

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990

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SENATE RESOURCES

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Recommendation.

Sealaska believes that, in any event, the regulations under which the forest industry operates will be significantly modified in the immediate future. These changes will occur either through the enactment of the proposed steering committee legislation and accompanying regulations; or by the Departments of Environmental Conservation, Fish and Game and Natural Resources enacting independent administrative regulations.

Under the proposed legislation, Department of Natural Resources is the lead agency for regulating the forest industry; and that any regulations promulgated by the other resource agencies cannot be duplicative of the regulations of the Department of Natural Resources. This protects the industry from each agency acting independently to develop its own permitting and operational standards for conduct of forest operations.

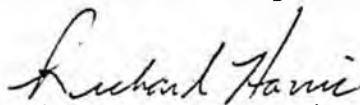
Sealaska is recommending that the Southeast ANCSA Corporations ratify the proposed "steering committee legislative proposal." This legislation represents the best possible compromise that we believe could be achieved under the current political environment. Sealaska is requesting a delay in the final ratification of this legislation, pending your review. Sealaska encourages your expedient review and would appreciate a response as soon as possible but no later than Monday, May 1, 1989.

Sincerely,

SEALASKA CORPORATION



Robert W. Loescher  
Senior Vice President  
Resource Management



Richard P. Harris  
Vice President  
Resource Planning and Administration

4/22/89

Article 1. Administration and Management

Sec. 41.17.010(5) is repealed and reenacted to read:  
(5) Under the leadership of the Department of Environmental Conservation as lead agency, the state should exercise its full responsibility and authority for control of nonpoint source pollution with respect to the Federal Water Pollution Control Act, as amended, and the provisions of this chapter, and the regulations adopted under this chapter, with the approval of the department of environmental conservation, shall serve as the nonpoint source pollution requirements under state law and sec. 319 of the Clean Water Act, for activities under this chapter; however, the department of environmental conservation retains its authority to adopt nonpoint source pollution regulations for activities subject to this chapter to the extent that regulations are not adopted and approved under this chapter; the department of environmental conservation also retains the authority to withdraw its approval of regulations adopted by the commissioner under this chapter.

Sec. 41.17.010(6) is amended to read:  
(5) subject to 16 U.S.C. 1456 (Section 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 shall serve as the [BE THE BASIS FOR] forest management standards, policies, and review processes [GUIDELINES] for purposes of [UNDER] the Alaska Coastal Management Act.

A new sec. 41.17.010(7) is added:  
(7) except for activities subject to the requirements of AS 16.05.840 or AS 16.05.870 and the regulations authorized by those sections, the provisions of this chapter, and the regulations adopted under this chapter, shall serve as the fish habitat protection standards, policies and review processes under state law.

Section 41.17.020. Division of forestry established. No change.  
Section 41.17.030. Responsibilities of the division. No change.

\* Section AS 41.17.041(a) repealed and reenacted to read:  
Sec. 41.17.041. Board of Forestry. (a) The Board of Forestry is established in the department of natural resources, division of forestry.  
(b) The board is composed of seven members appointed by the governor, as follows:  
(1) a member or representative of a statewide commercial fishermen's organization;  
(2) a member or representative of a Native corporation established under the Alaska Native Claims Settlement Act, 43 U.S.C. §1601 et seq.;  
(3) a member or representative of an environmental organization;

(4) a member or representative of a forest industry trade association;

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

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

(7) the state forester, who shall serve ex officio and without vote.

(c) The state forester shall serve as chair of the board and shall, in consultation with the board, establish procedures for scheduling and organizing board meetings. A quorum of the board shall be five voting members. All decisions of the board shall be made by a vote of no less than one fewer votes than the number of voting members present.

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

(e) The division of forestry shall serve as staff to the board. The departments of natural resources, fish and game, and environmental conservation shall provide technical staffing and information as needed by the board.

Section 41.17.043 is amended to read:

Sec. 41.17.043. Terms of office. The initial terms of board members will be: for two members, one year; for two members, two years; and for two members, three years. Thereafter, t[The term of office of a member of the board is three years. The state forester serves an indefinite term, ex officio.

Section 41.17.045. Removal of Members. No change.

\*Section \_\_\_\_ AS 41.17.047 is repealed and reenacted to read:

Sec. 41.17.047. Powers and duties of board.

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

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

(c) The board, working with the departments of natural resources, environmental conservation, and fish and game, other affected agencies and parties, and the forest-dependent industries shall conduct an annual survey of research needs related to forest practices. The board shall review research proposals and shall make recommendations to the governor and the legislature to promote research projects that would address these needs.

(d) The board shall coordinate the monitoring of the implementation and effectiveness of this chapter, regulations and best management practices in meeting state water quality standards, in meeting fish and wildlife habitat requirements, and

in meeting other forestry objectives. The board shall report annually to the legislature and the governor on the effectiveness of this chapter and regulations adopted under it, with its recommendations for changes and for needed research and monitoring. The state forester, the department of fish and game, and the department of environmental conservation shall each present an annual report, independently, to the board on the effectiveness of this chapter, and regulations and best management practices adopted under this chapter protecting the resources for which they have statutory responsibility and make recommendations for any changes to rectify procedural or substantive problems. The board will forward these reports to the legislature as part of its annual report. The board shall hold hearings at least once annually in southeast, southcentral, and interior Alaska for purposes of taking public testimony on those subjects.

Section 41.17.055(d) is repealed and reenacted to read. The commissioner may develop regulations under this chapter as part of the state program for control of nonpoint source pollution under the Federal Water Pollution Control Act, as amended. However, the department of environmental conservation is the lead agency for water quality and control of nonpoint source pollution under that Act, and the regulations are therefore subject to the approval of the commissioner of environmental conservation.

Section 41.17.060. Regulatory and administrative standards is amended as follows:

Sec. AS 41.17.060(b)(2) is amended to read: (2) environmentally sensitive areas [AND BEST MANAGEMENT PRACTICES] shall be recognized in the development of regulations and best management practices that are designed to implement [IMPLE-  
MENTATION OF ANY] non-point pollution control measures authorized by this chapter;

Sec. AS 41.17.060(b) is amended by adding a new subsection to read: (5) significant adverse effects of soil erosion and mass wasting on water quality and fish habitat shall be prevented or minimized.

Sec. AS 41.17.060(c)(6) is amended to read: (6) [WHERE ECONOMICALLY PRACTICABLE,] allowance shall [MAY] be made for scenic quality in or adjacent to areas of substantial importance to the tourism and recreation industry; and.

A new sec. AS 41.17.060(c)(7) is added:  
(7) allowance shall be made for important fish and wildlife habitat.

Section 41.17.070(b) Administrative plan and report is repealed and reenacted to read:

(b) To maintain a record of division decision-making for public and agency review, the division will compile and index all decisions made under this chapter regarding directives, stop-work orders, waivers from requirements, decisions of hearing officers, and decisions on appeals. Annually, a summary of this record will be submitted to the board of forestry.

Section \_\_. AS 41.17.080 is repealed and reenacted to read:

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

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

(b) The commissioner shall adopt regulations specifying the information to be submitted under AS 41.17.090(c) in the detailed plan of operations for the division to adequately assess whether the activities will comply with the requirements set forth in this chapter.

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

commissioner shall make appropriate distinctions between public and private land.

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

**Section 41.17.085. Permit applications. No change.**

A new Section, 41.17.087, is added:

**Sec. 41.17.087. Variation from requirements.** A forest landowner, timber owner, or operator may propose a variation from a requirement imposed by this chapter or the regulations adopted under this chapter for a particular activity. Consistent with AS 41.17.098, if the division 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, it shall agree to the proposed variation. If the division does not agree to the proposed variation, a forest landowner, timber owner, or operator may appeal to the commissioner but must conform to the requirement during the pendency of the appeal.

Section 41.17.090 is repealed and reenacted as follows (actually, parts (a), (b), and much of the remainder remains the same.)

**Sec. 41.17.090. Notification of plans to harvest timber.**

(a) Operations on forest land shall be reviewed under this section for consistency with the policies and provisions of this chapter and regulations adopted under this chapter.

(b) A forest landowner, timber owner, or operator may provide to the department a voluntary plan of operations which describes the long-term plans for harvest of timber. The purpose of a voluntary plan is to give the department and the public an early opportunity to review any plans, to identify areas of concern, and to allow the agencies and the public to provide local knowledge and early notice of potential problems to the forest landowner, timber owner, or operator.

(c) Before beginning operations on forest land, the operator shall provide the department with a detailed plan of operations. The plan of operations must include:

(1) a description of the proposed activities identifying the land involved and the action proposed in sufficient detail to inform the public of the nature and location of the proposed action. The description shall include a map and be in a form suitable for duplication;

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

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

(d) Within 5 days after receipt of a plan of operations under (c) of this section, the division shall distribute the

information received under (c) of this section to affected state agencies, affected coastal districts, and shall distribute the information received under (c)(1) of this section to all members of the public who have asked to receive copies of notifications for the affected area under this section.

(e) Within 30 days following receipt of a complete plan of operations, the division shall review the plan to determine whether the operation is consistent with the requirements of this chapter and the regulations adopted under this chapter. Operations may begin under the plan upon the expiration of the 30-day period or upon notice from the division that the review has been completed, whichever first occurs, unless and only to the extent that the division has issued a stop-work order for particular operations under AS 41.17.138, notified the operator that a field inspection is necessary for the operating area or for particular operations thereof, or notified the operator that a one time ten-day extension is necessary for agency elevations under 41.17.098(f). The operator may proceed with operations not covered by the stop-work order, notice of field inspection, or the elevation. During the review of a plan of operations, if a question arises concerning the proper classification of waterbody type for purposes of the standards in AS 41.17.bbb(a), the department of fish and game has the authority to finally resolve the question.

(f) If the division determines that a field inspection is necessary to determine consistency of the operating plan or some portion thereof with applicable standards, it shall notify the operator. The notice of field inspection shall cover the minimum area necessary to determine compliance with this chapter and applicable regulations. The operator shall inform the division when the site will be accessible and available for an inspection by the division. The division must conduct its field inspection within 21 days thereafter, unless the operator otherwise agrees, and the operator may begin operations at the conclusion of that period unless the department has issued a stop-work order under AS 41.17.138.

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

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

(i) A plan of operations must be renewed annually under the procedures for initial review in this section, and any decision under AS 41.17.ccc with respect to that plan of operations will be reviewed during each renewal.

\* Section \_\_\_\_ . A new section is added:

#### 41.17.098 Interagency Coordination

(a) In administering this chapter, the division shall coordinate with other agencies and affected coastal districts with jurisdiction over activities subject to regulation under this chapter.

(b) In any review or implementation of a plan of operations under AS 41.17.090 and in any decision on a proposed variation from requirements under 41.17.087, the division shall consider the comments of all affected state agencies, and where applicable, coastal districts.

(c) The division shall give due deference to the department of environmental conservation in decisions concerning water quality.

(d) The division shall recognize the expertise of the department of fish and game with regard to fish and wildlife habitat. On private land, the division shall give due deference to the department of fish and game regarding impacts to fish habitat from timber operations including variations to riparian standards, designation of alternative site-specific riparian protection plans, and road location decisions within riparian areas. On public lands, the division shall give due deference to the department of fish and game regarding impacts to fish and wildlife habitat from timber operations including timber harvest in riparian areas, variations to riparian standards, and road location decisions within riparian areas. In making decisions under AS 41.17.087, the division shall recognize fish habitat as the primary value in riparian areas.

(e) In this section due deference means that deference which is appropriate in the context of the agency's expertise and area of responsibility, and all the evidence available to support any factual assertions. Where due deference is given, if the division does not agree with a commenting agency, it will prepare a written finding documenting the disagreement.

(f) Any agency may require an elevation of a decision of the division to a higher level of the agencies.

#### Section 41.17.100. Deployment of broadcast chemicals. No change.

\* Section \_\_\_\_\_. AS 41.17 is amended by adding a new section to read:

**AS 41.17.107. Control of infestations and disease.** (a) All forest clearing operations and silvicultural systems must be designed to reduce the likelihood of increased insect infestation and disease infections that threaten forest resources.

(b) No forest landowner shall conduct or approve timber clearing activities that create conditions fostering outbreaks of infestation or infection that threaten forest resources on forest lands belonging to another person. Where the commissioner finds, after notice and hearing, that there has been a violation of this subsection, the commissioner may:

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

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

(c) If a forest landowner does not comply with a final order of the commissioner under (b)(1) or (b)(2), the commissioner may enter onto the land and undertake the actions so ordered and seek recovery of the costs of such actions by filing a foreclosing a lien against the land.

(d) The commissioner may undertake surveys and appraisals to obtain data on regional insect infestations and disease conditions. Upon a determination that there exists an area which is infested with forest insects or infected with diseases injurious to forest resources and that the infestation or infection threatens the forest lands or timber of adjacent owners, the commissioner may establish and set the boundaries of a infestation or infection zone. The commissioner may enter into agreements with any owner and with any governmental agency for the purpose of controlling or suppressing infestation or infection within the zone. Upon a determination by the commissioner that insect and disease control work within the zone is no longer necessary or feasible, the zone shall be terminated.

A new section is added:

Sec. 41.17.115. Clearing of forest land for non-timber purposes. A state agency, municipality, or public utility shall, before approving or conducting clearing of forest land for purposes other than timber harvest, determine whether the timber to be removed has significant salvage value. If the timber has significant salvage value, the agency or utility shall salvage the timber as part of the clearing process.

## Article 2. Riparian Management

41.17.aaa Intent. The commissioner shall protect riparian areas from the significant adverse effects of timber harvest activities on fish habitat and water quality. The management intent for riparian areas is the adequate preservation of fish habitat by maintaining a short- and long-term source of large woody debris; stream bank stability and channel morphology; water temperatures; stream flows; water quality; adequate nutrient cycling; food sources; clean spawning gravels; and sunlight. The commissioner shall adopt regulations which may include higher standards of protection for fish and other public resources on state land managed by the department of natural resources land than on other public land or private land. These regulations may vary by region of the state, and shall take into consideration reasonable

classification of waterbodies and the economic feasibility of timber operations.

41.17.bbb Riparian standards

(a) Private land in coastal forests. Except as provided in AS 41.17.ccc, private forest land adjacent to the following types of waters as defined in AS 41.17.950 and located in Coastal Spruce-Hemlock Forest is subject to the riparian protection standards set forth in this section.

(1) Along all Type A waterbodies:

(A) no harvest of timber may be undertaken within 15-meters of the waterbody;

(B) no more than 50% of the timber calculated by basal area located between 15 and 30 meters from the waterbody may be harvested;

(C) the remaining 50% of the timber located between 15 and 30 meters from the waterbody must be live and without significant damage from harvest operations, and be generally representative of the original size distribution of the stand in order to provide for sufficient large woody debris and fish habitat components; to the extent consistent with habitat needs, the operator may harvest high value trees and retain lower value trees; and

(D) the division may agree to a modification from these timber retention requirements if adequate protection remains for the fish habitat, and provided that comparably sized substitute timber is retained in an area. It is preferable but not mandatory that the substitute timber be left in another part of the riparian area.

(2) Along all Type B waterbodies timber harvest operations within 30 meters of the stream or to the slope-break, whichever area is smaller, must be conducted in compliance with slope stability standards set forth in regulations adopted under this chapter.

(3) Along all Type C waterbodies timber harvest operations in the area within 15 meters of the stream or to the slope-break, whichever area is smaller, must be conducted in compliance with slope stability standards set forth in regulations adopted under this chapter.

(b) Other private forest land. The commissioner shall adopt regulations for private land outside of the Coastal Spruce-Hemlock Forest which designate the riparian areas to be protected and the restrictions on timber harvesting operations within those areas which are necessary for their protection in accordance with the management goals set forth in AS 41.17.aaa. Until regulations are adopted, the standards set out in (c) will apply.

(c) Other public land. On other public land, timber harvest operations on forest land within 30 meters from the shore or bank

of any anadromous or high value resident fish waterbody must be managed primarily to protect anadromous and high value resident fish habitat and water quality. Timber harvest proposed under a plan of operations submitted under AS 41.17.090 must be sited and designed to protect fish habitat and water quality.

(d) State land. (1) On state forest land managed by the department of natural resources located north of the Alaska Range, no harvest of timber may be undertaken within 30 meters 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 land managed by the department of natural resources located south of the Alaska Range, no harvest of timber may be undertaken within 90 meters immediately adjacent to an anadromous or high value resident fish waterbody; provided that timber may be harvested in the area more than 30 meters away from the waterbody if authorized by the division in consultation with the department of fish and game, and to the extent that harvesting is consistent with the maintenance of important fish and wildlife habitat.

(2) The department may impose additional riparian protection standards for timber harvest operations through the adoption of land use plans under AS 38.04.065 and forest management plans and reports under AS 38.05.112 and AS 41.17.230.

(3) Nothing in this section shall alter the terms of any existing contract, approved land use plan, or the outcome of any pending litigation; provided however that any amendments or renewals to existing state timber contracts shall be made under this act.

#### 41.17.ccc Procedures for private land in coastal forests.

(a) If a plan of operations required by AS 41.17.092 includes private land in the Coastal Spruce-Hemlock Forest, as defined by regulations adopted by the department, which is located within 30 meters of an anadromous fish waterbody, the plan must identify

(1) a planning area consisting of all contiguous land, within an entire drainage, subdrainage within a large drainage, or major reach of a large river, which is owned by a person or a group of persons under common control;

(2) an operating area including all current and future harvest areas within the planning area. The operating area includes all trees that could be cut within that area using conventional logging methods; it includes all such trees regardless of whether the application of the riparian standards set forth in 41.17.bbb would preclude cutting.

(b) Once an operating area is designated, timber within a new operating area within the planning area may not be harvested until the next rotation, unless an operator complies with guidelines set forth in part (d) of this section.

(c) A plan of operations submitted under AS 41.17.090(c) may include different timber retention requirements than those

set forth in AS 41.17.bbb(a)(1) if timber retained in the riparian area pursuant to AS 41.17.bbb(a)(1), together with timber made inoperable by application of those requirements and timber left in addition to requirements of AS 41.17.bbb(a) to protect fish habitat under an agreement with the division, would result in retention of more than 5% of the basal area in the operating area. If the division determines that timber retained in compliance with the timber retention requirements of AS 41.17.bbb(a)(1) together with timber made inoperable by application of those requirements and timber left in addition to requirements of AS 41.17.bbb(a) to protect fish habitat under an agreement with the division, would result in retention of more than 5% of the basal area in the operating area, the division shall:

(1) issue a written decision designating an alternate site specific riparian protection plan that does not require the retention of more than 5% of the basal area and that does not require the retention of timber unnecessary for adequate protection of fish habitat and water quality;

(2) agree to the timber retention proposed in the plan of operations; or

(3) tender compensation for the timber in excess of the 5% at the current market value of the trees to be harvested from the operating area.

