

LEG. FINANCE - BILLS | 1977 - 1978 | 890


SB 58 thru SB 59



RECORDS CERTIFICATION



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Signature of Carrier Operator



Date

TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/~~Resolution~~ 58 Foster
 Title An Act Relating to Hydrological Data
 Requested by Governor's Office Date 1/14/77

II. FISCAL DETAIL

Agency Affected Natural Resources
 Program Category Affected NRPEC
 Budget Request Unit(s) Affected Geological & Geophysical Programs

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES		39.7	82.0	84.0		
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT		.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		40.2	82.0	84.0		

FUNDING (Thousands of Dollars)

GENERAL FUND		40.2	82.0	84.0		
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME		2	4	4		
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

The main fiscal impacts of the proposed legislation stem from personnel costs associated with developing the program, collecting data from well drillers and preparing data for storage in a computerized system. Utilization of Federal data storage systems will minimize costs associated with the State developing its own storage system. New personnel (one geological assistant and one geologist I) will collect data, prepare it for storage and interpret the data for utilization in the development of an overall water planning program. These positions plus current personnel will allow the Department of Natural Resources to process data from an estimated 6,000 wells per year.

IV. DATE 1/14/77 PREPARED BY Rose G. Schaff

AGENCY DIV. of Geological & Geophysical Surveys
 PHONE 279-1411

Original Legislative Finance
 cc Budget and Management
 Finance Specialist (and Legislator Samed)

Guy R. Martin

January 10, 1977

The Honorable John L. Pader
President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 13 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill amending the powers and duties of the Division of Geological and Geophysical Surveys of the Department of Natural Resources by transferring with only a minor change some overlapping and long dormant powers and duties of the Department of Health and Social Services.

Presently AS 41.03 requires the state geologist to conduct geological and geophysical surveys to determine the locations and supplies of ground waters and to print and publish special and topical reports, and authorizes him to enter into cooperative agreements to perform surveys, studies, and investigations. On the other hand, AS 41.05.010 - 41.05.030 declares hydrologic data to be of public interest and grants to the Department of Health and Social Services the powers and duties of collection, recording, evaluation, distribution, and publication of data on water of the state and authorizes the adoption of regulations to achieve those objectives. The disassociation of the duties affected and of surface and ground water studies, investigations, data, and surveys is neither logical nor desirable. The Division of Geological and Geophysical Surveys is the most logical agency to accomplish the objectives and to render these beneficial services to the public in the most capable manner.

The only proposed change made in the transferred powers is the addition of the power to require all water well drillers to file basic water and aquifer data to the existing power to require the filing of water survey results. The reason for this change is that much water well drilling takes place which is not part of water surveys and in areas which have never been the subject of water surveys. Basic data from such drilling is necessary to construct a true and complete picture of the state's water resources.

The transfer and minor expansion of these powers and duties is therefore requested at this time by repealing AS 41.05.010 - 41.05.030 and amending AS 41.08.

Sincerely,

Jay S. Hammond
Governor

~~MEMORANDUM~~

U

TO: Jay S. Hammond, Governor
State of Alaska

RP 77-156

DATE: September 17, 1976

FROM: Ronald B. Lind, Director
Division of Budget and Management
Office of the Governor

SUBJECT: Department of Environmental Conservation
Request to Receive and Expend \$52,000
Additional Federal Funds

The Department of Environmental Conservation requests authority to receive \$52,000 additional federal funds from the Environmental Protection Agency.

The Federal Safe Drinking Water Act establishes a major new program to assure that public water suppliers provide safe water to their customers. In Alaska a number of water supplies have been found to be either biologically or chemically unsafe. The recent discovery of arsenic in the water supplies of the Fairbanks and Kenai area together with the finding of biologically impure water in Cordova's emergency water supply and in those of various trailer parks, subdivisions etc. around the state attest to the need to inventory and monitor public water supplies. These funds will be utilized to establish the necessary field, laboratory and central office staff to implement this program. These funds are in addition to \$290,400 already received from the EPA for this program, which is included in the FY 77 budget.

Your approval is recommended in accordance with the provisions of SIA 1976, Chapter 279, Section 12.

Ronald B. Lind for

Ronald B. Lind, Director
Division of Budget & Management
Office of the Governor

Approved this 17 day of Sept., 1976

Jay S. Hammond
Jay S. Hammond, Governor
State of Alaska

Edna D. ...
Legislative Budget & Audit Committee
Date: 9/23/76

John Scrivner 3-25-77

*Water Supply Grant to coordinate internal
Data Management*

*Annual Program Grant - EC needs to
develop regulations otherwise Feds will
take over program*

60656-705363129577

TO: Jay S. Hammond, Governor
State of Alaska

RP 77-156 (G)

DATE October 5, 1976

FROM: Ronald B. Lind, Director
Division of Budget and Management
Office of the Governor

SUBJECT: Department of Environmental Conservation,
Request to Establish Three Permanent
Full Time Positions and One Permanent
Part Time Position

The Department of Environmental Conservation request authority to establish the following permanent full time positions: Environmental Research Analyst II, Environmental Research Engineer III, Clerk Typist III, and Public Participation Specialist (Permanent Part Time).

The funding source for these positions are the Safe Drinking Water Supply Grant (RP 77-156), The positions will be deleted September 30, 1977 unless additional funding is received.

The Environmental Research Analyst II (RP 77-154 and 77-156) will manage information resulting from sanitary survey inspections, water system inventories, and village sanitation facility inventories. Also, this position will act as the interface between water supply managers and village safe water managers, and computer data handling storage facilities.

The Environmental Engineer III will coordinate implementation of HB 407, the Water and Wastewater Operator Certification and Training Program.

The Clerk Typist III will insure water quality management planning and implementation conducted by local units of government are coordinated and consistent with the statewide plan.

The Public Participation Specialist (Permanent Part Time) will conduct public participation programs. Current State policy and federal government regulations require emphasis on increasing public participation in program management.

Your approval is recommended in accordance with Executive Order 20 and AS 44.17.040.

Ronald B. Lind

Ronald B. Lind, Director
Division of Budget & Management
Office of the Governor

Approved this 7 day of Oct., 1976.

Jay S. Hammond

Jay S. Hammond, Governor
State of Alaska

January 18, 1977

The Honorable John L. Bader
President of the Senate
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 13 of the Alaska Constitution, and in accordance with AS 24.30.060(b) and the Uniform Rules of the Alaska State Legislature, I am transmitting a bill amending the powers and duties of the Division of Geological and Geophysical Surveys of the Department of Natural Resources by transferring with only a minor change some overlapping and long dormant powers and duties of the Department of Health and Social Services.

Presently AS 41.08 requires the state geologist to conduct geological and geophysical surveys to determine the locations and supplies of ground waters and to print and publish special and topical reports, and authorizes him to enter into cooperative agreements to perform surveys, studies, and investigations. On the other hand, AS 41.05.010 - 41.05.030 declares hydrologic data to be of public interest and grants to the Department of Health and Social Services the powers and duties of collection, recording, evaluation, distribution, and publication of data on water of the state and authorizes the adoption of regulations to achieve those objectives. The disassociation of the duties affected and of surface and ground water studies, investigations, data, and surveys is neither logical nor desirable. The Division of Geological and Geophysical Surveys is the most logical agency to accomplish the objectives and to render these beneficial services to the public in the most capable manner.

The only proposed change made in the transferred powers is the addition of the power to require all water well drillers to file basic water and aquifer data to the existing power to require the filing of water survey results. The reason for this change is that much water well drilling takes place which is not part of water surveys and in areas which have never been the subject of water surveys. Basic data from such drilling is necessary to construct a true and complete picture of the state's water resources.

The transfer and minor expansion of these powers and duties is therefore requested at this time by repealing AS 41.05.010 - 41.05.030 and amending AS 41.08.

Sincerely,

Jay S. Hammond
Governor

A M E N D M E N T

OFFERED IN THE ~~HOUSE~~ ^{SENATE}:

By: Huber & Orsini

To: CS (Finance) HOUSE BILL No. _____

SENATE BILL No. 58

PAGE: 1


LINE: 24

After "require" insert "of private contractors,"

On page 1, lines 26 and 27 delete all after "determinations."

