



# Frequently Used Policies of the Alaska Board of Fisheries

1. **JOINT BOARD PETITION POLICY** 5 AAC 96.625
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3. **POLICY FOR THE MANAGEMENT OF SUSTAINABLE SALMON FISHERIES** 5 AAC 39.222
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19. **SUSTAINABLE WILD TROUT MANAGEMENT FISHERIES POLICY** 5 AAC 75.222

## 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. Annually, the boards solicit regulation changes through regulatory proposals described in 5 AAC 96.610(a). 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 received under (a) of this section 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. 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 under AS 44.62.250(a). In accordance with state policy expressed in AS 44.62.270, emergencies will be held to a minimum and are rarely found to exist. Except for petitions dealing with subsistence hunting or subsistence fishing, 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. Petitions dealing with subsistence hunting or subsistence fishing will be evaluated under these criteria:

(1) the petition must address a fish or game population that has not previously been considered by the board for identification as a population customarily and traditionally used for subsistence under AS 16.05.258; or

(2) the circumstances of the petition otherwise must require expedited consideration by the board, such as where the proposal is the result of a court decision or is the subject of federal administrative action that might impact state game management authority.

**Alaska Board of Fisheries**  
**ALLOCATION CRITERIA**

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**Alaska Statutes 16.05.251.** Regulations of the Board of Fisheries. (e):

The Board of Fisheries may allocate fishery resources among personal use, sport, guided sport, and commercial fisheries. The board shall adopt criteria for the allocation of fishery resources and shall use the criteria as appropriate to particular allocation decisions. The criteria may include factors such as

- (1) the history of each personal use, sport, guided sport, and commercial fishery;**
- (2) the number of residents and nonresidents who have participated in each fishery in the past and the number of residents and nonresidents who can reasonably be expected to participate in the future;**
- (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.**

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**"Court Interpretations of AS 16.05.251(e)"**

1. The Alaska Supreme Court has interpreted AS 16.05.251(e) to require the allocation criteria to be considered when allocating between two or more commercial fisheries as well as when allocating among commercial, sport, and personal use fisheries. *Peninsula Marketing Association v. State*, 817 P.2d 917 (Alaska 1991).

2. The Alaska Supreme Court ruled that there is no requirement that the Board consider detailed documents establishing exact amounts of money that will be lost or gained in allocative decisions. The Board was aware of the applicable allocative criteria and adequately addressed each one. Incorporation by reference of earlier discussion and consideration of allocation criteria under another proposal was deemed proper by the court. *Stepovak-Shumagin Set Net Association v. State, Board of Fisheries*, 886 P.2d 632 (Alaska 1994).

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**5 AAC 39.205.** Criteria for the allocation of fishery resources among personal use, sport, and commercial fisheries.; **5 AAC 75.017.** Criteria for the allocation of fishery resources among personal use, sport, and commercial fisheries.; and **5 AAC 77.007.** Criteria for the allocation of fishery resources among personal use, sport, and commercial fisheries.

Before adopting regulations that allocate fish among personal use, sport, and commercial fisheries, the board will, as appropriate to particular allocation decisions, consider factors such as those set out in AS 16.05.251(e).

Note: The above statewide commercial, sport (including guided sport), and personal use regulations were adopted: History - Eff. 6/10/87, Register 102 [Authority - AS 16.05.251]

## 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.

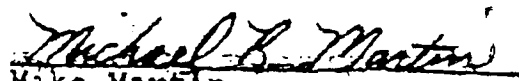
- 1) the history of each personal use, sport, and commercial fishery;
- 2) the characteristics and number of participants in the fisheries;
- 3) the importance of each fishery for providing residents the opportunity to obtain fish for personal and family consumption;
- 4) the availability of alternative 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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Mike Martin, Chairman  
Alaska Board of Fisheries

## **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](#)**

## Sustainable Salmon Fisheries Policy Checklist

Questions that the record should show were considered in support of salmon management plan regulations. (does not reflect all goals, objectives, or statements of intent within the policy and does not reflect standards that should be met in every case as a result of compliance with statutory requirements)

