

ALASKA FOREST RESOURCES & PRACTICES ACT: AS 41.17

Reprinted May, 2013

DIVISION OF FORESTRY
DEPARTMENT OF NATURAL RESOURCES

This booklet compiles the 1978 Forest Resources and Practices with amendments passed in 1981, 1982, 1983, 1984, 1988, 1990, 1995, 1996, 1998, 1999, 2003, 2005, 2006, 2008, 2010, 2011, and Revisor changes. It does not include the attorney general's notes or the history notes that are given in the official compilation. The Department of Natural Resources provides this booklet as a public courtesy. The Department cannot guarantee the absolute accuracy of this reproduction of the Forest Resources and Practices Act (AS 41.17). For the official published version of the Act, please refer to the Alaska Statutes.

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This publication was released by the Alaska Department of Natural Resources to provide information to the forest industry, state agencies, and the public about the Alaska Forest Resources and Practices Act. 200 copies of this report were printed in Anchorage, Alaska at a cost of \$1.15 per copy.

Alaska Forest Resources and Practices Act

May 2013

Chapter 17. Forest Resources and Practices

Article 1. Administration and Management

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

- (1) the forest resources of Alaska are among the most valuable natural resources of the state, and furnish timber and wood products, fish and wildlife, tourism, outdoor recreation, water, soil, air, minerals, and general health and welfare;
- (2) economic enterprises and other activities and pursuits derived from forest resources warrant the continuing recognition and support of the state;
- (3) the state has a fundamental obligation to ensure that management of forest resources guarantees perpetual supplies of renewable resources, provides nonrenewable resources in a manner consistent with that obligation, and serves the needs of all Alaska for the many products, benefits, and services obtained from them;
- (4) government administration of forest resources should combine professional management services, regulatory measures, and economic incentives in a complementary fashion, and should draw upon the expertise of professional foresters in conjunction with other disciplines;
- (5) under the leadership of the Department of Environmental Conservation as lead agency, the state should exercise its full responsibility and authority for control of nonpoint source pollution with respect to the Federal Water Pollution Control Act, as amended;
- (6) subject to AS 41.17.098(c), the provisions of this chapter, and regulations adopted under this chapter, with the approval of the Department of Environmental Conservation, establish the nonpoint source pollution requirements under state law and Sec. 319 of the Clean Water Act for activities subject to this chapter;
- (7) except for activities subject to AS 16.05.841 or 16.05.871 and regulations authorized by those sections, this chapter and regulations adopted under this chapter establish the fish habitat protection standards, policies, and review processes under state law. (§1 ch 108 SLA 1978; am §2 ch 34 SLA 1990; am E.O. No. 107 §6 (2003); am EO 114 § 7 (2008))

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

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

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

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

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

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

Sec. 41.17.041. Board of Forestry. (a) The Board of Forestry is established in the division.

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

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

(c) The state forester is the presiding officer of the board and shall, in consultation with the board, establish procedures for scheduling and organizing board meetings.

Seven voting members of the board constitute a quorum. Each decision of the board requires the affirmative vote of each voting member present less one.

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

(e) The division shall serve as staff to the board. The department, the Department of Fish and Game, and the Department of Environmental Conservation shall provide technical staffing and information as needed by the board. (§1 ch 108 SLA 1978; am §87 ch 59 SLA 1982; am §2 ch 34 SLA 1990; am E.O. No. 107 §7 (2003); am EO 114 § 8 (2008))

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

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

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

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

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

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

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

annually in southeast, southcentral, and interior Alaska for purposes of taking public testimony on the subjects. (§1 ch 108 SLA 1978; am §2 ch 34 SLA 1990; am §75 ch 21 SLA 1995; am E.O. No. 107 §8, 9 (2003); am EO 114 §§ 9 and 10 (2008))

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

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

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

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

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

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

(g) The commissioner may take other actions necessary and proper for the administration of this chapter, including the adoption of regulations under the Administrative Procedure Act (AS 44.62) and AS 41.17.047. (§1 ch 108 SLA 1978; am §5 ch 34 SLA 1990; am E.O. No. 107 §10 (2003); am EO 114 § 11 (2008))

Sec. 41.17.060. Regulatory and administrative standards. (a) All regulations, administrative actions, and other activities and duties undertaken under this chapter shall be in full accordance with the standards set out in this section.

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

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

- (2) environmentally sensitive areas shall be recognized in the development of regulations and best management practices that are designed to implement nonpoint source pollution control measures authorized under this chapter;
 - (3) administration of forest land shall consider marketing conditions and other economic constraints affecting the forest land owner, timber owner, or the operator;
 - (4) to the fullest extent practicable, harvested forest land shall be reforested, naturally or artificially, so as to result in a sustained yield of merchantable timber from that land; if artificial planting is required, silviculturally acceptable seedlings must first be available for planting at an economically fair price in the state; and
 - (5) significant adverse effects of soil erosion and mass wasting on water quality and fish habitat shall be prevented or minimized.
- (c) With respect to state and municipal forest land only, the following standards also apply:
- (1) forest land shall be administered for the multiple use of the renewable and nonrenewable resources and for the sustained yield of the renewable resources of the land in the manner that best provides for the present needs and preserves the future options of the people of the state;
 - (2) a system of allocating predominant uses or values to particular units within a contiguous area of land shall reflect in reasonable proportion the various resources and values present in that area;
 - (3) to the extent its capacity permits, forest land shall be administered so as to provide for the continuation of businesses, activities, and lifestyles that are dependent upon or derived from forest resources;
 - (4) timber harvesting is limited to areas where data and information demonstrate that natural or artificial reforestation techniques will result in the production of a sustained yield of merchantable timber from that area;
 - (5) there may not be significant impairment of the productivity of the land and water with respect to renewable resources;
 - (6) allowance shall be made for scenic quality in or adjacent to areas of substantial importance to the tourism and recreation industry; and
 - (7) allowance shall be made for important fish and wildlife habitat. (§1 ch 108 SLA 1978; am §6, 7 ch 34 SLA 1990)

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

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

summary of this record annually to the board. (§1 ch 108 SLA 1978; am §108 ch 6 SLA 1984; am §8 ch 34 SLA 1990; am E.O. No. 107 §11, 12 (2003); am EO 114 §§ 12 and 13 (2008))

Sec. 41.17.080. Regulations. (a) The commissioner may adopt regulations necessary to accomplish the purposes of this chapter under AS 44.62

(Administrative Procedure Act) regarding forest practices such as

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

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

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

(d) The commissioner shall adopt only those regulations necessary to accomplish the purposes of this chapter and shall avoid regulations that increase operating costs without yielding significant benefits to public resources. (§1 ch 108 SLA 1978; am §9 ch 34 SLA 1990; am E.O. No. 107 §13 (2003); am EO 114 §14 (2008))

Sec. 41.17.081. Civil immunity. (a) Notwithstanding other provisions of law, a person may not bring a civil action for damages for death, personal injury, or property damage that results from an act or omission in performing or failing to perform activities or duties arising out of prevention, monitoring, control, or suppression of fires authorized to be performed under regulations adopted under AS 41.17.080(a)(8) against

- (1) the state or its officers, agents, and employees;
- (2) a political subdivision of the state or its officers, agents, and employees;
- (3) any organization authorized to prevent, control, or suppress fires; or
- (4) others assisting in the control or suppression of fires at the request of an officer or employee of the United States or the state.

(b) This section does not apply to a civil action for damages as a result of intentional misconduct within the course and scope of employment or agency and with complete disregard for the safety and property of others. (§12 ch 43 SLA 2003)

Sec. 41.17.082. Control of infestations and disease. (a) All forest clearing operations and silvicultural systems must be designed to reduce the likelihood of increased insect infestation and disease infections that threaten forest resources.

(b) A forest landowner may not conduct or approve timber clearing activities that create conditions fostering outbreaks of infestation or infection that threaten forest resources on forest lands belonging to another person. If the commissioner finds, after notice and hearing, that there has been a violation of this subsection, the commissioner may require the forest landowner, at that person's expense, to

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

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

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

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

Sec. 41.17.085. Permit applications. (a) *[Repealed]*

(b) Where practicable and desirable, the commissioner may enter into cooperative agreements with federal agencies authorizing the department to serve as a collection point for federal permit applications. (§1 ch 108 SLA 1978; am E.O. No. 107 §14 (2003))

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

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

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

(c) A determination by the state forester under (a) of this section and regulations by the commissioner under (b) of this section shall give due deference under AS 41.17.098. (§11 ch 34 SLA 1990; am E.O. No. 107 §15, 16 (2003); am §1 ch 123 SLA 2003); am EO 114 §§ 15 and 16 (2008))

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

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

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

- (1) a description of the proposed operations, identifying the land involved and the action proposed in sufficient detail to inform the public of the nature and

location of the proposed operations; the description must include a map and must be in a form suitable for duplication;

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

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

(d) Within five days after receipt of a detailed plan of operations under (c) of this section, the state forester shall distribute the information received under (c) of this section to affected state agencies and coastal districts, and shall distribute the information received under (c)(1) of this section to each member of the public who has asked to receive copies of notifications for the affected area.

