

MEMORANDUM

STATE OF ALASKA DEPARTMENT OF FISH AND GAME Boards Support Section

TO: Alaska Board of Fisheries

DATE: September 4, 2020

THRU:

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FROM: Glenn Haight, Executive Director
Alaska Board of Fisheries

SUBJECT: ADF&G Recommendation
on the 2020/2021 Meeting
Cycle in Light of COVID-19

In light of the global pandemic caused by COVID-19, ADF&G conducted a number of reviews to determine its ability and the public's willingness to conduct in-person and/or Internet-based (virtual) Board of Fisheries and Game meetings. After review and discussion among department leadership the department recommends the Board of Fisheries to 1.) conduct the October 15-16 work session through teleconference or a virtual meeting platform, 2.) cancel the December 2020 Prince William Sound meeting with the intention of postponing it to the 2021/2022 meeting cycle, or until there are adequate treatments to assure public, board, and staff safety, 3.) determine if there are certain issues before the board that must be addressed this year, and 4.) initiate the drafting of an action plan for postponing the January and March 2021 meetings to the 2021/2022 meeting cycle. Many considerations go into this recommendation, with many questions remaining to be answered. Below is a discussion of our findings and questions to be addressed.

There may be an opportunity for the board to take up more critical issues through virtual meetings, but it is unclear whether these platforms will easily replicate how board meetings are conducted.

Findings

Boards Support initiated a report provided as *Mitigation Scenarios re: COVID-19 (Mitigation Scenarios)*. This report reviewed three main subjects, including how to conduct an in-person meeting consistent with the State of Alaska's [Guidelines for Developing and Submitting Protective Workforce Plans](#), internet platforms that would facilitate a board meeting, and a mix of other options the board could consider. In short, none of the scenarios would achieve anything close to what the public, advisory committees, and staff expect from Alaska's fish and game regulatory process.

Boards Support received significant assistance in preparing the Mitigations Scenarios document, including review and comment by the divisions of Commercial Fisheries and Sport Fish, and the Subsistence Section. The document was also reviewed by the Department of Law and personnel with the state's Unified Command, Protective Plans Task Force. The task force reviews protective plan applications and advised that a few areas needed additional information, but generally it met their approval. Unified Command also indicated at that time (mid-July) the general recommendation for state agencies was to not hold in-person meetings, although that was not an edict.

The department developed and issued a simple survey to accompany a general request for written comments in an effort to take the public's temperature for holding in-person and virtual meetings. Public comments and survey findings are provided on the board's meeting page at *Public Comments COVID-19 and ADF&G Survey Findings re: Alaska Boards of Fisheries and Game Meetings in Light of COVID-19*. As we see across the nation, Alaskan's opinions vary sharply along the risk tolerance spectrum. This effort showed that no majority opinion exists for holding in-person or Internet-based meetings. Only 21% of the survey respondents indicated they believed the board should hold an in-person meeting if COVID-19 related conditions remain the same, while 14% responded maybe. When asked if they would attend an in-person meeting with mitigation measures in place, on a scale from 0 (not likely) to 10 (very likely), the average response was 4.75.

Additionally, the divisions/section conducted an ad hoc survey of staff for comments and opinions. Those are provided separately as *ADF&G Staff Feedback on COVID-19 Mitigation Issues*.

Through this information the department made the following findings:

- **In-person meetings with mitigation measures will be challenging:** When following the state's guidelines for establishing a safe environment for holding large gatherings (which includes requiring masks and other protective barriers, six feet of distance between participants, elimination of paper products, attendees suffering from any illness must leave and quarantine, and many more), it is apparent board meetings cannot be conducted similar to current practices. Issues include:
 - **Risk of illness:** Top of mind is the possibility for an in-person board meeting to become a COVID-19 transmission event. There are many people who regularly attend board meetings who may likely be in higher risk categories for contracting or surviving COVID-19. If in-person board meetings were held, even with strict mitigation measures, it is possible for COVID-19 infections to occur. The risk of grave illness or death is a potential that cannot be eliminated completely. As an organizer of an event, facilitating a meeting where a person with underlying health conditions feels compelled to attend and then suffers a grave illness or death from COVID-19 is a distressing outcome.
 - **Limits to participation:** Given social distancing requirements and accompanying facility size constraints there would need to be limits to the number of attendees. How one determines who can attend and who may not is a difficult decision that could seriously impact stakeholder ability to influence the outcome of board actions. Limiting attendance is contrary to the very principles of public involvement that the board process holds as paramount.
 - **Public access to board members:** Limiting attendance immediately reduces public access to board members and staff. Even for those who attend, establishing parameters for communication that include the necessary social distancing will impede communication.

