

HB

131

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

MAY 12 2002

DATE: 4/9/02

FURTHER:

DATE TURNED
IN TO OFFICE:

12 May 2002

Finance Committee considered

HOUSE BILL NO. 131

HB 131 FOREST RESOURCES & PRACTICES STANDARDS

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

and recommends:

be replaced with 5 CS CS HB 131 (FIN)

adopt previous CS CS forthcoming

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to _____ Committee

Senate Bill:
 same title
 new title
House Bill:
 same title
 technical title
 new: SCR # _____

NEW FISCAL NOTE(S):

| Department | Date | Fiscal | Zero | FN# |
|------------|------|--------|------|-----|
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PREVIOUS FISCAL NOTE(S):

| Department | Date | Fiscal | Zero | FN# |
|------------|---------|--------|------|-----|
| DNR | 1/31/02 | | ✓ | #2 |
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APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | Do PASS | Do NOT PASS | NO REC | AMEND |
|---------------------------------|---------|-------------|--------|-------|
| <i>Linda Green</i> | ✓ | | | |
| <i>Lila B...</i> | ✓ | | | |
| <i>Tom Huff</i> | ✓ | | | |
| <i>...</i> | ✓ | | | |
| <i>...</i> | ✓ | | | |
| <i>Loren D. Simon</i> | ✓ | | | |
| COCHAIR: | | | | |
| COCHAIR: <i>Pete Kelly</i> | ✓ | | | |

MAY 1 2 2002

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HB 131
 (H) Publish Date: 2/8/02
 Dept. Affected: Natural Resources
 BRU: Forestry Mgt & Develop
 Component: Forestry Mgt & Develop
 Component Number: 435

Revision Date/Time (Note if correction): 01/30/02
 Title: Forest Resources and Practices Standards
 Sponsor: Rules by Request of Governor
 Requester: (H) RES

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2003 | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2002) cost: none
 Check this box (X) if funding for this bill is included in the Governor's FY2003 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

Based on current levels of harvesting on non-state land, and current funding levels, DNR will not need additional operating funds to implement the changes in this bill. If the amount of harvesting on non-state land increases substantially, or if Forest Resources Practices Act (FRPA) funding, including federal Section 319 funding, declines significantly, additional funds would be needed for field inspections of riparian buffers. On state land, the revised riparian standards can be incorporated into the existing sale design process.

Prepared by: Jeff Jahnke, Director Phone 269-8474
 Division: Forestry Date/Time 30-Jan-02
 Approved by: Pat Pourchot Date 30-Jan-02
 Agency: Natural Resources

1 Mt. Douglas and Cape Kumliun that is east of the crest of the Aleutian Range, plus all
2 islands in the Gulf of Alaska north of 56° 23" North latitude;

3 (28) "Region II" means all land in the state south of the Nutzotin and
4 Mentasta Mountains, south of the Alaska Range, and east of the Aleutian Range,
5 except for the area within Region I and peninsular and island land south of Cape
6 Kumliun;

7 (29) "Region III" means all land in the state outside of Regions I and
8 II;

9 (30) "Type III-A water body" means in Region III, a

10 (A) non-glacial high value resident fish water body greater than
11 three feet in width at the ordinary high water mark;

12 (B) non-glacial anadromous water body; or

13 (C) backwater slough;

14 (31) "Type III-B water body" means in Region III, a glacial high value
15 resident fish water body or a glacial anadromous water body; "Type III-B water body"
16 does not include glacial backwater sloughs;

17 (32) "Type III-C water body" means in Region III, a non-glacial high
18 value resident fish water body that is less than or equal to three feet in width at the
19 ordinary high water mark (OHWM) and that does not contain anadromous fish.

20 * Sec. 11. The uncodified law of the State of Alaska is amended by adding a new section to
21 read:

22 TRANSITION: REGULATIONS. (a) To the extent that the regulations are not
23 inconsistent with the language and purposes of this Act, regulations relating to forest
24 resources and practices adopted by the Department of Natural Resources under AS 41.17 and
25 in effect before the effective date of secs. 1 - 10 of this Act remain in effect and may be
26 administered and enforced by the Department of Natural Resources.

27 (b) Notwithstanding sec. 13 of this Act, the Department of Natural Resources may
28 proceed to adopt regulations to implement this Act. The regulations take effect under
29 AS 44.62 (Administrative Procedure Act), but not before the effective date of the statutory
30 change.

