

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

3054 SCOMM 138: HOUSE SPECIAL COMMITTEE ON FISHERIES 2005-2006 743

Dear Representative Ledoux,

I was disappointed to learn the House Fisheries Committee will not be taking public testimony on HB 328 on January 20.

This important legislation will ban mixing zone pollution in areas where Alaska wild salmon and other fish spawn.

Clean and healthy Alaska salmon are important to combat farmed salmon on world markets, and sport, commercial and subsistence fishermen depend on fresh, healthy fish. Wholesome Alaska salmon support countless families and communities across the state.

Please register my strong support for HB 328, and I hope you will take public testimony on this important bill in the near future.

P.S. I am pro-development. It is my hope that we can find another way to promote business and development other than polluting our waters.

Clifford Smith
319 Rogers Rd.
Kenai, AK 99611

Dear Representative Ledoux,

I was disappointed to learn the House Fisheries Committee will not be taking public testimony on HB 328 on January 20.

This important legislation will ban mixing zone pollution in areas where Alaska wild salmon and other fish spawn.

The Murkowski Administration has ignored the calls of thousands of Alaskans to protect our fish streams. ADEC's recently adopted mixing zone rule is riddled with legal loopholes that will allow pollution dumping in areas used by salmon and other fish to spawn.

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Please register my strong support for HB 328, and I hope you will take public testimony on this important bill in the near future.

Emily Chenel
64900 Berry Pail Drive
Homer, AK 99603

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varsha mathrani
2224 d street
Anchorage , AK 99503

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Dave Lacey
PO Box 81765
Fairbanks, AK 99708-1765

Dear Representative Ledoux,

The Murkowski Mixing Zone regulations do too little to protect Alaska's waterways and the fish that rely on them. I urge the Fisheries Committee to advance legislation that will ensure the health and cleanliness of our waters and our fish. Thank you.

Justin Massey
106 F Street
Anchorage, AK 99501

Dear Representative Ledoux,

I was disappointed to learn the House Fisheries Committee did not contact Federally Recognized Indian Tribes in Alaska for their comments or concerns, and will not be taking public testimony on HB 328 on January 20.

This important legislation will ban mixing zone pollution in areas where Alaska wild salmon and other fish spawn.

The Murkowski Administration has ignored the calls of thousands of Alaskans to protect our fish streams. ADEC's recently adopted mixing zone rule is riddled with legal loopholes that will allow pollution dumping in areas used by salmon and other fish to spawn.

Clean and healthy Alaska salmon are important to combat farmed salmon on world markets, and sport, commercial and subsistence fishermen depend on fresh, healthy fish. Wholesome Alaska salmon support countless families and communities across the state.

In addition, there are plants growing in and along these streams, which we use for subsistence food and traditional medicines. Mixing zones in the streams will have a direct and negative impact on human health to people using these resources, especially in rural Alaska.

Please register my strong support for HB 328, and I hope you will take public testimony on this important bill in the near future.

Brenda Trefon
P.O. Box 1248
Sterling, AK 99672

Dear Representative Ledoux,

Clean and healthy Alaska salmon are important to combat farmed salmon on world markets, and sport, commercial and subsistence fishermen depend on fresh, healthy fish.

I was disappointed that the House Fisheries Committee will not take public testimony on HB 328 on January 20. This legislation will ban mixing zone pollution where Alaska wild salmon and other fish spawn.

Please register my strong support for HB 328, and I hope you will take public testimony on this important bill in the near future.

Emily Creely
619 E. Ship Creek #319
Anchorage, AK 99501-1677

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Dora Coen
PO Box 1099
Homer, AK 99603-1099

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Joel Cooper
P.O. Box 3585
Homer, AK 99603-3585

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Please register my strong support for HB 328, and I hope you will take public testimony on this important bill in the near future.

Robin Lund
4178 Hohe St.
Homer, AK 99603-7007

Dear Representative Ledoux,

I and all of my friends and associates were offended to learn the House Fisheries Committee will not be taking public testimony on HB 328 on January 20.

This important legislation will ban mixing zone pollution in areas where Alaska wild salmon and other fish spawn. This is a "no brainer", toxins and fish don't mix. Period. Why won't this administration listen to its private constituents for a change and quit listening to the highest paying lobbyists. Enough is enough. Please support this important legislation!

The Murkowski Administration has ignored the calls of thousands of Alaskans to protect our fish streams. ADEC's recently adopted mixing zone rule is riddled with legal loopholes that will allow pollution dumping in areas used by salmon and other fish to spawn.

Clean and healthy Alaska salmon are integral to combat farmed salmon on world markets, and sport, commercial and subsistence fishermen depend on fresh, healthy fish and waters. Wholesome Alaska salmon support countless families and communities across the state.

Please register my strong support for HB 328, and I hope you will take public testimony on this important bill in the near future. Please listen to the people of Alaska who depend on these waters and fish for sustenance.

Russ Maddox
3385 Nash Rd
Seward, AK 99664

Dear Representative Ledoux,

I was disappointed to learn the House Fisheries Committee will not be taking public testimony on HB 328 on January 20.

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The Murkowski Administration has ignored the calls of thousands of Alaskans to protect our fish streams. ADEC's recently adopted mixing zone rule is riddled with legal loopholes that will allow pollution dumping in areas used by salmon and other fish to spawn.

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Please register my strong support for HB 328, and I hope you will take public testimony on this important bill in the near future.

Chris Whittington-Evans
2305 N. Alsek Circle
Palmer, AK 99645

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The Murkowski Administration has ignored the calls of thousands of Alaskans to protect our fish streams. ADEC's recently adopted mixing zone rule is riddled with legal loopholes that will allow pollution dumping in areas used by salmon and other fish to spawn.

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BLAINE STABER
202 Hoyt
ANCHORAGE, AK 99508

Dear Representative Ledoux,

Don't give the Finn's more reason to sell their farm salmon to the world. Don't allow our rivers to be polluted by mining companies interested in profits over a few decades leaving Alaskans and our local government to spend many more decades trying to recover what you gave freely away. Value our wilderness, don't exploit it for short term gain. Don't do it. Just say no to this. Say yes to Wilderness.

One third of all American wilderness is in Alaska. This is our true long term economic value to the rest of the country, and certainly to the way of life which attracted us to the wilds of Alaska in the first place. One hundred years from now what legacy will you leave? I gave away Alaska's pristing waters to the miners? Or I protected our rivers and lakes and fish from pollution? I trust you would be far more proud to announce the latter than the former to your progeny's grandchildren. Be brave, bold, and brilliant in defending the natural gifts of Alaska's waters.

Kathryn Haber & Steve Haber
P.O. Box 2429
Homer, AK 99603-2429

Dear Representative Ledoux,

I am disappointed to learn the House Fisheries Committee will not be taking public testimony on HB 328 on January 20.

This important legislation will ban mixing zone pollution in areas where Alaska wild salmon and other fish spawn.

The Murkowski Administration has ignored the calls of thousands of Alaskans to protect our fish streams. ADEC's recently adopted mixing zone rule is riddled with legal loopholes that will allow pollution dumping in areas used by salmon and other fish to spawn.

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Christine Wilcox
10001 Hampcon Circle
Anchorage, AK 99507

Dear Representative Ledoux,

I was disappointed to learn the House Fisheries Committee will not be taking public testimony on HB 328 on January 20. As you are well aware of, this important legislation will ban mixing zone pollution in areas where Alaska wild salmon and other fish spawn.

I am a fisheries biologist residing in Homer Alaska. I have been a professional fisheries biologist and researcher for over 30 years. In more recent years, I have conducted or been a part of research connected to pollution and contaminants in our salmon and marine species. I was also a board member of the Prince William Sound RCAC for about 5 years representing Homer and also the Cook Inlet RCAC also representing Homer for about a year. There is a large amount of factual data showing significant contaminants and pollutants in our salmon and other marine fish tissues as well as marine water and sediments. If there was ever a time to stop thinking about oceans and rivers as garbage dumps, its right now!

The ignorance, denial and greed connected with inexcusably soft and unprotective regulations from agencies that are supposed to protect both us as citizens and our important marine resources from pollution has gone on far too long. It is now catching up to us rapidly and will take the next several decades to work hard to minize all pollution in order to start cleaning up our rivers, oceans, fish and ultimately ourselves since may of us love to eat fish.

The Murkowski Adminstration has ignored the calls of thousands of Alaskans to protect our fish streams. ADEC's recently adopted mixing zone rule is riddled with legal loopholes that will allow pollution dumping in areas used by salmon and other fish to spawn.

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Please register my strong support for HB 328, and I hope you will take public testimony on this important bill in the near future.

Paul McCollum
P.O. Box 2790
Homer, AK 99603-2790

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Maryellen Oman
12951 Summer Circle
Anchorage, AK 995162629

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Carrie Gray Wolfe
Box 7686-J
Palmer, AK 99645

Dear Representative Ledoux,

I was disappointed to learn the House Fisheries Committee will not be taking public testimony on HB 328 on January 20.

