ALASKA BOARD OF FISHERIES DELEGATION OF AUTHORITY
TO THE COMMISSIONER OF THE ALASKA DEPARTMENT OF FISH & GAME
TO ADOPT EMERGENCY REGULATIONS

(Replacing #75-4-FB, #79-53-FB, and #88-119-FB)

Under AS 16.05.270, the Alaska Board of Fisheries (board) may
delegate its regulatory authority (found in AS 16.05.251 and AS
16.05.258) to the Commissioner of the Department of Fish and Game
(commissioner).

In developing such a delegation, the Board of Fisheries makes the
following findings:

1. The board holds several regulatory public meetings annually.
   These meetings promote and assure public participation in the
   regulatory process.

2. To maximize public participation, these regulatory meetings
   are generally scheduled when the subject fisheries are not
   taking place.

3. The board also provides three methods to allow unscheduled
   regulatory proposals to come before it: Joint Board Petition
   Policy (5 AAC 96.625), Agenda Change Request Policy (5 AAC
   39.999), and Subsistence Proposal Policy (5 AAC 96.615).

4. These facts indicate the extreme importance the board
   attaches to the public process and to predictability in the
   regulatory process.

5. The board recognizes that unforeseen circumstances may lead
   to instances where existing fishing methods and means
   regulations are having a deleterious impact on resource
   conservation. The board acknowledges that emergency
   regulations may be needed to respond to such situations
   outside of the normal board meeting cycle.

6. The board acknowledges, in rare instances, unforeseen
   circumstances may arise during the course of a fishery which
   would prevent a harvestable surplus from being taken. The
   board acknowledges that foregoing such harvest opportunities
   may not be in the state's best interest and that emergency
   regulations may be appropriate under such circumstances as
   long as the allocation impacts of any such regulation are not
   significant.

THEREFORE THE BOARD RESOLVES that it hereby makes the following
general delegation of its rule-making authority under AS
16.05.251 and AS 16.05.258 to the commissioner to be carried out under AS 16.05.270:

A. The commissioner may adopt, in accordance with the Alaska Administrative Procedure Act (AS 44.62), emergency regulations where an emergency exists as described in AS 44.62.250 and 5 AAC 96.625 under the following guidelines:

(1) copies of the proposed emergency regulation findings of emergency are transmitted to all current board members by the fastest possible means;

(2) every attempt is made to poll all current members of the board regarding the proposed regulation;

(3) such proposed emergency regulations must be, to the fullest extent practicable, consistent with all expressions of current board intent such as may be expressed in regulatory management plans;

(4) unless there exists substantial information that has not been considered by the board, this delegation may not be used to adopt, amend, or repeal regulations that were the subject of board action during the preceding regulatory cycle; and

(5) such proposed emergency regulations are presumed to be adopted to achieve conservation goals and have minimal or no direct allocation impacts.

B. Emergency regulations adopted under this delegation may be made permanent in accordance with the Administrative Procedure Act (AS 44.62) if the emergency regulation expires before the next regularly scheduled meeting of the board and the commissioner determines, after consultation with the board, it is necessary that the regulation remain in effect until the time of the meeting. Consultation shall be made in a manner, by teleconference which will allow the members of the board and commissioner to conduct simultaneous discussions, and must be in accordance with AS 44.62.310.

C. This delegation replaces #75-4-FB, #79-53-FB, and #88-119-FB.

D. The delegation shall remain in effect until revoked by the board.

Larry J. Engel, Chairman
Alaska Board of Fisheries

DATE: January 24, 1995

AT: Dillingham, Alaska

VOTE: 5-0 with 2 absent