The operator may appeal to the commissioner a decision designating an alternate site specific riparian protection plan. If different timber retention requirements under this subsection are not included in the plan of operations, the operator shall comply with the timber retention requirements of AS 41.17.bbb(a)(1).

(d) During a same rotation period, an operator may harvest timber from a new operating area within a planning area designated in (a) of this section, regardless of any changes in ownership, under the following conditions:

(1) If riparian standards of 41.17.bbb(a) have been met in the original operating area without compensation under (c) of this section, the operator may harvest timber from the new operating area. Timber harvest in the new operating area must comply with the riparian standards.

(2) If riparian standards of 41.17.bbb(a) have not been met in the original operating area or if compensation has been provided under (c) of this section, the operator may harvest timber from a new operating area if the operator complies with additional timber retention requirements set forth by the department in regulation. In these regulations, the department shall require between 7 1/2% and 10% of the basal area of the new operating area be dedicated to habitat protection or enhancement.

### Article 3. Enforcement.

AS 41.17.120 Inspections and investigations. No change.

\* Section . . . A new section is added:

Sec. 41.17.125. Enforcement coordination. All state agencies with enforcement authority over activities subject to regulation under this chapter shall establish a uniform enforcement strategy that avoids duplication and inconsistencies. All participating agencies shall agree to and comply with the contents of that strategy; provided, however, that when developing and implementing the uniform strategy, each state agency retains its authority to determine the appropriate remedies under the statutes and regulations it administers.

Sec. 41.17.131. Penalties for violations. (a) An operator, forest landowner or timber owner who violates or permits a violation of this chapter, a regulation adopted under this chapter, or a term of any directive under AS 41.17.135, or stop-work order issued under AS 41.17.138 is liable for a civil fine to be assessed by the commissioner not to exceed \$10,000. In determining the amount of the civil fine, the commissioner shall consider: ←

- (1) the character and degree of injury to forest resources and values;
- (2) the degree of intent or negligence of the person in causing or permitting the violation;
- (3) the character and number of past violations caused or permitted by the person; and
- (4) if the information is available, the net economic savings realized by the respondent through the violation.

(b) An operator, forest landowner, or timber owner who, with criminal negligence, violates or permits a violation of this chapter, a regulation adopted under this chapter, or a term of any directive under AS 41.17.135, or stop-work order issued under AS 41.17.138 is guilty of a class A misdemeanor. As used in this section, "criminal negligence" has the meaning given in AS 11.81.900.

(c) Each day on which a continuing violation occurs constitutes a separate violation for purposes (a) and (b) of this section.

(d) If a respondent violates a directive issued under AS 41.17.135 or a stop-work order issued under AS 41.17.138, the attorney general, at the request of the commissioner, may seek an injunction requiring the respondent to suspend all or part of the operations until the respondent complies with the directive or stop-work order, and requiring the respondent to repair or correct any damage resulting from the violation.

(e) If a respondent violates a directive issued under AS 41.17.135 which requires the respondent to repair or correct damage, the commissioner may proceed to repair or correct the

damage using state agency employees or contractors, and respondent is liable for the cost of the repair after delivery by the commissioner of an itemized statement of expenses incurred.  
\* Section \_\_\_\_ . AS 41.17.133 Notice and hearing; final orders is repealed.

\*Section . AS 41.17.135 is repealed and reenacted to read:  
Sec. 41.17.135, Directives. (a) If the division at any time determines that a planned or ongoing activity violates or would violate this chapter or regulation adopted under it, it shall notify the respondent in writing and direct the respondent to halt or avoid the violation, or to repair or correct any damage resulting from the violation. The written notification must include a summary of the basis for the directive.  
(b) The respondent may comply with the directive or may request a hearing under AS 41.17.139 within 15 days. If a hearing is requested, the respondent may continue with the activity unless the division also issues a stop-work order under AS 41.17.138. If the directive is affirmed by the hearing officer, the respondent shall cease the activity unless a stay is issued under AS 41.17.143(c) or by the superior court.

\*Section \_\_\_\_ . AS 41.17.137 Temporary orders is repealed.

\*Section \_\_\_\_ . A new section is added:  
Sec. 41.17.138. Stop-work orders. (a) If the division finds that a violation of this chapter or a regulation adopted under it 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 can be held, it may issue a stop-work order requiring the respondent to stop the violation or otherwise halt the threatened harm. A stop-work order must be in writing and must state the facts on which it is based.

(b) The department will immediately refer the matter to a hearing officer for determination of the validity of the stop-work order under AS 41.17.139. The hearing officer shall consider any arguments and evidence presented by the respondent within five workdays after receipt of the stop-work order and shall thereafter make an immediate decision sustaining or reversing the stop-work order. The stop-work order is of no further effect if it is not sustained by the hearing officer within the five workday period. A stop-work order may be sustained only upon the same grounds on which it was originally issued.

\* Section \_\_\_\_ . AS 41.17.139 is amended to read:  
AS 41.17.139. Hearing Procedures. (a) Unless otherwise specified, proceedings under this section are not subject to the Administrative Procedure Act (AS 44.62). A hearing under AS 41.17.135 or AS 41.17.138 shall be held before the state forester, a regional forester, or another employee of the division with similar qualifications [A HEARING OFFICER, APPOINTED BY THE ATTORNEY GENERAL FROM AMONG MEMBERS OF THE

ALASKA BAR ASSOCIATION WHO HAVE BEEN NOMINATED BY THE BOARD OF FORESTRY AND WHO ARE KNOWLEDGEABLE AND EXPERIENCED IN THE SUBJECT MATTER]. A hearing under AS 41.17.087 or AS 41.17.ccc(c) shall be held before the commissioner or the commissioner's designee.

A person who has participated in the preparation of the division's [STATE'S] case [OR WHO IS A STATE EMPLOYEE] is ineligible. Hearings are not limited by common law, statutory, or judicial rules of evidence; however, the hearing officer may admit only that evidence which appears to be reliable and trustworthy. All hearings shall be open to the public. Written or oral testimony may be submitted. A party to a hearing may make written or oral argument, secure the issuance of a subpoena under AS 44.62.430, offer testimony or other evidence, and cross-examine witnesses. The hearing officer shall endeavor, in conducting any hearing, to insure that the respondent understands the proceedings and that the facts supporting the position of each party have been adequately presented. [HEARINGS SHALL BE HELD AS CLOSE AS PRACTICABLE TO THE LOCATION OF THE ALLEGED VIOLATION. TESTIMONY GIVEN AT THE HEARING SHALL BE RECORDED.]

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

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

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

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

(c) The hearing officer shall select the location of the hearing giving consideration to the convenience of the parties and witnesses. The hearing officer may permit witnesses to testify through teleconferencing.

\* Section . AS 41.17.143 is amended to read:

**Sec. AS 41.17.143. Appeals and judicial review.** (a) A decision by a hearing officer under AS 41.17.135 or AS 41.17.138 or by the commissioner under AS 41.17.087 or AS 41.17.ccc(c) constitutes final agency action which may be appealed to the superior court within 30 days after it is issued. Judicial review shall be as provided in AS 44.62.560 and 44.62.570.

(b) An operator, forest landowner, or timber owner may request the commissioner to reconsider the decision of a hearing officer within 30 days after it is issued. Reconsideration is not a precondition of judicial review under (a). If reconsideration is requested, the final agency action for purposes of judicial review is a decision by the commissioner to affirm, modify, or reverse the hearing officer or to deny the request for reconsideration.

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

(d) No person, except the aggrieved forest landowner, timber owner, or operator, may maintain any administrative or judicial appeal, or other action or proceeding of any kind, challenging any 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. Nothing in this subsection shall prohibit the maintenance of any action:

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

or

(2) against the department regarding any regulation, standard, or systematic course of conduct that does not involve a challenge to, or attempt to enjoin, stay, modify or otherwise affect, a timber operation on private forest land subject to this chapter.

#### Article 4. State Forest System (See old Article 3)

Sec. \_\_\_ AS 41.17.230(e) is repealed.

Sec. \_\_\_ AS 41.17.230(f) is amended to read:

(e)[(f)] A management plan prepared by the commissioner shall consider and permit the uses described in AS 38.05.112(c) [(e) OF THIS SECTION]. If the commissioner finds that a permitted use is incompatible with one or more other uses in a portion of a state forest, the commissioner shall affirmatively state in the management plan that finding of incompatibility for the specific area where the incompatibility is anticipated to exist and the time period when the incompatibility is anticipated to exist together with the reasons for each finding.

#### Article 7. General Provisions

\* Section \_\_\_. AS 41.17.900(b) is repealed and reenacted to read: (b) the degree of resource protection on federal lands shall be no less than that provided for by this chapter for state lands, however the specific provisions of this chapter and its implementing regulations are not applicable to federal lands either directly or for purposes of compliance with the Coastal Zone Management Act.

\*Section \_\_\_. AS 41.17. is amended by adding a new section to read:

Sec. 41.17.910. Wildlife habitat on private lands. (a) The department of fish and game and the division shall work cooperatively with private forest landowners and timber owners to protect, maintain, and enhance wildlife habitat to the maximum

extent practicable, consistent with the interests of the owners in use of their timber resources.

(b) The department of fish and game shall provide educational and technical assistance and extension services to owners of private land or timber to assist in identifying important wildlife habitat and to assist in designing voluntary management techniques that minimize adverse impacts to wildlife habitat.

(c) The department of fish and game and the landowner shall cooperate in identifying areas of important wildlife habitat on private lands and in developing methods for their protection. Methods of protection may include, where agreed to by the landowner, setting aside private lands as wildlife habitat through purchase of fee title, purchase of conservation easements, land exchanges.

(d) Nothing in this section shall be construed to alter or diminish the state's authority and responsibility over wildlife on private lands.

\*Section \_\_\_\_ AS 41.17.950 is amended as follows:

Change definitions:

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

(14) "state forest" means an area designated by the legislature and [WHICH] is retained in state ownership in order to

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

(B) permit a variety of beneficial uses;

New definitions:

(z) "other public land" means state land managed by state agencies other than the department of natural resources, land owned by a municipality, and land owned by the University of Alaska;

(y) "Type A waterbodies" means the following anadromous fish waters:

(1) streams or rivers of any size having an average gradient of 8% or less, banks held in place by vegetation, channels that are not incised, and a substrate composed of rubble, gravel, sand or silt;

(2) wetlands and lakes including their outlets; and

(3) estuarine areas delimited by the presence of salt-tolerant vegetation.

(x) "Type B waterbodies" means anadromous fish streams and rivers of any size having an average gradient of 8% or less, a channel that is incised and contained by the geomorphology and not by vegetation, and a substrate that ranges from rubble to bedrock.

(w) "Type C waterbodies" means streams that are tributary to anadromous waters that are incised greater than 28 degrees, have an average gradient of greater than 8%, are narrower than 20 feet between ordinary high water marks, have a substrate of rubble and bedrock, and are mountain slope streams at the upper end of the watershed.

(t) "Riparian area" means:

(1) on private land in the Coastal Spruce-Hemlock forest, the areas specified in AS 41.17.bbb(a);

(2) on private land outside the Coastal Spruce-Hemlock forest, the areas specified in regulations adopted by the commissioner pursuant to AS 41.17.bbb(b);

(3) on state land managed by the department of natural resources and on other public land, the area 30 meters from the shore or bank of any anadromous or high value resident fish waterbody.

#### Changes to Title 38

Sec. 38.05.112 will be added as follows:

Sec. 38.05.112. Forest Management Plans and Forest Management Reports.

(a) Except for isolated personal use timber harvest, timber on lands managed by the department shall not be sold or harvested until a forest management report has been adopted.

(b) Forest management plans and reports shall be based on the best available data, including information provided by other agencies describing the immediate and long-term effect of individual and collective forest activities on the timber base and on other resources and uses. Forest management reports will state the criteria upon which the timber sale decision is based in accordance with AS 38.05.035(e).

(c) A forest management plan or report shall consider:

(1) commercial timber harvesting, including related activities;

(2) harvesting of forest products for personal use;

(3) fish and wildlife habitat, including

(A) identification and protection of important wildlife habitat;

(B) retention of riparian, wetland, and ocean-shoreline vegetation critical for fish and wildlife habitat;

(C) classification of waterbodies according to physical characteristics;

(4) uses of the forest for non-timber purposes, including

- (A) recreation, tourism, and related activities;
  - (B) mining, mining claims, mineral leaseholds, and material extraction;
  - (C) uses of fish and wildlife;
  - (D) agriculture, including grazing; and
  - (E) other resources and uses appropriate to the area, including compatible traditional uses;
- (5) soil characteristics and productivity;
  - (6) water quality;
  - (7) watershed management.

(c) Forest management plans and reports shall be consistent with AS 38.04.065 and with the regulations and standards adopted under AS 41.17.

Sec. 38.05.113 will be added as follows:

Sec. 38.05.113. Five-year sale schedule.

(a) The department shall produce and annually update a schedule which describes timber sales planned on all lands managed by the department for the next five years. The plan shall be of sufficient specificity that it provides a basis for the department to allocate its resources in considering and designing sales and in conducting economic and environmental analysis; informs the public and the timber products industry of long-term plans and issues; and provides a basis for input from interested persons on those subjects.

(b) A proposed sale must appear on the five-year timber schedule at least two years before the sale. The department may also adopt regulations exempting small sales, emergencies such as salvage, re-offerings of old sales, or providing a temporary supply to an operator to take advantage of developing markets while a larger sale is being prepared. This requirement shall not apply until one year after the first five-year sale schedule produced under this section.

**Miscellaneous Stuff that Needs to go somewhere in Title 41.17**

\*Section \_\_\_\_\_. Nothing in this Act shall be construed to diminish the rights, privileges, or immunities of Alaska Natives or Alaska Native corporations with respect to land conveyed under the Alaska Native Claims Settlement Act, 43 U.S.C. 1601 et seq., 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.

**A new Sec. will be added as follows:**

**LEGISLATIVE REVIEW.** The legislature hereby acknowledges and recognizes that this Act is adopted on an interim basis because it involves a significant increase in agency responsibility, is based on many untested assumptions, and depends for its efficacy

on many factors beyond the control of the state. Therefore, it is the intent of the legislature that the operation of this Act and regulations adopted under this Act be fully reviewed and the Act amended as necessary after the second full field season ends in 1991. This three-year time is intended to allow for further research, and to gain experience implementing the act and its regulations. It is the intent of this legislature that that a representative group be convened for the review, or that it be conducted by the board of forestry. In either event, it is the legislature's intent that the review occur with full public input and participation, and its recommendations be forwarded for legislative review, and for any needed changes in legislation. No later than January 1, 1992, the board of forestry, the department of natural resources, the department of environmental conservation, and the department of fish and game shall submit along with the reports required in AS 41.17.047(d), any proposed amendments to this chapter. The legislature shall hold hearings to consider these or any other amendments and shall take whatever action is required to accomplish the intent and purposes of this Act.

**Sec. 41.15.900. Observance of Arbor Day.** To increase public awareness of the vital importance of the conservation and propagation of trees and forests to the everyday life of the citizens of Alaska, the third Monday in May of each year is designated "Arbor Day." It shall be observed by appropriate school assemblies and programs and shall be the occasion for other suitable observances and exercises by civic groups and the public in general. (§ 1 ch 11 SLA 1966; am § 1 ch 15 SLA 1973)

*Revisor's notes.* — Formerly AS 41.15.400. Renumbered in 1983.

### Article 6. General Provisions.

#### Section

950. Enforcement authority

**Sec. 41.15.950. Enforcement authority.** (a) The following persons are peace officers of the state and they shall enforce the provisions of this chapter and the regulations adopted under this chapter:

(1) solely for the purpose of enforcing this chapter, an employee of the Department of Natural Resources, or other person, authorized by the commissioner;

(2) a police officer in the state.

(b) A person designated in (a) of this section may, when enforcing the provisions of this chapter or a regulation adopted under this chapter,

(1) execute a warrant or other process issued by an officer or court of competent jurisdiction;

(2) administer or take an oath, affirmation or affidavit; and

(3) arrest a person who violates a provision of this chapter or a regulation adopted under this chapter. (§ 4 ch 179 SLA 1970)

*Revisor's notes.* — Formerly AS 41.15.700. Renumbered in 1983.

## Chapter 17. Forest Resources and Practices.

### Article

1. Administration and Management (§§ 41.17.010 -- 41.17.110)
2. Enforcement (§§ 41.17.120 -- 41.17.143)
3. State Forest System (§§ 41.17.200 -- 41.17.230)
4. State Land Reforestation (§§ 41.17.300 -- 41.17.320)
5. Tanana Valley State Forest (§ 41.17.400)
6. General Provisions (§§ 41.17.900 -- 41.17.950)

**Legislative history reports.** — For the governor's transmittal letter on SB 59 (1978), with a sectional analysis, see 1978 Senate Journal, p. 656. AS 41.17 was enacted by ch. 108, SLA 1978, which derives from CSSSSB 59 (Rules) am H.

**Opinions of attorney general.** — Proposed regulation establishing compliance with management practice under AS

41.17 and regulations as an affirmative defense to prosecution for alleged water quality violations for the forestry industry alone would cause an equal protection problem; executive agency cannot, by regulation, create an affirmative defense to what the legislature has determined should be prosecuted. 1980 Op. Att'y Gen. No. 10.

**NOTES TO DECISIONS**

Cited in *Kenai Lumber Co. v. Southeast Alaska Conservation Council, Inc. v. State*, Sup. Ct. Op. No. 2516 (File Nos. 5733, 5755), 646 P.2d 215 (1982); *Inc. v. State*, Sup. Ct. Op. No. 2662 (File No. 5855), 665 P.2d 544 (1983).

**Collateral references.** — 52 Am. Jur. 2d, *Logs and Timbers*, § 1 et seq. 98 C.J.S., *Woods and Forests*, § 1 et seq. Constitutionality of reforestation or forest conservation legislation. 13 ALR2d 1095.

**Article 1. Administration and Management.**

Section	Section
10. Declaration of intent	60. Regulatory and administrative standards
20. Division of forestry established	70. Administrative plan and report
30. Responsibilities of division	80. Regulations
41. Board of forestry	85. Permit applications
43. Terms of office	90. Notification and review of operations
45. Removal of members	100. Deployment of broadcast chemicals
47. Powers and duties of board	110. Conversion of forest land to other uses
55. Powers and duties of the commissioner	

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

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

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

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

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

the expertise of professional foresters in conjunction with other disciplines;

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

(6) subject to 16 U.S.C. 1456(f) (§ 307(f) of the Coastal Zone Management Act of 1972, P.L. 92-583), the provisions of this chapter shall be the basis for forest management standards, policies, and guidelines developed under the Alaska Coastal Management Act. (§ 1 ch 108 SLA 1978)

*Opinions of attorney general.* — The allocation of responsibility for administration of the forest practices regulations in coastal management consistency determinations is sufficiently unclear that it seems appropriate for resolution by the adoption of regulations since differing policy considerations emphasized in the Forest Practices Act, the Coastal Management Act, and proposed permit reform regulations will be served to a greater or lesser extent by assigning responsibility for interpreting and applying the forest

practices regulations to more than one agency and since a particular result is not compelled under the various pieces of authorizing legislation. April 20, 1981 Op. Att'y Gen.