This important legislation will ban mixing zone contamination in areas where Alaska wild salmon and other fish spawn.

While, Murkowski Administration started to listen to thousands of Alaskans and pulled back some of the mixing zone regulations, I feel that ADEC's recently adopted mixing zone rule is still open to legal loopholes that will allow pollution dumping in areas used by salmon and other fish to spawn.

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Please register my strong support for HB 328, and I hope you will take public testimony on this important bill in the near future.

Roberta Rinehart
16461 Saint James Circle
Anchorage, AK 99516

Dear Representative Ledoux,

I live in Juneau and I was dismayed to learn the House Fisheries Committee will not be taking public testimony on HB 328 on January 20. It is important that the public be heard on this issue as it is clear this administration is not listening to us.

This is important legislation. What could be more important than protecting Alaska's pristine streams where Alaska wild salmon and other fish spawn?

The Murkowski Administration has ignored the calls of thousands of Alaskans to protect our fish streams. ADEC's recently adopted mixing zone rule is riddled with legal loopholes that will allow pollution dumping in areas used by salmon and other fish to spawn.

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Barbara Kelly
PO Box 21873
Juneau, AK 99802

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It makes absolutely no sense to jeopardize the reputation of Alaska's wild salmon which mixing zones will do.

Please register my strong support for HB 328, and I hope you will take public testimony on this important bill in the near future.

Susan Olsen
8601 Sultana Drive
Anchorage, AK 99516-2563

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Sheryl Salasky
POB 196
Talkeetna, AK 99676

Dear Representative Ledoux,

My family is extremely disappointed to learn the House Fisheries Committee will not be taking public testimony on HB 328 on January 20.

Our 10-year old daughter has previously testified against mixing zones. Her children and grandchildren are affected by the actions you take today! Protect their rights to clean water!

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Please register our strong support for HB 328, and we hope you will take public testimony on this important bill in the near future.

David, Julie & Adi Jo Davis PO Box 114
567 Waddell St.
Homer, AK 99603

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Leslie Slater
P.O. Box 2316
Homer, AK 99603

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Art Kolter
P.O. Box 20414
Juneau, AK 99802-0414

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Michael Parks
PO Box 4332
Homer, AK 99603-4332

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Mark Masteller
P. O. Box 965
Palmer, AK 99645

Dear Representative Ledoux,

I was dismayed to learn the House Fisheries Committee will not be taking public testimony on HB 328 on January 20.

This is a critically important piece of legislation as it will ban mixing zone pollution in areas where Alaska wild salmon and other fish spawn.

The Murkowski Administration for unknown reasons chooses to be short sighted and has ignored the calls of thousands of Alaskans to protect our fish streams. ADEC's recently adopted mixing zone rule is riddled with legal loopholes that will allow pollution dumping in areas used by salmon and other fish to spawn.

Clean and healthy Alaska salmon are important to combat farmed salmon on world markets; and sport, commercial and subsistence fishermen depend on fresh, healthy fish. Wholesome Alaska salmon support countless families and communities across the state.

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Jennifer Edwards
POB 2296
Homer, AK 99603-2296

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Lilly Ryterski
42414 Old Sterling Hwy
Anchor Poing, AK 99556

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Douglas Franklin
1600 Birchwood Street
Anchorage, AK 99508

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Rebecca Cook
1034 West 20th Avenue
#4
Anchorage, AK 99503

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Martha Hutchison
4401 O'Malley Rd.
Anchorage, AK 99507

Dear Representative Ledoux,

As I will be at work and unable to testify to the Alaska House Fisheries Committee on HB 328 Friday morning, I am submitting the following written comments, which I hope you will consider. I also hope you will consider accepting public comments on this important legislation in the future.

I fully support Rep. Paul Seaton's HB 328. It's heartening to know that we have a forward-thinking legislator who realizes that pristine waters and healthy fishery resources are the cornerstones of Alaska's sustainable fishing and tourism industries, and that without these renewable resources, our state will have nothing to rely on after our non-renewable resources are gone.

The only way to assure the continuation of Alaska's enviable situation of maintaining strong, healthy fish stocks, is to maintain stringent water quality and habitat protection regulations. Every state that has decided to weaken their water quality regulations (e.g., allowing mixing zones in fish spawning, incubation, and rearing areas) to make it easier for extractive industries to conduct business, have paid the price. Many of these states now have health advisories warning against consumption of their fish. Others face constant litigation against their failures to protect the public's resource and they struggle with funding for expensive mitigation projects that rarely provide full restoration of lost resources. It is inconceivable to me that Alaska is considering following in their footsteps and risking the long-term health of its most valuable renewable resource by weakening the water quality regulations that have done such an outstanding job of protecting fisheries so far.

The Alaska Department of Environmental Conservation's (ADEC) new regulations regarding mixing zones do NOT ensure adequate protection to our state's valuable fishery resources. Instead, the new regulations introduce loopholes that would lead to mixing zones in salmon, trout, and char spawning, incubation, and rearing areas. Unfortunately, the new regulations do NOT require comprehensive baseline studies prior to permitting mixing zones so that effects from the mixing zone can be readily compared to pre-permitted conditions. Nor do the new regulations require unbiased follow-up monitoring of permitted mixing zones to assure compliance with the requirement that they do not "adversely affect the present and future capacity of an area to support spawning, incubation, and rearing of the five species of Pacific salmon". Without these requirements in regulation, and adequate funding for staff to conduct monitoring and enforcement activities, there is no way to assure compliance with the new regulations.

Furthermore, DEC's new regulations do NOT require that professional fishery biologists from the Department of Fish and Game be involved in mixing zone permitting decisions that affect the state's fishery

resources, except in rare cases where special, legislatively designated areas are involved (e.g., State Refuges, Critical Habitat Areas, etc.). Instead, DEC's regs require only that the Department of Natural Resources (who's mission is development, not conservation) be consulted on permitting matters and mitigation plans. They also leave Fish and Game out of monitoring activities and instead leave it up to the permittee (i.e., polluter) to determine whether or not their mixing zone is negatively affecting the future capacity of the area to support spawning, incubation, and rearing.

Rep. Seaton's HB 328 nips these problems in the bud by establishing an outright ban on mixing zones in the spawning areas of Alaska's five Pacific salmon species, as well as other important resident species (e.g., trout, char, burbot, sheefish, etc). While Rep. Seaton's bill provides strong protection for our state's salmon spawning areas, it also provides a sensible solution to the rare situations where salmon colonize and begin spawning in artificially constructed wastewater channels (e.g., Valdez Sewage Treatment Center), thereby solving one of the main reasons DEC cited for drafting new regulations in the first place.

Our elected representatives are supposed to conduct state business in a manner that is in the long-term best interest of all Alaskans. I expect you to do just that, by supporting Rep. Seaton's forward-thinking bill to provide the protection our state's most valuable resource needs to assure it's continued health for generations of Alaskans to come. Please don't be the legislature that future generations of Alaskans will look back on with disdain for opening the door to pollution of our salmon producing waters. Do the right thing, and pass HB 328.

Thank you for this opportunity to comment.

Emilie Otis & Ted Otis
P.O. Box 1402
Homer, AK 99603-1402

Dear Representative Ledoux,

I was disappointed to learn the House Fisheries Committee will not be taking public testimony on HB 328 on January 20.

This important legislation will ban mixing zone pollution in areas where Alaska wild salmon and other fish spawn.

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Please register my strong support for HB 328, and I hope you will take public testimony on this important bill in the near future.

Janine Lehman
PO Box 1163
Dillingham, AK 99576

Dear Representative Ledoux,

Please support Representative Seaton's HB 328. This bill provides needed comprehensive protection to our present thriving fish resource. We are blessed with clean fish in Alaska. A food source of this magnitude must take priority.

I am waiting in sincere hopes that I will be allowed to testify at a House Fisheries Committee meeting soon.

We are a forty-two year old Alaskan corporation that hires over 70 employees in the fish processing business. Our corporation relies on the quality of our water. This main priority of clean pristine Alaskan water and the heavy metal free fish that thrive there is key to our marketing success. Alaska is known for clean fish unknown in most other parts of the world.

In addition to my fifteen years as a fish processor, my twenty-two years of experience as a fish culturist gives me insight into the biology of the life stages of fish in river systems. Each stage has a fragile complexity from the time of

1. fertilization
2. tender egg stage
3. eyed egg stage,
4. hatch
5. alevin
6. fry
7. rearing fry
8. smolt
9. Osmoregulation
10. feeder
11. Spawner

I had planned to testify Friday but will wait for the next meeting when you will take public comments. I feel confident that our legislators will do everything in their power to uphold the needed quality legislation that protects such an important food source as our fish.

Nancy Hillstrand
P.O. Box 170
Homer, AK 99603-0170

To: Representative Gabrielle Ledoux FROM: Nancy H (19074614956)

02:36 01/20/06 EST Pg 2-2

Dear Representative Ledoux,

I was disappointed to learn the House Fisheries Committee will not be taking public testimony on HB 328 on January 20.