31 * Sec. 12. Section 11(b) of this Act takes effect immediately under AS 01.10.070(c).

Amend #1
adopted
5/12/02

22-GH1029VA

1 * Sec. 13. Except as provided in sec. 12 of this Act, this Act takes effect September 1,
2 ~~2001~~ 2002

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Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 12 May 2002 TIME: 9:30 pm

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 1

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please
SCS CS HB 131 (FIN) 22-641029 \A
Plus 1 amendment:
Page 8, line 2
delete: 2001
insert: 2002

*Thx
Mindy*



Briefing:

HB 131 - Region III Forest Practices amendments

December 2001

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF FORESTRY

Overview. HB 131/SB 98 amends the Alaska Forest Resources and Practices Act (FRPA) for Interior Alaska (Region III). The bill sets standards for forestry activities in riparian areas. The bill ensures that Region III standards

- protect fish habitat and water quality,
- support healthy timber and fishing industries, and
- incorporate the best available science.

The bill is the product of two years of work by a broad array of interests. There is broad support for the consensus in the bill.

Applicability. In Region III, the FRPA applies to commercial forestry operations on all land ownerships where the operation borders surface waters or a riparian area, or where the operation is more than 40 acres and the landowner owns more than 160 acres in total.

Background. This bill is based on work by an interdisciplinary Science & Technical Committee and an Implementation Group that represented affected interests. The Science & Technical Committee reviewed relevant research and published an annotated bibliography of the results, drafted a stream classification system, and recommended changes to current riparian management standards. Committee members had expertise in fisheries, forestry, hydrology, and soils. Members included scientists and experienced field staff from the resource agencies, the University of Alaska, the U.S. Geological Survey, and Alaska Biological Research, Inc.

The Implementation Group discussed how to implement the recommendations of the Science and Technical Committee in a manner that works on the ground, and drafted language for changes to the FRPA and regulations. The group included representatives from the departments of Natural Resources, Fish and Game, and Environmental Conservation; private forest owners, the timber and fishing industries, and environmental groups.

The Board of Forestry reviewed and concurred with the recommendations from the Implementation Group. The recommendations were incorporated into draft legislation, which the Board endorsed. The legislation was introduced as HB 131/SB 98.

Summary of key provisions. The bill defines three types of water bodies, and sets riparian standards for each type as follows:

- On large non-glacial waters and glacial backwater sloughs (Type III-A): a no-cut buffer of 66' on private land, and 100' on public land. Harvesting can occur in the landward 33' of the buffer on public land with the concurrence of ADF&G.
- On other glacial waters (Type III-B): a 66' riparian area on private land and a 100' riparian area on public land. The half closest to the waterbody is a no-cut buffer. In the landward half, up to 50% of the large white spruce may be harvested.
- On small non-glacial waters (Type III-C, <3' wide): a 100' special management area in which harvesting may occur, but must be consistent with maintenance of important habitat.

ADF&G and DNR will do more research on this stream type to determine the extent of occurrence within commercial forests and to assess needed management measures.

The bill also

- Changes the statewide nomenclature for waterbody classes, to prevent confusion between waterbody types in different regions.
- Moves definitions of regional boundaries from the regulations to the Act.
- Makes a minor change to the regional boundary on the Kenai Peninsula to better match the difference between forest types. Most forest land in the affected area is in federal ownership, so there will be little impact on landowners.

For more information, contact:

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Chris Maisch
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3700 Airport Way
Fairbanks, AK 99709-4699
907-451-2666

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE COMMISSIONER

JOHN KNOWLES, GOVERNOR

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FAX: (907) 465-3885

550 WEST 7TH AVENUE, SUITE 1400
ANCHORAGE, ALASKA 99501-3650
PHONE: (907) 269-8431
FAX: (907) 269-8918

SECTIONAL ANALYSIS HB 131

AN ACT RELATING TO STANDARDS FOR FOREST RESOURCES AND PRACTICES

Section 1 of the bill would amend the statute that provides for variations from the riparian protection standards to correct a reference to water body type necessitated by other changes made by the bill.

