

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
6006 HOUSE RESOURCES

410

**H B**

**331**

# HOUSE COMMITTEE RE

(9)

Date Referred: May 3, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: 3/29/90

The RESOURCES Committee considered:

HB 331

HOUSE BILL NO. 331 [FOREST RESOURCES AND PRACTICES]

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

RECOMMENDATIONS:

- [] be replaced with CS HB 331 (RES) [] the same title
- [ ] have attached amendment(s) [] a new title
- [ ] do pass
- [ ] do not pass
- [ ] no recommendation
- [ ] individual recommendations
- [ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Date/Dept)

- 3 [] fiscal impact HOF+G, DNR, DEC
- [ ] zero fiscal note \_\_\_\_\_
- [ ] zero with analysis \_\_\_\_\_

- [ ] fiscal note(s) \_\_\_\_\_
- [ ] zero fiscal note(s) \_\_\_\_\_
- [ ] zero fn/analysis \_\_\_\_\_

SIGNING DO PASS:

SIGNING: (Check approp. column)

Curt Munnich  
Cliff Davidson  
Mike Hays  
Bill Huel  
Richard (Dobey) with Reservation  
Mike Savane  
Gregory

	Do Not Pass	No Rec	Amend
<u>Curt Munnich</u>	<input checked="" type="checkbox"/>		
<u>Cliff Davidson</u>		<input checked="" type="checkbox"/>	
<u>Mike Hays</u>			
<u>Bill Huel</u>			
<u>Richard (Dobey) with Reservation</u>			
<u>Mike Savane</u>			
<u>Gregory</u>			

Curt Munnich  
Chairman's Signature

**FISCAL NOTE**

**REQUEST:**

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

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

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

CAPITAL	0	0	0	0	0	
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REVENUE	0	0	0	0	0	
---------	---	---	---	---	---	--

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	375.4	375.4	375.4	375.4	375.4	
FEDERAL FUNDS	0	0	0	0	0	
OTHER	0	0	0	0	0	
<b>TOTAL</b>	<b>375.4</b>	<b>375.4</b>	<b>375.4</b>	<b>375.4</b>	<b>375.4</b>	

**POSITIONS:**

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

**ANALYSIS : (Attach a separate page if necessary)**

see attached

Prepared by: Frank Rue, Director *Frank Rue* Phone: 465-1105  
 Division: Habitat Date: \_\_\_\_\_

Approved by Commissioner: *[Signature]* Date: 3/10/93  
 Agency: Department of Fish and Game

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

Continuation for CS HB 331 Fiscal Note

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

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

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

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

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

# MEMORANDUM

# State of Alaska

DEPARTMENT OF FISH AND GAME

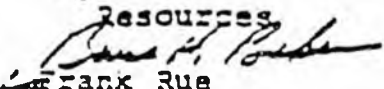
TO: Bob Loeffler  
Resource Allocation  
Section  
Division of Land and  
Water Management  
Department of Natural  
Resources

DATE: February 22, 1989

FILE NO.:

TELEPHONE NO.: 465-4105

SUBJECT: Forest Practices  
Funding

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

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

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

### Additional Funding Requirement

#### Sitka Office:

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

#### Petersburg Office:

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

#### Ketchikan Office:

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

#### Douglas Regional Office:

Line 200	2.5
Line 300	2.0
Line 400	0.5

Subtotal 177.6

Anchorage Regional Office:

Habitat Biologist III (12 months)	55.0
Habitat Biologist II (24 months)	96.3
Line 200 (travel to Afognak, Cordova, Valdez, McGrath, Kodiak, Denai, and Mat-Su Valley)	16.0
Line 300 (Contractual for vessel and aircraft charters to reach logging areas for stream surveys and enforcement work)	30.0
Subtotal	<u>197.3</u>
TOTAL	<u>375.4</u>

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

cc: Norman Cohen

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION: CS HB 331  
PUBLISH DATE: \_\_\_\_\_

### FISCAL NOTE

**REQUEST:**

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

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

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

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

**FUNDING:** (Thousands of Dollars)

GENERAL FUND	437.7	392.6	467.6	481.9	492.5	508.3
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

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

**ANALYSIS :** (Attach a separate page if necessary)

See attached

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

**Distribution (by preparer):**

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

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

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

DEPARTMENT OF NATURAL RESOURCES  
FOREST PRACTICES

Program Summary:

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

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

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

Southeast Region - \$123,000

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

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

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

Southcentral Region - \$149,600

Add one Forester II to the Kenai-Kodiak Area to work on the additional forest practice work that is occurring on the Kenai Peninsula. Notifications have increased from 4 in 1987 to 10 in 1989 with acres increasing from 3,287 to 41,935 during the period. Presently the only position available for the forest practice work is also responsible for all the timber sales on state land in the area. Because of this dual role neither area of responsibility has been accomplished. The new saw mill at Seward, heavy spruce bark beetle kill and large native ownerships on the Kenai Peninsula all point to increasing forest practice work for the next five years. We estimate notification acres will increase by some 58,000 acres in the next five years.

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

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

Central Office - \$165,100

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

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

## FOREST PRACTICES

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

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

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

### Northern Region

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

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

Position Title <b>Natural Resource Manager I</b>			No. of Positions <b>1</b>	Range/Step <b>13/A</b>	Org. Unit <b>03</b>
Time Status <b>PRR</b>	Staff Months <b>12</b>		Location <b>Jayman</b>	Election District <b>4</b>	
Justification					
Type of Expenditure			Amount		
1	2	3			
Salary* 3113 x 12	37,356	////////////////////			
Benefits* 1099 x 12	13,188	////////////////////			
Premium Pay (Included in Above)	////////////////////	////////////////////			
Other	////////////////////	////////////////////			
Total Personal Services		50.5			
Travel		5.0			
Contractual		7.5			
Commodities		2.0			
Equipment		10.3			
Other					
Total Cost		75.3			
Funding Source for Total Cost					
Federal Receipts	1002				
G.F. Match	1003				
General Fund	1004	75.3			
Program Receipts/GF	1005				
I-A Receipts	1007				
CIP Receipts	1061				
Other					
* Personal Services Salary and Benefits Costs are from PACS.					

The new Forest Practice Act calls for more and better coordination between the State agencies. Field activities are handled by each agency's local personnel but region-wide coordination must take place at a higher level. The addition of one full time Natural Resource Manager I to the division's southeast region office will provide the needed forest practice coordinator. This position will also be able to fill in on forest practice work within the region on an as-needed basis, develop agency and operator training opportunities, meet with the Board of Forestry and act as a hearing officer. This position will be responsible for working on development of the new regulations and handling all of the public process of review within the Southeast Region.