This important legislation will ban mixing zone pollution in areas where Alaska wild salmon and other fish spawn.

The Murkowski Administration has ignored the calls of thousands of Alaskans to protect our fish streams. ADEC's recently adopted mixing zone rule is riddled with legal loopholes that will allow pollution dumping in areas used by salmon and other fish to spawn.

Clean and healthy Alaska salmon are important to combat farmed salmon on world markets, and sport, commercial and subsistence fishermen depend on fresh, healthy fish. Wholesome Alaska salmon support countless families and communities across the state.

Please register my strong support for HB 328, and I hope you will take public testimony on this important bill in the near future.

Mark Luttrell
Box 511
Box 511
Seward, AK 99664

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Larry Casey
12428 Winter Park Circle
Eagle River, AK 99577-7645

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Helena Spector
4780 Mills Drive
Anchorage, AK 99508-4733

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brian smith
p.o. box 4171
p.o. box 4171
palmer, AK 99645

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Clean and healthy Alaska salmon are important to combat farmed salmon on world markets, and sport, commercial and subsistence fishermen depend on fresh, healthy fish. Wholesome Alaska salmon support countless families and communities across the state. The news that Alaska will allow pollution of spawning beds to subsidize mining and other polluting industries will drive away consumers, and discourage sport fishermen from coming to fish our streams

Please register my strong support for HB 328, and I hope you will and take public testimony on this important bill in the near future.

lance trasky
3941 Truro Dr.
Anchorage, ak 99507

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Jeri Byers
5731 College Dr.
Anchorage, AK 99504-3010

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Elizabeth Begert
7847 Jewel Lake Rd #2
Anchorage, AK 99502

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Meredith Domurat
P.O. Box 112749
Anchorage, AK 99511-2749

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Marika Mannerstrom
Lokkikuja 6 e
Helsinki, AK 00200

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Nancy Eyraud
PO Box 887914
Wasilla, AK 99687

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Please register my strong support for HB 328, and I hope you will take public testimony on this important bill in the near future.

Sara Petty
259 Zappa Pl. #B
Anchorage, AK 99504

Dear Representative Ledoux,

I was disappointed to learn the House Fisheries Committee will not be taking public testimony on HB 328 on January 20.

This important legislation will ban mixing zone pollution in areas where Alaska wild salmon and other fish spawn. Considering how many fisheries in the world have collapsed because of lack of care of spawning areas, this is extremely important. We should not be endangering our very important renewable resource - our fish.

The Murkowski Administration has ignored the calls of thousands of Alaskans to protect our fish streams. ADEC's recently adopted mixing zone rule is riddled with legal loopholes that will allow pollution dumping in areas used by salmon and other fish to spawn.

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Paula Williams and David George
4841 Kent Street
Anchorage, AK 99503-7032

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Please register my strong support for HB 328, and I hope you will take public testimony on this important bill in the near future.

Alysha Mathewson
4556 Early Spring St.
Homer, AK 99603-7323

SCCOMM

138:18

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

- ☐ P.O. BOX 111000
JUNEAU, ALASKA 99811-1000
PHONE: (907) 465-2400
FAX: (907) 465-3886
- ☐ 550 WEST 7TH AVENUE, SUITE 1400
ANCHORAGE, ALASKA 99501-3650
PHONE: (907) 269-8431
FAX: (907) 269-8918

February 2, 2006

The Honorable Gabrielle LeDoux, Co-Chair
The Honorable Bill Thomas, Co-Chair
House Fisheries Committee
Alaska State Legislature
Juneau, AK 99802

RE: HB 420 - Relating to riparian protection standards for forest resources and practices; and providing for an effective date.

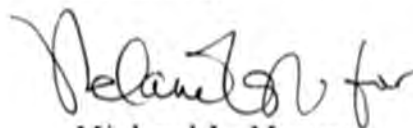
Dear Co-Chairs LeDoux and Thomas:

This letter serves as the department's formal request to hear HB 420 in the House Fisheries Committee at your earliest convenience. We very much appreciate your willingness to schedule the bill for a hearing on February 8th, 2006. For your information, I have attached a copy of the Governor's transmittal letter and an information packet for each bill.

HB 420 would complete the task of setting statewide riparian protection standards that began with the 1990 changes to the Forest Resources and Practices Act (AS 41.17). Standards for Region I, the coastal forest, and Region III, the Interior, have already been established. Now, the work has been finished to set standards for Region II, Southcentral, Alaska.

Thank you for scheduling this bill. Please contact Melanie Lesh at 465-4730 if you have any questions regarding the bill or hearing details and arrangements for teleconferencing staff to speak to and support the bill. You may also contact Marty Freeman, the Forest Resources Program Manager at 269-8473.

Sincerely,


Michael L. Menge
Commissioner

cc: Melanie Lesh, Legislative Liaison
Marty Freeman, DOF

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

24-GH2032\G
Bullock
2/14/06

CS FOR HOUSE BILL NO. 420(FSH)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON FISHERIES

**Offered:
Referred:**

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to riparian protection standards for forest resources and practices;**
2 **and providing for an effective date."**

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

4 *** Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
5 to read:

6 **FINDINGS AND PURPOSE.** (a) The legislature finds that

7 (1) AS 41.17 (Forest Resources and Practices Act)

8 (A) establishes a policy of protecting riparian areas from significant
9 adverse effects on fish habitat and water quality from timber harvest activities; and

10 (B) divides the state into three forested regions for purposes of riparian
11 area protection, in recognition of the fact that standards necessary to adequately
12 protect fish habitat and water quality may vary according to the different
13 characteristics of each of these three regions;

14 (2) AS 41.17 (Forest Resources and Practices Act) has already established

1 detailed riparian protection standards for the southern coast (Region I) and interior (Region
2 III) of the state, which all available evidence continues to indicate adequately protect riparian
3 areas in these regions; however, the legislature has not previously established similarly
4 detailed standards for inland southcentral Alaska (Region II), because of the need for
5 additional research and scientific collaboration specific to that region;

6 (3) an intensive analysis of riparian habitat characteristics in Region II has
7 been completed, and proposed detailed standards for riparian protection in Region II that are
8 based on the unique nature of riparian ecosystems in Region II have been developed; these
9 proposed standards have been endorsed by the Board of Forestry and the Department of
10 Natural Resources;

11 (4) the proposed standards for Region II recognize that certain distinctive
12 features of riparian areas in Region II exist that warrant special protection standards that differ
13 significantly from the standards applicable to either Region I or Region III; these distinctive
14 features include

15 (A) a relative abundance of wide, unconfined, and dynamic river
16 channels in forested areas; the falling of trees into these rivers as a result of the
17 frequent shifting of river banks is a major contributor of beneficial large woody debris
18 to these channels; trees along these rivers can therefore become an important source of
19 large woody debris even though they are currently located relatively far from the river;

20 (B) a greater diversity and wider distribution of fish species, including
21 high value resident fish species, than in other regions of the state;

22 (C) more intensive use of fresh water for sport fishing in Region II
23 than in other regions of the state; and

24 (D) a relatively low volume for each acre of riparian timber and a
25 relatively high proportion of hardwoods that have a shorter residence time as large
26 woody debris; as a result, a wider no-harvest area is necessary along dynamic river
27 channels in Region II to provide a volume of large woody debris equivalent to that
28 yielded by a smaller buffer in other regions;

29 (5) the proposed standards for Region II are responsive to the distinctive
30 features listed in (4) of this subsection.

31 (b) The purpose of this Act is to further the goal of AS 41.17 (Forest Resources and

1 Practices Act) of region-specific riparian protection standards in this state by adopting
2 standards that have been tailored to the unique conditions of the inland southcentral area of
3 the state.

4 * Sec. 2. AS 41.17.116(c) is repealed and reenacted to read:

5 (c) Private forest land adjacent to the following types of water and located in
6 Region III is subject to the riparian protection standards established in this subsection:

7 (1) along a Type III-A water body, harvest of timber may not be
8 undertaken within 66 feet of the water body;

9 (2) along a Type III-B water body, harvest of timber may not be
10 undertaken within 33 feet of the water body; between 33 feet and 66 feet from the
11 water body, up to 50 percent of standing white spruce trees having at least a nine-inch
12 diameter at breast height may be harvested without requiring a variation;

13 (3) along a Type III-C water body, harvest of timber within 100 feet of
14 the water body must be located and designed primarily to protect fish habitat and
15 surface water quality as determined by the state forester with due deference to the
16 deputy commissioner.