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

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

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

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

(i) An operator shall renew a detailed plan of operations annually. (§1 ch 108 SLA 1978; am §109 ch 6 SLA 1984; am §12 ch 34 SLA 1990; am §6 ch 122 SLA 1996; am E.O. No. 107 §17-19 (2003); am EO 114 § 17-19 (2008))

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

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

(c) The commissioner shall give due deference to the Department of Environmental Conservation in decisions concerning water quality. The commissioner of environmental conservation retains the authority to adopt nonpoint source pollution regulations for activities subject to this chapter to the extent that regulations are not adopted by the commissioner of natural resources and approved by the commissioner of environmental conservation under this chapter. The commissioner of environmental conservation may withdraw approval of regulations adopted by the commissioner of natural resources under this chapter by following the procedure for the adoption, amendment, and repeal of regulations under AS 44.62.180 - 44.62.290.

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

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

(f) If a disagreement described in (e) of this section exists, an officer of an agency may require reevaluation of the disagreement at a higher level within the agencies, or by the governor if necessary, before a decision is made by the commissioner. (§13 ch 34 SLA 1990; am E.O. No. 107 §20-24 (2003); am EO 114 §§20-24 (2008))

Sec. 41.17.100. Deployment of broadcast chemicals. The commissioner of environmental conservation, in consultation with the commissioner, shall formulate necessary plans and measures to ensure that application of broadcast chemicals and other substances foreign to the state's forest ecosystem do not lead to results contrary to the objectives and provisions of this chapter and other applicable laws and regulations relating to renewable resources. Regulations adopted by the

commissioner of environmental conservation may include requirements for advance testing, posting of security, written reports, and other matters. (§1 ch 108 SLA 1978)

Sec. 41.17.110. Conversion of forest land to other uses. An intention to convert forest land to other uses after timber harvesting may be stated in the notification submitted under AS 41.17.090. In that event, reforestation requirements adopted under this chapter do not apply, except that conversion shall be completed during the time set by regulation for minimum reforestation of the land, and other requirements for revegetation may be imposed to the extent permitted by law. If the commissioner finds at any time that the responsible party has failed to conform to the intent to convert as stated in the notification, the commissioner shall revoke approval of the conversion and require full compliance with reforestation requirements. (§1 ch 108 SLA 1978; am E.O. No. 107 §25 (2003); am EO 114 § 25 (2008))

Article 2. Riparian Management

Sec. 41.17.115. Management of riparian areas; regulations. (a) The commissioner shall protect riparian areas from the significant adverse effects of timber harvest activities on fish habitat and water quality. The management intent for riparian areas is the adequate preservation of fish habitat by maintaining a short- and long-term source of large woody debris, stream bank stability, channel morphology, water temperatures, stream flows, water quality, adequate nutrient cycling, food sources, clean spawning gravels, and sunlight.

(b) The commissioner shall adopt regulations for the protection of riparian areas; the regulations may include higher standards of protection for fish and other public resources on land managed by the department than on other public land or private land. The regulations may vary by region of the state and must take into consideration reasonable classification of water bodies and the economic feasibility of timber operations. (§14 ch 34 SLA 1990; am E.O. No. 107 §26 (2003); am EO 114 § 26 (2008))

Sec. 41.17.116. Riparian standards for private land. (a) Private forest land adjacent to the following types of water and located in Region I is subject to the riparian protection standards established in this subsection:

- (1) along a Type I-A water body,
 - (A) operations within 100 feet of the water body or to the break of the slope, whichever area is smaller, shall be conducted in compliance with slope stability standards established in regulations adopted under this chapter; and
 - (B) harvest of timber may not be undertaken within 66 feet of the water body;
- (2) along a Type I-B water body,

- (A) operations within 100 feet of the water body or to the break of the slope, whichever area is smaller, shall be conducted in compliance with slope stability standards established in regulations adopted under this chapter; and
 - (B) harvest of timber may not be undertaken within 66 feet of the water body or to the break of the slope, whichever area is smaller;
- (3) along a Type I-C water body,
- (A) operations within 100 feet of the water body or to the break of the slope, whichever area is smaller, shall be conducted in compliance with slope stability standards established in regulations adopted under this chapter; and
 - (B) where prudent, the operator shall retain low value timber within 25 feet of the water body or to the limit of the area described in (A) of this paragraph, whichever area is greater, where the width of the water body is
 - (i) greater than 13 feet at the ordinary high water mark; or
 - (ii) greater than eight feet at the ordinary high water mark if the channel is incised;
- (4) along a Type I-D water body,
- (A) operations within 50 feet of the water body or to the break of the slope, whichever area is smaller, shall be conducted in compliance with slope stability standards established in regulations adopted under this chapter; and
 - (B) where prudent, the operator shall retain low value timber within 25 feet of the water body or to the limit of the area described in (A) of this paragraph, whichever area is greater, where the width of the water body is
 - (i) greater than 13 feet at the ordinary high water mark; or
 - (ii) greater than eight feet at the ordinary high water mark if the channel is incised.
- (b) Private forest land adjacent to the following types of water and located in Region II is subject to the riparian protection standards established in this subsection:
- (1) along a Type II-A water body, harvest of timber may not be undertaken within 150 feet of the water body; additionally, harvest of timber may not be undertaken along outer bends subject to erosion within 225 feet of the water body or to the terrace top break, whichever is smaller;
 - (2) along a Type II-B water body, harvest of timber may not be undertaken within 150 feet of the water body; additionally, harvest of timber may not be undertaken along outer bends subject to erosion within 325 feet of the water body or to the terrace top break, whichever is smaller;
 - (3) along a Type II-C water body, harvest of timber may not be undertaken within 100 feet of the water body;
 - (4) along a Type II-D water body, there is a 100-foot riparian area; harvest of timber may not be undertaken within 50 feet of the water body;
 - (5) the length of the augmented buffer along an outer bend subject to erosion in (1) or (2) of this subsection must be equal to a distance eight times the stream width measured on a reach between bends at a point not widened by a point bar or channel movement; the augmented buffer must be located so that three stream

widths are upstream and five stream widths are downstream of the point opposite the apex of the point bar;

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

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

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

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

(3) along a Type III-C water body, harvest of timber within 100 feet of the water body must be located and designed primarily to protect fish habitat and surface water quality as determined by the commissioner with due deference to the Department of Fish and Game.

(d) In this section,

(1) "low value timber" means timber that the owner or operator determines, at the time of harvest, to be uneconomic to harvest and market;

(2) "prudent" means that the requirement can be met using reasonably available means or technology, that complying with the requirement is not likely to create significant impairment of the productivity of the land and water, and that the cost of achieving the requirement is not out of proportion to the benefits that can reasonably be expected to be achieved in the particular situation. (§14 ch 34 SLA 1990; am § 1-2 ch 3 SLA 1999; am §2 ch 123 SLA 2003; §2 ch 65 SLA 2006); am EO 114 § 27 (2008))

Sec. 41.17.118. Riparian standards for state land. (a) The riparian standards for state land are as follows:

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

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

(B) between 100 and 300 feet from the water body, harvest of timber may occur but must be consistent with the maintenance of important fish and wildlife habitat as determined by the commissioner with due deference to the Department of Fish and Game;

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

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

(B) along a Type II-B water body, harvest of timber may not be undertaken within 150 feet of the water body; additionally, harvest of timber may not be

undertaken along outer bends subject to erosion within 325 feet of the water body or to the terrace top break, whichever is smaller;

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

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

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

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

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

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

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

(B) along a Type III-B water body, harvest of timber may not be undertaken within 50 feet of the water body; between 50 feet and 100 feet from the water body, up to 50 percent of standing white spruce trees having at least a nine-inch diameter at breast height may be harvested;

(C) along a Type III-C water body, harvest of timber within 100 feet of the water body must be consistent with the maintenance of important fish and wildlife habitat as determined by the commissioner with due deference to the Department of Fish and Game;

(b) The commissioner may impose additional riparian protection standards for timber harvest operations through the adoption of land use plans under AS 38.04.065. Within a state forest established under AS 41.17.200 - 41.17.230, riparian standards adopted by the commissioner under this subsection may not exceed the standards established under (a) of this section unless the commissioner makes a finding of compelling state interest.

