

## APPENDIX D

# FOREST LAND USE PLANS AND ANNUAL OPERATING PLANS

Several policies guide timber harvest on state land in the Yakataga area:

- The Yakataga Area Plan determines where timber harvest is allowed. The plan has areawide guidelines on forestry and access that give general direction as to *how* timber harvest will occur.
- The Alaska Forest Resources and Practices Act (commonly referred to as the Revised Forest Practices Act or FPA)<sup>1</sup> determines in more detail *how* timber resources will be managed.
- The Five-Year Timber Sale Schedule and Forest Land Use Plan (FLUP) for each sale give specific decisions on *when* individual timber sales will be held and the *size and design* of each sale.
- In lieu of a Forest Land Use Plan, the University of Alaska prepares for DOF approval an Annual Operating Plan to describe the timing, size, and design of each timber harvest.

### Forest Land Use Plans (FLUPs)

The Forest Practices Act requires that the Division of Forestry (DOF) prepare a Forest Land Use Plan (FLUP) for every timber sale except for certain emergencies or personal use. The FLUP must meet the statutory requirements for the balanced use of renewable and non-renewable resources described in AS 38.05.112. Agencies and the public are provided an opportunity to review and comment on draft FLUPs. The DOF evaluates and responds to comments in the final FLUP. FLUPs are generally completed between five and 14 months prior to the anticipated timber sale date.

A Forest Land Use Plan is a site-specific plan that describes a timber sale in detail. The FLUP includes cutting units and design information, location, land title details, conformance with existing plans, department policies and regulations, access provisions including roads, a narrative section, and site-specific stipulations (AS 38.05.112).

The FLUP also addresses impacts to non-timber resources. This includes identification and protection of important wildlife habitat; design of harvest to provide wildlife travel corridors and escape cover; uses of the forest for recreation and tourism activities and visual resources; other existing commercial and non-commercial uses; and impacts to adjoining lands.

---

<sup>1</sup> The Forest Practices Act is the primary law governing forestry activities on state, municipal, and private land. The Act establishes minimum statewide standards for multiple use and sustained yield management of forest lands, reforestation, protection of riparian areas, and enforcement procedures.

## YAKATAGA AREA PLAN

The Yakataga Area Plan specifically deferred to the FLUP process several issues related to balancing timber harvest with non-timber resources and uses. Examples include:

- making allowances for important bear habitat;
- minimizing impacts to viewsheds;
- additional habitat protection measures for species of concern such as moose, bear, goat, swans, and eagles; and
- forest management activities within ¼ mile of mapped goat winter habitat, within 1,000 feet of mapped moose winter habitat, and in river corridors farther than 100 feet from anadromous fish streams.

Deferral of these site-specific decisions to the FLUP allows an opportunity for more detailed information to be gathered and flexibility for managers to respond to the specific situation. DOF solicits information and recommendations from agencies (particularly DFG), the public, and other interested parties early in the timber sale planning process through reviews of the Five-Year Timber Sale Schedule and draft FLUPs.

### **Notice Requirements**

DOF provides agencies and the public several opportunities to contribute to the DNR timber sale program.

First, a timber sale must be on the Five-Year Timber Sale Schedule for two years prior to sale. (Small or emergency sales may be exempt by regulation.) The schedule describes proposed sales, access sales, and reforestation plans for the next five years. The schedule gives advance notice to the timber products industry, agencies, and the public. It provides a basis for public comment on the DNR timber sale program (AS 38.05.113).

Second, DOF must prepare a Forest Land Use Plan (FLUP) prior to each timber sale. FLUPs must meet the public participation requirements for land use planning included in AS 38.04.065 (b)(8): "provide for meaningful participation in the planning process by affected local governments, state and federal agencies, adjacent landowners, and the general public." Meaningful participation is informally defined as a genuine opportunity to influence the outcome.

Finally, because a timber sale is a disposal of state resources, DNR must make a written finding that the sale is in the best interests of the state under AS 38.05.035 (e). The finding must be publicized under DNR's key law on public notice, AS 38.05.945. By practice, although not legally required, the Division of Forestry also notices FLUPs and Five-Year Timber Sale Schedules under the guidelines of AS 38.05.945.

