

PROPOSAL 17

5 AAC 96.610. Procedure for developing fish and game regulations.

Establish a process in regulation for developing board proposals as follows:

Under 5 AAC 96.610(c) Phase 2 ADD a paragraph:

Proposals may be submitted by the boards. After discussion a board generated proposal (BGP) cannot proceed to final action without an opportunity for public review. If the BGP was noticed as part of a regular or special meeting no new opportunity for public review is necessary. If not previously noticed the board cannot proceed to final action without an opportunity for public review. As a minimum, a board generated proposal with statewide application shall be tabled for 24 hours. At least two fish and game advisory committees in each fish and game region must be consulted for review and comment. If a board generated proposal less than statewide application, at least two fish and game advisory committees with Area of Jurisdiction (5 AAC: 97.005) must be consulted for review and comment. Final action on a board generated proposal may proceed after the review period.

What is the issue you would like the board to address and why? Board Generated Proposals: Add under Procedure for developing fish and game regulations.

This section of 5 AAC identifies and defines the process for proposals generated by individuals, fish and game local advisory committees, organizations, department staff and other government agencies. A major factor clearly expressed is the opportunity for public involvement and review. Alaska's public process is considered to be among the best natural resource regulatory processes anywhere. This opinion is expressed by nearly all participants.

This proposal would add guidelines for the Boards of Fisheries and Game to the list of participants in regulatory process. Dozens of active and former fish and game advisory committee members as well as individuals and organizations who are active participants in board meetings and processes were consulted. To a person, we believe the use of Board Generated Proposals should be discontinued. There are procedures in regulation for dealing with emergency problems. Other than emergency issues should be developed with the processes in 5 AAC 96. THE PUBLIC REVIEW AND COMMENT on regulatory changes is uniquely important to the process.

Realistically, the Joint Boards are unlikely to agree to limit themselves to use the processes set forth for all other participants submitting proposals.

This proposal seeks to add guidelines directing the boards to include some public input before final action on board generated proposals.

Under most decision making "rules" a proposal with completely new language is considered a substitute proposal. New language is usually considered as an "amendment by substitution". Our boards seem to avoid substitute language when trying to reach common purpose combining ideas. Often the problem is solved off the record by a combination of participants from board members to public participants. When boards bring up completely new issues or drastically change language not previously having the benefit of public review and comment they are avoiding the intent of the process to involve those who will be affected by their decisions.

Unfortunately for the Alaskan public and advisory committees, the boards have increased their use of board generated proposals in recent years. The Board of Fisheries not as badly because of working out issues in their committee process. By making a proposal just prior to at a scheduled regular meeting, the public access to meaningful review is gone. (The general term "public" herein means the normal range of commenters, individuals, advisory committees, other agencies and organizations).

Under present regulations there are procedures for emergency regulations. Those procedures work well and in almost every situation they provide for a more detailed or permanent change at the next regulatory cycle. Board generated proposals are seldom emergencies, rather they make a long-term change.

The codified procedure for developing fish and game regulations should include direction for using board generated proposals. By adding to the regulation, the Joint Boards can insure some level of meaningful public review.

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