Southeast Region to 3.0 FTEs. The position will review and comment on plans of operation, State forest plans, and federal EISs and harvest plans; review permit applications for log transfer facilities and logging camp facilities; conduct field inspections and enforcement; and conduct water quality monitoring activities.</p>					

**Request For
New Position**

Agency Environmental Conservation
 BRU Environmental Quality
 Component EQ Projects

Page 1 of 1
 Revised Date 2/8/90

FY 91

Position Title Environmental Field Officer II			No. of Positions 1	Range/Step 16A	Barg. Unit GGU
Time Status Permanent FT	Staff Months 12		Location Sitka		Election District
Type of Expenditure			Amount		
1			2		3
Salary			\$32,424		
Benefits			11,929		
Premium Pay					
Other					
Total Personal Services					\$44,353
Travel					7,000
Contractual					8,000
Commodities					1,000
Equipment					4,300
Other					
Total Cost					\$64,653
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004			\$64,653	
GF Program Receipts	1005				
Other					
Justification					
<p>Timber harvest, roading and log transfer activities have increased dramatically in recent years on private lands, and are continuing on State and federal lands. Increased timber harvest activities bring increased potential for water quality impacts. The Department currently has limited capacity to review timber harvest plans, to inspect field operations, to provide technical assistance, or to monitor water quality to ensure water quality standards are met. With passage of the revised Forest Resources and Practices Act, the Department will have an increased role in monitoring and enforcement of Forest Practices. This position will be based in the Sitka District Office and will serve that area in Forest Practices matters. This field position, plus a similar new field position in Ketchikan, will increase the field staff in the Southeast Region to 3.0 FTEs. The position will review and comment on plans of operation, State forest plans, and federal EISs and harvest plans; review permit applications for log transfer facilities and logging camp facilities; conduct field inspections and enforcement; and conduct water quality monitoring activities.</p>					

**Request For
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Position Title Ecologist II			No. of Positions 1	Range/Step 18A	Barg. Unit GGU
Time Status Permanent PT	Staff Months 6		Location Anchorage		Election District
Type of Expenditure			Amount		
1			2		3
Salary			\$18,678		
Benefits			6,519		
Premium Pay					
Other					
Total Personal Services			\$25,197		Justification Timber harvest, roading and log transfer activities have increased dramatically in recent years on private lands, and are continuing on State and federal lands. Increased timber harvest activities bring increased potential for water quality impacts. The Department currently has limited capacity to review timber harvest plans, to inspect field operations, to provide technical assistance, or to monitor water quality to ensure water quality standards are met. With passage of the revised Forest Resources and Practices Act, the Department will have an increased role in monitoring and enforcement of Forest Practices. This field position, 0.5 FTE, will increase the existing 0.5 FTE in the Anchorage office to 1.0 FTE. This position will serve the entire southcentral region in Forest Practices matters. The position will review and comment on plans of operation, State forest plans, and federal EISs and harvest plans; review permit applications for log transfer facilities and logging camp facilities; conduct field inspections and enforcement; and conduct water quality monitoring activities.
Travel			4,000		
Contractual			4,000		
Commodities			500		
Equipment			2,200		
Other					
Total Cost			\$35,897		
Funding Source for Total Cost					
Federal Receipts	1002				
G. F. Match	1003				
General Fund	1004	\$35,897			
GF Program Receipts	1005				
Other					

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