The adoption of forest practices regulations by the Department of Natural Resources in 11 AAC 95 has completely preempted the coastal policy council's regulations, 6 AAC 80.100, in regulating timber harvest and processing in the coastal area. April 20, 1981 Op. Att'y Gen.

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

(b) The division shall be headed by a director who shall be the state forester, appointed to the partially exempt service in accordance with law by the commissioner, from a list of two or more candidates submitted by the board. The commissioner may reject all candidates, in which case the board shall submit a new list. The state forester shall be a natural resources land manager with generally accepted educational credentials, familiar and experienced with the renewable and nonrenewable resources the values of forest land and the products, benefits, and services obtained from them.

(c) The commissioner shall administer this chapter and is authorized and encouraged to delegate responsibilities for carrying out this chapter to the state forester. (§ 1 ch 108 SLA 1978; am § 42 ch 113 SLA 1981; am § 5 ch 91 SLA 1983)

*Revisor's notes.* — In 1983, this section was reorganized into present subsections (a)-(c) and two other sections. Present (b) was formerly part of (a) and present (c) was formerly designated (b). Former subsections (d)-(i) and (k) were renumbered as AS 41.17.055(a)-(g) and for-

mer subsection (j) was renumbered as AS 41.17.900(d).

*Opinions of attorney general.* — The allocation of responsibility for administration of the forest practices regulations in coastal management consistency determinations is sufficiently unclear that it

seems appropriate for resolution by the adoption of regulations since differing policy considerations emphasized in the Forest Practices Act, the Coastal Management Act, and proposed permit reform regulations will be served to a greater or lesser extent by assigning responsibility for interpreting and applying the forest practices regulations to more than one agency and since a particular result is not

compelled under the various pieces of authorizing legislation. April 20, 1981 Op. Att'y Gen.

The adoption of forest practices regulations by the Department of Natural Resources in 11 AAC 95 has completely preempted the coastal policy council's regulations, 6 AAC 80.100, in regulating timber harvest and processing in the coastal area. April 20, 1981 Op. Att'y Gen.

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

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

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

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

(b) The board is composed of 14 members appointed by the governor from nominations submitted from the groups listed in (c) of this section. The board shall elect its own presiding officer.

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

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

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

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

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

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

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

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

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

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

(10) a nominee of the Alaska Miners' Association has one seat; and

(11) a member from the public at large has one seat.

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

(e) Members of the board, except the state forester, do not serve at the pleasure of the governor. (§ 1 ch 108 SLA 1978; am § 87 ch 59 SLA 1982)

Revisor's notes. — Formerly AS 41.17.040(a)-(d), (g). Renumbered in 1983.

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

Revisor's notes. — Formerly AS 41.17.040(e). Renumbered in 1983.

Effect of amendments. — The 1988 amendment deleted "the governor shall make the initial appointments to the board in such a way that four nominations expire during 1980, four appointments expire during 1981, and three appointments expire during 1982" at the end of the first sentence.

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

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

Revisor's notes. — Formerly AS 41.17.040(h). Renumbered and reorganized into two subsections in 1983.

**Sec. 41.17.047. Powers and duties of board.** The board shall review and comment to the commissioner on regulations proposed for adoption under this chapter. The board shall also report to the legislature its recommendations for changes in the provisions of this chapter and its comments on the regulations adopted by the commissioner under this chapter. It may also review and advise the legislature on the activities of the division. (§ 1 ch 108 SLA 1978)

*Revisor's notes.* — Formerly AS 41.17.040(f). Renumbered in 1983.

**Sec. 41.17.055. Powers and duties of the commissioner.**

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

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

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

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

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

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

(g) The commissioner may take other actions necessary and proper for the administration of this chapter, including the adoption of regulations under the Administrative Procedure Act (AS 44.62) and AS 41.17.047. (§ 1 ch 108 SLA 1978)

*Revisor's notes.* — Formerly AS 41.17.020(d)-(i), (k). Renumbered in 1983.

*Opinions of attorney general.* — The adoption of forest practices regulations by the Department of Natural Resources in

11 AAC 95 has completely preempted the coastal policy council's regulations, 6 AAC 80.100, in regulating timber harvest and processing in the coastal area. April 20, 1981 Op. Att'y Gen.

**Sec. 41.17.060. Regulatory and administrative standards.**

(a) All regulations, administrative actions, and other activities and duties undertaken under this chapter shall be in full accordance with the standards set out in this section.

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

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

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

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

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

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

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

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

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

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

(5) there may not be any significant impairment of the productivity of the land and water with respect to renewable resources; and

(6) where economically practicable, allowance may be made for scenic quality in or adjacent to areas of substantial importance to the tourism and recreation industry. (§ 1 ch 108 SLA 1978)

## NOTES TO DECISIONS

Applied in Southeast Alaska Conservation Council, Inc. v. State, Sup. Ct. Op. No. 2662 (File No. 5855), 665 P.2d 544 (1983).

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

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

(c) [Repealed, § 108 ch 6 SLA 1984.]

(d) [Repealed, § 108 ch 6 SLA 1984.] (§ 1 ch 108 SLA 1978; am § 108 ch 6 SLA 1984)

**Effect of amendments.** — The 1984 amendments submitted on December 31, 1980. amendment repealed former subsections (c) and (d), relating to the report and rec-

**Sec. 41.17.080. Regulations.** (a) The commissioner may adopt regulations under the Administrative Procedure Act (AS 44.62) and AS 41.17.047 governing operations on forest land with respect to the following:

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

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

(c) The commissioner shall adopt only those regulations necessary to accomplish the purposes of this chapter, and shall avoid those which increase operating costs without yielding significant benefits. (§ 1 ch 108 SLA 1978)

Revisor's notes. — As enacted, subsections (b) and (c) were subsections (c) and (d), respectively. Former subsection (b) was renumbered as AS 41.17.085 and the remaining subsections designated.

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

(b) Where practicable and desirable, the commissioner may enter into cooperative agreements with federal agencies authorizing the department to serve as a collection point for federal permit applications. (§ 1 ch 108 SLA 1978)

Revisor's notes. — Formerly AS 41.17.080(b). Renumbered and reorganized in 1983.

Sec. 41.17.090. Notification and review of operations. (a) Operations on forest land shall be reviewed under this section for consistency with the policies and provisions of this chapter and regulations adopted under this chapter.

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

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

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

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

(e) Within 30 days of receipt of a notification under (c) of this section, the commissioner may inspect the proposed operation to determine whether the proposed operation is in accord with the standards established by this chapter.

(f) The operator may legally commence operations upon the expiration of the 30-day period or upon notice from the commissioner that the inspection has been completed, whichever occurs first. Where no inspection is conducted, the operator is liable for a violation of this chapter or other violation of law.

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

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

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

(j) *Repealed, § 109 ch 6 SLA 1984.* (§ 1 ch 108 SLA 1978; am § 109 ch 6 SLA 1984)

*Effect of amendments.* — The 1984 (j), relating to operations which began before amendment repealed former subsection fore January 1, 1979.

**Sec. 41.17.100. Deployment of broadcast chemicals.** The commissioner of environmental conservation, in consultation with the commissioner, shall formulate necessary plans and measures to ensure that application of broadcast chemicals and other substances foreign to the state's forest ecosystem do not lead to results contrary to the objectives and provisions of this chapter and other applicable laws and regulations relating to renewable resources. Regulations adopted by the commissioner of environmental conservation may include requirements for advance testing, posting of security, written reports, and other matters. (§ 1 ch 108 SLA 1978)

**Sec. 41.17.110. Conversion of forest land to other uses.** An intention to convert forest land to other uses after timber harvesting may be stated in the notification submitted under AS 41.17.090. In that event, reforestation requirements adopted under this chapter do not apply, except that conversion shall be completed during the time set by regulation for minimum reforestation of the land, and other requirements for revegetation may be imposed to the extent permitted by law. If the commissioner finds at any time that the responsible party has failed to conform to the intent to convert as stated in the notification, the commissioner shall revoke approval of the conversion and require full compliance with reforestation requirements. (§ 1 ch 108 SLA 1978)

## Article 2. Enforcement.

Section	Section
120. Inspections and investigations	137. Temporary orders
131. Prohibitions and penalty	139. Procedures
133. Notice and hearing; final orders	141. Enforcement of orders
135. Civil fines	143. Appeals and judicial review

**Sec. 41.17.120. Inspections and investigations.** The commissioner may inspect and investigate forest land and activities on it may enter upon it in conjunction with any operations as necessary to ensure compliance with applicable regulations and requirements to otherwise enforce the provisions of this chapter. Other state agencies have this same authority to the extent necessary to enforce their own laws and regulations on forest land. Those agencies and the commissioner shall coordinate their actions under this section. (§ 1 ch SLA 1978)

**Sec. 41.17.131. Prohibitions and penalty.** (a) A person may violate or permit a violation of a provision of this chapter, a regulation adopted under this chapter, or a term or condition of any approval granted under AS 41.17.090 — 41.17.110.

(b) A person who commits a violation is liable for a civil fine to be assessed by the commissioner not to exceed \$10,000. (§ 1 ch 108 SLA 1978)

**Revisor's notes.** — Formerly AS 41.17.130(a). Renumbered and reorganized in 1983.

**Sec. 41.17.133. Notice and hearing; final orders.** (a) If an investigation discloses probable cause to believe a violation has occurred, the commissioner shall serve upon the alleged violator, referred to in AS 41.17.133, 41.17.141 as the "respondent," written notice and a formal complaint that describes the alleged violation and requires the respondent to answer the charges at a hearing not more than 10 days thereafter. The respondent shall be granted 10-day extensions up to a total of 60 days upon request. The notice must also describe any damage that has occurred or might occur as a result of the violation. At the hearing, the state shall show by clear and convincing evidence that the respondent has caused or permitted a violation described in AS 41.17.131.

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

- (1) a directive to stop the violation;
- (2) the imposition of a civil fine under AS 41.17.131, which is payable immediately;
- (3) a directive to repair damages;
- (4) a finding that the charges are wholly or partially unjustified; or
- (5) a combination of (1) -- (4) of this subsection. (§ 1 ch 108 SLA 1978)

**Revisor's notes.** — Formerly AS 41.17.130(b) and (c). Renumbered in 1983.

**Sec. 41.17.135. Civil fines.** In determining the amount of any civil fine imposed, the following shall be considered, as appropriate:

- (1) the character and degree of injury to forest resources and values;
- (2) the degree of intent or negligence of the respondent in causing or permitting the violation;
- (3) the character and number of past violations caused or permitted by the respondent; and
- (4) if the information is available, the net economic savings realized by the respondent through the violation described in AS 41.17.131. (§ 1 ch 108 SLA 1978)

**Revisor's notes.** — Formerly AS 41.17.130(d). Renumbered in 1983.

**Sec. 41.17.137. Temporary orders.** (a) If the commissioner finds that a violation described in AS 41.17.131 has occurred and that continuation of the violation or failure to repair damage would likely result in irreversible or irretrievable damage to the forest resources or values affected, and it would be prejudicial to the welfare of the state to delay action pending a hearing, the commissioner may, without prior hearing, issue a temporary order in addition to the documents required by AS 41.17.133(a) requiring the respondent to stop the violation or repair damage or both.

The order remains in effect for 21 days unless a final order is issued. An extension of time granted under AS 41.17.133(a) extends the order issued under this section until the hearing officer issues a final order under AS 41.17.133(b). Proceedings in conjunction with the alleged violation must otherwise be the same. (§ 1 ch 108 SLA 1978)

**Revisor's notes.** — Formerly AS 41.17.130(e). Renumbered and reorganized in 1983.

**Sec. 41.17.139. Procedures.** (a) Unless otherwise specified, proceedings under AS 41.17.131 — 41.17.139 are not subject to the Administrative Procedure Act (AS 44.62). A hearing under AS 41.17.131 — 41.17.139 shall be held before a hearing officer, appointed by the attorney general from among members of the Alaska Bar Association who have been nominated by the Board of Forestry and who are knowledgeable and experienced in the subject matter. A person who has assisted in the preparation of the state's case or who is a state employee is ineligible. Hearings are not limited by common law, statutory, or judicial rules of evidence; however, the hearing officer may admit only that evidence which appears to be reliable and trustworthy. All hearings shall be open to the public. Written or oral testimony may be submitted. A party to a hearing may make written or oral argument, secure the issuance of a subpoena under AS 44.62.430, offer testimony or other evidence, and cross-examine witnesses. The hearing officer shall endeavor, in conducting any hearing, to ensure that the respondent understands the proceedings and that the facts supporting the position of each party have been adequately presented. Hearings shall be held as close as practicable to the location of the alleged violation. Testimony given at the hearing shall be recorded.

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

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

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

(3) issue a decision in accordance with the applicable procedures of (a) of this section. (§ 1 ch 108 SLA 1978)

**Revisor's notes.** — Formerly AS 41.17.130(h). Renumbered in 1983.

**Sec. 41.17.141. Enforcement of orders.** (a) If a person fails to comply with an order issued under AS 41.17.133(b) or 41.17.137, the attorney general, at the request of the commissioner, may seek an injunction suspending all or part of the operations being conducted by the respondent until the respondent complies with the order. If the order directs the respondent to repair damage, the commissioner may proceed with department staff or contractors to repair the damage, and the respondent is liable for the cost of the repair after delivery by the commissioner of an itemized statement of expenses incurred.

(b) All orders issued under AS 41.17.131 — 41.17.141 are enforceable by injunction, attachment, garnishment, or other appropriate remedy. (§ 1 ch 108 SLA 1978)

**Revisor's notes.** — Formerly AS 41.17.130(f) and (g). Renumbered in 1983.

**Sec. 41.17.143. Appeals and judicial review.** (a) An administrative action of the department under this chapter, except actions under AS 41.17.131 — 41.17.141 and except for adoption of regulations, may be appealed to the commissioner within 30 days after it is taken. The commissioner shall hold a hearing, at which all substantial issues shall be considered, within 15 days after an appeal is filed. The respondent shall be granted 10-day extensions up to a total of 60 days upon request. Within 10 days after conclusion of the hearing, the commissioner shall issue a written decision based upon the evidence, which shall be provided to the appellant. The commissioner may delegate duties, in whole or in part, under this subsection to a hearing officer appointed by the attorney general from among members of the Alaska Bar Association who have been nominated by the Board of Forestry and who are knowledgeable and experienced in the subject matter.

(b) A final decision under (a) of this section or a final order under AS 41.17.133 may be appealed to the superior court within 30 days after it is issued. Judicial review shall be as provided in AS 44.62.560 and 44.62.570.

(c) A temporary order issued under AS 41.17.137 may be immediately appealed to the superior court as to its propriety. (§ 1 ch 108 SLA 1978)

**Revisor's notes.** — Formerly AS 41.17.140. Renumbered in 1983.

#### NOTES TO DECISIONS

Quoted in Southeast Alaska Conservation Council, Inc. v. State, Sup. Ct. Op. No. 2662 (File No. 5855), 665 P.2d 544 (1983).

#### Article 3. State Forest System.

**Section**  
200. State forest purposes  
210. State forests

**Section**  
220. Management of state forests  
230. Management plans

**Sec. 41.17.200. State forest purposes.** The purpose of AS 41.17.200 — 41.17.230 is to permit the establishment of designated state-owned or acquired land and water areas as state forests. The primary purpose in the establishment of state forests is the perpetuation of personal, commercial, and other beneficial uses of resources through multiple-use management. (§ 1 ch 91 SLA 1983)

**Sec. 41.17.210. State forests.** (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 41.17.230(e) under AS 41.17.230(f);
- (4) written comments from appropriate state agencies on the compatibility of the uses described in 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.

(b) A state forest established by the legislature shall be retained in state ownership. (§ 1 ch 91 SLA 1983)

**Sec. 41.17.220. Management of state forests.** Land within a state forest or within a unit of a state forest shall be managed under:

- (1) the principles of multiple-use and sustained yield;
- (2) this chapter; and
- (3) a management plan prepared by the department. (§ 1 ch 91 SLA 1983)

**Sec. 41.17.230. Management plans.** (a) The commissioner shall prepare a management plan consistent with AS 38.04.005 and this chapter for each state forest and for each unit of a state forest to assist in meeting the requirements of this chapter. An operational level forest inventory shall be completed before a management plan for the state forest or the unit of a state forest is adopted. The management plan shall be adopted, implemented and maintained within three years of the establishment of a state forest by the legislature.

(b) The commissioner shall review a management plan at least once every five years and may revise the plan when necessary.

(c) A management plan may not be adopted or revised after the establishment of the state forest without prior review by the Board of Forestry and by other appropriate state agencies or without prior public hearings held in a community proximately located to the state forest or to a unit of a state forest.

(d) A copy of a management plan or a revision to a management plan adopted or prepared by the commissioner shall be provided to the legislature within 30 days of its adoption or revision or within the first 10 days of the first regular session of the legislature to convene after its adoption or revision.

(e) The commissioner shall consider and permit the following uses under a management plan prepared under (a) or (b) of this section subject to a determination under (f) of this section:

- (1) commercial timber harvest and related activities;
- (2) harvest of forest products for personal use;
- (3) mining, mining claim, and mineral leasehold location;
- (4) mineral leasing;
- (5) material extraction;
- (6) recreation;
- (7) wildlife and fisheries habitat management including critical habitat management;
- (8) greenbelts;
- (9) trapping and sport and subsistence fishing and hunting;
- (10) grazing;
- (11) watershed management;
- (12) research;
- (13) uses consistent with the policies of AS 38.04.015; and
- (14) other traditional, compatible uses.

(f) A management plan prepared by the commissioner shall consider and permit the uses described in (e) of this section. If the commissioner finds that a permitted use is incompatible with one or more other uses in a portion of a state forest, the commissioner shall affirmatively state in the management plan that finding of incompatibility for the specific area where the incompatibility is anticipated to exist and the time period when the incompatibility is anticipated to exist together with the reasons for each finding. (§ 1 ch 91 S.L.A 1983)

#### Article 4. State Land Reforestation.

##### Section

300. State land reforestation fund

310. Appropriations to state land reforestation fund

##### Section

320. Report to the legislature.

**Sec. 41.17.300. State land reforestation fund.** A state land reforestation fund is established in the department. The money in the state land reforestation fund may be used only for the reforestation of state land, including site preparation, seed and seedling acquisition and cultivation, planting, and other reforestation measures, timber stand improvement, and the development of materials and techniques for the reforestation of state land. (§ 2 ch 91 SLA 1983)

**Sec. 41.17.310. Appropriations to state land reforestation fund.** (a) The state land reforestation fund consists of money appropriated by the legislature and contributions from private donors. It is the intent of the legislature that the appropriations made to the fund equal no less than 25 percent of the revenues from the sale of timber and other forest products from state land as well as the total revenues from

(1) compensation for loss or damage to land within a state forest; and

(2) the federal government and other governmental units for reforestation.