Section 2 of the bill would amend AS 41.17.116 to delineate the standards for private land in Interior Alaska (designated as "Region III" under the bill), and would change the references to water bodies in the standards for Southeast Alaska and other coastal areas (designated as "Region I" under the bill) to match the new nomenclature. The proposed new standards for Interior Alaska provide that the harvest of timber may not be undertaken within 66 feet of a Type III-A water body, and may not be undertaken within 33 feet of a Type III-B water body. Limited harvest of white spruce may occur between 33 feet and 66 feet from a Type III-B water body. Along a Type III-C water body, harvest within 100 feet must protect fish habitat and surface water quality. Under the bill, the commissioner of natural resources would continue to set riparian standard for private land in other areas of the state (designated as "Region II" under the bill).

Section 3 of the bill would change the current riparian protection standards for state land by modifying the existing 100 foot "no-harvest" buffers to provide that, along Type III-A water bodies, harvest may occur from 66 to 100 feet from the water body where consistent with the maintenance of important fish and wildlife habitat; along a Type III-B water body, limited harvest of white spruce may occur between 50 and 100 feet of the water body; and along a Type III-C water body, harvest within the riparian area may occur when consistent with the maintenance of important fish and wildlife habitat.

Section 4 of the bill would provide that, in Region III, the standards for other public land are to be the same as those on state land.

Section 5 of the bill would change the current definition of "riparian area" to mean the areas that are subject to the riparian standards set in or under AS 41.17.116.

Sections 6-9 of the bill would change existing definitions to conform to the new nomenclature used to describe water bodies.

Section 10 of the bill would add 11 new definitions to the Forest Resources and Practices Act. The term "backwater slough" is defined based mostly on flow characteristics. The terms "glacial water body" and "non-glacial water body" are defined based on their receipt of significant surface flow from a glacier under normal conditions. The term "diameter at breast height" is defined in

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."

accordance with ordinary usage. The term "ordinary high water mark" is, likewise, defined in the way that hydrologists and foresters use that term. Then, the boundaries of Regions II, III, and I are defined in the statutes. These boundaries previously were defined in regulations of the Department of Natural Resources. The new boundary descriptions are simpler. They change the boundary between Region I and II on the Kenai Peninsula and along Turnagain Arm to better match the border between the coastal forest and boreal forest. Finally, Type III-A, III_B, and III_C water bodies are defined for the Interior region based on whether they provide habitat for anadromous fish and other characteristics.

Section 11 of the bill provides that existing, non-conflicting, regulations may remain in place and be implemented, and provides for the timely adoption of regulations needed to implement the changes made by the bill.

Section 12 of the bill provides an immediate effective date for the latter provision.

Section 13 of the bill provides an effective date for the remainder of the bill.

TABLE 2. Existing and Riparian management standards and changes proposed in HB 131 for Region III