### 1. Have the following factors been considered in formulating *management plans*:

- (A) Environmental change?
- (B) Habitat loss or degradation?
- (C) Data uncertainty?
- (D) Limited funding for research and management?
- (E) Existing harvest patterns?
- (F) New fisheries or expanding fisheries? [5 AAC 39.222(a)(2)]

### 2. Are escapements within ranges necessary to conserve and sustain potential salmon production and ecosystem functioning? (*Applicable to escapement-related proposals*). [.222(c)(2)]

- (A) Have spawning escapements been assessed both temporally and geographically and are escapement monitoring programs appropriate to the scale, intensity, and importance of each stock's use?
- (B) Are escapement goals consistent with sustained yield?
- (C) Do escapement goal ranges allow for uncertainty in measurement techniques, variability in the stock, changes in climatic and oceanographic conditions, and varying abundance within related populations of the stock?
- (D) Is escapement managed 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) Have fishing impacts, including incidental mortality and other human-induced mortality, been assessed and considered?
- (G) Do escapement and harvest management decisions protect non-target salmon stocks?
- (H) Has the role of salmon in ecosystem functioning been evaluated and considered in harvest management decisions and setting of salmon escapement goals?
- (I) Are abundance trends monitored and considered in harvest management decisions?

### 3. Have effective management systems been established and applied to regulate human activities that affect salmon? [.222(c)(3)(H)&(L)]

- (A) Has the Board worked within the limits of its authority to assure:
  - (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?
- (B) Is there excess fishing capacity? If so will Board regulations control it, or is the Board working with the Commissioner and other agencies to control it?

### (4). In the face of uncertainty, are stocks, fisheries, artificial propagation, and essential habitats managed conservatively as follows [.222(c)(5)]:

- (A) Is a **precautionary approach** applied to human induced mortality? A precautionary approach 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. A precautionary approach requires:

- (i) consideration of future needs 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;
- (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; and
- (v) that plans or ongoing actions that could pose a risk or hazard to habitat or production demonstrate compliance with precautionary principles (i) –(iv) above;

(B) Is a precautionary approach applied to the regulation of activities that affect essential salmon habitat?

**5. Are the principles and criteria for sustainable salmon fisheries using the best available information being applied? [.222(d)]**

**6. Is the *Management Plan* based on the principles and criteria contained in the sustainable salmon policy? [.222(d)(2)]** And does it

- (A) contain goals and measurable and implementable objectives and utilize the best available scientific information;
- (B) minimize the adverse effects on habitat caused by fishing;
- (C) protect, restore, & promote the long-term health and sustainability of the fishery and habitat;
- (D) prevent overfishing; and
- (E) provide conservation & management measures that are necessary and appropriate to promote maximum or optimum sustained yield of the fishery resource?

**7. Do any new fisheries or expanding fisheries, stock yield concerns, stock management concerns, or stock conservation concerns exist? (Applicable to management plans) [.222(d)(3)]**

**8. Has the Board collaborated with the department in the development of an *Action Plan* for any new or expanding salmon fisheries, or stocks of concern? [.222(d)(4)]** If so has the board ensured that action plans contain goals, measurable and implementable objectives, and provisions, including

- (A) measures required to restore and protect habitat, including necessary coordination with other agencies and organizations;
- (B) identification of 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 stock;
- (D) descriptions of new or expanding fisheries, management concern, yield concern, or conservation concern;
- (E) performance measures appropriate for monitoring and gauging the effectiveness of the action plan; and
- (F) a research plan as necessary to provide information to address concerns and provisions for periodic evaluation of research needs and priorities based on the effectiveness of the monitoring.

**9. Are needed actions to regulate human activities that affect salmon and salmon's habitat outside the authority of the department or the board? If so has the department or board corresponded 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? [.222(d)(6)]**



Alaska Department of Fish and Game  
Board of Fisheries  
PO Box 115526  
Juneau, AK 99811-5526  
(907) 465-4110  
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## **Resolution of the Alaska Board of Fisheries 2015-277-FB**

### **Standing Delegation of Authority to the Commissioner Regarding Petitions for Emergency Regulations**

The Board of Fisheries (“board”) finds as follows:

