

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
6514 SENATE RESOURCES

918

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

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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

#### 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.

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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.

**Part II - 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	<70'
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 RIPARIAN 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

1 almost non-existent

\* 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.<sup>1</sup> Riparian standards for private land in Region II<sup>2</sup> 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. 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 16 and 17 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.

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<sup>1</sup> Region I is the Coastal Sitka Spruce-Hemlock Forest. Its boundaries are approximately all of Southeast, Prince William Sound, and portions of Cook Inlet and the Kenai Peninsula.

<sup>2</sup> Region II includes the boreal forest. It is north and west of Region I. It includes the Susitna Basin the Cooper River Basin, and all of interior Alaska.

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 1 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>3</sup> per size distribution <sup>4</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>3</sup> per size distribution <sup>4</sup>
6	15-meter CHZ and 15-meter RMZ with 50% retention <sup>3</sup> per size distribution <sup>4</sup>
7	15-meter CHZ and 15-meter RMZ with 50% retention <sup>3</sup> per size distribution <sup>4</sup>
8	15-meter CHZ and 15-meter RMZ with 50% retention <sup>3</sup> per size distribution <sup>4</sup>
9	15-meter CHZ and 15-meter RMZ with 50% retention <sup>3</sup> per size distribution <sup>4</sup>

*Never  
type 11*

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

<sup>3</sup> Retention of any tree species may satisfy the requirement.

<sup>4</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 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 DNR (in consultation with DF&G) agree on additional riparian habitat enhancement or protection under the guidelines outlined below.

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

The standards below are 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 9.) 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 9 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. Background Information: 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-feet 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.)

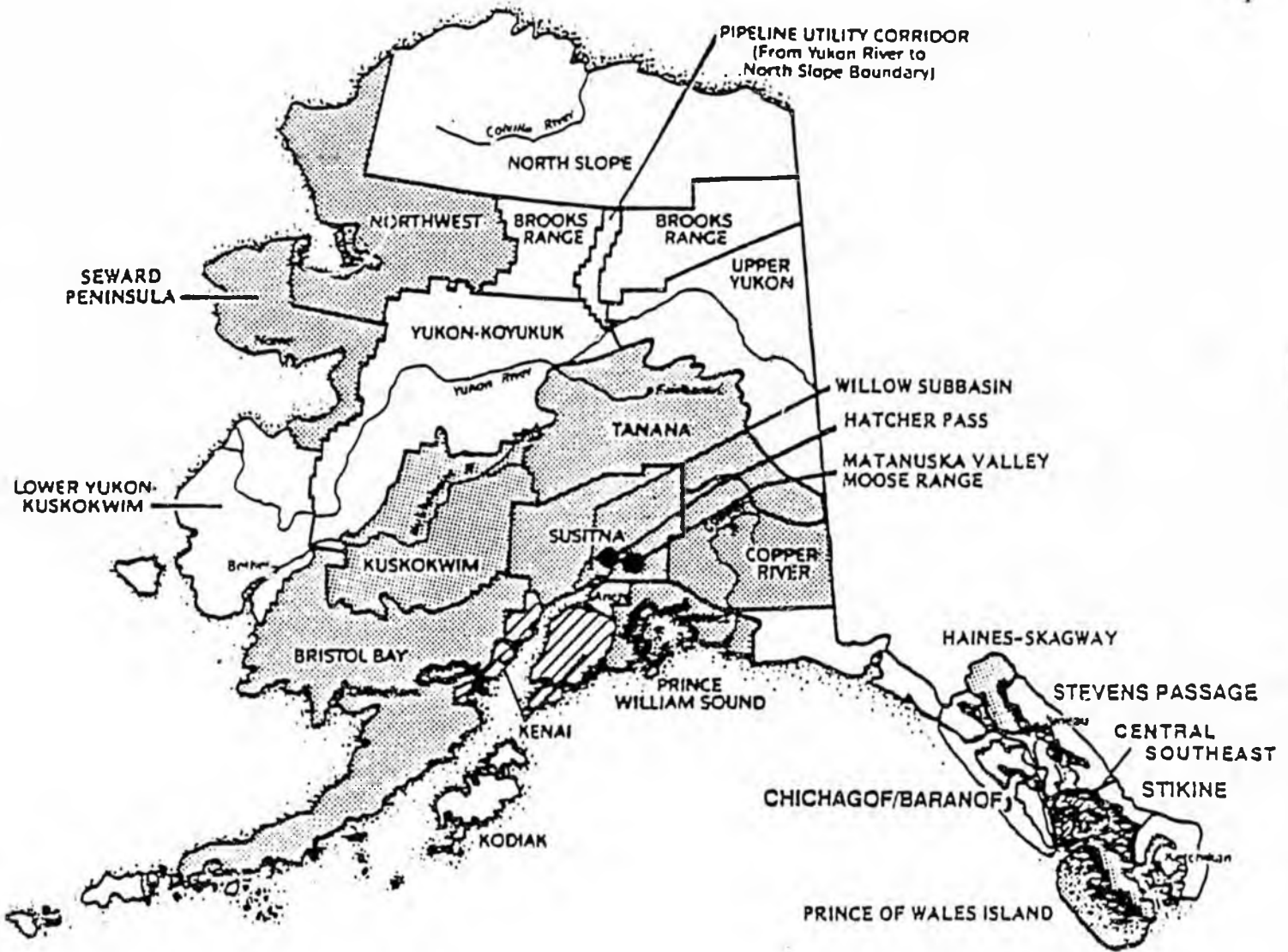
The Tanana Valley State Forest Plan:

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






MARCH 1989



Alaska Department of  
**NATURAL  
RESOURCES**

### AREA PLANNING STATUS

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

## II. Riparian Standards for State Land<sup>5</sup>

On state land north of the Alaska Range, a 30-meter special management zone (SMZ) along all anadromous and high value resident fish waters 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. (This standard is the same as the interim standard for private land in Region II.)

On state land south of the Alaska Range, there will be a no-cut zone within 30-meters of all anadromous and high value resident fish waters. Between 30- and 90-meters, any timber harvest must be consistent with the maintenance of important fish and wildlife habitat.

Riparian requirements in addition to those listed above may be required during the sale design or planning process.

Nothing in this section alters the terms of any existing contract or the outcome of any pending litigation, but an amendment to or renewal of an existing state timber contract must be consistent with these standards.

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<sup>5</sup> Editor's Note. this standard was changed during legislative drafting. In the April 10th draft, it contained the standard below.

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.

## 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 9.) 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 1.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. (DF&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

delaying the activity won't cause the harm.

- c. *When can a stop work order or directive be used?* A stop work order or a directive can be used during the office review, during a field review, or anytime a DNR field inspector sees an operation that will violate a standard.
- d. *Are directives and stop work orders effective before an activity takes place?* Yes. We are using the term "stop work order" to mean that work must stop (or cannot start) pending appeal. We are using them to apply to existing activities and proposed activities. In other words, where DNR reviews a plan and sees that significant harm will occur when the activity begins, they can issue a stop work order. If the activity is already occurring, DNR may also use a stop work order. Both a "directive" and a "stop work order" can apply to existing and proposed activities.

**VARIATIONS FROM STANDARDS.** The landowner or operator may propose a variation from a design standard in a specific instance. For example, if a design standard was designed to avoid landslides and in this case the design standard was unnecessary because it was solid rock and a landslide was unlikely, or the landowner could provide an alternative design that gave the same degree of landslide protection, then a site-specific variation from the standard would be appropriate. Note, however, that the landowner could not appeal the standard itself, just that its application was not necessary in a particular case to achieve protection of public resources from significant harm.

If a variation was proposed, any one of the following would apply:

- (a) the agencies could agree to the variation as proposed;
- (b) the agencies could modify in the landowner's proposal and the landowner could agree;
- (c) the agencies could negotiate an agreement acceptable to both parties; or
- (d) they could not come to agreement. If they did not come to agreement, the mandatory standard would apply; that is, the mandatory standard would be a fall-back position for both the agencies and the landowner.
- (e) the landowner could appeal the agencies denial of the variation. In this case, the landowner would have to abide by the standard during the time of the appeal (and afterward, if the appeal was denied).

If an agency wanted the landowner to provide protection above and beyond the standard, it could propose a variation from the standard. If the landowner agreed, then the protection would be provided. If the landowner did not agree, then standard would apply.

## COORDINATION

1. Coordination of review. DNR will be the coordinating agency for all activities pursuant to the forest practices act (distribution of information, scheduling, field logistics, project status, etc.) DNR will also be the agency charged with implementing the Forest Practices Act with the appropriate consultation, elevation, and due deference.
2. Consultation. For application of all standards to a specific project site, for all review tiers, all agencies and coastal districts (if the project will affect their district) will interact with DNR in a consultative role. Their advice is not binding on DNR but is an effective way to obtain and apply agency and local expertise to a proposal.

3. 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."

DNR will assist DEC by identifying areas and proposals where water quality issues are likely to arise. This will allow DEC to focus its limited staff resources on areas and issues where water quality is of greatest concern, reducing the need for DEC to duplicate DNR's level of field presence.

4. Elevation. A DNR decision will not occur if an agency formally requests discussion of the issue at a higher level authority. Any elevation to higher authority will be completed within 10 days. If necessary, DNR will notify the landowner or operator of the additional 10-day waiting period.

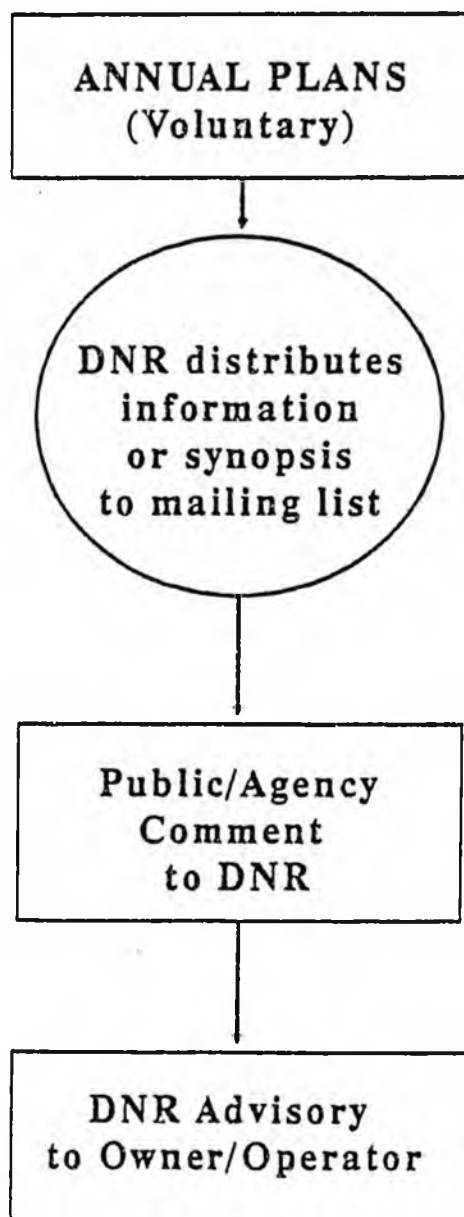
**APPEALS.** The appeal process would be quick (10-days or less for directives; than 5 working days or less for stop work orders); would be internal to DNR; and would not require the hiring of an appeal officer. The appeal process may be integrated into the agency elevation process.

#### **ADMINISTRATIVE RECORD.**

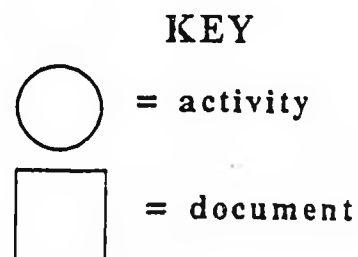
1. Documenting Decisions. All decisions would be in writing. Landowners need written decisions so they know what activities and standards they will be held to. The public and agencies need adequate documentation so that they can review agency actions.
2. Compiling Decisions. DNR will compile and index the decisions including directives, stop work orders, and variations from standards. In this fashion there will be a continuous record for the public or the Board of Forestry to review to determine whether the system is working and if it needs change. Annually, a summary of this record will be submitted to the Board of Forestry for review.
3. Confidential Data. All financial data submitted to DNR to justify compensation or for other purposes will be confidential.