STATE
of ALASKA

MEMORANDUM

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE COMMISSIONERTO: Senator Joe Orsini
Senator John HuberFROM: 
Pat Conheady
Legislative Liaison

DATE: April 12, 1977

SUBJECT: SB 58

A certain amount of confusion has arisen regarding Senate Bill 58, an act relating to hydrological data, particularly AS 41.08.020(b)(4) which would require filing of basic water and aquifer data with the department. The purpose of this section is to collect data from water well drillers in order to enable the department to construct a true and complete picture of the State's water resources. To collect such information from private individuals who are drilling their own wells, or from private individuals who are driving points for wells would be useless as they would not possess information of value.

In order to clarify this, the following amendment to CSSB 58 is suggested:

On page 1, line 24, after "require" insert
"of private contractors,"

On page 1, lines 26 and 27 delete all after "determinations."

~~1972 D of EC section was to
be transferred - was not.~~

David Freer: H.E.S.S

2/24/77

In 1972 when Dept of Env. Cons
was formed responsibilities of H.E.S.S
were to be transferred - they were
not at that time and decision has
been made to transfer under this
legislation to Nat. Resources.
H.E.S.S is not now performing any
of this function.

See attached notes from John
Scribner, Environmental Conservation

COMMITTEE REPORT
SENATE

Date _____

Mr. President:

The Committee on _____ has had _____
under consideration. A majority of the members of the Committee

- recommends it do pass
- recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for _____ and that
CS for _____ do pass
- (and) recommends it be referred to the _____
committee
- reports it back without recommendation
- AND attaches a report of its intent
- (other) _____

MEMBERS SIGNING THE MAJORITY REPORT:

MEMBERS NOT CONCURRING IN THE MAJORITY REPORT:

_____ recommends: _____
_____ recommends: _____
_____ recommends: _____

Chairman

Original sponsor: Rules Committee
by request of the Governor

IN THE SENATE

BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 58

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to hydrological data."

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

* Section 1. AS 41.05 is amended by adding a new section to read:

Sec. 41.05.017. HYDROLOGICAL DATA DECLARED TO BE OF PUBLIC INTEREST. Systematic collection, recording, evaluation, and distribution of data on the quantity, location and quality of water of the state in the ground, on the surface of the ground, or along the coasts, are in the public interest and necessary to the orderly domestic and industrial development of the state.

* Sec. 2. AS 41.05.020 is amended by adding a new subsection to read:

(b) In addition, the division of geological and geophysical surveys has the following powers and duties:

- (1) collect, record, evaluate, and distribute data on the quantity, quality and location of underground, surface and coastal water of the state;
- (2) publish or have published data on the water of the state;
- (3) require the filing with it of the results and findings of surveys of water quality, quantity, and location;
- (4) require the filing with it of basic water and aquifer data including, but not limited to, drilling logs, piezometric altitude, surface flow measurements, and water quality determinations, except that an individual drilling a well for his personal use on land owned by him may not be required to comply with this paragraph;
- (5) accept and spend funds for the purposes of this section

and secs. 17 and 35 of this chapter and enter into agreements with individuals, public or private agencies, communities, private industry, state agencies and agencies of the federal government.

* Sec. 3. AS 41.08 is amended by adding a new section to read:

Sec. 41.08.035. REGULATIONS BY DEPARTMENT OF NATURAL RESOURCES.

The Department of Natural Resources may adopt regulations relating to and providing for the systematic collection, recording, and distribution of data on the water of the state.

* Sec. 4. AS 41.05.010 - 41.05.036 are repealed.

Original sponsor: Rules Committee
by request of the Governor

IN THE SENATE

BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 58

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to hydrological data."

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

* Section 1. AS 41.08 is amended by adding a new section to read:

Sec. 41.08.017. HYDROLOGICAL DATA DECLARED TO BE OF PUBLIC INTEREST. Systematic collection, recording, evaluation, and distribution of data on the quantity, location and quality of water of the state in the ground, on the surface of the ground, or along the coasts, are in the public interest and necessary to the orderly domestic and industrial development of the state.

* Sec. 2. AS 41.08.020 is amended by adding a new subsection to read:

(b) In addition, the division of geological and geophysical surveys has the following powers and duties:

(1) collect, record, evaluate, and distribute data on the quantity, quality and location of underground, surface and coastal water of the state;

(2) publish or have published data on the water of the state;

(3) require the filing with it of the results and findings of surveys of water quality, quantity, and location;

(4) require ^{the filing, etc.} the filing with it of basic water and aquifer data including, but not limited to, drilling logs, piezometric altitudes, surface flow measurements, and water quality determinations ~~except that~~ an individual drilling a well for his personal use on land owned by him may not be required to comply with this paragraph.

(5) accept and spend funds for the purposes of this section

WESS
1972 - Enid Conner
WARRIS

40.2

and secs. 17 and 35 of this chapter and enter into agreements with individuals, public or private agencies, communities, private industry, state agencies and agencies of the federal government.

* Sec. 3. AS 41.06 is amended by adding a new section to read:

Sec. 41.03.035. REGULATIONS BY DEPARTMENT OF NATURAL RESOURCES. The Department of Natural Resources may adopt regulations relating to and providing for the systematic collection, recording, and distribution of data on the water of the state.

* Sec. 4. AS 41.05.010 - 41.05.030 are repealed.



UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY
Water Resources Division
218 E Street
Anchorage, Alaska 99501

Linance

Kelly

February 4, 1977

Guy Martin, Commissioner
Department of Natural Resources
State of Alaska
Pouch H
Juneau, Alaska 99811

Dear Commissioner Martin:

We have received a copy of Senate Bill 58, which gives the state geologist new powers and duties relating to water resources in the state of Alaska. The bill adds to the responsibilities of the Geological and Geophysical Surveys by making it the principal agency in the state responsible for water resources data.

Centralizing the acquisition and filing of water data in a single state agency that is dedicated to basic, unbiased scientific information will be of great benefit to the state. The section of the Bill which requires the filing of basic water and aquifer data is an important and significant addition to existing requirements.

As you are aware, the U.S. Geological Survey collects and analyzes hydrologic data in the state of Alaska under both a federal program and a state cooperative program on a cost sharing basis. We have, at the present time, a very substantial program with the Geological and Geophysical Surveys of the Alaska Department of Natural Resources. Our federal responsibilities include not only the collection and analysis of hydrologic data but also the coordination of hydrologic data collection programs among all federal agencies.

1977
Division of
Natural Resources

The provisions of the Senate Bill 50 would be of benefit not only to the state but also to the U.S. Geological Survey in its dual role as a cooperator with state agencies and as a federal agency having federal responsibilities for the collection and analysis of water data. The designation of a single state agency as the principal water agency in the state will be advantageous, both from the standpoint of cooperative programs and as a single point source for filing and retrieving water related data.

We have recently had discussions with the Water Resources Policy Committee Work Group of the Governor's Office and with members of the water planning group of the Section of Planning in the Alaska Department of Natural Resources. Through these discussions, we have described to the state the nature of the water resources program that we currently are conducting and the inadequacies of parts of the program. We have particularly emphasized the importance of a long-term data collection base as a part of the state's total water resources program. We believe that the passage of this bill would be in direct support of this concept and would result in significant long-term benefits to the state.

Sincerely yours,


Harry Helsing
District Chief

cc: Mrs. Schaff
Dave Hanson
Subdistrict

Introduced: 1/18/77
Referred: Resources and Finance

IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

SENATE BILL NO. 58

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to hydrological data."

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

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Sec. 41.08.017. HYDROLOGICAL DATA DECLARED TO BE OF PUBLIC INTEREST. Systematic collection, recording, evaluation, and distribution of data on the quantity, location and quality of water of the state in the ground, on the surface of the ground, or along the coasts, are in the public interest and necessary to the orderly domestic and industrial development of the state.

* Sec. 2. AS 41.08.020 is amended to read:

Sec. 41.08.020. POWERS AND DUTIES. (a) The state geologist shall conduct geological and geophysical surveys to determine the potential of Alaskan lands for production of metals, minerals and fuels, the locations and supplies of ground waters and construction materials; the potential geologic hazards to buildings, roads, bridges and other installations and structures, and shall conduct such other surveys and investigations as will advance knowledge of the geology of Alaska. With the approval of the commissioner, the state geologist may acquire, by gift or purchase, geological and geophysical reports, surveys and similar information.