1. The board will normally hold three to five regulatory meetings each year scheduled well in advance at which it will consider regulatory proposals on topics according to its three-year cycle.
2. The board supports, values, and encourages public input in the board’s adoption of regulations during these regularly scheduled meetings.
3. From time to time, the board receives a petition for adoption of an emergency regulation submitted by a member of the public that, according to the proposal, needs to be addressed on an emergency basis under AS 44.62.250.
4. When such emergency petitions are received within 30 days before a regularly scheduled board meeting, the Board addresses the petition at the upcoming board meeting. When a petition is received more than 30 days before a regular meeting, the Board is required to address the petition outside of a meeting or hold a special meeting under AS 16.05.310 at the call of the commissioner or at least two board members.
5. To avoid the expense and inconvenience of holding a special board meeting every time a petition alleging an emergency is received outside the regular meeting schedule, the board wishes to delegate its authority to the Commissioner, as authorized by AS 16.05.270, to address such petitions to determine whether an emergency exists for purposes of convening a meeting of the board, as further described below.
6. As set forth in 5 AAC 96.625(f), it is an established board policy to recognize that in rare instances circumstances may require regulatory changes outside a regularly scheduled meeting. A petition will be denied and not scheduled for a hearing unless the commissioner finds the alleged problem outlined in the petition justifies a finding of emergency. Emergencies will be held to a minimum and are rarely found to exist.



7. An emergency, for purposes of 5 AAC 96.625(f), "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."

THEREFORE THE BOARD RESOLVES and makes the following delegation of its authority to the Commissioner of the Department of Fish and Game pursuant to AS 16.05.270:

1. Each petition received by the board for an emergency regulation submitted more than 30 days before a regularly scheduled meeting of the board, shall be forwarded by the executive director to the commissioner. The commissioner is delegated the authority under AS 16.05.270 to determine whether the facts presented by the petition constitute an emergency pursuant to the standards set forth in 5 AAC 96.625(f).
2. The Commissioner may rely on relevant information, including information provided from the petitioner and from the Department of Fish and Game.
3. If the Commissioner does not find that an emergency exists, the commissioner shall deny the petition in writing as required by AS 44.62.230.
4. If the Commissioner finds that the problem outlined in the petition justifies a finding of emergency, the Commissioner will call a special meeting of the board under the Commissioner's authority under AS 16.05.310.
5. At a special meeting called by the commissioner, the board retains the authority to review the petition and make an independent determination as to whether an emergency exists, and what, if any, regulatory action may be desired.
6. This delegation does not preclude two or more members from calling a special meeting of the board at any time for any purpose pursuant to AS 16.05.310.
7. This delegation shall remain in effect until revoked by the board.

Adopted: March 20, 2015.  
Vote: 6/0

  
Tom Kluberton, Chair  
Alaska Board of Fisheries



## **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;

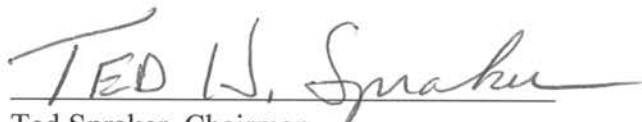
ALASKA JOINT BOARDS OF FISHERIES AND GAME

CRITERIA FOR DEVELOPMENT OF BOARD-GENERATED PROPOSAL

It has been suggested that criteria need to be established to guide the Alaska Joint Boards of Fisheries and Game, Board of Fisheries, and Board of Game (boards) members when deliberating on whether or not to develop a board-generated proposal. The boards 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, consistent intent, public process)?
2. Is there urgency in considering the issue (e.g., potential for fish and wildlife 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)?

Findings adopted this 16<sup>th</sup> day of October 2013.



Ted Spraker, Chairman  
Alaska Board of Game  
Vote: 6-0



Karl Johnstone, Chairman  
Alaska Board of Fisheries  
Vote: 7-0

**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

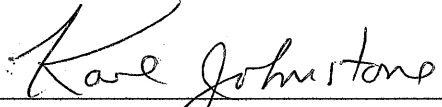
  
Karl Johnstone, Chairman  
Alaska Board of Fisheries

**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

## 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:

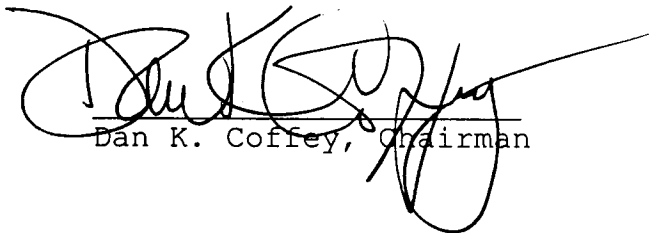
1. The goals and objectives are appropriate;
2. The statements of fact accurately reflect the beliefs and opinions of the Board as to the matters stated;
3. The committee process has, over a full three-year cycle of the Board, resulted in the goals and objectives having consistently been met.

