



Alaska Department of Fish and Game

Board of Fisheries

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ALASKA BOARD OF FISHERIES

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Prince William Sound and Upper Copper/Upper Susitna Finfish 2014 Meeting

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5 AAC 96.625. Joint Board Petition Policy

- (a) Under AS 44.62.220, an interested person may petition an agency, including the Boards of Fisheries and Game, for the adoption, amendment, or repeal of a regulation. The petition must clearly and concisely state the substance or nature of the regulation, amendment, or repeal requested, the reason for the request, and must reference the agency's authority to take the requested action. Within 30 days after receiving a petition, a board will deny the petition in writing, or schedule the matter for public hearing under AS 44.62.190 - 44.62.210, which require that any agency publish legal notice describing the proposed change and solicit comment for 30 days before taking action. AS 44.62.230 also provides that if the petition is for an emergency regulation, and the agency finds that an emergency exists, the agency may submit the regulation to the lieutenant governor immediately after making the finding of emergency and putting the regulation into proper form.
- (b) Fish and game regulations are adopted by the Alaska Board of Fisheries and the Alaska Board of Game. At least twice annually, the boards solicit regulation changes. Several hundred proposed changes are usually submitted to each board annually. The Department of Fish and Game compiles the proposals and mails them to all fish and game advisory committees and to other interested individuals.
- (c) Copies of all proposals are available at local Department of Fish and Game offices and on the boards support section's website. When the proposal books are available, the advisory committees hold public meetings in the communities and regions they represent, to gather local comment on the proposed changes. Finally, the boards convene public meetings, which have lasted as long as six weeks, taking department staff reports, public comment, and advisory committee reports before voting in public session on the proposed changes.
- (d) The public has come to rely on this regularly scheduled participatory process as the basis for changing fish and game regulations. Commercial fishermen, processors, guides, trappers, hunters, sport fishermen, subsistence fishermen, and others plan business and recreational ventures around the outcome of these public meetings.
- (e) The Boards of Fisheries and Game recognize the importance of public participation in developing management regulations, and recognize that public reliance on the predictability of the normal board process is a critical element in regulatory changes. The boards find that petitions can detrimentally circumvent this process and that an adequate and more reasonable opportunity for public participation is provided by regularly scheduled meetings.
- (f) The Boards of Fisheries and Game recognize that in rare instances circumstances may require regulatory changes outside the process described in (b) - (d) of this section. Except for petitions dealing with subsistence hunting or subsistence fishing, which will be evaluated on a case-by-case basis under the criteria in 5 AAC 96.615(a), it is the policy of the boards that a petition will be denied and not scheduled for hearing unless the problem outlined in the petition justifies a finding of emergency. In accordance with state policy expressed in AS 44.62.270, emergencies will be held to a minimum and are rarely found to exist. In this section, an emergency is an unforeseen, unexpected event that either threatens a fish or game resource, or an unforeseen, unexpected resource situation where a biologically allowable resource harvest would be precluded by delayed regulatory action and such delay would be significantly burdensome to the petitioners because the resource would be unavailable in the future.

History Eff. 9/22/85, Register 95; am 8/17/91, Register 119; readopt 5/15/93, Register 126; am 2/23/2014, Register 209

Authority: AS 16.05.251, AS 16.05.255, AS 16.05.258

5 AAC 39.222. Policy for the management of sustainable salmon fisheries

(a) The Board of Fisheries (board) and Department of Fish and Game (department) recognize that

(1) while, in the aggregate, Alaska's salmon fisheries are healthy and sustainable largely because of abundant pristine habitat and the application of sound, precautionary, conservation management practices, there is a need for a comprehensive policy for the regulation and management of sustainable salmon fisheries;

(2) in formulating fishery management plans designed to achieve maximum or optimum salmon production, the board and department must consider factors including environmental change, habitat loss or degradation, data uncertainty, limited funding for research and management programs, existing harvest patterns, and new fisheries or expanding fisheries;

(3) to effectively assure sustained yield and habitat protection for wild salmon stocks, fishery management plans and programs require specific guiding principles and criteria, and the framework for their application contained in this policy.

(b) The goal of the policy under this section is to ensure conservation of salmon and salmon's required marine and aquatic habitats, protection of customary and traditional subsistence uses and other uses, and the sustained economic health of Alaska's fishing communities.

(c) Management of salmon fisheries by the state should be based on the following principles and criteria:

(1) wild salmon stocks and the salmon's habitats should be maintained at levels of resource productivity that assure sustained yields as follows:

(A) salmon spawning, rearing, and migratory habitats should be protected as follows:

(i) salmon habitats should not be perturbed beyond natural boundaries of variation;

(ii) scientific assessments of possible adverse ecological effects of proposed habitat alterations and the impacts of the alterations on salmon populations should be conducted before approval of a proposal;

(iii) adverse environmental impacts on wild salmon stocks and the salmon's habitats should be assessed;

(iv) all essential salmon habitat in marine, estuarine, and freshwater ecosystems and access of salmon to these habitats should be protected; essential habitats include spawning and incubation areas, freshwater rearing areas, estuarine and nearshore rearing areas, offshore rearing areas, and migratory pathways;

(v) salmon habitat in fresh water should be protected on a watershed basis, including appropriate management of riparian zones, water quality, and water quantity;

(B) salmon stocks should be protected within spawning, incubating, rearing, and migratory habitats;

(C) degraded salmon productivity resulting from habitat loss should be assessed, considered, and controlled by affected user groups, regulatory agencies, and boards when making conservation and allocation decisions;

(D) effects and interactions of introduced or enhanced salmon stocks on wild salmon stocks should be assessed; wild salmon stocks and fisheries on those stocks should be protected from adverse impacts from artificial propagation and enhancement efforts;

(E) degraded salmon spawning, incubating, rearing, and migratory habitats should be restored to natural levels of productivity where known and desirable;

(F) ongoing monitoring should be conducted to determine the current status of habitat and the effectiveness of restoration activities;

(G) depleted salmon stocks should be allowed to recover or, where appropriate, should be actively restored; diversity should be maintained to the maximum extent possible, at the genetic, population, species, and ecosystem levels;

(2) salmon fisheries shall be managed to allow escapements within ranges necessary to conserve and sustain potential salmon production and maintain normal ecosystem functioning as follows:

(A) salmon spawning escapements should be assessed both temporally and geographically; escapement monitoring programs should be appropriate to the scale, intensity, and importance of each salmon stock's use;

(B) salmon escapement goals, whether sustainable escapement goals, biological escapement goals, optimal escapement goals, or inriver run goals, should be established in a manner consistent with sustained yield; unless otherwise directed, the department will manage Alaska's salmon fisheries, to the extent possible, for maximum sustained yield;

(C) salmon escapement goal ranges should allow for uncertainty associated with measurement techniques, observed variability in the salmon stock measured, changes in climatic and oceanographic conditions, and varying abundance within related populations of the salmon stock measured;

(D) salmon escapement should be managed in a manner to maintain genetic and phenotypic characteristics of the stock by assuring appropriate geographic and temporal distribution of spawners as well as consideration of size range, sex ratio, and other population attributes;

(E) impacts of fishing, including incidental mortality and other human-induced mortality, should be assessed and considered in harvest management decisions;

(F) salmon escapement and harvest management decisions should be made in a manner that protects non-target salmon stocks or species;

(G) the role of salmon in ecosystem functioning should be evaluated and considered in harvest management decisions and setting of salmon escapement goals;

(H) salmon abundance trends should be monitored and considered in harvest management decisions;

(3) effective management systems should be established and applied to regulate human activities that affect salmon as follows:

(A) salmon management objectives should be appropriate to the scale and intensity of various uses and the biological capacities of target salmon stocks;

(B) management objectives should be established in harvest management plans, strategies, guiding principles, and policies, such as for mixed stock fishery harvests, fish disease, genetics, and hatchery production, that are subject to periodic review;

(C) when wild salmon stocks are fully allocated, new fisheries or expanding fisheries should be restricted, unless provided for by management plans or by application of the board's allocation criteria;

(D) management agencies should have clear authority in statute and regulation to

(i) control all sources of fishing mortality on salmon;

(ii) protect salmon habitats and control non-fishing sources of mortality;

(E) management programs should be effective in

(i) controlling human-induced sources of fishing mortality and should incorporate procedures to assure effective monitoring, compliance, control, and enforcement;

(ii) protecting salmon habitats and controlling collateral mortality and should incorporate procedures to assure effective monitoring, compliance, control, and enforcement;

(F) fisheries management implementation and outcomes should be consistent with regulations, regulations should be consistent with statutes, and effectively carry out the purpose of this section;

(G) the board will recommend to the commissioner the development of effective joint research, assessment, and management arrangements with appropriate management agencies and bodies for salmon stocks that cross state, federal, or international jurisdictional boundaries; the board will recommend the coordination of appropriate procedures for effective monitoring, compliance, control, and enforcement with those of other agencies, states, or nations;

(H) the board will work, within the limits of its authority, to assure that

(i) management activities are accomplished in a timely and responsive manner to implement objectives, based on the best available scientific information;

(ii) effective mechanisms for the collection and dissemination of information and data necessary to carry out management activities are developed, maintained, and utilized;

(iii) management programs and decision-making procedures are able to clearly distinguish, and effectively deal with, biological and allocation issues;

(I) the board will recommend to the commissioner and legislature that adequate staff and budget for research, management, and enforcement activities be available to fully implement sustainable salmon fisheries principles;

(J) proposals for salmon fisheries development or expansion and artificial propagation and enhancement should include assessments required for sustainable management of existing salmon fisheries and wild salmon stocks;

(K) plans and proposals for development or expansion of salmon fisheries and enhancement programs should effectively document resource assessments, potential impacts, and other information needed to assure sustainable management of wild salmon stocks;

(L) the board will work with the commissioner and other agencies to develop effective processes for controlling excess fishing capacity;

(M) procedures should be implemented to regularly evaluate the effectiveness of fishery management and habitat protection actions in sustaining salmon populations, fisheries, and habitat, and to resolve associated problems or deficiencies;

(N) conservation and management decisions for salmon fisheries should take into account the best available information on biological, environmental, economic, social, and resource use factors;

(O) research and data collection should be undertaken to improve scientific and technical knowledge of salmon fisheries, including ecosystem interactions, status of salmon populations, and the condition of salmon habitats;

(P) the best available scientific information on the status of salmon populations and the condition of the salmon's habitats should be routinely updated and subject to peer review;

(4) public support and involvement for sustained use and protection of salmon resources should be sought and encouraged as follows:

(A) effective mechanisms for dispute resolution should be developed and used;

(B) pertinent information and decisions should be effectively disseminated to all interested parties in a timely manner;

(C) the board's regulatory management and allocation decisions will be made in an open process with public involvement;

(D) an understanding of the proportion of mortality inflicted on each salmon stock by each user group, should be promoted, and the burden of conservation should be allocated across user groups in a manner consistent with applicable state and federal statutes, including [AS 16.05.251](#) (e) and [AS 16.05.258](#) ; in the absence of a regulatory management plan that otherwise allocates or restricts harvests, and when it is necessary to restrict fisheries on salmon stocks where there are known conservation problems, the burden of conservation shall be shared among all fisheries in close proportion to each fisheries' respective use, consistent with state and federal law;

(E) the board will work with the commissioner and other agencies as necessary to assure that adequately funded public information and education programs provide timely materials on salmon conservation, including habitat requirements, threats to

salmon habitat, the value of salmon and habitat to the public and ecosystem (fish and wildlife), natural variability and population dynamics, the status of salmon stocks and fisheries, and the regulatory process;

(5) in the face of uncertainty, salmon stocks, fisheries, artificial propagation, and essential habitats shall be managed conservatively as follows:

(A) a precautionary approach, involving the application of prudent foresight that takes into account the uncertainties in salmon fisheries and habitat management, the biological, social, cultural, and economic risks, and the need to take action with incomplete knowledge, should be applied to the regulation and control of harvest and other human-induced sources of salmon mortality; a precautionary approach requires

(i) consideration of the needs of future generations and avoidance of potentially irreversible changes;

(ii) prior identification of undesirable outcomes and of measures that will avoid undesirable outcomes or correct them promptly;

(iii) initiation of any necessary corrective measure without delay and prompt achievement of the measure's purpose, on a time scale not exceeding five years, which is approximately the generation time of most salmon species;

(iv) that where the impact of resource use is uncertain, but likely presents a measurable risk to sustained yield, priority should be given to conserving the productive capacity of the resource;

(v) appropriate placement of the burden of proof, of adherence to the requirements of this subparagraph, on those plans or ongoing activities that pose a risk or hazard to salmon habitat or production;

(B) a precautionary approach should be applied to the regulation of activities that affect essential salmon habitat.

(d) The principles and criteria for sustainable salmon fisheries shall be applied, by the department and the board using the best available information, as follows:

(1) at regular meetings of the board, the department will, to the extent practicable, provide the board with reports on the status of salmon stocks and salmon fisheries under consideration for regulatory changes, which should include

(A) a stock-by-stock assessment of the extent to which the management of salmon stocks and fisheries is consistent with the principles and criteria contained in the policy under this section;

(B) descriptions of habitat status and any habitat concerns;

(C) identification of healthy salmon stocks and sustainable salmon fisheries;

(D) identification of any existing salmon escapement goals, or management actions needed to achieve these goals, that may have allocative consequences such as the

(i) identification of a new fishery or expanding fishery;

(ii) identification of any salmon stocks, or populations within stocks, that present a concern related to yield, management, or conservation; and

(iii) description of management and research options to address salmon stock or habitat concerns;

(2) in response to the department's salmon stock status reports, reports from other resource agencies, and public input, the board will review the management plan, or consider developing a management plan, for each affected salmon fishery or stock; management plans will be based on the principles and criteria contained in this policy and will

(A) contain goals and measurable and implementable objectives that are reviewed on a regular basis and utilize the best available scientific information;

(B) minimize the adverse effects on salmon habitat caused by fishing;

(C) protect, restore, and promote the long-term health and sustainability of the salmon fishery and habitat;

(D) prevent overfishing; and

(E) provide conservation and management measures that are necessary and appropriate to promote maximum or optimum sustained yield of the fishery resource;

(3) in the course of review of the salmon stock status reports and management plans described in (1) and (2) of this subsection, the board, in consultation with the department, will determine if any new fisheries or expanding fisheries, stock yield concerns, stock management concerns, or stock conservation concerns exist; if so, the board will, as appropriate, amend or develop salmon fishery management plans to

address these concerns; the extent of regulatory action, if any, should be commensurate with the level of concerns and range from milder to stronger as concerns range from new and expanding salmon fisheries through yield concerns, management concerns, and conservation concerns;

(4) in association with the appropriate management plan, the department and the board will, as appropriate, collaborate in the development and periodic review of an action plan for any new or expanding salmon fisheries, or stocks of concern; action plans should contain goals, measurable and implementable objectives, and provisions, including

(A) measures required to restore and protect salmon habitat, including necessary coordination with other agencies and organizations;

(B) identification of salmon stock or population rebuilding goals and objectives;

(C) fishery management actions needed to achieve rebuilding goals and objectives, in proportion to each fishery's use of, and hazards posed to, a salmon stock;

(D) descriptions of new or expanding salmon fisheries, management concern, yield concern, or conservation concern; and

(E) performance measures appropriate for monitoring and gauging the effectiveness of the action plan that are derived from the principles and criteria contained in this policy;

(5) each action plan will include a research plan as necessary to provide information to address concerns; research needs and priorities will be evaluated periodically, based on the effectiveness of the monitoring described in (4) of this subsection;

(6) where actions needed to regulate human activities that affect salmon and salmon's habitat that are outside the authority of the department or the board, the department or board shall correspond with the relevant authority, including the governor, relevant boards and commissions, commissioners, and chairs of appropriate legislative committees, to describe the issue and recommend appropriate action.

(e) Nothing in the policy under this section is intended to expand, reduce, or be inconsistent with, the statutory regulatory authority of the board, the department, or other state agencies with regulatory authority that impacts the fishery resources of the state.