17 * Sec. 3. AS 41.17.118(a) is repealed and reenacted to read:

18 (a) The riparian standards for state land are as follows:

19 (1) on state forest land managed by the department that is in Region I,

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

22 (B) between 100 and 300 feet from the water body, harvest of
23 timber may occur but must be consistent with the maintenance of important
24 fish and wildlife habitat as determined by the state forester with due deference
25 to the deputy commissioner;

26 (2) on state forest land managed by the department that is in Region II,

27 (A) along a Type II-A water body, harvest of timber may not
28 be undertaken within 150 feet of the water body; additionally, harvest of
29 timber may not be undertaken along outer bends subject to erosion within 225
30 feet of the water body or to the terrace top break, whichever is smaller;

31 (B) along a Type II-B water body, harvest of timber may not be

undertaken within 150 feet of the water body; additionally, harvest of timber may not be undertaken along outer bends subject to erosion within 325 feet of the water body or to the terrace top break, whichever is smaller;

(C) along a Type II-C water body, harvest of timber may not be undertaken within 100 feet of the water body;

(D) along a Type II-D water body, there is a 100-foot riparian area; harvest of timber may not be undertaken within 50 feet of the water body;

(E) the length of the augmented buffer along an outer bend subject to erosion in (A) or (B) of this paragraph must be equal to a distance eight times the stream width measured on a reach between bends at a point not widened by a point bar or channel movement; the augmented buffer must be located so three stream widths are upstream and five stream widths are downstream of the point opposite the apex of the point bar;

(F) where an estuarine area is adjacent to an anadromous or high value resident fish water body, the riparian retention area for the adjacent water body applies to the estuarine area;

(G) along Type II-A, II-B, II-C, and II-D water bodies, harvest of timber may occur between the landward extent of the riparian retention area and 300 feet from the water body consistent with the maintenance or enhancement of important wildlife habitat as determined by the state forester with due deference to the deputy commissioner;

(3) on state forest land managed by the department that is in Region

III,

(A) along a Type III-A water body, harvest of timber may not be undertaken within 100 feet of the water body; however, between 66 feet and 100 feet from the water body, harvest of timber may be undertaken where consistent with the maintenance of important fish and wildlife habitat as determined by the state forester with the concurrence of the deputy commissioner;

(B) along a Type III-B water body, harvest of timber may not be undertaken within 50 feet of the water body; between 50 feet and 100 feet

1 from the water body, up to 50 percent of standing white spruce trees having at
2 least a nine-inch diameter at breast height may be harvested;

3 (C) along a Type III-C water body, harvest of timber within
4 100 feet of the water body must be consistent with the maintenance of
5 important fish and wildlife habitat as determined by the state forester with due
6 deference to the deputy commissioner.

7 * Sec. 4. AS 41.17.119 is repealed and reenacted to read:

8 **Sec. 41.17.119. Minimum riparian standards for other public land.** The
9 riparian standards for other public land are as follows:

10 (1) in Region I, harvest of timber may not be undertaken within 100
11 feet of an anadromous or high value resident fish water body;

12 (2) in Region II, the standards are the same as for state land under
13 AS 41.17.118(a)(2)(A) - (F) and regulations adopted under this chapter;

14 (3) in Region III, the standards are the same as for state land under
15 AS 41.17.118(a)(3) and regulations adopted under this chapter.

16 * Sec. 5. AS 41.17.950(21) is amended to read:

17 (21) "riparian area" means

18 (A) the areas subject to riparian protection standards in
19 AS 41.17.116(a) and (c) [AS 41.17.116(a) AND (b)] on private land in
20 Regions I and III;

21 (B) the area 150 feet from the shore or bank of a Type II-A
22 or II-B water body, and 100 feet from the shore or bank of a Type II-C or
23 II-D water body [AREAS SUBJECT TO RIPARIAN PROTECTION
24 STANDARDS IN REGULATIONS ADOPTED BY THE STATE
25 FORESTER UNDER AS 41.17.116(c) ON PRIVATE LAND] in Region II;

26 (C) the area 100 feet from the shore or bank of an anadromous
27 or high value resident fish water body on state land managed by the department
28 and on other public land in Region I and III;

29 * Sec. 6. AS 41.17.950 is amended by adding new paragraphs to read:

30 (34) "outer bend subject to erosion" means, in Region II, a stream bend
31 that has a cut-bank and is opposite a point bar on the inner bend;

1 (35) "point bar" means, in Region II, a ridge or low mound of
2 sediment, often sand or gravel, that has been deposited on the inside of a curve in a
3 stream, where the water velocity is lower;

4 (36) "terrace" means, in Region II, a change in elevation greater than
5 10 feet for a Type II-A water body or greater than 20 feet for a Type II-B water body,
6 and that has a slope greater than 30 percent;

7 (37) "terrace top break" means, in Region II, the point at which the
8 terrace slope changes to the lower angle slope of the adjacent upland; for purposes of
9 measurement, the terrace top break is where the degree of slope is reduced by 20
10 percent or more when measured away from the stream;

11 (38) "Type II-A water body" means, in Region II,

12 (A) a nonglacial stream greater than 50 feet wide that has
13 anadromous or high value resident fish and that has an unconfined and
14 dynamic channel; and

15 (B) a water body that typically has point bars, islands, scour
16 planes, active or recent side channels, and areas of obvious bank erosion;

17 (39) "Type II-B water body" means, in Region II, a glacial stream that
18 has anadromous or high value resident fish and that is not a glacial Type II-C water
19 body;

20 (40) "Type II-C water body" means, in Region II, a water body that
21 has anadromous or high value resident fish that

22 (A) is a nonglacial water body greater than three feet wide and
23 less than or equal to 50 feet wide at ordinary high water mark that has an
24 unconfined and dynamic channel;

25 (B) is a nonglacial water body greater than three feet wide at
26 ordinary high water mark that has a confined channel;

27 (C) is a reach of the Kenai River, Kasilof River, or Lake Fork
28 Crescent River greater than three feet wide at ordinary high water mark; or

29 (D) is a lake or pond;

30 (41) "Type II-D water body" means, in Region II, a nonglacial stream
31 or a reach of the Kenai River, Kasilof River, or Lake Fork Crescent River that is less

- 1 than or equal to three feet wide at ordinary high water mark that has anadromous or
2 high value resident fish.
3 * **Sec. 7.** This Act takes effect July 1, 2006.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

- ☐ P.O. BOX 111000
JUNEAU, ALASKA 99811-1000
PHONE: (907) 465-2400
FAX: (907) 465-3886
- ☒ 550 WEST 7TH AVENUE, SUITE 1400
ANCHORAGE, ALASKA 99501-3650
PHONE: (907) 269-8431
FAX: (907) 269-8918

February 6, 2006

Rep. Gabrielle LeDoux and Rep. William Thomas, Jr., Co-Chairs
House Special Committee on Fisheries

Dear Rep. LeDoux and Rep. Thomas:

Re: ADNR/OHMP Support for HB 420—Forest Resources & Practices Standards

This letter is in support of House Bill 420—*An Act relating to riparian protection standards for forest resources and practices and providing for an effective date.* HB 420/SB 262, currently in your committee, amends the Alaska Forest Resources and Practices Act (FRPA) for southcentral Alaska by setting region-specific standards for commercial forestry activities in riparian areas that protect fish habitat and water quality, support healthy timber and fishing industries, and incorporate the best available science.

The Department of Natural Resources, Office of Habitat Management and Permitting (OHMP) was an active participant in the interdisciplinary Science & Technical Committee that recommended changes to current riparian management standards, and in the Implementation Group that drafted language for changes to the FRPA regulations. We were pleased when the Board of Forestry reviewed and concurred with the recommendations from the Implementation Group. The entire history of HB 420 now before you has occurred by consensus among a diverse group of Alaskans, from a variety of affected interests, seeking balance among potentially competing uses of state resources.

The OHMP remains firmly in support of HB 420, and we urge this committee to pass the bill on without amendment in a timely manner.

Sincerely,

Edmund J. Fogels
Acting Deputy Commissioner

cc: Melanie Lesh, ADNR Legislative Liaison

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



ALASKA CENTER *for the* ENVIRONMENT

G Street, Suite 100 * Anchorage, Alaska 99501

907-274-3621 phone * 907-274-8733 fax * ace@akcenter.org * www.akcenter.org

February 14, 2006

Representative Gabrielle LeDoux, Co-chair
Representative William Thomas Jr., Co-chair
House Special Committee on Fisheries
Alaska State Legislature
State Capitol
Juneau, Alaska 99801

Re: HB 420 Riparian Protection Standards for Forest Resources and Practices

Dear Committee Chairs LeDoux and Thomas,

Alaska Center for the Environment (ACE) would like to thank you for the opportunity to comment on HB 420, an Act relating to riparian protection standards. ACE is a grassroots conservation organization, based in Anchorage, with over 7,000 Alaskan members who have been working for 35 years to protect Alaska's forests.

As an active member of the Division of Forestry's Region II Implementation Group we support HB 420. The process to get us to this point has been a comprehensive one, it has been sound, and the outcome is this bill, which is supported by a variety of Alaskan interests.

We believe that this bill will allow the Alaska Department of Fish and Game to protect fish, fish habitat and water quality near forestry areas. We urge your committee to pass this bill.