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 no 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:

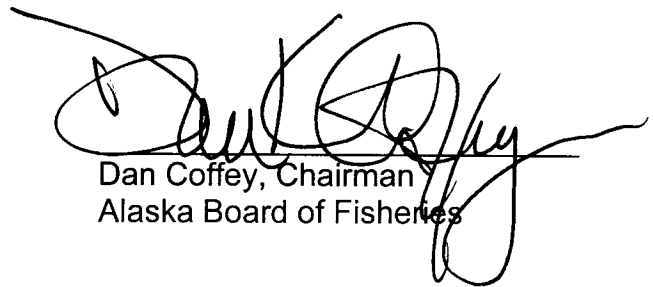
1. The Board will provide written explanations of the reasons for its decisions concerning management of crab fisheries that are governed by the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs as required by that plan.
2. The Board will, in its discretion and in consultation 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



(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

Finding #: 93-07-FB  
Mixed Stock Policy Finding

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

Finding #: 93-07-FB  
Mixed Stock Policy Finding

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

Finding #: 93-07-FB  
Mixed Stock Policy Finding

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

## **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)]

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Sec. 16.05.251. Regulations of the Board of Fisheries. (h) The Board of Fisheries shall adopt by regulation a policy for the management of mixed stock fisheries. The policy shall provide for the management of mixed stock fisheries in a manner that is consistent with sustained yield of wild fish stocks.

## 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):

By Robert's Rules of Order, the process is as follows (when a chair's decision is appeal/challenged):

- 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

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Mike Martin, Chairman  
Alaska Board of Fisheries

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ALASKA BOARD OF FISHERIES

DELEGATION OF AUTHORITY TO CORRECT TECHNICAL ERRORS  
BEFORE FILING REGULATIONS

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

1. The board at its regular meetings, considers numerous proposals for regulatory change.
2. The board adopts, amends, or repeals a large number of the proposed changes.
3. The volume and complexity of the regulatory changes makes it impossible for the board to foresee and correct all ambiguities, inconsistencies, or other technical errors of omission or commission in the regulations adopted by the board.
4. Technical deficiencies in the regulations may preclude successful prosecution of regulatory violations, or prevent the intent of the board from being fully implemented, or other consequences not desired by the board.
5. It is impractical, unnecessary, and contrary to the public interest to convene the board to make technical corrections in the regulations.
6. The Commissioner and staff of the Department of Fish and Game and the personnel of the Departments of Law and Public Safety are most likely to notice technical deficiencies in the regulations as a result of daily administration of the regulations of the board.

THEREFORE THE BOARD RESOLVES that under AS 16.05.270 it hereby delegates to the Commissioner of the Alaska Department of Fish and Game the authority to correct any ambiguities, inconsistencies, or other technical errors of omission or commission in regulations adopted by the board prior to the filing of those regulations by the Lieutenant Governor as required under AS 44.62.080. The corrections must not be contrary to the intent of the board.

This resolution replaces #79-52-FB.

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

Dated: March 13<sup>th</sup> 1988

Gary Slaven  
Gary Slaven, Chairman  
Alaska Board of Fisheries

At: Anchorage, Alaska

Vote: Consensus



### **5 AAC 99.010. Boards of fisheries and game subsistence procedures**

(a) In applying a subsistence law, the Board of Fisheries and the Board of Game will provide for conservation and development of Alaska's fish and game resources according to sustained yield principles.

