

Byron Mallott  
Lieutenant Governor  
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**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**M E M O R A N D U M**

**TO:** Mary Kay Ryckman  
Department of Natural Resources

**FROM:** Scott Meriwether, Office of the Lieutenant Governor   
465.4081

**DATE:** May 30, 2018

**RE:** Filed Permanent Regulations: Department of Natural Resources  
  
Department of Natural Resources regulations re: timber and material sales (11 AAC 71.045(e); 11 AAC 71.055(a))

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Attorney General File:	2018200199
Regulation Filed:	5/30/2018
Effective Date:	6/29/2018
Print:	226, July 2018

cc with enclosures: Linda Miller, Department of Law  
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS  
OF DEPARTMENT OF NATURAL RESOURCES

The attached two pages of regulations, dealing with negotiated timber sales, is adopted and certified to be a correct copy of the regulation changes that the Department of Natural Resources adopts under the authority of AS 38.05.20 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Natural Resources paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: 5/4/18

  
\_\_\_\_\_  
Andrew T. Mack, Commissioner

*Claire Richardson for*

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on

1<sup>st</sup> May 30, 2018, at 12<sup>09</sup> p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

  
\_\_\_\_\_  
Lieutenant Governor *mallott*

Effective: June 29, 2018

Register: 226, July 2018



**MEMORANDUM**  
Department of Natural Resources

**STATE OF ALASKA**  
Office of the Commissioner

TO: Heidi Hansen,  
Deputy Commissioner  
Director of Lands

DATE: September 22, 2017

TELEPHONE: 269-8431

FROM: Andrew T. Mack  
Commissioner

SUBJECT: Delegation of  
Authority

This memo shall act as a standing Delegation of all authority of the Commissioner's position whenever I am in travel status, outside of the state, or otherwise deemed inaccessible.

It is understood that this delegation is effective upon signing and shall remain in effect until superseded in writing or until such time as you are no longer in service as Deputy Commissioner of the Department of Natural Resources.

cc: Mark Wiggins, Deputy Commissioner  
Scott Kendall, Chief of Staff  
DNR Division Directors  
Special Assistants  
Joseph Joyner, Division of Mining, Land and Water, Program Support


**FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY**

**I, BYRON MALLOTT, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employee to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:**

**Claire Richardson, Special Assistant**

**IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on January 7<sup>th</sup> 2015.**



  
.....

**BYRON MALLOTT  
LIEUTENANT GOVERNOR**

Chapter 71. Timber and Material Sales.

11 AAC 71.045(e) is amended to read:

(e) A negotiated timber sale under AS 38.05.115, [OTHER THAN A TIMBER SALE NEGOTIATED UNDER AS 38.05.118,] is for a period of time that may not exceed two years [ONE YEAR]. The division will not grant an extension of time under this subsection. (Eff. 7/2/82, Register 83; am 8/23/87, Register 103; 8/16/89, Register 111; am 8/6/94, Register 131; am 6/21/98, Register 146, am 2/8/2001, Register 157; am 6/29/2018, Register 226)

Authority:	AS 38.05.020	AS 38.05.120	AS 38.05.860
	AS 38.05.115	AS 38.05.850	AS 38.35.020

11 AAC 71.055(a) is amended to read:

(a) Upon a finding that the sale under AS 38.05.118 is in the best interest of the state, the [THE] division may negotiate a sale of timber to [WITH] a local manufacturer of wood products or a user of wood fiber at appraised value. [FOR A TIMBER SALE UNDER AS 38.05.118 IF THE DIRECTOR DETERMINES THAT

(1) THE RATE OF UNEMPLOYMENT IN THE AREA IN WHICH THE TIMBER IS LOCATED IS AT LEAST 135 PERCENT OF THE STATEWIDE AVERAGE RATE OF UNEMPLOYMENT FOR THE PRECEDING 12-MONTH PERIOD FOR WHICH A STATISTICAL COMPARISON IS AVAILABLE, OR THE RATE OF UNEMPLOYMENT IS EXPECTED TO EXCEED 135 PERCENT OF THE STATEWIDE AVERAGE WITHIN TWO YEARS;