(b) In addition, the division of geological and geophysical surveys has the following powers and duties:

(1) collect, record, evaluate, and distribute data on the quantity, quality and location of underground, surface and coastal

Pat Carnady

Trease Report

Ross SchAAF 3-29-77

State owns all sub-surface water

- would require filing on private land also - private land owner will contract water well driller - everybody would be required to get permit.

NR interested in type of sediment thru which he drills - if drilling done with rotary drill sediment comes to surface and is recorded in well log.

Both SchAAF (NR) and John Scribner (CC)
Say RP 77-158 (FY 78 budget p 1807)
and SB 58 are not related

Introduced: 1/18/77
Referred: Resources and Finance

IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

SENATE BILL NO. 58

IN THE LEGISLATURE OF THE STATE OF ALASKA

TENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to hydrological data."

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water of the state;

(2) publish or have published data on the water of the state;

(3) require the filing with it of the results and findings of surveys of water quality, quantity, and location;

(4) require the filing with it of basic water and aquifer data including, but not limited to, drilling logs, piezometric altitudes, surface flow measurements, and water quality determinations;

(5) accept and spend funds for the purposes of this section and secs. 17 and 35 of this chapter and enter into agreements with individuals, public or private agencies, communities, private industry, state agencies and agencies of the federal government.

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Sec. 41.08.035. REGULATIONS BY DEPARTMENT OF NATURAL RESOURCES. The Department of Natural Resources may adopt regulations relating to and providing for the systematic collection, recording, and distribution of data on the water of the state.

* Sec. 4. AS 41.05.010 - 41.05.030 are repealed.

→ *Drilling: in private lands -*

E.C.A. - personally being - 1/2 yr.

Pat Carnady

Trease Report

Ross Schaa f 3-29-77

State owns all sub-surface water

- would require filing on private land also - private land owner will contract water well driller - everybody would be required to get permit.

NR interested in type of sediment thru which he drills - if drilling done with rotary drill sediment comes to surface and is recorded in well log.

Both Schaa f (NR) and John Scribner (CC)
say RP 77-158 (FY 78 budget p 1807)
and SB 58 are not related

John Scribner - EC

2/23/77

Collect samples, special surveys,
analyzed by lab - enter data into federal
data storage & retrieval systems.

Legislation is not clear that
N.R. is just for data storage
and retrieval

U.S. G.S. and EPA currently have
storage and retrieval systems.

EPA will store any information
regardless of reliability.

USGS not as comprehensive but
is strictly controlled.

If within Dept of N.R. information
could be tailored to state needs.

USGS and EPA would continue to
be used.

Ross Schaaf
Anch 279-1433

~~Additional info~~

Ted Smith: Natural Resources

Dept has responsibility for Appropriation of water
- (to take water for commercial and other uses)

Natural Resources issues permits for use of water. Their data system would contain more information on quantity of water available than does the USGS system. For further information call Ross Schaaf in NR Division of Geological & Geophysical Surveys.

279-1433

Ross Schaaf 2-28-77 Legislation will require data to be filed with N.R. Data will give information on amount of water available for use, etc.


3/2/77 Chuck Taylor - Budget & Mgmt - These costs are not included in Governor's FY 78 request for NR - G. & G.P. Resource Programs



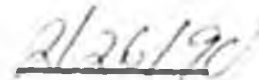
RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.



Signature of Camera Operator



Date

COMMITTEE REPORT
SENATE

FURTHER: _____

Date: _____

Mr. President:

The Committee on FOREST RESOURCES AND PRACTICE has had SSCA BY

under consideration and (a majority of the committee) (the committee reports it back as follows)

- recommends it do pass recommends it do not pass
- recommends it do pass with attached amendment(s)
- recommends it be replaced with CS for _____
- and _____ new title same title
- AND attaches a Letter of Intent New Fiscal Note
- reports it back without recommendation
- and recommends it be referred to the _____ Committee

MEMBERS SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Chairman

Telephone (907) 452-4755

Doyon Limited

*Doyon Building
First and Hall
Fairbanks, Alaska 99701*

June 1, 1978

The Honorable John C. Sackett
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Sackett:

RE: CSSSSB 59 - Forest Practices Act

There is presently pending in the State Senate CSSSSB 59, entitled "An Act relating to forest resources and practices". The purpose of the Bill is to provide for the management of the forest resources in Alaska in a manner so as to avoid non-point source pollution and to encourage sound forest practices.

However, in its present form the Bill seeks to place under control of a new Division of Forestry all commercial harvesting of timber within the State of Alaska. By carefully worded exemptions the bulk of private, non-Native land is excluded from its terms so that in fact, as to private lands, the Division of Forestry will be regulating the harvesting only on Native Corporation lands.

It would appear that if the Legislature is truly concerned about establishing good forest practices and avoiding pollution problems all commercial harvesting of timber should be included. Non-point source pollution is created by activity and not the number of acres that one owns. To the end the Bill should seek to prevent the harmful effects of the activities sought to be overseen and not be used as a guise to create public control of private Native lands.

The Honorable John C. Sackett
June 1, 1978
Page Two

The Bill also seeks to establish a system whereby prior to harvesting timber the operator or land owner must apply to the State for permission to cut the trees. The permit application will then be subject to publication in local newspapers in order to solicit the comments of the general public as to the proposed operations on private lands. Furthermore, the operator can be required to post a security bond with the State before any cutting is allowed.

The Board of Directors of Doyon, Limited are strongly opposed to the passage of the Bill in its present form. Its provisions will create such a burden on Native Corporation lands as to significantly reduce the value of the timber located on them. We are strongly opposed to any legislation which seeks to create a public interest in our lands which is of a different nature than what is created in homesteads or other private lands.

I have attached some suggested amendments to the Bill which will ameliorate its more objectionable provisions but will leave intact the intended purpose of the legislation. These amendments provide for a notification rather than permit system for the harvesting on private lands. They do away with the requirement for publication as to private lands. They include all private lands and not just Corporation land but provide exemptions for personal or non-commercial uses.

We respectfully urge your consideration of the amendments and request that you vote against the proposed legislation if it is not possible to amend it so as to create the necessary balance between the rights of the private land owner and the interest of the State in preventing pollution.

Yours truly,



Emil Sotti
President

ES:lr
Attachment as stated

cc: APN
12 Regional Corporations

AMENDMENTS TO CSSSSB 59

1. Issuance of Regulations -- The Board of Forestry as established by the Bill should be required to comment on any proposed regulations to be promulgated under it.

Page 4, Line 9, §020(1) -- add "and under 040(f) of this Chapter" after "(AS 44.62)"

Page 9, Line 27, §080(a) -- add "and 040(f) of this Chapter" after "(AS 44.62)"

2. Adoption of Federal Standards and Recognition of the Economics of Forest Practices in Alaska -- The Bill needs modification with respect to the use of federal terminology which would bring with it federal standards which would be effective without the State having an opportunity to evaluate their appropriateness for the special conditions found in Alaska. The Bill also needs additional language to provide guidance to the implementing agencies in order that they be authorized to consider the economics of forest practices as well as the environmental consequences of the proposed activities. This balancing is necessary in order to foster a healthy industry.

Page 7, Lines 21-22, §060(b)(2) -- delete "best management practices" and substitute "economical forest management practices"

Page 7, Lines 24-25, §060(b)(3) -- delete "where not inconsistent with other provisions of this section,"

Page 7, Line 26, §060(b)(3) -- insert "forest landowner, timber owner or" before "operator"

Page 10, Line 2, §080(a)(2) -- delete "stocking"

Page 10, Line 2, §080(a)(2) -- insert "and" before "prescribed burning"

Page 10, Line 3, §080(a)(2) -- delete "fertilization, thinning, and other silvicultural activities"

3. Permit System -- It is unacceptable that as a private landowner, one must obtain permission to harvest the timber. This will present problems in terms of delays occurring because of the inefficient action of the agencies. A notification procedure would serve the same function without the adverse effects on the landowners. The landowner would still be subject to the regulations, and enforcement provisions of the Act without having to

obtain additional permits. The public's interest would be likewise protected because of the required notification provisions of the Act.

Page 11, Line 19, §090(e) -- insert "for state and municipal forest lands" after "shall" and before "as"

4. Publication -- The requirement to publish in the newspapers for operations on private lands should be deleted. In addition the Commissioner should be allowed some latitude in his consideration of public recommendations or else there will be a flurry of litigation as to the extent of the consideration required of all recommendations, irrespective of their merit.