(b) Each board will identify fish stocks or game populations, or portions of stocks or populations, that are customarily and traditionally taken or used by Alaska residents for subsistence uses by considering the following criteria:

**(1) a long-term consistent pattern of noncommercial taking, use, and reliance on the fish stock or game population that has been established over a reasonable period of time of not less than one generation, excluding interruption by circumstances beyond the user's control, such as unavailability of the fish or game caused by migratory patterns;**

**(2) a pattern of taking or use recurring in specific seasons of each year;**

**(3) a pattern of taking or use consisting of methods and means of harvest that are characterized by efficiency and economy of effort and cost;**

**(4) the area in which the noncommercial, long-term, and consistent pattern of taking, use, and reliance upon the fish stock or game population has been established;**

**(5) a means of handling, preparing, preserving, and storing fish or game that has been traditionally used by past generations, but not excluding recent technological advances where appropriate;**

**(6) a pattern of taking or use that includes the handing down of knowledge of fishing or hunting skills, values, and lore from generation to generation;**

**(7) a pattern of taking, use, and reliance where the harvest effort or products of that harvest are distributed or shared, including customary trade, barter, and gift-giving; and**

**(8) a pattern that includes taking, use, and reliance for subsistence purposes upon a wide diversity of fish and game resources and that provides substantial economic, cultural, social, and nutritional elements of the subsistence way of life.**

(c) When circumstances such as increased numbers of users, weather, predation, or loss of habitat may jeopardize the sustained yield of a fish stock or game population, each board will exercise all practical options for restricting nonsubsistence harvest of the stock or population and may address other limiting factors before subsistence uses are restricted below the level the board has determined to provide a reasonable opportunity. If all available restrictions for nonsubsistence harvests have been implemented and further restrictions are needed, the board will eliminate nonsubsistence consumptive uses, and reduce the take for subsistence uses in a series of graduated steps under AS 16.05.258(b)(4)(B) - the "Tier II" distinction - by distinguishing among subsistence users through limitations based on

**(1) the customary and direct dependence on the fish stock or game population by the subsistence user for human consumption as a mainstay of livelihood; and**