Thank you,

Eric Uhde
Public Lands Advocate
Alaska Center for the Environment
807 G Street, Suite 100
Anchorage, Alaska 99501

From the Governor's transmittal letter dated January 31, 2006:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to riparian protection standards for forest resources and practices.

The bill would complete the task of setting statewide riparian protection standards that began with the 1990 changes to the Forest Resources and Practices Act (AS 41.17). Standards for Region I, the coastal forest, and Region III, the Interior, have already been established. Now, the work has been finished to set standards for Region II, Southcentral.

Section 1 of the bill sets out legislative findings supporting the standards. Such findings are helpful to managers and the regulated community in understanding the underlying purposes and intent for the statutory language. These findings recognize the unique nature of Southcentral Alaska forests and forest uses.

Section 2 of the bill would set the new standards for private land in Southcentral Alaska. For large, nonglacial, and for most glacial, anadromous fish-bearing water bodies, timber harvest may not occur within 150 feet of the water body and wider protections are set for outer bends subject to erosion. Other types of water bodies receive either 100-foot or 50-foot no-harvest buffers, depending on stream characteristics.

Section 3 of the bill would set the new standards for state land in Southcentral Alaska. The no-harvest buffers would be the same as those set for private land. This section also would clarify that adjacent estuarine areas are subject to the same protections as are the fresh water bodies. Also, this section would establish that for all four types of fish-bearing water bodies in the region, harvest may occur from the landward boundary of the no-harvest buffer to 300 feet from the water body only insofar as it is consistent with the maintenance or enhancement of wildlife habitat.

Section 4 of the bill would set new standards for other public land in Southcentral Alaska. These standards are the same as those applicable to state land, except that there is no requirement that harvest from the boundary out to 300 feet be consistent with maintenance or enhancement of wildlife habitat.

In section 5 of the bill, the term "riparian area" would be amended to reflect the new standards for Region II. Section 6 of the bill would add new definitions necessary to understand the standards. Thus, the four new stream categories (Types II-A, II-B, II-C, and II-D) are explained. Finally, the terms "outer bend subject to erosion," "point bar," "terrace," and "terrace top break" all would be defined.

Section 7 of the bill would set the effective date as July 1, 2006.

The bill would complete the fish habitat riparian protection standards that are one of the primary purposes underlying the Forest Resources and Practices Act. I urge your prompt and favorable action on this measure.



Fact Sheet:

Alaska Forest Resources and Practices Act

December 8, 2005

DEPARTMENT OF NATURAL RESOURCES

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DIVISION OF FORESTRY

Background. The Alaska Forest Resources and Practices Act (FRPA, AS 41.17) governs how timber harvesting, reforestation, and timber access occur on state, private, and municipal land. Forest management standards on federal land must also meet or exceed the standards for state land established by the Act. The FRPA was originally adopted in 1978. Major revisions were adopted in 1990 to address riparian management on private land, enhance notification procedures for timber operations, reorganize the Board of Forestry, and establish enforcement procedures. Additional changes to the stream classification system and riparian management standards were adopted in 1999 for Region I (coastal Alaska) and in 2003 for Region III (interior Alaska). Review of the standards for Region II (southcentral Alaska) is in progress.

Purpose. The Act balances economic concerns for the timber industry with water quality and habitat protection needs. It protects fish habitat and water quality, ensures prompt reforestation, and helps the timber and fishing industries provide long-term jobs. This framework provides certainty and credibility for landowners, operators, and the public.

Key provisions. The Act

- Establishes a process for landowners to notify the state before beginning commercial timber operations. This is not a permit process. Tight timeframes are set for agency review of notifications, and timber operations can proceed if the agencies do not respond within the set time frame.
- Sets standards for forest management along waterbodies, including buffers (see attached chart), and provides flexibility to harvest valuable trees within buffers when it can be done without harming fish habitat or water quality. Harvest within buffers requires agency approval. Buffers are tailored to the conditions in each region.
- Sets standards to prevent erosion from roads and harvest areas into waterbodies.
- Requires reforestation except where land will be converted to another use, or where the harvest area is significantly composed of dead or dying trees.
- Provides one-stop shopping for forest operation compliance with state and federal clean water and coastal management standards.

Best management practices (BMPs). Regulations adopted under 11 AAC 95 also establish BMPs for road construction and maintenance, and for timber harvesting. These standards are designed to prevent adverse impacts to fish habitat and water quality from timber operations.

Regions and applicability. Alaska is divided into three forest practices regions. Region I covers coastal forests from Southeast Alaska through Prince William Sound, the eastern Kenai Peninsula, the Kodiak Archipelago, and parts of the Alaska Peninsula. Region II is the boreal forest south of the Alaska Range. Region III is the boreal forest in Interior Alaska.

The FRPA applies to commercial timber operations on forestland, including harvesting, roading, site preparation, thinning, and slash treatment operations on forestland. Operations must comply with the FRPA if they are larger than 10 acres in Region I or larger than 40 acres in Region II. In Region III, it applies to operations larger than 40 acres for forest landowners that own more than 160 acres in total. All commercial harvest operations that encompass or border surface waters or a riparian area also must comply with the Act, regardless of their size.



Briefing:

Region II Forest Practices amendments

DEPARTMENT OF NATURAL RESOURCES

November 2005

DIVISION OF FORESTRY

Overview. A bill to amend the Alaska Forest Resources and Practices Act (FRPA) for the boreal forest in southcentral Alaska (Region II) has been drafted for introduction in the 2006 session. The bill sets standards for forestry activities in riparian areas. The bill ensures that Region II standards

- support healthy timber and fishing industries,
- protect fish habitat and water quality,
- incorporate the best available science,
- maintain "one-stop shopping" for compliance with federal laws.

The bill is the product of two years of work by an array of interests. There is broad support for the consensus in the bill. This process was convened at the request of the Board of Forestry, and completes a statewide review of the FRPA riparian standards that was begun in 1996. Updates to the standards for Region I were adopted in 1999, and for Region III in 2003.

Applicability. FRPA Region II covers the boreal forest in southcentral Alaska. This includes the Mat-Su valley, the interior part of the Copper River Basin, the west side of the Kenai Peninsula, and the upper Cook Inlet area (see map). In Region II, FRPA applies to commercial forestry operations on all land ownerships where the operation borders surface waters or a riparian area, or where the operation is more than 40 acres.

Background. This bill is based on work by an interdisciplinary Science & Technical Committee. The Committee reviewed relevant research and published an annotated bibliography of the results, drafted a stream classification system, and recommended changes to current standards. Committee members had expertise in fisheries, forestry, hydrology, and soils. Members included scientists and experienced field staff from state and federal resource agencies, the University of Alaska, and the private sector.

An Implementation Group then discussed how to implement the recommendations of the Science and Technical Committee in a manner that works on the ground, and drafted language for changes to the FRPA and regulations. Group members represented affected interests, including municipalities, trust land managers, private forest owners, the timber and fishing industries, environmental groups, and the departments of Natural Resources, Fish and Game, and Environmental Conservation.

The Board of Forestry reviewed and concurred with the recommendations from the Implementation Group. The Board added findings to emphasize that this proposal is tailored specifically to the conditions in Region II, and does not revise the standards for Regions I and III. With this addition, the Board endorsed the bill recommended by the Implementation Group. All recommendations from the Science & Technical Committee, the Implementation Group, and the Board of Forestry were consensus recommendations.

Summary of key provisions. The bill defines four types of water bodies that have anadromous or high-value resident fish, and sets riparian standards for each type as follows:

- **Type II-A and II-B.** On large, dynamic, non-glacial rivers and dynamic, glacial rivers: a no-cut buffer of 150'. The buffer widens to 225' on actively eroding outer bends not constrained by terraces on Type II-A rivers, and to 325' on such bends on Type II-B rivers.
- **Type II-C.** On smaller dynamic, non-glacial streams, streams and rivers with stable channels, and lakes: a 100' no-cut buffer.
- **Type II-D.** On small streams (<3' wide): a no-cut buffer of 50'.

Compared to the other regions, these buffers are wider on the big, dynamic rivers and narrower on small streams. The Science & Technical Committee and Implementation Group identified several reasons for the differences in Region II.

- 1) In Region II, there are many more large, dynamic rivers that overlap with areas where harvesting is likely to occur.
- 2) The fisheries values in Region II are very high, and the timber values relatively low. A disproportionate share of sport fishing occurs in Region II, and it takes place primarily in freshwater areas that are adjacent to forested areas.
- 3) The volume of timber per acre in Region II is lower than in Regions I or III, and more of the timber is in hardwoods. This means that it takes a bigger area to get the same amount of large woody debris into the river system, and the wood that gets into the river decays faster.
- 4) There are many small, anadromous streams in forested areas of Region II. Buffers are needed to keep sediment out of these streams, but sediment can be controlled with narrower buffers.

Relation to federal laws. FRPA provides the timber industry with "one-stop shopping" for compliance with federal Clean Water Act and Coastal Zone Management Act compliance. Forest operations that are consistent with FRPA are deemed consistent with these laws. However, final approval of FRPA as the state's forestry management measures for the Coastal Zone Reauthorization Act depends on adoption of buffer standards on private land in Region II. This bill accomplishes that in a manner that is workable for the timber industry.