REQUEST FOR  
NEW POSITION

AGENCY Natural Resources  
 ORG Forest Management  
 COMPONENT Forest Management

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 Revised Date

FY 91

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

REQUEST FOR  
NEW POSITION

AGENCY Natural Resources  
 BRU Forest Management  
 COMPONENT Forest Management

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Revised Date

FY 91



MAR-16-90 FRI 12:50 DOF DIRECTOR'S OFFICE P.10

Position Title <b>Forester II</b>		No. of Positions <b>1</b>		Range/Step <b>16/A</b>		Barq. Unit <b>GG</b>	
Time Status <b>PFT</b>		Staff Months <b>12</b>		Location <b>Soldotna</b>		Election District <b>5</b>	
Justification							
<p>The Kenai Peninsula has seen a large increase in Native Land timber operations which have resulted in forest practice notifications. The opening of the Chugach Native Cooperation sawmill at Seward in 1990 will provide the needed log outlet that has been missing to see a major increase of logging activity.</p> <p>The addition of a full time Forester II in the Kenai-Kodiak Area office will provide the necessary position to meet the increase and not take the only personnel available for conducting state timber sales away from their job. The spruce beetle kill facing the Kenai Peninsula is demanding all the present forester's time.</p> <p>With the support staff in place this position will be able to spend full time on forest practice work.</p>							
Type of Expenditure		Amount					
1		2		3			
Salary* 2095 x 12		39,720		////////////////////			
Benefits* 1049 x 12		12,568		////////////////////			
Premium Pay (Included in Above)		////////////////////		////////////////////			
Other		////////////////////		////////////////////			
Total Personal Services		////////////////////		<b>47.3</b>			
Travel				<b>10.0</b>			
Contractual				<b>3.5</b>			
Commodities				<b>2.0</b>			
Equipment				<b>9.4</b>			
Other							
Total Cost				<b>72.2</b>			
Funding Source for Total Cost							
Federal Receipts		1002					
G.F. Hatch		1003					
General Fund		1004		<b>72.2</b>			
Program Receipts/GF		1005					
I-A Receipts		1007					
CIF Receipts		1061					
Other							
* Personal Services Salary and Benefits Costs are from PACS.							

REQUEST FOR  
NEW POSITION

AGENCY Natural Resources  
 BRW Forest Management  
 COMBINEIT Forest Management

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Revised Date

FY 91

MAR-16-90 FRI 12:51 DOF DIRECTOR'S OFFICE P. 11

Position Title <b>Logging Engineer</b>		No. of Positions <b>1</b>	Range/Step <b>18/A</b>	Barg. Unit <b>66</b>
Time Status <b>PFT</b>	Staff Months <b>12</b>	Location <b>Anchorage</b>		Election District <b>7</b>
Justification				
<p>The addition of one full time engineer position will provide expertise in soil stability, logging systems and transportation evaluations. Serve as an expert witness on technical matters. Further responsibilities include research proposal evaluation, and audit function for Forest Practice compliance on state timber sales. New regulations are required to be developed covering areas of road construction, location, maintenance and removal; landing location and construction; drainage construction; material sources and spoil disposal sites; log transfer, sort yards and storage facilities. All of these require the knowledge of an engineer to see that the public is being protected. The division presently does not have an engineer position and this addition will provide the needed expertise to adequately review the above actions as they come in on notifications. This position will be available for statewide work.</p>				
Type of Expenditure		Amount		
1	2	3		
Salary* 3113 x 12	37,356	////////////////////		
Benefits* 1099 x 12	13,188	////////////////////		
Premium Pay (Included In Above)	////////////////////	////////////////////		
Other	////////////////////	////////////////////		
Total Personal Services		50.5		
Travel		10.0		
Contractual		4.5		
Commodities		3.0		
Equipment		9.4		
Other				
Total Cost		77.4		
Funding Source for Total Cost				
Federal Receipts	1002			
G.F. Match	1003			
General fun.	1004	77.4		
Program Receipts/6F	1005			
I-A Receipts	1007			
CIP Receipts	1061			
Other				
* Personal Services Salary and Benefits Costs are from PACS.				

REQUEST FOR  
NEW POSITION

AGENCY Natural Resources  
 BRU Forest Management  
 COMPONENT Forest Management

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Revised Date

FY 91

P. 12  
 16-90 FRI 12:52 DOF DIRECTOR'S OFFICE

<b>Position Title</b> Clerk Typist III		<b>No. of Positions</b> 1	<b>Range/Step</b> N/A	<b>Barg. Unit</b> GG
<b>Time Status</b> PFT	<b>Staff Months</b> 12	<b>Location</b> Ketchikan		<b>Election District</b> 1
<b>Justification</b>  The Ketchikan Area Office had an increase of 27% in forest practice notifications between 1987 and 1988. During 1989 some decrease was noted but the acreage size increased as a way around notification. Without support help in the office the Forest Practice Forester has been required to spend more and more time in doing administrative work. Total number of inspections during 1989 dropped. The addition of a full time Clerk Typist III will allow for about 30% more field time for the forester. With increased notifications and required inspections more field time is needed. More time in the field will help prevent damage from taking place and better cooperation between the operator and the State. Additional office help will also allow for the office to be open full time for the five days per week.				
<b>Type of Expenditure</b>		<b>Amount</b>		
1	2	3		
Salary* 1678 x 12	20,136	//////////		
Benefits* 771 x 12	9,252	//////////		
Freedom Pay (Included in Above)	//////////	//////////		
Other	//////////	//////////		
<b>Total Personal Services</b>	<b>29.4</b>			
Travel				
Contractual	4.5			
Commodities	8.0			
Equipment	5.8			
Other				
<b>Total Cost</b>	<b>47.7</b>			
<b>Funding Source for Total Cost</b>				
Federal Receipts	1002			
S.F. Match	1003	47.7		
General Fund	1004			
Program Receipts/GF	1005			
I-A Receipts	1007			
CIP Receipts	1061			
Other				
* Personal Services Salary and Benefits Costs are from PACS.				