(f) In this section, and in implementing this policy,

(1) "allocation" means the granting of specific harvest privileges, usually by regulation, among or between various user groups; "allocation" includes quotas, time periods, area restrictions, percentage sharing of stocks, and other management measures providing or limiting harvest opportunity;

(2) "allocation criteria" means the factors set out in [AS 16.05.251](#) (e) considered by the board as appropriate to particular allocation decisions under 5 AAC [39.205](#), 5 AAC [75.017](#), and 5 AAC [77.007](#);

(3) "biological escapement goal" or "(BEG)" means the escapement that provides the greatest potential for maximum sustained yield; BEG will be the primary management objective for the escapement unless an optimal escapement or inriver run goal has been adopted; BEG will be developed from the best available biological information, and should be scientifically defensible on the basis of available biological information; BEG will be determined by the department and will be expressed as a range based on factors such as salmon stock productivity and data uncertainty; the department will seek to maintain evenly distributed salmon escapements within the bounds of a BEG;

(4) "burden of conservation" means the restrictions imposed by the board or department upon various users in order to achieve escapement, rebuild, or in some other way conserve a specific salmon stock or group of stocks; this burden, in the absence of a salmon fishery management plan, will be generally applied to users in close proportion to the users' respective harvest of the salmon stock;

(5) "chronic inability" means the continuing or anticipated inability to meet escapement thresholds over a four to five year period, which is approximately the generation time of most salmon species;

(6) "conservation concern" means concern arising from a chronic inability, despite the use of specific management measures, to maintain escapements for a stock above a sustained escapement threshold (SET); a conservation concern is more severe than a management concern;

(7) "depleted salmon stock" means a salmon stock for which there is a conservation concern;

(8) "diversity", in a biological context, means the range of variation exhibited within any level of organization, such as among genotypes within a salmon population, among populations within a salmon stock, among salmon stocks within a species, among salmon species within a community, or among communities within an ecosystem;

(9) "enhanced salmon stock" means a stock of salmon that is undergoing specific manipulation, such as hatchery augmentation or lake fertilization, to enhance its productivity above the level that would naturally occur; "enhanced salmon stock" includes an introduced stock, where no wild salmon stock had occurred before, or a wild salmon stock undergoing manipulation, but does not include a salmon stock undergoing rehabilitation, which is intended to restore a salmon stock's productivity to a higher natural level;

(10) "escapement" means the annual estimated size of the spawning salmon stock; quality of the escapement may be determined not only by numbers of spawners, but also by factors such as sex ratio, age composition, temporal entry into the system, and spatial distribution within the salmon spawning habitat;

(11) "expanding fishery" means a salmon fishery in which effective harvesting effort has recently increased significantly beyond historical levels and where the increase has not resulted from natural fluctuations in salmon abundance;

(12) "expected yields" mean levels at or near the lower range of recent historic harvests if they are deemed sustainable;

(13) "genetic" means those characteristics (genotypic) of an individual or group of salmon that are expressed genetically, such as allele frequencies or other genetic markers;

(14) "habitat concern" means the degradation of salmon habitat that results in, or can be anticipated to result in, impacts leading to yield, management, or conservation concerns;

(15) "harvestable surplus" means the number of salmon from a stock's annual run that is surplus to escapement needs and can reasonably be made available for harvest;

(16) "healthy salmon stock" means a stock of salmon that has annual runs typically of a size to meet escapement goals and a potential harvestable surplus to support optimum or maximum sustained yield;

(17) "incidental harvest" means the harvest of fish, or other species, that is captured in addition to the target species of a fishery;

(18) "incidental mortality" means the mortality imposed on a salmon stock outside of directed fishing, and mortality caused by incidental harvests, interaction with fishing gear, habitat degradation, and other human-related activities;

(19) "inriver run goal" means a specific management objective for salmon stocks that are subject to harvest upstream of the point where escapement is estimated; the inriver run goal will be set in regulation by the board and is comprised of the SEG, BEG, or OEG, plus specific allocations to inriver fisheries;

(20) "introduced stock" means a stock of salmon that has been introduced to an area, or portion of an area, where that stock had not previously occurred; an "introduced salmon stock" includes a salmon stock undergoing continued enhancement, or a salmon stock that is left to sustain itself with no additional manipulation;

(21) "management concern" means a concern arising from a chronic inability, despite use of specific management measures, to maintain escapements for a salmon stock within the bounds of the SEG, BEG, OEG, or other specified management objectives for the fishery; a management concern is not as severe as a conservation concern;

(22) "maximum sustained yield" or "(MSY)" means the greatest average annual yield from a salmon stock; in practice, MSY is achieved when a level of escapement is maintained within a specific range on an annual basis, regardless of annual run strength; the achievement of MSY requires a high degree of management precision and scientific information regarding the relationship between salmon escapement and subsequent return; the concept of MSY should be interpreted in a broad ecosystem context to take into account species interactions, environmental changes, an array of ecosystem goods and services, and scientific uncertainty;

(23) "mixed stock fishery" means a fishery that harvests fish from a mixture of stocks;

(24) "new fishery" means a fishery that new units of effort or expansion of existing effort toward new species, areas, or time periods, results in harvest patterns substantially different from those in previous years, and the difference is not exclusively the result of natural fluctuations in fish abundance;

(25) "optimal escapement goal" or "(OEG)" means a specific management objective for salmon escapement that considers biological and allocative factors and may differ from the SEG or BEG; an OEG will be sustainable and may be expressed as a range with the lower bound above the level of SET, and will be adopted as a regulation by the board; the department will seek to maintain evenly distributed escapements within the bounds of the OEG;

(26) "optimum sustained yield" or "(OSY)" means an average annual yield from a salmon stock considered to be optimal in achieving a specific management objective other than maximum yield, such as achievement of a consistent level of sustained

yield, protection of a less abundant or less productive salmon stock or species, enhancement of catch per unit effort in sport fishery, facilitation of a non-consumptive use, facilitation of a subsistence use, or achievement of a specific allocation;

(27) "overfishing" means a level of fishing on a salmon stock that results in a conservation or management concern;

(28) "phenotypic characteristics" means those characteristics of an individual or group of salmon that are expressed physically, such as body size and length at age;

(29) "rehabilitation" means efforts applied to a salmon stock to restore it to an otherwise natural level of productivity; "rehabilitation" does not include an enhancement, which is intended to augment production above otherwise natural levels;

(30) "return" means the total number of salmon in a stock from a single brood (spawning) year surviving to adulthood; because the ages of adult salmon (except pink salmon) returning to spawn varies, the total return from a brood year will occur over several calendar years; the total return generally includes those mature salmon from a single brood year that are harvested in fisheries plus those that compose the salmon stock's spawning escapement; "return" does not include a run, which is the number of mature salmon in a stock during a single calendar year;

(31) "run" means the total number of salmon in a stock surviving to adulthood and returning to the vicinity of the natal stream in any calendar year, composed of both the harvest of adult salmon plus the escapement; the annual run in any calendar year, except for pink salmon, is composed of several age classes of mature fish from the stock, derived from the spawning of a number of previous brood years;

(32) "salmon" means the five wild anadromous semelparous Pacific salmon species *Oncorhynchus sp.*, except steelhead and cutthroat trout, native to Alaska as follows:

(A) chinook or king salmon (*O. tshawytscha*);

(B) sockeye or red salmon (*O. nerka*);

(C) coho or silver salmon (*O. kisutch*);

(D) pink or humpback salmon (*O. gorbuscha*); and

(E) chum or dog salmon (*O. keta*);

(33) "salmon population" means a locally interbreeding group of salmon that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics, comprised of an entire stock or a component portion of a stock; the smallest uniquely identifiable spawning aggregation of genetically similar salmon used for monitoring purposes;

(34) "salmon stock" means a locally interbreeding group of salmon that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics or an aggregation of two or more interbreeding groups which occur within the same geographic area and is managed as a unit;

(35) "stock of concern" means a stock of salmon for which there is a yield, management, or conservation concern;

(36) "sustainable escapement goal" or "(SEG)" means a level of escapement, indicated by an index or an escapement estimate, that is known to provide for sustained yield over a 5 to 10 year period, used in situations where a BEG cannot be estimated or managed for; the SEG is the primary management objective for the escapement, unless an optimal escapement or inriver run goal has been adopted by the board; the SEG will be developed from the best available biological information; and should be scientifically defensible on the basis of that information; the SEG will be determined by the department and will take into account data uncertainty and be stated as either a "SEG range" or "lower bound SEG"; the department will seek to maintain escapements within the bounds of the SEG range or above the level of a lower bound SEG;

(37) "sustainable salmon fishery" means a salmon fishery that persists and obtains yields on a continuing basis; characterized by fishing activities and habitat alteration, if any, that do not cause or lead to undesirable changes in biological productivity, biological diversity, or ecosystem structure and function, from one human generation to the next;

(38) "sustained yield" means an average annual yield that results from a level of salmon escapement that can be maintained on a continuing basis; a wide range of average annual yield levels is sustainable; a wide range of annual escapement levels can produce sustained yields;

(39) "sustained escapement threshold" or "(SET)" means a threshold level of escapement, below which the ability of the salmon stock to sustain itself is jeopardized; in practice, SET can be estimated based on lower ranges of historical escapement levels, for which the salmon stock has consistently demonstrated the ability to sustain itself; the SET is lower than the lower bound of the BEG and lower

than the lower bound of the SEG; the SET is established by the department in consultation with the board, as needed, for salmon stocks of management or conservation concern;

(40) "target species" or "target salmon stocks" means the main, or several major, salmon species of interest toward which a fishery directs its harvest;

(41) "yield" means the number or weight of salmon harvested in a particular year or season from a stock;

(42) "yield concern" means a concern arising from a chronic inability, despite the use of specific management measures, to maintain expected yields, or harvestable surpluses, above a stock's escapement needs; a yield concern is less severe than a management concern, which is less severe than a conservation concern;

(43) "wild salmon stock" means a stock of salmon that originates in a specific location under natural conditions; "wild salmon stock" may include an enhanced or rehabilitated stock if its productivity is augmented by supplemental means, such as lake fertilization or rehabilitative stocking; "wild salmon stock" does not include an introduced stock, except that some introduced salmon stocks may come to be considered "wild" if the stock is self-sustaining for a long period of time;

(44) "action point" means a threshold value for some quantitative indicator of stock run strength at which an explicit management action will be taken to achieve an optimal escapement goal.

History: Eff. 9/30/2000, Register 155; am 11/16/2000, Register 156; am 6/22/2001, Register 158; am 6/10/2010, Register 194

Authority: [AS 16.05.251](#)

5 AAC 39.223. Policy for statewide salmon escapement goals

(a) The Department of Fish and Game (department) and the Board of Fisheries (board) are charged with the duty to conserve and develop Alaska's salmon fisheries on the sustained yield principle. Therefore, the establishment of salmon escapement goals is the responsibility of both the board and the department working collaboratively. The purpose of this policy is to establish the concepts, criteria, and procedures for establishing and modifying salmon escapement goals and to establish a process that facilitates public review of allocative issues associated with escapement goals.

(b) The board recognizes the department's responsibility to

(1) document existing salmon escapement goals for all salmon stocks that are currently managed for an escapement goal;

(2) establish biological escapement goals (BEG) for salmon stocks for which the department can reliably enumerate salmon escapement levels, as well as total annual returns;

(3) establish sustainable escapement goals (SEG) for salmon stocks for which the department can reliably estimate escapement levels when there is not sufficient information to enumerate total annual returns and the range of escapements that are used to develop a BEG;

(4) establish sustained escapement thresholds (SET) as provided in 5 AAC [39.222](#) (Policy for the Management of Sustainable Salmon Fisheries);

(5) establish escapement goals for aggregates of individual spawning populations with similar productivity and vulnerability to fisheries and for salmon stocks managed as units;

(6) review an existing, or propose a new, BEG, SEG and SET on a schedule that conforms, to the extent practicable, to the board's regular cycle of consideration of area regulatory proposals;

(7) prepare a scientific analysis with supporting data whenever a new BEG, SEG, or SET, or a modification to an existing BEG, SEG, or SET is proposed and, in its discretion, to conduct independent peer reviews of its BEG, SEG, and SET analyses;

(8) notify the public whenever a new BEG, SEG, or SET is established or an existing BEG, SEG, or SET is modified;

(9) whenever allocative impacts arise from any management actions necessary to achieve a new or modified BEG, SEG or SET, report to the board on a schedule that conforms, to the extent practicable, to the board's regular cycle of consideration of area regulatory proposals so that it can address allocation issues.

(c) In recognition of its joint responsibilities, and in consultation with the department, the board will

(1) take regulatory actions as may be necessary to address allocation issues arising from implementation of a new or modified BEG, SEG, and SET;

(2) during its regulatory process, review a BEG, SEG, or SET determined by the department and, with the assistance of the department, determine the appropriateness of establishing an optimal escapement goal (OEG); the board will provide an explanation of the reasons for establishing an OEG and provide, to the extent practicable, and with the assistance of the department, an estimate of expected differences in yield of any salmon stock, relative to maximum sustained yield, resulting from implementation of an OEG.

(d) Unless the context requires otherwise, the terms used in this section have the same meaning given those terms in 5 AAC [39.222\(f\)](#) .

History: Eff. 6/22/2001, Register 158

Authority: [AS 16.05.251](#)

Selected Definitions

39.222(f) In this section, and in implementing this policy,

(3) "biological escapement goal" or "(BEG)" means the escapement that provides the greatest potential for maximum sustained yield; BEG will be the primary management objective for the escapement unless an optimal escapement or inriver run goal has been adopted; BEG will be developed from the best available biological information, and should be scientifically defensible on the basis of available biological information; BEG will be determined by the department and will be expressed as a range based on factors such as salmon stock productivity and data uncertainty; the department will seek to maintain evenly distributed salmon escapements within the bounds of a BEG;

(22) "maximum sustained yield" or "(MSY)" means the greatest average annual yield from a salmon stock; in practice, MSY is achieved when a level of escapement is

maintained within a specific range on an annual basis, regardless of annual run strength; the achievement of MSY requires a high degree of management precision and scientific information regarding the relationship between salmon escapement and subsequent return; the concept of MSY should be interpreted in a broad ecosystem context to take into account species interactions, environmental changes, an array of ecosystem goods and services, and scientific uncertainty;

(25) "optimal escapement goal" or "(OEG)" means a specific management objective for salmon escapement that considers biological and allocative factors and may differ from the SEG or BEG; an OEG will be sustainable and may be expressed as a range with the lower bound above the level of SET, and will be adopted as a regulation by the board; the department will seek to maintain evenly distributed escapements within the bounds of the OEG;

(26) "optimum sustained yield" or "(OSY)" means an average annual yield from a salmon stock considered to be optimal in achieving a specific management objective other than maximum yield, such as achievement of a consistent level of sustained yield, protection of a less abundant or less productive salmon stock or species, enhancement of catch per unit effort in sport fishery, facilitation of a non-consumptive use, facilitation of a subsistence use, or achievement of a specific allocation;

(36) "sustainable escapement goal" or "(SEG)" means a level of escapement, indicated by an index or an escapement estimate, that is known to provide for sustained yield over a 5 to 10 year period, used in situations where a BEG cannot be estimated or managed for; the SEG is the primary management objective for the escapement, unless an optimal escapement or inriver run goal has been adopted by the board; the SEG will be developed from the best available biological information; and should be scientifically defensible on the basis of that information; the SEG will be determined by the department and will take into account data uncertainty and be stated as either a "SEG range" or "lower bound SEG"; the department will seek to maintain escapements within the bounds of the SEG range or above the level of a lower bound SEG;

(39) "sustained escapement threshold" or "(SET)" means a threshold level of escapement, below which the ability of the salmon stock to sustain itself is jeopardized; in practice, SET can be estimated based on lower ranges of historical escapement levels, for which the salmon stock has consistently demonstrated the ability to sustain itself; the SET is lower than the lower bound of the BEG and lower than the lower bound of the SEG; the SET is established by the department in consultation with the board, as needed, for salmon stocks of management or conservation concern;

5 AAC 75.222. Policy for the management of sustainable wild trout fisheries

(a) The Board of Fisheries (board) and Department of Fish and Game (department) recognize that

(1) this state's wild trout and the trout's attendant ecosystems are important to the quality of life and economy of this state, and the state has long recognized the value of these fish in its management;

(2) many wild trout populations have been depleted or have disappeared from much of their range around the world; this state's wild trout populations are still largely intact and robust, largely because of remote locations and limited accessibility, abundant pristine habitat, and the historical application of sound, precautionary conservation and management practices; because this state's trout now represent a great spectrum of genetic diversity and because of the potential for irreversible loss of genetic integrity due to human activity, a comprehensive policy for the regulation and management of wild trout fisheries is essential to protect this biological resource in perpetuity;

(3) in formulating new or modifying existing fishery management objectives or plans, the board and department must consider factors including environmental change, habitat loss or degradation, data uncertainty, limited funding for research and management programs, and existing regulatory regimes; and

(4) to effectively assure optimal sustained yield and habitat protection for wild trout stocks, fishery management plans and programs require specific guiding principles and criteria, and the framework for their application, as provided in this section.

(b) The goal of the policy established in this section is to ensure conservation, sustainability, and optimal sustained yield of wild trout. Benefits of fisheries managed in accordance with this policy include quality of experience, diversity of opportunity, conservative consumptive harvest opportunities, and economic benefits of wild trout and the trout's attendant ecosystems.