(2) A PERMANENT MANUFACTURING FACILITY EXISTS IN THE AREA IN WHICH THE TIMBER IS LOCATED WITH THE CAPACITY TO PROCESS AT LEAST 50 PERCENT MORE ON A BOARD-FOOT-PER-DAY BASIS THAN THE AVERAGE DAILY PRODUCTION OF THE MANUFACTURING FACILITY DURING THE THREE-YEAR PERIOD IMMEDIATELY PRECEDING THE DATE OF THE SALE OR SUCH A FACILITY IS EXPECTED TO EXIST WITHIN TWO YEARS; AND

(3) AN ECONOMICALLY OPERABLE STATE TIMBER RESOURCE EXISTS IN THE AREA IN WHICH THE TIMBER IS LOCATED AND THE STATE TIMBER RESOURCE HAS THE CAPACITY TO SUSTAIN A LEVEL OF HARVEST ON A SUSTAINED-YIELD BASIS WHICH IS AT LEAST 20 PERCENT GREATER THAN THE LEVEL OF HARVEST OF THE STATE TIMBER RESOURCE ON THE DATE OF THE SALE.]

(Eff. 7/2/82, Register 83; am 9/6/96, Register 139; am 7/6/2006, Register 179; am 6/29/2018,

Register 226)

**Authority:** AS 38.05.020 AS 38.05.118 AS 38.05.120  
AS 38.05.115

# MEMORANDUM


State of Alaska  
Department of Law

To: Hon. Byron Mallott  
Lieutenant Governor

Date: May 30, 2018

File No.: 2018200199

Tel. No.: 465-3600

From: Steven C. Weaver   
Sr. Assistant Attorney General  
and Assistant Regulations Attorney  
Legislation and Regulations Section

Re: Department of Natural Resources  
regulations re: timber and material  
sales (11 AAC 71.045(e); 11 AAC  
71.055(a))

We have reviewed the attached regulations from the Department of Natural Resources against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated May 23, 2018 from the Regulations Attorney. The regulations update requirements regarding negotiated timber sales, particularly to reflect amendments to AS 38.05.118 enacted under secs. 3 and 4, ch. 42, SLA 2016.

We find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

The March 8, 2018 public notice and the May 4, 2018 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

Hon. Byron Mallott, Lieutenant Governor  
Our file: 2018200199

May 30, 2018  
Page 2

We have made some technical corrections to headings to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations. We have not made corrections to the regulations themselves.

SCW

cc w/enc: (via email)

Hon. Andrew T. Mack, Commissioner  
Department of Natural Resources

Mary Kay Ryckman, Regulations Contact  
Department of Natural Resources

John "Chris" Maisch, State Forester and Director  
Division of Forestry  
Department of Natural Resources

Marty Freeman  
Division of Forestry  
Department of Natural Resources

April Simpson, Notary Administrator  
Office of the Lieutenant Governor

Thomas E. Lenhart, Assistant Attorney General  
Natural Resources Section



# MEMORANDUM


## State of Alaska Department of Law

TO: Hon. Byron Mallott  
Lieutenant Governor

DATE: May 23, 2018

FILE NO.: 2018200199

TELEPHONE NO.: (907) 465-3600

FROM: Susan R. Pollard   
Chief Assistant Attorney General  
and Regulations Attorney  
Legislation/Regulations Section

SUBJECT: Specific delegation of authority  
regarding regulations review on  
Department of Natural Resources  
regulations re: timber and  
material sales (11 AAC  
71.045(e); 11 AAC 71.055(a))

By this memorandum, I am delegating my authority as Regulations Attorney under AS 44.62 to Assistant Attorney General Steven C. Weaver for the above-referenced regulations project. Under this delegation of authority, Steven Weaver has my full authority under AS 44.62 to conduct the legal review under AS 44.62 and take necessary actions on this regulations project.

If you have questions, please let me know.

SCW

cc w/enc: Scott C. Meriwether, AAC Coordinator  
Office of the Lieutenant Governor  
  
April Simpson  
Office of the Lieutenant Governor  
  
Steven C. Weaver  
Sr. Assistant Attorney General and  
Assistant Regulations Attorney  
Legislation/Regulations Section

## NOTICE OF PROPOSED REGULATION CHANGES ON NEGOTIATED TIMBER SALES IN THE REGULATIONS OF THE DEPARTMENT OF NATURAL RESOURCES

The Department of Natural Resources proposes to revise two regulations for state timber sales to provide additional time for operators to complete small negotiated sales and to conform with recent statutory changes in requirements for negotiated sales to local manufacturers.