REQUEST FOR  
 NEW POSITION

AGENCY Natural Resources  
 BRW Forest Management  
 COMPONENT Forest Management

Page 1 of 1  
 Revised Date

FY 91

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

BILL VERSION : CS HB 331

PUBLISH DATE : \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: DEC  
 Title: Forest Resources and Practices BRU: Environmental Quality  
 Act: \_\_\_\_\_  
 Sponsor: Rules Committee Components: Environmental Quality  
 Requestor: Senate Resources Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

ANALYSIS ATTACHED

Prepared by: Dave Sturdevant  
 Division: Environmental Quality

Phone: 465-2653  
 Date: \_\_\_\_\_

Approved by Commissioner: A. D. Kyle  
 Agency: Environmental Conservation

Date: 16 Mar 90

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

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

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

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

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

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

**Request For  
New Position**

Agency Environmental Conservation  
 BRU Environmental Quality  
 Component EQ Projects

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**FY 91**

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

**Request For  
New Position**

Agency Environmental Conservation  
 BRU Environmental Quality  
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**FY 91**

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

**Request For  
New Position**

Agency Environmental Conservation  
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**FY 91**

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

**Request For  
New Position**

Agency Environmental Conservation  
 BRU Environmental Quality  
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**FY 91**



STATE OF ALASKA  
OFFICE OF THE GOVERNOR

**BILL ANALYSIS**

DEPARTMENT Fish and Game	DIVISION Habitat	BILL NUMBER SB 317	SPONSOR Governor
SHORT TITLE OF BILL Forest Resources and Practices			
DEPARTMENT POSITION Support			
PREPARED BY Bruce H. Baker	DATE 5/5/89	COMMISSIONER'S SIGNATURE <i>[Signature]</i>	DATE 5/5/89

**SUMMARY**

OTHER AGENCIES AFFECTED BY BILL Dept. of Environmental Conservation Dept. of Natural Resources	CONSTITUENT (GROUPS) AFFECTED BY BILL All users of state, municipal, or private forests, or the forest resources provided by such forested lands
ORGANIZATIONAL SUPPORT FOR BILL See attached	ORGANIZATIONAL OPPOSITION TO BILL See attached
FISCAL IMPACT: <input type="checkbox"/> NONE <input checked="" type="checkbox"/> FISCAL NOTE ATTACHED	
BACKGROUND/LEGISLATIVE INTENT See attached	
ANALYSIS OF BILL/PROGRAM EFFECTS See attached	
AMENDMENTS PROPOSED None	

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

Organizational Support for Bill

A high degree of agreement was reached between commercial fishermen, the timber industry, major private forest owners, environmental interests, affected boroughs, and state resource agencies serving on the Governor's Forest Practices Steering Committee.

Organizational Opposition to Bill

We are aware of no opposition among Forest Practices Steering Committee members but we understand there are one or two remaining issues that timber interests believe need further resolution.

Background/Legislative Intent

The bill has been developed to ensure achievement of the intent language that is in the existing Forest Resources and Practices Act. That language requires that Alaska's forest resources furnish fish and wildlife, tourism, outdoor recreation, water, oil, and air, as well as timber and wood products, and that these resources be managed in perpetuity.

Analysis of Bill/Program Effects

The bill was developed by the Forest Practices Steering Committee on the basis of unanimous consensus. The following are major accomplishments or effects of the bill:

- Board of Forestry: Membership on the advisory Board of Forestry has been reduced from 14 to 7 members, and the composition of the board has been brought into balance, with the number of members representing users of non-timber forest resources equaling the number representing timber products.
- Performance Standards: Performance standards for forest practices that have been highly controversial are either featured in the bill itself or have been agreed to in principle by Forest Practices Steering Committee members for inclusion in the state's revision of existing forest practices regulations.
- Enforcement: Performance standards provided for in the bill are, in contrast to the existing law, enforceable, and violations of such standards may be subject to criminal action. ADNR has authority under the bill to stop violations that threaten to violate the act before they occur. The operator does, however, have the right to appeal such a decision.

Bill Analysis  
SB 317  
(Page 3 of 3)

- Streamside Protection: The bill contains specific streamside management standards for activities on private forest land in the coastal Sitka spruce-western hemlock forest. Provisions are included in the bill that call for the development of corresponding streamside management standards for private forest holdings in the boreal white spruce/black spruce/birch/aspens forest. Streamside management standards are also provided for state lands in the boreal forest. These standards are to be promulgated by regulation within one year.
- Forest Practices Regulations: The bill provides more specific guidance than the current law as to which forest practices regulations need to be developed for.
- Forest Management Planning for State Lands: In addition to the provision of minimum standards for streamside protection on state lands in the state's Forest Resources and Practices Act, the bill includes an amendment to a separate statute which deals with Forest Land Use Plans. The amendment requires that, among other things, fish and wildlife habitat and fish and wildlife use considerations be discussed in a forest land use plan.
- Wildlife on Private Land: The bill fosters cooperation between private forest owners and the Department of Fish and Game in identifying areas of important wildlife habitat and in developing methods for their protection.
- Forest Insect and Disease Management: Although the part of the act dealing with prevention and suppression of forest insect or disease outbreaks has been strengthened, it has been done in a way that ensures the protection of fish and wildlife and their habitat.

**Bill Analysis  
Senate Bill 317**

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

**Section 1: State Timber Planning Process.** Title 38 is amended to require additional planning before state timber sales. The division of forestry must prepare a site-specific plan before all state timber sales that fully integrates appropriate resource protection measures into the sale design. This site-specific design would also improve public review of individual timber sales.

The department would also be required to annually prepare a five-year timber schedule of proposed state timber sales. Except for small sales and emergencies such as salvage, a proposed sale would be required to appear on the two five-year schedules preceding the sale. The five-year schedule will inform the public and the timber industry of the state's long-term plans.

**Section 2, 3 and 4: Coordinating Overlapping Agency Jurisdiction.** These sections coordinate overlapping agency jurisdiction regulating timber harvest activities.

**Section 2: DEC.** Regulations of the amended forest practices act will serve as timber harvest standards for non-point source pollution under the leadership of DEC.

**Section 3: ACMP.** The amended forest practices act will serve as the Coastal Management Program for harvest activities on private land.

**Section 4: DF&G.** Regulations of the amended forest practices act provide the fish habitat protection standards except for those activities subject to AS 16.06.840 and AS 16.05.870.

**Section 5: Board of Forestry Membership.** The current 13-member board of forestry is restructured to a smaller, more balanced, 7-member board. (See section 7 for duties of the board.) It also details qualifications for board members, staffing requirements, and voting procedures.

**Section 6: Board of Forestry Terms of Office.** The section amends existing terms of office to provide staggered terms of office for the Board of Forestry.