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

8 percent or less. (§14 ch 34 SLA 1990; am E.O. No. 107 §28, 29 (2003); am §3 ch 123 SLA 2003; am §10 ch 153 SLA 2003; §3 ch 65 SLA 2006); am EO 114 § 28 (2008))

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

- (1) in Region I, harvest of timber may not be undertaken within 100 feet of an anadromous or high value resident fish water body;
- (2) in Region II, the standards are the same as for state land under AS 41.17.118(2)(A) - (F) and regulations adopted under this chapter;
- (3) in Region III, the standards are the same as for state land under AS 41.17.118(3) and regulations adopted under this chapter. (§14 ch 34 SLA 1990; am §4 ch 123 SLA 2003; §4 ch 65 SLA 2006)

Article 3. Enforcement

Sec. 41.17.120. Inspections and investigations. The commissioner may inspect and investigate forest land and activities on it and may enter upon it in conjunction with any operations as necessary to ensure compliance with applicable regulations and requirements and to otherwise enforce the provisions of this chapter. Other state agencies have this same authority to the extent necessary to enforce their own laws and regulations on forest land. Those agencies, and the commissioner shall coordinate their actions under this section. (§1 ch 108 SLA 1978; am E.O. No. 107 §31 (2003); am EO 114 § 29 (2008))

Sec. 41.17.125. Enforcement coordination. All state agencies with enforcement authority over an activity subject to regulation under this chapter shall establish a uniform enforcement strategy that avoids duplication and inconsistencies. All participating agencies shall agree to and comply with the contents of the uniform strategy. In developing and implementing the uniform strategy, each state agency retains its authority to determine the appropriate remedies under the statutes and regulations it administers. (§15 ch 34 SLA 1990)

Sec. 41.17.131. Penalties for violations. (a) An operator, forest landowner, or timber owner who violates or permits a violation of this chapter, a regulation adopted under this chapter, a directive issued under AS 41.17.136, or a stop work order issued under AS 41.17.138 is liable, after notice and hearing, for a civil fine in an amount not to exceed \$10,000 to be assessed by the commissioner. In determining the amount of civil fine, the commissioner shall consider

- (1) the character and degree of injury to forest resources and values;
- (2) the degree of intent or negligence of the respondent in causing or permitting the violation;
- (3) the character and number of past violations caused or permitted by the respondent; and

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

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

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

(d) If a respondent violates a directive issued under AS 41.17.136 or a stop work order issued under AS 41.17.138, the attorney general, at the request of the commissioner, may seek an injunction requiring the respondent to suspend all or part of the operations until the respondent complies with the directive or stop work order, and requiring the respondent to repair or correct damage resulting from the violation.

(e) If a respondent violates a directive issued under AS 41.17.136 that requires the respondent to repair or correct damage, the commissioner may proceed to repair or correct the damage using state agency employees or contractors and the respondent is liable for the cost of the repair. The commissioner shall deliver to the respondent an itemized statement of expenses incurred. (§1 ch 108 SLA 1978; am §16 ch 34 SLA 1990)

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

(b) The respondent may either comply with the directive or request a hearing under AS 41.17.139 within 15 days of receipt of the notification. If a hearing is requested, the respondent may continue with the activity unless the state forester issues a stop work order under AS 41.17.138. If the directive is affirmed by the hearing officer, the respondent shall cease the activity unless a stay is issued under AS 41.17.143(c) or by the superior court. (§17 ch 34 SLA 1990)

Sec. 41.17.138. Stop work orders. (a) Upon a determination that a violation of this chapter or a regulation adopted under it is occurring or is likely to occur and that significant harm to public resources is likely to occur if work is not halted before a hearing can be held, the state forester may issue a stop work order requiring the respondent to stop the violation or otherwise halt the threatened harm.

A stop work order must be in writing and must state the facts on which it is based.

(b) The state forester shall immediately refer the matter to a hearing officer for determination of the validity of the stop work order under AS 41.17.139. The hearing officer shall consider any arguments and evidence presented by the respondent within five workdays after receipt of the stop work order and shall then make an immediate decision sustaining or reversing the stop work order. The stop

work order is of no further effect if it is not sustained by the hearing officer within the five-workday period. A stop work order may be sustained only upon the same grounds on which it was originally issued. (§18 ch 34 SLA 1990)

Sec. 41.17.139. Hearing procedures. (a) Unless otherwise specified, proceedings under AS 41.17.131 - 41.17.139 are not subject to the Administrative Procedure Act (AS 44.62). A hearing under AS 41.17.136 or 41.16.138 shall be held before the state forester, a regional forester, or another employee of the division with similar qualifications acting as a hearing officer. A hearing on an appeal under AS 41.17.087 and a hearing under AS 41.17.082(b) shall be held before the commissioner or the commissioner's designee. A person who has assisted in the preparation of the division's case is ineligible. Hearings are not limited by common law, statutory, or judicial rules of evidence; however, the hearing officer may admit only that evidence that appears to be reliable and trustworthy. All hearings shall be open to the public. Written or oral testimony may be submitted. A party to a hearing may make written or oral argument, secure the issuance of a subpoena under AS 44.62.430, offer testimony or other evidence, and cross-examine witnesses. The hearing officer shall endeavor, in conducting any hearing, to ensure that the respondent understands the proceedings and that the facts supporting the position of each party have been adequately presented.

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

- (1) the hearing shall be a nonadversary proceeding, with the hearing officer fully and impartially representing the interests of the state and the respondent;
- (2) the hearing officer shall thoroughly investigate the facts and circumstances relating to the alleged violation, including taking testimony from appropriate persons, collecting and examining documents and other evidence, and performing other actions consistent with due process of law; and
- (3) the hearing officer shall issue a decision in accordance with the applicable procedures of (a) of this section.

(c) The hearing officer shall select the location of the hearing, giving consideration to the convenience of the parties and witnesses. The hearing officer may permit witnesses to testify through teleconferencing. (§1 ch 108 SLA 1978; am §§19, 20 ch 34 SLA 1990)

Sec. 41.17.143. Appeals and judicial review.

(a) A decision by a hearing officer under AS 41.17.136 or 41.17.138 or by the commissioner under AS 41.17.082(b), 41.17.087, or 41.17.131(a) constitutes final agency action that may be appealed to the superior court within 30 days after it is issued. Judicial review shall be as provided in AS 44.62.560 and 44.62.570.

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

is a decision by the commissioner to affirm, modify, or reverse the hearing officer or to deny the request for reconsideration.

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

(d) A person, except the aggrieved forest landowner, timber owner, or operator, may not maintain an administrative or judicial appeal, or other action or proceeding of any kind, challenging a decision or failure to act by the department with respect to the compliance of a timber operation on private forest land with this chapter or a regulation, standard, directive, or order issued under this chapter. This subsection does not prohibit the maintenance of an action

- (1) for an alleged violation of a constitutional right; or
- (2) against the department regarding a regulation, standard, or systematic course of conduct that does not involve a challenge to, or attempt to enjoin, stay, modify, or otherwise affect a timber operation on private forest land subject to this chapter. (§1 ch 108 SLA 1978; am §21 ch 34 SLA 1990)

Article 4. State Forest System

Sec. 41.17.200. State forest purposes and management. (a) The purpose of AS 41.17.200 - 41.17.230 is to permit the establishment of designated state-owned or acquired land and water areas as state forests. The primary purpose in the establishment of state forests is timber management that provides for the production, utilization, and replenishment of timber resources while allowing other beneficial uses of public land and resources.

(b) In managing a state forest, the commissioner shall, consistent with the primary purpose of a state forest under (a) of this section, restrict the public use of the land and its resources, including timber, fish and wildlife, and minerals, only when necessary to carry out the purposes of this chapter. (§5 ch 91 SLA 1983; am §§7,8 ch 122 SLA 1996; am §11 ch 153 SLA 2003)

Sec. 41.17.210. State forests. (a) The governor may propose to the legislature the establishment of state forests consisting primarily of commercially valuable forest land determined by the governor to be necessary for retention in state ownership for management under the principles of multiple use and sustained yield and consistent with AS 38.04.005. The proposal of the governor shall include a report and recommendations of the commissioner including

- (1) a preliminary forest inventory;
- (2) a summary of the testimony offered at public hearings held on the management of the proposed state forest in communities proximately located to a proposed state forest;
- (3) [Repealed]
- (4) [Repealed]

(5) an estimate of the cost of a full implementation of an operational level forest inventory and the management plan. (§1 ch 91 SLA 1983; am §22 ch 34 SLA 1990; am §9 ch 122 SLA 1996; am §16 ch 153 SLA 2003)

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

- (1) the sustained yield principle;
- (2) this chapter; and
- (3) a forest management plan prepared by the department. (§1 ch 91 SLA 1983; am §12 ch 153 SLA 2003)

Sec. 41.17.230. Management plans. (a) The commissioner shall prepare a forest management plan consistent with AS 38.04.005 and this chapter for each state forest and for each unit of a state forest to assist in meeting the requirements of this chapter. An operational level forest inventory shall be completed before a forest management plan for the state forest or the unit of a state forest is adopted. The forest management plan shall be adopted, implemented and maintained within three years of the establishment of a state forest by the legislature. To the extent they are found to be compatible with the primary purpose of state forests under AS 41.17.200, the forest management plan must consider and permit uses of forest land for nontimber purposes, including recreation, tourism, mining, mineral exploration, mineral leasing, material extraction, consumptive and nonconsumptive uses of wildlife and fish, grazing and other agricultural activities, and other traditional uses. If the commissioner finds that a permitted use is incompatible with one or more other uses in a portion of a state forest, the commissioner shall affirmatively state in the management plan that finding of incompatibility for the specific area where the incompatibility is anticipated to exist and the time period when the incompatibility is anticipated to exist together with the reasons and benefits for each finding.