(b) Money appropriated to or paid into the state land reforestation fund does not lapse. (§ 2 ch 91 SLA 1983)

**Sec. 41.17.320. Report to the legislature.** The commissioner shall make an annual report to the legislature within the first 10 days of each session of the legislature on the uses of the money in the state land reforestation fund, the proposed uses of the fund in the following fiscal year, and the balance in the fund. (§ 2 ch 91 SLA 1983)

### Article 5. Tanana Valley State Forest.

#### Section

#### 400. Tanana Valley State Forest

**Sec. 41.17.400. Tanana Valley State Forest.** (a) Subject to valid existing rights and except for land owned by or transferred to the University of Alaska under a settlement agreement between the state and the university, the state-owned or acquired land and water lying within the parcels described in (d) of this section is designated as the Tanana Valley State Forest.

(b) The commissioner shall prepare a management plan for the Tanana Valley State Forest under AS 41.17.230.

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

(d) The Tanana Valley State Forest includes the state-owned or acquired land and water lying within the following described parcels:

- Township 1 North, Range 2 East, Fairbanks Meridian  
 Sections 1 — 3  
 Sections 10 — 12  
 Sections 13 — 15, N<sup>1</sup>/<sub>2</sub>
- Township 1 North, Range 3 East, Fairbanks Meridian  
 Section 1, E<sup>1</sup>/<sub>2</sub>, E<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>  
 Section 2, NW<sup>1</sup>/<sub>4</sub>, NW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>  
 Sections 3 — 5  
 Section 6, N<sup>1</sup>/<sub>2</sub>  
 Section 7, E<sup>1</sup>/<sub>2</sub>E<sup>1</sup>/<sub>2</sub>  
 Sections 8 — 9  
 Section 10, NW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, N<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>  
 Section 11, E<sup>1</sup>/<sub>2</sub>, S<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>  
 Sections 12 — 14  
 Section 15, S<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, S<sup>1</sup>/<sub>2</sub>
- Township 1 North, Range 4 East, Fairbanks Meridian  
 Sections 1 — 12  
 Sections 16 — 18
- Township 1 North, Range 5 East, Fairbanks Meridian  
 Sections 6 — 10  
 Sections 15 — 16
- Township 1 North, Range 4 West, Fairbanks Meridian  
 Section 5, W<sup>1</sup>/<sub>2</sub>  
 Sections 6 — 11  
 Section 15  
 Sections 16 — 24  
 Section 27  
 Section 28, NE<sup>1</sup>/<sub>4</sub>, NE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>  
 Section 29, S<sup>1</sup>/<sub>2</sub>, W<sup>1</sup>/<sub>2</sub>NW<sup>1</sup>/<sub>4</sub>  
 Sections 30 — 32  
 Section 33, W<sup>1</sup>/<sub>2</sub>
- Township 1 North, Range 5 West, Fairbanks Meridian
- Township 1 North, Range 8 West, Fairbanks Meridian  
 Sections 17 — 20  
 Sections 29 — 34  
 Section 35, W<sup>1</sup>/<sub>2</sub>
- Township 1 North, Range 9 West, Fairbanks Meridian  
 Sections 13 — 36
- Township 1 North, Range 10 West, Fairbanks Meridian  
 Sections 13 — 36
- Township 1 North, Range 11 West, Fairbanks Meridian  
 Sections 5 — 7  
 Sections 18 — 19  
 Sections 30 — 36
- Township 1 North, Range 12 West, Fairbanks Meridian
- Township 1 North, Range 13 West, Fairbanks Meridian

- Sections 1 — 3
- Sections 10 — 15
- Sections 22 — 26
- Sections 35 — 36
- Township 2 North, Range 2 East, Fairbanks Meridian
  - Sections 34 — 36
- Township 2 North, Range 3 East, Fairbanks Meridian
  - Sections 13 — 16
  - Sections 21 — 29
  - Sections 31 — 36
- Township 2 North, Range 4 East, Fairbanks Meridian
  - Sections 5 — 8
  - Sections 17 — 19
  - Section 30, N<sup>1</sup>/<sub>2</sub>
- Township 2 North, Range 3 West, Fairbanks Meridian
  - Section 11, S<sup>1</sup>/<sub>2</sub>
  - Section 12, S<sup>1</sup>/<sub>2</sub>
  - Section 13 — 17
  - Sections 19 — 24
- Township 2 North, Range 5 West, Fairbanks Meridian
  - Section 1
  - Section 2, N<sup>1</sup>/<sub>2</sub>
  - Section 3, N<sup>1</sup>/<sub>2</sub>
  - Sections 4 — 8
  - Section 9, N<sup>1</sup>/<sub>2</sub>
  - Section 11, S<sup>1</sup>/<sub>2</sub>
  - Sections 12 — 14
  - Section 15, S<sup>1</sup>/<sub>2</sub>
  - Section 17, N<sup>1</sup>/<sub>2</sub>
  - Sections 18 — 19
  - Sections 21 — 36
- Township 2 North, Range 10 West, Fairbanks Meridian
  - Sections 4 — 7
- Township 2 North, Range 11 West, Fairbanks Meridian
  - Sections 1 — 12
  - Sections 16 — 21
  - Sections 28 — 33
- Township 2 North, Range 12 West, Fairbanks Meridian
- Township 2 North, Range 13 West, Fairbanks Meridian
  - Sections 1 — 30
  - Sections 33 — 36
- Township 2 North, Range 14 West, Fairbanks Meridian
  - Sections 23 — 26
- Township 3 North, Range 2 West, Fairbanks Meridian
  - Section 7, Tract E, ASLS 81-20
  - Section 8, Tracts H,J,K,L, ASLS 81-20

- Section 17, Tracts M,N,O, ASLS 81-20
- Section 18, Tracts A,B, ASLS 81-20
- Section 19
- Township 3 North, Range 3 West, Fairbanks Meridian
  - Section 13
  - Sections 19 — 36
- Township 3 North, Range 4 West, Fairbanks Meridian
  - Section 3, west of Washington Creek
  - Sections 4 — 7
  - Section 8, west of Washington Creek
  - Sections 9 — 10, west of Washington Creek
  - Section 17, west of Washington Creek
  - Sections 18 — 36
- Township 3 North, Range 5 West, Fairbanks Meridian
  - Section 1
  - Sections 4 — 5, north of left limit of Tatalina River
  - Sections 6 — 7
  - Sections 11 — 36
- Township 3 North, Range 6 West, Fairbanks Meridian
  - Sections 1 — 12
- Township 3 North, Range 7 West, Fairbanks Meridian
  - Sections 1 — 3
  - Sections 10 — 12
- Township 3 North, Range 10 West, Fairbanks Meridian
  - Sections 1 — 10
  - Sections 15 — 33
- Township 3 North, Range 11 West, Fairbanks Meridian
  - Sections 1 — 3
  - Sections 10 — 15
  - Sections 19 — 36
- Township 3 North, Range 12 West, Fairbanks Meridian
  - Sections 19 — 21, east of right limit of Hutlitakwa Creek
  - Sections 22 — 29
  - Section 30, east of right limit of Hutlitakwa Creek
  - Sections 31 — 36
- Township 3 North, Range 13 West, Fairbanks Meridian
  - Sections 3 — 4
  - Section 9
  - Sections 16 — 17
  - Sections 19 — 20
  - Section 21, W<sup>1</sup>/<sub>2</sub>
  - Sections 25 — 26, east of right limit of Hutlitakwa Creek
  - Sections 29 — 32
  - Sections 34 — 35, east of right limit of Hutlitakwa Creek
  - Section 36
- Township 3 North, Range 14 West, Fairbanks Meridian

- Section 25, E<sup>1</sup>/<sub>2</sub>
- Section 36
- Township 4 North, Range 5 West, Fairbanks Meridian
  - Section 1, west of left limit of Tatalina River
  - Sections 2 — 10
  - Sections 11 — 12, west of left limit of Tatalina River
  - Sections 14 — 15, west of left limit of Tatalina River
  - Sections 16 — 21
  - Section 22, west of left limit of Tatalina River
  - Sections 27 — 28, west of left limit of Tatalina River
  - Sections 29 — 32
  - Section 33, west of left limit of Tatalina River
- Township 4 North, Range 6 West, Fairbanks Meridian
  - Section 1
  - Sections 10 — 15
  - Sections 22 — 36
- Township 4 North, Range 7 West, Fairbanks Meridian
  - Sections 25 — 29
  - Sections 32 — 36
- Township 4 North, Range 13 West, Fairbanks Meridian
  - Section 27
  - Section 33, SE<sup>1</sup>/<sub>4</sub>
  - Section 34
- Township 5 North, Range 5 West, Fairbanks Meridian
  - Sections 1 — 2, west of Slate Creek
  - Sections 3 — 5
  - Section 6, E<sup>1</sup>/<sub>2</sub>
  - Section 7, E<sup>1</sup>/<sub>2</sub>
  - Sections 8 — 11
  - Section 12, west of Slate Creek
  - Sections 13 — 17
  - Section 18, E<sup>1</sup>/<sub>2</sub>
  - Sections 19 — 36
- Township 6 North, Range 4 West, Fairbanks Meridian
  - Section 5, west of Alyeska Pipeline right-of-way and north of left limit of Slate Creek
  - Section 6, west of Alyeska Pipeline right-of-way
  - Sections 7 — 8, west of left limit of Slate Creek
  - Sections 18 — 19, west of left limit of Slate Creek
- Township 6 North, Range 5 West, Fairbanks Meridian
  - Sections 1 — 4
  - Section 5, E<sup>1</sup>/<sub>2</sub>
  - Section 8, E<sup>1</sup>/<sub>2</sub>
  - Sections 9 — 16
  - Section 17, E<sup>1</sup>/<sub>2</sub>
  - Sections 20 — 23

- Sections 24 — 26, west of left limit of Slate Creek
- Sections 27 — 29
- Sections 32 — 34
- Section 35, west of left limit of Slate Creek
- Township 7 North, Range 4 West, Fairbanks Meridian
  - Sections 30 — 31, west of Alyeska Pipeline right-of-way
- Township 7 North, Range 5 West, Fairbanks Meridian
  - Section 15, west of Alyeska Pipeline right-of-way
  - Section 16, E<sup>1</sup>/<sub>2</sub>
  - Section 21, E<sup>1</sup>/<sub>2</sub>
  - Sections 22 — 23, west of Alyeska Pipeline right-of-way
  - Sections 25 — 26, west of Alyeska Pipeline right-of-way
  - Section 27
  - Section 28, E<sup>1</sup>/<sub>2</sub>
  - Section 33, E<sup>1</sup>/<sub>2</sub>
  - Sections 34 — 36
- Township 15 North, Range 11 East, Copper River Meridian
  - Sections 1 — 2
  - Section 3, excl. ASLS 78-42
  - Sections 4 — 8
  - Sections 17 — 19
  - Section 30
  - Section 31
- Township 16 North, Range 11 East, Copper River Meridian
  - Sections 1 — 3
  - Sections 10 — 15
  - Sections 22 — 36
- Township 16 North, Range 12 East, Copper River Meridian
  - Sections 1 — 12
  - Sections 14 — 22
  - Sections 28 — 32
- Township 17 North, Range 11 East, Copper River Meridian
  - Sections 1 — 3
  - Sections 10 — 15
- Township 17 North, Range 12 East, Copper River Meridian
  - Sections 5 — 6, west of Eagle Trail
  - Sections 7 — 8
  - Section 9, west of Eagle Trail
  - Sections 15 — 16, west of Eagle Trail
  - Sections 17 — 21
  - Sections 22 — 23, west of Eagle Trail
  - Section 26, west of Eagle Trail
  - Sections 27 — 34
  - Section 35, west of Eagle Trail
- Township 18 North, Range 11 East, Copper River Meridian
  - Section 26, west of Eagle Trail

Sections 27 — 33  
Sections 34 — 36, west of Eagle Trail  
Township 19 North, Range 8 East, Copper River Meridian  
Sections 1 — 2, east of left limit of Tanana River  
Sections 12 — 13, east of left limit of Tanana River  
Sections 24 — 25, east of left limit of Tanana River  
Township 19 North, Range 9 East, Copper River Meridian  
Sections 1 — 21  
Sections 22 — 25, north of left limit of Tanana River  
Sections 28 — 32, north of left limit of Tanana River  
Township 19 North, Range 13 East, Copper River Meridian  
Sections 1 — 4  
Sections 5 — 6, excl. F028758  
Sections 7 — 16  
Section 17, northeast of Tanana River  
Section 18, north of Tanana River  
Section 20, northeast of Tanana River  
Section 21, north of Tanana River  
Sections 22 — 27  
Section 28, north of Tanana River  
Section 29, east of Tanana River  
Section 34, north and east of Tanana River  
Section 35, north of Tanana River  
Section 36  
Township 19 North, Range 14 East, Copper River Meridian  
Township 19 North, Range 15 East, Copper River Meridian  
Township 20 North, Range 8 East, Copper River Meridian  
Sections 1 — 2  
Section 3, east of Alaska Highway  
Section 10, east of Alaska Highway  
Sections 11 — 13  
Section 14, east of Alaska Highway  
Section 23, east of Alaska Highway  
Sections 24 — 25  
Section 26, east of Alaska Highway  
Section 35, east of Alaska Highway  
Section 36  
Township 20 North, Range 9 East, Copper River Meridian  
Township 20 North, Range 10 East, Copper River Meridian  
Township 20 North, Range 11 East, Copper River Meridian  
Sections 1 — 16  
Section 17, excl. NA, Par. C, F12548  
Section 18  
Sections 20 — 23  
Sections 28 — 29  
Section 32

Section 33, excl. USS 4377, NA Par. A, F12549, NA, Par. B,  
F-14422

Township 20 North, Range 12 East Copper River Meridian

Sections 20 — 23

Section 24, excl. NA, F-12107

Sections 25 — 29

Sections 34 — 36

Township 20 North, Range 13 East, Copper River Meridian

Township 21 North, Range 8 East, Copper River Meridian

Sections 8 — 17

Sections 21 — 25

Sections 26 — 27, excl. USS 3620

Section 34, excl. USS 5622A

Section 36

Township 21 North, Range 9 East, Copper River Meridian

Township 21 North, Range 10 East, Copper River Meridian

Township 22 North, Range 5 East, Copper River Meridian

Sections 1 — 12

Sections 13 — 18, north of Alaska Highway

Township 22 North, Range 8 East, Copper River Meridian

Sections 1 — 5

Sections 8 — 18

Sections 20 — 24

Sections 27 — 32

Sections 34 — 36

Township 22 North, Range 9 East, Copper River Meridian

Township 23 North, Range 5 East, Copper River Meridian

Sections 1 — 3

Sections 10 — 15

Sections 21 — 24

Township 23 North, Range 6 East, Copper River Meridian

Sections 5 — 7

Township 23 North, Range 7 East, Copper River Meridian

Sections 1 — 30

Township 23 North, Range 8 East, Copper River Meridian

Township 24 North, Range 5 East, Copper River Meridian

Sections 1 — 5

Sections 8 — 17

Sections 20 — 29

Sections 34 — 36

Township 24 North, Range 6 East, Copper River Meridian

Township 24 North, Range 7 East, Copper River Meridian

Sections 1 — 30

Sections 32 — 36

Township 25 North, Range 6 East, Copper River Meridian

Township 25 North, Range 8 East, Copper River Meridian

Township 26 North, Range 5 East, Copper River Meridian

Township 26 North, Range 6 East, Copper River Meridian

Township 1 South, Range 3 East, Fairbanks Meridian

Section 1

Sections 11 — 14

Section 15, S<sup>1</sup>/<sub>2</sub>, S<sup>1</sup>/<sub>2</sub>N<sup>1</sup>/<sub>2</sub>

Section 16

Section 23, NE<sup>1</sup>/<sub>4</sub>

Section 24, N<sup>1</sup>/<sub>2</sub>

Township 1 South, Range 4 East, Fairbanks Meridian

Sections 1 — 2

Section 4, S<sup>1</sup>/<sub>2</sub>

Section 5, S<sup>1</sup>/<sub>2</sub>, NW<sup>1</sup>/<sub>4</sub>

Sections 6 — 7

Section 8, north of Chena River

Section 9, the NW<sup>1</sup>/<sub>4</sub> north of Chena River, N<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>

Section 10, NE<sup>1</sup>/<sub>4</sub>

Section 11

Section 12, N<sup>1</sup>/<sub>2</sub>

Section 17, north of Chena River

Section 18

Township 1 South, Range 5 East, Fairbanks Meridian

Section 6

Township 1 South, Range 3 West, Fairbanks Meridian

Section 26, S<sup>1</sup>/<sub>2</sub> south of Parks Highway

Sections 27 — 28, south of Parks Highway

Section 29, west of Old Nenana Highway and south of Parks Highway

Sections 31 — 34, south of Parks Highway

Section 35

Township 1 South, Range 4 West, Fairbanks Meridian

Section 4, SW<sup>1</sup>/<sub>4</sub>

Sections 7 — 8

Section 9, NW<sup>1</sup>/<sub>4</sub>

Section 18, N<sup>1</sup>/<sub>2</sub>

Section 23, SE<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>

Sections 24 — 29

Section 32, N<sup>1</sup>/<sub>2</sub>N<sup>1</sup>/<sub>2</sub>

Section 34, excl. NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>

Sections 35 — 36

Township 1 South, Range 5 West, Fairbanks Meridian

Sections 2 — 12

Section 13, N<sup>1</sup>/<sub>2</sub>

Sections 14 — 23

Sections 28 — 30

Section 31, N<sup>1</sup>/<sub>2</sub>, N<sup>1</sup>/<sub>2</sub>S<sup>1</sup>/<sub>2</sub>