**Section 7: Powers and Duties of the Board of Forestry.** This section amends the duties of the Board of Forestry. Existing duties include only commenting on regulations. New duties are added: providing a forum for discussion for representatives of affected interests to discuss and resolve forestry issues before they become divisive; coordinating an annual survey of research needs; coordinating the monitoring of the implementation and effectiveness of the forest practices program and making recommendations for change; and holding annual hearings in southeast, southcentral, and interior Alaska to take public testimony on the state's forest practices program.

**Section 8: Technical Change, Coordination with DEC.** References to DEC's program for non-point source water pollution are amended to be consistent with the coordination provisions in Section 3.

**Section 9: Technical Change, Non-point Source Pollution Control.** Wording is changed to make clear the meaning of the existing law concerning recognition of environmentally sensitive areas in non-point source pollution control measures.

**Section 10: Standard for Soil Erosion and Mass Wasting.** The section provides a standard of minimizing or preventing significant adverse effects of soil erosion and mass wasting.

**Section 11: Standard for Scenic Quality.** The existing standard for scenic quality near tourism and recreation areas is amended. The standard applies to state and municipal land only. The standard would be implemented by regulations of the act, and by state and municipal planning for timber harvest.

**Section 12: Standard for Important Fish and Wildlife Habitat.** A new standard is added that requires planning for harvest allowance be made for important fish and wildlife habitat. The standard applies to state and municipal land only. The standard would be implemented by regulations of the act, and by state and municipal planning for timber harvest.

**Section 13: Records for Public and Agency Review.** The division is required to maintain a records of decisions made under the act for use by the public and state agencies in assessing the effectiveness of implementation of the act.

**Section 14: Regulations.** This section provides a list of forestry activities subject to regulation under the act; allows the commissioner to establish regions and make appropriate distinctions between public and private land; and directs the commissioner to only adopt those regulations that yield significant benefits.

**Section 15: Control of Infestation and Disease.** A new section of the act is added that allows the commissioner to take action to control forest infestation and disease outbreaks that threaten forest resources.

**Section 16: Variation from Requirements of the Act.** The state forester is directed to allow variations from forest practice requirements established under this act. The state forester may allow variations to requirements he determines that the harm such as degradation of fish habitat or water quality not likely to occur because of site-specific circumstances of the particular activity. It allows private landowners to appeal an adverse decision by the state forester, but they must conform to the requirement during the period of the appeal.

**Section 17: Review of Private and Municipal Timber Harvest Operations.** The section provides an improved process for efficient and detailed review of timber harvest plans. This efficient review allows the timber industry to respond to changing timber markets but ensures that harvest operations conform to forest practices standards and regulations. The section also requires public review of private harvest plans. Review by state agencies may occur in the office or, if necessary, in the field prior to the start of the operations.

**Section 18: Interagency Coordination.** Because of overlapping agency expertise for issues concerning timber harvest, this section provides coordination mechanisms for DNR, DF&G, DEC, and where appropriate, coastal districts. The coordination system retains DNR as the lead agency for forest practices but ensures that the appropriate agency expertise from DF&G and DEC is included for forest practice issues that involve their expertise. The section requires that the agencies recognize fish habitat as a valuable resource within the riparian areas established under the bill.

**Section 19: Riparian Management.** This section of the bill provides for a streamside management program that strikes a fair balance between the needs of the timber industry and those of fish habitat and water quality protection. It provides for significant timber harvest while providing appropriate protection for public resources. Riparian standards for timber harvest differ depending on land ownership, stream, type, and region. The section also provides the intent of riparian management standards: a list of fish habitat

components that the riparian standards are designed to protect.

On private land in southeast Alaska, streamside areas of up to 30 meters will be managed for the protection of fish habitat and water quality, although timber operators will not be required to leave more than five percent of their timber volume for this purposes. In this way, strong resource protection exists without requiring any one private owner to shoulder an undue portion of the resource protection costs.

On private land outside southeast Alaska, it directs the commissioner to establish riparian protection standards and provides interim standards until regulations are drafted.

On state land north of the Alaska Range, timber harvest within 30-meters of an anadromous or high value resident fish waterbody will be allowed where adequate protection remains for fish habitat.

On state land south of the Alaska Range, no timber harvest is allowed within 30-meters of an anadromous or high value resident fish waterbody. Within the adjacent 60-meters, timber harvest must be consistent with the maintenance of important fish and wildlife habitat.

For municipal and trust lands, timber harvest within 30-meters of an anadromous or high-value resident fish waterbody must be sited and designed primarily to protect fish habitat and water quality.

**Section 20: Enforcement Coordination.** Because existing overlapping jurisdiction by DEC, DF&G, and the department of law, and because of additional authorities provided DNR by this bill, this section directs the agencies to establish "uniform enforcement strategy." The strategy requires a method of coordinating enforcement that avoids duplicating and inconsistent enforcement by the agencies. All agencies retain existing enforcement authorities.

**Section 21: Penalties for Violations.** This section amends the act by streamlining existing procedures for levying civil penalties of up to \$10,000 per violation, and adds additional enforcement authorities. Under these additional authorities, the state may issue a citation for a class A misdemeanor for violations of the act, its regulations, agency directives or stop orders; also, DNR may issue remedial orders requiring operators to repair or correct damage resulting from a violation.

**Section 22: Directives.** This new section provides that DNR may issue enforceable, written orders directing that timber operations that violate or would violate this act or its regulations be changed. These directives may be written as part of the DNR office or field review of private timber operations as provided under Section 17 of the act. Directives may be appealed and operations may continue pending the outcome of the appeal.

**Section 23: Stop-work Orders.** If the forester determines that a violation of the act or its regulation is occurring or is likely to occur and that significant harm to public resources is likely to occur if work is not halted before a hearing, the state forester may issue a stop-work order. A stop-work order may be written as part of the DNR office or field review of private timber operations as provided under Section 17 of the act. Stop-work orders may be appealed, but the operation must stop pending the outcome of the appeal.

**Section 24: Hearing Procedures.** This section amends the cumbersome hearing process existing law by deleting the requirement that hearings be held before lawyer appointed by the attorney general. The new process allows the hearing officer to be an employee of the department. The new process will be quicker, and more efficient for both the landowners and the department. It will also be significantly less costly for the department.

**Section 25: Appeals and Judicial Review.** This section provides appeal procedures from department decisions. It provides for appeal of DNR decisions by landowners or timber operators to the state forester, in some cases to the commissioner, and gives the option of going to court. Also it provides that parties other than an aggrieved forest landowner, timber owner, or operator may not receive judicial review of individual timber harvest decisions. Third parties may, however, seek judicial review of regulations, or of a systematic error in DNR decisions.

