

These three proposals were received for the 2015/2016 call, but determined non-responsive and instead appropriate for a Joint Board meeting.

PROPOSAL XXX - 5 AAC 96.610. Procedure for developing fish and game regulations.

Amend the Joint Board’s procedure for establishing fish and game regulations as follows:

5 AAC 96.610. Procedure for developing fish and game regulations

(a) For the purpose of developing fish and game regulations, each board will observe the procedures set out in this section. The deadlines for each phase will be set by the appropriate board for each meeting and will be announced to committees and the public.

(b) Phase 1. Each board will solicit regulatory proposals or comments to facilitate that board's deliberations. The boards may limit those sections or portions of the existing regulations that will be open for change. The boards will provide forms to be used in preparing proposals. Notices soliciting proposals will be distributed statewide. In order to be considered, **all** [A] proposals, **including board generated proposals**, must be received by the boards before the designated deadline [UNLESS PROVIDED OTHERWISE BY A BOARD].

(c) Phase 2. After the deadline for receiving proposals, the boards support section shall compile all proposals received on time, including proposals from department staff, **the board**, and other government agencies, distribute them to the public through department offices, and send them to the committees.

(d) Phase 3. Committees may review the proposals at a public meeting and may request technical and scientific support data and prepared testimony from the department.

(e) Phase 4. Each board will give legal notice of timely received proposals. In accordance with the Administrative Procedure Act (AS 44.62), each board will hold a public hearing and will act on proposals [OR DEVELOP ALTERNATIVES ON THE SUBJECT MATTER LEGALLY NOTICED]. **Board amendments are limited as to not contradict the original intent of the proposal.** The final decision on all proposals remains the responsibility of a board.

(f) Phase 5. After completion of procedures required by the Administrative Procedure Act (AS 44.62), a board will **promptly** notify each committee of the actions taken on each committee's respective recommendations and proposals and the reasons for those actions.

What is the issue you would like the board to address and why? The clear intent of our constitutional framers and early legislators was to include the public in the process of managing and allocating our fish and game resources. Unfortunately, this intent toward public participation has in recent years been frustrated by a commingling of the functions of the Board of Fish with the Department of Fish and Game, the result of which has been public exclusion. The problem that has developed is that board factions are developing proposals outside of the public purview. While individual members of the public and Advisory Committees (ACs) must submit their proposals in advance of board meetings, the board factions and department staff can work on proposal language with no notice to the public. This language is often adopted as board regulation without the public having opportunity to engage in its development. Proposals submitted by the public and ACs can be amended by the board and modified to the extent that the original intent of the proposal is lost or is contradictory in nature. It is the intent of this board proposal to place the public on equal footing with the Board of Fish; as well as, introduce transparency to the public process of developing fish regulations.

PROPOSED BY: Tammie Wilson

(EF-C15-068)

PROPOSAL XXX – 5 AAC 96.635. Board generated proposals. Establish the joint board’s criteria for generating board proposals in regulation as follows:

The following would be added to the codified:

The Board of Fisheries shall meet all four criteria (elements) when deliberating the proposed development and scheduling of a board of fish generated proposal.

1. Is it in the best interest of the public?
2. Is there urgency in considering the issue?
3. Are current processes insufficient to bring the subject to the board’s attention?
4. Will there be reasonable and adequate opportunity for public comment?

What is the issue you would like the board to address and why? Board of Fish generated proposals. In recent board meetings the board has generated several “board generated proposals”, we feel did not follow the Joint Boards policy (2013-34-JB). Many advisory committees and members of the public were unsatisfied with the process used to produce these proposals. We have noticed that the policy for board generated proposals is not in codified, yet ACR’s and normal calls for proposals are. To insure that the public interest is evaluated and to protect the integrity of the board of fish, we have submitted proposed language that should be added to the Code of Regulations. A similar proposal has been sent to the Board of Game because this action should not wait a decade for a Joint Board meeting.

PROPOSED BY: Fairbanks Fish and Game Advisory Committee (HQ-F15-068)

**ALASKA BOARD OF FISHERIES
REGULATION PROPOSAL FORM 2015-2016
PO BOX 115526, JUNEAU, ALASKA 99811-5526**

**Indicates a required field*

BOARD OF FISHERIES REGULATIONS

- Subsistence Personal Use
 Sport Commercial

Other policies and procedures under the local fish and game advisory committees chapter in regulation.

***Which meeting would you like to submit your proposal to?**

- Alaska Peninsula/Aleutian Island/Chignik Finfish Arctic-Yukon-Kuskokwim Areas Finfish
 Bristol Bay Area Finfish XXXX Statewide Provisions for Finfish

Please answer all questions to the best of your ability. All answers will be printed in the proposal book along with the proposer's name (address and phone numbers will not be published). Use separate forms for each proposal. Address only one issue per proposal. State the issue clearly and concisely. The board will reject multiple or confusing items.

1. Alaska Administrative Code Number 5 AAC 96.625 Joint board petition policy

***2. What is the issue you would like the board to address and why?**

Inconsistency with BOF/BOG policies and resolutions #2000-203-BOF, #80-81-FB.
Non compliance to the Administrative Procedures Act AS 44.62.XXX, AS 44.62.220,
AS 44.62.210, AS 44.62.180 – 44.62.290.
Administrative code lacks definitions for "unforeseen or unexpected" and who makes that
decision based on what criteria. 5 AAC 96.625 (a) (f)

The petitioners do not have the opportunity to present their support information or address questions and inequities in other information submitted by the Department of Fish and Game or other responders. Petitioners should have their right to present and defend their petitions in an open and transparent manner and all testifiers should be under oath to be accountable for their information and actions.

***3. What solution do you recommend? In other words, if the board adopted your solution, what would the new regulation say? (Please provide draft regulatory language, if possible.)**
5 AAC 96.625 Joint board petition policy

(a) Under AS 44.62.220, an interested person may petition an agency, including the Boards of Fisheries and Game, for the adoption, amendment, or repeal of a regulation. The petition must clearly and concisely state the substance or nature of the regulation, amendment, or repeal requested, the reason for the request, and must reference the agency's authority to take the requested action. Within 30 days after receiving a petition, a board will deny the petition in writing, or schedule the matter for public hearing under AS 44.62.190 - 44.62.210, which require that the agency shall give each interested person or the person's authorized representative, or both, the opportunity to present statements, arguments, or contentions in writing, with

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describing the proposed change and solicit comment for 30 days before taking action. AS 44.62.230 also provides that if the petition is for an emergency regulation, and the agency finds that an emergency exists, the agency may submit the regulation to the lieutenant governor immediately after making the finding of emergency and putting the regulation into proper form.

5 AAC 96.910 Definitions

The Board of Fisheries will define what an unforeseen or unexpected event means or an unforeseen or unexpected situation means in clear and concise terms that the public may understand.

It is not clear if it is the BOF/BOG who makes this decision as individual board members or it is solely under the authority of the Commissioner of Fish and Game.

*Submitted By: Paul A. Shadura II
Individual As an Individual

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