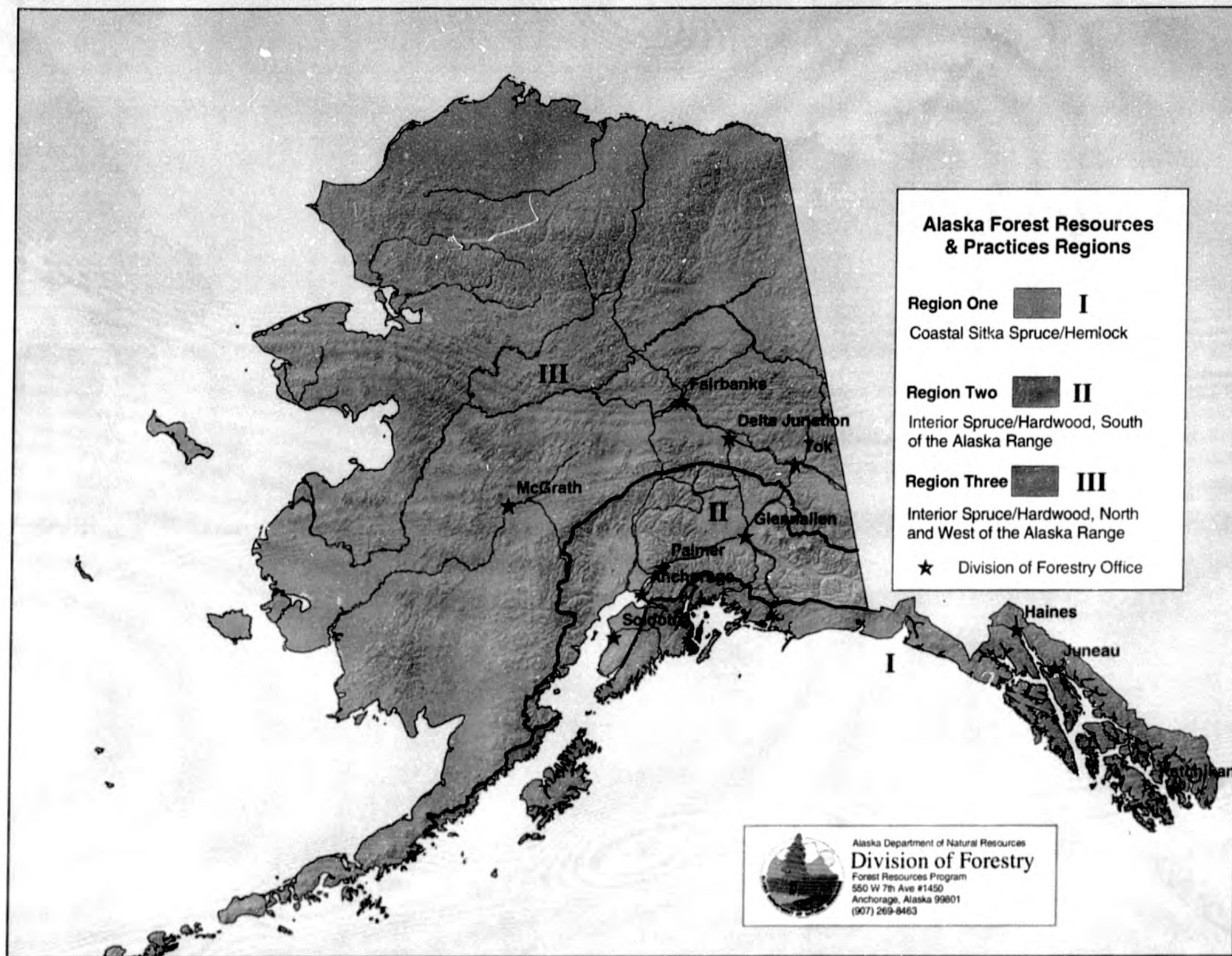
Public review. Public review to date include input from the Implementation Group, public hearings at the Board of Forestry, and contacts with major forest landowners, including Native corporations, the University and Mental Health trusts, and the Mat-Su and Kenai Boroughs.

Minutes of all Science & Technical Committee and Implementation Group meetings, and the recommendations from these groups were also sent to a mailing list that included 158 names of Native corporations and tribal groups, municipalities, timber businesses, resource agencies, trust land managers, groups representing environmental, recreation, fishing and development interests, and individuals.

Comments from landowners indicated that impacts from the proposed standards are limited due to the Region II topography and existing vegetation patterns, relatively low timber values, and current harvesting practices which typically incorporate voluntary buffers.

For more information, contact:

Marty Freeman
DNR Division of Forestry
550 W. 7th Avenue
Anchorage, AK 99501
907-269-8473

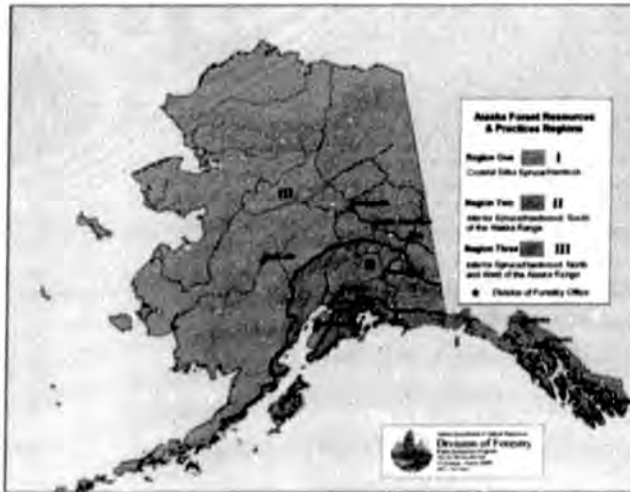


Alaska Department of Natural Resources
Division of Forestry
Forest Resources Program
550 W 7th Ave #1450
Anchorage, Alaska 99501
(907) 269-8463

DRAFT – February 2, 2006

**HB 420/SB 262 – Forest practices riparian standards in Region II
Sectional Analysis**

This bill would complete the task of setting statewide riparian protection standards -- stream buffers -- for commercial forest operations. This process began with the 1990 changes to the Forest Resources and Practices Act ("FRPA", AS 41.17), and included updates to the riparian



standards for Region I (coastal forests) in 1999, and for Region III (interior forests) in 2003.

The existing FRPA standards for Region II (southcentral forests, see blue on map) were adopted in 1990 as interim standards pending scientific review. That review was completed in 2004. The recommendations were reviewed by the Board of Forestry and affected interests in 2005, and incorporated into the FRPA amendments in this bill.

Section 1 – Findings. Section 1 comprises legislative findings clarifying the intent to protect fish habitat and water quality during forest operations, and emphasizing the unique characteristics of the forests and fisheries of Southcentral Alaska. The standards in this bill are tailored specifically to conditions in Region II. Compared to other regions, Region II has an abundance of both large, dynamic rivers and narrow anadromous streams in forested areas, high fisheries values, low timber volumes per acre, and a higher proportion of hardwood timber (cottonwood, birch, and aspen).

Section 2: AS 41.17.116 – Private land. Section 2 sets riparian standards for commercial forest operations on private land along water bodies with anadromous or high-value resident fish in Region II. For large, nonglacial, and most glacial rivers, no-harvest buffers would extend 150 feet from the water body, with a widened buffer along outer bends subject to erosion. Most non-glacial waters, lakes, and glacial rivers with relatively stable banks would have 100-foot no-harvest buffers, similar to the existing interim standard. Small streams would have 50-foot no-harvest buffers. Buffers are designed to prevent erosion and sedimentation and provide large woody debris for fish habitat. Buffers also apply to estuarine areas along anadromous or high-value resident fish streams, using the same width that applies to the adjacent stream type. Forested estuaries are rare in Region II.

Section 3: AS 41.17.118 – State land. Section 3 sets riparian standards for state land along water bodies with anadromous or high-value resident fish in Region II. The no-harvest buffers would be the same as those set for private land. In addition, on state land only, harvesting from the landward boundary of the no-harvest buffer to 300 feet from the water body may occur but must be consistent with the maintenance or enhancement of wildlife habitat.

Section 4: AS 41.17.119 -- Other public land. Section 4 sets riparian standards for other public land along water bodies with anadromous or high-value resident fish in Region II. The no-harvest buffers are the same as those applicable to state and private land.

Section 5: AS 41.17.950 (21) -- "Riparian area" definition. This section amends the definition of "riparian area" to be consistent with the riparian standards set forth in sections 2, 3, and 4.

Section 6: AS 41.17.950 (34) -- (41) -- Other definitions. This section adds definitions for new terms used in the riparian standards in sections 3, 4, and 5. The definitions cover the four new stream categories (Types II-A, II-B, II-C, and II-D), and clarify the terms "outer bend subject to erosion," "point bar," "terrace," and "terrace top break".