(c) Management of wild trout fisheries should be based on the following principles and criteria:

(1) wild trout stocks and the trout's habitats should be maintained at levels of resource productivity that assure optimal sustained yield, as follows:

(A) wild trout spawning, rearing, and migratory habitats should be protected as follows:

(i) wild trout habitats should not be perturbed beyond natural boundaries of variation;

(ii) scientific assessments of possible adverse ecological effects of proposed habitat alterations and the impacts of the alterations on wild trout stocks should be conducted before approval of a regulatory proposal;

(iii) adverse environmental impacts on wild trout stocks and the trout's habitats should be assessed;

(iv) all essential wild trout habitat in marine, estuarine, and freshwater ecosystems and access of wild trout to these habitats should be protected; essential habitats include spawning and incubation areas, freshwater feeding and over-wintering areas, estuarine and nearshore rearing areas, offshore rearing areas, and migratory pathways;

(v) wild trout habitat in fresh water should be protected on a watershed basis, including appropriate management of riparian zones, water quality, and water quantity (instream flows);

(B) wild trout stocks should be protected within the trout's spawning, incubating, rearing, and migratory habitats;

5 AAC 75.222. Policy for the management of sustainable wild trout fisheries

(C) degraded wild trout productivity resulting from habitat loss should be assessed, considered, and controlled by affected user groups, regulatory agencies, and boards when making conservation and allocation decisions;

(D) degraded wild trout spawning, incubating, rearing, and migratory habitats should be restored to natural productivity;

(E) ongoing monitoring should be conducted to determine the current status of habitat and the effectiveness of restoration activities;

(F) depleted wild trout stocks should be allowed to recover; diversity should be maintained to the maximum extent possible at the genetic, population, species, and ecosystem levels;

(2) wild trout populations should be maintained for optimal sustained yield as follows:

(A) wild trout populations and trout population trends should be assessed both temporally and geographically; fishery monitoring programs should be appropriate to the scale, intensity, and importance of each wild trout stock's use;

(B) wild trout populations shall be managed in a manner consistent with the trout population's optimal sustained yield; unless otherwise directed, the department will manage Alaska's wild trout fisheries, to the extent practicable, to maintain desired size compositions and stock levels;

(C) wild trout should be managed at abundance levels so that stocking is not required to enhance or supplement the wild trout stock;

(D) wild trout management should allow for uncertainty associated with

(i) measurement and assessment techniques;

(ii) measured variability in the wild trout stock;

(iii) changes in climatic, aquatic, and oceanographic conditions; and

(iv) varying abundance within related populations of the wild trout stock;

(E) wild trout should be managed in a manner to maintain genetic and phenotypic characteristics of the stock by assuring appropriate geographic and temporal distribution of spawning fish as well as consideration of size range, sex ratio, and other population attributes;

(F) impacts of fishing, including incidental mortality, should be assessed and considered in harvest management decisions;

(G) wild trout harvest management decisions should be made in a manner that protects nontarget stocks or species;

(H) the role of wild trout in ecosystem functioning should be evaluated and considered in the setting of wild trout management strategies;

(I) food sources important to wild trout populations should be identified;

(3) effective management systems should be established and applied to regulate human activities that affect wild trout, as follows:

(A) wild trout management objectives should be appropriate to the scale and intensity of various uses and the biological capacities of target wild trout stocks;

(B) management agencies should have clear authority in statutes and regulations to

(i) when practicable, control all sources of fishing mortality on wild trout; and

(ii) protect wild trout habitats and control nonfishing sources or mortality;

(C) management programs should be effective in

5 AAC 75.222. Policy for the management of sustainable wild trout fisheries

(i) controlling human-induced sources of fishing mortality and should incorporate procedures to assure effective monitoring, compliance, control, and enforcement; and

(ii) protecting wild trout habitats and controlling collateral mortality and should incorporate procedures to assure effective monitoring, compliance, control, and enforcement;

(D) fisheries management implementation and outcomes should be consistent with regulations, regulations should be consistent with statutes, and effectively carry out the purpose of this section;

(E) the board will recommend to the commissioner the development of effective joint research, assessment, and management with appropriate management agencies for wild trout stocks that cross state or federal jurisdictional boundaries; the board will recommend the coordination of appropriate procedures for effective monitoring, compliance, control, and enforcement with those of other agencies or states;

(F) the board will work within the limits of its authority to assure that

(i) management activities are accomplished in a timely and responsive manner to implement objectives, based on the best available scientific information;

(ii) effective mechanisms for the collection and dissemination of information and data necessary to carry out management activities are developed, maintained, and utilized; and

(iii) management programs and decision-making procedures are able to clearly distinguish, and effectively deal with, biological and allocation issues;

(G) the board will recommend to the commissioner and legislature that adequate staff and budget for research, management, and enforcement activities be available to fully implement sustainable wild trout fisheries principles;

(H) the board will consider, and where appropriate adopt, options to maintain diversity of experience in wild trout fisheries;

(I) the board will consider gear regulations that assure minimal levels of injury and mortality to wild trout;

(J) the board will work with the commissioner and agencies to develop an effective process for maintaining benefits and diversity;

(K) procedures should be implemented to regularly evaluate the effectiveness of fishery management and habitat protection actions in sustaining wild trout populations, fisheries, and habitat, and to resolve associated problems or deficiencies;

(L) conservation and management decisions for wild trout fisheries should take into account the best available information on biological, environmental, economic, social, and resource use factors;

(M) research and data collection should be undertaken to improve scientific and technical knowledge of wild trout fisheries, including ecosystem interactions, status of wild trout populations, and the condition of wild trout habitats;

(N) the best available scientific information on the status of wild trout populations and the condition of wild trout habitat should be routinely updated and subject to peer review;

(4) public support and involvement for sustained use and protection of wild trout resources should be sought and encouraged, as follows:

(A) the board will work with the department and the public to determine the benefits desired for wild trout and whether the current opportunities are meeting these desires; identified benefits

5 AAC 75.222. Policy for the management of sustainable wild trout fisheries

should promote quality of experience, diversity of opportunity, conservative consumptive harvest opportunity, and economic benefits and be implementable by management objective;

(B) effective mechanisms for dispute resolution should be developed and used;

(C) pertinent information and decisions should be effectively disseminated to advisory committees and all other interested parties in a timely manner;

(D) the board's regulatory management and allocation decisions will be made in an open public involvement process;

(E) an understanding of the proportion of mortality inflicted on each wild trout stock by each user group should be conveyed and the burden of conservation should be allocated across user groups in a manner consistent with applicable state and federal statutes; in the absence of a regulatory management plan that otherwise allocates or restricts uses, and when it is necessary to restrict fisheries on wild trout stocks where there are known conservation problems, the burden of conservation should be shared among all fisheries in close proportion to each fisheries respective use, consistent with state and federal law;

(F) the board will work with the commissioner, other agencies, advisory committees, and the legislature as necessary to assure that adequately funded public information and education programs provide timely materials on wild trout conservation, including habitat requirements, threats to wild trout habitat, the value of wild trout and habitat to the public and fish and wildlife ecosystem, natural variability and population dynamics, the status of wild trout stocks and fisheries, and the regulatory process;

(5) in the face of uncertainty, wild trout stocks, fisheries, and essential habitats will be managed conservatively, as follows:

(A) a precautionary approach involving the application of prudent foresight that takes into account the uncertainties in wild trout fisheries and habitat management, the biological, social, cultural, and economic risks, and the need to take action with incomplete knowledge should be applied to the regulation and control of harvest and other human-induced sources of wild trout mortality; a precautionary approach requires

(i) consideration of the needs of future generations and avoidance of potentially irreversible changes;

(ii) prior identification of undesirable outcomes and of measures that will avoid undesirable outcomes or correct them promptly;

(iii) initiation of any necessary corrective measure without delay and prompt achievement of the corrective measure's purpose;

(iv) that where the impact of resource use is uncertain, priority should be given to conserving the productive capacity of the resource; and

(v) that the appropriate burden of proof is placed on those plans or ongoing activities that pose a risk or hazard to wild trout habitat or production;

(B) a precautionary approach should be applied to the regulation of activities that affect essential wild trout habitat.

(d) The principles and criteria for wild trout fisheries will be applied by the department and the board using the best available information, as follows:

5 AAC 75.222. Policy for the management of sustainable wild trout fisheries

(1) at a regular meeting of the board, the department will, to the extent practicable, provide the board with reports on the status of wild trout stocks and fisheries under consideration for regulatory changes, which should include

(A) a stock-by-stock assessment of the extent to which the management of wild trout stocks and fisheries is consistent with the principles and criteria contained in the policy specified in this section;

(B) descriptions of habitat status and any habitat concerns;

(C) identification of healthy wild trout stocks and sustainable wild trout fisheries;

(D) identification of any existing wild trout management actions needed to achieve these goals that may have allocative consequences, including

(i) the identification of any wild trout stocks, or populations within stocks, that present a concern related to conservation or optimal sustained yield; and

(ii) description of management and research options to address wild trout stock or habitat concerns; and

(E) food sources important to wild trout populations should be identified;

(2) in response to the department's wild trout stock status reports, reports from other resource agencies, and public input, the board will review the management plan or consider developing a management plan for each affected wild trout fishery or stock; management plans will be based on the principles and criteria contained in this policy and will

(A) contain goals and measurable and implementable objectives that are reviewed on a regular basis and utilize the best available scientific information;

(B) minimize, as practicable, the adverse effects on wild trout habitat caused by fishing;

(C) protect, restore, and promote the long-term health and sustainability of the wild trout fishery and habitat;

(D) provide, if feasible, recommendations regarding food sources;

(E) prevent overfishing; and

(F) provide conservation and management measures that are necessary and appropriate to promote optimal sustained yield of the wild trout fishery resource;

(3) in the course of review of the wild trout stock status reports and management plans described in (1) and (2) of this subsection, the board, in consultation with the department, will determine if a sustainability concern or optimal sustained yield concern exists; if so, the board will, as appropriate, amend or develop wild trout fishery management plans to address the concerns;

(4) in association with the appropriate management plan, the department and the board will, as appropriate, collaborate in the development and periodic review of an action plan for any stock of concern; action plans should contain goals, measurable and implementable objectives and provisions, including

(A) measures required to restore and protect wild trout habitat, including necessary coordination with other agencies and organizations;

(B) identification of wild trout stock or population rebuilding goals and objectives;

(C) fishery management actions needed to achieve rebuilding goals and objectives in proportion to each fishery's use of, and hazards posed to, a wild trout stock;

(D) description of a sustainability concern or optimal sustained yield concern; and

5 AAC 75.222. Policy for the management of sustainable wild trout fisheries

(E) performance measures appropriate for monitoring and gauging the effectiveness of the action plan that are derived from the principles and criteria contained in this policy;

(5) each action plan will include a research plan as necessary to provide information to address concerns; research needs and priorities will be evaluated periodically, based on the effectiveness of the monitoring described in (4) of this subsection;

(6) where actions are needed to regulate human activities that affect wild trout and wild trout habitat that are outside the authority of the department or the board, the department or the board shall correspond with the relevant authority, including the governor, relevant boards and commissions, commissioners, and chairs of appropriate legislative committees, to describe the issue and recommend appropriate action.

(e) Nothing in this section is intended to expand, reduce, or be inconsistent with the statutory authority of the board, the department, or other state agencies with authority to adopt regulations affecting the fishery resources of the state.

(f) In this section, and in implementing this policy,

(1) "depleted wild trout stock" means a wild trout stock for which there is a sustainability concern;

(2) "diversity", in a biological context, means the range of variation exhibited within any level of organization, such as genotypes within a wild trout population, populations within a wild trout stock, wild trout stocks within a species, wild trout species within a community, or communities within an ecosystem;

(3) "genetic" means those characteristics (genotypic) of an individual or group of wild trout that are expressed genetically, such as allele frequencies or other genetic markers;

(4) "habitat concern" means the degradation of wild trout habitat that results in or can be anticipated to result in, impacts leading to a sustainability concern or optimal sustained yield concern;

(5) "healthy wild trout stock" means a wild trout stock that is able to sustain a specified optimal sustained yield management objective so that stocking is not required and which is characterized by fishing activities and habitat alteration, if any, that do not cause or lead to significant undesirable changes in biological productivity, biological diversity, or ecosystem structure and function, from one human generation to the next;

(6) "incidental harvest" means the harvest of fish or other species that is captured in addition to the target species of fish;

(7) "incidental mortality" means the mortality imposed on a wild trout stock other than directed harvest, and includes mortality caused by incidental harvests, interaction with fishing gear, habitat degradation, and other human-related activities;

(8) "optimal sustained yield" means an average annual yield from a stock managed for objectives other than maximum yield considered to be optimal in achieving a specified management objective designed to attain a specified benefit while maintaining healthy stock status and genetic integrity; benefits include, quality of experience, diversity of opportunity, conservative consumptive harvest opportunity, and economic benefits;

5 AAC 75.222. Policy for the management of sustainable wild trout fisheries

(9) "optimal sustained yield concern" means a threshold level of size composition genetic diversity, or abundance below which the ability of the wild trout stock to maintain a desired optimal sustained yield management objective is jeopardized;

(10) "overfishing" means a level of fishing on a wild trout stock that results in a sustainability concern or optimal sustained yield concern;

(11) "phenotypic characteristics" means those characteristics of an individual or group of wild trout that are expressed physically, such as body size and length at age;

(12) "stock of concern" means a stock of wild trout for which there is a sustainability concern or optimal sustained yield concern;

(13) "sustainability concern" means indications of a trend expected to result in a threshold level of size composition, genetic diversity, or abundance below which the ability of the wild trout stock to sustain itself is jeopardized;

(14) "wild trout" means the species rainbow trout or steelhead trout (*Oncorhynchus mykiss*), or cutthroat trout (*Oncorhynchus clarkii*), that are wild;

(15) "wild trout population" means a locally interbreeding group of wild trout that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics, comprised of an entire stock or a component portion of a stock; the smallest uniquely identifiable spawning aggregation of genetically similar wild trout used for monitoring purposes;

(16) "wild trout stock" means a locally interbreeding group of wild trout that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics or an aggregation of two or more interbreeding groups which occur within the same geographic area and is managed as a unit.

5 AAC 39.220. Policy for the management of mixed stock salmon fisheries

(a) In applying this statewide mixed stock salmon policy for all users, conservation of wild salmon stocks consistent with sustained yield shall be accorded the highest priority. Allocation of salmon resources under this policy will be consistent with the subsistence preference in AS 16.05.258, and the allocation criteria set out in 5 AAC 39.205, 5 AAC 75.017, and 5 AAC 77.007.

(b) In the absence of a regulatory management plan that otherwise allocates or restricts harvest, and when it is necessary to restrict fisheries on stocks where there are known conservation problems, the burden of conservation shall be shared among all fisheries in close proportion to their respective harvest on the stock of concern. The board recognized that precise sharing of conservation among fisheries is dependent on the amount of stock-specific information available.

(c) The board's preference in assigning conservation burdens in mixed stock fisheries is through the application of specific fishery management plans set out in the regulations. A management plan incorporates conservation burden and allocation of harvest opportunity.

(d) Most wild Alaska salmon stocks are fully allocated to fisheries capable of harvesting available surpluses. Consequently, the board will restrict new or expanding mixed stock fisheries unless otherwise provided for by management plans or by application of the board's allocation criteria. Natural fluctuations in the abundance of stocks harvested in a fishery will not be the single factor that identifies a fishery as expanding or new.

(e) This policy will be implemented only by the board through regulations adopted (1) during its regular meeting cycle; or (2) through procedures established in the Joint Board's Petition Policy (5 AAC 96.625), Subsistence Petition Policy (5 AAC 96.625(f)), Policy for Changing Board Agenda (5 AAC 39.999), or Subsistence Proposal Policy (5 AAC 96.615).

History Eff. 5/29/93, Register 126

Authority: AS 16.05.251(h)

ALASKA BOARD OF FISHERIES**OPERATING PROCEDURES
POLICY TO NOT USE MOTION TO RESCIND**

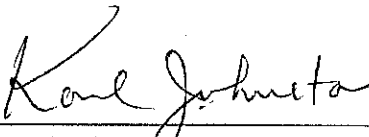
Under its *Standing Rules* (91-128-FB), the Alaska Board of Fisheries (Board) uses the most current version of *Robert's Rules of Order* as a guide in conducting meetings. However, under the Standing Rules and because the Board is not required under Alaska Statutes to use any particular parliamentary procedure, these rules are not mandatory. *Robert's Rules of Order* allows for a *motion to rescind* as a procedural tool to void an action taken by the Board when a *motion to reconsider* is no longer an option.

The Board employs several procedural tools for bringing a subject or proposal forward during or outside of the regular meeting cycle, including several methods to take action to repeal or change regulations. These procedural tools include Agenda Change Requests, Motions to Reconsider, Board Generated Proposals, and Emergency Petitions.

The Board is concerned that a *motion to rescind* may occur not only during the same Board meeting in which the action was taken and after which time a *motion to reconsider* is no longer an option, but also during a subsequent regular or special meeting. This may not allow the public that was engaged in the process that has left a Board meeting after an action has been taken to be aware of the potential action for a motion to rescind and available to provide comments.

Since the Board has adequate means of addressing regulatory changes during or outside of its regular meeting cycle, the Board will not utilize a motion to rescind which would otherwise be allowed in Robert's Rules of Order.

Adopted: December 11, 2013
Vote: 7-0
Anchorage, Alaska



Karl Johnstone, Chairman
Alaska Board of Fisheries

~DRAFT~

ALASKA BOARD OF FISHERIES

CRITERIA FOR DEVELOPMENT OF BOARD-GENERATED PROPOSAL

It has been suggested that criteria need to be established to guide Alaska Board of Fisheries (board) members when deliberating on whether or not to develop a board-generated proposal. The board will consider the following criteria when deliberating the proposed development and scheduling of a board-generated proposal:

1. Is it in the public's best interest (e.g., access to resource, allocation concerns, consistent intent, public process)?
2. Is there urgency in considering the issue (e.g., potential for escapement objectives not being met or sustainability in question)?
3. Are current processes insufficient to bring the subject to the board's attention (e.g., reconsideration policy, normal cycle proposal submittal, ACRs, petitions)?
4. Will there be reasonable and adequate opportunity for public comment (e.g., how far do affected users have to travel to participate, amount of time for affected users to respond)?

Approved: January 20, 2013
Vote: 6-0
Anchorage, Alaska

Karl Johnstone, Chairman
Alaska Board of Fisheries

ALASKA BOARD OF FISHERIES**OPERATING PROCEDURES
POLICY FOR WRITTEN PUBLIC COMMENT**


Any person may comment on the regulation changes, including the potential costs to the private persons of complying with the proposed changes, by submitting written public comments limited to no more than 100 single sided or 50 double sided pages to the Alaska Department of Fish and Game, Boards Support Section, P.O. Box 115526, Juneau, AK 99811-5526, or by fax to (907) 465-6094, so that the comments are received as a public comment (PC) no later than two weeks prior to the meeting during which the topic will be considered. Prior to the public comment deadline or unless otherwise specified for a particular meeting in a published notice, written public comments over 100 single sided or 50 double sided pages in length from any one individual or group relating to proposals at any one meeting will not be accepted.

Written public comments limited to 10 single sided or 5 double sided pages in length from any one individual or group will be accepted after the two-week deadline as a record copy (RC), but will not be inserted in board member workbooks until the beginning of the meeting, and will only be accepted until the Board begins deliberation of proposals.

NEW PUBLIC COMMENT STANDARD: Once deliberation of proposals begin at a board meeting, the board will **ONLY** accept written public comments that are not more than five single-sided pages, or the equivalent double-sided pages, unless specific information is requested by the Board that requires more pages than allowed under this standard.

During the meeting written public comments from any one individual or group may be submitted by hand delivery at any time if 25 copies are provided; but, as a practical matter comments submitted after the board begins deliberations on relevant proposals are likely to receive less consideration than comments submitted earlier.