The Department of Natural Resources proposes to adopt regulation changes in 11 AAC 71. Timber and Material Sales of the Alaska Administrative Code, dealing with negotiated timber sales, including the following:

- (1) 11 AAC 71.045(e) is proposed to be changed to increase the maximum period of time for a small negotiated timber sale under AS 38.05.115 from one year to two years.
- (2) 11 AAC 71.055(a) is proposed to be changed to clarify that a public interest finding is required for an AS 38.05.118 negotiated sale, and that a sale to a local manufacturer includes both wood products manufacturers and users of wood fiber.
- (3) 11 AAC 71.055(a)(1), (a)(2), and (a)(3) are proposed to be repealed to align this regulation with recent changes to AS 38.05.118, the statutory authority for negotiated timber sales to local manufacturers. This change provides the Department of Natural Resources with more flexibility to use negotiated sales to meet local timber industry needs statewide.

You may comment on these proposed regulation changes, including the potential costs to private persons complying with the proposed changes, by submitting written comments to the Department of Natural Resources, Division of Forestry, at 3700 Airport Way, Fairbanks, AK 99709. Additionally, the Division of Forestry will accept comments by facsimile at (907) 451-2690 and by email at [james.schwarber@alaska.gov](mailto:james.schwarber@alaska.gov). **The comments must be received by the department no later than 5:00 p.m. on Friday, April 20, 2018.**

You may submit written questions relevant to the proposed action to:

James Schwarber, Division of Forestry, 3700 Airport Way, Fairbanks, AK 99709; Fax (907) 451-2690, or Email [james.schwarber@alaska.gov](mailto:james.schwarber@alaska.gov). **The questions must be received at least 10 days before the end of the public comment period.** The Division of Forestry will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System <https://aws.state.ak.us/OnlinePublicNotices> and the agency website <http://www.forestry.alaska.gov/whatsnew>.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact James Schwarber at [james.schwarber@alaska.gov](mailto:james.schwarber@alaska.gov) or by phone (907)451-2704 not later than April 6, 2018, to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting James Schwarber at [james.schwarber@alaska.gov](mailto:james.schwarber@alaska.gov) or by phone (907)451-2704.

After the public comment period ends, the Department of Natural Resources will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected. Written comments received are public records and are subject to public inspection.

**Statutory authority:** AS 38.05.020; AS 38.05.115; AS 38.05.118; AS 38.05.120; AS 38.05.850; AS 38.05.860; AS 38.35.020;

**Statutes being implemented, interpreted, or made specific:** AS 38.05.115; AS 38.05.118

**Fiscal information:** The proposed regulation changes are not expected to require an increased appropriation.

Date: \_\_\_\_\_

3/6/18



John "Chris" Maisch, State Forester and Director

ADDITIONAL REGULATION NOTICE INFORMATION  
(AS 44.62.190(d))

1. Adopting agency: Department of Natural Resources
2. General subject of regulation: State timber sale administration
3. Citation of regulation (may be grouped): 11 AAC 71.045 and 11 AAC 71.055
4. Department of Law file number, if any: \_\_\_\_\_
5. Reason for the proposed action:  
  
☐ Compliance with federal law or action (identify): \_\_\_\_\_  
☒ Compliance with new or changed state statute AS 38.05.118  
☐ Compliance with federal or state court decision (identify): \_\_\_\_\_  
☐ Development of program standards  
☒ Other (identify): Alaska Timber Jobs Task Force Recommendation/ Dept. Initiated
6. Appropriation/Allocation: None
7. Estimated annual cost to comply with the proposed action to:  
  
A private person: \$0.00  
Another state agency: \$0.00  
A municipality: \$0.00
8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY <u>18</u>	Subsequent Years
Operating Cost	\$ <u>0.0</u>	\$ <u>0.0</u>
Capital Cost	\$ <u>0.0</u>	\$ <u>0.0</u>
1002 Federal receipts	\$ <u>0.0</u>	\$ <u>0.0</u>
1003 General fund match	\$ <u>0.0</u>	\$ <u>0.0</u>
1004 General fund	\$ <u>0.0</u>	\$ <u>0.0</u>
1005 General fund/ program	\$ <u>0.0</u>	\$ <u>0.0</u>
Other (identify)	\$ <u>0.0</u>	\$ <u>0.0</u>