Section 7 -- Effective date. This section sets the effective date as July 1, 2006.

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION

DIVISION OF WATER OFFICE OF THE DIRECTOR


FRANK H. MURKOWSKI, GOVERNOR

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February 13, 2006

The Honorable Gabrielle LeDoux
Co-Chair, House Special Committee on Fisheries
State Capitol, Room 403
Juneau, AK 99801-1182

The Honorable William Thomas, Jr.
Co-Chair, House Special Committee on Fisheries
State Capitol, Room 428
Juneau, AK 99801-1182

RE: HB 420 and SB 262 "An Act relating to riparian protection standards for forest resources and practices; and providing for an effective date."

Dear Representatives LeDoux and Thomas:

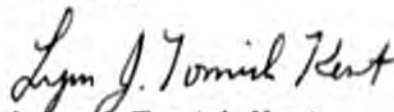
The Department of Environmental Conservation supports HB 420 and its companion bill, SB 262, as drafted. These bills are the result of an inter-agency and public collaborative process and reflect a consensus approach to riparian management.

The legislature declared in the Forest Practices Act under AS 41.17.010 that:

"(6) subject to AS 41.17.098(c), the provisions of this chapter, and regulations adopted under this chapter, with the approval of the Department of Environmental Conservation, establish the nonpoint source pollution requirements under state law and Sec. 319 of the Clean Water Act for activities subject to this chapter;"

The Department was fully engaged in the process leading up to this bill and is confident that passage, as written, is in the best interest of all Alaskans who depend on clean water for work and play within Forest Practices Region II.

Sincerely,


Lynn G. Tomich Kent
Director

cc: Representative Harris
Representative Elkins
Representative Wilson
Representative Kapsner
Representative Salmon

AL
The TRUST
LAND OFFICE

February 15, 2006

Rep. Gabrielle LeDoux, co-chair
House Special Committee on Fisheries
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

VIA FAX and USPS mail

Re: HB 420, Riparian Protection Standards for Forest Resources and Practices

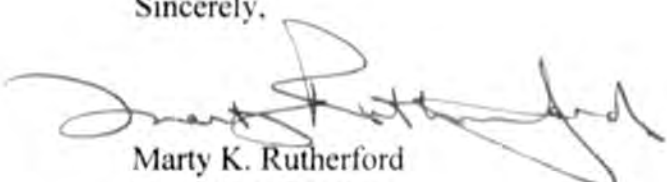
Dear Representative LeDoux:

The Trust Land Office (TLO) fully supports HB 420 and recommends passage of the bill without change. The recommended amendments to the Forest Resources and Practices Act are sound and are based upon in depth knowledge of forest, fish, wildlife and other resources of South Central Alaska.

Alaska Mental Health Trust lands contain substantial commercial forest resources throughout the state. The TLO has been a substantial participant in the Alaska timber industry over the past several years through timber sales in both South East and South Central Alaska. We have worked closely with the Division of Forestry over the past 10 years and we believe the standards recommended in HB 420 are appropriate.

Thank you for the opportunity to comment.

Sincerely,


Marty K. Rutherford
Executive Director

ALASKA FOREST RESOURCES & PRACTICES ACT

Effective September 1, 2003



DIVISION OF FORESTRY
DEPARTMENT OF NATURAL RESOURCES

This booklet compiles the 1978 Forest Resources and Practices with amendments passed in 1981, 1982, 1983, 1984, 1988, 1990, 1995, 1996, 1998, 1999, and 2003. It does not include the attorney general's notes nor the history notes that are given in the official compilation. The Department of Natural Resources provides this booklet as a public courtesy. The department cannot guarantee the absolute accuracy of this reproduction of the Forest Resources and Practices Act (AS 41.17). For the official published version of the Act, please refer to the Alaska Statutes.

FOREST RESOURCES AND PRACTICES ACT

September 2003

Chapter 17. Forest Resources and Practices

Article 1. Administration And Management

Sec. 41.17.010. Declaration of intent. The legislature declares that

(1) the forest resources of Alaska are among the most valuable natural resources of the state, and furnish timber and wood products, fish and wildlife, tourism, outdoor recreation, water, soil, air, minerals, and general health and welfare;

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

(3) the state has a fundamental obligation to ensure that management of forest resources guarantees perpetual supplies of renewable resources, provides nonrenewable resources in a manner consistent with that obligation, and serves the needs of all Alaska for the many products, benefits, and services obtained from them;

(4) government administration of forest resources should combine professional management services, regulatory measures, and economic incentives in a complementary fashion, and should draw upon the expertise of professional foresters in conjunction with other disciplines;

(5) under the leadership of the Department of Environmental Conservation as lead agency, 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 AS 41.17.098(c), the provisions of this chapter, and regulations adopted

under this chapter, with the approval of the Department of Environmental Conservation, establish the nonpoint source pollution requirements under state law and sec. 311 of the Clean Water Act for activities subject to this chapter;

(7) except for activities subject to AS 41.14.840 or 41.14.870 and regulations authorized by those sections, this chapter and regulations adopted under this chapter establish the fish habitat protection standards, policies, and review processes under state law. (§1 ch 108 SLA 1978; am §2 ch 34 SLA 1990; am E.O. No. 107 §6 (2003))

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

(b) The division shall be headed by a director who shall be the state forester, appointed to the partially exempt service in accordance with law by the commissioner, from a list of two or more candidates submitted by the board. The commissioner shall solicit and consider recommendation of the Alaska Fire Chiefs Association or successor organization when reviewing the candidates submitted by

the board. The commissioner may reject all candidates, in which case the board shall submit a new list. The state forester shall have

- (1) a bachelor's or higher degree in forest management and at least three years of field experience in forestry; or
 - (2) at least eight years of professional work experience as a forester.
- (c) The commissioner shall administer this chapter and is authorized and encouraged to delegate responsibilities for carrying out this chapter to the state forester. (§1 ch 108 SLA 1978; am §42 ch 113 SLA 1981; am §5 ch 91 SLA 1983; am §1 ch 113 SLA 1998).

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

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

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

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

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

- (1) a representative of a commercial fishermen's organization;
- (2) a representative of a Native corporation established under 43 U.S.C. 1601-1628 (Alaska Native Claims Settlement Act);
- (3) a representative of an environmental organization;
- (4) a representative of a forest industry trade association;
- (5) a professional fish or wildlife biologist who is not employed in that capacity by a state, municipal, or federal government agency, except for university employment;
- (6) a professional forester who is not employed in that capacity by a state, municipal, or federal government agency, except for university employment;
- (7) a representative of a mining organization;
- (8) a representative of a recreational organization; and
- (9) the state forester, who serves ex officio and without a vote.

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

(d) A board member who is unable to attend a meeting may designate an alternate who possesses the same qualifications as the board member.

(e) The division shall serve as staff to the board. The department, the deputy commissioner, and the Department of Environmental Conservation shall provide technical staffing and information as needed by the board. (§1 ch 108 SLA 1978; am §87 ch 59 SLA 1982; am §2 ch 34 SLA 1990; am E.O. No. 107 §7 (2003))

Sec. 41.17.043. Terms of office. The term of office of a member of the board is three years. The state forester serves an indefinite term, ex officio. (§1 ch 108 SLA 1978; am §32 ch 85 SLA 1988)

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

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

Sec. 41.17.047. Powers and duties of board. (a) The board shall review and comment to the commissioner on regulations proposed for adoption under this chapter.

(b) The board shall provide a forum for representatives of affected interests to discuss and attempt to resolve issues relevant to this chapter and to the forest resources of the state.

(c) The board, working with the division, the Department of Environmental Conservation, the deputy commissioner, other affected agencies and parties, and the forest-dependent industries, shall conduct an annual survey of research needs related to forest practices. The board shall review research proposals and shall make recommendations to promote research projects that would address these needs to the governor and the legislature.

(d) The board shall coordinate the monitoring of the implementation and effectiveness of this chapter, the regulations, and best management practices adopted under this chapter in meeting state water quality standards, fish and wildlife habitat requirements, and other forestry objectives. The board shall report annually to the governor on the effectiveness of this chapter and regulations adopted under it, with its recommendations for changes and for needed research and monitoring. The board shall notify the legislature that the annual report is available. The state forester, the deputy commissioner, and the Department of Environmental Conservation shall each present an annual report, independently, to the board on the effectiveness of this chapter, the regulations, and best management practices adopted under this chapter that protect the resources for which they have statutory responsibility, and shall make recommendations for changes to correct procedural or substantive problems. The board shall include the reports as part of its annual report. The board shall hold hearings at least once annually in southeast,

southcentral, and interior Alaska for purposes of taking public testimony on the subjects. (§1 ch 108 SLA 1978; am §2 ch 34 SLA 1990; am §75 ch 21 SLA 1995; am E.O. No. 107 §8,9 (2003))

Sec. 41.17.055. Powers and duties of the state forester. (a) The state forester may designate and operate experimental and research forests on state land consistent with the limitations of AS 38.05.300. Laboratories and other facilities may be employed in conjunction with those forests.