- **Staff interaction with stakeholders:** ADF&G staff are similar to the public in their range of tolerance to risk associated with COVID-19. Although many staff members may fare well if infected, that is not the case with all. Additionally, many staff have family members or others who may be at high-risk of serious illness. From a business perspective, staff use board meeting times to interact with their fish and game users and community members. Having these critical opportunities impacted by the necessary safety measures significantly diminishes their ability to understand and react appropriately to user input.
- **Implementing and enforcing rules:** Establishing an in-person meeting environment with mitigation conditions requires implementation by staff and compliance by all who join. Some of the mitigation measures include thermometer readings at the meeting entrance, examination of test results, observing participants for illness, and enforcing the rules. These are duties and skills generally outside Boards Support's existing job descriptions and skills. Implementing standards or rules also requires enforcement. Based on the survey results, there is a very small percentage, less than 3%, of respondent who indicated they practice no mitigation measures. While small, it will fall on Boards Support to assure this group complies with the rules. Aside from a small percentage who will flaunt the mitigation measures, there are others who may inadvertently violate rules. Enforcement of COVID-19 mitigation measures is not practical for in-person meetings without significantly increasing staff, which will increase cost. Another possible option is to contract compliance duties to health care and security companies, which will also increase cost.
- **Ubiquitous illnesses at board meetings:** Board meetings, like many other large gatherings that occur for days on end during Alaska's winter season, seem to be breeding grounds for illness. One mitigation measure for anyone attending an in-person meeting is for that person to leave and not return if they are not feeling well. A common head cold, which often occurs, shares many similar symptoms with COVID-19. There must be at least four board members for quorum, which is made more difficult when a board member is conflicted out on certain proposals. Several other department staff, including from Department of Law and the Alaska Wildlife Troopers, are essential to the process and would require redundancies, and accompanying cross-training, in staff if assigned staff were to fall ill. This is impractical. Moreover, members of the public are under the same expectation to depart if feeling ill, but it is conceivable if one felt their particular issue(s) were critical enough, they may attempt to conceal their illness in an effort to remain. That will lead to more illness.
- **Different levels of risk aversion related to COVID-19:** As we have seen nationwide, there are varying levels of risk tolerance related to COVID-19. That is seen in the public comments and survey results as well. This difference of opinion can have an impact on attendee behavior, and will likely exclude many knowledgeable individuals from attending. This aversion to risk is not unique to any fish and game user group. It impacts all user groups and valuable knowledge will be lost on all sides of the discussion.

- **Issues of liability:** One untested question is the liability risk for in-person meeting organizers. The department could require all attendees to sign a disclaimer waiving the state of liability; however, this is a drastic step, one that in and of itself recognizes the significant dangers of participating in a large in-person gathering. If the risks are so significant that organizers feel compelled to make attendees sign a disclaimer (not to mention how we compel employees and board members to attend) then perhaps it makes sense to not conduct the meeting in the usual format.
 - **Quarantining in a community that is not one's home:** Rules of in-person attendance require anyone getting sick to quarantine for 14 days. For state employees, including board and advisory committee members, the state may cover the cost. That cost will be significant. An outbreak of COVID-19 infection of ten state-supported people would require 140 days of quarantining. The hotel and per diem costs (estimated at \$200/day for the current meeting schedule) would be upwards of \$28,000, and would assuredly coincide with a meeting that could not be completed. The cost to an out-of-town visitor who must quarantine would be about \$3,000. These costs do not include the loss of productivity for anyone who contracts COVID-19.
 - **Contracting COVID-19 in a community with varied health resources:** The larger concern with contracting COVID-19 in any community is the potential for serious illness and furthering community spread. Cordova has a community clinic, but it is not equipped with a critical care unit. Anyone who contracts COVID-19 in Cordova and becomes critically ill will likely need to be medevacked to Anchorage, at their own expense.
- **Internet meeting platforms have complications:** Internet-based platforms, or virtual meeting sites, such as Zoom, MS Teams, WebEx, and Teletown Hall, offer options for conducting board meetings. Several boards and commissions in the state are successfully conducting meetings through these systems. Boards Support developed potential options using virtual meetings and put the question of usability to the public. In the survey, almost half, 47%, of the respondents thought the board should hold virtual meetings, with another 26% indicating "maybe" it should occur. While these platforms may be a suitable way for the board to meet on discrete, simple matters, using them to simulate a traditional in-person board meeting is problematic. Issues include:
 - **Differing stakeholder ability to access Internet-based technologies:** Many fisheries stakeholders live in remote areas of Alaska where bandwidth is minimal, and costs can be high. Additionally, many individuals in general do not have the requisite equipment or knowledge to navigate these evolving and modern modes of communication. An inability for these individuals to participate in a meaningful way would hamper the process. There would be many interested parties who would not be able to participate and attend.
 - **Inability to simulate typical board meetings through Internet-based technologies:** As seen in the Mitigations Scenarios report, Boards Support outlined how a board meeting could be simulated using a variety of platforms. However, the level of effort and