Page 11, Line 15, §090(h) -- insert "for state and municipal forest lands" after "days" and before "shall"

Page 12, Line 17-18, §090(h) -- Add "Recommendations from the public with respect to private forest lands may or may not be considered in the descretion of the Commissioner."

5. Security Bonds -- The requirement of security bonds for operations on private land are an additional cost which would be ultimately borne by the private landowner in the reduction of income from its timber. The public is adequately protected by the Act through its enforcement provisions without this extra burden.

Page 3, Lines 3-4, §090(m) -- insert "With respect to state and municipal forest lands" at the beginning of the sentence.

6. Definition of Damage -- The bill introduces a new concept for damages -- "any unsatisfactory condition". This concept can be construed to be such an expansion over the common understanding as to place the operator and consequently the landowner in jeopardy for almost any condition. With this type of risk present in any operation, it will be very difficult for the industry to survive.

Page 17, Lines 15-17, §130(j) -- delete

7. Exempt Operations -- In its present form, the Bill exempts small scale operations (§050(c)(1)) and operations on certain private lands. In order to be consistent with the purposes of the legislation, the exemption should turn on the scale of the operations and not on the status of the land involved. Provisions need also to be made for an exemption for harvesting for personal use or where the timber is not sold for commercial

purposes. This will cover the "non-commercial" harvesting under free use or nominal cost permits for house logs and fire wood. Such a provision would also protect the private landowner who is not engaged in a logging network but merely clearing his land for private purposes.

Page 7, Lines 8-11, §050(c)(2) -- delete

Page 7, Line 8, §050(c)(2) -- add new language "operations for non-commercial purposes including but not limited to the harvesting of timber for personal use and other purposes other than resale."

Original sponsor: Rules Committee by
request of the Governor

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 59 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - SECOND SESSION

5 A BILL.

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

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

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

10 CHAPTER 17. FOREST RESOURCES AND PRACTICES.

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

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

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

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

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

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

(6) subject to sec. 307(f) of the Coastal Zone Management Act of 1972 (P.L. 92-583), the provisions of this chapter shall be the basis for forest management standards, policies, and guidelines developed under the Alaska Coastal Management Act to the extent permitted by law.

Sec. 41.17.020. DIVISION OF FOREST, LAND, AND WATER MANAGEMENT ESTABLISHED. (a) The governor shall establish, within the Department of Natural Resources, a division of forest, land, and water management to carry out this chapter and other appropriate duties designated by the governor. The division shall be headed by a director who shall be the state forester, appointed to the partially exempt service in accordance with law by the commissioner. The state forester shall be a natural resources land manager with generally accepted educational credentials, familiar and experienced with the renewable and nonrenewable resources and values of forest land and the products, benefits, and services obtained from them.

(b) The commissioner shall administer this chapter and is authorized and encouraged to delegate responsibilities for carrying out this chapter to the state forester.

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

(d) The commissioner may designate and operate experimental and research forests on state land consistent with the limitations of AS 38.05.300. Laboratories and other facilities may be employed in con-

junction with those forests.

(e) The commissioner may establish and maintain forest vegetation nurseries and greenhouses for planting stock to be made available, with or without charge, to organizations, institutions, government agencies, individuals, and businesses for reforestation, afforestation, and related purposes.

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

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

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

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

(j) Notwithstanding any other provision of this chapter, the commissioner may not employ the authority vested by this chapter so as to duplicate or preempt the statutory authority of other state agencies to adopt regulations or undertake other administrative actions governing resources, values, or activities on forest land except for (1) regulations under the Coastal Management Act; and (2) if authorized by the commissioner of environmental conservation, regulations relating to control of nonpoint source pollution.

(k) The commissioner may take other actions necessary and proper for the administration of this chapter, including the adoption of regulations under the Administrative Procedure Act (AS 44.62) and under sec. 40(f) of this chapter.

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

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

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

Sec. 41.17.040. BOARD OF FORESTRY. (a) The Board of Forestry is established in the Department of Natural Resources, division of forestry, land, and water management.

(b) The board is composed of 17 members appointed by the governor from nominations submitted from the groups listed in (c) of this section. The board shall elect its own presiding officer.

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

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

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

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

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

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

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

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

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

(9) a nominee of the United Fishermen of Alaska has one seat.

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

(e) The term of office of a member of the board is three years; the governor shall make his initial appointments to the board in such a way that four nominations expire during 1980, four appointments expire during 1981, and three appointments expire during 1982. The state forester serves an indefinite term, ex officio.

(f) The board shall review and comment to the commissioner on regulations proposed for adoption under this chapter. The board shall also report to the legislature its recommendations for changes in the provisions of this chapter and its comments on the regulations adopted by the commissioner under this chapter. It may also review and advise the legislature on the activities of the division.

(g) Members of the board, except the state forester, do not serve

at the pleasure of the governor.

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

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

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

(c) The commissioner shall exempt by regulation from the provisions of this chapter

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

(2) operations for primarily noncommercial purposes, including but not limited to the harvesting of timber for personal use.

Sec. 41.17.060. REGULATORY AND ADMINISTRATIVE STANDARDS. (a) All regulations, administrative actions, and other activities and duties

undertaken under this chapter shall be in full accordance with the standards set out in this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (c) As a part of the report to be submitted on December 31, 1980,
31 under (b) of this section, the commissioner shall, after consultation

with interested constituencies.

- (1) review the structure and operations of the division;
- (2) describe the degree to which the division has established a high-profile forestry program utilizing the expertise of professional foresters;
- (3) describe the responsiveness of the division to the interest of forest resources constituencies; and
- (4) make recommendations to the legislature respecting the legal authority of the Department of Natural Resources relating to forestry, the qualifications of the director of the division, and the location of the division within the department.

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

Sec. 41.17.080. REGULATIONS. (a) The commissioner may adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) and under sec. 40(f) of this chapter governing operations on forest land with respect to the following:

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

(b) An operator may apply through the commissioner for permits required by other state agencies to operate on forest land, which applications may be forwarded to the commissioner of environmental conserva-

tion for procedures in accordance with AS 46.35. The commissioner shall notify the operator of the action taken. Where practicable and desirable, the commissioner may enter into cooperative agreements with federal agencies authorizing the department to serve as a collection point for federal permit applications.

(c) The commissioner may establish regions, districts, or other subdivisions of forest land within the state in which different regulations apply to reflect varying conditions within the state, or to facilitate administration.

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

Sec. 41.17.090. NOTIFICATION AND REVIEW OF OPERATIONS. (a) Operations on forest land shall be reviewed under this section for consistency with the policies and provisions of this chapter and regulations adopted under this chapter.

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

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

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

ferent from the operator) have approved the proposed operation.

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

(e) Within 20 days of receipt of a notification under (c) of this section, the commissioner may inspect the proposed operation to ensure that the proposed operation is in accord with the standards promulgated by this chapter.

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

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

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

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

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

Sec. 41.17.100. DEPLOYMENT OF BROADCAST CHEMICALS. The commissioner of environmental conservation, in consultation with the commis-

sioner, shall formulate necessary plans and measures to insure that application of broadcast chemicals and other substances foreign to the Alaska forest ecosystem do not lead to results contrary to the objectives and provisions of this chapter and other applicable laws and regulations relating to renewable resources. Regulations adopted by the commissioner of environmental conservation may include requirements for advance testing, posting of security, written reports, and other matters.

Sec. 41.17.110. CONVERSION OF FOREST LAND TO OTHER USES. An intention to convert forest land to other uses after timber harvesting may be stated in the notification submitted under sec. 90 of this chapter. In that event, reforestation requirements adopted under this chapter do not apply, except that conversion shall be completed during the time set by regulation for minimum reforestation of the land, and other requirements for revegetation may be imposed to the extent permitted by law. If the commissioner finds at any time that the responsible party has failed to conform to the intent to convert as stated in the notification, the commissioner shall revoke approval of the conversion and require full compliance with reforestation requirements.

Sec. 41.17.120. INSPECTIONS, INVESTIGATIONS, AND ENFORCEMENT. The commissioner may inspect and investigate forest land and activities on it and may enter upon it in conjunction with any operations as necessary to insure compliance with applicable regulations and requirements and to otherwise enforce the provisions of this chapter. Other state agencies have this same authority to the extent necessary to enforce their own laws and regulations on forest land. Those agencies and the commissioner shall coordinate their actions under this section.