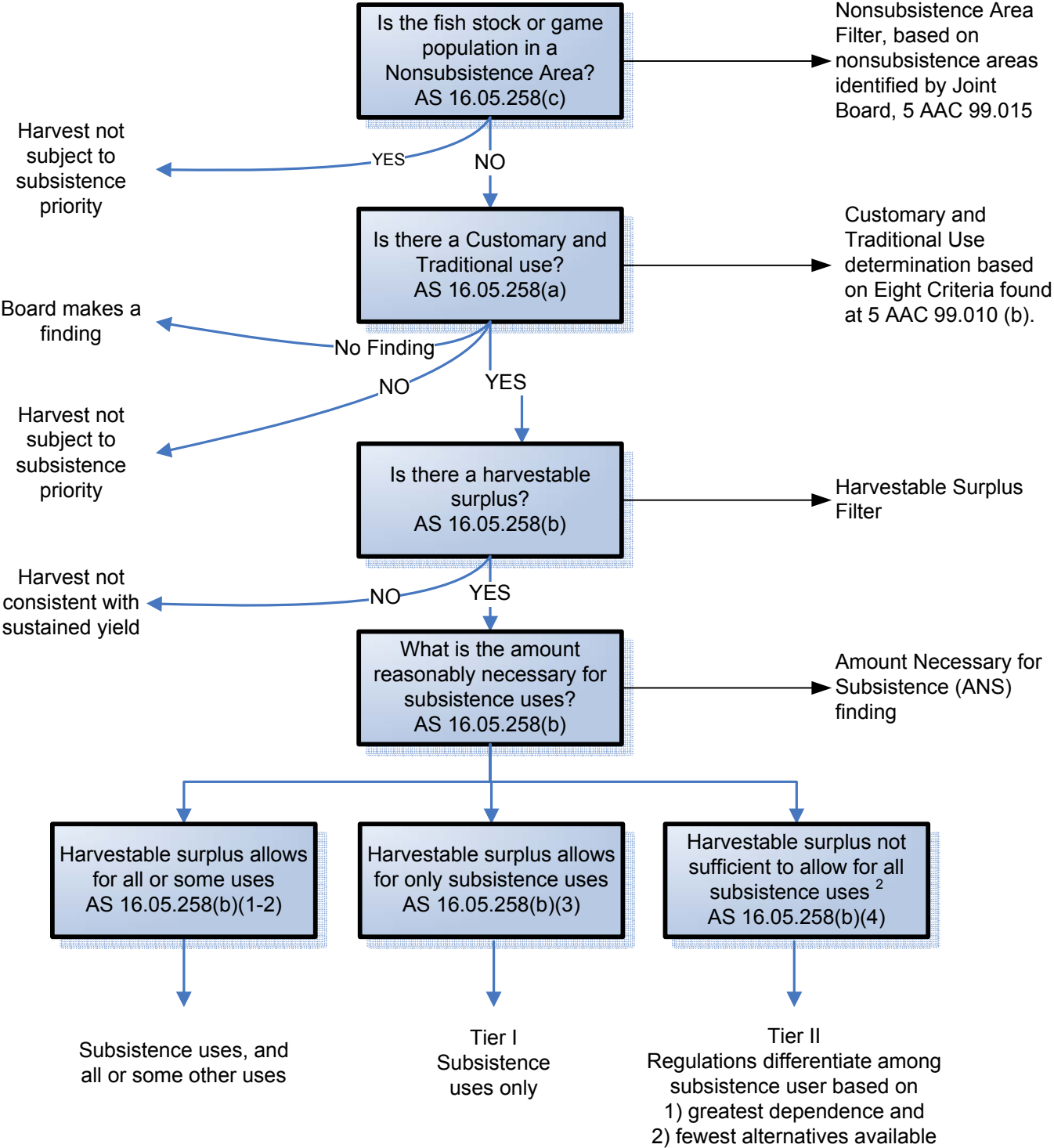
**(2) repealed 2/23/2014;**

**(3) the ability of the subsistence user to obtain food if subsistence use of the stock or population is restricted or eliminated.**

History Eff. 5/30/82, Register 82; am 1/17/91, Register 117; am 5/15/93, Register 126; am 2/23/2014, Register 209  
Authority: AS 16.05.251, AS 16.05.255, AS 16.05.258

# Alaska Board of Fisheries and Game Steps When Considering Regulations that Affect Subsistence Uses

Alaska Statute 16.05.258 Subsistence Use and Allocation of Fish and Game



<sup>2</sup> Harvestable surplus below lower end of ANS range



## **Bering Sea / Aleutian Island King and Tanner Crab Fishery Management Plan Checklist for Implementing Crab Regulations**

The federal Bering Sea / Aleutians Islands (BSAI) king and Tanner crab Fishery Management Plan (FMP) defers much of the management of the crab fisheries to the State of Alaska using three categories of management measures: (1) those that are fixed in the FMP and require a FMP amendment to change<sup>1</sup>; (2) those that are framework-type measures which the State can change following criteria set out in the FMP; and (3) those measures that are neither rigidly specified nor Frameworked in the FMP. Management measures in categories 2 and 3 above may be adopted under state laws subject to the appeals process provided in the FMP.

State regulations applicable to BSAI crab fisheries in federal waters must be consistent with the requirements of the FMP and the National Standards of the Magnuson-Stevens Act (MSA). There are additional requirements that apply to specific management measures adopted under the “frameworked” category 2.

### **Magnuson-Stevens Act National Standards:**

Board members should demonstrate consideration of these standards in their deliberations by asking, does the conservation and management action:

1. Achieve optimum yield and prevent overfishing?
  - Does it prevent overfishing for each fishery?
  - Does it achieve an optimum yield for each fishery?
2. Use the best available scientific information?
3. Manage stocks as a unit? To the extent practicable -
  - Is the individual stock of fish managed as a unit throughout its range?
  - Are interrelated stocks of fish managed as a unit or in close coordination?
4. Allocate fair and equitably, promote conservation, and prevent excessive shares?
  - Is there discriminate between residents of different states?
  - If an allocation or assignment creates fishing privileges, is it:
    - i. Fair and equitable to all?
    - ii. Calculated to promote conservation?
    - iii. Carried out so that no one acquires excessive shares?
5. Consider efficiency in utilization; not have economic allocation as sole purpose?
  - Where practicable, does it promote efficiency in the utilization of fishery resources?
  - Doesn't have economic allocation as its sole purpose.
6. Allow for variations and contingencies?

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<sup>1</sup> The Board of Fisheries will not make decisions that impact Category 1 management measures.