coordination to pull off a successful meeting would include a number of things going correctly.

- Board members will need strong internet connections, adequate technology, and training to use virtual meeting platforms successfully. We believe this is possible through a combination of additional board orientations, state purchased equipment, and, in some cases, board member travel to the nearest hub community or ADF&G office.
 - The same expectation is needed for the participating public, including advisory committee representatives. This appears extremely problematic, particularly given difficulties accessing technologies and limited bandwidth.
 - Simulating critical board functions will be difficult. Both the Board of Game and Board of Fisheries conduct public testimony. There are suitable operator facilitated systems that allow for public testimony. Advanced sign-ups would likely be needed, something Boards Support has done recently. Depending on which platforms are used to facilitate testimony, it may require board members to switch to a different platform.
 - Developing substitute language for board consideration would be problematic on an online platform. For very complicated regulatory issues, both boards will create substitute language, which is done with any combination of board members, advisory committees, staff, attorneys, wildlife troopers, and the relevant public. It is done informally off the record and can take considerable time to conceive and finalize on paper. This often-spontaneous exercise is problematic in a virtual platform. Likely the most critical function of substitute language development is the ability for critical stakeholders to provide their expertise. If a board member wanted to develop substitute language, the board member would have to identify the relevant parties to meet with and that group would need to convene off-site of the ongoing virtual meeting. Individuals would need the capacity to participate, passwords would be issued, and a virtual meeting site developed just for this purpose. This requires a high degree of coordination and assumes technical resources are equal.
 - Finally, the Board of Fisheries employs its Committee of the Whole process to discuss each proposal. The board would need to revert to its old process of having a participant sign-up in advance. Selected participants would need to have the requisite technical acumen. It would be simple enough at that point to conduct the committee, but those two steps require logistics and technical skills of participants, as previously discussed.
- **Diminished resources of the public:** A final point made through comments received is given the pandemic's significant impact on economic activity this year, particularly for the commercial and sport guides, there are much fewer financial and time resources available to attend these meetings. Full participation may prove too costly for some.

Questions - Issues with Postponement

Postponing board meetings sets into play another set of challenges.

- How will important conservation issues, statutory, and sunset provisions be handled? Can those be handled through teleconference or virtual meetings?
- Do we delay all board cycles a year or do we add this year's meetings with next year? Keep in mind that it is doubtful that Boards Support Section will receive adequate funding to conduct a board cycle that doubles up the meetings.
- If you do decide to double up next year's board activity what is the increased workload on board members, advisory committees, department staff, and the public?
- Board of Fisheries meetings in communities is important for those communities. It is assumed any postponing of the meeting will simply rollover back to that community.

Aside from postponing meetings there are likely additional important issues the board would need to consider.

Immediate decisions that identify solutions will help guide the department, public, and advisory committees. Logistics such as contracts, flight schedules, and workload hinge on how the meeting cycle precedes.

To the extent the board is unable to arrive at conclusions at its September 16, 2020, planning meeting, there should be an additional robust discussion at the upcoming October 15-16, 2020, work session.