Sec. 41.17.130. PROHIBITIONS, PENALTIES, AND ENFORCEMENT PROCEDURES. (a) No person may violate or permit a violation of a provision

1 of this chapter, a regulation adopted under this chapter, or a term or
2 condition of any approval granted under secs. 90 - 110 of this chapter.
3 A person who commits a violation is liable for a civil fine to be
4 assessed by the commissioner not to exceed \$10,000.

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

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

- 21 (1) a directive to stop the violation;
- 22 (2) the imposition of a civil fine under (a) of this section,
23 which is payable immediately;
- 24 (3) a directive to repair damages;
- 25 (4) a finding that the charges are wholly or partially un-
26 justified; or
- 27 (5) a combination of (1) - (4) of this subsection.

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

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

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

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

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

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

23 (f) If a person fails to comply with an order issued under (c) or
24 (e) of this section, the attorney general, at the request of the com-
25 missioner, may seek an injunction suspending all or part of the opera-
26 tions being conducted by the respondent until the respondent complies
27 with the order. If the order directs the respondent to repair damage,
28 the commissioner may proceed with department staff or contractors to
29 repair the damage, and the respondent is liable for the cost of the

1 repair after delivery by the commissioner of an itemized statement of
2 expenses incurred.

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

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

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

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

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

(3) issue a decision in accordance with the applicable procedures of (h) of this section.

Sec. 41.17.140. APPEALS AND JUDICIAL REVIEW. (a) An administrative action of the department under this chapter, except actions under sec. 130 of this chapter and except for adoption of regulations, may be appealed to the commissioner within 30 days after it is taken. The commissioner shall hold a hearing, at which all substantial issues shall be considered, within 15 days after an appeal is filed. The respondent shall be granted 10-day extensions up to a total of 60 days upon request. Within 10 days after conclusion of the hearing, the commissioner shall issue a written decision based upon the evidence, which shall be provided to the appellant. The commissioner may delegate his duties, in whole or in part, under this subsection to a hearing officer appointed by the attorney general from among members of the Alaska Bar Association who have been nominated by the Board of Forestry and who are knowledgeable and experienced in the subject matter.

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

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

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

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

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

(A) used for silvicultural management or related purposes;

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

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

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

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

(5) "division" means the division of forest, land, and water management;

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

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

(8) "multiple use" means

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

changing needs and conditions;

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

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

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

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

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

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

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

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

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

* Sec. 2. As 39.25.120 is amended by adding a new paragraph to read:

(10) the state forester, in the Department of Natural Resources.

* Sec. 3. This Act takes effect January 1, 1979. However, the commissioner of natural resources is not precluded from undertaking preparatory activities in the interim.

THE LEGISLATURE OF THE STATE OF NEBRASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for Sponsor Substitute for Senate Bill No. 59
 Title An Act Relating to Forest Resources and Practices
 Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Department of Natural Resources
 Program Category Affected Division of Land & Water Management
 Budget Request Unit(s) Affected Protection and Management

EXPENDITURES (Thousands of Dollars)

	FY 78	FY 79	FY 80	FY 81	FY 82	FY 83
100 PERSONAL SERVICES		232.6	423.0	516.5	542.1	569.4
200 TRAVEL		28.5	40.0	42.0	44.0	46.0
300 CONTRACTUAL		137.0	220.0	200.0	4125.0	4150.0
400 COMMODITIES		2.0	4.0	4.2	4.2	4.5
500 EQUIPMENT		28.0	6.0	8.0	6.0	5.0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		428.1	763.0	770.7	4721.7	4774.9

FUNDING (Thousands of Dollars)

GENERAL FUND		363.1	641.0	635.7	4296.7	4644.9
FEDERAL FUNDS		63.0	120.0	125.0	125.0	132.0
OTHER (Specify)						

POSITIONS

FULL TIME		10	11	10	10	10
PART TIME		1	1	1	1	1
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

A. Assumptions:

1. That all forestry and fire related positions along with equipment would be transfer from the Division of Land & Water Management.

2. Section 41.17.079 of this bill provides that the Commissioner shall maintain a current inventory or assessment of timber on forest land to assist in meeting the requirements of the Act. It is assumed that an inventory will be done on 8,000,000 acres of state and municipal lands and an equal amount of private lands will be assessed. To be of value this should be repeated every ten years. Experience shows that one man month is required to complete an inventory on one township (36,000 acres). Therefore, six persons are needed to complete the work each year. This allows for three two-man crews during the five month summer field period and three men for winter mapping and photo work.

3. Section 41.17.080 provides for board of forestry to be reimbursed for travel and expenses while giving assistance in the administration of this chapter. It is

IV. DATE 3/23/78 PREPARED BY W. J. Miller
 AGENCY _____
 PHONE _____

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

assumed that these committees will meet more often during the first period of the fiscal year as a result of development of regulation and public hearing meetings.

4. Section 41.17.020 provides that the Commissioner may establish and maintain forest tree nurseries and greenhouses for reforestation purposes. It is assumed that an agronomist and one forest technician will be needed in the program. A future expansion of forest nursery facilities will be sought using capital improvement funds.

5. Section 41.17.070(d) It is expected that after January 1, 1981 recommendations transmitted to the legislature establishing economic incentives would amount to four to five million dollars.

6. Section 41.17.020(h) Amendments to the Federal Water Act may make applicable the provisions of the Act to forest land under federal ownership. It is assumed that the workload would increase dramatically in the southeastern area if this becomes fact.

B. Program Summary:

Personal Services

New Positions

State Forester	grade 26A	43,404	\$232,612
Forester IV Private Mgt.	" 20A	28,932	
Forester III Plan. (RPA)	" 18A	24,984	
Forester III Forest Pract.	" 19A	24,984	
Forester III Inventory	" 18A	24,984	
Agronomist II Nursery	" 16B	22,392	
Forester II Inventory	" 16A	21,576	
Forester I Inventory	" 14A	18,612	
3 Forester I Forest Practice	" 14A	55,836	
3 Forester I Cooperative Mgt.	" 14A	55,836	
PPT 3 Forest Tech. II Inventory	" 9A	20,392	
1 Drafting Tech. Inventory	" 11A	15,300	
1 Forest Tech. II Nursery	" 9A	13,464	
		<u>370,596</u>	
	Benefits 25.5%	94,527	
	Total Fiscal Year	<u>465,223</u>	

Travel

Board of Forestry 3 meetings @ 3,000 ea =	9,000	\$ 28,500
Inventory	12,000	
Forest Practice and CM:	7,500	

Contractual

Helicopter & Fixedwing aircraft	\$15,000	\$137,000
Vehicle Milage	6,000	
Aerial Photography	75,000	
Print and Advertising	5,000	
Office Rent	36,000	

Contingencies

\$ 2,000

Equipment

Office equipment	\$ 6,000	\$ 28,000
Inventory equipment	2,000	
Vehicles	20,000	

\$428,112

Introduced: 4/6/78
Referred: Resources and
Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 59

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE -- SECOND SESSION

5 A BILL

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

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

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

10 CHAPTER 17. FOREST RESOURCES AND PRACTICES.

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

13 (1) the forest resources of Alaska are among the most
14 valuable natural resources of the state, and furnish timber and wood
15 products, fish and wildlife, tourism, outdoor recreation and aesthetic
16 enjoyment, water, soil, air, minerals, diverse lifestyle opportunities,
17 general health and welfare, and a multitude of other products, benefits,
18 and services, tangible and intangible;

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

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

27 (4) government administration of forest resources should
28 combine professional management services, regulatory measures, and
29 economic incentives in a complementary fashion, and should draw upon

1 the expertise of professional foresters in conjunction with other dis-
2 ciplines.

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

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

10 Sec. 41.17.020. ADMINISTRATION. (a) The governor may create,
11 within the Department of Natural Resources, a Division of Forest,
12 Land, and Water Management to carry out this chapter and other appro-
13 priate duties designated by the governor. The Division shall be
14 headed by a director who shall be the state forester, appointed by the
15 commissioner to the partially exempt service in accordance with law.
16 The state forester shall be a natural resources land manager with
17 generally accepted educational credentials, familiar and experienced
18 with the renewable and nonrenewable resources and values of forest
19 land and the products, benefits, and services obtained from them.

20 (b) The commissioner shall administer this chapter and is
21 authorized and encouraged to delegate responsibilities for carrying
22 out this chapter to the state forester.