AS 38.05.945 notices must be published in statewide and local newspapers at least 30 days before the proposed action. DNR must also give notice to:

- municipalities whose boundaries include the affected area;
- regional ANCSA corporations whose regional boundaries include affected land outside a municipality;
- village ANCSA corporations outside a municipality and within 25 miles of the proposed action;
- nonprofit community organizations who request notification in writing and whose boundaries include the affected area; and
- postmasters of permanent settlements of 25 or more persons outside a municipality and within 25 miles of the proposed action.

### **Annual Operating Plans**

A timber sale contract may require the purchaser of the contract to prepare an annual plan of operations (11 AAC 71.300). The plan must be prepared before beginning operations in the timber sale area and before beginning operations each calendar year thereafter (AS 41.17.090 (c)). The operating plan may be modified by mutual agreement.

A detailed plan of operations must identify on a detailed map the land involved, and describe the action proposed in sufficient detail to inform the public of the nature of the proposed operation. Annual operating plans are not subject to public notice but are distributed to affected agencies, coastal districts, and members of the public that have made a written request. The operating plan is subject to inter-agency review under the Alaska Coastal Zone Management Program and must be consistent with the Alaska Forest Resources and Practices Act. It must also be consistent with the area plan.

Under terms of the University of Alaska timber rights settlement, the University must submit an annual plan of operations (see Appendix C). Some mitigation measures for impacts to fish and wildlife habitat were included in the settlement agreement.

### **Forest Land Use Planning Statutes**

Following are the statutes that directly affect Forest Land Use Plans:

#### **AS 38.05.112: Forest Land Use Plans.**

- (a) The department may not sell or harvest timber, except for isolated personal use timber harvest, until a site-specific forest land use plan has been adopted. A forest land use plan is required whether or not a regional or area land use plan under AS 38.04.065(a) or a forest management plan under AS 41.17.230 has been adopted.
- (b) The commissioner shall base a forest land use plan on the best available data, including information provided by other agencies describing the immediate and long-term effects of individual and collective forest activities on the timber base and on other resources and uses.
- (c) In addition to the requirements of AS 38.04.065(b), a forest land use plan shall consider
  - (1) commercial timber harvesting, including related activities;
  - (2) harvesting of forest products for personal use;
  - (3) fish and wildlife habitat, including
    - (A) identification and protection of important wildlife habitat;
    - (B) retention of riparian, wetland, and ocean-shoreline vegetation critical for fish and wildlife habitat; and
    - (C) classification of water bodies according to physical characteristics;
  - (4) uses of forest land for nontimber purposes; including
    - (A) recreation, tourism, and related activities;
    - (B) mining, mining claims, mineral leaseholds, and material extraction;
    - (C) uses of fish and wildlife;
    - (D) agriculture, including grazing; and
    - (E) other resources and uses appropriate to the area, including compatible traditional uses;
  - (5) soil characteristics and productivity;
  - (6) water quality; and
  - (7) watershed management.

## YAKATAGA AREA PLAN

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

### **Section (c) above includes the requirements of AS 38.04.065(b):**

AS 38.04.065(b): In the adoption and revision of regional and site-specific land use plans, the commissioner shall

- (1) use and observe the principals of multiple use and sustained yield;
- (2) consider physical, economic, and social factors affecting the area and involve other agencies and the public in achieving a systematic interdisciplinary approach;
- (3) give priority to planning and classification in areas of potential settlement, renewable and non-renewable resource development, and critical environmental concern;
- (4) rely, to the extent that it is available, on the inventory of the state land, its resources, and other values;
- (5) consider present and potential uses of state land;
- (6) consider the supply, resources, and present and potential use of land under other ownership within the area of concern;
- (7) plan for compatible surface and mineral land use classifications; and
- (8) provide for meaningful participation in the planning process by affected local governments, state and federal agencies, adjacent landowners, and the general public.

**AS 41.17.060 provides direction for the management of forest land (land stocked with forest trees). Section (c) applies specifically to state and municipal forest land. A FLUP would therefore reflect the provisions of AS 41.17.060(c) and regulations promulgated pursuant to Sec 41.17.080. Section (c) of 41.17.060 states the following :**

- (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.