THE ENHANCED FOREST PRACTICE  
NOTIFICATION SYSTEM  
Diagram of Proposed Review Process  
(for non-state lands)

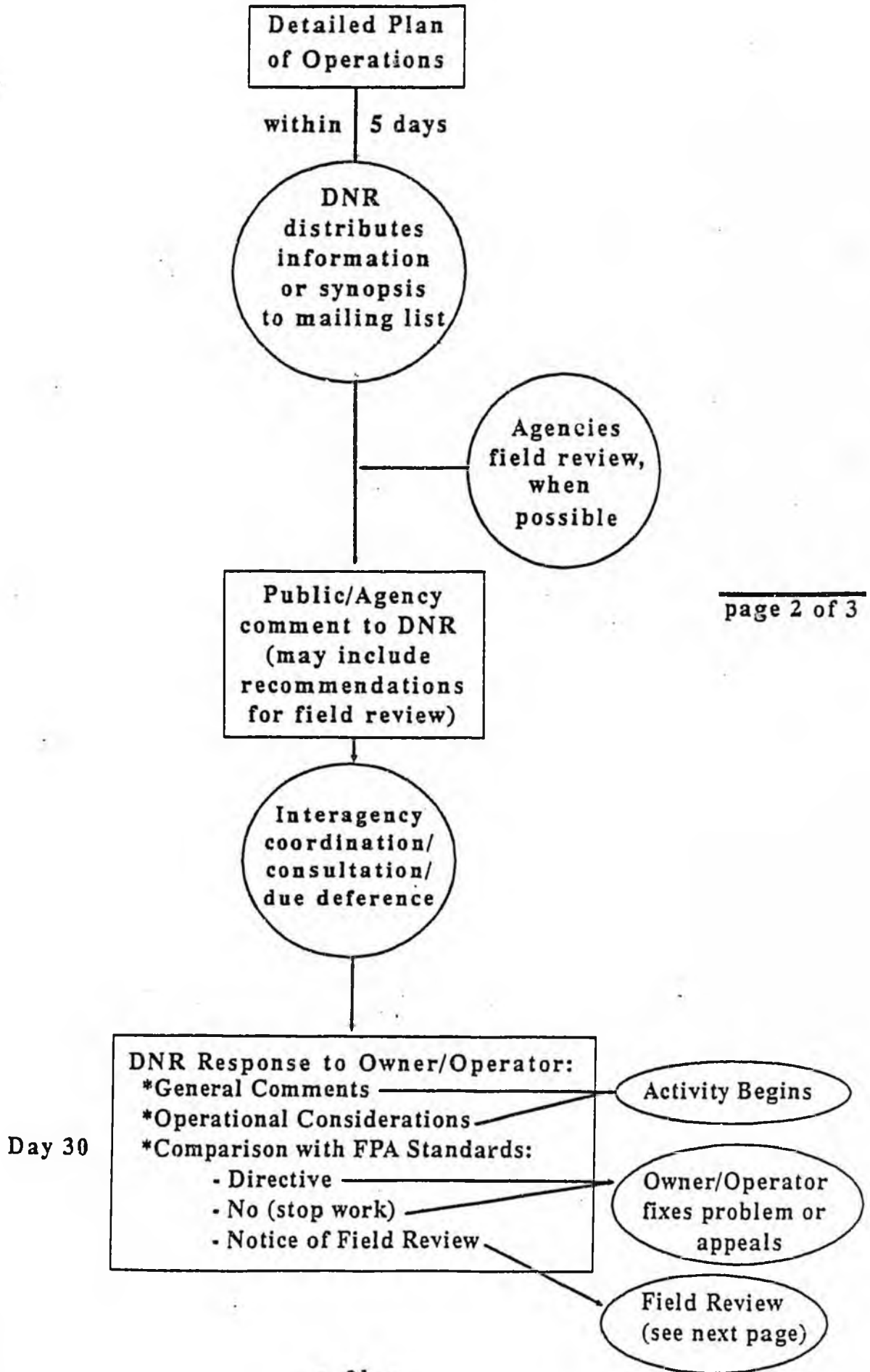
REVIEW OF ANNUAL PLAN



page 1 of 3



**OFFICE REVIEW:**



Day 30

# FIELD REVIEW

(if not conducted during  
initial 30-day period)

Agencies Field Review  
Schedule based on:

- \* 21-day notice by industry,  
weather, site conditions,  
reasonable access  
or
- \* mutually agreed upon  
time

Interagency  
coordination/  
consultation/  
due deference

page 3 of 3

DNR response to Owner/Operator:

- \* General Comment
- \* Operational Comments
- \* Comparison with FPA Standards:
  - Directive
  - stop work order

Activity Begins

Agencies Inspect

Owner/Operator  
fixes problem or  
appeals

21 days max.

## Chapter 3. Enforcement

The Forest Practices Act currently provides for stop orders and civil fines. However, in the existing law, both a stop order and a civil fine require a hearing before an independent 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 [AS 41.17.139(a)]." This requirement is expensive and this hearing requires that DOF personnel have legal training that they currently do not have.

The FPA will be amended to provide the following additional enforcement remedies:

1. Violation of the Act, a regulation or an order will be a Class A misdemeanor (existing civil penalties remain available).
2. The requirement for an independent hearing officer will be deleted.
3. DNR will have the authority to issue "stop orders" for actual or threatened violations without previously providing an administrative hearing under the following conditions:
  - a. there must be an imminent threat of significant harm to public resources;
  - b. the order must be written, and the grounds for the order must be stated. At the hearing, the agency must rely on the same grounds stated in the order; and
  - c. the order will be effective for 5 working days after the receipt of a request for a hearing, in which time an agency hearing must be held to uphold or rescind the order.
4. The FPA will require that prior to taking any enforcement action (other than an emergency action) all state agencies with enforcement authority over the matter will establish a uniform state enforcement strategy. All participating agencies must agree to the contents of that strategy. The uniform strategy could include all enforcement strategies available to the agencies. When developing the coordinated enforcement strategy, each agency retains its authority to determine the appropriate remedy under its statutes and regulations. For specific types or classes of violations, procedures to establish that strategy may be established in advance through the procedure in (5) below.
5. The agencies will write procedures for developing these strategies.

In developing the required uniform enforcement strategy, state agencies will accord deference to each agency's statutory authorities, and will respect these authorities to the extent consistent with the strategy's goals of avoiding inconsistent or duplicate enforcement action.
7. The FPA will provide that state agencies must comply with the uniform state enforcement strategy.

### Notes from the Steering Committee Meeting:

- \* The hearing officer is the deciding officer; the loser may either go to court or request the Commissioner's review or reconsideration based on the existing record. (Specifically relevant to section .133 of the act.) Also, the hearing is based on the facts of the field investigation, and facts presented by the operator and agencies.

\* In section .143 of the act, delete the attorney general's function. The agreement in principle will indicate that the commissioner's hearing authority will be delegated to the state forester with the ability to redelegate as appropriate.

\* The enforcement remedies are possible on all land ownerships: private, borough, or state.

\* There was a question of what constitutes a violation (with respect to civil fines, sec .141). The answer was that the enforcement remedies provided to DNR would use a similar definition to that provided to DEC under its Title 46.

## Chapter 4. Board of Forestry

- A. The Board of Forestry should be composed of seven members or representatives of the following:
1. A member or representative of a statewide commercial fishing organization;
  2. A member or representative of a for-profit corporation established under the Alaska Native Claims Settlement Act;
  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 state, municipal, or federal governments (except for university employment).
  6. A professional forester who is not employed in that capacity by state, municipal, or federal governments (except for university employment).
7. The State Forester is the non-voting chair of the Board.
- B. The members should be selected by the governor. Terms should be staggered to provide continuity between administrations, and removal should be for cause only.
- C. Appropriate technical staff shall be provided at board meetings by DEC, DF&G, DNR. Board staffing by DOF.
- D. In addition to the existing duties in the Forest Practices Act, the board should provide a forum for representatives of concerned parties to discuss and attempt to resolve relevant issues concerning Alaska's forest resources. Additional duties of the Board shall include preparation of an annual report, including any dissenting opinions, to the legislature and the governor on the effectiveness of the act, the need for legislative or regulatory changes, and research and monitoring needs, based on public comment, agency input, and at least one public meeting in each region annually (i.e., Southeast, Southcentral and Interior Alaska).
- DNR, DF&G, and DEC will present an annual report independently to the legislature and the Board of Forestry, on the resources for which they have statutory expertise and make recommendations for any improvements that rectify procedural or substantive problems. (For duties of the board concerning research and monitoring, see page 63.)
- E. The quorum for the operation of the board will be five voting members. Decisions may be made with one member dissenting rather than by simple majority or by unanimous consent.
- F. The chair will work with the board to establish procedures for scheduling and organizing meetings. If a board member cannot attend a meeting, he may send an alternate. The alternate must, however, represent a the same constituency (i.e., be a member or representative of the environmental community; be a professional forester not currently employed in that capacity by state government; etc.)

## Chapter 5. Wildlife and Planning

This chapter of the agreement describes the proposed DNR forest planning process. This planning process is the method of implementing wildlife protection during timber harvest on state land managed by the Department of Natural Resources.

As a summary, changes to DNR's forest planning process accomplish the following:

- \* 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.

The first part of this chapter (pages 37 through 44) describes the proposed planning process. While DNR's general planning process is described, including area plans, changes are concentrated in the forest planning process: state forest plans, forest management plans, and forest management reports.

The second part of this chapter describes the intent of the committee for wildlife on state land. It is followed by proposed regulations to implement the proposed changes to the planning process, including wildlife protection during timber harvest on state land. The fourth section describes the committee's intent for wildlife on private lands.

The organization of this chapter is outlined below.

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## Chapter 5. Wildlife and Planning

### A. Department of Natural Resources Forest Planning Process

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Proposals for Statute/regulation Changes	Page 44

#### Summary

Land use plans are DNR's method for providing general guidance for land management. They have substantial agency and public involvement, generally including three rounds of public meetings.

The department receives agency and public review of timber sale design through its Forest Management Report (FMR). It includes the department's analysis and design details for individual timber sales. The FMR receives public and agency review. The FMR also serves as the Best Interest Finding for each sale.

The Five-Year Timber Sale Schedule, is a technique for getting improved public and agency review of the department's timber sale program. It is intended to give the department early warning of issues from the timber industry, agencies, and the public that may influence the individual sale design or the department's overall sale program. The schedule does not replace other planning and public notice requirements.

## LAND USE PLANS GENERAL GUIDANCE FOR LAND MANAGEMENT, INCLUDING FORESTRY

The Department uses land use plans to provide general guidance for land management, including timber harvest. The detail of the guidance can vary substantially between plans and within plans for an area. The guidance can be as general as setting out the primary management values. It can be as detailed as setting out specific timing restrictions and harvest practices, or locating areas where timber harvest is expected and where it is prohibited. The detail of the guidance depends on public and agency concern, the amount of knowledge about the issue, the type of decision required, and the amount of data and time available.

Land use plans include area plans and management plans of which state forest management plans are one example. (Other divisions and agencies also prepare plans -- for example, the Division of Parks prepares plans for state parks -- but these are not described here.)

### I. Types of Plans

#### A. Area Plans

The Department of Natural Resources uses area plans to determine the primary management values on lands managed by the department. The area plan determines whether land will remain in state ownership or be sold. For land that remains in state ownership, the plan determines the classification, management intent, allowable and prohibited uses, and guidelines for the use of state land. For example, an area plan might determine that there are two primary management objectives for the land -- say, forestry and wildlife -- and might provide general guidelines for those two uses to be managed compatibly. In some cases very specific guidance is included.

Area plans exist or are in progress for approximately 60% of state land. Completed area plans include the Susitna, Tanana, Kuskokwim, Copper River Basin, Northwest, Prince William Sound, Prince of Wales Island, and Delta-Salcha Area Plan; and the Bristol Bay Cooperative Management Plan. The department is scheduling the Kenai Peninsula and the Central Southeast Area Plans to begin during 1989. Area plans are required by AS 38.05.065 and 11 AAC 55.030.

