

Submitted by the Alaska Department of Fish and Game  
March 20, 2015

**ALASKA BOARD OF FISHERIES  
DELEGATION OF AUTHORITY TO REPEAL AND AMEND  
CERTAIN PERSONAL USE FISHERIES REGULATIONS FOR AREAS AND  
FISHERIES ALREADY ADDRESSED BY SUBSISTENCE REGULATIONS**

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

1. In response to the 1978 subsistence statute, the board adopted regulations in 1982 to establish "personal use fishing" in part, to address the needs of Alaska residents to participate in a fishery that would allow for the efficient harvesting of fish for the residents' personal use that is not classified as a subsistence fishery because the use is not a customary and traditional subsistence use of the fishery resource or because residents outside of rural areas could not participate in subsistence fishing.

2. During the years following 1982, personal use regulations were adopted to address certain areas and finfish and shellfish fisheries, which in many cases mirrored existing subsistence regulations, with the intent to allow an opportunity for personal use fishing by non-rural Alaska residents that otherwise could not be taken under subsistence regulations. While developing personal use regulations the board considered its intent that the taking of fish under the personal use regulations must not jeopardize the sustained yield of the resource and either did not negatively impact an existing resource use or was in the broad public interest.

3. After the McDowell decision and enactment of the 1992 subsistence statutes, all Alaska residents potentially qualified to participate in all subsistence uses. It has become apparent that many personal use regulations overlap with current subsistence regulations and are no longer needed in the codified regulations in the Alaska Administrative Code. Other personal use regulations should be modified to clarify their applicability.

4. The commissioner and staff of the Department of Fish and Game, and personnel of the Departments of Law and Public Safety have the capacity to analyze which regulations need to be repealed or amended as a result of daily administration of Title 16 of the Alaska Statutes and Title 5 of the Alaska Administrative Code regulations adopted by the board. In addition, under a delegation of authority all personal use regulations can be addressed in one project and not piecemeal over the course of the board's three-year cycle.

**THEREFORE IT IS RESOVED THAT THE BOARD** make the following delegation of its rulemaking authority under AS 16.05.251 to the commissioner of the Department of Fish and Game to be carried out under AS 16.05.270:

A. The commissioner may adopt, in accordance with the Administrative Procedure Act (AS 44.62) and under the criteria in this delegation, permanent regulations designated to eliminate redundancies, inconsistencies, ambiguities, or other technical deficiencies in existing personal use regulations which are already addressed in subsistence regulations.

B. In determining which personal use regulations are subject to repeal or amendment, the commissioner shall consider the following criteria:

1. Whether the personal use regulations are identical to subsistence fishery regulations for that species and area.
2. Whether area personal use shellfish regulations are identical to statewide personal use regulations. Under statewide personal use regulations, if not restricted in regulation, the shellfish personal use fisheries are open with no closed season and no bag and possession limit.
3. Whether personal use regulations are identical to sport fishing regulations. Personal use regulations that are identical to the sport fishing regulations, but more liberal than subsistence regulations should be retained, due to the residency issue.
4. Only personal use regulations regarding areas outside of nonsubsistence areas should be repealed or amended, since subsistence regulations are not implemented in nonsubsistence areas.

C. All regulatory changes adopted by the commissioner under this delegation should be consistent with the above expressions of the board's intent and criteria. The commissioner may also make corresponding corrections in other regulations that are consistent with the board's intent.

D. This delegation of authority shall remain in effect unless revoked by the board.

Date Adopted: \_\_\_\_\_  
Anchorage, AK

VOTE: 6-0

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Tom Kluberton, Chairman  
Alaska Board of Fisheries