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

27 (d) The commissioner may designate and operate experimental and
28 research forests on state land consistent with the limitations of AS
29 38.05.100. Laboratories and other facilities may be employed in con-

1 junction with those forests.

2 (e) The commissioner may establish and maintain forest vegeta-
3 tion nurseries and greenhouses for planting stock to be made available,
4 with or without charge, to organizations, institutions, government
5 agencies, individuals, and businesses for reforestation, afforestation,
6 and related purposes.

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

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

22 (h) In the administration of this chapter, the commissioner
23 shall consult with and draw upon the expertise of interested organiza-
24 tions, enterprises, individuals, government agencies, educational
25 institutions, and landowners. The commissioner may enter into coopera-
26 tive agreements and contracts with them to carry out this chapter.

27 (i) The commissioner shall establish, for general or special
28 purposes, one or more representative advisory committees to assist in
29 the administration of this chapter. Members of advisory committees

1 shall be appointed to specified terms, and may be reimbursed for travel
2 and expenses in accordance with law when approved by the commissioner.

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

6 (k) Notwithstanding any other provision of this chapter, the
7 commissioner may not employ the authority vested by this chapter so as
8 to duplicate or preempt the statutory authority of other state agencies
9 to adopt regulations or undertake other administrative actions govern-
10 ing resources, values, or activities on forest land except for (1)
11 regulations under the Coastal Management Act; and (2) if authorized by
12 the commissioner of environmental conservation, regulations relating
13 to control of nonpoint source pollution.

14 (l) The commissioner may take other actions necessary and proper
15 for the administration of this chapter, including the adoption of
16 regulations under the Administrative Procedure Act (AS 44.62).

17 Sec. 41.17.030. APPLICABILITY. (a) Unless otherwise specified,
18 this chapter applies to forest land under state, municipal, or private
19 ownership.

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

23 (c) The commissioner shall exempt from the provisions of this
24 chapter

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

27 (2) operations on private homesteads, farms, residential or
28 recreational property, and on all private tracts of 160 acres or less
29 under single ownership, unless those operations are part of a major

1 commercial logging network encompassing other tracts of land.

2 Sec. 41.17.040. REGULATORY AND ADMINISTRATIVE STANDARDS. (a)

3 All regulations, administrative actions, and other activities and
4 duties undertaken under this chapter must be in full accordance with
5 the standards set out in this section.

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

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

12 (2) to the maximum extent possible, all applicable data and
13 information of applicable disciplines must be updated and used in
14 making decisions relative to the management of forest resources;

15 (3) environmentally sensitive areas and best management
16 practices must be recognized in the implementation of any nonpoint
17 source pollution control measures authorized under this chapter;

18 (4) where not inconsistent with the other provisions of
19 this section, administration of forest land must consider marketing
20 conditions and other economic constraints affecting the operator.

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

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

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

28 (1) forest land must be administered for the multiple use
29 of the renewable and nonrenewable resources and for the sustained

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

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

8 (3) determinations of multiple-use patterns to be recognized
9 within any area must begin with the assumption that all resources and
10 values are of equal priority; and

11 (4) to the extent its capacity permits, forest land must be
12 administered so as to provide for the continuation of businesses,
13 activities, and lifestyles which are dependent upon or derived from
14 forest resources.

15 Sec. 41.17.050. ADMINISTRATIVE PLAN AND REPORT. (a) The com-
16 missioner shall develop and continually maintain a long range plan for
17 the administration of this chapter which demonstrates that the provi-
18 sions of sec. 10 are being recognized and that the standards of sec.
19 40 are being met. The commissioner shall maintain a current inventory
20 or assessment of timber on forest land to assist in meeting the require-
21 ments of this section.

22 (b) On June 30, 1980, and at two-year intervals after that date,
23 the commissioner shall submit a detailed report to the legislature
24 reviewing the administration of this chapter over the preceding two
25 years, demonstrating compliance with (a) of this section, and describing
26 how the plan will affect the welfare of the forest products industry
27 and other activities and pursuits derived from or affected by forest
28 resources.

29 (c) As a part of the report to be submitted on June 30, 1980,

1 under (b) of this section, the commissioner shall, after consultation
2 with interested constituencies,

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

5 (2) describe the degree to which the division has established
6 a high-profile forestry program utilizing the expertise of professional
7 foresters;

8 (3) describe the responsiveness of the division to the
9 interest of forest resources constituencies; and

10 (4) make recommendations to the legislature respecting the
11 legal authority of the Department of Natural Resources relating to
12 forestry, the qualifications of the Director of the division, and the
13 location of the division within the department.

14 (d) On January 1, 1981, the commissioner, after consultation
15 with the commissioner of revenue, shall transmit to the legislature
16 recommendations for legislation establishing economic incentives which
17 would further the purposes of this chapter.

18 Sec. 41.17.060. REGULATIONS. (a) The commissioner may adopt
19 regulations in accordance with the Administrative Procedure Act (AS
20 44.62) governing operations on forest land with respect to the follow-
21 ing:

22 (1) harvesting, removal, and use of timber and tree pro-
23 ducts and related management activities;

24 (2) reforestation, afforestation, revegetation, stocking,
25 prescribed burning, fertilization, thinning, and other silvicultural
26 activities;

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

28 (4) soil erosion and washing;

29 (5) fire and flood hazards.

1 (6) general administrative requirements and procedures;
2 (7) prevention and control of disease and insect infesta-
3 tion;

4 (8) with respect to the items in this subsection, identi-
5 fication of areas or circumstances warranting prohibitions or special
6 limitations on land-use activities.

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

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

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

22 Sec. 41.17.070. REVIEW AND APPROVAL OF OPERATIONS. (a) Opera-
23 tions on forest land must be reviewed and approved under this section
24 for consistency with the policies and provisions of this chapter and
25 regulations adopted under this chapter.

26 (b) The commissioner shall make full use of professional manage-
27 ment services and other educational and assistance programs of the
28 department to encourage early contact between operators and the state
29 and to minimize reliance on this section as a principal means of

1 achieving the purposes of this chapter.

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

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

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

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

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

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

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

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

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

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

25 (4) upon the recommendation of the department or another
26 agency, require the submission of additional plans or descriptions
27 from the operator, but only to the extent necessary for proper assess-
28 ment of the proposed operation; however, any action by the commissioner
29 under this paragraph must be taken within three days after expiration

1 of the review period.

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

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

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

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

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

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

29 (l) No action taken by the commissioner under this section is an

1 authorization for an operator to violate applicable laws or regulations.

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

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

6 Sec. 41.17.080. DEPLOYMENT OF BROADCAST CHEMICALS. The commis-
7 sioner of environmental conservation, in consultation with the commis-
8 sioner, shall formulate necessary plans and measures to insure that
9 application of broadcast chemicals and other substances foreign to the
10 Alaska forest ecosystem do not lead to results contrary to the objec-
11 tives and provisions of this chapter and other applicable laws and
12 regulations relating to renewable resources. Regulations adopted by
13 the commissione. of environmental conservation may include requirements
14 for advance testing, posting of security, written reports, and other
15 matters.

16 Sec. 41.17.090. CONVERSION OF FOREST LAND TO OTHER USES. An
17 intention to convert forest land to other uses after timber harvesting
18 must be stated in the notification submitted under sec. 70 of this
19 chapter. In that event, reforestation requirements adopted under this
20 chapter do not apply, except that conversion must be completed during
21 the time set by regulation for minimum reforestation of the land, and
22 other requirements for revegetation may be imposed to the extent
23 permitted by law. If the commissioner finds at any time that the
24 responsible party has failed to conform to the intent to convert as
25 stated in the notification, the commissioner shall revoke approval of
26 the conversion and require full compliance with reforestation require-
27 ments.

28 Sec. 41.17.100. INSPECTIONS, INVESTIGATIONS, AND ENFORCEMENT.
29 The commissioner may inspect and investigate forest land and activities

1 on it and may enter upon it in conjunction with any operations as
2 necessary to insure compliance with applicable regulations and require-
3 ments and to otherwise enforce the provisions of this chapter. Other
4 state agencies have this same authority to the extent necessary to
5 enforce their own laws and regulations on forest land. Those agencies
6 and the commissioner shall coordinate their actions under this section.