(b) The commissioner shall review and revise a forest management plan when necessary.

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

(d) *[Repealed, §16 ch 153 SLA 2003.]* (§1 ch 91 SLA 1983; am §34 ch 34 SLA 1990; am §10 ch 122 SLA 1996; am §13,14,16 ch 153 SLA 2003)

Article 5. State Land Reforestation

Sec. 41.17.300. State land reforestation fund. A state land reforestation fund is established in the department. The money in the state land reforestation fund may be used only for the reforestation of state land, including site preparation, seed and seeding acquisition and cultivation, planting, and other reforestation measures,

timber stand improvement, and the development of materials and techniques for the reforestation of state land. (§2 ch 91 SLA 1983)

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

- (1) compensation for loss or damage to land within a state forest; and
- (2) the federal government and other governmental units for reforestation.

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

Sec. 41.17.320. Report. The commissioner shall make an annual report to the legislature within the first 10 days of each session of the legislature on the uses of the money in the state land reforestation fund, the proposed uses of the fund in the following fiscal year, and the balance in the fund. (See 2 ch 91 SLA 1983; am §75 ch 21 SLA 1995)

Article 6. State Forests

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

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

(c) The commissioner may establish transportation corridors within the Tanana Valley State Forest.

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

(e) The wildlife management objective of the Tanana Valley State Forest is the production of wildlife for a high level of sustained yield for human use through habitat improvement techniques to the extent consistent with the primary purpose of a state forest under AS 41.17.200. (§3 ch 91 SLA 1983; am §§33,34 ch 85 SLA 1988; am §23 ch 34 SLA 1990; am §11 ch 122 SLA 1996; am §15 ch 153 SLA 2003, am §2 ch 65 SLA 2008)

Sec. 41.17.500. Southeast State Forest. (a) Subject to valid existing rights, the state-owned or acquired land and water lying within the parcels described in (d) and (e) of this section is designated as the Southeast State Forest.

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

- (c) The commissioner may establish transportation corridors within the Southeast State Forest.
- (d) The Southeast State Forest includes the state-owned or acquired land within the following described parcels: *[legal descriptions excluded]*.
- (e) In addition to the lands described in (d) of this section, the Southeast State Forest includes the state-owned or acquired land within the following described parcels: *[legal descriptions excluded]*.
- (f) Nothing in this section prevents the City and Borough of Wrangell from exercising its land selection rights under AS 29.65.040(d) to state land within its boundaries. If new municipalities are incorporated before June 30, 2019, and lands designated in (d) and (e) of this section are within their boundaries, those lands that were classified as vacant, unappropriated, unreserved state land before establishment of the Southeast State Forest shall be used to calculate the municipal entitlement acreage under AS 29.95.030 but may not be selected. (§1 ch 112 SLA 2010; am §§1-3 ch 31 SLA 2011)

Article 7. General Provisions

Sec. 41.17.900. Applicability of chapter; relationship to other law. (a) Unless otherwise specified, this chapter applies to forest land under state, municipal, or private ownership.

(b) For federal land,

(1) the degree of resource protection may not be less than that established by this chapter for state land except that AS 41.17.119 establishes the minimum riparian standard;

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

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

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

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

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

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

(d) Notwithstanding any other provision of this chapter, the commissioner may not employ the authority vested by this chapter so as to duplicate or preempt the statutory authority of other state agencies to adopt regulations or undertake other administrative actions governing resources, values, or activities on forest land

except for regulations, if authorized by the commissioner of environmental conservation, relating to control of nonpoint source pollution.

(e) *[Repealed §18 ch 31 SLA 2005.]*

(f) This chapter does not diminish the rights, privileges, or immunities of Alaska Natives or Alaska Native corporations with respect to land conveyed under 43 U.S.C. 1601 et seq. (Alaska Native Claims Settlement Act), and does not alter or diminish the authority of the Department of Fish and Game under AS 16, of the Department of Environmental Conservation under AS 46, or of a state agency under other law. (§1 ch 108 SLA 1978; am §§24, 25, 34 ch 34 SLA 1990; am E.O. No. 107 §32,33 (2003); am EO 114 §§ 30 and 31 (2008))

Sec. 41.17.905. Independent authority. *[Repealed §38 E.O. No. 114 (2008).]*

Sec. 41.17.910. Wildlife habitat on private land. (a) The Department of Fish and Game and the commissioner shall work cooperatively with private forest landowners and timber owners to protect, maintain, and enhance wildlife habitat to the maximum extent practicable, consistent with the interests of the owners in the use of their timber resources.

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

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

(d) This section does not alter or diminish the authority and responsibility of the state over wildlife on private land. (§26 ch 34 SLA 1990; am E.O. No. 107 §35-37 (2003); am EO 114 §§ 32-34 (2008))

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

- (1) "anadromous water body" means the portion of a fresh water body or estuarine area that
 - (A) is cataloged under AS 16.05.041 as important for anadromous fish; or
 - (B) is not cataloged under AS 16.05.871 as important for anadromous fish but has been determined by the Department of Fish and Game to contain or exhibit evidence of anadromous fish in which event the anadromous portion of the stream or waterway extends up to the first point of physical blockage;
- (2) "backwater slough" means a water body that
 - (A) has sluggish flow, is warm in summer, and is typically only connected to the main stem or a side channel at one end of the water body;
 - (B) carries river current only under high water conditions; and
 - (C) may have only a seasonal connection to the main stem or side channel;
- (3) "board" means the Board of Forestry established in AS 41.17.041;

- (4) "broadcast chemicals" includes pesticides, herbicides, fungicides, fertilizers, poisons, and any other substances
- (A) used for silvicultural management or related purposes;
 - (B) not native to the ecosystem in which they are being applied; and
 - (C) having a foreseeable adverse impact on the welfare of renewable resources, as determined by the commissioner of environmental conservation;
- (5) *[Repealed §38, E.O. No. 114 (2008)]*
- (6) "division" means the division of forestry;
- (7) "forest land" means land stocked or having been stocked with forest trees of any size and not currently developed for nonforest use, regardless of whether presently available or accessible for commercial purposes, and includes any such land under state, municipal, or private ownership;
- (8) "forest landowner" means a person who owns forest land, but does not include the owner of mineral or subsurface rights only;
- (9) "glacial," with respect to a water body, as used in the phrases "glacial high value resident fish water body" and "glacial anadromous water body," means that, under normal conditions, a water body receives significant surface flow from a glacier; "glacial," with respect to a water body, includes a water body that receives a mix of glacial water and water from other sources;
- (10) "high value resident fish" means resident fish populations that are used for recreational, personal use, commercial, or subsistence purposes;
- (11) "multiple use" means
- (A) the management of all the various resources of forest land so that they are used in the combination that will best meet the needs of the citizens of the state, making the most judicious use of the land for some or all of these resources or related values, benefits, and services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions;
 - (B) that some land will be used for less than all of the resources; and
 - (C) harmonious and coordinated management of the various resources, each with the other, without significant impairment of the productivity of the land and water, with consideration being given to the relative values of the various resources, and not necessarily the combination of uses that will give the greatest dollar return or the greatest unit output;
- (12) "nonglacial," with respect to a water body, as used in the phrases "nonglacial high value resident fish water body" and "nonglacial anadromous water body," means that, under normal conditions, a water body does not receive significant surface flow from a glacier;
- (13) "operations" means timber harvesting or activities associated with timber harvesting or forest development unless exempted under AS 41.17.900(a) - (c);
- (14) "operator" means a person who is engaged in timber harvesting or activities associated with timber harvesting or forest development, or who contracts with