9. The name of the contact person for the regulation:

Name: James Schwarber  
Title: Natural Resource Specialist  
Address: DNR, DOF, 3700 Airport Way, Fairbanks, AK 99709  
Telephone: (907)451-2704  
E-mail address: james.schwarber@alaska.gov

10. The origin of the proposed action:

☒ Staff of state agency  
☐ Federal government  
☐ General public  
☐ Petition for regulation change  
☒ Other (identify): Alaska Timber Jobs Task Force; AS 38.05.118

11. Date: March 6, 2018 Prepared by:   
Name (printed): James A. Schwarber  
Title (printed): Natural Resource Specialist  
Telephone: (907)451-2704

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION  
AND FURNISHING OF ADDITIONAL INFORMATION

I, James Schwarber, Natural Resource Specialist, of the Department of Natural Resources, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 11 AAC 71. Timber and Material Sales for small negotiated timber sales has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the proposed regulation;
- (5) furnished electronically to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Division of Legal and Research Services;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
- (8) furnished electronically, along with a copy of the proposed regulation, to the Legislative Affairs Agency, the chair of the Resources Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

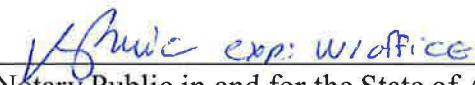
Date: April 23, 2018

  
\_\_\_\_\_  
James Schwarber, Natural Resources Specialist

Subscribed and sworn to before me at 4th JUDICIAL DISTRICT FAIRBANKS, AK on  
April 23, 2018

(date)



  
\_\_\_\_\_  
Notary Public in and for the State of Alaska



AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, James Schwarber, Natural Resource Specialist for the Department of Natural Resources, being duly sworn, state the following:

In compliance with AS 44.62.215, the Department of Natural Resources has kept a record of its use or rejection of factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Natural Resources regulation on negotiated timber sales.

Date: May 23, 2018

James Schwarber  
James Schwarber, Natural Resource Specialist

Subscribed and sworn to before me at Department of Natural Resources on  
5 - 23 - 2018  
(date)



Mary Sackinger  
Notary Public in and for the State of Alaska

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\$383.48

# AFFIDAVIT OF PUBLICATION

STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

Joleesa Stepetin  
being first duly sworn on oath deposes and  
says that he/she is a representative of the  
Anchorage Daily News, a daily newspaper.  
That said newspaper has been approved  
by the Third Judicial Court, Anchorage,  
Alaska, and it now and has been published  
in the English language continually as a  
daily newspaper in Anchorage, Alaska, and  
it is now and during all said time was  
printed in an office maintained at the  
aforesaid place of publication of said  
newspaper. That the annexed is a copy of  
an advertisement as it was published in  
regular issues (and not in supplemental  
form) of said newspaper on

March 08, 2018

and that such newspaper was regularly  
distributed to its subscribers during all of  
said period. That the full amount of the fee  
charged for the foregoing publication is not  
in excess of the rate charged private  
individuals.

Signed

*Joleesa Stepetin*

Subscribed and sworn to before me  
this 8th day of March, 2018

*Britney Thompson*

Notary Public in and for  
The State of Alaska.  
Third Division  
Anchorage, Alaska  
MY COMMISSION EXPIRES

*4/23/2019*

Notary Public  
BRITNEY L. THOMPSON  
State of Alaska  
My Commission Expires Feb 23, 2019

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A copy of the proposed regulation changes is available on the Alaska Online Public Notice System at <http://notice.alaska.gov/189007> and by contacting James Schwarber at [james.schwarber@alaska.gov](mailto:james.schwarber@alaska.gov) or by phone (907) 451-2704.

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**Statutory authority:** AS 38.05.020; AS 38.05.115; AS 38.05.118; AS 38.05.120; AS 38.05.850; AS 38.05.860; AS 38.35.020;

**Statutes being implemented, interpreted, or made specific:** AS 38.05.115; AS 38.05.118

**Fiscal information:** The proposed regulation changes are not expected to require an increased appropriation.

Date: March 6, 2018

/s/  
John "Chris" Maisch, State Forester and Director

Published: March 8, 2018