Adopted: October 10, 2012
Vote: 4-3
Anchorage, Alaska

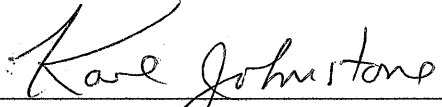

Karl Johnstone, Chairman
Alaska Board of Fisheries

ALASKA BOARD OF FISHERIES

OPERATING PROCEDURES
MOTION TO RECONSIDER

1. Only a board member who voted on the prevailing side of the original issue can move to reconsider a vote.
2. A motion to reconsider must be supported by a presentation of new evidence that was not before the board at the time the original vote was taken.
3. A board member who wishes to reconsider any vote must provide written notice to the chairman or notice on the record of his or her intent to move for reconsideration no later than 24 hours after the vote on the issue that reconsideration is requested. Failure to provide timely notice, either in writing or on the record, will preclude any member from moving to reconsider an earlier vote.
4. After receiving timely notice from a board member of his or her desire to reconsider a previous vote, the chair shall set a time and date to hear the motion to reconsider.

Adopted: October 10, 2012
Vote: 5-2
Anchorage, Alaska


Karl Johnstone, Chairman
Alaska Board of Fisheries

5 AAC 28.267. Prince William Sound Pacific Cod Management Plan

(a) The management plan in this section governs the harvest of Pacific cod in the Prince William Sound Area.

(b) Each year the commissioner

(1) shall open and close, by emergency order, a parallel season for mechanical jigging machine and hand troll gear, groundfish pot gear, and longline gear in the Prince William Sound Area to coincide with the initial federal season in the federal Central Gulf of Alaska Area, as follows:

(A) the parallel season for mechanical jigging machine and hand troll gear will coincide with the initial federal season for jig gear;

(B) the parallel season for groundfish pot gear will coincide with the initial federal season for pot gear;

(C) the parallel season for longline gear will coincide with the initial federal season for hook and line gear operated from vessels less than 50 feet in overall length;

(2) may open and close, by emergency order, a parallel season for mechanical jigging machine and hand troll gear, groundfish pot gear, and longline gear in the Prince William Sound Area to coincide with the federal Central Gulf of Alaska Area "B" season, as follows:

(A) the parallel season for mechanical jigging machine and hand troll gear will coincide with the federal "B" season for jig gear;

(B) the parallel season for groundfish pot gear will coincide with the federal "B" season for pot gear;

(C) the parallel season for longline gear will coincide with the federal "B" season for hook and line gear operated from vessels less than 50 feet in overall length.

(c) The commissioner shall open and close, by emergency order, a state-waters season for mechanical jigging machine and hand troll gear, groundfish pot gear, and longline gear in the Prince William Sound Area, as follows:

(1) for mechanical jigging machines and hand troll gear, the state-waters season will open 24 hours following the closure of the initial federal season in the Central Gulf of Alaska Area for jig gear and will close when the guideline harvest level is reached, a parallel season for mechanical jigging machine and hand troll gear is opened under (b)(2) of this section, or December 31, whichever occurs first;

(2) for groundfish pot gear, the state-waters season will open 24 hours following the closure of the initial federal season in the Central Gulf of Alaska Area for groundfish pot gear and will close when 90 percent of the guideline harvest level is reached, a parallel season for groundfish pot gear is opened under (b)(2) of this section, or December 31, whichever occurs first;

(3) for longline gear, the state-waters season will open seven days following the closure of the initial federal season in the Central Gulf of Alaska Area for hook and line gear operated from vessels less than 50 feet in overall length or concurrent with the individual fishing quota halibut season opening date, whichever occurs later, and will close when 85 percent of the guideline harvest level is reached, a parallel season for longline gear is opened under (b)(2) of this section, or December 31, whichever occurs first;

(4) if there is any guideline harvest level remaining on September 1, the commissioner may close, by emergency order, the state-waters season and immediately reopen a state-waters season to all legal gear on September 1 or following a parallel season closure; the state-waters season will close on December 31 or when the guideline harvest level is reached, whichever occurs first; if the season is closed and immediately reopened under this paragraph, a vessel participating in the state-waters season when it was closed will not be required to comply with the landing requirements specified in 5 AAC 28.371 until the season is closed again.

(d) The commissioner may open and close, by emergency order, fishing seasons at times other than those specified in this section if the commissioner determines it is necessary to

5 AAC 28.267. Prince William Sound Pacific Cod Management Plan

- (1) adapt to unanticipated openings or closures of the federal season;
 - (2) maintain sustained yield management;
 - (3) provide for orderly fisheries; or
 - (4) allow for a concurrent state-waters season and federal season for Pacific cod based on inseason assessment of effort, harvest rate, or remaining Pacific cod quota.
- (e) During a state-waters season,
- (1) the guideline harvest level for Pacific cod in the Prince William Sound Area is 25 percent of the estimated total allowable harvest of Pacific cod for the federal Eastern Gulf of Alaska Area;
 - (2) Pacific cod may be taken in the waters of the Prince William Sound Area described in 5 AAC 28.205, except those waters of the Eastern Section east of 146_ 15.12' W. long.;
 - (3) Pacific cod may be taken only with groundfish pots, mechanical jigging machines, hand troll gear, and longline gear, as follows:
 - (A) except as provided in (g) of this section, no more than 60 groundfish pots may be operated from a vessel registered to fish for Pacific cod;
 - (B) no more than five mechanical jigging machines may be operated from a vessel registered to fish for Pacific cod;
 - (C) in addition to the requirements of 5 AAC 28.020, a vessel must be registered to fish with mechanical jigging machines and hand troll gear (jig gear), pot gear, or longline gear, and may not simultaneously be registered to fish with more than one gear type; a vessel's gear registration may be changed during a state-waters season to a different gear registration if the owner, or the owner's agent, submits a written request for a change in registration by mail, facsimile, or in person, to the department office in Cordova, or other locations specified by the department, for validation, and that registration has been validated by the department.
- (f) The Prince William Sound Area is an exclusive registration area for Pacific cod during a state-waters season.
- (g) If at any time after October 30 the commissioner determines that the guideline harvest level will not be reached by December 31, the commissioner may close, by emergency order, the state-waters season and immediately reopen a state-waters season during which the following shall be implemented to increase the harvest to achieve the guideline harvest level:
- (1) removal of the limits on the number of groundfish pots and mechanical jigging machines that may be operated from a vessel;
 - (2) if needed, designation of the Prince William Sound Area as a nonexclusive registration area for Pacific cod.
- (h) If the state-waters season is closed and immediately reopened under (g) of this section, a vessel participating in the state-waters season when it was closed will not be required to comply with the landing requirements of 5 AAC 28.271 until the season is closed again.
- (i) Notwithstanding the provisions of 5 AAC 28.070, the commissioner may, by emergency order, open a fishing season under this subsection in which the bycatch amounts allowed during a directed fishery are increased. During a fishing season opened under this subsection, in addition to the allowance of bycatch of other species specified in 5 AAC 28.070, the bycatch allowance of Pacific cod may be up to 20 percent of the directed finfish species on board a vessel using groundfish pot gear, mechanical jigging machine and hand troll gear, or longline gear. The landed weight of Pacific cod taken as bycatch may not exceed 20 percent of the directed finfish species on board the vessel. The commissioner may, by emergency order, close and immediately reopen a season in which the bycatch limit for any species is reduced.

5 AAC 28.267. Prince William Sound Pacific Cod Management Plan

(j) If a state-waters season and a federal season for Pacific cod are opened concurrently for the same gear type or for a different gear type,

(1) a vessel may not participate in a state-waters season and any other Pacific cod season at the same time;

(2) a vessel's registration for the state-waters season in the Prince William Sound Area must be invalidated and all groundfish on board that vessel must be landed before that vessel may participate in any other concurrent Pacific cod season;

(3) registration for a state-waters season may only occur in person or by facsimile from 8:00 a.m. to 5:00 p.m. on a working day at the department office in Cordova, or other locations specified by the department; and

(4) all groundfish on board a vessel must be landed before that vessel may be registered for a Prince William Sound Area state-waters season for Pacific cod.

History Eff. 4/4/97, Register 142; am 11/27/97, Register 144; am 3/30/2000, Register 153; am 7/5/2000, Register 155; am 5/31/2001, Register 158; am 5/11/2003, Register 166; am 3/14/2009, Register 189; am 4/20/2012, Register 202

Authority: AS 16.05.060; AS 16.05.251;

Editor's note: The department's office in Cordova is located at 401 Railroad Avenue, Cordova, Alaska; Telephone: (907) 424-3212; Fax: (907) 424-3235.

ALASKA BOARD OF FISHERIES
**Finding in Support of Onboard Observer Requirement in the Prince William
Sound Pollock Pelagic Trawl Fishery**

2008-261-FB

The Alaska Board of Fisheries may adopt regulations it considers advisable for the conservation and development of fishery resources of the state, including the authority to require, in a fishery, observers on board fishing vessels. Where the board adopts a regulation requiring onboard observers it must make a written determination that an on-board observer program:

- A. is the only practical data-gathering or enforcement mechanism for that fishery,
- B. will not unduly disrupt the fishery,
- C. can be conducted at a reasonable cost, and
- D. can be coordinated with observer programs of other agencies, including the National Marine Fisheries Service, North Pacific Fishery Management Council, and the International Pacific Halibut Commission. (see AS 16.05.251(a)(13))

The board finds that in the Prince William Sound Pollock pelagic trawl fishery, a requirement for on-board observers is warranted and reasonably necessary for the conservation and development of fishery resources.

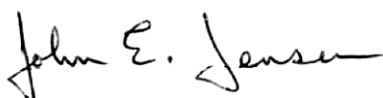
The board does not find any other practical alternatives for gathering data in this fishery that would provide all of the information needed by the Department of Fish and Game (Department).

The board received testimony from the public and based on lack of public opposition from stakeholders and participants in the fishery concludes that use of Department observers will not unduly disrupt the fishery.

The observer program can be conducted at little or no cost to fishing operations because the observers would be Department personnel.

The program can be coordinated with other agencies. There is a data sharing protocol in place with the federal fisheries programs to facilitate sound management of fishery stocks which may be found in both federal and state waters. Observer data recorded by Department observers would be subject to this data sharing agreement, and a state observer program will not duplicate or interfere with a federal program.

ADOPTED this 31st day of December, 2008



John Jensen, Chair
Alaska Board of Fisheries

Vote: 7 in favor / 0 opposed

**ALASKA BOARD OF FISHERIES
DELEGATION OF AUTHORITY TO
CORRECT ERRORS OR OMISSIONS IN REGULATIONS AND TO
REFORMAT AND RENAME CHAPTERS WITHIN ALASKA ADMINISTRATIVE
CODE**

2006-250-FB
(Replaces Finding 99-192-FB)

The Board of Fisheries ("board") makes the following findings:

1. The board characteristically adopts numerous regulations during the course of any year.
2. Many of the regulations adopted by the board are highly complex and interrelated with other regulations already in effect.
3. In view of the volume of regulatory proposals considered by the board at each meeting, it is impossible to prevent occasional ambiguities, inconsistencies, errors or omissions, or other technical shortcomings in regulations adopted by the board. Such deficiencies in regulations may preclude successful prosecution of regulatory violations, or prevent the intent of the board from being fully implemented or result in other consequences not desired by the board. Technical deficiencies may include some or all of the following items; formatting problems; typographical errors or inadvertent errors made during publication; conflicting regulations; lack of definition of terms and modification of terminology to reflect changes in technology.
4. As a result of the volume of regulations considered by the Board and the compressed timeline for getting regulations into place, errors or omissions, such as incorrect phrasing of Board conceptual regulatory language and failure to fully capture all amendments to a proposal in final regulatory language, do happen in the course of regulatory writing during a board cycle, and the board recognizes the need to correct such problems to make the regulations consistent with board's original intent.
5. It is impractical, unnecessary, and contrary to the public interest to initiate action by the full board to correct such errors or omissions, or address reformatting and renaming chapters within the Alaska Administrative code.
6. The commissioner and staff of the Department of Fish and Game, and personnel of the Departments of Law and Public Safety are most likely to notice technical deficiencies and errors and omissions in the regulations as a result of daily administration of Title 16 of the Alaska Statutes and Title 5 AAC regulations adopted by the board.

THEREFORE THE BOARD RESOLVES that in hereby makes the following delegation of its rulemaking authority under AS 16.05.251 and AS 16.05.258 to the commissioner of the Department of Fish and Game to be carried out under AS 16.05.270:

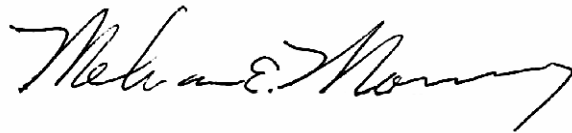
A. The commissioner may adopt, in accordance with the Administrative procedure Act (AS 44.62), permanent or emergency regulations, designated to eliminate inconsistencies, ambiguities, errors or omissions, or other technical deficiencies in existing regulations of the board.

B. The commissioner may reopen board regulatory projects after filing of the original regulations, and may sign a new adoption order reflecting the board's adoption of the regulations, within the current or previous board cycle, when through administrative error, the regulations are not correctly reflected in the administrative code. The commissioner may make such corrections in the regulations so long as they continue to be consistent with the board's original intent, as explained in the record of the board's proceedings.

C. All regulatory changes adopted by the commissioner under this delegation must be consistent with the expressions of the board's intent at the time it adopted the regulation to be corrected. Regulatory amendments that would result in a significant, substantive amendment or addition to existing board regulations that are not clearly manifest in the board's record, may not be adopted by the commissioner under the authority of this delegation and will require a separate delegation or direct board action.

D. This resolution replaces Finding 99-192-FB.

E. This delegation of authority shall remain in effect until revoked by the board.



Mel Morris, Chairman
Alaska Board of Fisheries

Adopted: 12/13/2006
Dillingham, AK

VOTE: 6-0-1 (Andrews absent)

ALASKA BOARD OF FISHERIES
FINDINGS ON COPPER RIVER KING SALMON MANAGEMENT PLAN
2006-249-FB

May 3, 2006

In December 2005 the Board of Fisheries amended and adopted proposal 52 which established one mandatory commercial fishing closure within the inside statistical areas of the Copper River District during each statistical week 20 and 21. The initial proposal requested that only one 12-hour opening be allowed within the inside statistical areas during each of the first three statistical weeks (20, 21, and 22). Several amendments were made to the original proposal during deliberations to reduce impacts on the commercial fishery, provide for Copper River District subsistence users and small boat users who fish within the inside statistical area, and allow the Department some flexibility in management while still providing additional fish for the upriver subsistence users. The Board was uncertain of the exact effects of the proposal as modified, but discussed the expectation of significant increases in early run king salmon escapement and the possibility of increasing sockeye escapement.

Background

At its 1996 Copper River/Prince William Sound meeting, the Board adopted the Copper River King Salmon Management Plan 5 AAC 24.361. This initial version of the plan mandated a 5 percent reduction in king salmon harvest potential across the commercial, personal use, and sport fisheries. This was attempted through potential closures of the inside statistical areas during statistical week 20 and 21 with consideration of the tides and other environmental factors, reducing the personal use bag limit from 5 to 4 king salmon, and prohibiting sport fish guiding on Tuesdays in the Copper River drainage from May 15 to July 31.

In 1999, the plan was amended to allow additional inside closures in the commercial fishery during statistical weeks 20, 21, and 22, remove the personal use component as the Chitina Subdistrict was classified a subsistence fishery during that meeting, and eliminate the guiding restriction, but reduce the seasonal sport bag limit from 5 to 4 king salmon. A spawning escapement range of 28,000 – 55,000 king salmon was established. In addition, when the Board made the Chitina Subdistrict dip net fishery a subsistence fishery the annual bag limit was reduced from 4 to 1 king salmon.

In 2003, the plan was again amended and established a sustainable escapement goal (SEG) of 24,000 king salmon or more which replaced the spawning escapement range.

Since the 2000 season, king salmon escapement goals have been included within the plan. During this period, the escapement goal for king salmon has been met three of the past six years, once under the spawning escapement range of 28,000 – 55,000 king salmon from 2000 – 2002 and twice under the SEG of 24,000 king salmon or more from 2003 – 2005. At the time of the Board adoption of proposal 52, the 2005 escapement data was preliminary, but staff reported that the goal would likely not be met in 2005.

Since 2000, commercial, sport, and personal use harvests of king salmon have generally declined, primarily a result of regulatory actions. At least one inside closure was instituted during each year from 2000 – 2003 and emergency orders restricting the upper Copper River sport fishery occurred in 2000 and 2005. The annual limit in the Chitina Subdistrict has remained at one king salmon since the Board adopted that limit to maintain harvests at historic levels when the fishery became a subsistence fishery; this limit was retained when the fishery once again a personal use fishery in 2003.

Sockeye salmon escapement goals as measured at the Miles Lake sonar have been met all but one year since 1996. The commercial fishery is managed to distribute the escapement throughout the duration of the run, yet due to run strength and environmental factors this is inherently difficult, and in some years while the total escapement goal may have been met, portions of the run may not have met the daily escapement goal. This could result in lower numbers in any portion of the Copper River run.

Public testimony and comments of some panel members during Committee C discussions indicated that those subsistence users fishing above the Gulkana River have seen reduced returns of king and sockeye salmon (primarily king salmon) and that subsistence needs had not been met in recent years. Sport anglers and personal use fishers also stated that king salmon numbers had declined. All upriver users agreed that there was a need to protect the early run component of the upper Copper River stocks and that the commercial fishery had high harvest potential during the first weeks of the season. Commercial fishers were concerned that the Department would lose flexibility in its management tools and that the current management tools were sufficient to manage for king salmon escapement and provide for early stocks. Committee C did not reach consensus on proposal 52.