- others to conduct operations for that person, except a person who is engaged in an operation as an employee with wages or piecework as the sole compensation;
- (15) "ordinary high water mark" means the mark along the bank or shore up to which the presence and action of the tidal or 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;
- (16) "other public land" means state land managed by state agencies other than the department, land owned by a municipality, and land owned by the University of Alaska;
- (17) "outer bend subject to erosion" means, in Region II, a stream bend that has a cut-bank and is opposite a point bar on the inner bend;
- (18) "person" has the meaning given in AS 01.10.060 and also includes a joint venture;
- (19) "point bar" means, in Region II, a ridge or low mound of sediment, often sand or gravel, that has been deposited on the inside of a curve in a stream, where the water velocity is lower;
- (20) "Region I" means all land in Southeast Alaska, plus all land that is south of the crest of the Chugach Mountains and Saint Elias Mountains and east of a line running from the crest of the Chugach Mountains to O'Malley Peak, then southerly to Gull Rock, then southwesterly to the eastern junction of Skilak Lake Road and the Sterling Highway, then southwesterly to the mouth of the Fox River, then southwesterly through Kachemak Bay to Mt. Douglas, plus all land on the Alaska Peninsula between Mt. Douglas and Cape Kumliun that is east of the crest of the Aleutian Range, plus all islands in the Gulf of Alaska north of 56 degrees 23 minutes North latitude;
- (21) "Region II" means all land in the state south of the Nutzotin Mountains and Mentasta Mountains, south of the Alaska Range, and east of the Aleutian Range, except for the area within Region I and peninsular and island land south of Cape Kumliun;
- (22) "Region III" means all land in the state outside of Regions I and II;
- (23) "riparian area" means
- (A) the areas subject to riparian protection standards in AS 41.17.116(a) and (c) on private land in Regions I and III;
 - (B) the area 150 feet from the shore or bank of a Type II-A or II-B water body, and 100 feet from the shore or bank of a Type II-C or II-D water body in Region II;
 - (C) the area 100 feet from the shore or bank of an anadromous or high value resident fish water body on state land managed by the department and on other public land in Regions I and III;
- (24) "significant impairment of the productivity of the land and water" means an activity that may foreseeably result in prolonged or substantial damage to renewable resources or prolonged or substantial reduction of the continuing

capability of the land or water to produce renewable resources at their natural or historic levels;

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

(26) "state forest" means an area designated by the legislature and retained in state ownership in order to

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

(B) permit a variety of beneficial uses;

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

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

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

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

(31) "Type I-A water body" means, in Region I, an anadromous water body that

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

(B) consists of wetlands and lakes, including their outlets; and

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

(32) "Type I-B water body" means, in Region I, an anadromous water body that does not meet the definition of a Type I-A water body;

(33) "Type I-C water body" means, in Region I, a water body that is not anadromous, that is a tributary to a Type I-A or Type I-B water body, and that has a gradient of 12 percent or less.

(34) "Type I-D water body" means, in Region I, a water body that is not anadromous, that is tributary to a Type I-A or Type I-B water body, and that has a gradient greater than 12 percent.

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

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

- (B) a water body that typically has point bars, islands, scour planes, active or recent side channels, and areas of obvious bank erosion;
- (36) "Type II-B water body" means, in Region II, a glacial stream that has anadromous or high value resident fish and that is not a glacial Type II-C water body;
- (37) "Type II-C water body" means, in Region II, a water body that has anadromous or high value resident fish that
- (A) is a nonglacial water body greater than three feet wide and less than or equal to 50 feet wide at ordinary high water mark that has an unconfined and dynamic channel;
 - (B) is a nonglacial water body greater than three feet wide at ordinary high water mark that has a confined channel;
 - (C) is a reach of the Kenai River, Kasilof River, or Lake Fork Crescent River greater than three feet wide at ordinary high water mark; or
 - (D) is a lake or pond;
- (38) "Type II-D water body" means, in Region II, a nonglacial stream or a reach of the Kenai River, Kasilof River, or Lake Fork Crescent River that is less than or equal to three feet wide at ordinary high water mark that has anadromous or high value resident fish.
- (39) "Type III-A water body" means, in Region III, a
- (A) nonglacial high value resident fish water body greater than three feet in width at the ordinary high water mark;
 - (B) nonglacial anadromous water body; or
 - (C) backwater slough;
- (40) "Type III-B water body" means, in Region III, a glacial high value resident fish water body or a glacial anadromous water body; "Type III-B water body" does not include a glacial backwater slough;
- (41) "Type III-C water body" means, in Region III, a nonglacial high value resident fish water body that is less than or equal to three feet in width at the ordinary high water mark and that does not contain anadromous fish.
- (§1 ch 108 SLA 1978; am §88 ch 59 SLA 1982; am §43 ch 85 SLA 1988; am §27 ch 34 SLA 1990; am § 3-5 ch 3 SLA 1999; am E.O. No. 107 §38,39 (2003); am §5-10 ch 123 SLA 2003; §5 and §6 ch 65 SLA 2006); am EO 114 §35 (2008))

Revisor's note: In 2003 and 2006 the paragraphs in this section were renumbered to maintain alphabetical order.

Sec. 41.17.955. Short title. This chapter may be cited as the Forest Resources and Practices Act. (§ 25 ch 99 SLA 2004)

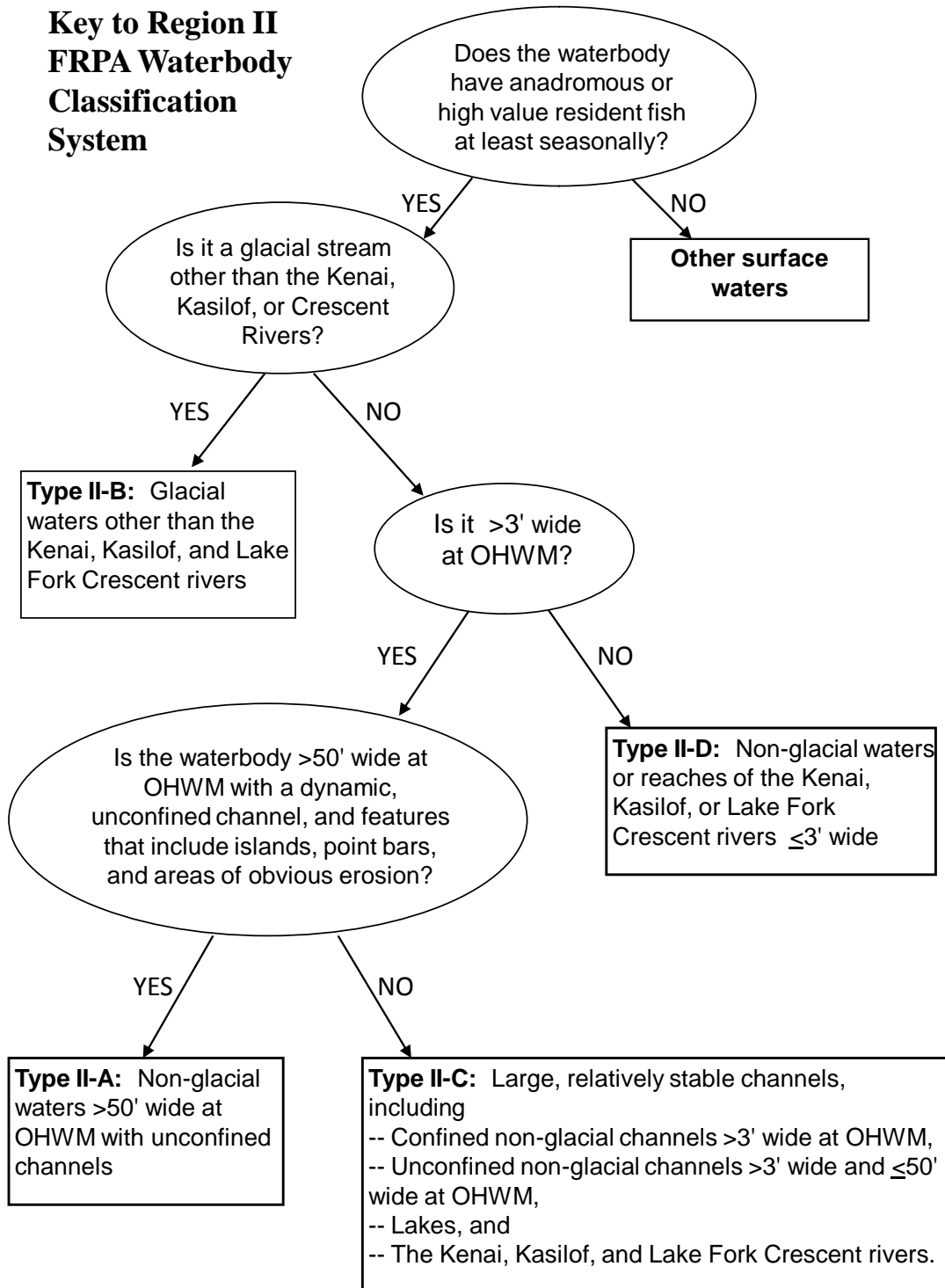
Special Section: Legislative Findings

The uncodified law of the State of Alaska is amended by adding a new section to read: FINDINGS AND PURPOSE. (a) The legislature finds that