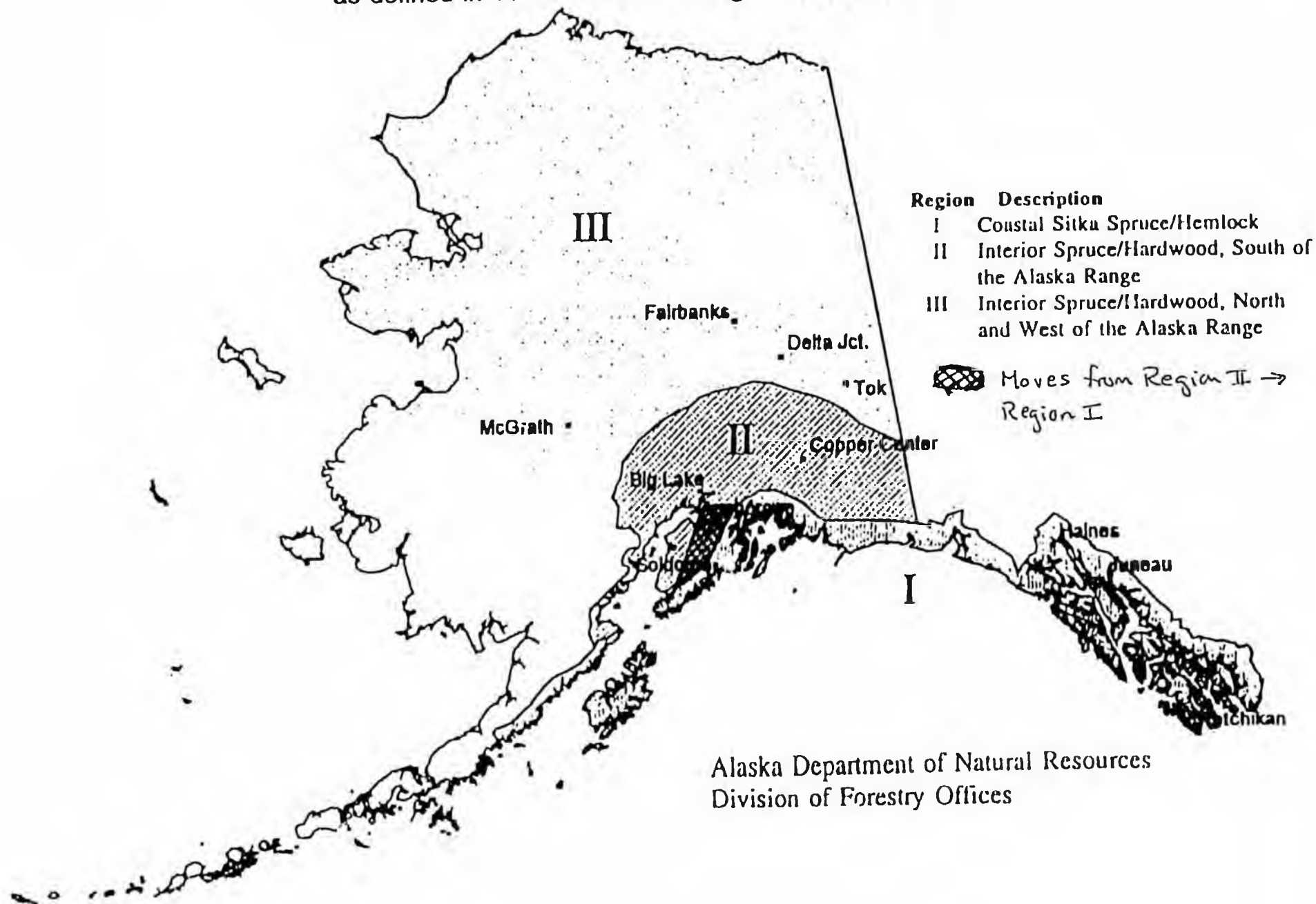
| Land Owner | Buffer |
|------------|---|
| Public | <p>Existing standard: No harvest of timber within 100' immediately adjacent to an anadromous or high value resident fish water body unless the division determines that adequate protection remains for the fish habitat. AS 41.17.118(a)(1), AS 41.17.119(2)</p> <p>HB 131: Type IIA (non-glacial waters and glacial backwater sloughs) – no harvest within 100', except that harvesting may occur between 66' and 100' with the agreement of ADF&G. Type IIIB (other glacial waters) – no harvest within 50'; up to half the large white spruce may be harvested between 50' and 100'. Type IIIC (small high value resident fish waters) -- harvest of timber within 100 feet of the water body must be consistent with the maintenance of important fish and wildlife habitat</p> |
| Private | <p>Existing standard: A timber harvest operation within 100 feet from the shore or bank of an anadromous or high-value resident fish water body must be located and designed primarily to protect fish habitat and surface water quality from significant adverse effects. 11 AAC 95.260</p> <p>HB 131: Type IIIA (non-glacial waters and glacial backwater sloughs) – no harvesting within 66' Type IIIB (other glacial waters) – no harvest within 33'; up to half of large white spruce can be harvested between 33' and 66' Type IIIC (small high value resident fish streams) -- harvest of timber within 100 feet of the water body must be located and designed primarily to protect fish habitat and surface water quality</p> |

Other changes:

- Stream classes in Region I (Coastal Alaska) are changed from "A, B,C, D" to :I-A, I-B, I-C, and I-D" to avoid confusion between regions.
- The definitions of the regional boundaries are moved from the regulations to the statute to make it easier to reference the regions in the statute.
- The boundary between Region I (Coastal Alaska) and Region II (the boreal forest south of the Alaska Range) on the Kenai Peninsula and Turnagain Arm is moved to better match the boundary between forest types in this area. The affected area is mainly federal land.