- Section 32, N $\frac{1}{2}$ , N $\frac{1}{2}$ S $\frac{1}{2}$
- Township 1 South, Range 6 West, Fairbanks Meridian
  - Sections 1 — 4
  - Sections 9 — 16
  - Sections 21 — 28
  - Sections 32 — 34
  - Section 35, E $\frac{1}{2}$
  - Section 36, N $\frac{1}{2}$
- Township 1 South, Range 8 West, Fairbanks Meridian
  - Sections 3 — 10
  - Sections 15 — 22
  - Sections 27 — 34
- Township 1 South, Range 10 West, Fairbanks Meridian
  - Sections 1 — 6
- Township 1 South, Range 11 West, Fairbanks Meridian
  - Sections 1 — 24
  - Sections 27 — 34
- Township 1 South, Range 12 West, Fairbanks Meridian
  - Sections 1 — 2
  - Sections 11 — 14
  - Section 21, south of the unnamed creek
  - Sections 22 — 28
  - Sections 31 — 32, south of right limit of Tanana River
  - Sections 33 — 36
- Township 1 South, Range 13 West, Fairbanks Meridian
  - Section 27, north of a branch of Tanana River
  - Sections 34 — 36, north of a branch of Tanana River
- Township 2 South, Range 3 West, Fairbanks Meridian
  - Section 2, N $\frac{1}{2}$ , tract F, ASLS 80 — 118
  - Sections 3 — 10
  - Section 13, Lots A and C
  - Section 14, Lots 5 — 7, NE $\frac{1}{4}$ , SW $\frac{1}{4}$
  - Section 15, west of left limit of Tanana River
  - Sections 16 — 19
  - Sections 20 — 24, north of military reservation
  - Sections 28 — 29, north of military reservation
  - Sections 30 — 31
  - Section 32, north of military reservation
- Township 2 South, Range 4 West, Fairbanks Meridian
  - Sections 1 — 3
  - Section 7, SE $\frac{1}{4}$ SE $\frac{1}{4}$
  - Section 8, south of Parks Highway
  - Section 9, south of Parks Highway
  - Sections 10 — 16
  - Section 17, south of Parks Highway
  - Section 18, south of Parks Highway

- Section 19, south of Parks Highway
- Sections 20 — 36
- Township 2 South, Range 5 West, Fairbanks Meridian
  - Sections 1 — 2
  - Sections 7 — 23
  - Section 24, north of Parks Highway
  - Section 26, north of Parks Highway
  - Section 27, north of Parks Highway
- Township 2 South, Range 6 West, Fairbanks Meridian
  - Section 3
  - Section 4, N<sup>1</sup>/<sub>2</sub>, SE<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>
  - Section 5
  - Sections 10 — 12
  - Section 16
- Township 2 South, Range 7 West, Fairbanks Meridian
  - Section 35, SE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>
  - Section 36, SE<sup>1</sup>/<sub>4</sub>, SE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, E<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>
- Township 2 South, Range 11 West, Fairbanks Meridian
  - Section 6
- Township 2 South, Range 12 West, Fairbanks Meridian
  - Sections 1 — 24
  - Sections 27 — 34
- Township 2 South, Range 13 West, Fairbanks Meridian
  - Sections 1 — 6
  - Section 7, Tracts A, B and C, ASLS 81-54 SW<sup>1</sup>/<sub>4</sub>
  - Section 8, NE<sup>1</sup>/<sub>4</sub>, Tracts D, E, F, ASLS 81-54
  - Sections 9 — 30
  - Sections 33 — 36
- Township 3 South, Range 3 West, Fairbanks Meridian
  - Sections 6 — 7, north of military reservation
- Township 3 South, Range 4 West, Fairbanks Meridian
  - Sections 1 — 11
  - Section 12, north of military reservation
  - Sections 14 — 15, north of military reservation
  - Section 16
  - Section 17, north of military reservation
  - Sections 20 — 22, north of military reservation
- Township 3 South, Range 5 West, Fairbanks Meridian
  - Section 1
  - Sections 11 — 12 Section 13, NW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>, Lots 2 — 4
  - Sections 14 — 15, north of left limit of Tanana River
  - Section 19, north of left limit of Tanana River, excl. NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>
  - Section 20, north of left limit of Tanana River, excl. Lot 3
  - Section 21, north of left limit of Tanana River
  - Section 31, Lot 2
- Township 3 South, Range 6 West, Fairbanks Meridian

- Sections 13 — 36  
 Township 3 South, Range 7 West, Fairbanks Meridian  
 Section 1  
 Section 2, E<sup>1</sup>/<sub>2</sub>, E<sup>1</sup>/<sub>2</sub>SW<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>  
 Section 3, SE<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>  
 Section 9, south of Parks Highway  
 Section 10, that portion of NE<sup>1</sup>/<sub>4</sub> which lies south of Parks Highway: SW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>2</sub>  
 Section 11, N<sup>1</sup>/<sub>2</sub>, N<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>  
 Section 12, N<sup>1</sup>/<sub>2</sub>, N<sup>1</sup>/<sub>2</sub>S<sup>1</sup>/<sub>2</sub>  
 Section 20, S<sup>1</sup>/<sub>2</sub>  
 Sections 22 — 29  
 Section 31 — 36  
 Township 3 South, Range 12 West, Fairbanks Meridian  
 Sections 3 — 10  
 Sections 15 — 19  
 Section 30  
 Township 3 South, Range 13 West, Fairbanks Meridian  
 Section 12, E<sup>1</sup>/<sub>2</sub>  
 Section 13  
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 Section 26, E<sup>1</sup>/<sub>2</sub>  
 Sections 35 — 36  
 Township 4 South, Range 4 East, Fairbanks Meridian  
 Sections 30 — 32, west of Richardson Highway  
 Township 4 South, Range 6 West, Fairbanks Meridian  
 Sections 1 — 12  
 Sections 14 — 18  
 Township 4 South, Range 7 West, Fairbanks Meridian  
 Sections 1 — 12  
 Sections 13 — 14, north of left limit of Tanana River  
 Section 18, Lots 3-6  
 Township 4 South, Range 13 West, Fairbanks Meridian  
 Sections 1 — 2  
 Sections 3 — 4, east of left limit of Kantishna River  
 Sections 8 — 10, east of left limit of Kantishna River  
 Section 11  
 Section 15  
 Sections 16 — 17, east of left limit of Kantishna River  
 Sections 20 — 21, east of left limit of Kantishna River  
 Section 22  
 Sections 27 — 29, east of left limit of Kantishna River  
 Sections 33 — 34, east of left limit of Kantishna River  
 Township 5 South, Range 4 East, Fairbanks Meridian  
 Sections 5 — 6

- Section 7, east of military reservation
- Section 8
- Section 17
- Sections 18 — 19, east of military reservation
- Section 20
- Section 29
- Section 30, east of military reservation
- Section 31
- Section 32, excl. NE $\frac{1}{4}$ SE $\frac{1}{4}$ , Lots 1-4
- Township 5 South, Range 5 East, Fairbanks Meridian
  - Sections 25 — 29
  - Sections 33 — 36
- Township 5 South, Range 6 East, Fairbanks Meridian
  - Sections 28 — 29
  - Section 30, S $\frac{1}{2}$
  - Sections 31 — 34
  - Section 36, S $\frac{1}{2}$
- Township 5 South, Range 8 East, Fairbanks Meridian
  - Sections 1 — 6
  - Sections 8 — 17
  - Sections 20 — 30
  - Sections 32 — 36
- Township 5 South, Range 9 East, Fairbanks Meridian
  - Sections 4 — 9
  - Sections 13 — 36
- Township 6 South, Range 4 East, Fairbanks Meridian
  - Section 5, excl. Lots 1, 2
  - Sections 6 — 7, east of military reservation
  - Section 8
  - Section 9, excl. N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$ , GL-5
  - Section 14, Lot 4
  - Section 15, south of Tanana River
  - Section 16
  - Section 21, east of military reservation
  - Section 22
  - Section 23, NE $\frac{1}{4}$ NE $\frac{1}{4}$ , that portion west of Richardson Highway
  - Section 25, south of Richardson Highway
  - Section 26, excl. Lot 1
  - Section 27, east of military reservation
  - Section 35
  - Section 36, W $\frac{1}{2}$ SW $\frac{1}{4}$
- Township 6 South, Range 5 East, Fairbanks Meridian
  - Sections 1 — 4
  - Sections 9 — 15
  - Section 16, S $\frac{1}{2}$ , NE $\frac{1}{4}$

- Section 20, S<sup>1</sup>/<sub>2</sub>
- Sections 21 — 28
- Section 29, N<sup>1</sup>/<sub>2</sub>
- Section 36
- Township 6 South, Range 6 East, Fairbanks Meridian
  - Section 1
  - Sections 3 — 9
  - Section 10, W<sup>1</sup>/<sub>2</sub>
  - Section 11, E<sup>1</sup>/<sub>2</sub>
  - Sections 12 — 36
- Township 6 South, Range 7 East, Fairbanks Meridian
  - Sections 3 — 36
- Township 6 South, Range 8 East, Fairbanks Meridian
- Township 6 South, Range 9 East, Fairbanks Meridian
- Township 6 South, Range 10 East, Fairbanks Meridian
- Township 7 South, Range 6 East, Fairbanks Meridian
  - Sections 1 — 5
  - Sections 8 — 15
  - Sections 21 — 24
  - Sections 25 — 27, north of left limit of Tanana River
  - Section 28
  - Section 29, S<sup>1</sup>/<sub>2</sub>
  - Section 30, S<sup>1</sup>/<sub>2</sub>
  - Sections 31 — 32
  - Section 33, north of left limit of Tanana River
- Township 7 South, Range 7 East, Fairbanks Meridian
  - Sections 1 — 18
  - Sections 23 — 26
  - Sections 35 — 36, excl. ASLS 81-213 except Tract A
- Township 7 South, Range 8 East, Fairbanks Meridian
  - Sections 1 — 12
  - Sections 15 — 21
  - Sections 28 — 34
- Township 7 South, Range 9 East, Fairbanks Meridian
  - Sections 3 — 10
  - Sections 15 — 16, N<sup>1</sup>/<sub>2</sub>
- Township 7 South, Range 10 East, Fairbanks Meridian
  - Sections 24 — 25
  - Sections 35 — 36
- Township 7 South, Range 11 East, Fairbanks Meridian
  - Sections 1 — 2
  - Sections 11 — 14
  - Sections 19 — 36
- Township 7 South, Range 12 East, Fairbanks Meridian
- Township 8 South, Range 7 East, Fairbanks Meridian
  - Section 1

- Township 8 South, Range 8 East, Fairbanks Meridian  
 Sections 4 — 6
- Township 8 South, Range 10 East, Fairbanks Meridian  
 Section 1  
 Sections 12 — 13
- Township 8 South, Range 11 East, Fairbanks Meridian  
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- Township 8 South, Range 12 East, Fairbanks Meridian  
 Sections 1 — 10  
 Sections 15 — 22  
 Sections 27 — 34
- Township 8 South, Range 13 East, Fairbanks Meridian  
 Sections 25 — 26  
 Sections 33 — 36
- Township 9 South, Range 11 East, Fairbanks Meridian  
 Section 3, S<sup>1</sup>/<sub>2</sub>  
 Sections 4 — 5  
 Sections 8 — 11  
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 Section 17, E<sup>1</sup>/<sub>2</sub>, NE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>NW<sup>1</sup>/<sub>4</sub>  
 Sections 21 — 27  
 Section 28, excl. FO2662
- Township 9 South, Range 12 East, Fairbanks Meridian  
 Sections 19 — 21  
 Sections 28 — 36
- Township 9 South, Range 13 East, Fairbanks Meridian  
 Sections 1 — 3  
 Section 10, E<sup>1</sup>/<sub>2</sub>  
 Sections 11 — 13  
 Sections 24 — 25  
 Section 26, S<sup>1</sup>/<sub>2</sub>  
 Section 27  
 Sections 34 — 36
- Township 9 South, Range 14 East, Fairbanks Meridian
- Township 9 South, Range 16 East, Fairbanks Meridian
- Township 10 South, Range 12 East, Fairbanks Meridian  
 Sections 1 — 3  
 Sections 4 — 6, north of left limit of Tanana River  
 Sections 10 — 12, north of left limit of Tanana River
- Township 10 South, Range 13 East, Fairbanks Meridian  
 Sections 1 — 6  
 Sections 7 — 8, north of left limit of Tanana River  
 Sections 9 — 12  
 Sections 14 — 15, N<sup>1</sup>/<sub>2</sub>

## Township 10 South, Range 14 East, Fairbanks Meridian

Sections 1 — 20

Section 21, NE $\frac{1}{4}$ SE $\frac{1}{4}$ , W $\frac{1}{2}$ , N $\frac{1}{2}$ NE $\frac{1}{4}$ 

Sections 22 — 24

Section 25, excl. Tract C

Section 26, excl. SW $\frac{1}{4}$ SW $\frac{1}{4}$ Section 27, N $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 28, W $\frac{1}{2}$ 

Section 29

Section 30, NE $\frac{1}{4}$ NE $\frac{1}{4}$ 

Section 32, excl. Tract U, Delta I

Section 33, W $\frac{1}{2}$ 

## Township 10 South, Range 16 East, Fairbanks Meridian

Sections 1 — 35

## Township 11 South, Range 14 East, Fairbanks Meridian

Section 4, NW $\frac{1}{4}$ , Tracts A,B,E

Section 5, excluding Tract U, Delta Barley I

Section 9, Tracts A,B,E $\frac{1}{2}$ 

Section 10, Tracts B,C

Section 15, Tracts B,C

Section 16, E $\frac{1}{2}$ , Tracts A,B

Section 21, Tracts A,B

Section 22, NW $\frac{1}{4}$ , Tracts A,B,D

Section 23, Tracts A,B,D,E

Section 26, Tracts A,B,C,D

Section 35, E $\frac{1}{2}$ , Tracts A,B

Section 36, Tracts A,B,C,D,E

## Township 11 South, Range 16 East, Fairbanks Meridian

## Township 12 South, Range 14 East, Fairbanks Meridian

Section 1, excl. USS 4013

Section 2, excl. ASLS 79-93

Section 11, excl. ASLS 79-93

Sections 12 — 13

Section 14, excl. ASLS 79-93

Sections 23 — 25, excl. ASLS 79-93

Section 36, excl. ASLS 79-93

## Township 12 South, Range 15 East, Fairbanks Meridian

Sections 2 — 6

Section 7, excl. SE $\frac{1}{4}$ SW $\frac{1}{4}$ 

Sections 8 — 14

Section 15, E $\frac{1}{2}$ , E $\frac{1}{2}$ NE $\frac{1}{4}$ Sections 18 — 19, W $\frac{1}{2}$ W $\frac{1}{2}$ Section 21, S $\frac{1}{2}$ SE $\frac{1}{4}$ Section 22, excl. N $\frac{1}{2}$ NW $\frac{1}{4}$ 

Sections 23 — 30

Section 31, SW $\frac{1}{4}$

- Section 32, SE $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$
  - Sections 33 — 36
  - Township 12 South, Range 16 East, Fairbanks Meridian
    - Sections 1 — 5
    - Sections 9 — 16
    - Sections 21 — 28
    - Sections 34 — 36
  - Township 13 South, Range 15 East, Fairbanks Meridian
    - Sections 1 — 3
    - Section 4, N $\frac{1}{2}$ SE $\frac{1}{4}$ , NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$
    - Section 5, Tracts A and C
    - Section 6, north of Alaska Highway
    - Section 11, Tracts D and F
    - Section 12
    - Section 13, Tracts B and C
  - Township 13 South, Range 16 East, Fairbanks Meridian
    - Section 1
    - Sections 6 — 7
    - Section 12, excl. George Lake Subdivision
    - Sections 16 — 18
    - Sections 19 — 20, north of left limit of Tanana River
    - Section 21
    - Section 27
    - Sections 28 — 29, north of left limit of Tanana River
    - Sections 32 — 33, north of left limit of Tanana River
    - Sections 34 — 35
  - Township 14 South, Range 16 East, Fairbanks Meridian
    - Sections 1 — 3
    - Section 4, north of left limit of Tanana River
    - Sections 10 — 11, north of left limit of Tanana River
    - Section 12.
- (§ 3 ch 91 SLA 1983; am §§ 33, 34 ch 85 SLA 1988)

**Cross references.** — For land that may be selected by the Fairbanks North Star Borough for an industrial park, see § 4, ch. 91, SLA 1983, in the Temporary and Special Acts.

**Effect of amendments.** — The 1988 amendment deleted the last two sentences in subsection (b), relating to the submission of the management plan to the legislature and the approval of the management plan for the Tanana Valley State Forest, respectively, and, in subsection (c), combined together the former two sen-

tences and substituted "In addition to the uses described in AS 41.17.230(e)" for "The commissioner shall consider and permit the uses described in AS 41.17.230(e) within the Tanana Valley State Forest, subject to the procedures established in AS 41.17.230(f)."

**Legislative history reports.** — For an analysis of the amendment to (b) and (c) of this section by secs. 33 and 34, ch. 85, SLA 1988 (HCS CSSB 413 (Jud)), see 1988 House & Senate Joint Journal Supplement No. 18, May 10, 1988, p. 7.

**Article 6. General Provisions.****Section**

900. Applicability

950. Definitions

**Sec. 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.

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

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

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

(d) 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) regulations, if authorized by the commissioner of environmental conservation, relating to control of nonpoint source pollution. (§ 1 ch 108 SLA 1978)

**Revisor's notes.** — Subsections (a) — section (d) was formerly AS 41.17.020(j).  
(c) were formerly AS 41.17.050 and sub- Renumbered in 1983.

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

(1) "board" means the Board of Forestry established in AS 41.17.041;

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

(A) used for silvicultural management or related purposes;

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

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

(3), (4) [Repealed, § 43 ch 85 SLA 1988.]

(5) "division" means the division of forestry;

(6) "forest land" means land stocked or having been stocked with forest trees of any size and not currently developed for nonforest use, regardless of whether presently available or accessible for commercial

purposes, and includes any such land under state, municipal, or private ownership;

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

(8) "multiple use" means

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

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

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

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

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

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

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

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

(14) "state forest" means an area which is retained in state ownership in order to

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

(B) permit a variety of beneficial uses;

(15) "sustained yield" means the achievement and maintenance in perpetuity of a high level annual or regular periodic output of the various renewable resources of forest land and water without significant impairment of the productivity of the land and water, but does

not require that timber be harvested in a non-declining yield basis over a rotation period; and

(16) "timber owner" means a person who owns timber on forest land or who has the rights to timber, but does not own the land itself. (§ 1 ch 108 SLA 1978; am § 88 ch 59 SLA 1982; am § 43 ch 85 SLA 1988)

**Revisor's notes.** — In 1983 paragraphs (12) — (16) were reorganized to place the terms defined in alphabetical order. Paragraph (11) was rewritten in 1988 to conform to the style of the Alaska Statutes.

**Cross references.** — For additional

definitions, see AS 41.99.900.

**Effect of amendments.** — The 1988 amendment repealed former paragraphs (3) and (4), which defined "commissioner" and "department," respectively.

