


MEMORANDUM

State of Alaska

Department of Law

TO: Glenn Haight
Executive Director
Alaska Board of Fisheries

DATE: November 21, 2017

FROM: Seth M. Beausang 
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FILE NO.: JU2017200511

TEL. NO.: 269-5232

SUBJECT: Department of Law
comments on proposals
for the December 1-5,
2017 Board of Fisheries
meeting for Prince
William Sound finfish

The Department of Law has the following comments on the proposals to be considered by the Board of Fisheries at its December 1-5, 2017 meeting for Prince William Sound finfish:

Subsistence. For proposals affecting subsistence fisheries, the board should consider whether adoption of the proposed regulation is needed to provide a reasonable opportunity for subsistence uses of the amount of fish reasonably necessary for those uses. "Reasonable opportunity" means an "opportunity, as determined by the appropriate board, that allows a subsistence user to participate in a subsistence hunt or fishery that provides a normally diligent participant with a reasonable expectation of success of taking of fish or game." The board can base its determination of whether the regulations provide a reasonable opportunity for subsistence uses on amounts of a fish stock that have been established as reasonably necessary for subsistence uses, information pertaining to subsistence harvest data, bag limits, seasons, access, gear necessary to achieve the harvest, and other factors.

Unless it has done so previously, the board, when considering a proposal that would affect subsistence, should: (1) determine whether the fish stock is in a nonsubsistence area; (2) determine whether the fish stock or portion of the fish stock is customarily and traditionally taken or used for subsistence; (3) determine whether a

portion of the fish stock may be harvested consistent with sustained yield; (4) determine the amount reasonably necessary for subsistence uses; (5) adopt regulations to provide a reasonable opportunity for subsistence uses; and (6) if the harvestable amount is not sufficient to allow for subsistence uses and other consumptive uses, adopt regulations to reduce or eliminate other uses in order to provide a preference and reasonable opportunity for subsistence uses.

If the harvestable portion of the fish stock is not sufficient to provide a reasonable opportunity for all subsistence uses, the board must eliminate nonsubsistence consumptive uses and distinguish among subsistence users based on the Tier II criteria.

Proposal 21: Any permit requirements that would be imposed as a result of this proposal must be specified in regulation. The board should only close a subsistence fishery if the board determines that there is no harvestable surplus of the stock used for subsistence that is consistent with sustained yield.

Proposal 43: Were the board to adopt this proposal, the board would need to specify how much “time” a drift gillnet fisherman would have to retrieve gear when set gillnet gear is subsequently deployed nearby.