Board Action

The Board brought the proposal to the table and following discussion and questions of staff regarding escapement levels and escapement goals adopted the first amendment which reduced the original proposal request of a mandatory closure during each of the first three statistical weeks to the first two statistical weeks (20 & 21). The amendment was adopted with a vote of 5/1. The Board discussed subsistence opportunity in the Copper River District, as this occurs at the same time as the commercial fishery with small skiffs within the inside statistical area closest to Cordova. A second amendment which defined the inside statistical areas that could be closed and excluded that area closest to Cordova used for subsistence fishing was adopted by a 5/1 vote. The Board then discussed the 12-hour inside opening limit and the management implications for Department staff. Staff responded that the 12-hour limit would provide less flexibility to respond to environmental conditions and run strength. An amendment to change the proposal language to one period within each of statistical weeks 20 and 21 for a inside statistical closure and remove the 12-hour limit was adopted by a vote of 4/2. The Board felt that the amended proposal was a compromise from the original proposal and would provide for additional fish for subsistence opportunity upriver and spawning escapement

and allow for subsistence opportunity in the Copper River District, while providing the Department some flexibility in its management.

Several Board members applied the Board's allocation criteria although there was disagreement among Board members about whether the criteria were applicable since the Board viewed the measure as providing for conservation and allowing users to harvest their existing allocations. The Board did not intend to change existing allocations to user groups, and rejected several proposals asking the Board to increase or restore prior more liberal bag limits and seasons.

The Board discussion of the allocation criteria under 5 AAC 39.205 addressed all seven allocation criteria:

- 1) On the first criteria, history of the fisheries, it was noted that all users have a long history of use of this Copper River resource, and that recent innovations in techniques have increased harvest rates significantly in some user groups.
- 2) On the second criteria, numbers of participants, it was noted that there are approximately 500 commercial users and thousands of upstream users, including residents of the North Star Borough and residents of communities throughout the river drainage. Additionally, residents from all over Alaska sport and subsistence fish on the Copper River.
- 3) On the third criteria, importance of each fishery for providing residents the opportunity to obtain fish for personal and family consumption, it was noted that both fisheries were important because some people retain commercially caught fish for personal consumption, but that many people did harvest fish in the personal use and subsistence fishery for consumption.
- 4) On the fourth criteria, availability of alternative fishery resources, it was noted that commercial fishermen displaced by an inside closure could move outside the closure area and still have reasonable opportunity to harvest fish. It was also noted that other stocks of fish were available to the commercial fishery over the season and that while that other stocks of salmon might be available to Interior users they were not of comparable quality and could not be efficiently accessed, such as Chinook in the lower Yukon or sockeye near Chignik.
- 5) On the fifth criteria, importance to the economy of the state, it was noted that commercial fishery was of great economic importance to the state and has long been established as major employer of Alaskans, creating seasonal cash flow to local coastal communities. It was also noted that the tourism industry multiplies the value of fish beyond its value in the commercial fishery. Copper River salmon have high economic value for sport fishing, tourism, commercial, and subsistence uses for the people of Alaska.
- 6) On the sixth criteria, importance to the economy of the region and local area, it was noted that that fishery is very important to Cordova but that the numbers of early run fish involved in proposal would be only a small percentage of the stock available. It was also noted that the fish were important to the tourism based economy of the upstream areas. For communities like Chitina, Copper Center, Glennallen, Delta Junction, North Pole, and Fairbanks, the Copper River Chinook and sockeye are the only source for sport fishing and related tourism industries.

7) On the seventh criteria, the importance of each fishery in providing recreational opportunities for residents and nonresidents, it was noted that the upstream fishery is very important in providing recreational opportunities. The Copper River salmon stocks provide opportunities for all communities along the river, including a growing recreational and sport fish guiding industry in the Cordova area

After deliberation the Board adopted proposal 52 as amended by the vote of 5/1.



Art Nelson, Chairman
Board of Fisheries

Approved: Carried (6 / 0 / 0 / 1) (Yes/No/Abstain/Absent)

Date: May 3, 2006

Location: Teleconference

**ALASKA BOARD OF FISHERIES
FINDINGS ON PRINCE WILLIAM SOUND MANAGEMENT
AND SALMON ENHANCEMENT ALLOCATION PLAN
2006-248-FB**

May 3, 2006

At its December 1 through 6, 2005 meeting, by a 7/0 vote the Alaska Board of Fisheries adopted a new Prince William Sound Management and Salmon Enhancement Allocation Plan. This plan replaces the plan previously adopted and supported by Finding 97-167-FB, and reflects the Board's realization that the attempts of previous Board's to develop a workable allocation plan, acceptable to all users, in the face of changing market conditions have been unsuccessful. The Board recognizes that it is unlikely that the three user groups involved in Prince William Sound salmon fisheries will ever reach complete consensus on an allocation plan but believes that the Board should attempt to impose a workable allocation plan to maintain the long-term historic balance even if not fully acceptable to any user group rather than leaving in place an allocation plan that has proved completely unworkable and which results in harvest patterns which bear little resemblance to the Board allocations.

The conceptual language of the adopted plan was adopted as substitute language for Proposal 27. The substitute language was recommended by a Board Committee, and is found on pages 29 -31 of RC # 40 (Committee B Report). The final regulatory language reflecting the Board's intent is found at 5 AAC 24.370 (am 3/30/2006, Register 177). As a result of its action on Proposal 27, the Board took no action on a number of other proposals relating to Prince William Sound management and allocation including proposals 18, 19, 20, 21, 22, 26, 27, 28, 29, and 30. Action on proposal 27 also served as a factor in the Board's rejection of other proposals including proposals 33, 34, and 35. These findings are intended to summarize the Board's actions on the Prince William Sound Management and Salmon Enhancement Allocation Plan so that the public and future boards will understand the reason for those actions.

Background

The previous Prince William Sound Management and Salmon Enhancement Allocation Plan was adopted in 1997 in an effort to end over seven years of dispute over allocations between the three user groups in Prince William Sound. The history of those disputes is more thoroughly presented in Finding 97-167-FB, which this finding supplements.

After 1997, the plan continued to fail to achieve its allocation objectives. Actual catches were not even coming close to allocations, and the disparities were getting worse. The seine fishery was consistently under its allocation and the drift and set net fishery were consistently exceeding their allocations. The set net fishery had grown far beyond its 1 percent allocation and was continuing to grow. PSWAC was continuing to produce more low value pink and chum salmon in an unsuccessful effort to try to balance out the increased value of Chinook and sockeye.

Modifications to the plan were made in 2003 in an attempt to improve plan performance. One significant change in 2003 including tightening the triggers for use of the Port Chalmers and Ester Subdistrict "piggy bank" areas, with a new trigger of 40 percent replacing the previous

25 percent trigger. Another significant change in 2003 was a change in the basis of calculation of ex-vessel values, with open-ended language regarding "grounds price times poundage" replaced by a requirement for ex-vessel value to be obtained from commercial operator annual reports (COAR).

Recognizing the continuing problems with the Prince William Sound Management and Allocation Plan, in October of 2003, the Alaska Board of Fisheries formed a Prince William Sound Management and Allocation Plan Workgroup to help the Board obtain a better understanding of past and present allocation and cost recovery issues and to explore options to find an equitable balance between user groups. The workgroup formally met at least 6 times between 2004 and the time of the Board's final action on proposal 27. The workgroup met in October and November prior the Board meeting and had another meeting on December 1 after the Board meeting had started. Although the workgroup composition changed somewhat over time, at all times it included two or more representatives each of seine and drift gillnet permit holders, and of Prince William Sound Aquaculture Corporation (SAC); it also included three Board members, at least one set net permit holder, and a Valdez Fisheries Development Association (VFDA) representative. At the time of the December Board meeting the workgroup was chaired by Board member Mel Morris, other Board members on the workgroup were Robert Heyano and Dr Fred Bouse. Workgroup meetings were publicly noticed and open to the public; many interested parties, including Board members, who were not on the working group attended the meetings.

In April of 2004, the Board met as committee of the whole with the workgroup. At this meeting the Board rejected a proposal to change the "piggy bank" triggers to 49 percent and made adjustments to a buffer zone around Esther Island. An effort by the Department to implement a buffer zone near a "piggy bank" area in order to increase the seine percentage in 2004 was unsuccessful because the buffer used did not prevent drift interception before salmon reached the "piggy bank" area.

The chair of the Board's workgroup circulated a draft strawman proposal in October of, 2005. The strawman proposal was discussed at the October, November, and December workgroup meetings. The primary points of the strawman proposal were further refined based on public comment and incorporated into the substitute language eventually adopted by the Board.

Although the workgroup never achieved full consensus as to all details for a new plan conceptual consensus on a number of issues was achieved, narrowing the focus of contested issues.

Workgroup participants did not agree on the fine details of a plan. There was disagreement over whether enhanced fish from VFDA should be included in the plan. There was disagreement over whether buffer zones should be used and if used over where buffer zone boundaries should be. There was disagreement over what the triggers for cost recovery adjustments and use of "piggy bank" areas should be.

The Board accepted staff reports on morning of December 1, 2005 and oral testimony, including testimony on proposal 27, from the afternoon of December 1 through the afternoon of December 2. Seventy three members of the public signed up for public testimony and were given the opportunity to present oral testimony. During public testimony many seine permit

holders indicated that wild stock should not be excluded from the allocation plan, and that if it was excluded, VFDA stocks should also be excluded to partially offset this loss to the seine permit holders. Following staff reports and public testimony, the Board followed its normal procedure, forming committees to work further with the public and develop recommendations on specific groups of proposals.

Committee B, consisting of Board members Heyano, Morris, and Andrews was tasked with making recommendations on Prince William Sound salmon issues including proposal 27. Many of the Board workgroup members served on the public panel in Committee B and four advisory committees also participated. Committee B met with its public panel on the evening of December 2. The Committee B public panel, like the working group, was unable to reach consensus on plan details, however the Board member committee was able to reach consensus for support of substitute language, found at RC 40 pages 29-31. None of the concepts in the substitute language were new, all had been discussed in workgroup meetings. The viewpoints of the various user groups on major issues were summarized in the Committee B report, and public panel participants were given a chance to submit RC's regarding any misstatements of their positions in the report.

The Proposal 27 substitute language made a number of minor modifications to the plan and made eight significant changes:

- 1) It modified the plan to apply only to enhanced stocks, excluding VFDA stocks.
- 2) It changed the allocation percentages from 50 percent drift gillnet, 49 percent seine and 1 percent set gillnet to 48 percent drift gillnet, 48 percent seine, and 4 percent set gillnet.
- 3) It changed the way allocation percentages were calculated, basing them on a five year rolling average ex-vessel value using COAR data rather than the previous year's value using COAR data.
- 4) It changed the way allocation percentages were calculated between the drift gillnet and seine fishery's by making them each 50 percent after removal of the set gillnet allocation or harvest.
- 5) It expanded the buffer zone to include the entire Granite Bay subdistrict.
- 6) It established a three percent trigger for adjustment of allocations through cost recovery changes, triggering such adjustments when either the drift gillnet or seine fisheries five year average exvessel value falls below 47 percent.
- 7) It established a five percent trigger for adjustment of allocations through "piggy bank" assignment, triggering such adjustments when either the drift gillnet or seine fisheries five year average ex-vessel value falls below 45 percent.
- 8) It imposed restrictions on set net fishery, limiting weekly open periods to no more than 36 hours starting July 10 during years in which the five year average ex-vessel value of the set net fishery exceeds 5 percent.

None of the concepts in the proposal 27 substitute language should have been a surprise to any participant in the working group or to anyone who had been following the working group progress. Despite the fact that consensus had not been reached, all concepts in the proposal 27 substitute been previously discussed in committee. Board members were aware that the substitute language contained tighter triggers than those supported by drift net permit holders, that some drift net permit holders objected to closure of the Granite Bay Subdistrict as a

buffer area, and that some drift net permit holders objected to the exclusion of VFDA enhanced fish. Board members were aware that some setnet permit holders desired a higher trigger, and desired exclusive access to some fishing areas for the set and drift gillnet permit holders. Board members were also aware that some seine permit holders objected strongly to the exclusion of wild stocks. Following issuance of the Committee B Report with its recommended substitute language, on December 4, at 5:00 p.m., the public had additional opportunity to submit written comments to the Board or to discuss the proposal with individual Board members prior the Board's deliberations on the proposal on December 5. A number of comments relevant to the proposal, including RC's 91, 93, 94, 99, 100 were received and considered by Board members.

Board Action

The Board brought proposal 27 to the table, accepted the Committee B substitute language, and then deliberated on proposal 27 on December 5, 2005, from 3:42 p.m. to 4:25 p.m. Board Member Morris went through the background, timeline, and history of the proposal and walked through the substitute language with the Board explaining that the existing plan was not working with the Seine permit holders consistently unable to harvest their allocation and the drift and set net permit holders consistently exceeding their allocations. Board member Morris explained how the new plan would work to achieve the allocations it established, and that the old allocation if reestablished in an enforceable manner would cause significant disruption of more recent harvest patterns. Board member Morris explained that the most recent year would not be included in determinations of average catch value because COAR data would not be available in a timely manner. Board member Morris also explained that the substitute language involved two triggers, if the seine to drift average catch percentages were off by at least 3 percent but less than 5 percent, PSWAC would be given an opportunity to correct the balance through cost recovery modifications; if the percentages were off by five percent or more the user group that was behind on their allocation would be given exclusive access to "piggy bank" areas during the next season. The plan would continue to prohibit in season adjustments by the Department to achieve allocation goals.

The Board discussed the allocation criteria found in 5 AAC 39.205.

- 1) On the first criteria, the history of each fishery, it was noted that the fisheries involved are all commercial salmon fisheries (drift, setnet, and seine) and that all three groups have been actively involved in the fisheries for over 30 years. It was also noted that the current allocation plan had been in effect since 1991 and incorporated historical values for the previous 20 years. It was also noted that revised plan would not change the characteristics of the fishery.
- 2) On the second criteria, the number of resident and nonresident participants, it was noted that in 1980's and early 1990's the fleet makeup was fairly consistent with approximately 220-260 active purse seine permits and 400-500 active drift gillnet permits, and 20-25 active set gillnet permits. It was also noted that the number of active seine permits had declined since the early 1990's to slightly over 100 and that the number of active drift gillnet permits had not substantially changed. There was some discussion indicating that falling chum and pink prices had hurt seine participation while gillnet participation was maintained at historic levels due to more stable sockeye prices.

- 3) The third criteria, importance for providing residents the opportunity to obtain fish for personal and family consumption, was not considered relevant since all three fisheries were commercial fisheries.
- 4) On the fourth criteria, availability of alternative fishery resources, it was noted that there were no alternative resources since all salmon stocks in Prince William Sound are fully utilized.
- 5) On the fifth criteria, importance of each fishery to the economy of the state, it was noted that all three are very important fisheries, vitally important.
- 6) On the sixth criteria, the importance of each fishery to the economy of the region and local area, it was noted that the fisheries were equally valuable and vital since most the salmon are processed and shipped from Prince William Sound.
- 7) The seventh criteria, importance in providing recreation opportunities for residents and nonresidents, was not considered relevant since all three fisheries are commercial fisheries.

It was noted that the plan would not create any additional cost for participants, and that while the plan might be painful for some, it put things closer to where they need to be. The Chair noted that while the plan was still not perfect that it was a good and workable plan.

After deliberating, the Board adopted proposal 27 with the Committee B substitute language by a 7/0 vote.

Reaffirmation

Having reviewed the final regulations at 5 AAC 24.370 (am 3/30/2006, Register 177), implementing the conceptual language adopted by the Board, the Board finds that the final regulations reflect the Board's intent in adopting the conceptual language presented as substitute language for proposal 27. The Board also finds that although there are no doubt problems with the new regulations which will be before the Board in the future, the new regulations represent a significant step toward achieving the goals set out in 5 AAC 24.370(a).



Art Nelson, Chairman
Board of Fisheries

Approved: Carried (6 / 0 / 0 / 1) (Yes/No/Abstain/Absent)

Date: May 3, 2006

Location: Teleconference

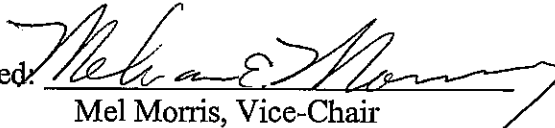
ALASKA BOARD OF FISHERIES
SUBSISTENCE SALMON FISHING IN PORTIONS OF THE
PRINCE WILLIAM SOUND MANAGEMENT AREA
2005 -244 -FB

The Alaska Board of Fisheries recognizes that the Department of Fish and Game has emergency order authority to open subsistence fishing under AS 16.05.060, and desires that the department exercise that authority during periods of extended commercial salmon fishing closures to ensure that reasonable opportunity for subsistence fishing is provided in the following waters of the Prince William Sound Management Area: 1) the Southwestern District described in 5 AAC 24.200(i) and the waters along the northwestern shore of Green Island from the westernmost tip of the island to the northernmost tip of the island; and 2) the waters north of a line from Porcupine Point to Granite Point and south of a line from Point Lowe to Tongue Point.

Vote: 6-0-1 (Nelson Absent)
Valdez, Alaska

Date: December 6, 2005

Signed: _____


Mel Morris, Vice-Chair

**Alaska Board of Fisheries
Charge to Prince William Sound
Management and Allocation Plan Workgroup
2003-225-FB**

The Alaska Board of Fisheries has established a committee, composed of board members Art Nelson (Chair), Dr. Fred Bouse and Mel Morris. The committee will examine the Prince William Sound Management and Salmon Enhancement Allocation Plan (5 AAC 24.370), and the cost recovery plan for the Prince William Sound Aquaculture Association (PWSAC). The goal is for the committee to reach a better understanding of past and present allocation and cost recovery issues and to explore options to find an equitable allocation balance between the user groups.