**Section 26: State Forest Plans, technical change.** This section changes existing law by deleting a list of uses to consider in completing plans; and instead referencing a similar list in Title 38 (section 1 of this bill). It eliminates confusion from two close but not identical lists with similar purposes.

**Section 27: Affect on Federal Timber Harvest.** Other sections of this bill set specific standards for activities on state, municipal, and private land. This section states that the bill's specific resource protection provisions, such as riparian management zones defined for private, state, and municipal lands, do not apply to timber harvest activities on federal land. However, the bill proposes that the federal government achieve a level of resource protection commensurate with that provided for on state lands. This would occur as the federal agency, primarily the Forest Service, proceeds with its normal environmental planning process for timber harvest activities. While this measure does create a broad performance test for operations on federal land, the real effect on Forest Service actions is not considered to be significant, given the generally higher federal requirements for environmental protection.

The bill assures that federal lands will not be subject to the specific forest practice act standards "either directly or for purposes of compliance with the (federal) Coastal Zone Management Act." This statement effectively severs the applicability of the Act's specific standards to National Forests and other federal lands. However, some participants in the forest practices discussions wanted to take the point one step further to resolve a long-standing discussion of what specific environmental protection the state can ask the federal government to provide on National Forest lands through the coastal management consistency process.

The forest practices act discussions did not address federal timber harvest activities in any detail. Therefore, the parties to the consensus decided that the bill was not the appropriate vehicle to include specific environmental protection standards for federal lands, nor address the application of coastal management standards to federal timber harvest activities. Instead, the vehicle to address this question will be through a change to the Alaska Coastal Management Program regulation established for timber harvest and processing by the Alaska Coastal Policy Council (CPC). Following enactment of the forest practices act, the CPC will amend this timber harvest standard as necessary to address lands not covered by the forest practices act, including federal lands. The CPC will provide for the full involvement of the federal government, industry, and the public in drafting the new timber harvest standards.

**Section 28: The Act Does Not Alter Other Rights and Jurisdictions.** This new section of the act confirms that it does not alter or diminish the authorities of DF&G under title 16, DEC under title 46, or any state agency under other laws. It also confirms that the act does not diminish the rights of Alaska Native or of Alaska Native corporations with respect to the Alaska Native Claims Settlement Act.

**Section 29: Wildlife on Private Land.** This new section provides that state agencies and private landowners will establish cooperative, voluntary processes for protection of wildlife habitat on private land.

**Section 30: Definitions, technical changes.** This section provides definitions necessary for the act. Few changes are made.

**Section 31: Legislative Review.** This section provides legislative acknowledgement that this act should be reviewed by the legislature within three years after further research and experience is gained in implementing the act.

**Section 32: Repeal of Superceded Sections.**

**Section 33: Effective Date.** An effective Date is provided: January 1, 1990.

go0529hH  
Bradley  
3/29/90

Original sponsor(s): Rules/Governor

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 331 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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

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

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

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

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

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

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

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

27 (3) fish and wildlife habitat, including

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

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

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

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

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

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

9 (C) uses of fish and wildlife;

10 (D) agriculture, including grazing; and

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

13 (5) soil characteristics and productivity;

14 (6) water quality; and

15 (7) watershed management.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (3) a representative of an environmental organization;

29 (4) a representative of a forest industry trade

1 association;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (1) road construction and maintenance, including

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

15 (B) landing location and construction;

16 (C) drainage structures;

17 (D) material sources and spoil disposal sites;

18 (2) timber harvesting, including

19 (A) timber harvest unit planning and design;

20 (B) felling and bucking;

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

23 (D) landing clean-up;

24 (E) slash disposal;

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

27 (A) location, design, and construction;

28 (B) maintenance;

29 (C) closure;

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

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

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

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

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

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

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

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

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

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

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

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

1 terminate the zone.

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

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

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

10 Sec. 41.17.087. VARIATION FROM REQUIREMENTS. (a) A forest

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

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

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

27 (2) other appropriate water body types.

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

1 shall give due deference under AS 41.17.098.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 less.

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

4 (1) within 100 feet from the shore or bank of an anadromous  
5 or high value resident fish water body that is located south of the  
6 Alaska Range; *ex. 1000 ft*

7 (2) within 100 feet immediately adjacent to an anadromous  
8 or high value resident fish water body north of the Alaska Range  
9 unless the commissioner determines that adequate protection remains *all*  
10 for the fish habitat. *1000 ft*

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

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

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

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

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

1 and values;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (1) a preliminary forest inventory;

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

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

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

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

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

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

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

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

16 (b) For federal land,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (8) "multiple use" means

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

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

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

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

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

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

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

14 (13) "riparian area" means

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

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

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

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

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

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

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

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

7 (B) permit a variety of beneficial uses;

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

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

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

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

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

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

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

1 rubble to bedrock; and

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

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

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

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

2 \* Sec. 30. INTERIM RIPARIAN PROTECTION FOR THE COASTAL FOREST. A  
3 notification for timber harvest activities within the coastal forest of  
4 spruce or hemlock filed under AS 41.17.090 before the effective date of  
5 this section shall be reviewed by the commissioner of natural resources to  
6 determine if the proposed operations provide protection that is substan-  
7 tially equivalent to the fish habitat protection that is provided by  
8 AS 41.17.116, as enacted by sec. 14 of this Act. If the commissioner  
9 determines that protection that is substantially equivalent to that provid-  
10 ed by AS 41.17.116 has been offered or if the forest landowner, timber  
11 owner, or operator complies with an alternate protection plan proposed by  
12 the commissioner, operations covered by the notification are not subject to  
13 AS 41.17.116. If the commissioner determines that the notification does  
14 not provide protection that is substantially equivalent to that provided by  
15 AS 41:17.116, the operator must either resubmit the notification in confor-  
16 mance with this standard or comply with AS 41.17.116. The failure by the  
17 commissioner to make a determination on a notification within 30 days from  
18 the effective date of this section constitutes a determination that the  
19 notification provides protection that is substantially equivalent to the  
20 fish habitat protection that is provided by AS 41.17.116.