- (1) AS 41.17 (Forest Resources and Practices Act)
 - (A) establishes a policy of protecting riparian areas from significant adverse effects on fish habitat and water quality from timber harvest activities; and
 - (B) divides the state into three forested regions for purposes of riparian area protection, in recognition of the fact that standards necessary to adequately protect fish habitat and water quality may vary according to the different characteristics of each of these three regions;
- (2) AS 41.17 (Forest Resources and Practices Act) has already established detailed riparian protection standards for the southern coast (Region I) and interior (Region III) of the state, which all available evidence continues to indicate adequately protect riparian areas in these regions; however, the legislature has not previously established similarly detailed standards for inland southcentral Alaska (Region II), because of the need for additional research and scientific collaboration specific to that region;
- (3) an intensive analysis of riparian habitat characteristics in Region II has been completed, and proposed detailed standards for riparian protection in Region II that are based on the unique nature of riparian ecosystems in Region II have been developed; these proposed standards have been endorsed by the Board of Forestry and the Department of Natural Resources;
- (4) the proposed standards for Region II recognize that certain distinctive features of riparian areas in Region II exist that warrant special protection standards that differ significantly from the standards applicable to either Region I or Region III; these distinctive features include
 - (A) a relative abundance of wide, unconfined, and dynamic river channels in forested areas; the falling of trees into these rivers as a result of the frequent shifting of river banks is a major contributor of beneficial large woody debris to these channels; trees along these rivers can therefore become an important source of large woody debris even though they are currently located relatively far from the river;
 - (B) a greater diversity and wider distribution of fish species, including high value resident fish species, than in other regions of the state;
 - (C) more intensive use of fresh water of Region II for sport fishing than in other regions of the state; and
 - (D) a relatively low volume for each acre of riparian timber and a relatively high proportion of hardwoods that have a shorter residence time as large woody debris; as a result, a wider no-harvest area is necessary along dynamic river channels in Region II to provide a volume of large woody debris equivalent to that yielded by a smaller buffer in other regions;
- (5) the proposed standards for Region II are responsive to the distinctive features listed in (4) of this subsection.

(b) The purpose of this Act is to further the goal of AS 41.17 (Forest Resources and Practices Act) of region-specific riparian protection standards in this state by adopting standards that have been tailored to the unique conditions of the inland southcentral area of the state. (§1 ch 65 SLA 2006)

**Key to Region II
FRPA Waterbody
Classification
System**



Region II FRPA Water Body Classification System

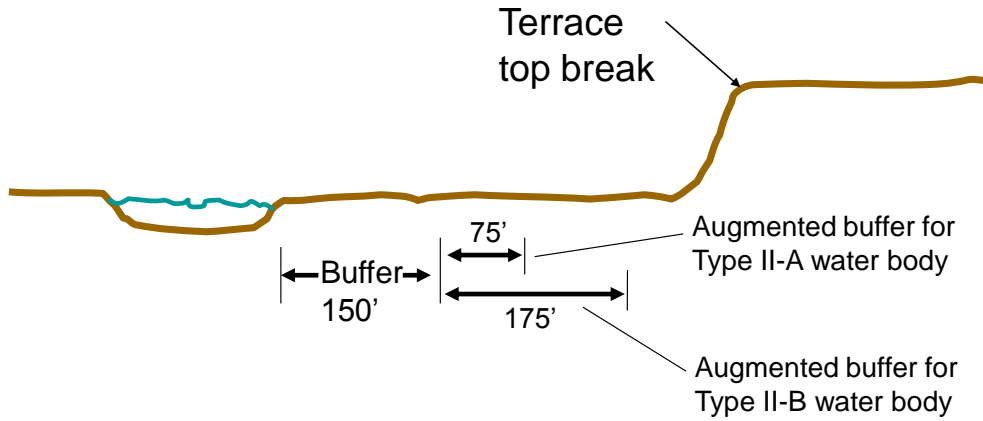
Note: The examples of streams for each type are subject to review in the field. Field conditions at the specific site of operations will determine the actual classification of a stream reach.

Type	Description	Examples (area)
II-A	<p>Non-glacial streams >50' wide at OHWM that have anadromous or high-value resident fish and</p> <ul style="list-style-type: none"> • are not confined and have dynamic channels • have point bars, islands, and areas of obvious bank erosion, scour planes, and active or recent side channels. <p>Channel morphology is an important factor in maintaining LWD in this type.</p>	<p>Lower reaches of: Willow Cr. (Mat-Su) Montana Cr. (Mat-Su) Clear Cr. (Mat-Su) Peters Cr. (Mat-Su) Theodore R. (W Side Cook Inlet) Chuitna R. (W Side Cook Inlet) Lewis R. (W. Side Cook Inlet) Gulkana R. (Copper R.) E.Fk. Chistochina (Copper R) Hanagita R. (Copper R.) Anchor R. (Kenai) Deep Cr. (Kenai) Ninilchik R. (Kenai)</p>
II-B	<p>Glacial streams other than the Kenai, Kasilof, and Lake Fork of the Crescent rivers with anadromous or high value resident fish.</p> <p>II-B waters typically are not confined and have dynamic channels, and have point bars, islands, and areas of obvious bank erosion, scour planes, and active or recent side channels.</p>	<p>Chakachamna R. (W. Side Cook Inlet) Beluga R. (W. Side Cook Inlet) North Fork Crescent River Crescent R. below N. Fork/Lake Fork confluence (W. Side Cook Inlet) Chichantna R. (W. Side Cook Inlet) Kahiltna R. (Mat-Su) Susitna R. (Mat-Su) Matanuska R. (Mat-Su) Knik R. (Mat-Su) Kashwitna R. (Mat-Su) Sheep Cr. (Mat-Su) Yentna R. (Mat-Su) Skwentna R. (Mat-Su) Chulitna R. (Mat-Su) Talkeetna R. (Mat-Su) Klutina R. (Copper R.) Copper R. (Copper R.) Tazlina R. (Copper R.) Nelchina R. (Copper R.) Chistochina R. (Copper R.) Gakona R. (Copper R.) Chitina R. (Copper R.) Slana R. (Copper R.)</p>

<p>II-C</p>	<p>Waters with anadromous or high-value resident fish that include</p> <ul style="list-style-type: none"> • Confined reaches of non-glacial waters >3' wide, • Unconfined reaches of glacial waters >3' wide and ≤50' wide' • Lakes, • The Kenai, Kasilof, and Lake Fork Crescent rivers. <p>(These 3 glacial systems have large sockeye populations because of the lakes; few, relatively small tributaries below their settling lakes; and generally stable channels. They are more similar to the non-glacial waters in this category than to the majority of glacial streams.)</p>	<p>Fish Cr. (Mat-Su) Lake Cr. (Mat-Su) Deshka R. (Mat-Su) Little Susitna (Mat-Su) Alexander Cr. (Mat-Su) Chijuk Cr. (Mat-Su) Trapper Cr. (Mat-Su) Goose Cr. (Mat-Su) upper Anchor R. (Kenai) Moose R. (Kenai) Crooked Cr. (Kenai) Swanson R. (Kenai) Lower Stariski Cr. (Kenai) Kasilof R. & Tustumena Lk. (Kenai) Kenai R. & Lk. (Kenai) Crescent R. (W. Side CI) Tazlina L. (Copper R.) Bone Creek? (Copper R.) Mentasta Creek (Copper R.) Indian Creek (Copper R.) Tulsona Creek (Copper R.) Indian Creek (Copper R.) Sinona Creek (Copper R.) Ahtell Creek (Copper R.) Chistochina R. (Copper R.)</p> <p><u>Upper reaches</u> of many II-A streams are also classified II-C</p>
<p>II-D</p>	<p>Anadromous or high-value resident fish streams ≤3' at OHWM</p>	<p>These streams are typically unnamed and often unmapped because of their small size ; can be upstream of II-C reaches</p>
<p>Other surface waters</p>	<p>Other fresh water springs, lakes, or ponds with a surface outlet, or a freshwater stream, the designated uses of which are protected under 18AAC70</p>	<p>Upper Montana Cr (Mat-Su) Moose Cr. (Mat-Su) N. Fk. Eagle R. (Anchorage) Many unnamed and unmapped waters</p>

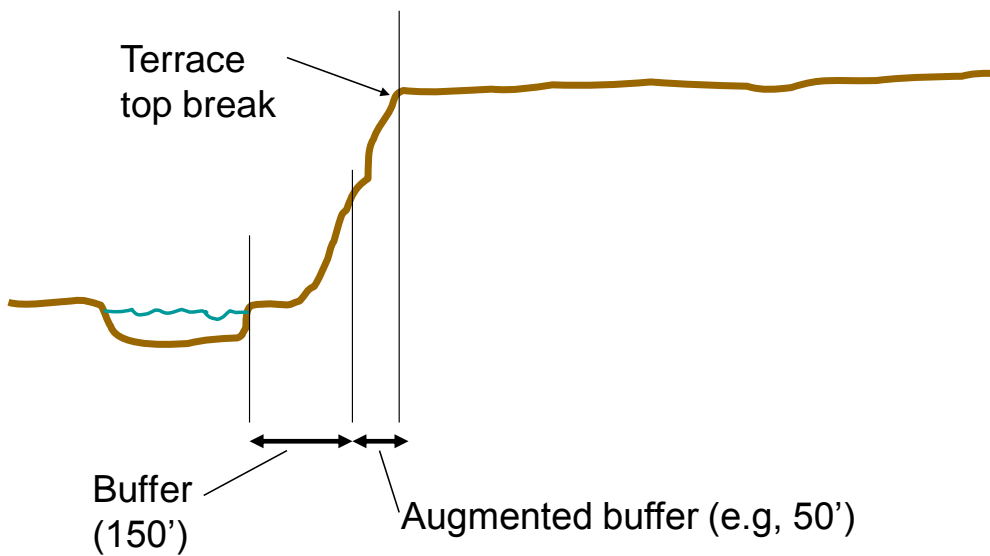
Type II-A and II-B Augmented Buffer Width