7 Sec. 41.17.110. PROHIBITIONS, PENALTIES, AND ENFORCEMENT PROCE-
8 DURES. (a) It is unlawful for any person to violate or permit a
9 violation of a provision of this chapter, a regulation adopted under
10 this chapter, or a term or condition of any approval granted under
11 secs. 70 - 90 of this chapter. A person who commits a violation is
12 liable for a civil fine to be assessed by the commissioner not to
13 exceed \$10,000.

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

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

- 1 (1) a directive to stop the violation;
- 2 (2) the imposition of a civil fine under (a) of this sec-
- 3 tion, which is payable immediately;
- 4 (3) a directive to repair damages;
- 5 (4) a finding that the charges are wholly or partially un-
- 6 justified; or
- 7 (5) a combination of the above.

8 (d) In determining the amount of any civil fine imposed, the
9 following must be considered, as appropriate:

- 10 (1) the character and degree of injury to forest resources
11 and values;
- 12 (2) the degree of intent or negligence of the respondent in
13 causing or permitting the violation;
- 14 (3) the character and number of past violations caused or
15 permitted by the respondent; and
- 16 (4) if such information is available, the net economic
17 savings realized by the respondent through the violation described in
18 (a) of this section.

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

1 (f) If a person fails to comply with an order issued under (c)
2 or (e) of this section, the attorney general, at the request of the
3 commissioner, may seek an injunction suspending all or part of the
4 operations being conducted by the respondent until he or she complies
5 with the order. If the order directs the respondent to repair damage,
6 the commissioner may proceed with department staff or contractors to
7 repair the damage, and the timber owner, forest landowner, and operator
8 are jointly and severally liable for the cost of the repair after
9 delivery by the commissioner of an itemized statement of expenses
10 incurred. Those expenses constitute a general lien, arising at the
11 time the order is issued, upon the real and personal property of the
12 operator, timber owner, and forest landowner within the state. A lien
13 arising under this subsection is prior and paramount to all other
14 liens and encumbrances except governmental tax liens.

15 (g) All orders issued under this section are enforceable by
16 injunction, attachment, garnishment, or other appropriate remedy.

17 (h) Unless otherwise specified, proceedings under this section
18 are not subject to the Administrative Procedure Act (AS 44.62). A
19 hearing under this section must be held before a hearing officer,
20 appointed by the attorney general from among members of the Alaska Bar
21 Association who are knowledgeable and experienced in the subject
22 matter. A person who has assisted in the preparation of the state's
23 case or who is a state employee is ineligible. Hearings are not
24 limited by common law, statutory, or judicial rules of evidence;
25 however, the hearing officer may admit only that evidence which appears
26 to him to be reliable and trustworthy. All hearings must be open to
27 the public. Written or oral testimony may be submitted. A party to a
28 hearing may make written or oral argument, secure the issuance of a
29 subpoena under AS 44.62.430, offer testimony or other evidence, and

1 cross-examine witnesses. The hearing officer shall endeavor, in
2 conducting any hearing, to insure that the respondent understands the
3 proceedings and that the facts supporting the position of each party
4 have been adequately presented. Hearings shall be held as close as
5 practicable to the location of the alleged violation. Testimony given
6 at the hearing must be recorded.

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

10 (1) the hearing will be a nonadversary proceeding, with the
11 hearing officer fully and impartially representing the interests of
12 the state and the respondent.

13 (2) the hearing officer will thoroughly investigate the
14 facts and circumstances relating to the alleged violation, including
15 taking testimony from appropriate persons, collecting and examining
16 documents and other evidence, and performing other actions consistent
17 with due process of law.

18 (3) issue a decision in accordance with the applicable
19 procedures of (h) of this section.

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

23 Sec. 41.17.120. APPEALS AND JUDICIAL REVIEW. (a) An administra-
24 tive action of the department under this chapter, except actions under
25 sec. 110 and except for adoption of regulations, may be appealed to
26 the commissioner within 30 days after it is taken. The commissioner
27 shall hold a hearing, at which all substantial issues shall be con-
28 sidered, within 15 days after an appeal is filed. Within 10 days
29 after conclusion of the hearing thereafter, the commissioner shall

1 issue a written decision based upon the evidence, which must be pro-
2 vided to the appellant. The commissioner may delegate his duties, in
3 whole or in part, under this subsection to a hearing officer.

4 (b) A final decision under (a) of this section or a final order
5 under sec. 110 of this chapter, may be appealed to the superior court
6 within 30 days after it is issued. Judicial review must be as provided
7 in AS 44.62.560 and 44.62.570.

8 (c) A temporary order issued under sec. 110 of this chapter may
9 be immediately appealed to the superior court as to its propriety.

10 Sec. 41.17.130. CIVIL ACTION. Any aggrieved person may commence
11 a civil action on his or her own behalf against the commissioner where
12 it is alleged that the commissioner (or his delegate) has failed to
13 perform a duty or has committed an abuse of discretion under this
14 chapter. The superior court has jurisdiction to order the commissioner
15 to take necessary corrective action. No action may be commenced under
16 this section until the plaintiff has completed an appeal under sec.
17 120(a) of this chapter unless the plaintiff can demonstrate that a
18 condition of urgency exists or unless he is alleging a failure to
19 perform a duty. Nothing in this section restricts any right which a
20 person or class of persons may have under statute or common law to any
21 other relief against the commissioner.

22 Sec. 41.17.950. DEFINITIONS. In this chapter, unless the context
23 otherwise requires,

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

26 (A) used for silvicultural management or related pur-
27 poses;

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

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

4 (2) "commissioner" means the commissioner of natural
5 resources;

6 (3) "department" means the Department of Natural Resources;

7 (4) "forest land" means land stocked or having been stocked
8 with forest trees of any size and not currently developed for non-
9 forest use, regardless of whether presently available or accessible
10 for commercial purposes, and includes any such land under state,
11 municipal, or private ownership.

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

13 (6) "multiple use" means

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

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

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

29 (7) "operations" means timber harvesting or activities

1 associated with timber harvesting or forest development unless exempted
2 under sec. 30 of this chapter;

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

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

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

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

20 (12) "timber owner" means a person who owns timber on
21 forest land or who has the rights to timber, but does not own the land
22 itself; and

23 (13) "significant impairment of the productivity of the
24 land and water" means any activity which may foreseeably result in
25 prolonged or substantial damage to renewable resources or prolonged or
26 substantial reduction of the continuing capability of the land or
27 water to produce renewable resources at their natural or historic
28 levels.

29 • Sec. 2. AS 39.25.120 is amended by adding a new paragraph to read:

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(10) the state forester, in the Department of Natural Resources.

* Sec. 3. This Act takes effect January 1, 1979. However, the commissioner is not precluded from undertaking preparatory activities in the interim.

Introduced: 4/6/78
Referred: Resources and
Finance

1 IN THE SENATE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 59

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE -- SECOND SESSION

5 A BILL

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

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

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

10 CHAPTER 17. FOREST RESOURCES AND PRACTICES.

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

13 (1) the forest resources of Alaska are among the most
14 valuable natural resources of the state, and furnish timber and wood
15 products, fish and wildlife, tourism, outdoor recreation and aesthetic
16 enjoyment, water, soil, air, minerals, diverse lifestyle opportunities,
17 general health and welfare, and a multitude of other products, benefits,
18 and services, tangible and intangible.

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

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

27 (4) government administration of forest resources should
28 combine professional management services, regulatory measures, and
29 economic incentives in a complementary fashion, and should draw upon

2 the expertise of professional foresters in conjunction with other dis-
3 ciplines;

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

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

11 Sec. 41.17.020. ADMINISTRATION. (a) The governor may create,
12 within the Department of Natural Resources, a Division of Forest,
13 Land, and Water Management to carry out this chapter and other appro-
14 priate duties designated by the governor. The division shall be
15 headed by a director who shall be the state forester, appointed by the
16 commissioner to the partially exempt service in accordance with law.
17 The state forester shall be a natural resources land manager with
18 generally accepted educational credentials, familiar and experienced
19 with the renewable and nonrenewable resources and values of forest
20 land and the products, benefits, and services obtained from them.

21 (b) The commissioner shall administer this chapter and is
22 authorized and encouraged to delegate responsibilities for carrying
23 out this chapter to the state forester.

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

28 (d) The commissioner may designate and operate experimental and
29 research forests on state land consistent with the limitations of AS
30 38.05.300. Laboratories and other facilities may be employed in con-

1 junction with those forests.