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

27 \* Sec. 32. AS 41.17.116, as enacted by sec. 14 of this Act, does not  
28 alter the terms of an existing contract or the outcome of litigation pend-  
29 ing on the effective date of this Act. An amendment to or renewal of an

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

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

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

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

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

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

AMENDMENT

OFFERED IN THE HOUSE

DRAFT CSHB 331(Resources) (dated 3/29/90)

Page 19, line 7, after "Range" add:

"except for municipal lands"

Page 19, line 9, after "Range" add:

"and on all municipal lands"



# Alaska State Legislature

## HOUSE RESOURCES COMMITTEE

P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3715

To: House Resources Committee members  
From: Johanna Munson  
Staff, House Resources Committee  
Re: CS HB 331 (Res)  
Date: March 29, 1990

Changes to the bill:

Throughout the bill meters are converted to feet.

### Section 2

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

### Section 3

Increased the board membership to add two members:

a representative of a statewide mining organization

a representative of a statewide recreational organization

The quorum changed from five to seven.

### Section 11

AS 41.17.087

(a) technical [CONSISTENT WITH AS 41.17.098]

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

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

(2) other appropriate water body types.

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

### Section 13 Interagency Coordination.

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

## Section 14

### Riparian Standards for Private Land

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

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

### Riparian Standards for State Land:

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

Riparian standards for other public land:

On other public land, harvest of timber may not occur

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

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

## Section 16

Technical correction. New language reads:

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

## Section 21

Technical change:

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

Section 22 Technical change.

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

a) The governor may propose to the legislature the establishment of state forests consisting primarily of commercially valuable forest land determined by the governor to be necessary for retention in state ownership for management under the principles of multiple use and sustained yield and consistent with AS 38.04.005. The proposal of the governor shall include a report and recommendations of the commissioner including

- (1) a preliminary forest inventory;
- (2) a summary of the testimony offered at public hearings held on the management of the proposed state forest in communities proximately located to a proposed state forest;
- (3) the findings of the commissioner on anticipated incompatibilities of uses described in AS 38.05.112 (c) [AS 41.17.230 (e)] under AS 38.05.112 (d) [AS 41.17.230 (f)];
- (4) written comments from appropriate state agencies on the compatibility of the uses described in AS 38.05.112 (d) [AS 41.17.230(e)] within the proposed state forest;
- (5) an estimate of the cost of a full implementation of an operational level forest inventory and the management plan.

Section 23

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

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

Section 24

(b) For federal land,

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

and

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

## Section 25

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

## Section 27 Definitions:

Definitions were added:

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

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

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

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

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

Section 30 Interim Riparian Protection for the Coastal Forest.

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

## Section 35

Originally the bill had an effective date of January 1, 1990.

Under the CS, under section 2, AS 41.17.010 (5) has an immediate effective date.

## Section 36

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

## Section 37

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



# Alaska State Legislature

## HOUSE RESOURCES COMMITTEE

P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3715

To: House Resources Committee  
From: Staff, House Resources Committee  
Re: CS HB 331 (Resources) draft 3/29/90 go0529hH

CS HB 331 (Res)	HB 331
Sec. 1	was Sec 1 and Sec 26 1. (d)
Sec. 2	was Sec 2 and Sec 4
Sec 3	was Sec 5
Sec 4	was Sec 7
Sec 5	was Sec 8
Sec 6	was Sec 9 and 10
Sec 7	was Sec 11 and 12
Sec 8	was Sec 13
Sec 9	was Sec 14
Sec 10	was Sec 15
Sec 11	was Sec 16
Sec 12	was Sec 17
Sec 13	was Sec 18
Sec 14	was Sec 19
Sec 15	was Sec 20
Sec 16	was Sec 21
Sec 17	was Sec 22
Sec 18	was Sec 23
Sec 19	was Sec 24
Sec 20	was Sec 24 (c)
Sec 21	was Sec 25
Sec 22	is new

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



# Alaska State Legislature

## HOUSE RESOURCES COMMITTEE

P.O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3715

To: House Resources Committee

From: Johanna Munson  
Staff, House Resources Committee

Date: March 29, 1990

Re: HB 331, Forest Practices Act Sectional Analysis

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

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

Sec. 2. 41.17.010, Declaration of Intent

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

Sec. 3 41.17.041, Board of Forestry

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

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

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

Sec. 4 41.17.047, Duties of the Board

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

Sec. 5 41.17.055 (d)

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

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

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

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

Section 9 41.17.080

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

Section 10 41.17.082, Control of Infestations and Disease.

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

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

Section 11 41.17.087, Variation from requirements.

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

Sec. 12 41.17.090 Notification of Plans to Harvest Timber.

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

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

Sec. 13 41.17.098, Inter-agency Coordination.

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

Sec. 14 41.17.115, Intent for Riparian Areas.

Private Lands:

Along Type A water body, 66 feet no cut zone

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

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

State Land: North of the Alaska Range:

On anadromous or high value resident fish water body:

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

State Land: South of the Alaska Range:

On anadromous or high value resident fish water body:

100 foot no cut zone

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

Other Public Land: North of the Alaska Range::

On anadromous or high value resident fish water body:

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

Other Public Land: South of the Alaska Range:

100 foot no cut zone subject to variance procedures.

Sec. 16:, 41.17.131, Penalties

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

Sec. 17, Directives

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

Sec. 18, Stop Work Orders

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

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

Sec. 21, Appeals and Judicial Review

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

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

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

Sec. 24 41.17.900 (b) Federal lands standard.

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

Sec. 25 41.17.900 (e) Private lands standard.

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

Sec. 26

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

Sec. 27

This section provides definitions.

Sec. 28

This section provides for legislative review.

Sec. 29

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

Sec. 30

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

Sec. 31

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

Sec. 32

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

Sec. 33

Repeals 41.17.133, 41.17.135, 41.17.137, and 41.17.141.

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

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

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

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

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
JUNEAU ALASKA 99801  
907 465 1800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 15, 1990

SUBJECT: Forest practices, etc.  
(CSHB 331 (Resources))

TO: Representative Curt Menard  
Co-Chair, House Resources Committee

FROM: Richard A. Bradley  
Legislative Counsel 

I have prepared the committee substitute as requested.

As I have advised Johanna Munson, we have sought to remedy certain technical and stylistic problems encountered in the review of the bill.

Certain other points have been noted.

I will seek to identify those sections that have measureably been rewritten.

You may wish to review the last sentence of Sec. 41.17.-041(c).

I have deleted Sec. 41.17.043. See Sec. 28.

Sec. 41.17.055(d) is rewritten.

Sec. 41.17.083 is reorganized.

The second sentence of Sec. 41.17.087 is rewritten to seek to express what was intended. So also is (b) of that section. Please review.