**NOTES TO DECISIONS**

The "sustained yield principle" as used in Alas. Const. art. VIII, § 4 accords with the definition set forth in AS 38.04.910(10), and the added language in the definition of "sustained yield" in this section that it "does not require that timber be harvested in a nondeclining yield basis over a rotation period"; and it should

be read as permitting timber cutting at a level that cannot be sustained over a forest rotation period only in unusual circumstances. Southeast Alaska Conservation Council, Inc. v. State, Sup. Ct. Op. No. 2662 (File No. 5855), 665 P.2d 544 (1983).

**Chapter 20. Parks and Recreational Facilities.**

*[Renumbered as AS 41.21. See parallel reference table at the front of this pamphlet.]*

**Chapter 21. Parks and Recreational Facilities.**

**Article**

1. Administration (§§ 41.21.010 — 41.21.040)
2. State Parks (§§ 41.21.110 — 41.21.183)
3. Alaska Marine Parks (§§ 41.21.300 — 41.21.306)
4. State Recreation Areas (§§ 41.21.410 — 41.21.495)
5. Special Management Areas (§§ 41.21.500 — 41.21.514)
6. Alaska Chilkat Bald Eagle Preserve (§§ 41.21.610 — 41.21.630)
7. Roadside Rests, Beaches (§§ 41.21.800 — 41.21.805)
8. Trails, Footpaths and Campsites (§§ 41.21.850 — 41.21.872)
9. Miscellaneous Provisions (§§ 41.21.900 — 41.21.918)
10. General Provisions (§§ 41.21.950 — 41.21.990)

**Article 1. Administration.**

**Section**

10. Purpose
20. Duties of Department of Natural Resources
22. Discharge of firearms
25. Zoning of private land within state parks
26. Fees for the use of state park system facilities

**Section**

27. Concession contracts in the state park system
28. Definitions
30. Disposition of funds
40. Division within department

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

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April 10, 1989

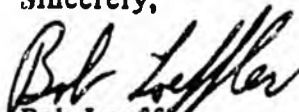
Steering Committee Members  
Interested Citizens

Dear Sir or Madame:

Enclosed is the Agreement-in-Principle, and a draft of the proposed statute to implement that agreement. The steering committee will be working out final changes to the proposed statute during the next week. A final copy of the statute should be available on approximately April 15th.

If you have any questions, please do not hesitate to write or call. My phone number is 762-2660.

Sincerely,

  
Bob Loeffler  
Regional Planner

**Alaska Forest Practices Act Review**

**Draft  
Agreement-in-Principle**

**April 10, 1989**

# Draft Agreement-in-Principle Alaska Forest Practices Act Review

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## Draft Agreement-in-Principle Summary

These pages summarize the main points of the agreement-in-principle of the Alaska Forest Practices Act Steering Committee. The remainder of the report contains the details of the agreement. Language in this draft has not yet been reviewed by the steering committee. It will be reviewed by the committee before it is submitted to their groups for ratification.

### Major Points of the draft Agreement

#### I. Riparian Management

The agreement proposes a streamside management program for the protection of fisheries habitat and water quality.

##### Region I - Private Land

On private land, a riparian management system is proposed that includes development of a channel typing system and riparian management prescriptions for each channel type. Of the nine channel types, six require a 15-meter (50-foot) conditional harvest zone within which timber harvest would require state agreement, and an additional 15-meter (50-foot) riparian management zone within which an operator would be required to leave 50% of the timber consistent with the existing size distribution of the timber stand within the zone. In addition, any timber taken from the conditional harvest zone or the riparian management zone in excess of timber retention standards must be replaced by comparably sized timber either in other sections of the riparian zone or in an area outside the riparian zone agreed to by DNR with due deference to DF&G. However, timber operators would not be required to leave more than 5% of the basal area in a landowner's operating area without compensation. (Basal area is the total cross-sectional area of trees measured 4.5 feet above the ground.)

Of the remaining three channel types, two require a 30-meter riparian zone, and one a 15-meter zone. In these zones, special prescriptions will apply to limit the impact of timber harvest on the riparian habitat. In addition, all activities will be subject to regulations to prevent slope instability and to prevent nonpoint source water pollution.

##### Region II - Private Land

As an interim standard, a 30-meter special management zone (SMZ) will be used on all anadromous and high value resident fish waters. A SMZ is a shoreline or streamside area that will be managed primarily to protect anadromous and high value resident fish habitat and water quality. Timber harvest may occur in SMZs if it is sited and designed to be consistent with these fish habitat and water quality goals. Timber harvest decisions in the SMZ require DNR agreement with review and due deference to DF&G.

Region II groups will develop riparian standards within the next 12 months for Region II. DNR will form a committee representing interested groups similar to the current forest practices steering committee. The recommendations of the group will be given to the Board of Forestry for review and then to DNR for adoption.

## State Land

On state land, the riparian system requires that state timber sales follow the requirements in existing area and forest plans. New state plans and revisions to existing plans will require a minimum of a 100-foot conditional harvest zone along anadromous streams and high value resident fish waters. Additional riparian management zone requirements will be addressed during the planning process. Until a plan is completed, the department will include a 100-foot no-cut buffer with an additional 200-foot conditional harvest zone along all lakes and streams.

## Other Public Land

Borough, municipal, and other public land not managed by DNR (including trust lands such as mental health and university lands) will require a special management zone along all anadromous and high value resident fish waters. Timber harvest in this zone will follow the same requirements as those of the interim standards for private land in Region II, explained above.

## **II. The Enhanced Notification Process**

The enhanced notification process is the proposed method for efficient state review of timber harvest plans on private and municipal land to determine the plan's conformance with forest practice standards. It includes the following points:

- \* A system of enforceable standards that harvest operations must follow. These standards will be written to satisfy the requirements of the forest practices act, to address forest water-quality related standards portion of DEC non-point source pollution programs and, on private land, to serve as the Alaska Coastal Management Program.
- \* A system of agency office and field review in which the agencies have an enforceable disapproval of proposed activities that would violate a forest practice standard.
- \* Public review of proposed harvest plans.
- \* Provision for "stop work orders" to halt proposed or ongoing work where agency personnel perceive a threat of imminent significant harm to the environment.
- \* A voluntary annual plan to give agencies and the public earlier information, and to give the landowner earlier feedback.
- \* DF&G retains all previous authority under Title 16.
- \* DNR remains lead agency for forest practices activities outside streams. DNR will accord due deference to the expertise of DF&G concerning activities within the riparian zone. DNR will accord due deference to the expertise of DEC concerning water quality issues.
- \* DEC retains authority as lead agency for non-point source pollution control and water quality as in existing statutes.

### **III. Enforcement**

The proposed agreement would add the following to the existing enforcement system:

- \* Procedures for imposing existing civil penalties are streamlined, and criminal penalties are added. DNR will also have the ability to issue a remedial order to correct violations of forest practice standards.
- \* Hearings will be conducted by an employee of the Division of Forestry with appeals to the Commissioner.
- \* State agencies are required to develop and implement a single state enforcement strategy for forest practices that violate forest practices act standards and other state requirements.

### **IV. Wildlife and Planning**

DNR's forest planning process is changed in the following manner:

- \* New statutory and regulatory emphasis on wildlife habitat and other non-timber uses.
- \* Five-year sale schedule and enhanced public participation.
- \* Best interest finding under AS 38.05.035 for all sales, including increased analysis in the development of individual timber sale provisions.
- \* Enhanced opportunities for public participation at each of the forest planning stages.
- \* Planning for public lands will be required to allow for scenic quality and wildlife habitat, in addition to other considerations.
- \* On private lands, the landowners are encouraged to enter into cooperative agreements with DF&G to identify wildlife habitats, and management options to minimize adverse impacts.

### **V. Board of Forestry**

The Board of Forestry is restructured to a smaller, balanced board with authority to provide advice concerning research and implementation of the Forest Practices Act and regulations. The board will include a member or representative of a fishing organization, a Native corporation, an environmental organization, and a forest industry trade association; and a professional fish or wildlife biologist, and a professional forester.

### **VI. Other Issues.**

- \* Log storage and rafting -- a task group has been formed to develop guidelines for log rafting and in-water log storage, including review of meteorological and oceanographic factors, review of applied industry technology, and recommended construction and log handling and bundling standards.
- \* Reforestation -- the steering committee has recommended funding of the Reforestation Fund as provided by law.

- \* Consultation, education, and training -- the Division of Forestry will undertake new efforts to ensure that the public, landowners, operators, and agency personnel become fully informed of the state planning process and of proper practices for timber harvesting. Field workshops and interdisciplinary training will be used to ensure that the regulatory agencies, the public, and the timber industry understand each other's objectives, methods, and practices.

## **VII. Funding**

Funding of \$1.2 million will be required to implement the act. The funding will provide the agency review and field presence necessary to strengthen resource protection using a strong forest practices act while retaining a strong timber industry. The legislation should provide that funds come from receipts derived from timber sales on state lands, 25% of which would go to reforestation. If additional funds are required, the legislature should look to funds to be derived from other sources, in light of the standing timber and other costs contributed from the forest products industry through the terms of the proposed agreement, and contributions made from other forest users.

## **VIII. Future Review of the Forest Practices Program**

This agreement-in-principle and the recommended legislation are intended to be reviewed within three years. This three-year time is intended to allow for further research, to gain experience implementing the act's regulatory and administrative standards -- especially the riparian standards and the enhanced notification system. It is presumed that a representative group will be convened for the review, or that the review will be conducted by the restructured Board of Forestry. The review will occur with full public input and participation.

## **IX. Remaining Steps in the Agreement Process**

The draft Agreement-in-Principle will be reviewed by the Alaska Forest Practices Act Steering Committee to ensure that the language in this document and in the proposed statute reflects the intent determined at previous committee meetings. After this review, the agreement-in-principle will be submitted to steering committee members' parent organizations for ratification or rejection. If approved by consensus, legislation implementing this agreement will be submitted to the legislature. Once legislation is passed, the Department of Natural Resources, working with DF&G, DEC, and steering committee members, will draft and promulgate regulations consistent with this agreement.

## PART I - Introduction

### I. Purpose of the Alaska Forest Practices Act Review

In response to criticisms of the Alaska Forest Practices Act, and to improve resource protection while retaining a viable timber industry, the governor directed the Departments of Natural Resources, Fish and Game, and Environmental Conservation to conduct a public review of the act and make recommendations for improvements in the act, its regulations, and implementation. The Forest Practices Act (AS 41.17) and its regulations (11 AAC 95) governs forest practices on state, municipal, and private lands.

To achieve an objective and balanced review, the review process included representatives of timber land owners, state agencies, and users of public resources affected by forest practices. Recommended changes in legislation will be submitted by the Governor to the legislature during the 1989 legislative session. Any recommended changes in regulation and enforcement procedures will be promulgated by the appropriate departments.

The paragraphs below identify how different groups participate in this process.

The Steering Committee. The steering committee was the body responsible for guiding the review process and recommending changes in legislation, regulations, and implementation. The steering committee operates by unanimous consent to develop its recommendation. The public steering committee members were not picked by the governor or by the state agencies. They were chosen by the public groups.

Working Groups. Two working groups were formed by the steering committee to flesh out issues and make recommendations for resolution. Most of the work for the project occurred in working groups. For different issues, certain steering committee members were more active than others. For some issues, steering committee members may call on members of interest groups not represented on the steering committee. Final decisions were made by the Steering Committee.

Mediators. The mediators guided the mediation process but did not make decisions. The mediators were hired from outside state government to ensure an objective process. The mediators were selected by a committee composed of representatives of DNR, DF&G, and DEC. The mediators chaired working group and steering committee meetings. The mediators were Jim Waldo and Frank Gaffney of the Northwest Renewable Resources Center.

Public and Special Interest Groups. Interested groups not represented on the steering committee helped pick steering committee representatives; gave comments on issues and recommendations through telephone conversations or other formal and informal contact; and some participated on working groups for all of some or the issues.

The General Public. The general public is involved through the legislative process and standard agency process for promulgation of new or conforming regulations.

### II. The Steering Committee

- A. Make-up of the Steering Committee. Membership on the steering committee was a compromise of representation for all who are affected by the Forest Practices Act, and having a group size that allowed a workable process. In addition, the committee included equal representation from timber groups and non-timber groups. To achieve these objectives, the steering committee included thirteen members as indicated below:

5 representatives of forest owners and operators (i.e., those who are regulated by forest practices): three representatives of private timber land owners; one municipality with timber ownership; and a representative of the Alaska Loggers Association

5 representatives of users of public resources affected by forest practices (i.e., those who may advocate regulations: fishing groups, environmental groups, etc.)

3 representatives of the state agencies:  
Department of Natural Resources  
Department of Fish and Game  
Department of Environmental Conservation

---  
Total: 13 Members

Other agencies were also involved. The Division of Governmental Coordination ensured that concerns of the local coastal districts were considered by the steering committee. The Department of Commerce and Economic Development provided technical assistance.

**B. Selection of the Steering Committee Members.** To ensure a credible process, it was important that the various interest groups felt well represented by the steering committee. Therefore, the state asked timber land owners, timber operators, and public resource users to select their own representatives. These steering committee members were not picked by the governor nor by the state agencies.

### III. Steering Committee Membership

#### Agency Members

Norman Cohen  
Deputy Commissioner  
Department of Fish and Game

Tom Hawkins  
Assistant Commissioner  
Dept. of Natural Resources

Amy Kyle  
Deputy Commissioner  
Dept. Environmental Conservation

#### Public Members

John Duffy/Ted Smith

Bob Ellis

#### Other Involved Agencies

Jan Caulfield  
Coastal Program Coordinator  
Div of Governmental Coordination

Gerry Engle, Program Manager  
Minerals and Forest Products  
Division of Business Development  
Dept. of Commerce & Economic Development

#### Affiliations

Matanuska-Susitna Borough

Southeast Alaska Conservation Council  
Sitka Fish and Game Advisory Committee  
Northern Southeast Regional Aquaculture Board  
Sitka Conservation Society

Pete Isleib/Dennis Eames

United Fishermen of Alaska  
Southeast Seiners Association

Nancy Lethcoe

Prince William Sound Conservation Alliance  
Cordova District Fishermen United

Bob Loescher

Sealaska Corporation  
Alaska Loggers Association

Robert Loiselle

Klukwan Forest Products, Inc.  
Alaska Loggers Association

Alan Phipps

Susitna Valley Association  
Alaska Center for the Environment

Larry Smith

Southcentral Council of Fish and Game  
Advisory Committees  
Association of Regional Councils

John Sturgeon

Koncor Forest Products  
Alaska Loggers Association

George Woodbury

Chairman, Timber Issues Committee  
Alaska Loggers Association

Note: A list of active staff and working group members will be added to the final report.

#### IV. Ground Rules

The steering committee adopted the following five ground rules to guide the mediation process:

1. This effort will receive priority attention, staffing, and time commitment.
2. All parties agree to negotiate in good faith and to try to reach an agreement by consensus.
3. All participants in the negotiation bring with them the legitimate purposes and goals of their organizations. All parties recognize the legitimacy of the goals of others and assume that their own goals will also be respected.
4. Anyone may leave the process and the above ground rules, but only after telling the entire group why and seeing if the problem(s) can be addressed by the group.
5. All parties agree to be an advocate for an agreed-upon plan. However, interim agreements are not binding until a final plan is agreed-upon by all.

#### V. The Consensus Agreement

This section lists the steering committee's obligations to the consensus agreement.

The fifth ground rule adopted by the steering committee is, "All parties agree to be an advocate for an agreed-upon plan. However, interim agreements are not binding until a

final plan is agreed-upon by all." This agreement-in-principle, if ratified by all the steering committee groups, is the agreed-upon plan.

The parties' agreement is to the entire plan -- not to individual parts of it. Thus, if the agreement is changed, including failure to pass funds to implement it, the parties are not bound to continue their support.

The parties to this consensus will support this agreement through the end of the 1989 legislative session, but their consensus expires at the end of the session. If the legislation is not passed during the 1989 session, the parties will meet before July 1, 1989 to reauthorize (or reject) consensus for the following session.

## **VI. Implementation of the Agreement-in-Principle.**

### **A. Remaining Steps in the Agreement Process**

The draft Agreement-in-Principle has been reviewed by the Alaska Forest Practices Act Steering Committee to ensure that the language in this document and subsequent statutory language reflects the intent determined at previous committee meetings. After this review, the agreement-in-principle and proposed statutes will be submitted to steering committee members' parent organizations for ratification or rejection.

### **B. Implementing the Completed Agreement.**

If approved by consensus, legislation implementing this agreement will be submitted to the legislature. The governor hopes to introduce this legislation during late March or early April for enactment this year. Once legislation is passed, DNR, working with DF&G, DEC, and steering committee members, will draft and promulgate regulations consistent with this agreement. Policy changes that do not require legislation or regulation such as education and training will also be implemented by the appropriate department. The schedule for drafting and promulgating regulations is given in Part III of this report.

**Part II - Draft Agreement on Issues**

# Chapter 1. Riparian Management

## A. Private Land

### 1. Background & Riparian Standards for Region I

#### Introduction and General Summary

The riparian or streamside areas within Alaska's forest lands and the management of those areas was perhaps the most difficult of all the issues dealt with by the Alaska Forest Practices Act Review Committee. These areas are critical for the protection of water quality, and fisheries and wildlife habitat, and they are also some of the most productive areas for timber production. Therefore these areas are of high interest to all parties involved in this forest practices review. In order to develop Riparian Management Standards, a working group made up of Steering Committee members was formed to deal specifically with streamside issues. They quickly learned that while there was scientific information available to guide their decisions, it was incomplete. Some decisions would have to be based on assumptions.

A technical committee was convened to complete the following:

Frame the issues.

Develop a stream channel typing system.

Resolve the scientific questions to the extent possible.

Identify areas where appropriate scientific information was unavailable and where further research needed.

Examine the effects of various streamside leave tree requirements and the attendant risks to fish habitat, water quality, and the economic impacts to timber owners and operators.

Provide the steering-committee working group with recommendations if the technical committee could not agree on standards.

The steering-committee working group used the technical committee's report for reference during negotiations. They also agreed that because of lack of scientific certainty, four principles were necessary components of any system that would balance the needs of all the resources at stake. Those principles were

1. Fairness

Any successful system must be based on shared risk and incentives for both timber owners and regulators to make it work.

2. No "Big Hit"

Neither fish nor timber should bear an inordinate share of the burden; that a balance must be found. No private landowner should have to bear an unusually large burden.

3. Enforceable

Standards and regulations should be understandable and measurable for ease in implementation.

#### 4. Professional Management

To provide optimum utilization of manpower and some system flexibility for fish and water quality protection, and timber management, the new system would require careful planning and targeted field effort.

The interim riparian standards described later in this section resulted from negotiations based on these principles and information developed by the technical committee. They are intended to protect fish and water quality within the streamside zone while providing some opportunity for timber harvest. Other forestry related upland activities, such as roading and timber harvest, will be covered in standards to be developed as a result of this agreement.