#### B. Management Plans

Management Plans are written to address issues in more detail than the land use designations resulting from an area plan. A management plan generally decides the timing, extent, location, and guidelines for land use activities. Management plans may deal with a smaller area in greater detail or provide direction for a specific land use within a larger area. Management plans are required by Title 41.17 for State Forests. On land not legislatively designated, they are done when the complexity of proposed or existing activities requires more detailed planning.

The Susitna Regional Forest Plan, currently underway, is an example of a forest management plan.

### C. State Forest Management Plans.

State Forest Management Plans are management plans required by legislation for state forests. The Tanana Forest Plan and the Haines Forest Plan were completed for the state's two State Forests.

## II. Description of the Planning Process

The planning process is essentially the same for area plans, management plans, and state forest plans. It is designed to ensure full participation by the public and government agencies; to provide opportunities for review and revision of the plan; and to include consideration of all comments. The process includes eight major steps.

1. Public and agencies identify issues (usually public meetings)
2. Resource information is compiled.
3. Management alternatives are prepared.
4. Alternatives are reviewed with the public (usually public meetings)
5. Draft plan is prepared.
6. Draft plan is reviewed with the public (usually public meetings)
7. Final plan is prepared.
8. Plan is adopted and implemented.

Steps one and two usually result in a published resource analysis in which resources such as Fish and Wildlife, Forestry, Minerals, Recreation and Transportation are analyzed for issues, concerns, policy, supply and demand, management options, and costs.

An interagency team is responsible for developing the plan. The Department of Fish and Game is always part of the planning team. For example, the planning team for the Tanana State Forest Plan included: Division of Forestry, Division of Geological and Geophysical Surveys, Division of Land and Water Management, Division of Mining, and Division of Parks and Outdoor Recreation; Department of Fish and Game; Department of Environmental Conservation; Department of Transportation and Public Facilities; the Fairbanks North Star Borough; and the USDA Forest Service Institute of Northern Forestry.

In addition, private citizens, citizens' groups, private organizations, and other state, federal and local agencies participate in the planning process by attending workshops and providing comments.

Area plans require between two and a half and three years to prepare, management plans are sometimes quicker. The final plan is adopted by the commissioner of DNR and guides land management actions on DNR-managed land.

## III. Differences between Title 41 and Title 38 Plans.

There are essentially no differences in the planning process between land administered under title 38 (i.e., general state land), and that administered under title 41.17 (state forests). Area plans and sometimes management plans are prepared for general state land. State forest plans are always prepared for legislatively designated state forests.

#### IV. Other General Guidance for State Land

##### A. The Legislature

The legislature can determine the primary resource values for an area in legislation as when it creates a state forest, state park, state critical habitat area, or other legislatively determined area.

The legislature has created two state forests: Tanana Valley and Haines. "The primary purpose in the establishments of state forests is the perpetuation of personal, commercial, and other beneficial uses of resources through multiple-use management." (AS 41.17.200)

##### B. Areas where land use plans have not been prepared

Almost all state land outside of either area plans or state forests have been classified. In some cases, there was a classification for a specific purposes (i.e., to recognize a village watershed; or to allow the state to hold a timber sale). In many cases, the classification is general and gives little guidance to subsequent decisions.

#### DETAILED LAND USE MANAGEMENT, INCLUDING TIMBER SALE DESIGN

##### I. Nomenclature - Forest Management Report, FMR, .035 finding, preliminary decision, site-specific timber sale plan, and best interest finding.

Title 38, [AS 38.05.035(e)] requires that the state make available a "written finding" before most disposal of state interests. When a draft of this "written finding" is made available for public review, it is sometimes called a preliminary decision, draft best interest finding, or draft .035-finding. After incorporating review comments, the department signs the "written finding" and holds the timber sale. The final version of this "written finding" is sometimes called a final decision, final finding, .035-finding, or best interest finding. They are all the same thing. The mechanism that the department uses to set out this "written finding" for an individual timber sale is the Forest Management Report (FMR).

The department circulates the timber sale design for public review as part of the Forest Management Report. Therefore, the FMR is also a "site-specific timber sale plan."

##### II. The Forest Management Report

The draft Forest Management Report (FMR) is the Preliminary Decision document prepared for individual timber sale proposals. The FMR is required in the Division of Forestry's Policy and Procedures Manual. It is designed to exceed the requirements of AS 38.05.035 and is designed specifically for disposal that involve forest products. The FMR provides general sale identification information; location data and timber sale design information for effective notice of interested parties; land title details; conformance with other existing plans, department policies, and conformance with regulations (such as those of the forest practices act); access provisions, and a narrative section. The narrative section varies greatly in length with the complexity of the proposed sale.

Points to be addressed in this part of the FMR include the following areas:

- \* Statutory Authorities
- \* Consistency with 5-year harvest schedule
- \* Harvest unit description
- \* Access provisions
- \* Logging systems/constraints
- \* Insect and disease conditions
- \* Physical sale area descriptions including topography, soils, wetlands as they influence the sale design
- \* Stand descriptions
- \* Reforestation and silvicultural provisions (including reforestation cost and proposed methods)
- \* Whether an annual operating plan will be required
- \* Coastal Zone Management consistency determination (where applicable)
- \* Non-timber resources. For these resources the FMR process will include review and description of non-timber resources, activities, and significant impacts, unusual conditions that require special provisions in the sale design; and where appropriate, mitigation. The review of non-timber resources will address the following:
  - (1) fish and wildlife habitat including:
    - (a) identification and protection of important wildlife habitat such as high-density bear use areas; swan nesting areas; moose, deer, and mountain goat winter ranges; and critical marine mammal habitat;
    - (b) design of harvest methods and configurations to provide natural travel corridors and escape cover;
    - (c) retention of snags for cavity dependent wildlife, recognizing worker safety and fire requirements;
    - (d) retention of riparian, wetland, and ocean-shoreline vegetation critical for fish and wildlife habitat;
    - (e) classification of waterbodies according to physical characteristics.
  - (2) uses of the forest for its recreation, tourism and related activities;
  - (3) mining, mining claims, and mineral leasehold location;
  - (4) gravel extraction;
  - (5) uses of fish and wildlife;
  - (6) agriculture, including grazing;
  - (7) soil productivity and water quality;
  - (8) other existing commercial and non-commercial uses;
  - (9) internal/adjacent private lands;
  - (10) other forest products, resources and uses the department considers appropriate.
- \* criteria upon which the timber sale decisions are made.
- \* air
- \* cultural/historic sites
- \* visual resources
- \* applicable public and agency comments and DNR responses (final FMR only)

Forest Management Reports are generally completed between 5 and 14 months prior to the anticipated auction date. They are advertised and available to the public. Comments to this document are evaluated and responded to in the final FMR. The final sale design, if it proceeds, is modified as needed. Field work is done to put the paper plan on the ground.

Forest Management Reports are sometimes prepared for areas where more general land use planning such as an area plan or a forest management plan does not exist. In these cases, the FMR may include some of the more general planning process steps typical of those plans. For example: scoping meetings, more complete resource inventory, management alternatives, etc. Where no higher level plan exists, the complexity and detail of the FMR, including the extent to which it includes the more general process steps, will depend on the complexity and controversy of the proposed activities.

### III. Public and Agency Review.

For large, complex, or controversial sales, agency review is conducted before the FMR is available to the public. For small sales, public and agency review may occur concurrently.

The draft FMR is available and comments taken for at least 30 days. For controversial sales, or sales where communication is difficult (e.g., some remote areas), the review period may be longer. Public meetings may be held, if needed. After changes are made in response to public or agency comments, the final FMR must, by law, be available for at least 21 days before the sale auction is held or the contract signed.

### IV. Annual Operating Plans (Post Contract Signing).

Annual Operating Plans (commonly referred to as "logging plans") describe how the purchaser is going to fulfill the timber sale contract. They are not required by regulation but may be included as a contract stipulation (11 AAC 21.300). Logging plans are often required if the sale is complex. What a logging plan must address varies widely from sale to sale. The plans may be as simple as start and stop dates or may require engineering details. The plans are reviewed for consistency with the contract and must be approved by DNR prior to the operation proceeding. Approved annual operating plans become part of the sale contract.

Where annual operating plans are required by the contract there are three scenarios:

- 1) Where no substantial deviation from the contractual provisions are proposed and the plan meets contractual requirements, the Division of Forestry will forward a copy of the annual operating plan to DEC and DF&G so they will be alerted to any required permits from their agencies.
- 2) If the plan proposes actions which are consistent with the FMR, but not the contract, the logging plan cannot be approved without a contract amendment. Contract amendments must be consistent with the actions proposed and reviewed in the FMR, not result in any material change in the contract and be within the limit of changes allowed by regulation. The Division of Forestry shall solicit agency review of this proposed action from the other agencies prior to implementing the contract amendment.
- 3) If an action is proposed which significantly deviates from the FMR, the Division of Forestry will advertize the proposed change for public and agency review for at least 30 days. All comments shall receive a response and be considered prior to consummating the specific contract amendment and allowing implementation of the annual operating plan as amended.

Regardless of the required level of review, DNR must approve every annual operating plan prior to the operator proceeding.

## THE FIVE-YEAR TIMBER SALE SCHEDULE

The Five-Year Timber Sale Schedule, is a policy technique and scoping process for getting improved public and agency review of and input into the department's timber sale program. It is intended to give the department early review of issues from the timber industry, agencies, and the public that may influence the individual sale design or the department's overall sale program. The schedule does not replace other planning and public notice requirements.

The narrative is written with Year 5 being the year of the sale with Year 1 four years prior.

### I. General Description of the Schedule

#### A. Years 1-3.

The objectives of Years 1 through 3 of the schedule are to identify issues early in the process; direct DNR's and DF&G's field work and data collection; to direct the environmental and economic analysis; and to inform the public and forest industry where the department's timber sale program is headed. Years 1 through 3 are primarily informational -- for both the department and the public.

#### B. Years 4 and 5

The objectives of these years of the sale schedule are to gather public and agency review and comment on specific timber sale design prior to Division personnel completing cruising, boundary marking, road design, harvest design, etc. Division personnel complete detailed harvest and environmental design to ensure that the sale balances the needs of the timber industry, agencies, and the public. Work will concentrate on sales in year four of the sales plan and changes that may be required in year five of the sale schedule.

During this time the draft Forest Management Report is completed and made available for public review. The report contains timber sale design information. After incorporating changes made on the basis of public comment, the final report is distributed before the sale auction. (The Forest Management Report serves as the ".035 finding," "site-specific timber sale plan," "best interest finding," or preliminary decision." See description of Forest Management Report on pages 40-42.) The sale occurs and harvest may begin during year 5.

As the five-year schedule is amended from year to year, sales will move from one year to another. However, sales with cutting units totaling greater than 160 acres must be on the schedule for two years before sale.

### II. Specific Provisions of the Sale Schedule

#### A. Duration on the sale schedule

Sales with cutting units totaling greater than 160 acres must appear on the sale schedule for two years before they are sold. Exceptions to this requirement may be made for 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. Our intent is that smaller sales will be on the schedule,

but it is not required. Every competitive bid sale must, however, comply with all public and agency review requirements (see description of Forest Management Report).

B. A 160-acre threshold?

The department needs to respond with small sales for operators who cannot always plan two years in advance. In addition, small sales generally have less impact on public resources than larger sales. The 160-acre threshold was picked to allow the department that flexibility. (Forest Management Reports and public notice will be required for less than 160-acre sales.)

C. Public and agency review.

The five year schedule will be sent for annual public and agency review. Comments will be compiled and the schedule will be amended as necessary on the basis of those comments.

D. Start-up.

To prevent this schedule from placing a one-year delay in the department's timber program, the requirement that sales be on the schedule for two years will not apply in the schedule's first year of publication. However, first year sales will comply with other requirements for agency and public review. (See description of Forest Management Report).

III. Title 41 and Title 38

The Five-year Timber Sale Schedule applies equally to land administered under title 38 (general state land), and under title 41.17 (State Forests). There are no differences.