In Sec. 41.17.098(c), the commissioner of environmental conservation is apparently being given the authority to overrule the regulations of the commissioner of natural resources. This will apparently be done by the DEC commissioner adopting, amending, or repealing the regulations of

Representative Curt Menard

Page 2

March 15, 1990

the DNR commissioner. While it is possible to achieve the goal this way, the result is awkward and protracted and the better solution may simply be to require that the original regulations in this area themselves be approved by the DEC commissioner.

In Sec. 41.17.116, I substituted the "break of the slope" for "slope-break".

At your request, Sec. 41.17.117 is deleted; the internal references to that section in other sections have been eliminated.

I have substituted generally "the coastal forest of spruce or hemlock" for "the coastal spruce-hemlock forest".

Sec. 41.17.118(3) has been deleted and moved to Sec. 30.

Sec. 41.17.119 is reorganized.

Sec. 41.17.139 eliminated "hearing officers" in (a) but continued to use the term in the remainder of the section. See the revision to (a).

The first sentence of Sec. 41.17.900(b) seems inconsistent with the second sentence but I do not understand the applicability of the first sentence.

Sec. 41.17.950(1), defining "anadromous water body" is reorganized.

Sec. 41.17.950(12), defining "riparian area" is reorganized.

Sec. 27, "Legislative Review", a section that is completely unnecessary, is trimmed slightly.

I note that the repealer, Sec. 31, may not mesh with the fact that there are two separate effective dates to the bill. I will seek to deal with that in a subsequent redraft of the bill.

The bill does not deal with the internal references in law to sections that are repealed in this bill. I will deal with that in the subsequent draft.

If I may be of further assistance, please advise.

RAB:mi  
wkmi6/059

# STATE OF ALASKA

## DEPARTMENT OF FISH AND GAME

### DIVISION OF HABITAT

STEVE CLAWPER, GOVERNOR

BOX 3-2000  
JUNEAU, ALASKA 99802  
PHONE: (907) 465-4106

March 15, 1990

Mr. John L. Sturgeon, President  
Koncor Forest Products Co.  
3501 Denali, Suite 202  
Anchorage, AK 99503

Dear John,

You and others in the Timber Alliance have asked that I clarify this department's position on variations from the riparian standard on private lands for Type A, low-gradient streams with a width of five feet or less that also have low value for fish. At the working group meeting last week, I said that we have a lower level of concern for small, low-gradient streams with low fish values. However, many small, low-gradient streams provide important rearing habitat, especially for coho salmon.

Given the above understanding and the fact that the regulations on this subject are yet to be written, what I suggest here should be viewed as conceptual. It should, however, give you a better idea of the types of criteria I think will be important to capture in the regulations.

ADF&G will be most likely to agree to variations for Type A, low-gradient streams less than five feet wide with low fish values if the following criteria are met.

The proposed method of logging does not present a high risk of soil disturbance and stream sedimentation;

Bank and stream channel stability can be assured;

Sufficient trees within the 20 meter buffer are left standing and alive so there is a future source of large woody debris, and;

Trees proposed for harvest are either not likely to contribute wood to the stream or they are not important for maintaining natural stream flow or temperature.

As I said, we will need to develop these concepts further in the regulations and then see how they work in the field.

The timber industry has also asked for clarification on whether roads can cross buffers and rigging for cable logging systems can be hung from trees in buffers. There is no question that roads

March 15, 1990

will be allowed to cross buffers. Our main concern will be to have them cross as perpendicular to the buffer as is practical. Hanging rigging from trees in a buffer and any associated clearing is an issue that may come up if buffers create operational constraints. I see no problem hanging rigging in a buffer if no trees are cut or killed and damage is minimal. Where trees need to be cut, I think the intent of 41.17.115 is to address the issue in the regulations and the variation process.

I look forward to working with you and other members of the Alliance in getting the new act passed and the regulations implementing it adopted.

Sincerely,

A handwritten signature in cursive script, appearing to read "Frank Rue", followed by a horizontal line extending to the right.

Frank Rue, Director  
Habitat Division

cc: Members of the FPA Working Group  
Representative Curt Menard, Co-chairman,  
House Resources Committee  
Senator Bettye Fahrenkamp, Chairman,  
Senate Resources Committee

The following amendments to SB 317 and HB 331 have been agreed to by the working group appointed on 2/27/90. A single concern with the language in Section .119 (1) is expected to be expressed by the Mat-Su borough in committee hearing.

FEDERAL LANDS and the ACMP:

1. Amend Section 27 of SB 317 to read as follows:

AS 41.17.900 is amended as follows:

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

(b) [THE PROVISIONS OF THIS CHAPTER APPLICABLE TO STATE LAND ARE APPLICABLE TO FOREST LAND UNDER FEDERAL OWNERSHIP TO THE EXTENT PERMITTED BY LAW.] (1) The degree of resource protection on federal land shall be no less than that provided for by this chapter for state land, except that the minimum riparian standard shall be that set in Sec. 41.17.119. [HOWEVER, THE SPECIFIC PROVISIONS OF THIS CHAPTER AND ITS IMPLEMENTING REGULATIONS ARE NOT APPLICABLE TO FEDERAL LAND EITHER DIRECTLY OR FOR PURPOSES OF COMPLIANCE WITH THE COASTAL ZONE MANAGEMENT ACT.]

(2) Timber harvest activities covered by this chapter occurring on federal lands shall satisfy the requirement to be consistent to the maximum extent practicable with the Alaska Coastal Zone Management Program if the federal land management plans, guidelines and standards applicable to timber harvesting activities provides no less resource protection than the standards in this chapter provide for state land, except that the minimum riparian standard shall be that set in Sec. 41.17.119. Subsection (b)(2) does not apply to activities that require a State or federal authorization under a provision of law other than this chapter.

(c) Subject to 16 U.S.C. § 1456(f)(§ 307(f) of the Coastal Zone Management Act of 1972, P.L. 92-583), for private lands, the provisions of this chapter and the regulations adopted under this chapter set out the forest management standards, policies, and review processes for purposes of the Alaska Coastal Management Act. Subsection (c) does not apply to activities that require a State or federal authorization under a provision of law other than this chapter.

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

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

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

[(d)] [e] 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 environmental conservation regulations relating to control of nonpoint source pollution. (§ 1 ch 108 SLA 1978)

(f) Nothing in this chapter diminishes the rights, privileges or immunities of Alaska Natives or Alaska Native corporations with respect to land conveyed under 43 U.S.C. 1601-1628 (Alaska Native Claims Settlement Act), or to alter or diminish the authority of the Department of Fish and Game under AS 16 or of the Department of Environmental Conservation under AS 46 or of any state agency under other laws.