The agreement-in-principle and the recommended legislation are intended to be reviewed within three years. This three year time is intended to allow for further research and to gain experience implementing the act's regulatory and administrative standards -- especially the riparian standards and enhanced notification system. It is presumed that a representative group will be convened for the review, or that the review will be conducted by the restructured Board of Forestry. In either event, this review will be done with full public input and participation. In addition, DNR, DF&G, and DEC will each present an annual report, independently, to the Board of Forestry and the legislature on the resources for which they have statutory expertise and make recommendations for any improvements to rectify procedural or substantive problems. For more information concerning review of the act, see page 64.

### Technical Committee Work Summary

#### Stream Channel Typing System

The first task of the riparian-technical committee was to develop a stream channel typing system. The committee examined a U.S. Forest Service classification system and consolidated over 50 categories into a nine channel types. A description of these channel types is included in the chart on the next page.

These nine stream channel types are used as a framework for forest practices regulations. Each channel type applies to a segment of either flowing (i.e., streams) or standing (i.e., lakes and ponds) waters that have specific physical characteristics. Physical characteristics used to define channel types are channel gradient expressed as percentage slope, presence or absence of channel incision greater than 2 meters, perennial or intermittent stream flow, size of the dominant substrate, and stream width at the ordinary high-water mark. In addition to these five physical characteristics a functional group name has been listed, which describes each channel type.

Channel types are determined by comparing the physical characteristics of the water segment in question with the channel typing criteria listed in the chart on the following page. The category with criteria most similar to the physical characteristics of the segment in question is defined as the channel type.

**STREAM CHANNEL TYPES**  
**PHYSICAL CHARACTERISTICS**

STREAM CHANNEL	GRADIENT	INCISION	STREAM FLOW	*SUBSTRATE	CHANNEL WIDTH
1. MOUNTAIN SLOPE	HIGH 8%	YES >28"	PERENNIAL	RUBBLE TO BEDROCK	<30'
2. SMALL CONTAINED MID-SLOPE	2-8%	YES	PERENNIAL	RUBBLE TO BEDROCK	<20'
3. SMALL UNCONTAINED MID-SLOPE	2-8%	NO	INTERMITTANT & PERENNIAL	GRAVEL TO RUBBLE	<20'
4. LARGE CONTAINED	<6%	YES	PERENNIAL	RUBBLE TO BEDROCK	>20'
5. LARGE LOW GRADIENT	<2%	NO	PERENNIAL	GRAVEL TO SAND	>20'
6. VERY LARGE MULTIPLE CHANNEL	<2%	NO	PERENNIAL	GRAVEL	>200'
7. SMALL LOW GRADIENT	<2%	NO	INTERMITTANT & PERENNIAL	GRAVEL TO SILT	<20'
8. ESTUARINE - SALT TOLERANT VEG. (SEDGE TO FUCUS)	<.1%	NO	PERENNIAL	GRAVEL TO SILT	VARIABLE
9. PLACID (LAKE, OUTLET & WETLANDS)	<2%	NO	PERENNIAL	SILT TO GRAVEL	VARIABLE

\* Substrate size is in order of dominance.

DEFINITIONS:	Bedrock	=	>3'
	Rubble	=	2.5" - 3'
	Gravel	=	4mm - 2.5"
	sand	=	.1mm - 4mm
	silt	=	<.1mm

### Fisheries Habitat Components

The technical committee agreed that the riparian management standards should address the following fish habitat components:

- \*1. Streambank Stability and Channel Morphology (form)
- \*2. Large Woody Debris
- \*3. Temperature
- \*4. Turbidity and Sedimentation
5. Discharge Peaks and Streamflow
6. Nutrients
7. Other Water Quality
8. Food Resources
9. Gravel
10. Sunlight

\*Components to address first. Whatever riparian management system could address these four components would likely also be sufficient for the remaining six (this assumption should be verified through experience, research and monitoring).

### Timber Operational Components

The technical committee also agreed that the riparian standards should also take into account the following timber operational components:

1. the volume of the merchantable timber required to be left standing;
2. the operational costs within and adjacent to the riparian zone;
3. the impact on the ability to harvest adjacent timber; and
4. the safety of those working in the woods.

In addition, the technical committee received several presentations assessing the economic impacts of various leave requirements on a variety of tracts of timberland large and small, private and public. Depending on site circumstance, the width and configuration of the leave requirements, and the area rendered inoperable by those leave requirements, the estimated impact to timber owners and operators varied from 1% to 40% of the standing timber base and increased operational cost. These presentations and the discussions that followed were combined with the fish habitat components to prepare matrix on the following page.

### Summary

Based on fisheries considerations alone, the riparian technical committee agreed that a 30-meter "no harvest" buffer zone provides acceptable protection for fish. Based on a variety of studies by the National Marine Fisheries Service and others, a 30-meter "no harvest" zone (15 meters in channel type 1) is recommended by some members of this committee as providing acceptable protection for fish, assuming normal forestry operations outside the zone. After reviewing impacts of such a zone on timber operations, some members of the technical committee feel that a flexible zone based on the values in the risk matrix should dictate the management recommendations.

The technical committee agreed that site specific decisions by appropriate interdisciplinary teams provide the most flexible management system to meet the needs of all interests involved in forest/fishery management.

MATRIX OF RIP/ RISK ASSESSMENT

Stream Channel Type	Fish Production Capability	Timber Production Capability	Potential for Erosion from Timber Harvest	Risk to Slope Stability	Susceptibility for Bank Erosion	Importance of Bank for Fish Habitat	Risk of High Temperature Problems for Fish	Risk to Channel Stability	Canopy Closure Concerns in Second Growth Forest	Importance of LWD to Fish Habitat	Conflict Indicator Number*
1	Low	Med	High	High	Low	Low	Low	Low	Low	Low	14
2	Med	High	Med	High	Low	Low	Low	Low	Med	Low	17
3	High	High	Med	Med	Med	Med	Med	High	High	High	25
4	Med	High	Med	High	Med	Low	Low	Low	Low	Low	17
5	High	High	Med	Low	High	High	Med	High	Low	High	24
6	High	Med	Low	Low	High	Med/High	Low	Low	Low	High	18/19
7	High	High	High	Low	Med	High	High	High	High	High	27
8	High	Low	Low	Low	High	High	Med	Med	Low	High	20
9	High	Med	Low	Low	Med	Med	High	Low	Med	High	20

\* Low = 1  
 Med = 2  
 High = 3

Site specific decisions are a manpower/cost-intensive decision-making process, and that fact created a reluctance by some technical committee members to tailor standards to different stream channel types.

However, the committee did agree that specific standards for stream channel types can be developed that will potentially provide an acceptable level of protection to fish, assuming specific data needs are satisfied.

The committee also agreed that interim standards are necessary until appropriate long-term standards can be developed.

#### Data Needs

The technical committee identified seven areas for further research on the interaction of forestry and fish.

1. Probability of riparian leave trees to provide large woody debris.
2. Probability of second growth timber to provide large woody debris.
3. Depletion/recruitment rates of large woody debris for interior Alaska streams.
4. Information on temperature sensitive streams throughout Alaska.
5. Information on winter water temperature effects on fish.
6. Second growth canopy closure effects on fish production.
7. Stand characteristics of trees next to streams: age, size, volume, species, etc.

The committee estimated 2-5 years to conduct the research necessary to address these seven areas.

#### **Riparian Working Group Conclusions**

In discussing the issues surrounding riparian standards, the riparian working group used the technical committee's work and also discussed the number of Alaskan streams that are not catalogued for fish and that do not appear on maps. To deal with this uncertainty, the group developed a double cap riparian system. Using the technical committee's stream channel typing system, a riparian standard was agreed to for types 1-9, with specific size and retention standards and operational requirements. The group also agreed that in no case will the retention requirements exceed 5% of the basal area of the standing timber in an operating area without adequate compensation to the private land or timber owner. Subject to the 5% cap, stream channel type standards will apply in all cases unless otherwise agreed by the land or timber owner and DNR with due deference to DF&G.

The Alaska Department of Natural Resources (DNR) will continue as lead agency for forest practices, but will provide due deference to Alaska Department of Fish and Game (DF&G) on requests for an alternative plan from the riparian standards. DNR will work with DF&G to assess the riparian retention standards against the 5% operational area cap, where applicable, with DNR maintaining the record. Field decisions regarding requests for alternative plans from the riparian standards shall be kept in writing by DNR. A key to this process can be found in the section on enhanced notification.

An early exchange of information between land or timber owners and the state through the voluntary release of annual plan and the subsequent mandatory detailed plan of operations, will allow state agencies to concentrate their field effort on those areas of highest concern.

The provisions of this agreement and the riparian standards listed in this section are intended to apply to private land in DNR's Region I. Riparian standards for private land in Region II are explained on page 18.

## General Provisions

There will be a riparian management zone (RMZ) adjacent to each stream or shore of anadromous waters; the standards will vary depending on stream channel type. Editor's note: language was to be developed by Frank Rue & John Sturgeon concerning cooperative methods to address management for high-value resident fish habitat. It is not complete: Bob Loeffler's suggested language is: Cooperative methods for protection of particular high value resident fish habitat should be developed, where appropriate, between DF&G and individual private landowners.

A RMZ is an area adjacent to a stream or shore which requires special management attention to protect water quality and fish habitat. Within an RMZ, special management practices will apply such as timber retention requirements.

For some stream classes, there is a conditional harvest zone (CHZ) in which greater attention is required. Any harvesting within the CHZ requires written DNR agreement with (DF&G review and with) due deference provided to DF&G.

Any timber taken from the CHZ or RMZ in excess of the timber retention standards must be replaced by comparably sized timber either in other sections of the riparian zone or from an area outside the riparian zone agreed to by DNR with due deference to DF&G.

Trees left as part of the CHZ or RMZ timber retention standards must be live and without significant damage upon completion of the harvest. In the case of blowdown, salvage operations may occur in the CHZ and RMZ with agreement from DNR with due deference to DF&G.

In the channel types that provide for a conditional harvest zone, it shall be the first 15 meters bordering a stream or shore as measured at a 90° angle from the ordinary high water mark.

Riparian stream channel type standards will apply in all cases unless the retention area is modified by agreements between DNR and the land or timber owner.

In no case will the retention standards exceed 5% of the basal area of the standing timber in a given operating area without adequate compensation at fair market value to the land or timber owner. Fair market value will be computed on the basis of the current market value of the trees to be harvested from the operating area. In some cases basal area retention of 7 1/2% or 10% may be required for timber harvest outside of an operating area. See pages 15 and 16 for details.

Basal area is the square footage of the diameter at breast height (dbh) of standing timber (dbh is four and a half feet above the ground). Basal area is computed by standardized procedures to be developed in regulation using, where practical, accepted timber cruising techniques.

Riparian retention standards are applied to stream or shore segments of 100 meters unless otherwise agreed to by DNR with due deference to DF&G.

All trees left due to the application of riparian standards within the CHZ and RMZ will count towards the 5% basal area cap. Trees left in channel types 1, 2, and 4, do not count towards the 5% cap. If inoperable areas are created by the riparian standards, those trees will count towards the 5% basal area cap.

Except for stream crossings, roads will not be built within the RMZ or CHZ without agreement by DNR with due deference to DF&G.

DF&G retains jurisdiction over stream crossings in accordance with Title 16 of the Alaskan Code. DF&G makes final determination of stream channel types.

DF&G Habitat Regulations. DF&G retains its current jurisdiction and will continue to exercise its current authorities. DF&G habitat regulations adopted under AS 16.05.840 and AS 16.05.870 will be cross-referenced and reprinted in the forest practices regulations (11 AAC 95) for the convenience of the forest industry. Habitat regulations adopted by DF&G and forest practices regulations adopted by DNR will be complementary and not duplicative. Standards for forest practices activities in riparian zones will be developed by DNR in consultation with DF&G and DEC.

DEC 319 Process. Standards for forest practices for DEC's 319 nonpoint source water pollution program will be addressed through riparian and other standards incorporated with the forest practices regulations. Such standards may be adopted or referenced in DEC's regulations. DNR will accord due deference to DEC on issues concerning water quality.

### RIPARIAN STANDARDS - INTENT

The Commissioner shall protect riparian areas from adverse impacts of logging on fish habitat. The management goals for riparian areas will be the adequate preservation of their function as fish habitat by maintaining: a short- and long-term source of large woody debris; streambank stability and channel morphology; water temperatures; streamflows; water quality; adequate nutrient cycling; food sources; clean spawning gravels; and sufficient solar influx. The Commissioner shall adopt regulations. The regulations may include higher standards of protection for fish and other public resources on public lands than private lands. These regulations may vary by region of the state and shall take into consideration reasonable classification of waterbodies.

## RIPARIAN STANDARDS TABLE

The riparian standards in this table apply only to anadromous waters in DNR Region I. (Standards also apply to type I channels that are tributary to an anadromous fish channel). Standards apply to each side of a stream.

<u>Channel Type</u>	<u>Riparian Standard</u>
1	15-meter RMZ or to slope break, whichever is first; no large woody debris (LWD) requirement; meet slope stability standards
2	30-meter RMZ or to slope break, whichever is first; meet slope stability standards.
3	15-meter CHZ and 15-meter RMZ with 50% retention <sup>1</sup> per size distribution <sup>2</sup>
4	30-meter RMZ or to slope break, whichever is first; meet slope stability standards.
5	15-meter CHZ and 15-meter RMZ with 50% retention <sup>1</sup> per size distribution <sup>2</sup>
6	15-meter CHZ and 15-meter RMZ with 50% retention <sup>1</sup> per size distribution <sup>2</sup>
7	15-meter CHZ and 15-meter RMZ with 50% retention <sup>1</sup> per size distribution <sup>2</sup>
8	15-meter CHZ and 15-meter RMZ with 50% retention <sup>1</sup> per size distribution <sup>2</sup>
9	15-meter CHZ and 15-meter RMZ with 50% retention <sup>1</sup> per size distribution <sup>2</sup>

Stream channel type standards will apply. However, in no case will the basal area retained be more than 5% of the basal area of the standing timber in a given operating area without adequate compensation at fair market value. The 5% retention cap will be applied within the RMZs and CHZs unless the retention area is modified by agreements between DNR with due deference to DF&G, and the land or timber owner.

Abbreviations: CHZ = Conditional Harvest Zone  
RMZ = Riparian Management Zone

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<sup>1</sup> Retention of any tree species may satisfy the requirement.

<sup>2</sup> A field committee composed of a representative of DOF, DF&G, and a landowner will work out methods to implement the retention per size distribution requirement, using basal area or other means to ensure protection for fish habitat and harvest opportunities for the land owner.

## Determining the Operating Area and 5% Cap

This section lists the method for defining an operating area.

### Definitions

**Planning Area.** All contiguous land under the ownership of an individual, a corporation, or group of corporations under common control within an entire drainage, a sub-drainage in a large drainage, or a major reach of a large river.

**Operating Area.** The operating area includes all current and future harvest areas within the planning area. It includes all trees that could be cut within that area using conventional logging methods. It includes all such trees regardless of whether application of riparian standards would preclude cutting.

### Process

1. Operator designates operating area. Portions of planning area not included within operating area cannot be logged until the next rotation, unless the operator complies with the guidelines outlined in the section titled "Harvesting Timber Outside the Operating Area," on the next page. This provision does not apply to land conversions.
2. Operator calculates basal area within the operating area using methods defined in regulation.
3. Operator calculates 5% of the basal area within the operating area. As explained earlier in this chapter, the landowner is not required to leave more than 5% of the basal area in the operating area without compensation. The 5% cap applies to all trees within the operating area that are left because of the riparian standards plus all tree stands made inoperable by application of those standards.
4. DNR evaluates proposal to determine whether basal area is accurate (plus or minus 10%).
5. Operator proposes actual harvest layout <sup>n</sup>incorporating riparian management standards.
  - \* If the 5% cap is not exceeded, DF&G may recommend different configuration of the riparian zone to maximize protection of fish habitat. However, the landowner makes the final decision whether to apply the riparian standards or to follow DF&G's suggestions.
  - \* If the 5% cap is exceeded, the 5% retention shall be distributed through the riparian areas by agreement with DNR with due deference to DF&G.
6. If the State wants the landowner to leave more trees in the riparian zone than is required under riparian standards, the state may offer to the landowner adequate compensation at fair market value. Fair market value is computed on the basis of the current market value of the trees to be harvested from the operating area. (See also, Harvesting Timber Outside the Operating Area, on the next page.)

**Harvesting Timber Outside the Operating Area.** In order to discourage gerrymandering of the operating area, the following procedures will apply.

If the 5% cap has not been reached. The operator may harvest timber outside the original operating area if the 5% cap has not been reached and previous operations have complied with riparian standards or DF&G's recommended configurations as agreed to by the operator. The operator must comply with riparian standards in the new operating area.

If the 5% cap has been reached. If the 5% cap has been reached and the operator has not included all harvestable timber in the operating area, the timber not included may not be harvested until the next rotation, unless the operator and DNK (in consultation with DF&G) agree on additional riparian habitat enhancement or protection under the guidelines outlined below.

The basal area of the timber required to be dedicated to additional protection and enhancement will depend on the basal area of the proposed harvest that was originally excluded from the operating area. (Editor's note: the previous sentence was criticized as unclear and was to be re-written by Frank Rue & Tom Dillon. Bob Loeffler's suggested re-write is: The amount of the new operating area's basal area required for fish habitat protection or enhancement is dependent on the new operating area's size, relative to the original operating area's size.)

- \* If the basal area proposed to be harvested is less than 10% of the basal area of the original operating area, the basal area of timber required for additional protection and enhancement will be 7 1/2% of the basal area of the new operating area.
- \* If the basal area proposed to be harvested is more than 10% of the basal area of the original operating area, the basal area of timber required for additional protection and enhancement will be equal to 10% of the basal area of the new operating area.

The additional protection and enhancement may be in other watersheds in areas of value for anadromous fish habitat.

### Side-Slope Stability Standards

This page lists the side-slope stability standards referenced in the riparian standards table on the previous page.

For channel types 1, 2, and 4, in addition to the general forest practices act standards covering forest practices activities, the following slope stability requirements shall apply:

1. Slopes in excess of 60% are slopes considered to be of high risk to slope failure.
2. Avoid undercutting the toe of slopes with a high risk to slope failure by road construction.
3. At the discretion of the operator, leave standing low value and non-merchantable timber where feasible to reduce risk of debris torrents.
4. Full or partial log-suspension will be achieved.
5. Fall and yard timber away from streams in "V" notches.
6. In these areas, side casting of displaced soil from road construction will be avoided to the maximum extent practicable.

## **2. Interim Riparian Standards for Region II (Private Land)**

The standards outlined in the previous pages apply to private land in Region I. The standard outlined on this page applies to private land in Region II.