- Does it take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches?
7. Minimize costs, avoid duplication?
    - Where practicable, does the action minimize costs and avoid unnecessary duplication.
  8. Consider fishing communities to provide for their sustained participation and to minimize adverse economic impacts?
    - Does the action prevent overfishing and rebuild overfished stocks?
    - Does it take into account the importance of fishery resources to fishing communities to
      - i. provide for the sustained participation of such communities, and
      - ii. to the extent practicable, minimize adverse economic impacts on such communities?
  9. Minimize bycatch, and bycatch mortality?
    - Does the action, to the extent practicable, minimize bycatch and, to the extent bycatch cannot be avoided, minimize the mortality of such bycatch?
  10. Promote safety of human life at sea?

### **Fisheries Management Plan Objectives and Category 2 and 3 Standards**

The goals and objectives of the FMP that the Board must address before adoption of all BSAI management measures area are as follows:

#### **FMP Management Objectives**

Does the board action meet the FMP Management objectives by -

1. Insure the long-term reproductive viability of king and Tanner crab populations? (*biological conservation*)
2. Maximizing economic and social benefits to the nation over time considering value to crab harvested, future value of crab, subsistence harvests within the registration area, and economic stability and the impacts of commercial fishing associated with coastal communities? (*economic and social*)
3. Minimizing gear conflict among fisheries? (*gear conflict*)
4. Protecting, conserving, and enhancing adequate quantities of essential fish habitat to support crab populations and maintain a healthy ecosystem? (*habitat*)
5. Vessel safety – provide public access to the regulatory process for vessel safety considerations. (*vessel safety*)
6. Due process – ensure that access to the regulatory process and opportunity for redress are available to interested parties. (*due process*)
7. Research and management – provide fisheries research, data collection, and analysis to ensure a sound information base for management decisions. (*research and management*)

**Management measures used to manage king and Tanner crab under the FMP:**

Category 1 (Fixed in FMP)	Category 2 (Frameworked in FMP)	Category 3 (Discretion of State)
Legal Gear	Minimum Size Limits	Reporting Requirements
Permit Requirements	Guideline Harvest Levels	Gear Placement / Removal
Federal Observers	Inseason Adjustments	Gear Storage
Limited Access	Districts, Subdistricts, and Sections	Gear Modifications
Norton Sound Superexclusive Registration	Fishing Seasons	Vessel Tank Inspections
Essential Fish Habitat	Sex Restrictions	State Observers
Habitat Areas of Particular Concern	Closed Waters	Bycatch Limits
	Pot Limits	Other
	Registration Areas	

The state is not limited to only the management measures described in the FMP however, implementation of other management measures not described in the FMP must be consistent with the FMP, the MSA, and other applicable federal law.

**When Establishing Management Measures in Category 2**

Board members will show they have addressed the following factors when establishing:

1. Minimum Size Limits, within constraints of available information, based on the:
  - a. Size at maturity,
  - b. Protection of reproductive capability,
  - c. Market and other economic considerations,
  - d. Natural and discard mortality rates,
  - e. Growth rates, and
  - f. Yield per recruit?
  
2. Total Allowable Catch and Guideline Harvest Level,
  - a. Whether the annual catch limit (ACL) for that stock was exceeded in the previous year,
  - b. Stock status relative to the overfishing level (OFL) and ACL,
  - c. Estimates of exploitable biomass,
  - d. Estimates of recruitment,
  - e. Estimates of thresholds,
  - f. Market and other economic considerations,
  - g. Additional uncertainty, including
    - i. Management uncertainty (i.e., uncertainty in the ability of managers to constrain catch so the ACL is not exceeded, and uncertainty in quantifying the true catch amount) and
    - ii. Scientific uncertainty identified and not already accounted for in the ACL (i.e., uncertainty in bycatch mortality, estimates of trends and absolute estimates of size composition, shell

condition, molt status, reproductive condition, spatial distribution, bycatch of non-target crab stocks, environmental conditions, fishery performance, fleet behavior, and the quality and amount of data available for these variables), and