2. Delete Section 3, 28, and reference to 41.17.900 (d) in section 32 of SB 317.

#### STREAM DEFINITIONS:

Add a new section .950 as follows:

.950 DEFINITIONS. "Anadromous" waterbody means that portion of any freshwater body, or estuarine area, that:

(A) is catalogued as important for anadromous fish under AS 16.05 .70; or

(B) although not yet catalogued under AS 16.05.870 is found by the Department of Fish and Game to actually contain or exhibit evidence of anadromous fish, in which event the anadromous portion of the stream or waterway extends upstream to the first point of physical blockage. For state land, the department shall presume for planning purposes, and in the absence of a site-specific determination by the Department of Fish and Game, that a stream is anadromous if it is connected to anadromous waters that are without Department of Fish and Game documentation of a physical blockage and has a stream gradient of 8% or less

VARIATIONS FROM STREAM BUFFER REQUIREMENTS:

Section 41.17.087 is amended as follows:

.087 VARIATIONS 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. Consistent with AS 41.17.098, 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) Consistent with .098, the Commissioner shall adopt regulations specifying the criteria under which variations will be agreed to for harvesting within the riparian area of Type A. low gradient streams with a width of 5 feet or less, and other appropriate stream types.

RIPARIAN STANDARDS FOR STATE LAND:

Amend Section 41.17.118 to read as follows:

(1) On state forest land managed by the department that is located north of the Alaska Range, harvest of timber may not be undertaken within 100 feet immediately adjacent to an anadromous or high value resident fish waterbody unless the division determines that adequate protection remains for the fish habitat. On state forest and managed by the department that is located south of the Alaska Range, harvest of timber may not be undertaken within [30meters] 100 feet immediately adjacent to an anadromous or high value resident fish waterbody; between [30 and 90 meters] 100 and 300 feet from the waterbody, [ANY] timber harvest may occur but must be consistent with the maintenance of important fish and wildlife habitat.

RIPARIAN STANDARDS FOR PRIVATE LANDS:

Amend Section 41.17.116 (1) as follows:

- .116. (1) Along all Type A waterbodies,  
(A) harvest of timber may not be undertaken within [15]  
20 meters of the waterbody.

[DELETE PARAGRAPHS (B), (C), and (D) OF THIS SUBSECTION]  
[DELETE SECTION 41.17.117]

RIPARIAN STANDARDS FOR OTHER PUBLIC LAND:

Section 41.17.119 be amended as follows:

.119 MINIMUM RIPARIAN STANDARDS FOR OTHER PUBLIC LAND. On other public land, the following minimum standards shall apply:

(1) South of the Alaska Range. [TIMBER HARVEST OPERATIONS ON FOREST LAND] harvest of timber may not be undertaken within [30 meters] 100 feet from the shore or bank of any anadromous or high value resident fish water body [MUST BE SITED AND DESIGNED PRIMARILY TO PROTECT FISH HABITAT AND WATER QUALITY]; and

(2) North of the Alaska Range. harvest of timber may not be undertaken within 100 feet immediately adjacent to an anadromous or high value resident fish waterbody unless the division determines that adequate protection remains for the fish habitat.

EFFECTIVE DATE:

Based on the sections of the bill as numbered in the current <sup>18</sup> legislation. Sections 1, 2, 5, 6, 7, 9, 10, 11, 12, 13, 15, 16, 19, and 26 shall become effective immediately upon passage of the act. The 20 meter buffer requirement will apply to notifications submitted after passage of the act. All other sections of the bill will become effective on October 1, 1990.

Also, a transition period will be defined as follows:

INTERIM RIPARIAN PROTECTION: However, notifications filed before date of passage of this act shall be evaluated by the commissioner to determine if they provide riparian protection that is substantially equivalent to fish habitat protection provided for by Sec. 41.17.116. If the commissioner determines that this test is met, or the operator complies with an alternate protection plan proposed by the commissioner, operations covered by that notification are not subject to Sec. 41.17.116. If the commissioner determines the notification does not provide substantially equivalent riparian protection, the operator must either resubmit the notification in conformance with this standard, or comply with Sec. 41.17.119. Failure by the Commissioner to make a determination on a notification within 30 days of enactment of this legislation constitutes a determination that the notification provides substantially equivalent protection.

- STATEMENT OF  
DR. JAMES BROOKS  
DEPUTY REGIONAL DIRECTOR, ALASKA REGION  
NATIONAL MARINE FISHERIES SERVICE  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
U.S. DEPARTMENT OF COMMERCE

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS  
COMMITTEE ON ENERGY AND NATURAL RESOURCES

UNITED STATES SENATE

February 26, 1990

Mr. Chairman and Members of the Subcommittee:

I am Dr. James W. Brooks, Deputy Director of the Alaska Region of the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA). I appreciate the opportunity to appear before this Subcommittee on behalf of the Department of Commerce to discuss the provisions of H.R. 987 relating to fisheries protection and buffer zones.

The Department of Commerce/NOAA has primary Federal responsibility for the conservation, management, and development of marine living resources and shares Federal responsibility for the conservation and management of anadromous fish and the protection of certain marine mammals and endangered species under numerous Federal laws. For this reason, the Department is vitally concerned about the habitats that support these resources since the well-being of these resources and the fishing industry depends upon healthy and productive habitats.

NOAA has been involved with research on the effects of timber harvest on the Tongass National Forest since the mid-1950's. Our research staff has studied the effects of timber harvest on anadromous fish streams in the Tongass National Forest and is recognized for their expertise on logging and riparian issues. They have published extensively and have authored over 20 scientific publications which apply directly to this issue. Our habitat management staff has worked closely with the issue through evaluation of numerous environmental studies, participation on interdisciplinary teams drafting guidance documents, and through planning processes such as the Tongass Land Management Plan.

Anadromous fish streams on the Tongass National Forest support all five species of Pacific salmon (pink, chum, coho, sockeye, and chinook). The commercial harvest of salmon in southeast Alaska was valued at \$128 million (ex-vessel value) for 1989. According to the U.S. Forest Service, ninety percent of those fish came from stream habitat within the Tongass National Forest. Recreational fishing also contributes a substantial amount to the economy of southeast Alaska. Recreational fisheries in Juneau alone amount to about \$15 million annually. Subsistence fisheries for salmon in southeast Alaska amount to an additional \$2.5 to \$6.0 million annually. Reasonable and prudent timber harvest practices are extremely important to sustaining these vital fisheries.