A 30-meter special management zone (SMZ) will be used on all stream types. (See channel type chart on page 8.) A SMZ is a shoreline or streamside area that will be managed primarily to protect anadromous and high quality resident fish habitat and water quality. Timber harvest may occur in SMZs if it is sited and designed to be consistent with these fish habitat and water quality goals. Timber harvest decisions in the SMZ require DNR approval with review and due deference to DF&G. A SMZ will be used on any waterbody in which anadromous fish or high value resident fish are found. These may include rivers, streams, lakes, estuaries, and wetlands.

A Region II group will develop riparian standards within the next 12 months for Region IIa and IIb. DNR will form a committee representing interested groups similar to the current forest practices steering committee. The riparian standards and stream types will be studied, with special emphasis on stream type 6's. The group should address all stream types, operating and planning definitions, the size and existence of a cap, and the size of and management within riparian zones. The recommendations of the group will be given to the Board of Forestry for review, and then to DNR for adoption.

### 3. Definitions

#### Special Zones Along Streams.

Riparian Management Zone (RMZ). An RMZ is a shoreline or streamside area which requires special management attention to protect water quality and fish habitat. Within the RMZ, special management practices such as timber retention requirements or slope-stability standards may apply. Timber harvest within the RMZ does not require agreement by DNR as long as it follows the standards.

Special Management Zone (SMZ). A SMZ is a shoreline or streamside area that will be managed primarily to protect anadromous and high value resident fish habitat and water quality. Timber harvest may occur in SMZs if it is sited and designed to be consistent with these fish habitat and water quality goals. Timber harvest decisions in the SMZ require DNR approval with review and due deference to DF&G.

Conditional Harvest Zone (CHZ). A CHZ is a shoreline or streamside area which requires special management attention to protect water quality and fish habitat. Any harvesting within a CHZ requires written DNR approval with DF&G review and with due deference provided to DF&G. Any timber taken from a CHZ in excess of the standards must be replaced by comparably sized timber either in other sections of the riparian zone (an adjacent RMZ) or from an area outside the riparian zone agreed to by DNR with review and due deference provided to DF&G.

No-cut Buffer. A no-cut buffer is a shoreline or streamside area in which timber harvest is not allowed.

RMZs, SMZs, CHZs, and no-cut buffers may be applied adjacent to rivers, lakes, estuaries, or wetlands. (See channel typing chart on page 8 and riparian prescription for the locations where these zones apply.)

#### Other useful Definitions.

High Value Resident Fish. For private lands, high value resident fish means resident fish populations which are accessible to the public and are or have historically been important for recreational, personal use, commercial or subsistence purposes.

Anadromous Fish Stream. In lieu of site-specific determinations that a stream does or does not contain anadromous fish, it should, for planning purposes, be presumed that a stream is anadromous if it is connected to anadromous waters without DF&G documented physical blockage and has a stream gradient of 8% or less. Where a previous site visit has not been made, DF&G will, at the operator's request, conduct a field review to document the presence of an anadromous fish. The field review to document the presence of anadromous fish will be scheduled when the anadromous fish are likely to be present and the site is accessible.

Class I Waters. Class I waters are those rivers, streams, lakes, estuaries, and wetlands that contain anadromous or high value resident fish.

Ordinary High Water Mark. The mark along the bank or shore up to which the presence and action of the nontidal water are so common and usual, and so long continued in all ordinary years, as to leave a natural line impressed on the bank or shore and indicated by erosion, shelving, changes in soil characteristics, destruction of terrestrial vegetation, or other distinctive physical characteristics [from 11 AAC 53.900(23)]. In tidal zones, the measurement is from mean higher high water.

Basal Area. Basal area is the cross-sectional area at breast height of standing trees expressed in square feet. Diameter at breast height (dbh) is measured four and a half feet above the ground. Basal area is computed by standardized procedures to be developed in regulation using, where possible, accepted timber cruising techniques.

Planning Area. All contiguous land under common ownership within an entire drainage, a sub-drainage in a large drainage, or a major reach of a large river.

Operating Area. The operating area includes all current and future harvest areas within the planning area. It includes all trees that could be cut within that area using conventional logging methods. It includes all such trees regardless of whether application of riparian standards would preclude cutting.

Due Deference. DNR will give due deference to DF&G and DEC as defined in 6 AAC 50.120. For decisions regarding variations to the riparian management standards, the habitat requirements shall be the paramount values within the riparian zones. If DNR does not agree with DF&G, it will prepare a written finding documenting their differences and elevating the issue as appropriate.

DF&G also receives due deference on road location decisions within streamside zones, and DEC receives due deference on the application of water quality standards. DF&G also makes final determination of stream channel types.

From 6 AAC 50.120: " 'Due deference' means that deference which is appropriate in the context of the commenter's expertise and area of responsibility, and all the evidence available to support any factual assertions."

Conventional Logging Methods. Conventional logging methods include shovel yarding, tractive means of skidding, and cable means of yarding such as high lead or skyline. Conventional logging methods do not include helicopter logging or balloon-assisted yarding.

# Chapter 1. Riparian Management

## B. State Land

### I. Existing State Plans

On state land managed by DNR, area plans, state forest plans, and management plans have determined buffer widths and management adjacent to streams and water bodies. These policies have been determined in consultation with DF&G and with significant public review and comment. Policies vary among plans, but are generally consistent within regions of the state. Three examples follow:

From the Draft Prince of Wales Island Area Plan:

Anadromous fish streams: There will be a fish habitat management zone that is 300 feet wide, as measured from the ordinary high water mark, on each side of all catalogued anadromous fish streams. Site specific circumstances may sometimes dictate the establishment of a fish habitat management zone that is wider than 300 feet. The primary management objectives for a fish habitat management zone will be to maintain or enhance anadromous fish habitat. Only activities which are or can be made compatible with this objective will be allowed in these zones. DNR will consult with ADF&G before and throughout project planning to determine the appropriateness of a project, appropriate buffers and their width, and the appropriate design and maintenance of projects that meet objectives of the management zone.

Area plans written for southcentral and northern Alaska:

Generally these plans require that to the extent feasible and prudent, there will be setback a minimum of 100-foot landward of ordinary high water mark between designated anadromous fish waters and non-water dependent uses. The department interprets this language to indicate that there will be, to the extent feasible and prudent, a 100-foot no-cut zone between designated anadromous fish waters and timber harvest. (A smaller zone exists in the Willow Subbasin Plan: a minimum of 50-foot each side of the ordinary high water mark. Stream buffers in both the Susitna Area Plan and the Willow Subbasin Plan may be updated by the Susitna Regional Forest Plan, currently in progress.)

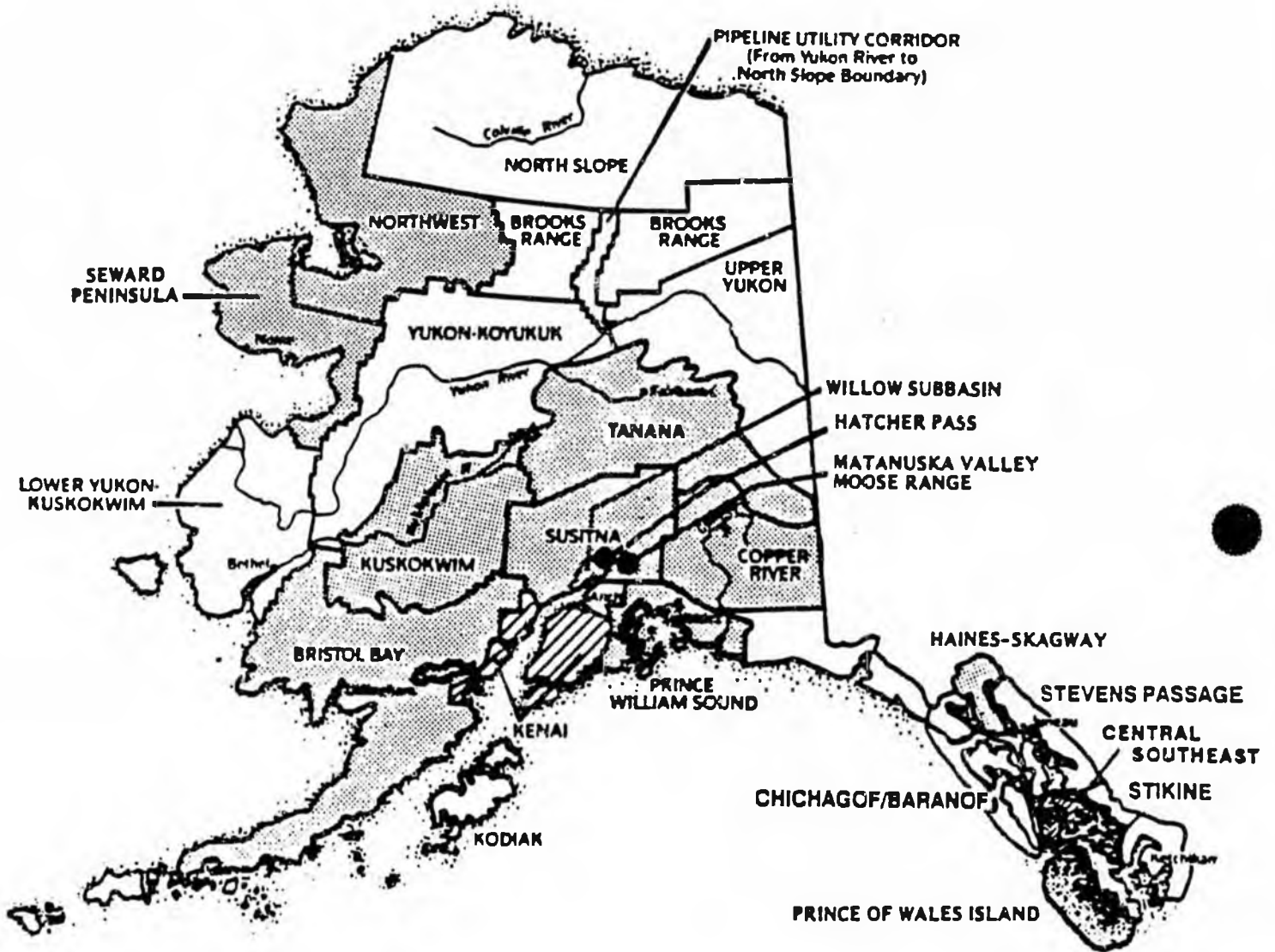
The Tanana Valley State Forest Plan:

The State Forest Plan requires a Special Management Zone (SMZ) adjacent to a stream or lake that will be managed primarily to protect or enhance recreation values, significant fish and wildlife habitat and human uses, and water quality. Its width will be determined on a case-by-case basis but will at a minimum extend 100 feet landward from the ordinary high water mark. Timber harvest may occur in the SMZ if it is sited and designed to be consistent with the primary recreation, fish and wildlife, and water-quality goals stated above.




The general areas and status of state area plans are shown on the map on the following page.

# Alaska Department of Natural Resources

## AREA PLANS



### AREA PLANNING STATUS

-  Completed area plans
-  Area plans in progress
-  Not scheduled for area plans at this time

MARCH 1989



Alaska Department of  
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## II. Future State Plans

All future state land use plans and revisions to existing plans will include at a minimum a 100-foot conditional harvest zone along class I waters (anadromous and high value resident fish waters). Any additional riparian management zone requirements will be addressed during the planning process.

Until an area plan, forest management plan, or site-specific plan is developed, the department will include a 100-foot no-cut buffer with an additional 200-foot conditional harvest zone along all lakes and streams. This provision, however, will not require the renegotiation of existing contracts. Also, this agreement and the proposed revisions to the act are not intended to affect on-going litigation in any way. (For description of the terms "riparian management zone," "conditional harvest zone," and "no-cut buffer," see page 19.

## **Chapter 1. Riparian Management**

### **C. Other Public Land**

The first two sections of this chapter describe riparian management prescriptions for private and state land. Other public land, including trust lands such as mental health lands, school lands, and university lands, will, if managed by DNR, follow the state land prescription. Borough, municipal, and other public lands not managed by DNR will follow the prescription below.

A 30-meter special management zone (SMZ) will be used on all stream types. (See channel type chart on page 8.) A SMZ is a shoreline or streamside area that will be managed primarily to protect anadromous and high value resident fish habitat and water quality. Timber harvest may occur in SMZs if it is sited and designed to be consistent with these fish habitat and water quality goals. Timber harvest decisions in the SMZ require DNR approval with review and due deference to DF&G. A SMZ will be used on any waterbody in which anadromous fish or high value resident fish are found. These may include rivers, streams, lakes, estuaries, and wetlands. This prescription is the same as the interim prescription for private lands in Region II.

## Chapter 2. The Enhanced Notification System

This section describes the enhanced notification system. It applies to all lands which are not owned and managed by the state (DNR). For state land, the DNR forest planning process applies (see DNR planning process, Chapter 5, Section A). The way the new system would operate is shown on pages 30-32 at the end of this section. This section includes the following provisions:

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Public Information	25
Standard of Review	26
Agency Review	26
Variations from Standards	28
Coordination	28
Appeals	29
Administrative Record	29
Diagram of the Proposed Process	30

**REVIEW PHASES.** There will be three tiers of review. Information provided during the first and second tiers of review is described in Appendix A. Specific field information will be provided as available and necessary.

1. Annual Plan of Operation (Voluntary).

The annual plan is voluntary and will be useful for the agencies, the public, and the landowner. It provides information about annual (or longer term) activities the landowner expects to begin. It gives the agencies early notice and review of the probable harvest areas and allows the agencies to provide early information, suggestions, and potential problem areas to the landowner. For the public, it provides early notice and information, and an opportunity to provide local knowledge to the agencies and the landowner.

2. Detailed Plan of Operations (Required).

This plan provides the agencies with details of cutting units, road alignments, and other information necessary for review against the standards of the forest practices act.

3. Field Review (where necessary). Where the agencies are unsure about determinations based only on the detailed plan of operation, the agencies may require a field review. DF&G and DEC may request a field review, and DNR will require a field trip.

**PUBLIC INFORMATION.** Information from tiers 1 and 2 (or a synopsis of the information) will be distributed to a regional or some geographically based mailing list by DNR. Coastal districts affected by the proposed harvest will be given notice during this distribution. The comment period will be identified in the packet. DNR will provide comments received to the landowner. Field decisions will not be subject to public comment because of the operational problems of injecting a 30-day or longer delay into the field process. (Field decisions will, however, be documented for review. See Administrative Record, at the end of this draft.)

## STANDARD OF REVIEW

1. A system of enforceable standards. The forest practices review system would have enforceable statutory and regulatory standards that harvest operations must follow. Where possible, these would be design standards; where that is not possible, they would be performance standards. The statute should also contain some guidance for DNR to use in its decisions whether to agree to a variation from these standards. These statutory and regulatory standards will be developed to satisfy DEC 319 requirements, and to serve as the Alaska Coastal Management Program (ACMP) standards on private land. For further details concerning ACMP, see page 55.
2. Scope of review. The scope of agency review is to determine whether forest practices statutory and regulatory standards will be met by the proposed activities. There is no general best interest finding. While the public can comment on anything they choose, the agencies would only have the discretion to consider those comments as they concern a violation of a forest practices standard or proposed variations from the standards.

**AGENCY REVIEW - Review of Conformance of Activities to FPA Standards.** (Discussion below does not include review of annual plan of operations. For discussion of that process, see REVIEW PHASES, above.) In all cases, DNR decisions will be based on appropriate consultation, coordination, or due deference as discussed on pages 28 and 29.

1. Office Review (i.e., Tier 2 - Review of Detailed Plan of Operations). Agencies review landowner's detailed plan of operations to determine if proposed activities will violate a forest practice standard.
  - a. *Proposed Activity Consistent with Standards.* If an activity meets the applicable standards, the activity would continue as planned.
  - b. *Field Review Needed.* If a field review is necessary for DNR to determine whether the activity would be consistent with the standards, then DNR notifies the landowner that field review is required before the activity can occur. A field review may also be requested by the landowner.
  - c. *Activity Violates Standard.* If DNR finds the activity, as proposed, would violate a standard, then DNR can issue a directive or a stop work order (for difference between them, see section below). One of the following would apply.
    - (1) the landowner could propose a different method of performing the activity for the agencies to evaluate;
    - (2) the landowner could conform to the agencies' recommended method for performing the activity;
    - (3) the landowner and agencies could discuss and agree on a method consistent with the standard; or
    - (4) the landowner can appeal the directive or stop work order.

2. Field Review. A field review will be conducted when necessary to determine whether a proposed activity is consistent with forest practices act standards.

If, after the field review, DNR felt an activity would not violate a standard, the activity would continue as planned. If DNR felt the activity, as proposed, would violate a standard, then DNR can issue a directive or a stop work order (for difference between them, see section 4, below). After the directive or stop work order, one of the four options would apply that are listed in I.c. (1) through (4) above.

3. Review Schedule

- a. *Detailed Plan of Operations.* Agencies would complete review and DNR would respond to the landowner within 30 days. If DNR does not respond, the activity could continue as planned. An additional 10 days may be added for agency elevations.
- b. *Field Review.* The landowner would give DNR 21-days notice to conduct a field review prior to conducting any activity at the site identified as needing a field review. The landowner would not give the notice until site conditions were appropriate for the inspection and reasonable access was available. Reasonable access means that the site of the proposed activity has been surveyed or marked, and that the area is free of significant snow cover. At that time, the DNR would have 21 days to complete inspection and make their decision unless an alternate schedule is agreed upon by agencies and the landowner. (D&G and DEC may also make inspections within the 21-day period.)

4. Directive versus Stop Work Order.

- a. *Directive.* A directive is a letter that DNR writes to the landowner saying how a proposed activity or part of an activity would be out of compliance with a FPA standard. The landowner may appeal a directive; however, the landowner can continue with the activity unless a stop work order is issued or the agency directive is upheld on appeal.
- b. *A stop work order.* A stop work order is similar to a directive -- that is, it's a letter or a form stating that an activity or part of an activity violates a standard. The difference is that a stop work order means that the landowner cannot continue with the activity pending appeal. They must stop pending appeal.

A stop work order is used when the agency believes that significant harm will occur if work continues. The following are some examples of where significant harm would occur if work continues: road building that may cause a landslide, cutting trees that the standard says should remain standing (i.e., once cut, the trees can't be put back), other activities that will cause imminent erosion into a stream.

If delaying compliance will not cause a significant harm (e.g., it won't occur during the time of the appeal process), then a directive is appropriate. The following are some examples of where significant harm might not occur during the time of the appeal: not putting a road to bed properly, cleaning up slash, changing a yarding location (this may not be harmful to delay, if use of the yard location is still 20 days away). In each of these cases, a 10-day delay for appeal of the directive may not cause significant harm because