Example 1: Terrace top break is beyond full width of augmented buffer



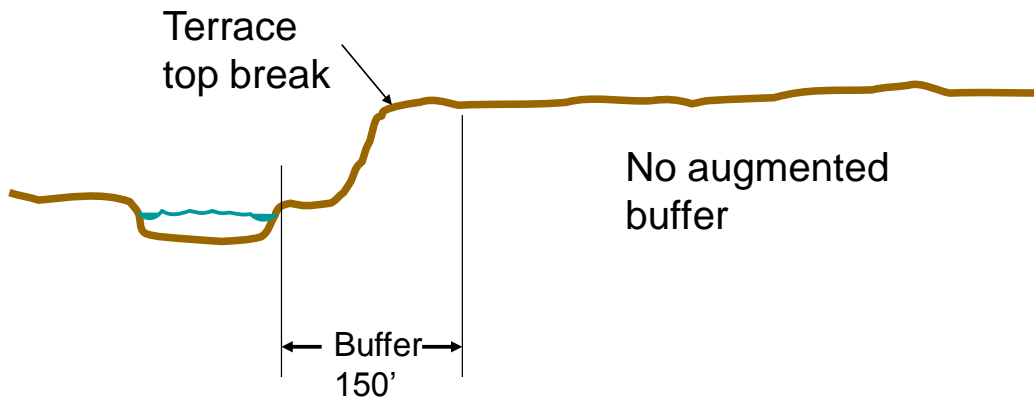
Type II-A and II-B Augmented Buffer Width

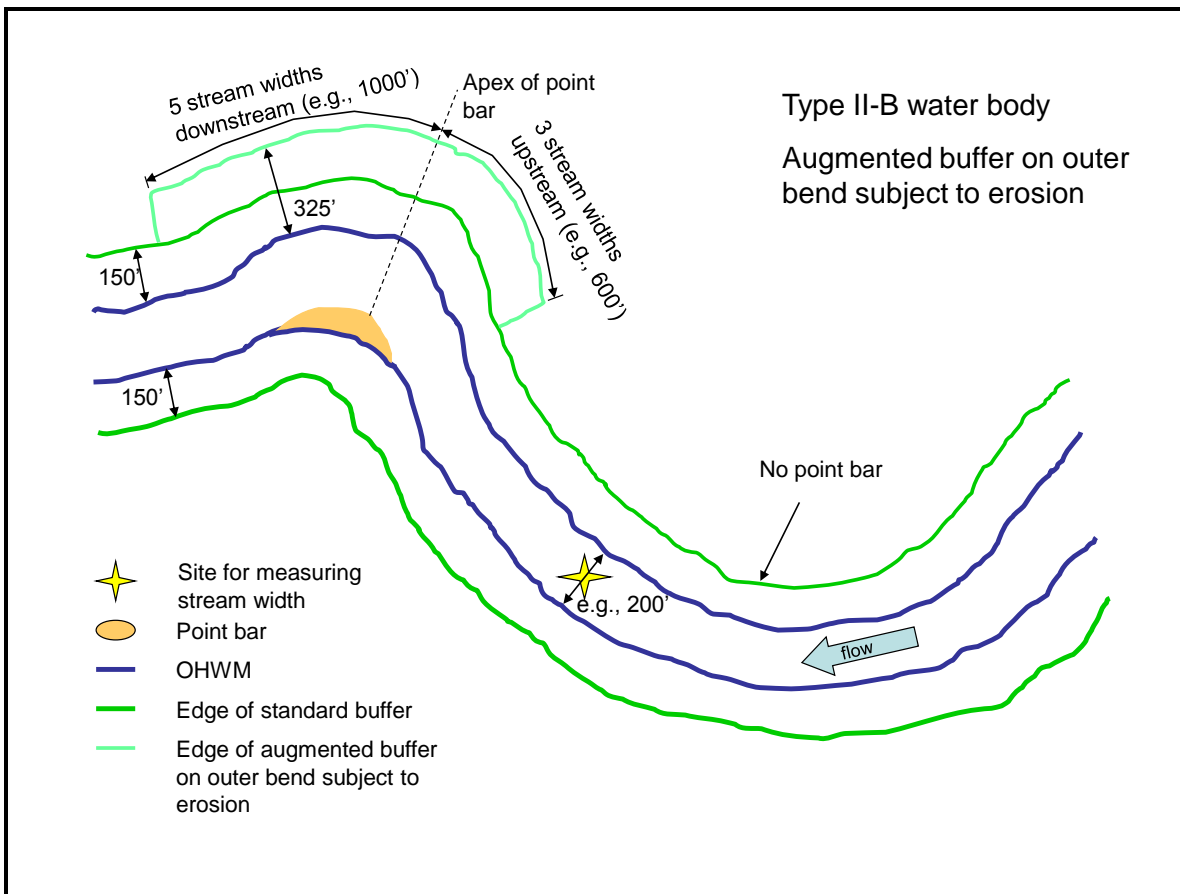
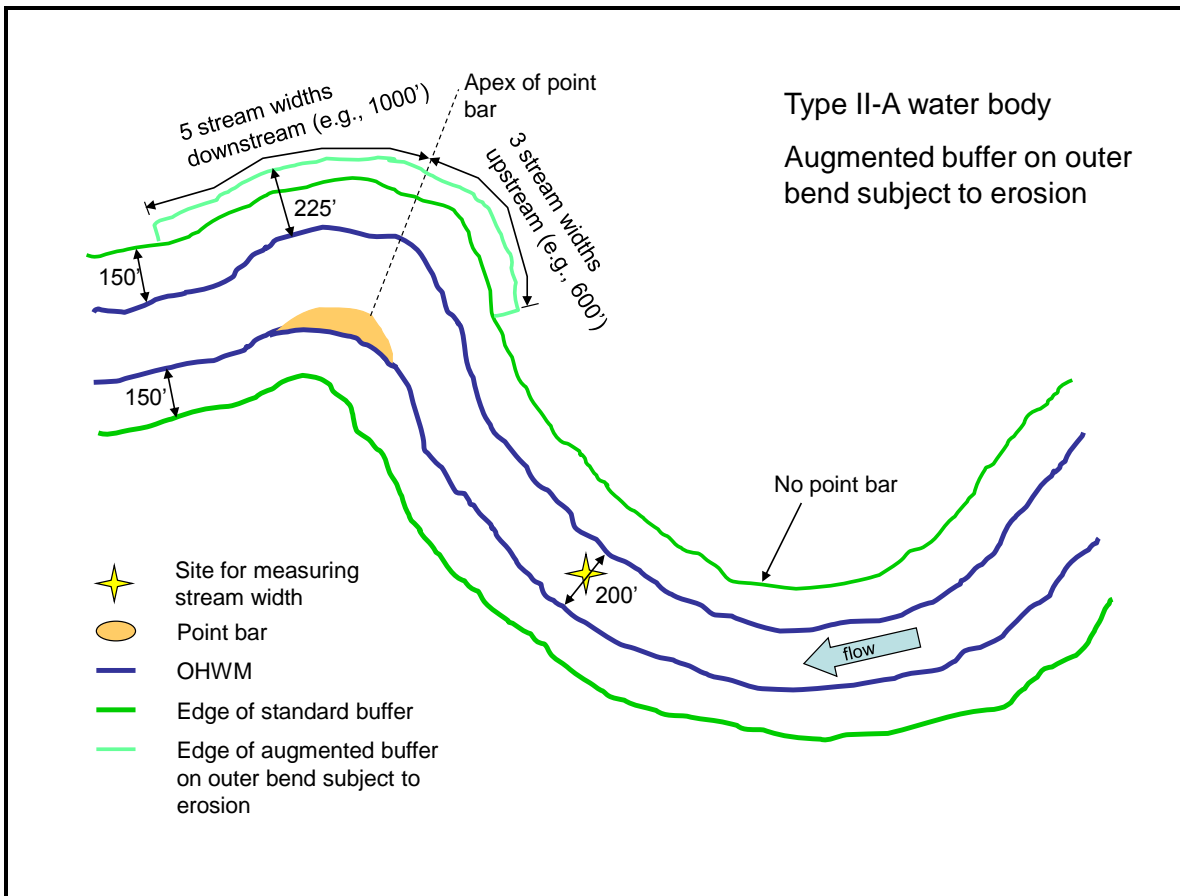
Example 2: Terrace top break is within augmented buffer - buffer ends at terrace top break