The committee will establish a panel of advisors, which will be composed of two seine-only, two drift gillnet-only, one combination gear representative (drift gillnet/seine), one setnetter, and two PWSAC managers, to advise the committee. The panel will meet to review past and present allocation policies of PWSAC and board regulations, and to develop an understanding of future PWSAC plans to achieve the board's goal of equity within the user groups.

Additionally, the committee will prepare a list of recommendations for presentation to the entire board. The goal is to provide board guidance to PWSAC, as mandated by statute 5 AAC 24.370, and establish a review process to insure that results are consistent with board expectations.

The committee will report to the board upon completion of its work.

Dated: October 3, 2003
Anchorage, Alaska



Ed Dersham, Chair

Vote: 7 - 0

**ALASKA BOARD OF FISHERIES
POLICY ON EMERGENCY PETITION PROCESS
#2000-203- BOF**

The Board of Fisheries often receives petitions for emergency changes to its regulations during times of the year when it is not meeting and no meeting is scheduled within the next 30 days. The Alaska Administrative Procedures Act (APA) requires that the Board shall, within 30 days of receipt of a petition, deny the petition in writing or schedule the matter for public hearing. AS 44.62.230. 5 AAC 96.625(f) establishes criteria for acceptance or denial of an emergency petition, but it does not establish the procedure the Board will go through to address the petition. This policy lays out the procedure that the Board will follow upon receipt of a petition for an emergency change to its regulations.

If the Board is in session or scheduled to meet within 30 days of receipt of an emergency petition, the executive director will schedule the petition for consideration by the Board on the agenda of the current or upcoming meeting.

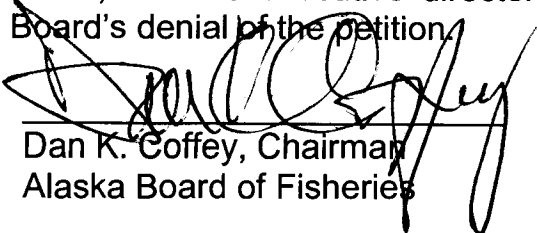
If the Board is not in session and is not scheduled to meet within 30 days of receipt of an emergency petition, the executive director will transmit to each Board member a copy of the petition, a cover memo in the form attached to this policy, and any information furnished by the Alaska Department of Fish and Game in response to the petition. After reviewing this information, each Board member will, on the cover memo, indicate his or her vote to deny the petition or schedule a special meeting for Board consideration and possible adoption of the petition, date and sign the document, and return it to the executive director as soon as practicable.

Pursuant to AS 16.05.310, if two or more Board members vote in favor of a special meeting to consider the emergency petition, then the executive director will, after consultation with the Board chair and members, schedule a public meeting of the Board at which it will consider acceptance or denial of the petition.

If two or more Board members do not vote in favor of a special meeting, the petition will be considered denied, and the executive director will write a letter to the petitioner indicating the Board's denial of the petition.

ADOPTED: November 5, 2000
Anchorage, Alaska

VOTE: 7 - 0



Dan K. Coffey, Chairman
Alaska Board of Fisheries

PROCEDURES FOR BOARD OF FISHERIES MEETING COMMITTEES

#2000-200-FB

INTRODUCTION

The description of the processes in this Memorandum are applicable to Board committees that meet during a regulatory Board meeting. They are not applicable to the Board's standing committees and task forces that conduct business throughout the year on number matters. Examples of standing committees are the Joint Protocol Committee that works with the North Pacific Fishery Management Council and the Legislative Committee that is responsible for all matters before the Alaska State Legislature.

The meeting committees consist of Board members only. Members of the public who participate in the committee process are advisers to the committee, but are not committee members themselves. Advisory committee representatives are ex-officio members of any advisory panel to any committee with which they wish to serve.

DESCRIPTION OF THE COMMITTEE PROCESS

The committee formation process for each regulatory year will commence shortly after proposals for that regulatory year are received and compiled. Appropriate department staff, working with Board members assigned by the Chair, will group and preliminarily assign proposals, grouped by appropriate topic, to committees for each scheduled regulatory meeting during the year. Proposal roadmaps will likewise be developed that mesh with committee proposal groupings. Preliminary staff assignments for committees will also be considered during the initial proposal review.

At its work session each fall, the Board will evaluate and provide further refinement to the draft roadmaps and preliminary committee organization and assignments. Board member responsibilities for and assignments to committees will be determined at the fall work session. The goal is to have all committee structures, including Board member and staff assignments, completed before the respective regulatory meeting occurs. Committee roadmaps with Board member assignments will be distributed to the public after the fall work session. The roadmaps and the committee assignments are subject to change in the face of unforeseen circumstances or changed conditions.

COMMITTEE PROCEDURES DURING REGULATORY MEETINGS

The practices and procedures to which committees will attempt to adhere during Board regulatory meetings are as follows:

1. Early during each regulatory meeting the Board Chair will provide a brief description of how the committee system works and will further direct the public's attention to the location of a posted committee roadmap and committee assignments. The Chair will also announce that a copy of the Board's Policy Statement and this procedural description on the role of committees is available from the Board's Executive Director upon request.
2. Board committees consist solely of Board members appointed by the Board Chair. Advisory committee representatives and public panel participants are not committee members, but rather are advisors to the committee. Department staff as well as other state and federal agencies staff will provide technical assistance to committees.
 - A) Public panel participants are generally stakeholders in the fisheries under consideration. They may be CFEC permit holders, crewmen, processors, executive directors of associations, and private citizens.
 - B) A Board member will serve as a chairperson for each committee.
 - C) The Board Chair will announce the location and time of all committee meetings.
 - D) All committee meetings are open to anyone that desires to attend, although participation is limited to the advisory committee representatives, the public panel participants, the technical advisors, the department staff and the committee members.
3. Individuals that desire to serve as public panel participants to any committee should make their availability known to the chair of the respective committee. Willingness to serve can be expressed by personal contact with a committee chair or during presentation of formal oral testimony. Committee chairs are to keep a list of prospective public panel participants

during the course of the meeting.

A) Attendance at the Board meeting during the presentation of staff reports and presentation of oral testimony is generally a prerequisite to serving as a public panel participant to a committee at most meetings. This requirement will be most prevalent at meetings having high levels of attendance.

B) Advisory Committee representatives are ex-officio members of all public panels to all committees and may move between committees as they choose.

4. At the conclusion of public testimony, the chair of the respective committees will develop a preliminary list of public panel participants. The goal of the selection process will be to insure, as far as practicable, that there is appropriate and balanced representation of fishery interests on all committees. Tentative assignments will be reviewed by the Board as a whole and then posted for public review. After public review the Board Chair, in session on the record, will ask the public for concurrence or objections to the panel membership. Reasonable adjustments to membership on public panels will be accommodated.

5. Parliamentary procedures for committee work will follow the "New England Town Meeting" style. Public panel participants, upon being recognized by the committee chair, may provide comments, ask questions of other public panel members, ADF&G staff or the committee members or may otherwise discuss the issues assigned to a committee. Committee chairs will attempt to manage meetings in a manner that encourages exchange of ideas, solutions to complex issues and resolution of misunderstandings. Participants are required to engage in reasonable and courteous dialogue between themselves, Board committee members and with ADF&G staff. Committee meetings are intended to provide opportunities for additional information gathering and sometimes for dispute resolution. Committees are not a forum for emotional debate nor a platform for repeating information already received through public testimony and the written record. Department staff will be assigned to each committee to keep notes of discussions and consensuses reached, if any.

A) Formal votes will not normally be taken by the committees, but proposals or management plans that

receive public panel consensus, either negative or positive, will be noted in the committee report.

B) The committee process, in the absence of consensus will attempt to bring greater clarity to individual proposals and to complex conservation or allocation concerns.

6. Advisory Committee representatives serving on public panels are not constrained to merely presenting the official positions of their Advisory Committee (as is required while providing public testimony). When participating in the committee process, Advisory Committee representatives may express both the official positions of their committee as well as their personal views on issues not acted upon or discussed by their Advisory Committee. They must, however, identify which of the two positions they are stating. The Board recognizes Advisory Committee representatives as knowledgeable fisheries leaders who have a sense of their community's position on issues that come before the Board. Therefore, the Board believes that Advisory Committee representatives must be able to function freely during committee meetings.

7. After a committee has completed its work with its public panel, the committee chair will prepare a report with assistance from other members of the committee and department staff. The format of this report, which becomes part of the public record, is attached to this policy. The primary purpose of a committee report is to inform the full Board of the committee work in synopsis form. The report will additionally serve as a compilation index to Advisory Committee, public and staff written materials (record copies, public comments and staff reports) relative to the proposals assigned to the respective committees. Committee reports will be clear, concise, and in all cases, will attempt to emphasize "new information" that became available during the committee process, i.e., information that had not previously been presented to the full Board in oral or written form.

A) In order to provide focus, committee reports should include recommendations relative to most proposals.

B) If a committee has developed a proposal to replace or modify an existing proposal, the substitute proposal should be prepared and attached the to

committee report.

- C) Committee reports will not include recommendations for proposals when such recommendations will predetermine the ultimate fate of the proposal. For example, when the full Board consists of six or few voting members (because of absence, abstention or conflict of interest) a committee of three should not provide a negative recommendation on a proposal.
8. Committee reports will be made available to the public in attendance at the meeting prior to the Board beginning deliberations on proposals. The Board Chair will publicly announce when reports are expected to be available for review by members of the public. The public will be encouraged to provide written comments to the Board (submittal of record copies) regarding the content of the committee reports and/or to personally contact Board members to discuss the reports.
- A) The Board Chair will provide sufficient time between release of committee reports and deliberations for the preparation of written comments or for verbal communications with individual Board members to occur.
9. Board deliberations will begin after the full Board has had time to review committee reports, after the public in attendance has had an opportunity to respond to the reports, and after the full Board has had an opportunity to review the public's comments made in response to the committee reports. During the course of deliberations, committee chairs will present their committee's report and initially will lead the discussion relative to proposals assigned to their committee.
10. The full Board shall be involved in the debate or discussion of all proposals and will make regulatory decisions based on all information received to the record, including information from committees.

Adopted by the Board in Anchorage on March 23, 2000.

Vote: 6-0-1
(Miller absent)


Dan K. Coffey, Chairman

ALASKA BOARD OF FISHERIES
POLICY STATEMENT

Policy for Formation and Role of Committees at Board Meetings

#2000-199-FB

INTRODUCTION

During the past three (3) years, in response to its workload and in a desire to increase public participation, the Board has employed a committee process during the course of its meetings throughout the state of Alaska. This committee process has changed and developed over these three years in response public and department comments and the experiences of the Board in using the committee process.

It is expected that this process will continue to evolve as the needs of the public, the Board and the Department continue to evolve. As such, the committee process is meant to be dynamic and flexible. However, despite the expected future refinements, now that the committee process has been through a three-year Board cycle, it is appropriate for the Board to consider formal adoption of a Policy Statement on the Board committee process.

The Board recognizes that the public relies on the predictability of the regulatory process. The purpose of adopting this Policy Statement and the attached description of the committee process is to place the committee process in the records of the Board. Thus, the adoption of this Policy Statement will define the purpose, the formation and the role of Board committees. Over time, all participants in the Board process can be knowledgeable and effective participants before the Board of Fisheries.

DISCUSSION

A major strength of the Board committee process lies in its broad-based public participation format. To accommodate greater levels of public involvement, to enable the Board to receive and utilize the volume of information presented to it and to effectively handle the increased number of proposals seeking regulatory changes, the Board has found it desirable to create internal Board committees. The Board has found that these committees allow the Board to complete its work timely and effectively, with full consideration of the content and purpose of the many proposals before it each year.

The Board considers the use of committees as an expansion of its traditional processes; not as a replacement for such long-standing information gathering activities as staff and advisory committee reports, public testimony, written comments or informal contacts between Board members and the public. The Board committees are intended to enhance the process, not become a substitute for existing process.

While the committee process, of necessity, involves less than the full Board, nothing about the committee process is intended to, or has the consequence of, replacing the judgment of the full Board on all proposals before it at any regulatory meeting. The Board has taken steps to insure that its committees do not dictate/direct the outcome of any vote on any proposal. These steps include limiting participation by Board members to less than the number of Board members necessary to determine the outcome of the vote on any proposal. In addition, Board committees avoid predetermining the outcome by organizing the written materials presented to the Board so that they are readily available for review by the full Board, by presenting detailed reports on the committee's work and by fostering and encouraging debate during the deliberative process.

The goals and purposes of the Board committee process include but are not limited to the following:

1. Acquisition of additional detailed information from both the public and staff.
2. Providing a consensus-building forum that assists in the understanding and resolution of complex and controversial conservation, allocation, fishery resource, habitat and management issues.
3. Enhancing the interaction among the Board, the public and department staff which results in broader public understanding of the regulatory decisions of the Board and the Department's management of the fisheries.
4. Promoting efficient use of time by organizing and grouping similar proposals, reducing redundancy and organizing the huge volume of written materials provided before and during meetings by the department and the public.
5. Insuring completion of the Board's work within fiscal and temporal constraints.

The Board now finds as follows:

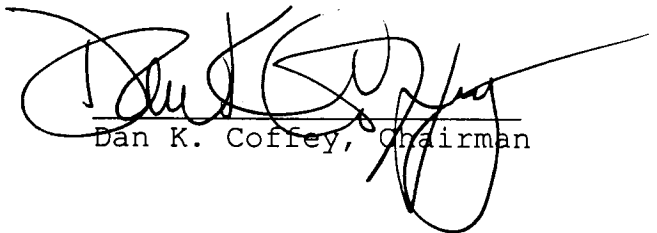
1. The goals and objectives are appropriate;
2. The statements of fact accurately reflect the beliefs and opinions of the Board as to the matters stated;
3. The committee process has, over a full three-year cycle of the Board, resulted in the goals and objectives having consistently been met.

Based on the findings, the Board of Fisheries resolves as follows:

1. The Policy Statement is hereby adopted as the policy of the Board of Fisheries.
2. The description of the committee process attached to this Policy Statement will be followed, in most circumstances, by the Board during the course of its regulatory meetings, subject always to the exceptional circumstance as determined by the Board.
3. The committee process is intended to be dynamic and flexible to meet the needs of the public, the Board and the Department. Thus, this Policy Statement and the attached description of the committee process are subject to ongoing review and amendment by the Board.

DATED at Anchorage, Alaska this 23rd day of March, 2000.

Vote
(Miller Absent)



Dan K. Coffey, Chairman

**ALASKA BOARD OF FISHERIES
POLICY ON WRITTEN FINDINGS FOR ADOPTION OF REGULATIONS
99 - 184 - BOF**

Generally, written findings explaining the reasons for the Board of Fisheries' regulatory actions governing Alaska's fisheries are not required by law. The Alaska Supreme Court has specifically held that decisional documents are not required where an agency exercises its rulemaking authority. *Tongass Sport Fishing Association v. State*, 866 P.2d 1314, 1319 (Alaska 1994). "Adoption of a decisional document requirement is unnecessary and would impose significant burdens upon the Board." *Id.* The Board recognizes, however, its responsibility to "clearly voice the grounds" upon which its regulations are based in discussions on the record during meetings so that its regulatory decisions reflect reasoned decision-making. *Id.* The Board also recognizes that there may be times when findings are appropriate to explain regulatory actions that do not result in adoption of a regulation.

Even though written findings are generally not a legal requirement, the Board recognizes that there are certain situations where findings are, in fact, legally required or advisable or where findings would be useful to the public, the Department of Fish and Game, or even the Board itself. The Board will, therefore, issue written findings explaining its reasons for regulatory actions in the following circumstances:

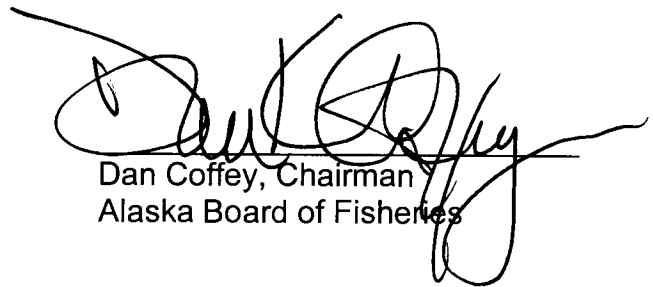
1. The Board will provide written explanations of the reasons for its decisions concerning management of crab fisheries that are governed by the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs as required by that plan.
2. The Board will, in its discretion and in consultation with the Department of Law, provide written findings for regulatory decisions regarding issues that are either already the subject of litigation or are controversial enough that litigation is likely.
3. The Board will, in its discretion, provide written findings for regulatory actions where the issues are complex enough that findings may be useful to the public in understanding the regulation, to the department in interpreting and implementing the regulation, or to the Board in reviewing the regulation in the future.
4. The Board will, in its discretion, provide written findings for regulatory actions where its reasons for acting are otherwise likely to be misconstrued by the public, the legislature, or other state or federal agencies.

The chair will assign responsibility for drafting written findings to board committees, individual board members, department staff (with division director approval), or others, as appropriate for the circumstances.

Written findings must be approved by a majority of the full Board membership. Approval may be by a vote on the record at a Board meeting or by individual signatures of Board members upon circulation of a written finding. Only those Board members that participated in the regulatory decision will be eligible to vote on the findings for that regulatory decision. Board members are not required to vote for or against adoption of findings based on their individual vote on the underlying regulatory decision. A Board member who votes in favor of the regulatory decision may vote against adoption of the findings; a Board member who votes in opposition to a regulatory action may, nevertheless, vote for adoption of the written findings.

Written findings adopted by the Board will be numbered according to year and sequence of adoption. The executive director will maintain copies of all Board findings and make them available for review by the Board, department, and the public.

