

Nancy Dahlstrom
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520
WWW.LTGOV.ALASKA.GOV




530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460 269.0263
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Shellene Hutter, Department of Fish and Game

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: October 25, 2023

RE: Filed Emergency Regulations: Alaska Board of Fisheries
Alaska Board of Fisheries Emergency Regulations re: groundfish closure (5 AAC 28.050)

Attorney General File:	Emergency Regulations
Regulation Filed:	10/25/2023
Effective Date:	10/25/2023
Expiration Date:	February 21, 2024 unless made permanent by the adopting agency
Print:	248, January 2024

cc with enclosures: Colleen Bailey, Department of Law
Art Nelson, Alaska Board of Fisheries
Judy Herndon, LexisNexis

FINDING OF EMERGENCY

The Alaska Board of Fisheries finds that an emergency exists and that the attached regulation is necessary for the immediate preservation of the general welfare requiring immediate regulatory action. The facts constituting the emergency include the following:

Rockfish stock status is declining across most of the state and the department has restricted many directed rockfish fisheries to conserve these long-lived fish. In some areas of the state most of the rockfish harvest occurs as bycatch in fisheries targeting halibut or other groundfish species. The department does not have authority to restrict the commercial halibut fishery directly, but has restricted state-managed commercial, sport, personal use, and subsistence fisheries for rockfish for conservation purposes. These emergency regulations have been adopted by the Board in response to an emergency petition submitted by the commissioner of the department of Fish and Game.

The current emergency is that the guideline harvest level (GHL) of rockfish in Prince William Sound (PWS) was exceeded in September 2023 and continues to be exceeded as commercial fishing continues to occur in areas of known high rockfish concentrations and the department is unable to restrict this activity by regulation. The fact that the GHL was exceeded was unpredictable. The Prince William Sound Rockfish Management Plan as described in 5 AAC 28.265 establishes a rockfish GHL of 150,000 lbs and requires full retention of all rockfish caught when participating in a directed commercial groundfish or halibut fishery in the PWS Management Area. The plan also sets rockfish trip limits, by fishery, as a percentage of the round weight of the directed species on board the vessel. Any amount of rockfish that exceeds this bycatch limit is accounted for as overage and proceeds of the rockfish overage sale are surrendered to the state.

The department has growing concerns about the status of rockfish stocks in PWS. To stay within the 2023 annual PWS rockfish GHL the department reduced rockfish bycatch limits and did not open the parallel Pacific cod season in PWS. Despite these management actions, the PWS rockfish GHL has been exceeded in 2023.

The commercial halibut fishery remains open until early December, during which time rockfish harvest as bycatch will continue. Vessels participating in the commercial halibut fishery in the PWS area have been fishing in areas of known high rockfish abundance and have made landings with significant rockfish harvest. This activity presents a clearly identifiable threat to the already depleted rockfish population. In some cases, rockfish bycatch exceeds the amount of directed halibut harvest in these landings. The department has issued advisory announcements encouraging halibut fishermen to avoid areas of known rockfish abundance, but these efforts have not been successful in reducing rockfish bycatch.

The department does not have authority to take regulatory actions in the federally managed commercial halibut fishery and seeking the assistance of participants in the halibut longline commercial fishery to set gear away from aggregates of rockfish habitat has proven ineffective.

The PWS rockfish GHJ has been exceeded, as it was in 2022, with rockfish harvest expected to continue through early December.

Some participants in the commercial halibut fishery continue to deploy gear in PWS in areas of known high rockfish abundance and there are no regulatory or enforcement tools to reduce rockfish bycatch because rockfish must be retained by regulation, and the department does not have authority to close areas to specific gear types by emergency order. This lack of emergency order authority represents an emergency, with the threat of overfishing of these long-lived fish that take a comparatively long time to reach maturity.

The Board of Fisheries has determined that emergency authority to close certain areas within Waters of Alaska to specific gear types is necessary for the conservation of the resource, to prevent overfishing of rockfish, and constitutes an emergency.

ORDER CERTIFYING ADOPTION

I certify that the Alaska Board of Fisheries, under the authority of AS 16.05.251, adopted at its October 13, 2023 meeting the attached 1 page of regulation changes as an emergency regulation to take effect immediately upon filing by the lieutenant governor, as provided in AS 44.62.180(3).

This action is not expected to require an increased appropriation.

10/24/2023

Date: _____

DocuSigned by:

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Art Nelson, Executive Director, Alaska Board of Fisheries

April Simpson for

FILING CERTIFICATION

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on

October 25, 2023, at 9:48 a.m., I filed the attached regulation according to the provisions of AS 44.62.


for Lieutenant Governor Nancy Dahlstrom

Effective: October 25, 2023

Register: 248, January 2024

Expires February 21, 2024
unless made "permanent"
by the adopting agency

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, NANCY DAHLSTROM, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

April Simpson, Regulations and Initiatives Specialist

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.



A handwritten signature in blue ink, reading "Nancy Dahlstrom", is written over a horizontal dotted line.

**NANCY DAHLSTROM
LIEUTENANT GOVERNOR**

EMERGENCY REGULATION

Register 248, January ²⁰²⁴₂₀₂₃ FISH AND GAME

Title 5. Fish and Game.

Part 1. Commercial and Subsistence Fishing and Private Nonprofit Salmon Hatcheries.

Chapter 28. Groundfish Fishery.

Article 2. General Specifications.

5 AAC 28.050 is amended by adding a new subsection to read:

(g) To conserve groundfish species, the commissioner may close areas to commercial fishing with specific gear types by emergency order. (Eff. 7/30/89, Register 111; am 5/2/92, Register 122; am 9/22/93, Register 127; am 6/15/95, Register 134; am 4/4/97, Register 142; am 5/31/98, Register 146; am 5/19/2001, Register 158; am 6/25/2023, Register 246;

Eff. 10 / 25 / 2023, Register 248)

Authority: AS 16.05.060 AS 16.05.251