- h. Any additional factors pertaining to the health and status of the stock or the marine ecosystem.
3. In-season adjustments, including fishing period lengths and closing areas, and in consideration of in-season data, the -
    - a. Overall fishing effort,
    - b. Catch per unit of effort and rate of harvest,
    - c. Relative abundance of king or Tanner crab,
    - d. Achievement of GHLS,
    - e. Proportion of soft-shelled crabs and rate of deadloss,
    - f. General information on stock condition,
    - g. Timeliness and accuracy of catch reporting,
    - h. Adequacy of subsistence harvests, and
    - i. Other factors that affect ability to meet objectives of the FMP?
  4. District, subdistrict, and section boundaries, based on any of the following criteria if:
    - a. The area contains a reasonably distinct stock of crab that requires a separate GHLS estimate to avoid possible overharvest,
    - b. The stock requires a different size limit from other stocks in the registration area,
    - c. Different timing of molting and breeding requires a different fishing season,
    - d. Estimates of fishing effort are needed preseason so that overharvest can be prevented, or
    - e. If part of an area is relatively unutilized and unexplored, and if creation of a new district, subdistrict, or section will encourage exploration and utilization.
  5. Fishing seasons to protect stocks during molting and mating to prevent irreparable damage to stocks, one or more of the following conditions are considered:
    - a. Protection of any breeding population of male crab that may form dense schools prior to and during annual migrations into shallow water breeding grounds. Such migrations have been described for red king crab and could possibly occur with other crabs.
    - b. Consideration of molting periods so that the shells have hardened enough to permit handling with minimal damage or mortality.
    - c. Protection of the population during sensitive soft-shell periods.
    - d. Consideration of increasing product quality.
    - e. Minimization of bycatch.

If the board determines to set a season contrary to 5(a-e), it may be for one or more of the following considerations:

- a. Provision for an exploratory fishery.
- b. Compensation for particularly adverse environmental conditions, such as sea ice covering the fishing grounds.

Within biological constraints, the open fishing season has been set to:

- a. Minimize the amount of deadloss.
- b. Produce the best possible product quality.
- c. Minimize fishing during severe weather conditions.
- d. Minimize the cost of industry operations.
- e. Coordinate the king and Tanner crab fisheries with other fisheries that are making demands on the same harvesting, processing, and transportation systems. Seasons can be timed relative to one

another to spread fishing effort, prevent gear saturation, and allow maximum participation in the fisheries by all elements of the crab fleets, and

- f. Reduce the cost of enforcement and management before, during, and after an open season, as affected by the timing and area of different king and Tanner crab seasons, and as affected by seasons for other resources.
6. Sex restrictions, the board will only allow female crabs to be taken if the number of crabs is above the threshold amount used in the spawning stock calculation of optimum yield (OY).
  7. Pot limits to attain biological conservation objective and the economic and social objective of this FMP, the board shall consider, within constraints of available information, the
    - a. Total vessel effort relative to GHL,
    - b. Probable concentrations of pots by area,
    - c. Potential for conflict with other fisheries,
    - d. Potential for handling mortality of target or nontarget species,
    - e. Adverse effects on vessel safety including hazards to navigation,
    - f. Enforceability of pot limits, and
    - g. Analysis of effects on industry.
  8. Exclusive registration areas, the board would make a finding that considers all of the following factors to the extent information is available:
    - a. The designation will facilitate proper management of the fishery,
    - b. The designation will help provide vessels with a reasonable opportunity to participate in the fishery,
    - c. The designation will help to avoid sudden economic dislocation. Established processing facilities and fishing fleets within a registration area may provide economic stability for the labor force and affected communities and may be destroyed or adversely affected by an inseason influx of mobile processing plants and additional fishing power,
    - d. The designation will encourage efficient use of vessels and gear,
    - e. The extent to which the economic benefits conferred by the designation will be offset by economic costs and inefficiencies, and
    - f. The extent to which other management measures could yield the results desired from the designation.
  9. Closing waters to commercial fishing to protect subsistence fisheries, the board will consider appropriate factors to the extent data are available on:
    - a. The need to protect subsistence fisheries,
    - b. The need to protect critical habitat for target or non-target species,
    - c. The prevention of conflict between harvesting of species, and
    - d. The creation of navigational hazard.

## 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;



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(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

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(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

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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:

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(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

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(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;

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(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.