Alaska Forest Resources & Practices Regions

as defined in 11 AAC 95.800 Designation of Regions



Alaska Department of Natural Resources
Division of Forestry Offices

TONY KNOWLES
GOVERNOR

HB131

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 15, 2001

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

Alaska is recognized as a world leader in protecting the habitat and spawning capacity of anadromous and resident fish in our streams and rivers. Our Forest Resources and Practices Act establishes high standards of protection while promoting timber development.

Two years ago, the Legislature amended Alaska's Forest Resources and Practices Act (FRPA) as it applies to the Southeast region of our state. That legislation reflected consensus between the timber and fishing industries and state land management agencies. This bill I transmit today continues to improve the FRPA and its ability to protect fish habitat and water quality in a manner that supports both the timber and fishing industries. This current phase of the FRPA revision addresses management standards in interior Alaska (Region III) and, once again, represents a consensus of interested constituents.

This bill is the result of hard work by many people over the last two years. It is founded on the best science available, including an extensive review of existing research, and recommendations of an interdisciplinary science and technical committee. The committee included experienced field staff from the state resource agencies, and University of Alaska, private, and federal scientists. Their recommendations were passed on to a group that included representatives of the timber and fishing industries, Native corporations, and environmental groups. Together, they crafted language to implement the scientists' recommendations in a practical manner that will work in the field. Finally, the Board of Forestry unanimously endorsed this legislation. The result of this public effort is an amended FRPA that has support from a broad array of interest groups.

The Honorable Brian Porter
February 15, 2001
Page 2


The current interim standards for Region III were adopted in 1990. Under these standards, harvesting can occur up to the bank of anadromous waters on both public and private land under certain conditions. Under this bill, all anadromous and high-value resident fish waters are classified and riparian standards are established for each water body type. The requirements are tailored to the characteristics and fish habitat needs of each stream type. On most anadromous and high-value resident fish waters, a no-harvest buffer will be required. However, along glacial rivers where some of the most valuable timber occurs, the standards allow harvest of up to half the large white spruce in the landward half of the buffer. This lets landowners capture some of the economic value within the riparian areas while keeping enough large trees to provide appropriate habitat for fish and wildlife.

This bill has substantive changes only for riparian management standards in Region III. Other revisions are technical in nature, such as changes to the statewide nomenclature for waterbody classes to prevent confusion between waterbody types in different regions. The bill also moves definitions of regional boundaries from the regulations to the Act, and makes a minor change to the regional boundary on the Kenai Peninsula to better match the difference between forest types. Most forest land in the affected area is in federal ownership, so the change will have little impact on private landowners.

This bill helps ensure that the FRPA continues to be certified for compliance with federal Clean Water Act and coastal zone management requirements. This means that the Act keeps providing "one-stop shopping" for the timber industry with respect to state, federal and coastal management standards.

I look forward to working with you on the passage and implementation of this bill.

Sincerely,


Tony Knowles
Governor

HB131

*This bill was
not heard
on 4/17/01*

HB 131-FOREST RESOURCES & PRACTICES STANDARDS
SENATE FINANCE COMMITTEE

SIGN-IN

NAME: Jeff Johnson Subject/Bill No: HB 131
Co./Dept./Title: AK DNR Phone: 269 8474
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: Marty Freeman Subject/Bill No: HB 131
Co./Dept./Title: DNR - Forestry Phone: 269-8473
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

SENATE COMMITTEE REPORT

DATE: 2/27/02

FURTHER: Finance

DATE TURNED IN TO OFFICE: 4-8-02

Resources Committee considered HOUSE BILL NO. 131

HB 131 FOREST RESOURCES & PRACTICES STANDARDS

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

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

| Department | Date | Fiscal | Zero | FN# |
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PREVIOUS FISCAL NOTE(S):

| Department | Date | Fiscal | Zero | FN# |
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| DNR | 1-30-02 | | ✓ | 2 |
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APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | DO PASS | DO NOT PASS | NO REC | AMEND |
|---------------------------------|---------|-------------|--------|-------|
| <i>Rich Halford</i> | ✓ | | | |
| <i>Ben Stewart</i> | ✓ | | | |
| <i>Conrad Kell</i> | ✓ | | | |
| <i>R. V. ...</i> | | | | |
| | | | | |
| CHAIR: <i>[Signature]</i> | ✓ | | | |