**PROPOSALS FOR STATUTE/REGULATION CHANGES**

Statute and regulation changes to implement the proposed changes are listed on pages 46 and 47.

## Chapter 5. Wildlife and Planning

### B. Wildlife Habitat, State Lands

The forest resources of Alaska are among the most valuable natural resources of the state, and public lands furnish timber and wood products, fish and wildlife, tourism, outdoor recreation, water, soil, air, minerals and general health and welfare. On public lands, it is the objective of the state to a) provide timber for the forest products industry, b) protect, maintain, and where possible enhance fish and wildlife habitat, and c) protect, maintain, and where possible enhance<sup>6</sup> commercial, recreational, subsistence, and personal use and enjoyment of these resources to best meet the needs of the public.

The next two pages contain statute and regulation changes for DNR's forest management planning process that implement this intent on state land.

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<sup>6</sup> Note to drafter: The words "where possible" are only meant to modify "enhance", not protect or "maintain."

## Chapter 5. Wildlife and Planning

### C. Forest Planning & Wildlife on State Land Proposed Statutory and Regulatory Changes

#### I. Proposed Statute Changes.

Forest Management Plans. This section applies only to land managed by the Department of Natural Resources and classified forestry or managed for long-term forestry.

- (a) On state land, before timber harvest begins, the following will be addressed by either a forest management plan or a forest management report:
  - (1) commercial timber harvest and related activities
  - (2) harvest 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; and
    - (c) classification of waterbodies according to physical characteristics.
  - (4) uses of the forest for recreation, tourism, and related activities;
  - (5) mining, mining claims, mineral leasehold location, and mineral leasing;
  - (6) material extraction;
  - (7) uses of fish and wildlife;
  - (8) agriculture, including grazing;
  - (9) soil productivity and water quality;
  - (10) other resources and uses the department considers appropriate;
  - (11) watershed management;
  - (12) other traditional, compatible uses;
  
- (b) Forest management plans and forest management reports for state lands will be developed in accordance with AS 38.04.065 and will reflect the standards in Sec 41.17.060(c) and regulations promulgated pursuant to Sec. 41.17.080. Forest management reports will be designed to satisfy the requirements of AS 38.05.035(e). The reports will also contain the criteria upon which the timber sale decisions are made. Forest management plans will be submitted to the Board of Forestry for review.
  
- (c) Language describing the five-year timber sale schedule goes here. We have not written it but will leave it for the attorney general to write a draft.
  
- (d) DNR will solicit and base its decisions on applicable and best available data, and on other information provided by participating agencies, describing the immediate and long-term effects of individual and collective forest activities on the timber base and on other resources and uses.

II. Proposed Regulations. Regulations for Section (a) above will contain the following: These regulations apply only to land managed by the Department of Natural Resources, and classified forestry or managed for long-term forestry.

The Forest Management Report will address the following:

- \* Statutory Authorities
- \* Consistency with 5-year harvest schedule
- \* Harvest unit description
- \* Access provisions
- \* Logging systems/constraints
- \* Insect and disease conditions
- \* Physical sale area descriptions including topography, soils, wetlands as they influence the sale design
- \* Stand descriptions
- \* Reforestation and silvicultural provisions (including reforestation cost and proposed methods)
- \* Whether an annual operating plan will be required
- \* Coastal Zone Management consistency determination (where applicable)
- \* Non-timber resources. For these resources the FMR process will include review and description of non-timber resources, activities, and significant impacts, unusual conditions that require special provisions in the sale design; and where appropriate, mitigation. The review of non-timber resources will address the following:
  - (1) fish and wildlife habitat including:
    - (a) identification and protection of important wildlife habitat such as high-density bear use areas; swan nesting areas; moose, deer, and mountain goat winter ranges; and critical marine mammal habitat;<sup>7</sup>
    - (b) design of harvest methods and configurations to provide natural travel corridors and escape cover;
    - (c) retention of snags for cavity dependent wildlife, recognizing worker safety and fire requirements;
    - (d) retention of riparian, wetland, and ocean-shoreline vegetation critical for fish and wildlife habitat; and
    - (e) classification of waterbodies according to physical characteristics.
  - (2) uses of the forest for its recreation, tourism and related activities;
  - (3) mining, mining claims, and mineral leasehold location;
  - (4) gravel extraction;
  - (5) uses of fish and wildlife;
  - (6) agriculture, including grazing;
  - (7) soil productivity and water quality;
  - (8) other existing commercial and non-commercial uses;
  - (9) internal/adjacent private lands;
  - (10) other forest products, resources and uses the department considers appropriate.
- \* criteria upon which the timber sale decisions are made.
- \* air
- \* cultural/historic sites
- \* visual resources
- \* applicable public and agency comments and DNR responses (final FMR only)

Other Regulation Change: The state will attempt to notify landowners adjoining areas scheduled for timber harvest with the draft FMR. The area of notification may be adjusted during a state area plan, forest plan or management plan.

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<sup>7</sup> Note to regulation drafter. The list in this clause is meant to be illustrative, but not limiting. It is meant to include whatever game and non-game species' habitats are determined important.

## Chapter 5. Wildlife and Planning

### D. Wildlife Habitat on Private Lands

The state will work cooperatively with the land or timber owner to protect, maintain, and enhance wildlife habitat to the maximum extent practicable, bearing in mind the objectives of the land or timber owner. The state and private forest owners are encouraged to enter cooperative agreements where they serve to facilitate cooperation.

The Department of Fish and Game and the private land or timber owner will cooperate in project planning and design to identify important wildlife habitats and voluntary management options to minimize adverse impacts on those habitats, recognizing the management objectives of the land or timber owner. Cooperative agreements referred to above should address how the department will provide assistance in the further evaluation of such habitats.

The state and private land or timber owners should develop procedures for both the identification of wildlife habitat meriting protection and the identification of appropriate compensation opportunities for private lands set aside as wildlife habitat. This may include cash payment or other compensation such as conservation easements, land exchanges, and credits for state timber sales.

To further this process the state shall provide, on a cooperative basis, educational and technical assistance, and extension services to help the land or timber owner and operator assess wildlife habitat values and to design management options to provide wildlife habitat protection and to meet the land or timber owner's management and use objectives.

Nothing in this act is intended to enlarge or diminish any responsibility of the state or any landowner to protect wildlife on private land.

## Chapter 6. Forest Practice Act Standards

This section of the report outlines changes to forest practices act standards under 41.17.060 and .080.

### Section 41.17.060

1. Subsection .060(b)(2) will be amended to read as follows:  
(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 implementation of any* nonpoint source pollution control measures authorized under this chapter;
2. Subsection .060(b)(5) will be added as follows:  
(5) *significant adverse effects of soil erosion and mass wasting on water quality and fish habitat shall be prevented or minimized.*
3. Subsection .060(c)(6) will be amended to read as follows:  
(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 for important wildlife habitat.*

### Section 41.17.080

1. Subsection (a) will be amended to read as follows:  
(a) The commissioner *shall may* adopt regulations under the Administrative Procedure Act (AS 44.62) and AS 41.17.047 governing ~~operations on forest practices such as land with respect to~~ the following:
2. The following list replaces the list in (a)(1) through (a)(6) of the existing act:
  - (1) Road construction and maintenance
    - a. Road location
    - b. Road construction
    - c. Landing location and construction
    - d. Water crossing structures
    - e. Road maintenance
    - f. Rock quarries, gravel pits, borrow pits, and spoil disposal areas
    - g. Post operation road management (i.e., "put-to-bed")
  - (2) Timber harvesting
    - a. Timber harvest unit planning and design
    - b. Felling and bucking
    - c. Cable yarding
    - d. Shovel, tractor, and wheeled skidder systems
    - e. Landing clean-up
    - f. Slash disposal

- (3) Log transfer, sort yards, and storage facilities
  - a. Location
  - b. Design
  - c. Construction & Maintenance
  - d. Closure
  - e. Log storage, rafting, and identification<sup>8</sup>
- (4) Reforestation
  - a. Site preparation and rehabilitation
  - b. Urban and other lands exempted from reforestation requirements
  - c. Prescribed burning
- (5) Prevention and suppression of forest insects and diseases<sup>9</sup>
- (6) Upland salvage logging
- (7) Brush control
- (8) Fire and flood hazard management

3. Subsection .080(c) will be amended to read as follows:

(c) 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.

The regulations promulgated according to this chapter will be drafted under a process outlined in Part III, Implementing the Agreement.

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<sup>8</sup> Note that some regulations may go here, some maybe be submitted to the Army Corps of Engineers for their permits, and some may become lease stipulations under DNR's tideland lease program.

<sup>9</sup> Note to drafter, regulations promulgated under this and subsection (6) may be combined with those promulgated under the sections of the act specifically dealing with timber salvage, and with insect and disease management.

## Chapter 7. Other Issues

### A. Timber Management Adjacent to Private Lands

There have been cases where logging operations may have physically damage adjacent lands due to blowdown, trespass, landslides etc. The extent and likelihood of possible damages depend on topography, type of logging, risk of blowdown, whether the private parcels are surveyed, etc. Therefore, stipulations applied to logging on state land to prevent these problems will vary according to the individual circumstances.

The state involves the public in state land management decisions that affect their interests. The department, through the timber sale planning process, takes public concerns into account when locating and designing timber harvest. (See discussion of state planning process, pages 37 to 44.)

To facilitate this process, the state will attempt to notify landowners adjoining areas scheduled for timber harvest, and to provide them with an opportunity for review and comment, and to take their and other public concerns into account prior to adoption of a forest management plan or forest management report. The area of the notification requirement may be detailed during a state area plan, forest plan, or management plan.

This provision will be implemented by regulation changes in the state's forest planning process. See the bottom of page 47.

## Chapter 7. Other Issues

### B. Non-Timber Clearing

**Timber Salvage.** Timber with commercial or personal use value that will be cleared for other uses should be salvaged from state, and municipal lands, public rights-of-way, and public utility corridors. This will be accomplished by adherence to the following guidelines.

1. Before conducting or approving significant land clearing actions, state agencies, municipalities, and public utilities will determine whether the timber is worth salvaging and adopt appropriate salvage methods.
2. Major projects that involve clearing large areas of forested land will be planned by state agencies, municipalities, and public utilities far enough in advance so that schedules can be established to allow a reasonable period of time to arrange for and conduct commercial salvage of the timber. This advance planning will provide sufficient time to conduct the inventories and harvest.

## Chapter 7. Other Issues

### C. Insect & Disease Management

This section of the agreement has two parts: an explanation of intent, and proposed statute changes. The intent section that follows explains the purpose of statutory changes. modifications are intended to accomplish.

#### INTENT

It has become evident in the spruce stands of southcentral Alaska that a wide variety of conditions or actions, including poor clearing practices, can trigger infestations of bark beetles, specifically the spruce beetle (*Dendroctonus RUFIPENNIS*). The attached proposed statutory section would parallel similar legislation in Oregon and California.\*

Paragraph (a) of the new section extends prevention and suppression to state, municipal and private land that is currently provided only to state lands, requiring all forest clearing operations to be designed to prevent forest insect or disease outbreaks.

All landowners are identified in Paragraph (b) as responsible for the prevention and suppression of forest insect and disease outbreaks within their forest land which are a result of their forest clearing practices. This paragraph also provides that if the landowner does not contain the infestation, and biologically effective, cost-effective, and environmentally safe suppression measures are available, the state forester may implement them.

Paragraph (d) authorizes the Department of Natural Resources to enter into agreements with other public and private entities to prevent or suppress forest insects or diseases.

Paragraphs (c) enables the Department of Natural Resources to declare infested or threatened zones and thereafter to conduct detection, evaluation, and suppression activities within the outbreak area. Paragraph (e) provides for the dissolution of the zone.

Changes to the law are intended to promote the use of clearing practices that avoid creating forest insect or disease problems. In addition it will encourage suppression of infestations where 1) forest resources are threatened, and 2) suppression measures that are biologically effective, cost-effective, and environmentally safe are available.