ADOPTED: 10/27, 1999
Fairbanks, Alaska



Dan Coffey, Chairman
Alaska Board of Fisheries

VOTE: 7/0

ALASKA BOARD OF FISHERIES**FINDINGS REGARDING THE PRINCE WILLIAM SOUND
MANAGEMENT AND SALMON ENHANCEMENT
ALLOCATION PLAN (5 AAC 24.370)**

At its meeting in Cordova, the Board of Fisheries (board) took staff reports, both oral and written, oral and written testimony from the public and advisory committee reports concerning the allocation of Prince William Sound salmon stocks between three different gear types; seine, drift gillnet and set gillnet. The current allocation plan is found in 5 AAC 24.370, the Prince William Sound Management and Salmon Enhancement Allocation Plan. The board had numerous proposals before it to change this particular regulation.

The history of attempts to establish allocations between the gear types goes back more than seven years and involves this board, the Prince William Sound Aquaculture Corporation (PWSAC), the Regional Planning Team (RPT) and numerous members of the public. Despite the best efforts of all of these people, and because of changes in conditions and PWSAC practices, the allocation plan is currently not working in the manner intended.

For a historical perspective, the board reviewed and discussed how the current situation was created. The existing regulation arose out of an agreement between gear types facilitated by PWSAC, the RPT and the board. In a prior form of the regulation (5 AAC 24.370), the board expressly recognized the allocation policy adopted by PWSAC in May, 1990. This regulation has been in effect since 1991.

After hearing from the public, the board has determined that the allocation plan is generally acceptable to all of the parties involved in terms of its allocation percentages. Admittedly, the set gillnetters would prefer to have their allocation percentage increased from one percent (1%) to two point three percent (2.3%) of ex-vessel value, but since they have a small and singular fishery (Main Bay and Crafton Island subdistricts), their fishery will produce what it produces regardless of the percentage assigned. The two largest fisheries (seine and drift gillnet) still agree that their respective allocations should remain at forty-nine percent (49%) and fifty percent (50%) respectively, although there is evidence that the actual percentages should be forty seven point five percent (47.5%) for seiners, fifty one point five percent (51.5%) for drift gillnetters and one percent (1%) for set gillnetters (See letter from Board Chair Kay Andrew to Commissioner Carl Rosier, page 2, numbered paragraph three, dated February 13, 1994). There has been some public testimony concerning these percentages which vary by one and one-half percent (1.5%) from the percentages set forth in the regulations.

In this regard, it should first be understood that these allocations are not intended to be a specific allocation number for each gear type for each season, but rather a long-term goal or objective of the board which, if not realized over a long term (more than 2 board cycles), could

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result in a change in the allocation provisions of the regulation. Further, it is impossible for this board or the staff to manage the resource within one or two percentage points. Finally, in this board's opinion, it would be more appropriate for the gear types to agree on a range of percentages and agree upon a method for adjustment as has been done in other fisheries (See 5 AAC 33.364-Southeastern Alaska Area Enhanced Salmon Allocation Management Plan).

The problem which was presented to the board is based upon two factors. The first factor is the dramatic reduction in pink salmon prices. The second factor is the current inability of PWSAC to fulfill that portion of its allocation plan which required additional production of fish. Simply stated, the problem arises from the fact that, over the last six (6) years, the average ex-vessel value for the drift gillnet fleet has been approximately seventy-five percent (75%) of the total ex-vessel value of all salmon (wild and enhanced) and the average ex-vessel value for the seine fleet has been approximately twenty-five percent (25%) of the total ex-vessel value.

This disparity is based upon an ex-vessel value based upon a combination of both wild and enhanced stocks. There is no debate as to the accuracy of these numbers. The only question here is to the use of both wild and enhanced stocks in calculating ex-vessel value. There is a significant debate going on between the seiners and the drifters over the inclusion/exclusion of wild stocks in the calculation of the ex-vessel value.

Ex-vessel value of both stocks were used in determining the historic percentages. However, the PWSAC policy statements which were presented to the board, all refer to enhanced stocks until the very end of the PWSAC Allocation Policy on Enhanced Salmon: An Explanation to Clarify Intent of Key Statements: Policy Clarification Statements, page 48, paragraph 6 where wild stocks were referred to as follows:

"6. It is the intent of the authors of the policy that production planning will attempt to achieve a balance of enhanced salmon harvest value. This intent is based on the assumption that established the historic basis for the allocation ratio. That is, wild stocks, averaged over time, were and will be harvested according to the balanced value ratio. Should this premise hold true, then a balance of enhanced salmon harvest value will maintain an economic balance between the gear groups. Only over time can this condition be achieved due to annual harvest value fluctuations. However, should it become apparent that economic balance trends away from the historic balance due to persistent failures of wild stocks, changing fish values, evolving environmental conditions, enacted laws regulations or any other factor(s) which may change the described balance, then production will be planned to rebalance the ratio such that the over-all economic balance in the fishery is maintained. This statement clearly supports the intent of the policy statement that "[t]his balance will be utilized in planning and production as a long term approximate projection goal anticipated to achieve equitable value in **returning salmon...**" (emphasis in the original).

Based on the foregoing language, it appears as if PWSAC was using both enhanced and wild stocks in its allocation determinations even though PWSAC could only allocate as to enhanced stocks. Further, members of the public who also served on the PWSAC board, on the allocation

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committee, who are commercial fishermen, and who are apparently very knowledgeable concerning the PWSAC allocation policy, state that all fish, both wild and enhanced, were to be included in the calculation of ex-vessel value.

However, this is strongly disputed by others, primarily drifters, who contend to the contrary. Some of these individuals are also knowledgeable, having been active in the development of the PWSAC allocation policy. This disagreement as to one of the fundamental precepts of the PWSAC allocation policy needs to be resolved by the board.

Further, of considerable importance to this board, is the fact that a prior board, when it adopted this regulation in 1991, stated its intent as follows:

“...to allocate the natural and enhanced salmon stocks in Prince William Sound in such a manner as to maintain the long-term historic balance between competing commercial users that existed since statehood and prior to any significant production from enhancement programs.”

Thus, the prior board decided that allocation decisions would be based on both wild and enhanced stocks.

If both wild and enhanced stocks are used in the calculation of the ex-vessel value, the disparity over the last six years is as noted above. If only enhanced stocks are used in the calculation of the ex-vessel value, the disparity is minimal and no adjustments would be necessary.

Thus, this board first needs to decide which ex-vessel value to use in its allocation determinations. After discussion, the board determined that both wild and enhanced stocks would be used in its allocation decisions. The reasons for this decision include the prior board's determination, the testimony of the public, the written record presented to the board and, most importantly, the fact that the historic catch of all salmon stocks reflects a division between gear types substantially in line with decisions based on both wild and enhanced stocks.

Next, the board discussed the percentages themselves and, for the reasons stated above, determined that the percentages stated in the proposal (drift gillnet 50%, seine 49% and set gillnet 1%) represented an approximate allocation percentage for each gear group. It was stressed by the board in its discussions that it would much rather see a range for the allocation percentages, but that these specific percentages are of sufficient merit to be “recognized” by the board.

The board then discussed the department's determination of the ex-vessel value. Staff was solicited to comment. The staff's comments were to the effect that this provision was appropriate and feasible. Since some ex-vessel measuring tool is required, this is an acceptable method. This method was adopted by the board.

Subsection (d) was then discussed by the board. It was noted that this subsection is substantially identical to the existing regulation with only one change. The only change is found in subparagraph (5)(B) which allows the seine fleet to fish in previously closed waters because of

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a change in the coho fishery. Previously, the Noerenberg Hatchery was producing coho which was harvested by the drift gillnet fleet. Because of a disease situation, the hatchery has ceased production of these coho. The seine fleet was confined to an area to avoid harvesting these coho. With the pending absence of these coho, there is no reason to confine the seine fleet to any particular area. There, the regulation was amended so as to allow the seine fleet to fish in previously closed waters so long as the predominant species is pink salmon.

The board then discussed the "piggy bank" concept. This concept was originally developed by the fishermen who fish in this fishery as a method by which disparities in the allocation between gear types could be corrected in the short run. Corrections in the long run were intended to be handled by increased production by PWSAC. This may or may not occur. However, in the short run, there is no corrective action which can be taken based upon increased production. Such corrective action is both biologically and financially impossible. Thus, the only short term corrective actions which can be taken involve re-allocations between the two user groups, seiners and drift gillnetters.

From discussions with staff and the public, as well as the board's review of the written materials provided by staff and by the public, there appears to be two potential "piggy banks" areas within Prince William Sound; the enhanced chum salmon run at Port Chalmers in the new Port Chalmers Subdistrict and the enhanced chum salmon run in the Esther Subdistrict beginning June 1 through July 20. The Port Chalmers area is a traditional seine fishery. The Esther Subdistrict is traditionally (by agreement since 1990) a drift gillnet fishery during this period. Also with regard to these two "piggy banks", the potential harvest in the Port Chalmers Subdistrict is less than the potential harvest in the Esther Subdistrict. There is also a risk of interception of Coghill Lake bound sockeye salmon in the Esther Subdistrict. The board also noted that the seine fleet is more efficient than the drift gillnet fleet in harvesting salmon. Finally, the board took note of the problems at the Main Bay hatchery which will affect the sockeye return which, in turn, will effect the drift gillnet fleet which participates in the Main Bay fishery.

The board also discussed the fact that there is no way in which parity can be precisely maintained over the short run. Parity is a long-term goal. Originally, the allocation divisions were determined on a twenty year plus period. Thus, parity is something which should be achieved over a similar lengthy period. This conclusion, however, does not mean that shorter term parity is not an appropriate goal and that the board should not adopt regulations which tend, in the short run, to bring the gear types into compliance with the allocation percentages.

Based on the foregoing, the board decided to proceed with the "piggy bank" concept to adjust allocation disparities over the shorter term. The regulation adopted took into consideration the interception of Coghill Lake sockeye salmon by allowing the department to confine the more efficient seine fleet to a smaller area than the drift gillnet fleet in the Esther Subdistrict. By granting the drift gillnet fleet both the potential of a larger area, by permitting a dual gear fishery and by permitting the drift gillnet fleet to fish exclusively in the Port Chalmers Subdistrict, the board recognized both the difference in gear efficiency and the "richness" of the two "piggy bank" fisheries.

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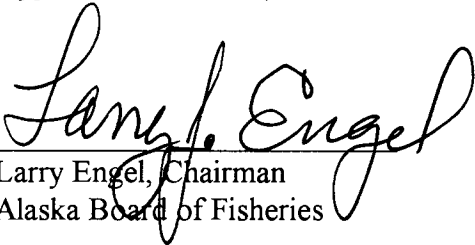
Finally, the board established 1997 as the "base" year. There will be no changes in the 1997 fishery in Prince William Sound. The seine fleet will fish in the new Port Chalmers Subdistrict. The drift gillnet fleet will have the exclusive right to fish in the Esther Subdistrict from June 1 to July 20. Only in 1998 and beyond, will any of the "piggy banks" be used for either gear group. The board expects this matter to be considered again in the next cycle.

In conclusion, the board completely and thoroughly reviewed the fishery and the competing gear types. By reaching its decision it put to rest over seven (7) years of dispute between the various gear groups. Finally, by adopting the new regulation, the board cleared up the previously existing regulatory problems.

At Sitka, Alaska

Date: January 29, 1997

Approved: 6/0/0/1 (Yes/No/Absent/Abstain)


Larry Engel, Chairman
Alaska Board of Fisheries

(Previously: Finding #: 93-07-FB)
Mixed Stock Policy Finding

ALASKA BOARD OF FISHERIES
FINDINGS ON POLICY FOR MIXED STOCK SALMON FISHERIES

The Board of Fisheries, at a meeting from March 16 through 20, 1993, adopted 5 AAC 39.220, POLICY FOR THE MANAGEMENT OF MIXED STOCK SALMON FISHERIES.

The Alaska Board of Fisheries originally adopted an informal policy for mixed stock salmon fisheries in 1976 and revised it in 1980. It was applied only occasionally by the Board or by litigants challenging Board actions. In 1990, the Alaska Supreme Court held that the policy could not be used in Board decisions because it had not been adopted as a regulation under the Administrative Procedure Act (AS 44.62). The court, however, held that several Board allocation decisions on mixed stock fisheries were valid under other authorities. In 1992, the Alaska Legislature enacted AS 16.05.251(h) requiring the Board to adopt by regulation a policy for the management of mixed stock salmon fisheries consistent with sustained yield of wild fish stocks.

At the March 1993 meeting the Board considered information contained in Alaska Department of Fish and Game oral and written staff reports, oral public testimony from 91 individuals and 11 advisory committees, as well as a multitude of written public comments submitted prior to and during deliberations. Additionally, during deliberations, the Board established a committee made up of various interests in order to focus discussion on key issues.

The Alaska Board of Fisheries finds that:

Alaska's salmon industry and communities dependent upon that industry have developed and rely upon stable fisheries, many of which harvest a variety of mixed stocks. This development represents the successful application of principles of management to achieve sustained yield which have produced increasing harvestable surpluses of salmon statewide. Creation of the Limited Entry System stabilized participation in the fisheries and managers developed successful rebuilding programs which suited the unique characteristics of the fish stocks, geography and gear types of the regions.

For example, in the Bristol Bay region harvest effort was confined to the terminal areas of the five major sockeye producing systems. Escapement goals which suited the carrying capacity of the lake systems were established and managed for. Consistent harvests of tens of millions of sockeye have been achieved.

Conversely, in Southeast Alaska where pink salmon runs were depressed, a different management style arose. Rather than a few huge systems, a myriad of medium to tiny streams produce the Southeast stocks. Commercial fisheries effort occurs away from the terminal areas and through the application of time, area and gear

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restrictions, a style of management developed on these mixed stocks which permitted harvest of a high quality product, distributed harvest pressure over larger areas, distributed harvest temporally throughout the run, and diluted impacts on weaker stocks.

As another example, the fisheries of the Yukon River encompass the entire spectrum of fisheries management from the mixed stock fishing of the lower main stem to the terminal fisheries near the contributing systems.

The Board finds that most of Alaska's fisheries harvest stocks which are mixed.

Mixed stock salmon fisheries are often the focus of intense political controversy. Fishermen need to know what standards will be used by the Board in making decisions affecting those fisheries. Equally important, fishermen need to be assured that those standards will be applied uniformly to all mixed stock salmon fisheries, not just those that engender controversy and notoriety.

In this policy, stocks are considered to be species, subspecies, geographic groupings or other categories of fish manageable as a unit. Many stocks of Alaska salmon are not manageable throughout their range. Salmon management is an art, not an exact science. Decisions should be based upon the best information available but with no expectation that such information will be always accurate or precise.

The Board framed, by unanimous consensus, the principles upon which its policy would be developed. These tenets included reasserting the statutory preference for wild stock conservation as well as the subsistence preference. Consensus principles were:

(1) The policy should provide that all users of salmon resources should share in actions taken to conserve the resource in a manner which is, ideally, fair and proportional to respective harvest of the stock in question.

(2) The policy should state that the Board prefers to develop management plans as the mechanism to express how the burden of conservation is to be distributed among users and that these management plans also state allocation objectives as determined by application of the allocation criteria. Most mixed stock fisheries are long standing and have been scrutinized many times by past Boards. Consequently, existing regulatory management plans are understood to incorporate conservation burden and allocation, although such burdens can be readjusted.

(3) The policy should recognize that salmon resources are generally fully utilized and that stability is an important aspect of the fisheries.

(4) New or expanding fisheries on mixed stocks may potentially change management schemes for conservation or may change existing allocations. Therefore new or expanding mixed

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stock fisheries will be discouraged unless a management plan or application of the Board's allocation criteria warrant otherwise.

(5) The policy should not be a tool to be used for allocating outside of the Board's allocation criteria.

(6) The policy should not pass the burden of allocating mixed fish stocks to the department in-season, but rather allocation decisions should be made only by Board regulation; consequently, mixed stock issues requiring redress between Board meetings should be undertaken only pursuant to existing procedure (Petition Policy, Agenda Change Policy and Subsistence Petition or Proposal Policy).

(7) The policy should reflect that new or expanding fisheries will not be gauged against single year anomalies in distribution or effort, or against natural fluctuations in the abundance of fish.

(8) This is a salmon policy and applies to all users.

Section by Section Findings:

The Board determined in section (a) of the policy that mixed stock salmon fisheries management should be fully consistent with the statutory preference for wild stock conservation, and accorded it the highest priority consistent with sustained yield. Achievement of sustained yield cannot be tied to annual attainment of each and every escapement goal each and every year. Such a standard is too limiting and not practical. The Board recognized that sustained yield was not a precisely measurable standard to be applied in a strict sense, but rather connoted a system of management intended to sustain the yield of the particular salmon resource being managed. The Board's management system, therefore, seeks the goal of sustained yield over time. The Board also determined that nothing in this policy development was intended to diminish in any way the subsistence preference.

In subsection (b) the Board addresses the burden of conservation. Burden is a subjective term but the Board wishes to state that under ideal circumstances, management actions to achieve conservation objectives will be shared fairly among users. This sharing depends on information, and the Board recognizes stock specific information will not always be available. It is expected that, over time, more and more stock specific data will evolve from scale analysis, tagging, and genetic research.

Intrinsic within the management of mixed stocks is the question of how conservation and allocation of the weaker stocks which may be present shall be achieved. In each regulatory decision, the Board must weigh how harvests of healthy stocks will be managed in order to protect the less robust components of fisheries. Where stock information is not precise or unavailable, the sharing of the conservation burden may be unavoidably disproportional.

Consistent with AS 16.05.251(e), the Board has adopted criteria for the allocation of fishery resources among competing users, and the Board uses these criteria when adopting management

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plans. In subsection (c), the Board determined that such regulatory management plans are the preferred mechanism to address complex fishery issues. Regulatory management plans are presumed to assign proportional burdens of conservation and to allocate harvest opportunity.