2 (e) The commissioner may establish and maintain forest vegeta-
3 tion nurseries and greenhouses for planting stock to be made available,
4 with or without charge, to organizations, institutions, government
5 agencies, individuals, and businesses for reforestation, afforestation,
6 and related purposes.

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

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

22 (h) In the administration of this chapter, the commissioner
23 shall consult with and draw upon the expertise of interested organiza-
24 tions, enterprises, individuals, government agencies, educational
25 institutions, and landowners. The commissioner may enter into coopera-
26 tive agreements and contracts with them to carry out this chapter.

27 (i) The commissioner shall establish, for general or special
28 purposes, one or more representative advisory committees to assist in
29 the administration of this chapter. Members of advisory committees

1 shall be appointed to specified terms, and may be reimbursed for travel
2 and expenses in accordance with law when approved by the commissioner.

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

6 (k) Notwithstanding any other provision of this chapter, the
7 commissioner may not employ the authority vested by this chapter so as
8 to duplicate or preempt the statutory authority of other state agencies
9 to adopt regulations or undertake other administrative actions govern-
10 ing resources, values, or activities on forest land except for (1)
11 regulations under the Coastal Management Act; and (2) if authorized by
12 the commissioner of environmental conservation, regulations relating
13 to control of nonpoint source pollution.

14 (l) The commissioner may take other actions necessary and proper
15 for the administration of this chapter, including the adoption of
16 regulations under the Administrative Procedure Act (AS 44.62).

17 Sec. 41.17.030. APPLICABILITY. (a) Unless otherwise specified,
18 this chapter applies to forest land under state, municipal, or private
19 ownership.

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

23 (c) The commissioner shall exempt from the provisions of this
24 chapter

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

27 (2) operations on private homesteads, farms, residential or
28 recreational property, and on all private tracts of 160 acres or less
29 under single ownership, unless those operations are part of a major

1 commercial logging network encompassing other tracts of land.

2 Sec. 41.17.040. REGULATORY AND ADMINISTRATIVE STANDARDS. (a)

3 All regulations, administrative actions, and other activities and
4 duties undertaken under this chapter must be in full accordance with
5 the standards set out in this section.

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

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

12 (2) to the maximum extent possible, all applicable data and
13 information of applicable disciplines must be updated and used in
14 making decisions relative to the management of forest resources;

15 (3) environmentally sensitive areas and best management
16 practices must be recognized in the implementation of any nonpoint
17 source pollution control measures authorized under this chapter;

18 (4) where not inconsistent with the other provisions of
19 this section, administration of forest land must consider marketing
20 conditions and other economic constraints affecting the operator;

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

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

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

28 (1) forest land must be administered for the multiple use
29 of the renewable and nonrenewable resources and for the sustained

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

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

8 (3) determinations of multiple-use patterns to be recognized
9 within any area must begin with the assumption that all resources and
10 values are of equal priority; and

11 (4) to the extent its capacity permits, forest land must be
12 administered so as to provide for the continuation of businesses,
13 activities, and lifestyles which are dependent upon or derived from
14 forest resources.

15 Sec. 41.17.050. ADMINISTRATIVE PLAN AND REPORT. (a) The com-
16 missioner shall develop and continually maintain a long range plan for
17 the administration of this chapter which demonstrates that the provi-
18 sions of sec. 10 are being recognized and that the standards of sec.
19 40 are being met. The commissioner shall maintain a current inventory
20 or assessment of timber on forest land to assist in meeting the require-
21 ments of this section.

22 (b) On June 30, 1980, and at two-year intervals after that date,
23 the commissioner shall submit a detailed report to the legislature
24 reviewing the administration of this chapter over the preceding two
25 years, demonstrating compliance with (a) of this section, and describing
26 how the plan will affect the welfare of the forest products industry
27 and other activities and pursuits derived from or affected by forest
28 resources.

29 (c) As a part of the report to be submitted on June 30, 1980,

1 under (b) of this section, the commissioner shall, after consultation
2 with interested constituencies,

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

5 (2) describe the degree to which the division has established
6 a high-profile forestry program utilizing the expertise of professional
7 foresters;

8 (3) describe the responsiveness of the division to the
9 interest of forest resources constituencies; and

10 (4) make recommendations to the legislature respecting the
11 legal authority of the Department of Natural Resources relating to
12 forestry, the qualifications of the director of the division, and the
13 location of the division within the department.

14 (d) On January 1, 1981, the commissioner, after consultation
15 with the commissioner of revenue, shall transmit to the legislature
16 recommendations for legislation establishing economic incentives which
17 would further the purposes of this chapter.

18 Sec. 41.17.060. REGULATIONS. (a) The commissioner may adopt
19 regulations in accordance with the Administrative Procedure Act (AS
20 44.62) governing operations on forest land with respect to the follow-
21 ing:

22 (1) harvesting, removal, and use of timber and tree pro-
23 ducts and related management activities;

24 (2) reforestation, afforestation, revegetation, stocking,
25 prescribed burning, fertilization, thinning, and other silvicultural
26 activities;

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

28 (4) soil erosion and washing;

29 (5) fire and flood hazards;

1 (6) general administrative requirements and procedures;
2 (7) prevention and control of disease and insect infesta-
3 tion;

4 (8) with respect to the items in this subsection, identi-
5 fication of areas or circumstances warranting prohibitions or special
6 limitations on land-use activities.

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

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

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

22 Sec. 41.17.070. REVIEW AND APPROVAL OF OPERATIONS. (a) Opera-
23 tions on forest land must be reviewed and approved under this section
24 for consistency with the policies and provisions of this chapter and
25 regulations adopted under this chapter.

26 (b) The commissioner shall make full use of professional manage-
27 ment services and other educational and assistance programs of the
28 department to encourage early contact between operators and the state
29 and to minimize reliance on this section as a principal means of

1 achieving the purposes of this chapter.

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

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

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

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

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

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

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

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

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

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

25 (4) upon the recommendation of the department or another
26 agency, require the submission of additional plans or descriptions
27 from the operator, but only to the extent necessary for proper assess-
28 ment of the proposed operation, however, any action by the commissioner
29 under this paragraph must be taken within three days after expiration

1 of the review period.

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

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

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

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

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

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

29 (l) No action taken by the commissioner under this section is an

1 authorization for an operator to violate applicable laws or regulations.

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

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

6 Sec. 41.17.080. DEPLOYMENT OF BROADCAST CHEMICALS. The commis-
7 sioner of environmental conservation, in consultation with the commis-
8 sioner, shall formulate necessary plans and measures to insure that
9 application of broadcast chemicals and other substances foreign to the
10 Alaska forest ecosystem do not lead to results contrary to the objec-
11 tives and provisions of this chapter and other applicable laws and
12 regulations relating to renewable resources. Regulations adopted by
13 the commissioner of environmental conservation may include requirements
14 for advance testing, posting of security, written reports, and other
15 matters.

16 Sec. 41.17.090. CONVERSION OF FOREST LAND TO OTHER USES. An
17 intention to convert forest land to other uses after timber harvesting
18 must be stated in the notification submitted under sec. 70 of this
19 chapter. In that event, reforestation requirements adopted under this
20 chapter do not apply, except that conversion must be completed during
21 the time set by regulation for minimum reforestation of the land, and
22 other requirements for revegetation may be imposed to the extent
23 permitted by law. If the commissioner finds at any time that the
24 responsible party has failed to conform to the intent to convert as
25 stated in the notification, the commissioner shall revoke approval of
26 the conversion and require full compliance with reforestation require-
27 ments.

28 Sec. 41.17.100. INSPECTIONS, INVESTIGATIONS, AND ENFORCEMENT
29 The commissioner may inspect and investigate forest land and activities

1 on it and may enter upon it in conjunction with any operations as
2 necessary to insure compliance with applicable regulations and require-
3 ments and to otherwise enforce the provisions of this chapter. Other
4 state agencies have this same authority to the extent necessary to
5 enforce their own laws and regulations on forest land. Those agencies
6 and the commissioner shall coordinate their actions under this section.

7 Sec. 41.17.110. PROHIBITIONS, PENALTIES, AND ENFORCEMENT PROCE-
8 DURES. (a) It is unlawful for any person to violate or permit a
9 violation of a provision of this chapter, a regulation adopted under
10 this chapter, or a term or condition of any approval granted under
11 secs. 70 - 90 of this chapter. A person who commits a violation is
12 liable for a civil fine to be assessed by the commissioner not to
13 exceed \$10,000.

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

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