A distinct but related issue needs amending in current regulation. 11 AAC 95.160 SLASH (d) requires that "Within Region II, when beetle brood is present in concentrations of white spruce slash with an outside bark diameter greater than five inches it must be treated by burning or some other method to destroy developing insects and prevent bark beetle build-up." Because many areas within Region I have equally significant beetle population problems, reference to Region II would be omitted. As these problems occur in white, Lutz, and Sitka spruce, mention of only one of these should be omitted. The paragraph would then read, "When the state forester determines that spruce beetle brood concentrations in downed spruce create a threat to standing timber, such material must be utilized or treated to destroy developing insects and prevent bark beetle build-up."

\*California Public Resource Code, Article 5 Paragraph 4714 and Oregon Revised Statutes 527.380.

**Insect & Disease  
Statute Changes**

(a) All forest clearing operations and silvicultural systems must be designed to reduce the likelihood of increased resource threatening insect infestations and disease infections resulting from such operations.

(b) No person shall conduct or approve timber clearing activities that create conditions fostering outbreaks of infestation or infection that threaten forest resources on other forest lands. Where the Commissioner finds after notice and hearing that the owner of timber or timberlands has created such conditions in violation of this subsection, the Commissioner may:

- (1) require the owner at the owner's expense promptly to remove or cure the conditions fostering outbreaks of infestation or infection;
- (2) require the owner at the owner'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; and
- (3) if the owner does not comply with a final order under (b)(1) or (b)(2), enter onto the land and undertake the actions so ordered and seek recovery of the costs of such actions by filing and foreclosing a lien against the property.

(c) The Commissioner may undertake surveys and appraisals to obtain pertinent data on regional insect infestations and disease conditions. Whenever the Commissioner determines that there exists an area which is infested or infected with forest insects or diseases injurious to forest resources and that the infestation or infection is of such a character as to threaten the timber or timberlands of adjacent owners, the Commissioner may declare the existence of a zone of infestation or infection, and describe and fix its boundaries.

(d) The Commissioner may enter into agreements with any owner and with any agency of government, including the federal government, for the purpose of preventing or suppressing forest insects or diseases damaging or threatening forest resources.

(e) Whenever the Commissioner determines that insect and disease control work within the designated zone of infestation or infection is no longer necessary or feasible, he shall dissolve the zone.

## Chapter 7. Other Issues

### D. Log Storage Area Facilities and Log Rafts

Water storage and transportation of logs are common practices in coastal Alaska. Yet both practices have generated concern regarding incremental and catastrophic loss of logs from log storage areas and log rafts.

A task force comprised of a marine engineer, logging engineer, operator, and a forest user will prepare a report defining accepted industry design standards for in-water log storage facilities and log rafting as specified below.

The report will be used in the formulation of guidelines for log rafting and in-water log storage. Some of the guidelines may be promulgated as regulations under the revised forest practices act. Some guidelines may be applied to DNR tideland permits and leases, and some may be recommended to the Army Corps of Engineers through the Alaska Coastal Management Program consistency review process or other means. In addition, the 1985 Log transfer facility guidelines agreement will be incorporated into the forest practices regulations.

Log storage facilities, log rafting, and log tow standards would be developed as follows:

1. Definitions and explanations of the role important physical factors, such as meteorological and oceanographic (wind exposure and velocity, tidal datum, current datum, etc.) affecting construction standards.
2. Definitions of applied industry technology such as stiff-leg boom, standing boom, log boom, and their appropriate application.
3. Log bundling techniques.
4. Industry requirements for all activities.
5. Industry recommended construction standards.

## Chapter 7. Other Issues

### E. Reforestation

This draft agreement proposes that the reforestation backlog is funded through program receipts: through allocation of 25% of receipts of timber sales on state land to DNR's reforestation program.

## Chapter 7. Other Issues

### F. Relationship of the FPA

#### to the Alaska Coastal Management Act

The current Forest Practices Act (FPA) and regulations are "the basis for Forest management standards, policies, and guidelines of the Alaska Coastal Management Act" (AS 41.17.010(6)). Since the passage of the FPA, review procedures (6 AAC 50) for coastal development activities have been added to the Alaska Coastal Management Program (ACMP) regulations. The following statutory amendment is necessary to insure that the new FPA statutes and regulations clearly serve as the basis for ACMP involvement in forestry activities on private lands by expressly making reference to the ACMP review procedures and by deleting the inappropriate reference to district planning guidelines. DNR, in consultation with DGC, will amend their existing regulations to implement this section in accordance with section 41.17.900.

The amended statutory language reads:<sup>10</sup>

AS 41.17.010(6)

Subject to 16.U.S.C. 1456(f) (Section 307(f)) of the Coastal Zone Management Act of 1972, P2 92-583), *for private land*, the provisions of this chapter *and the regulations adopted under this chapter set out the* ~~shall be the basis for~~ forest management standards, policies, and *review process for purposes of developed* under the Alaska Coastal Management Act.

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<sup>10</sup>Editor's Note. The language was changed during legislative drafting. In the April 10th draft, it was as below.

Subject to 16.U.S.C. 1456(f) (Section 307(f)) of the Coastal Zone Management Act of 1972, P2 92-583), the provisions of this chapter shall ~~be the basis for~~ *serve as the* forest management standards, policies, and ~~guidelines~~ *review process developed under* for purposes of the Alaska Coastal Management Act.

## Chapter 7. Other Issues

### G. Other

The forest practices act will be amended to include this additional language:

Nothing in this act shall diminish the rights of Alaska Native Corporations or Alaska Natives or diminish their privileges and immunities with respect to land conveyed to them under the Alaska Native Claims Settlement Act, as amended.

## Chapter 8. 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 legislature 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 by other forest users.

The funding required by DNR, DF&G, and DEC are outlined in a series of memos in the appendix to this report.

## Part III - Implementing the Agreement-in-Principle

### Chapter 1. Legislative Changes

Legislation to implement this Draft Agreement-in-Principle is available for review. Assuming ratification by steering committee member groups, legislation will be introduced during early April with the intent that, if possible, it be passed this legislative session.

### Chapter 2. Promulgating Regulations

If legislation is passed this session, DNR will draft and promulgate regulations consistent with the legislation and with the final agreement-in-principle.

A process and an approximate schedule for promulgating the regulation is outlined on the following page. After passage of the act, DNR with participating steering committee representatives will draft regulations. Before distribution for public review, the steering committee will concur and the restructured Board of Forestry will review the regulations. The final regulations are intended to be in place for the 1990 operating season.

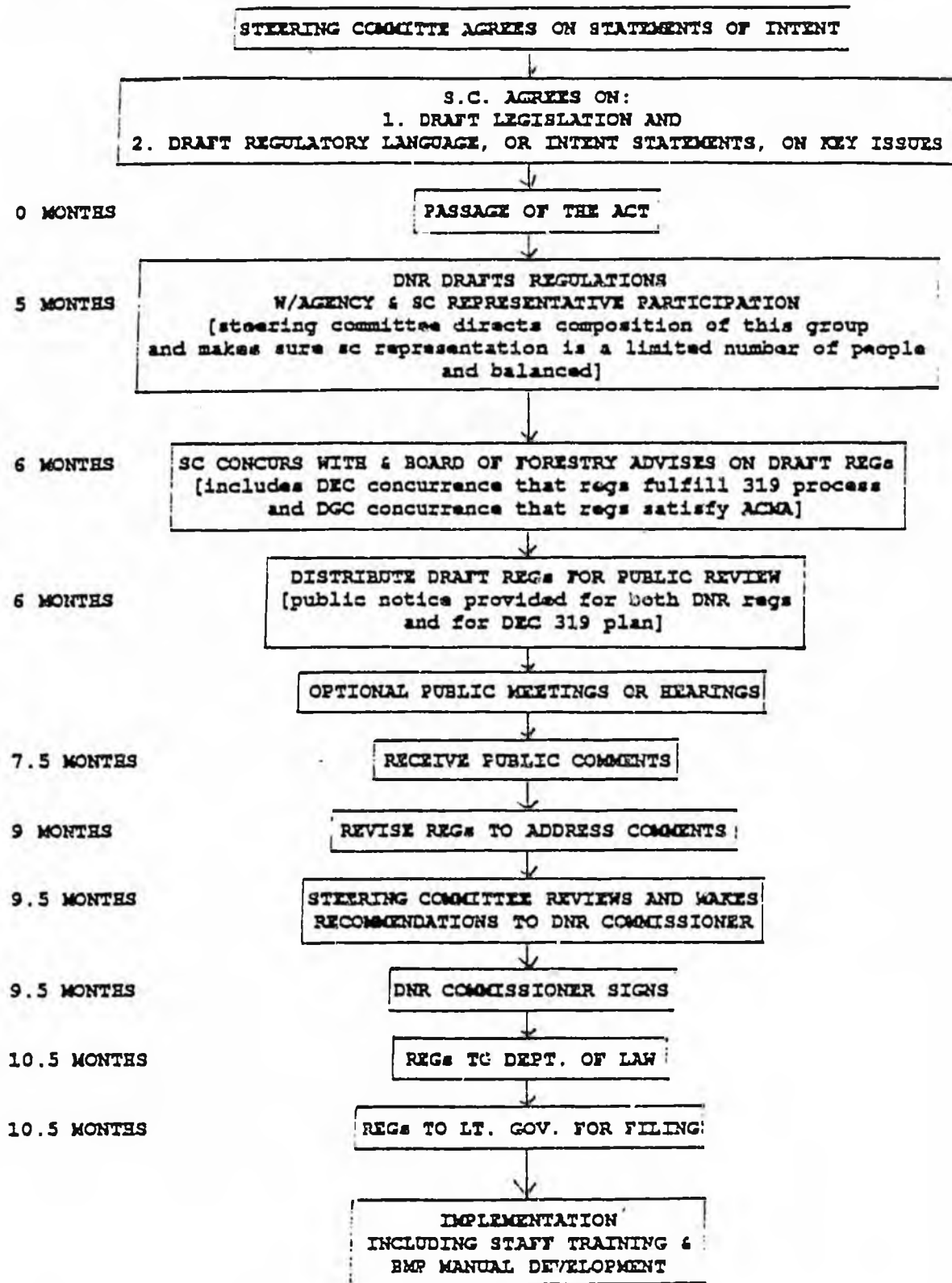
*Editor's Note: The regulation process and schedule described in the paragraph above and diagrammed on the next page assumed the committee reached consensus, and that the legislation passed during the 1989 session. Neither event occurred. However, the resource agencies, DNR, DF&G, and DEC, will draft regulations during 1989 as if the legislation had passed. Assuming the legislation passes in early 1990, the regulations can take effect before the beginning of the 1990 harvest season. If this occurs, no time will have been lost by one session's legislative delay.*

DNR and DEC will establish a working group to develop appropriate water quality based standards for incorporation into forest practices regulations. The working group will recommend to DEC how these regulations will be promulgated. These standards may also be adopted or referenced in DEC regulations.

DEC's lead role for nonpoint source pollution, and DEC's responsibilities for water quality are not changed from the provisions of existing state law.

Best management practices will be reviewed and updated in each area. Also, development and review of regulations will include consideration of boundary changes to DNR forest regions, or the creation of new subregions within DNR forest regions.

*Editor's Note: The regulation process and schedule in this diagram assumed the committee reached consensus and that the legislation passed during the 1989 session. Neither event occurred. Therefore, this diagram is not completely accurate.*



- ASSUMED:**
- STATUTES AND REGs ARE ENFORCEABLE
  - MANDATORY BMPs WILL BE IN REGs
  - VOLUNTARY BMPs WILL BE IN THE BMP FIELD MANUAL

## Chapter 3. Policy Changes

### A. Consultation/Education/Training

#### ISSUE

Forest Practices Statutes, Regulations and Processes are now complex and will become more complex. Several agencies are involved with their statutes and regulations; public involvement will be more extensive as time proceeds. An effective information transfer program needs to address three factors: consultation, education and training.

#### FACTORS DEFINED

**CONSULTATION:** Several avenues of communication must be developed

- \* DNR with DF&G, DGC, DEC
- \* DF&G, DGC, DEC with DNR
- \* DNR with citizen groups and vice versa
- \* Agencies with operators

**EDUCATION:** All involved parties must understand existing, modified and new processes. Resource managers and interested citizens must understand the resources being managed and/or protected including the public resources affected by forestry and the rights and needs of private landowners and the timber industry. All involved parties must understand the rights and responsibilities of forest practice processes.