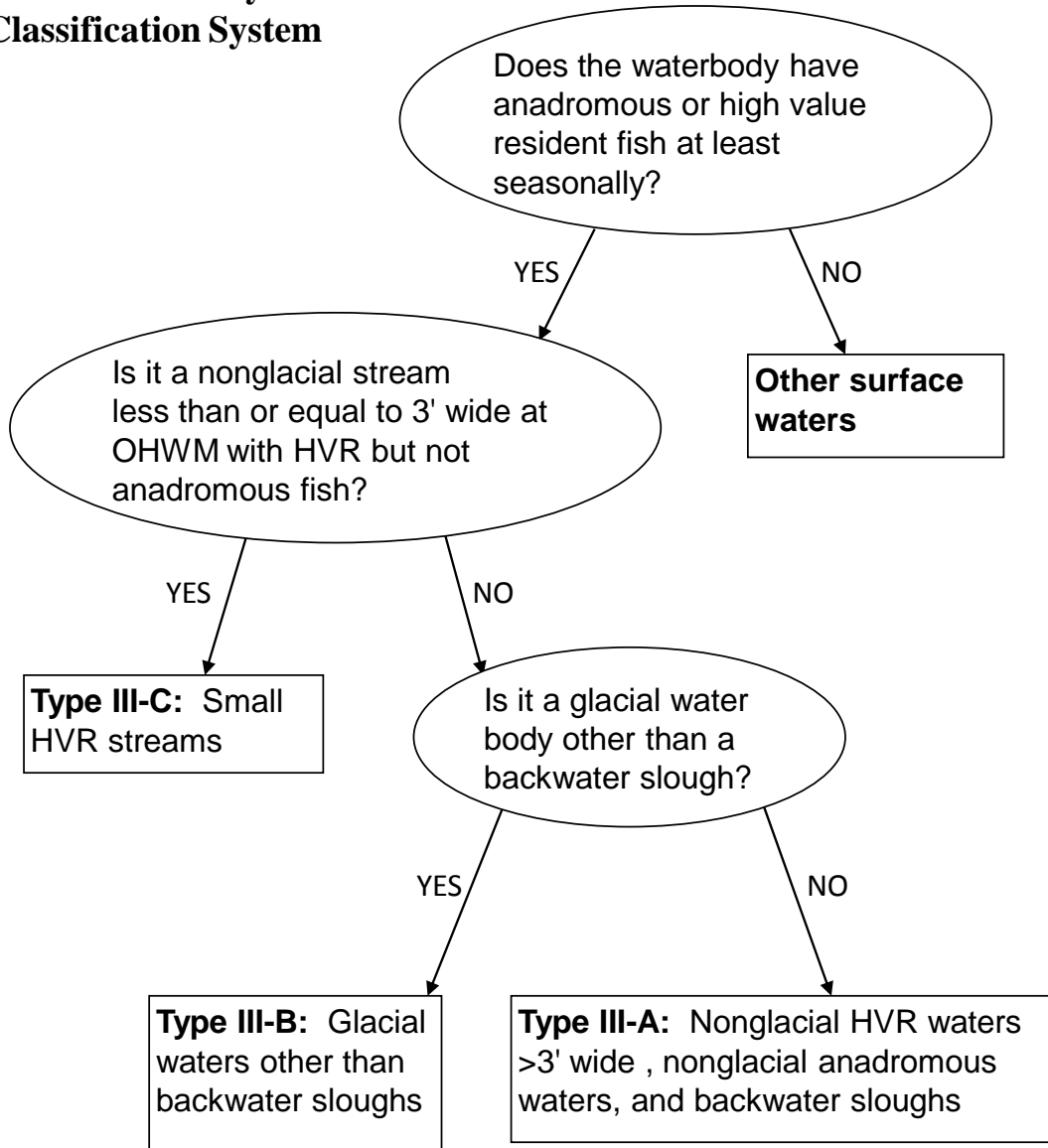
Type II-A and II-B Augmented Buffer Width

Example 3: Terrace top break is within buffer – no augmented buffer





**Key to Region III
FRPA Waterbody
Classification System**



Note: The examples of streams for each type are subject to review in the field. Field conditions at the specific site of operations will determine the actual classification of a stream reach.

Type	Description	Examples (area)
<p style="text-align: center;">III-A</p>	<p>Type III-A waters include:</p> <ul style="list-style-type: none"> • Nonglacial water bodies >3 feet wide with high value resident fish, • Nonglacial water bodies with anadromous fish, and • Glacial and nonglacial backwater sloughs <p>A backwater slough is a water body that has sluggish flow, is warm in summer, and typically is only connected to the main stem or a side channel at one end. A backwater slough carries river current only under high water conditions, and may have only a seasonal connection to the main stem or side channel.</p> <p>Note: A number of waterways called "sloughs" on topographic maps are side channels of glacial or non-glacial rivers under this classification system.</p>	<p>Anvik River Birch Creek Birch Lake Chatanika River Chena River Deadman Lake Delta Clearwater River Faith Creek Fivemile Clearwater River George Lake Glacier Creek Goldstream Creek Goodpaster River Harding Lake Healy Lake Healy L. outlet to Tanana R. (unnamed) Hess Creek Jim River Julius Creek Kateel River Koyukuk River Lignite Creek Long Creek Medicine Lake and Medicine L. outlet Connector from Minto L. to Goldstream Cr. Otter Creek Piledriver Slough Porcupine River Quartz Lake Richardson Clearwater River Salcha River Shaw Creek Tolovana River Volkmar Lake</p> <p><u>Backwater sloughs:</u> Totchaket Slough Unnamed sloughs in the Chena system Many unnamed backwaters along the Tanana R.</p>

III-B	Glacial water bodies with anadromous or high value resident fish; Type III-B does not include glacial backwater sloughs	Chisana River Kuskokwim River Nenana River Phelan Creek Salchaket Slough 17-Mile Slough (Nenana) Soldier Slough Swan Neck Slough Tanana River Teklanika River Tok River Toklat River Wood River Yukon River
III-C	Nonglacial water bodies ≤ 3 feet wide that contains high value resident fish but not anadromous fish	Typically these are the upper reaches of streams in upland areas; many are unnamed.
Other surface waters	Other fresh water springs, lakes, or ponds with a surface outlet, or a freshwater stream, the designated uses of which are protected under 18AAC70	Acey-Deucey Lake Cache Creek - upper reaches Caribou Creek - upper reaches Spinach Creek - upper reaches Smith Lake

Topic Guide: Alaska Forest Resources and Practices Act

July 2006

Note: This guide is presented as an aid and is not all-inclusive

TOPIC	Section in AS 41.17
Agency coordination	.098; also .010(5-6), .047(c), .055(d-e), .070(b), .085, .090(d), .125, .900(f)
Appeals	.143; also .070(b)
Applicability	.900; also .110 for reforestation
Backwater slough	.950(2)
Board of Forestry	.020(b), .041-.047, .070(b), .230(c), .950(3)
Change in operations	.090(g)
Chemicals	.100, .950(4)
Clean Water Act	.010(6)
Clearing of spruce trees	.082-.083
Coastal districts	.090(d), .098(a)(b), .900(b)
Definitions	.950; also .098(e), .116(c)
Detailed plan of operations	.080(b), .090., 098. 110
Due deference	.087(c), .098(c)-(e)
Enforcement procedures	.125-.138
Estuarine areas	.950(1)
Fish habitat protection	.010(7), .060(b)(5), .087(a), .098(d), .115, .118(a)(1), .119(2)
Glacial and nonglacial	.950(9) and (12)
Hearings	.139; also .070(b), .082(b), .131(a), .136(b), .138(a)(b); (state forest plans) .143
Independent authority	.905
Insects and diseases	.082
Inspections	.120; also .090(e)(f)
Land use conversion	.083, .110
Monitoring (implementation & effectiveness)	.047(d)
Multiple use	.060(c)(1), .210, .950(11)
Nonpoint source pollution	.010(5), .055(d), .060(b)(2), .098(c), .900(d)
Notification of operations	see detailed plan of operations
Reforestation	.055(b), .060(b)(43), .060(c)(4), .110, .300-.320
Regions	.080(c), .950(20-22)
Regulations (authorities and standards)	.047(a), (d); .055(d), (g); .060(a), (b)(2); .080; .087(b); .098(c); .100; .115; .116(a), (b); .900(c)
Riparian areas	.087(b), 098(d), .115-.119. 950(23)
Road construction	.080(a)(1), .098(d)
Stream and waterbody classification	.118(c), .950(1), (31)-(41)
State forests	.200-.230, .400, .500
Sustained yield	.060(b)(4), (c)(1), (c)(4); .210; .220; .400(e); .950(26),(27)
Timber harvest	.060(c)(4), .080, .082(b), .090(b), .900(b)(2); see also riparian areas
Variations from requirements	.087, .098(b)-(d)
Water quality protection	.047(d), .055(d), .060(b)(5), .087(a), (c); .115
Wildlife habitat	.060(c)(7), .910