It is the intent of subsection (d) of this policy to restrict new or expanding fisheries that rely heavily upon harvests of mixed stocks of fish, particularly if those stocks are fully utilized and allocated elsewhere, unless otherwise warranted by application of the Board's allocation criteria.

Definition of new or expanding fisheries will not be based on natural fluctuations in abundances of fish. Rather, expansion of fisheries must be gauged against the behavior of fishermen, such as increases in effort, movement to new areas, or targeting on different species. It is seldom practical to declare a fishery as "new" or "expanding" based on a single year's events.

This policy is intended to guide future action by the Board of Fisheries in establishing regulatory restrictions on fisheries; this policy is not to be used directly by the department to make in-season adjustments not otherwise specified or called for in regulatory management plans. Nothing in this policy affects the Department's emergency order authority to make in-season adjustments for conservation purposes. Action by the Board to implement this policy will occur under its normal schedule of deliberations, except for those issues that warrant consideration under the various regulatory petition and agenda change policies.

The intent of subsection (e) of this policy is to embody the current practices of salmon management employed by the Board and the department. It is not the intent of this policy to create a terminal fisheries preference, nor a mixed stock preference. It is not the intent of this policy to require readjustment of existing regulatory management plans, either for conservation or for allocative purposes. Future shifts in allocation, even under this policy, must comply with the Board's allocation criteria.

Approved: October 26, 1993
Location: Alyeska Resort; Girdwood, AK
Vote: 7/0 (Yes/No)



Tom Elias, Chair
Alaska Board of Fisheries

ALASKA BOARD OF FISHERIES

ALLOCATION CRITERIA

The Alaska Supreme Court recently issued a decision, Peninsula Marketing Association vs. State (Opinion No. 3754; dated September 20, 1991), regarding the application of the allocation criteria found in AS 16.05.251(e). The Court interpreted the statute to require the criteria to be considered when allocating between commercial fisheries as well as among the three user groups, commercial, personal use, and sport.

Consistent with the decision of the Court, the board finds that it will utilize the following specific allocation criteria when allocating between fisheries. Note that these criteria are essentially the same as the allocative criteria specified in AS 16.05.251(e), which the board has historically used as set out in 5AAC 39.205, 5AAC 77.007, and 5AAC 75.017.

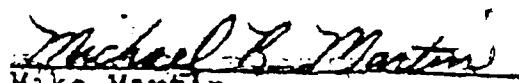
- 1) the history of each personal use, sport, and commercial fishery;
- 2) the characteristics and number of participants in the fisheries;
- 3) the importance of each fishery for providing residents the opportunity to obtain fish for personal and family consumption;
- 4) the availability of alternative fisheries resources;
- 5) the importance of each fishery to the economy of the state;
- 6) the importance of each fishery to the economy of the region and local area in which the fishery is located;
- 7) the importance of each fishery in providing recreational opportunities for residents and nonresidents.

Note that all seven (7) criteria do not necessarily apply in all allocation situations, and any particular criterion will be applied only where the board determines it is applicable.

Adopted: November 23, 1991

Vote: (Yes/No/Abstain/Absent) (5 /0 /0 /2) [Absent: Robin Samuelson, Tom Elias]

Location: Anchorage International Airport Inn


Mike Martin
Chair
Alaska Board of Fisheries

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Adopted: November 23, 1991

Vote: (Yes/No/Abstain/Absent) (5/0/0/2) [Absent: Robin Samuelson, Tom Elias]

Location: Anchorage International Airport Inn



Mike Martin, Chairman
Alaska Board of Fisheries

91-128-FB

(Previously Finding #: 91-2-FB)
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ALASKA BOARD OF FISHERIES STANDING RULES

As a guide, the Alaska Board of Fisheries follows the most current version of Robert's Rules of Order in the conduct of the meetings [Note that the Alaska Statutes do not require the board to use any specific parliamentary procedure]. The board has by traditional agreement varied from the written Robert's Rules of Order. Below is a partial list of these variations (known as "Standing Rules") that the board follows:

- Take No Action. Has the effect of killing a proposal or issue upon adjournment. There are two reasons for taking no action: 1) It is found that the proposal is beyond the board's authority; or 2) due to board action on a previous proposal(s).
- Tabling has the effect of postponing indefinitely (Robert's Rules of Order). One of the primary reasons the board tables a proposal/issue is to gather more information during that meeting since a tabled proposal/issue dies when that meeting session adjourns.
- One amendment at a time. As a practice, the board discourages an amendment to an amendment. This is a proper motion by Robert's Rules of Order, however the board tries to avoid the practice because of the complexities of issues.
- Do not change or reverse the intent of a proposal/issue. For example, if a proposal's intent is to restrict a particular fishery and the board wishes to close or expand the fishery, the board will not amend the original proposal. The board will defeat, table or take no action on that proposal and then develop a board generated proposal to accomplish the action they feel is needed.
- "Ruling of the Chair" or "Chair's Ruling". When the chair makes a ruling, the board members have two options; 1) accept the ruling and move on; or 2) appeal/challenge the chair's ruling. By Robert's Rules of Order, the process is as follows (When a chair's decision is appealed/challenged):

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- 1) The chair makes a ruling;
- 2) A member appeals (challenges) the chair's ruling (i.e. "I appeal the decision of the chair") and it is seconded (Note: All board members present can or could appeal/challenge the ruling);
- 3) Any board member can debate the ruling and appeal/challenge (Note: By Robert's Rules the chair and the person appealing/challenging the ruling are the only two who are to debate the issue);
- 4) The question before the board is: "Shall the decision of the chair be sustained?"
- 5) After the result of the vote is announced, business resumes.

- The public depends on or expects the board members to keep an open mind on the issues before the board. To accomplish this the board will listen to and ask questions: 1) staff reports, advisory committee and regional council reports, and 2) during deliberations on the issues, listen to fellow board members points and issues. It is not conducive to soliciting public involvement if the board members express that they already have an opinion and it is up to the public or staff to "change their mind."
- Note another "Standing Rule" contained in Board of Fisheries Finding Number: 80-78-FB. This finding is regarding the Reconsideration Policy of the board.

Adopted: November 23, 1991

Vote: (Yes/No/Absent/Abstain) 5/0/2/0/ [Absent: Robin Samuelson, Tom Elias]

Location: Anchorage International Airport Inn

Mike Martin, Chairman
Alaska Board of Fisheries

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BATZULNETAS FINDINGS
ALASKA BOARD OF FISHERIES
March 1988

#88-122-FB
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Introduction

The Alaska Board of Fisheries heard one full day of staff reports and public testimony on the Copper River subsistence fisheries and on Proposal #399. This proposal asked the board to establish a subsistence fishery at Batzulnetas, above Slana near the mouth of Tanada Creek. On the following day, the board began deliberations on the proposal, recalling several people who had previously testified to gather additional information. During this period the board convened a committee to allow more informal discussion of possible solutions to the problems presented in the proposal. The committee, which included the proponents of proposal #399, met in open session for over an hour to discuss whether additional fishing opportunities could be authorized with adequate protection for the fish stocks at Batzulnetas.

Ultimately, the board decided that the existing subsistence fishery, which stretches approximately 120 river miles from Slana downstream to Chitina, provided a reasonable opportunity for Copper River subsistence fishermen to satisfy subsistence uses. The board also decided that even though existing regulations provided the type of reasonable opportunity described in AS 16.05.258, it would be feasible to provide additional subsistence fishing area for residents of Dot Lake and Mentasta. This additional opportunity is in excess of the reasonable or necessary opportunity provided downstream of Slana.

Therefore, the board established the Batzulnetas subsistence fishery with the following guidelines:

1. A subsistence salmon fishery will open by emergency order during June, July, and August;
2. During June the fishery will operate two consecutive days per week;
3. During July and August the fishery will operate three and one half consecutive days per week;
4. Chinook salmon cannot be retained;
5. Bag limits will be the same as those for the primary Copper River subsistence fishery see {5 AAC 01.630(f)};
6. Legal gear will include fishwheels and dipnets in an area extending approximately one half mile downstream from the mouth of Tanada Creek, between markers set by ADF&G, and dipnets and spears within Tanada Creek for a stretch of about one mile upstream from the mouth as marked by ADF&G;

7. Harvest reports must be returned to ADF&G by September 30 each year; and

8. The board found that only residents domiciled in Mentasta and Dot Lake had fished in this area in the past, so the fishery is restricted to those residents.

The following findings explain how and why the board decided to create this additional fishing opportunity for Dot Lake and Mentasta residents.

Based upon testimony from ADF&G's Divisions of Subsistence and Commercial Fisheries, the public, and the proponents of of proposal #399, the board reached the following conclusions.

Biology of the Copper River Fisheries

1. The Copper River is one of the most biologically complex river systems in Alaska.
2. About 124 known sockeye stocks, as well as various chinook and coho salmon stocks, travel upstream in the summer to spawn in the various Copper River tributaries.
3. The Copper River sockeye stocks are generally mixed as they travel upstream, with 20 or more stocks traveling together in the main river at any given time.
4. Copper River sockeye stocks are harvested in the commercial fishery near the mouth of the Copper River; the subsistence fishwheel and dipnet fishery along approximately 120 miles of the river from Chitina to Slana; and the personal use fishwheel and dipnet fishery at Chitina. A very small number of sockeye salmon are also harvested in a sport fishery.
5. Due to the complex mixture of stocks, Copper River fisheries are managed on the basis of "stock units" during the season. A sonar counter at Miles Lake helps to enumerate salmon escapement to the upper river.
6. Copper River sockeye stocks can be divided into "delta" stocks (lower river) and "upper river" stocks. Aerial counts of escapement from 20 streams are used as an index of upper river escapement and distribution.
7. The Copper River is accessible at several points along the area open for subsistence fishing. Some access is at public sites, some access crosses private lands. Subsistence fishing opportunities are open to all rural Copper Basin residents in communities or areas that have been found to have customary and traditional uses of Copper River stocks. These include: residents of Game Management units 11, 13(A), 13(B), 13(C), and 13(D) in the Jaksina River drainage to its confluence with

the Nabesna River, and the communities of Tetlin, Northway, Dot Lake, Tanacross, and Tok. {5 AAC 01.630(e)}

8. The reported subsistence-personal use harvest has increased from about 13,000 in 1965 to 65,700 in 1987. The fishwheel catch, which is the primary gear used by local subsistence fishermen, increased from approximately 5,800 in 1965 to 22,300 in 1987. Higher fishwheel catches during the early 1980's reflect significant non-local participation in fishwheel use which has since declined.

9. Several salmon stocks pass by the mouth of Tanada Creek, including (1) sockeye that spawn in Tanada Lake and the lake outlet, (2) a small chinook stock that spawns in Tanada Creek (in 1979 5 chinook were counted at a weir 8 or 10 miles above the mouth of the creek -- more may spawn downstream from the weir site), and (3) sockeye that spawn in Copper Lake (a small population from about 10 to 1000 sockeye as indicated by aerial surveys).

10. There are some biological risks in harvesting salmon at Tanada Creek. Unless the fishery is carefully monitored or otherwise controlled, a harvest could weaken or destroy escapement when the harvest is targeted on only the stocks at this site. There are also risks to the Copper Lake sockeye and chinook stocks. Without a weir or other monitoring device, escapement cannot be determined until after the fishing season is over and aerial surveys of spawning areas are made.

11. A relatively small fishery with intermittent openings poses less risk to the resource than a fishery open 7 days a week.

Subsistence Uses at Batzulnetas

1. Athabaskan tribes have resided in and fished for salmon in the Copper River Basin for in excess of 1000 years.

2. The Upper Ahtna Indians spoke a distinct dialect and their dialect area, which roughly corresponded with traditional fishing areas, generally extended from Slana upstream to the headwaters of the Copper River.

3. At the time Lt. Allen first ventured into the Copper River Basin in the 1880's there were fishing camps at various sites along the Copper River, including a camp called Batzulnetas {roasted salmon place}.

4. Batzulnetas was one of the primary fishing sites for the Upper Ahtna people and was a village site until abandoned in the 1940's. It was still used to some extent as a summer fish camp after the 1940's. There were several other Upper Ahtna fishing sites, including Slana, Suslota Creek, Twin Lakes, and Mentasta Lake.

5. When Batzulnetas was abandoned in the 1940's, most of the residents moved to Dot Lake and Mentasta Village and have participated in the subsistence fishery at Chistochina, Chitina, and other sites such as Gulkana.

6. In 1964, the subsistence fishery on the copper River was no longer upstream from Slana due to conservation concerns about harvesting stocks in small terminal streams.

7. Some residents of Dot Lake and Mentasta continued to fish at other sites downstream from Slana, but some preferred to fish in less crowded areas or on their own land where they could have a fish camp allowing them to dry their fish and pass along fishing skills to the next generation.

8. There are three native allotments at Batzulnetas site. Doris Charles' site allotment is patented. Katie John and Gene Henry have each applied for patents. The entire Batzulnetas area is within the boundaries of Wrangell-St. Elias National Park.

9. In the summer of 1987, the Alaska Board of Fisheries and the Department of Fish and Game allowed an interim fishery at Batzulnetas for residents of Mentasta and Dot Lake in connection with settlement negotiations in John v. Alaska (U.S. District Court). That fishery allowed up to 500 sockeye be taken by dipnets in a portion of Tanada Creek, and up to 500 sockeye to be taken by fishwheel in the Copper River, within one half mile of the mouth of Tanada Creek. Periods of three and one half days were opened by emergency order in July and later extended into August. By the end of the fishery, only 22 sockeye had been taken. The proponents of proposal #399 indicated that the low take may have been due to where the wheel was placed (they were free to choose the spot), water conditions or run timing.

10. In general it appeared that the opportunity to fish at the old village site of Batzulnetas is more important to the proponents of proposal #399 than the actual number of fish taken at this site.

11. Only the communities of Dot Lake and Mentasta have an historical, customary and traditional use of Batzulnetas area. Mentasta and Dot Lake were the communities where most former Batzulnetas residents moved. Most of the residents of Dot Lake are related to Doris Charles. Most of the residents of Mentasta are related to Katie and Fred John.

Reasonable Opportunity

1. In most years there should be a small harvestable surplus of Tanada Creek stocks. The surplus at Tanada Creek is small because only the Tanada Creek and Tanada Lake or Copper Lake stocks are available there.

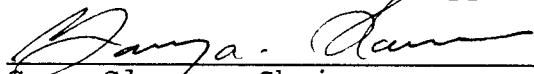
2. Providing a reasonable subsistence opportunity to harvest a stock of fish does not guarantee a specific number of fish, nor a right to fish at every possible location.

3. Rural residents in the Copper basin have a reasonable opportunity harvest Tanada Creek stocks as part of the mix of Copper River stocks at subsistence fishing sites that are within the general historical area of Copper River subsistence fishing.

4. Batzulnetas is not easily accessible. Most of the time it can only be reached on foot or with 3 or 4 wheelers (ATV's) along a 2 or 2.5 mile trail. Other sites along the Copper River at Slana, Chistochina, etc., are accessible by 2 wheel vehicle directly from the Glenn Highway. Fish can be processed at or near many existing fishing sites.

5. Although a reasonable subsistence fishing opportunity exists, some sockeye may be taken at Batzulnetas without jeopardizing sustained yield, if the harvest is carefully structured, managed, and monitored by ADF&G, using its emergency order authority if necessary to protect escapement.

6. A fishery at Batzulnetas as described in the introduction to these findings will minimize risks to Copper Lake sockeye and Tanada Creek chinook stocks, while allowing Mentasta and Dot Lake residents an opportunity to fish at a preferred site thus providing an extra and limited fishing opportunity consistent with sustained yield which is excess to reasonable necessary subsistence opportunity.



Gary Slayen, Chairman
Alaska Board of Fisheries

Adopted: _____

ALASKA BOARD OF FISHERIES

PROCEDURES FOR DELEGATIONS OF AUTHORITY

The Board of Fisheries ("board") makes the following findings:

1. AS 16.05.270 authorizes the board to delegate its authority to adopt regulations under AS 16.05.251 and AS 16.05.258 in accordance with the Administrative Procedure Act (AS 44.62), so that the Commissioner of Fish and Game may adopt regulations on behalf of the board.
2. The need for a delegation of authority most often arises where regulatory action is necessary but it is impossible or impractical to simultaneously convene the entire board, or a quorum of the board, either in person or by telephone.
3. Where regulatory action is necessary but it is impossible to convene the board, the state government may be unable to undertake any regulatory action unless a delegation of authority can be executed.
4. Neither AS 16.05 nor AS 44.62 require a formal meeting of the board in one geographical location to accomplish a delegation of authority.
5. Requiring the board to meet in one physical location or by telephone simultaneously to make a delegation of authority would largely defeat the purpose of AS 16.05.270, since a meeting of the board could eliminate the necessity for a delegation.
6. Delegations of authority have been carried out in the past using a telephone poll of board members or in the alternative, a vote by mail.
7. The type of procedure described in paragraph 6 has been utilized (in the form of notation voting) by federal agencies with the full knowledge of Congress and the approval of federal courts.


THEREFORE, THE BOARD RESOLVES that it hereby interprets AS 16.05 and AS 44.62 to permit telephone polls or mail votes for purposes of executing a delegation of authority; Provided, that in any instance where the commissioner solicits a delegation from the board, he or she shall (1) make a good faith effort to contact all board members so as to enable each of them to vote, and (2) permit board members the opportunity

to discuss the proposed delegation with other board members before voting, if they express a desire to do so; and Provided further, that nothing in this Resolution shall be construed to waive the right of any two board members to call a board meeting under AS 16.05.310.

This resolution replaces #75-2-FB.

This delegation shall remain in effect until revoked by the board.

Dated: March 13th - 1980



Gary Slaven, Chairman
Alaska Board of Fisheries

At: Anchorage, Alaska

Vote: Consensus