In addition to the involved parties understanding specific processes, the general public has a need to know about Resource Management, the negotiated agreement and its results.

**TRAINING:** an extensive training process will be required to implement the negotiated agreement.

#### AUDIENCES DEFINED

**RESOURCE MANAGERS:** Agency and other professional managers; ie. Foresters, Biologist, etc. Throughout this paper, we are assuming that foresters, including DOF foresters need to be trained with respect to the forest practice act but also that DF&G biologists need to be trained in the needs of the forest industry and timber harvest methods.

**FIELD MANAGERS:** Resource Managers assigned to field operations (as contrasted with administration)

**INVOLVED PARTIES:** Fisherman, Environmentalist, forest industry (Administration), and others

**OPERATORS:** Loggers and others responsible for forest harvest operations

#### PROPOSALS

##### I. FOREST PRACTICES HANDBOOK

- A Target audience: Resource Managers and operators
- B Goal: Present a useful handbook designed for field operations
- C Format: A Forest Practices handbook could be composed of several sections

- Section 1: An "English Language" version of
  - a. How/where to obtain forest practices notifications and other permits
  - b. A clear explanation of agency responsibilities and "Lead Agency" status
  - c. Addresses/phone numbers of DNR, ADF&G, DEC, DGC Central/field offices

Section 2: Forest Practices Regulations

Section 3: Appendices

- a. Forest Practices Statute
- b. Other Appropriate Statutes/Regulations

Section 4: A Forest Practices "manual" which would provide Division of Forestry Region-specific information. Possible topics are road construction/use/maintenance, critical wildlife information, weather, soil, fire, etc.

NOTE 1: The handbook must be written/presented in a style that encourages use by non-technicians.

The manual could be a separate volume. A combined volume would necessitate only one book... one less thing to lose or carry. A separate volume would allow greater coverage.

The manual could be region-specific, eg. through separate documents or one piece that discussed all regions.

- D. Costs: An individual must collect, collate and properly prepare substantial materials. Writing and editing is needed to properly present materials. Printing/binding costs (if necessary) must be paid. All the above costs would most likely be incurred by DNR and/or ADF&G.

## II. OVERVIEW WORKSHOPS

- A. Target Audience: Resource Managers  
Secondary Audience: Involved Parties
- B. Goal: Transfer the overview of the forest practices and state forest planning process to Resource Managers and others. This will be an extensive (verses intensive) information transfer to build a sense of general understanding and philosophy.
- C. Format: A series of workshops will be held. Four likely locations are: Ketchikan, Juneau, Anchorage, and Fairbanks.
- D. Meeting Structure: Presentations of "Why we did this (as a group) and individuals were involved. A series of 2 or 3 panels could generally cover in a sense, the following topics: The Resources, Statutes, Regulations, Processes.
- E. Costs: Workshop costs could be covered through a prorated charge. Video costs could be shared (See note 3 below) by all participants.

NOTE 1: One day workshop with 50-75 people maximum.

NOTE 2: Some general sessions would be appropriate. These could follow lunch (or later if need be). Trained facilitators with specific tasks/goals are recommended.

NOTE 3: Workshops should be video-taped for later editing into 25-30 minute presentations.

### III. FIELD WORKSHOPS

- A. Target Audience: Field Managers and Operators
- B. Goal: Develop intensive (versus extensive) understanding and implementation of Forest Practices regulations and processes (including how it affects both public resources and the timber industry).
- C. Format: Field workshops will be held at DNR - Division of Forestry Area Offices (or other appropriate places). These 1 1/2 to 2 day workshops will concentrate on Forest Practices Regulations, process implementation. The first day would be devoted to "in-office" training/assessments. The second day would be field oriented. The first workshops would occur 30 to 60 days following the closest regional workshop. A follow-up workshop would occur within six months and thereafter on an annual basis.
- D. Cost: Workshop costs would be borne by participants. Transportation and per diem cost should be within existing budget abilities.
- E. The Board of Forestry will be invited to all workshops.

### IV. COMMUNICATION COMMITTEE

- A. Target Audience: The lay public
- B. Goal: 1) Build within the lay public a conceptual understanding of resource management and conflicts/trade-offs/solutions inherent in resource management. 2) Build an informed constituency that will support resource management and budgetary needs to adequately implement/enforce forest practices regulations and processes.
- C. Format: DNR & DF&G public information personnel will have the responsibility to receive and edit news releases, breaking stories concerning forest practices, the revised forest practices act, and other pertinent items. Public information personnel will have the ability to steer media members to newsworthy stories, such as cooperative fire/wildlife management on a fire; solving a difficult bridge crossing; a joint reforestation/moose habitat study, etc.

Division heads will coordinate with the public information personnel to assure that they receive information in a prompt and understandable form. Public information personnel will release news to the appropriate print/electronic media in a timely and informative manner.

- D. Cost: No additional cost is foreseen. Publicist orientations could be held by Division Directors' and other interested parties.

### V. CROSS TRAINING

Resource management education (biology, forest management/engineering, hydrology, etc.) is highly technical and usually restricted to the primary resource being studied. Successful forest practices implementation will hinge, in part, to a more than rudimentary understanding of all resources and industries involved.

A two-part cross-training program is proposed:

- A. Division Directors' will develop an agency cross-training program targeting field

resource managers. The program should involve resource managers as active participants/coordinators. Certain aspects might involve university level expertise from Alaska and Pacific Northwest institutions. The State of Alaska, Board of Forestry (BOF) is a logical body to provide developmental/oversite guidance.

- B. Many technical questions have been raised by the forest practices negotiations: wildlife population dynamics, hydrology, fish habitat, effect of timber harvest methods, etc. These questions have no answers, yet, and it is an exercise in futility to argue "my study against yours". A joint cooperative study committee is proposed. Each Forest Practices participant plus the University of Alaska would be offered a seat. Committee charter would be to (1) define the questions, (2) find who, if anyone, is addressing that or a similar question, (3) report findings and recommendations to the BOF.

The research function is an integral part of resource management. Research takes money. The BOF would be charged with seeking appropriate funding of project monies. Part 2 (above) is a long term project that could be best left for the State Forester and ADF&G Habitat Division to further develop.

## VI. SUMMARY

The above discussion primarily addresses education, training, and information transfer. It doesn't adequately discuss consultation. It is assumed several memoranda of understanding (or one inclusive memorandum) will result from the negotiations. Those instruments should include formal understandings of who consults with whom, when and how.

A second, less formal series of consultations must occur among interested parties. This can occur partly as a function of the annual field meetings. The BOF also can play a useful role. The State forester has proposed to have BOF meetings and field trips held at regular intervals around the state. The public will be encouraged to attend and make their views known.

The above ideas can help Alaska move into the realm of cooperative resource management that will serve all the timber industry and state citizens.

## VII. INFORMATION BROCHURE FOR STATE FOREST PLANNING

- A. Target Audience: the general public & private timber operators.  
B. Goal: 1) To better inform the timber industry, forest users, and the general public about DNR's land management process leading to timber harvest. 2) To inform the industry, and general public how to get involved in the process including comment and review, etc; to ensure that their concerns are addressed.  
C. Format: Easily readable brochure or pamphlet.

## Chapter 3. Policy Changes

### B. Research and Monitoring

#### Monitoring

The Board of Forestry will coordinate the development of a plan for monitoring the statutes, regulations, and BMPs for their effectiveness in meeting state water quality standards.

The Board of Forestry will coordinate the development of a plan for monitoring the statutes, regulations, and BMPs for their effectiveness in meeting fisheries habitat requirements.

In addition, because of questions concerning the nomination process for the board of forestry, the board should review the nomination process after the first few years to determine whether members are truly representative of their interest groups; whether there is a sufficient pool of nominees to effect interested, effective board members; and whether the board is an effective forum for the discussion of forestry issues.

#### Research

The Board of Forestry, working with DNR, DEC, DF&G, and other affected institutions, and the forest-dependant industries shall conduct an annual survey of research and monitoring needs related to forest practices and their effect on public resources. The board shall review research proposals and shall make recommendations to the governor and the legislature to promote research projects which would address these needs.

A number of research topics have been identified. The most important research needs identified were identified by the technical committee as part of the riparian management discussion. They concern 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 that it would take from 2-5 years to conduct the research necessary to address the above items.

Other research needs have also been identified. There needs to be further research on the role of large woody debris as it relates to creation and maintenance of fish habitat, particularly in interior Alaska and certain stream types throughout the state. As other data needs are identified, they should be brought to the Board of Forestry. The board should work with the Alaska Cooperative Forestry/Fisheries Working Group and with other groups with research capabilities.

## Chapter 4. Review of the Agreement

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, and 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; in either event, this review will be done with full public input and participation.

An effective review requires that monitoring and research be an on-going part of the forest practices program. To assess the effectiveness of the riparian standards in protecting fish habitat and allowing a viable timber industry, it will be necessary to conduct the research and monitoring program outlined on the previous pages, and for the Department of Natural Resources to maintain an accessible administrative record of decisions made under the act, especially requests and decisions concerning variations from design standards (as outlined on page 29). In addition, each year DNR, DF&G, and DEC will each present an annual report, independently, to the Board of Forestry and the legislature on the research for which they have statutory expertise, and make recommendations for any improvements necessary to rectify procedural or substantive problems.

This section will be added to draft legislation:<sup>11</sup>

It is the intent of this legislature that the operation of the forest practices act and regulations be reviewed within three years of the passage of this act. 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 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.

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<sup>11</sup>Editor's Note. This section was expanded during the legislative drafting. For the complete version, see Section 31 of the legislation.

## Appendix A

### Information List for Enhanced Notification System

We envision a two-tiered review consisting of an initial, broader scale, voluntary plan of operations and a detailed plan of operation submitted at least 30 days prior to commencement of activities.

#### Annual Plan

The landowner should provide an annual operating plan to the agencies and the public. While the plan is voluntary, it is useful for the agencies, the public, and the landowner. Such a plan would provide the agencies with an early look at proposed harvest activities to help them begin an early review. It would also help the agencies provide information, suggestions, and potential problem areas to the landowner. For the landowner, it is a way to get agency and public feedback to plans early in the process. For the public, it provides early notice and information.

For DNR to distribute the annual operating plan to the public, the landowner must provide either a summary or a report in distributional form (i.e., a format that can be xeroxed).

The list that follows contains the information necessary for such a plan to be useful to the agencies, and the information should be provided when known.

- (1) The name and address of the landowner (and operator, if known).
- (2) A map showing the approximate unit boundaries, to the extent known.
- (3) The location of existing roads and anticipated location of new mainline and spur roads; sort yards, and log transfer sites.
- (4) Description and anticipated location of campsites, fuel storage sites, and associated water, sewer and solid waste disposal facilities.
- (5) An identification of known streams and tributaries and, to the extent possible, the classification of those streams.
- (6) To the extent possible an identification of steep slopes greater than 60% where harvesting is expected to occur and measures that may be necessary to prevent mass wasting.
- (7) A description of known or potential anadromous fish and wildlife habitats in the units and the management options to minimize impacts on those habitats pursuant to the act and regulations.
- (8) To the extent possible, a general description of anticipated timber harvesting operations and transportation needs over a five-year period in the affected drainage where the activities are proposed.
- (9) Whether the 5% cap is expected to be invoked during the detailed planning process, if known.
- (10) Any other available information such as that required under the Detailed Plan Review, or any information considered relevant by the landowner.

### Detailed Plan of Operations.

A detailed plan of timber harvesting operations shall be filed with the department in writing by a person who owns, leases, or otherwise controls or operates on all of any portion of any timber land and one who plans to harvest the timber thereon. The format and type of information required for the detailed plan of operations will be refined as regulations are written. The information required shall be sufficient for the agencies to adequately determine whether the planned forest activities are consistent with the Forest Practices Act and regulations, and will take into account the information needs of the public. According to current practices, DNR does not accept incomplete notifications, and the regulations will confirm this practice. The plan shall be public information.