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

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

(d) The state forester may develop 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. 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 are therefore subject to the approval of the commissioner of environmental conservation.

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

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

(g) The state forester may take other actions necessary and proper for the administration of this chapter, including the adoption of regulations under the Administrative Procedure Act (AS 44.62) and AS 41.17.047. (§1 ch 108 SLA 1978; am §5 ch 34 SLA 1990; am E.O. No. 107 §10 (2003))

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 shall be recognized in the development of regulations and best management practices that are designed to implement 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 land owner, 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 the state; and
 - (5) significant adverse effects of soil erosion and mass wasting on water quality and fish habitat shall be prevented or minimized.
- (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 that best provides for the present needs and preserves the future options of the people of the state;
 - (2) a system of allocating predominant uses or values to particular units within a contiguous area of land shall reflect in reasonable proportion the various resources and values present in that area;
 - (3) to the extent its capacity permits, forest land shall be administered so as to provide for the continuation of businesses, activities, and lifestyles that are dependent upon or derived from forest resources;
 - (4) timber harvesting is limited to areas where data and information demonstrate that natural or artificial reforestation techniques will result in the production of a sustained yield of merchantable timber from that area;
 - (5) there may not be significant impairment of the productivity of the land and water with respect to renewable resources;
 - (6) allowance shall be made for scenic quality in or adjacent to areas of substantial importance to the tourism and recreation industry; and
 - (7) allowance shall be made for important fish and wildlife habitat. (§1 ch 108 SLA 1978; am §6,7 ch 34 SLA 1990)

Sec. 41.17.070. Administrative plan and report. (a) The state forester shall develop and continually maintain a long-range plan for the administration of this chapter which demonstrates that the provisions of AS 41.17.010 are being recognized and that the standards of AS 41.17.060 are being met. The state forester shall maintain a current inventory or assessment of timber on forest land to assist in meeting the requirements of this section.

(b) To maintain a record of division decision making for public and agency review, the state forester shall compile and index each decision made under this chapter regarding directives, stop work orders, waivers from requirements, decisions of hearing officers, and decisions on appeals. The state forester shall submit a

summary of this record annually to the board. (§1 ch 108 SLA 1978; am §108 ch 6 SLA 1984; am §8 ch 34 SLA 1990; am E.O. No. 107 §11,12 (2003))

Sec. 41.17.080. Regulations. (a) The state forester may adopt regulations necessary to accomplish the purposes of this chapter under AS 44.62 (Administrative Procedure Act) regarding forest practices such as

- (1) road construction and maintenance, including
 - (A) road location, construction, maintenance, and post-operation management or removal; or removal;
 - (B) landing location and construction;
 - (C) drainage structures;
 - (D) material sources and spoil disposal sites;
- (2) timber harvesting, including
 - (A) timber harvest unit planning and design;
 - (B) felling and bucking;
 - (C) cable yarding, shovel, tractor, and wheeled skidder systems;
 - (D) landing clean-up;
 - (E) slash disposal;
- (3) log transfer, sort yards, and storage facilities, including
 - (A) location, design, and construction;
 - (B) maintenance;
 - (C) closure;
 - (D) log storage, rafting, and identification;
- (4) reforestation, including
 - (A) site preparation and rehabilitation;
 - (B) prescribed burning;
 - (C) exemptions from reforestation requirements;
- (5) prevention and suppression of forest insects and diseases;
- (6) salvage logging;
- (7) vegetative management; and
- (8) fire and flood hazard management.

(b) The state forester shall adopt regulations specifying the information to be submitted under AS 41.17.090(c) in the detailed plan of operations to enable the division to determine whether the activities comply with the requirements of this chapter.

(c) The state forester may establish regions, districts, or other subdivisions of forest land in the state in which different regulations apply to reflect varying conditions in the state or to facilitate administration. In adopting regulations, the state forester shall make appropriate distinctions between public and private land.

(d) The state forester shall adopt only those regulations necessary to accomplish the purposes of this chapter and shall avoid regulations that increase operating costs without yielding significant benefits to public resources. (§1 ch 108 SLA 1978; am §9 ch 34 SLA 1990; am E.O. No. 107 §13 (2003))

Sec. 41.17.082. Control of infestations and disease. (a) All forest clearing operations and silvicultural systems must be designed to reduce the likelihood of increased insect infestation and disease infections that threaten forest resources. (b) A forest landowner may not conduct or approve timber clearing activities that create conditions fostering outbreaks of infestation or infection that threaten forest resources on forest lands belonging to another person. If the commissioner finds, after notice and hearing, that there has been a violation of this subsection, the commissioner may

- (1) require the forest landowner, at that person's expense, to remove promptly or cure the conditions fostering outbreaks of infestation or infection; and
- (2) require the forest landowner, at that person's expense, to undertake environmentally sound, effective, and cost-efficient actions to control the infestation or infection in the immediate vicinity of the improper timber clearing activity.

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

(d) The commissioner may undertake surveys and appraisals to obtain data on regional insect infestations and disease conditions. Upon a determination that an area is infested with forest insects or infected with diseases injurious to forest resources and that the infestation or infection threatens the forest land or timber of adjacent owners, the commissioner may establish the boundaries of an infestation or infection zone. The commissioner may enter into an agreement with an owner or with a governmental agency to control or suppress infestation or infection within the zone. Upon a determination by the commissioner that insect and disease control work within the zone is no longer necessary or feasible, the commissioner shall terminate the zone. (§10 ch 34 SLA 1990)

Sec. 41.17.083. Clearing of forest land for non-timber purposes. A state agency, municipality, or public utility shall determine whether the timber to be removed has significant salvage value before approving or conducting clearing of forest land for purposes other than timber harvest. If the timber has significant salvage value, the agency or utility shall salvage the timber as part of the clearing process. (§10 ch 34 SLA 1990)

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

(b) Where practicable and desirable, the commissioner may enter into cooperative agreements with federal agencies authorizing the department to serve as a collection point for federal permit applications. (§1 ch 108 SLA 1978; am E.O. No. 107 §14

(2003))

Sec. 41.17.087. Variation from requirements. (a) A forest landowner, timber owner, or operator may propose for a particular activity a variation from a requirement imposed by this chapter or the regulations adopted under this chapter. If the state forester determines that the harm intended to be avoided by the requirement is not likely to occur because of site-specific circumstances relating to the particular activity and is not likely to cause significant harm to fish habitat or water quality, the state forester shall agree to the proposed variation. If the state forester does not agree to the proposed variation, a forest landowner, timber owner, or operator may appeal to the commissioner. The appellants shall conform to the requirement during the pendency of the appeal.

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

- (1) a low gradient Type I-A water body with a width of five feet or less; and
- (2) other appropriate water body types.

(c) A determination by the state forester under (a) of this section and regulations by the state forester under (b) of this section shall give due deference under AS 41.17.098. (§11 ch 34 SLA 1990; am E.O. No. 107 §15,16 (2003); am §1 ch 123 SLA 2003)

Sec. 41.17.090. Notification of plans to harvest timber. (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) A forest landowner, timber owner, or operator may provide to the state forester a voluntary plan of operations that describes the long-term plans for timber harvesting. The purpose of a voluntary plan is to give the division and the public an early opportunity to review plans, to identify areas of concern, and to allow the agencies and the public to provide local knowledge and early notice of potential problems to the forest landowner, timber owner, or operator.

(c) Before beginning operations on municipal or private forest land or on state land not managed by the division, the operator shall provide the state forester with a detailed plan of operations. The detailed plan of operations must include

- (1) a description of the proposed operations, identifying the land involved and the action proposed in sufficient detail to inform the public of the nature and location of the proposed operations; the description must include a map and must be in a form suitable for duplication;
- (2) the name, address, and approving signature of the forest landowner, timber owner, and operator; and
- (3) other information required in the regulations adopted under this chapter.

(d) Within five days after receipt of a detailed plan of operations under (c) of this section, the state forester shall distribute the information received under (c) of this section to the deputy commissioner, affected state agencies and coastal districts, and shall distribute the information received under (c)(1) of this section to each

member of the public who has asked to receive copies of notifications for the affected area.

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

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

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

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

(i) An operator shall renew a detailed plan of operations annually. (§1 ch 108 SLA 1978; am §109 ch 6 SLA 1984; am §12 ch 34 SLA 1990; am §6 ch 122 SLA 1996; am E.O. No. 107 §17-19 (2003))

Sec. 41.17.098. Interagency coordination and reevaluation. (a) In administering this chapter, the state forester shall coordinate with other agencies, the deputy commissioner, and affected coastal districts that have jurisdiction over activities subject to regulation under this chapter.

(b) In a review or implementation of a detailed plan of operations under AS 41.17.090 and in a decision on a proposed variation from requirements under AS 41.17.087, the state forester shall consider the comments of the deputy commissioner, each affected state agency and, where applicable, coastal districts.