- (1) The name, address, and approving signature of the land owner.
- (2) The name, address, and approving signature of the timber owner.
- (3) The name, address, and approving signature of the timber operator.
- (4) A description of the proposed operation and land on which the work is proposed to be done, including an orthophoto or accurate map at the harvest scale available indicating:
  - (a) the location of all known streams and anticipated stream crossing structures;
  - (b) the location of all proposed and existing roads, landings, sort yards, and log transfer facilities;
  - (c) roads identified to be put to bed;
  - (d) unit boundaries and yarding plans;
  - (e) areas of 60% or greater slope or other known areas with high potential for soil failure;
  - (f) locations where rigging is proposed to be hung through streamside buffer strips or across anadromous fish streams;
  - (g) upland quarry or borrow site locations;
  - (h) overburden or waste material disposal areas;
  - (i) classification of streams and their tributaries in units; and
  - (j) description and anticipated location of campsites, fuel storage sites, and associated water and solid waste disposal facilities.
  - (k) all other proposed activities.
- (5) A description of the silvicultural systems to be applied, including the type of logging equipment to be used and designated areas where full log suspension will be achieved.
- (6) A description, based on available information, of the methods to be used to avoid accelerated erosion and mass wasting from roads and other timber operations to be conducted within a drainage.
- (7) A description of proposed measures for reforestation and drainage erosion control.
- (8) Special provisions, if any, to protect fish habitat within the area of operations.
- (9) The expected dates of commencement and completion of timber operations.
- (10) Any other information required through regulation to meet the rules and standards of this chapter.
- (11) A xeroxable summary for distribution to the public. The summary will describe

the areas to be harvested, harvesting systems and roading activities, and any other information the landowner considers relevant. The summary should contain a xeroxable map showing the location of cutting units, streams, areas of steep slopes and any other information that the landowner considers relevant.

- (12) Voluntarily, special actions to protect public resources not required by the forest practices act.
- (13) Operating area, planning area, riparian leave areas, and any variations from regulatory standards. If the 5% cap will be invoked, then the supporting basal area calculations.

DEPARTMENT OF NATURAL RESOURCES  
FOREST PRACTICES

1. What we are doing now under the existing law.

Due to low markets in 1986, the number of notifications received for operations on private lands dropped to a level where budget cuts were made. Increased markets in 1988 has brought about a 173% increase in notifications. With no new funding, the forest practice personnel staff months have not increased to a level necessary to handle the inspections necessary with the increased notifications. FY 1988 saw a 16% increase in inspections with present staff but this is far short of what is needed.

Lack of travel dollars has seriously limited field inspection opportunities. A high level of inspection activity not only ensures compliance with the Forest Practice Act, but also allows us to identify potential problems early and prevent violations. Due to the lack of inspections, the character of forest practices administration has been forced away from land owner assistance and toward enforcement.

2. What can be done with the Governor approved increment under the existing law.

One Juneau based individual who is presently carried on tenuous Federal Grant funds will be converted to General Funds. This will add one more staff person to the forest practices team to help with the increased number of notifications needing evaluation and inspection.

Travel dollars will allow for additional forest practice inspections that will allow the program to get back into the early identification of potential problems and better protection of the forests.

3. What should we do now.

To help meet the increasing notifications and their necessary inspections we will be moving two positions from the Northern Region to the Southeast Region. One position will be in Juneau and one in Ketchikan. This increase in staff from 2 1/2 to 4 1/2 employees will help but does not put the program back to the needed level.

4. What we will need to do the new proposal being considered by the Forest Practice Review Committee.

Total funding needs are \$437,700 broken down as follows:

Southeast Region - \$125,000

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

Add one Forester III to be the Southeast Region forest practice coordinator. This position will also be able to fill in on forest practice work within the region on an as needed basis and be the liaison between the field staff and other agency personnel.

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

Southcentral Region - \$167,800

Add one Forester II to the Kenai-Kodiak Area to work on the additional forest practice work that is taking place on the Kenai Peninsula and in Prince William Sound. Presently the only position available for the forest practice work is also responsible for all the timber sales on state land so both jobs have suffered.

Add one Forester III to regional staff and replace Federal Funds for an Administrative Assistant I in regional office. The senior Forest Practices Forester will handle notifications and inspections on the remainder of the Gulf of Alaska, Valdez-Copper River, Mat-Su and Southwest areas. Duties will also include being the coordinator between regional field personnel and other agency employees working in forest practices.

The Administrative Assistant I will work at providing the necessary budgetary work needed by the regional forest practice personnel so they can spend more time in the field and less on administrative work.

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

Central Office - \$144,900

Add one Forest Engineer and one Forester II to the staff. The engineer is badly needed to provide expertise in soil stability, logging systems and transportation evaluations. Serve as an expert witness on technical matters. Further responsibilities include research proposal evaluation, support for divisional timber sales, and audit function for Forest Practice compliance on state timber sales. The staff forester position would handle data-base management including reforestation verification, forest practices statistics and public notice provisions as well as be available for temporary assignment around the state to assist in field evaluations during peak periods.

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

5. What we won't do without added money.

Field administration will be less intense than at present which means more violations with resultant adverse environment impacts (primarily fishery values) can be expected. More violations of Title 16 regulations can be anticipated. Notifications will be allowed to commence after the 30 day period without any inspections or comments being made. Few or no checks on reforestation requirements will be conducted. Less hearing will be conducted due to the requirement of hiring a hearing officer but no funding available. This could lead to more violators being let off.

# MEMORANDUM

# State of Alaska

DEPARTMENT OF FISH AND GAME

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

DATE: February 22, 1989

FILE NO.:

TELEPHONE NO.: 465-4105

SUBJECT: Forest Practices  
Funding

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

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

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

## Additional Funding Requirement

### Sitka Office:

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

### Petersburg Office:

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

### Ketchikan Office:

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

### Douglas Regional Office:

Line 200	2.5
Line 300	2.0
Line 400	0.5

Subtotal 177.6

Anchorage Regional Office:

Habitat Biologist III (12 months)	55.0
Habitat Biologist II (24 months)	96.8
Line 200 (travel to Afognak, Cordova, Valdez, McGrath, Kodiak, Denai, and Mat-Su Valley)	16.0
Line 300 (Contractual for vessel and aircraft charters to reach logging areas for stream surveys and enforcement work)	30.0
Subtotal	<u>197.8</u>
TOTAL	<u>375.4</u>

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

cc: Norman Cohen

PROJECTION OF FUNDING NEEDS TO IMPLEMENT FOREST PRACTICES ACT  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

CURRENT STATUS

In FY 89 (the current fiscal year) the Department has no resources available for implementation of the existing forest practices act. Resources for DEC were not included with the original forest practices act bill. The department has never played a substantive role in this area. However, the department is the lead agency for protecting water quality throughout the state. Limited budget resources have restricted the department's ability to carry out many of its statutory responsibilities.

In his FY 90 budget, Governor Cowper included funding for one and one-half positions for DEC to begin to participate in the state's forest practices program. This would fund one full-time position in the Southeast region to review forest practices notifications and to begin to determine the current status of water quality in harvested areas. It would also fund one half-time position in the Southcentral region.

FOREST PRACTICES ACT REVISIONS

Under the proposed forest practices act, as it has been defined to date, the Department of Natural Resources would retain its lead role in managing the forest. The estimates given below assume that DNR will recognize its full responsibilities as the lead agency and cooperate actively with DEC on water quality issues. If this does not occur, then additional resources will be needed for DEC.

DEC assumes that DNR will actively assist DEC in identifying areas where water quality issues are likely to arise, during field and office reviews. This will reduce the necessity for DEC to travel to all planned harvest areas or to intensively review all notifications or other proposals. DEC assumes that DNR will also actively enforce any enforceable standards or best management practices that pertain to water quality, again reducing DEC's need to develop a field presence that duplicates DNR's.

With these assumptions, DEC projects that the following would be required to implement the forest practices act revision, as it is understood at this time.

One Ecologist II position for the water quality management section to develop regulations, procedures, and manage the

overall effort.

One Environmental Field Officer II position in the Southcentral region to review notifications (or other documents), oversee field activities, conduct inspections, and ensure that water quality is protected.

One Environmental Field Officer II position in the Southeast region for the same reasons.

The equivalent of one clerical position to provide clerical support.

An appropriation of \$10,000 for contractual support of field monitoring for water quality compliance.

Approximate total cost: \$220,500

/fpa

**Amendments to the Forest Practices Act  
HB No. 331 & SB No. 317**

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BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE SENATE

2

SENATE BILL NO. 317

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

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

7

8

9

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

10

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

11

Sec. 38.05.112. FOREST LAND USE PLANS. (a) The department may

12

not sell or harvest timber, except for isolated personal use timber

13

harvest, until a site-specific forest land use plan has been adopted.

14

A forest land use plan is required whether or not a regional or area

15

land use plan under AS 38.04.065(a) or a forest management plan under

16

AS 41.17.230 has been adopted.

17

(b) The commissioner shall base a forest land use plan on the

18

best available data, including information provided by other agencies

19

describing the immediate and long-term effects of individual and

20

collective forest activities on the timber base and on other resources

21

and uses.

22

(c) In addition to the requirements of AS 38.04.065(b), a forest

23

land use plan shall consider

24

(1) commercial timber harvesting, including related activ-

25

ities;

26

(2) harvesting of forest products for personal use;

27

(3) fish and wildlife habitat, including

28

(A) identification and protection of important wild-

29

life habitat;

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

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

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

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

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

9 (C) uses of fish and wildlife;

10 (D) agriculture, including grazing; and

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

13 (5) soil characteristics and productivity;

14 (6) water quality; and

15 (7) watershed management.

16 Sec. 38.05.113. FIVE-YEAR SALE SCHEDULE. (a) The department  
17 shall annually prepare a five-year schedule of timber sales planned on  
18 all lands managed by the department. The schedule must be of suffi-  
19 cient specificity that it provides a basis for the department to  
20 allocate its resources in considering and designing sales and in  
21 conducting economic and environmental analyses. The schedule must  
22 inform the public and the timber products industry of long-term plans  
23 and provide a basis for public comment.

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

29 (c) The department may adopt regulations exempting small and

1 emergency sales from the requirements of this section.

2 \* Sec. 2. AS 41.17.010(5) is repealed and reenacted to read:

3 (5) under the leadership of the Department of Environmental  
4 Conservation as lead agency, the state should exercise its full re-  
5 sponsibility and authority for control of nonpoint source pollution  
6 with respect to the Federal Water Pollution Control Act, as amended;  
7 and, subject to AS 41.17.098(c), the provisions of this chapter and  
8 the regulations adopted under this chapter, with the approval of the  
9 Department of Environmental Conservation, set out the nonpoint source  
10 pollution requirements under state law and sec. 319 of the Clean Water  
11 Act, for activities subject to this chapter;

12 \* Sec. 3. AS 41.17.010(6) is amended to read:

13 (6) subject to 16 U.S.C. 1456(f) (sec. 307(f) of the  
14 ~~SECT~~ Coastal Zone Management Act of 1972, P.L. 92-583), for private land,  
15 <sup>2</sup><sub>(1)</sub> the provisions of this chapter and the regulations adopted under this  
16 chapter set out the [SHALL BE THE BASIS FOR] forest management stan-  
17 dards, policies, and review processes for purposes of [GUIDELINES  
18 DEVELOPED UNDER] the Alaska Coastal Management Act; [.]

19 \* Sec. 4. AS 41.17.010 is amended by adding a new paragraph to read:

20 (7) except for activities subject to the requirements of  
21 AS 16.05.840 or AS 16.05.870 and the regulations authorized by those  
22 sections, the provisions of this chapter and the regulations adopted  
23 under this chapter set out the fish habitat protection standards,  
24 policies and review processes under state law.

25 \* Sec. 5. AS 41.17.041 is repealed and reenacted to read:

26 Sec. 41.17.041. BOARD OF FORESTRY. (a) The Board of Forestry  
27 is established in the Department of Natural Resources, division of  
28 forestry.

29 (b) The board is composed of seven members appointed by the

1 governor, as follows:

2 (1) a member or representative of a statewide commercial  
3 fishermen's organization;

4 (2) a member or representative of a Native corporation  
5 established under 43 U.S.C. 1601-1628 (Alaska Native Claims Settlement  
6 Act);

7 (3) a member or representative of an environmental orga-  
8 nization;

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

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

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

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

19 (c) The state forester shall serve as chair of the board and  
20 shall, in consultation with the board, establish procedures for  
21 scheduling and organizing board meetings. Five voting members of the  
22 board constitute a quorum. No less than one fewer vote than the  
23 number of voting members present is necessary for all decisions of the  
24 board.

25 (d) A board member who is unable to attend a meeting may desig-  
26 nate an alternate, who possesses the same qualifications as the board  
27 member.

28 (e) The division shall serve as staff to the board. The depart-  
29 ment, the Department of Fish and Game, and the Department of

1 Environmental Conservation shall provide technical staffing and  
2 information as needed by the board.

3 \* Sec. 6. AS 41.17.043 is amended to read:

4 Sec. 41.17.043. TERMS OF OFFICE. The initial terms of board  
5 members are: for two members, one year; for two members, two years;  
6 and for two members, three years. After the initial terms, the [THE]  
7 term of office of a member of the board is three years. The state  
8 forester serves an indefinite term, ex officio.

9 \* Sec. 7. AS 41.17.047 is repealed and reenacted to read:

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

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

16 (c) The board, working with the department, the Department of  
17 Environmental Conservation, the Department of Fish and Game, other  
18 affected agencies and parties, and the forest-dependent industries,  
19 shall conduct an annual survey of research needs related to forest  
20 practices. The board shall review research proposals and shall make  
21 recommendations to the governor and the legislature to promote re-  
22 search projects that would address these needs.

23 (d) The board shall coordinate the monitoring of the implementa-  
24 tion and effectiveness of this chapter, and the regulations and best  
25 management practices adopted under this chapter, in meeting state  
26 water quality standards, in meeting fish and wildlife habitat require-  
27 ments, and in meeting other forestry objectives. The board shall  
28 report annually to the legislature and the governor on the effective-  
29 ness of this chapter and regulations adopted under it, with its

1 recommendations for changes and for needed research and monitoring.  
2 The state forester, the Department of Fish and Game, and the  
3 Department of Environmental Conservation shall each present an annual  
4 report, independently, to the board on the effectiveness of this  
5 chapter and the regulations and best management practices adopted  
6 under this chapter that protect the resources for which they have  
7 statutory responsibility, and shall make recommendations for changes  
8 to correct procedural or substantive problems. The board shall  
9 forward these reports to the legislature as part of its annual report.  
10 The board shall hold hearings at least once annually in southeast,  
11 southcentral, and interior Alaska for purposes of taking public  
12 testimony on those subjects.

13 \* Sec. 8. AS 41.17.055(d) is repealed and reenacted to read:

14 (d) The commissioner may develop regulations under this chapter  
15 as part of the state program for control of nonpoint source pollution  
16 under the Federal Water Pollution Control Act, as amended. However,  
17 the Department of Environmental Conservation is the lead agency for  
18 water quality and control of nonpoint source pollution under that Act,  
19 and the regulations are therefore subject to the approval of the  
20 commissioner of environmental conservation.

21 \* Sec. 9. AS 41.17.060(b)(2) is amended to read:

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

27 \* Sec. 10. AS 41.17.060(b) is amended by adding a new paragraph to  
28 read:

29 (5) significant adverse effects of soil erosion and mass

1       wasting on water quality and fish habitat shall be prevented or min-  
2       imized.

3       \* Sec. 11. AS 41.17.060(c)(6) is amended to read:

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

7       \* Sec. 12. AS 41.17.060(c) is amended by adding a new paragraph to  
8       read:

9               (7) allowance shall be made for important fish and wildlife  
10       habitat.

11       \* Sec. 13. AS 41.17.070(b) is repealed and reenacted to read:

12               (b) To maintain a record of division decision-making for public  
13       and agency review, the commissioner shall compile and index all de-  
14       cisions made under this chapter regarding directives, stop-work or-  
15       ders, waivers from requirements, decisions of hearing officers, and  
16       decisions on appeals. The commissioner shall submit a summary of this  
17       record annually to the Board of Forestry.

18       \* Sec. 14. AS 41.17.080 is repealed and reenacted to read:

19               Sec. 41.17.080. REGULATIONS. (a) The commissioner may adopt  
20       regulations necessary to accomplish the purposes of this chapter under  
21       the Administrative Procedure Act (AS 44.62) regarding forest practices  
22       such as the following:

23               (1) road construction and maintenance, including

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

26                       (B) landing location and construction;

27                       (C) drainage structures;

28                       (D) material sources and spoil disposal sites;

29               (2) timber harvesting, including

- 1 (A) timber harvest unit planning and design;  
2 (B) felling and bucking;  
3 (C) cable yarding, shovel, tractor, and wheeled  
4 skidder systems;  
5 (D) landing clean-up;  
6 (E) slash disposal;  
7 (3) log transfer, sort yards, and storage facilities,  
8 including  
9 (A) location, design, and construction;  
10 (B) maintenance;  
11 (C) closure;  
12 (D) log storage, rafting, and identification;  
13 (4) reforestation, including  
14 (A) site preparation and rehabilitation;  
15 (B) prescribed burning;  
16 (C) exemptions from reforestation requirements;  
17 (5) prevention and suppression of forest insects and dis-  
18 eases;  
19 (6) salvage logging;  
20 (7) vegetative management; and  
21 (8) fire and flood hazard management.

22 (b) The commissioner shall adopt regulations specifying the  
23 information to be submitted under AS 41.17.090(c) in the detailed plan  
24 of operations for the division to adequately assess whether the activ-  
25 ities will comply with the requirements set out in this chapter.

26 (c) The commissioner may establish regions, districts, or other  
27 subdivisions of forest land in the state in which different regu-  
28 lations apply to reflect varying conditions in the state, or to facil-  
29 itate administration. In adopting regulations, the commissioner shall

1 make appropriate distinctions between public and private land.

2 (d) The commissioner shall adopt only those regulations neces-  
3 sary to accomplish the purposes of this chapter, and shall avoid those  
4 that increase operation costs without yielding significant benefits to  
5 public resources.

6 \* Sec. 15. AS 41.17 is amended by adding new sections to read:

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

11 (b) A forest landowner may not conduct or approve timber clear-  
12 ing activities that create conditions fostering outbreaks of  
13 infestation or infection that threaten forest resources on forest  
14 lands belonging to another person. If the commissioner finds, after  
15 notice and hearing, that there has been a violation of this sub-  
16 section, the commissioner may

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

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

24 (c) If a forest landowner does not comply with a final order of  
25 the commissioner under (b)(1) or (b)(2) of this section, the commis-  
26 sioner may enter onto the land and undertake the actions so ordered  
27 and the landowner is liable for the cost of the actions after delivery  
28 by the commissioner of an itemized statement of expenses incurred.

29 (d) The commissioner may undertake surveys and appraisals to

1 obtain data on regional insect infestations and disease conditions.  
2 Upon a determination that there exists an area that is infested with  
3 forest insects or infected with diseases injurious to forest resources  
4 and that the infestation or infection threatens the forest land or  
5 timber of adjacent owners, the commissioner may establish and set the  
6 boundaries of an infestation or infection zone. The commissioner may  
7 enter into agreements with any owner and with any governmental agency  
8 for the purpose of controlling or suppressing infestation or infection  
9 within the zone. Upon a determination by the commissioner that insect  
10 and disease control work within the zone is no longer necessary or  
11 feasible, the commissioner shall terminate the zone.

12 Sec. 41.17.083. CLEARING OF FOREST LAND FOR NON-TIMBER PURPOSES.  
13 A state agency, municipality, or public utility shall, before approv-  
14 ing or conducting clearing of forest land for purposes other than  
15 timber harvest, determine whether the timber to be removed has signif-  
16 icant salvage value. If the timber has significant salvage value, the  
17 agency or utility shall salvage the timber as part of the clearing  
18 process.

19 \* Sec. 16. AS 41.17 is amended by adding a new section to read:

20 Sec. 41.17.087. VARIATION FROM REQUIREMENTS. A forest land-  
21 owner, timber owner, or operator may propose for a particular activity  
22 a variation from a requirement imposed by this chapter or the regu-  
23 lations adopted under this chapter. Consistent with AS 41.17.098, if  
24 the state forester determines that the harm intended to be avoided by  
25 the requirement is not likely to occur because of site-specific cir-  
26 cumstances relating to the particular activity and is not likely to  
27 cause significant harm to fish habitat or water quality, the state  
28 forester shall agree to the proposed variation. If the state forester  
29 does not agree to the proposed variation, a forest landowner, timber

1 owner, or operator may appeal to the commissioner. The appellants  
2 shall conform to the requirement during the pendency of the appeal.

3 \* Sec. 17. AS 41.17.090 is repealed and reenacted to read:

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

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

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

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

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

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

27 (d) Within five days after receipt of a plan of operations under  
28 (c) of this section, the state forester shall distribute the informa-  
29 tion received under (c) of this section to affected state agencies and

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

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

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

1 unless the state forester has issued a stop-work order under AS 41.-  
2 17.138.

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

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

13 (i) An operator shall renew a plan of operations annually and  
14 the state forester shall review any decision under AS 41.17.117 with  
15 respect to that plan of operations during each renewal.

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

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

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

26 (c) The commissioner shall give due deference to the Department  
27 of Environmental Conservation in decisions concerning water quality.  
28 The commissioner of environmental conservation retains the authority  
29 to adopt nonpoint source pollution regulations for activities subject

1 to this chapter to the extent that regulations adopted by the  
2 commissioner of natural resources and approved by the commissioner of  
3 environmental conservation under this chapter. The commissioner of  
4 environmental conservation retains the authority to withdraw approval  
5 of regulations adopted by the commissioner under this chapter.

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

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

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

27 \* Sec. 19. AS 41.17 is amended by adding new sections to read:

28 \*  
ARTICLE 1A. RIPARIAN MANAGEMENT.

29 Sec. 41.17.115. INTENT FOR RIPARIAN AREAS. The commissioner

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

14 Sec. 41.17.116. RIPARIAN STANDARDS FOR PRIVATE LAND. (a)  
15 Except as provided in AS 41.17.117, private forest land adjacent to  
16 the following types of waters as defined in AS 41.17.950 and located  
17 in the coastal spruce-hemlock forest is subject to the riparian pro-  
18 tection standards set out in this section:

19 (1) Along all Type A waterbodies,

20 (A) harvest of timber may not be undertaken within 15  
21 meters of the waterbody;

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

25 (C) the remaining 50 percent of the timber located  
26 between 15 and 30 meter; from the waterbody must be alive, with-  
27 out significant damage from harvest operations, and generally  
28 representative of the original size distribution of the stand in  
29 order to provide for sufficient large woody debris and other fish

1 habitat components; to the extent consistent with habitat needs,  
2 the operator may harvest high value trees and retain lower value  
3 trees;

4 (D) the commissioner may agree to a modification of  
5 the timber retention requirements in (A) - (C) of this paragraph  
6 if adequate protection remains for the fish habitat and compa-  
7 rably sized substitute timber is retained in another area; it is  
8 preferable, but not mandatory, that the substitute timber be left  
9 in another part of the riparian area.

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

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

19 (b) The commissioner shall adopt regulations for private land  
20 outside of the coastal spruce-hemlock forest that designate the  
21 riparian areas to be protected and the restrictions on timber harvest-  
22 ing operations within those areas which are necessary for their pro-  
23 tection in accordance with the management goals set out in AS 41.-  
24 17.115. [Until regulations are adopted, the standards set out in  
25 AS 41.17.119 apply.]

26 Sec. 41.17.117. PROCEDURES FOR PRIVATE LAND IN COASTAL FORESTS.

27 (a) If a plan of operations required by AS 41.17.090 includes private  
28 land in the coastal spruce-hemlock forest that is located within 30  
29 meters of an anadromous fish waterbody, the plan of operations must