

Memorandum of Understanding between the Alaska Board of Fisheries and the Alaska Commercial Fisheries Entry Commission with respect to the Gulf of Alaska Groundfish Fisheries

2005-240-FB

SB113 (the Act) is now pending before the Alaska State Legislature and, if passed, would authorize (but not mandate) a dedicated access privilege program (as defined in the Act) as a new, alternative form of limited access potentially applicable for limiting access to the Gulf of Alaska groundfish fisheries within State of Alaska jurisdiction.

AS 16.43.530(a) [Sec. 5, lines 4-8] provides in relevant part:

If the commission finds that entry into a Gulf of Alaska groundfish fishery should be limited on the basis of dedicated access privileges to serve the purposes of this chapter, the commission may adopt regulations, developed in conjunction with the Board of Fisheries, that are necessary to establish and implement a dedicated access privilege program for that fishery.

This Memorandum of Understanding (MOU) between the Alaska Board of Fisheries (the Board) and the Alaska Commercial Fisheries Entry Commission (the Commission or CFEC) sets forth the agreement between the Board and the Commission outlining the procedure by which the two bodies intend to develop regulations in conjunction with each other. The purpose of this MOU is to provide a working definition of the phrase "in conjunction with" as understood by the two bodies. When this agreement is finalized, the Board and the Commission will present the agreement to the legislature and propose the agreement be incorporated into the legislative history of the Act.

This agreement will take effect on passage of the Act.

In this agreement, references to the Board and to the Commission include representatives of each body delegated to ensure the outlined procedure may go forward in a timely fashion not restricted by the public meeting schedule of either full body.

In this memorandum, the term fishery refers only to Gulf of Alaska groundfish fisheries as specified in AS 16.43.530(a).

To outline the steps in the process by which the Board and the Commission will develop regulations for the Gulf of Alaska Groundfish fisheries under the Act, the Board and the Commission agree as follows. ← ∴ ?

(1) As practicable, the Board will continue to explore options through the Gulf of Alaska Groundfish Rationalization Committee process and will continue to include the Commission or its representative in such meetings.

(2) As soon as practicable, the Board, in consultation with the Alaska Department of Fish and Game (ADF&G), will identify for the Commission the particular fisheries the Board believes to be most in need of immediate review. Similarly, the Board will identify those fisheries the Board believes do not require limited access at this time. The Board may also transmit any guidance the Board wishes to offer with respect to the fisheries.

Neither the Board nor the Commission will be proposing limited access for a fishery in the absence of an express request from participants in the fishery to do so. This practice pre-exists this agreement: in more than 20 years, the Commission has not proposed limitation of any fishery without a specific request from the public to do so, and the commission has turned down many requests it has received.

(3) In light of the information presented by the Board and ADF&G, the Commission will develop data and analyses of the fisheries and generally examine the fisheries under the standards set forth in the Act.

(4) When the Commission develops preliminary findings or a proposal for any of the fisheries, prior to making a public proposal for the adoption of regulations, the Commission will present its preliminary

findings or proposal to the Board for the Board's review and guidance under the standards set forth in the Act. The Board and the Commission will meet to discuss these matters. The Board may concur in the Commission's preliminary findings or proposal. In the event the Board takes issue with any preliminary findings or the proposal, the Board shall specify for CFEC how the particular matters fail to meet the standards set forth in the Act or other policy goals of the Board. Upon notice of such issues, CFEC will reconsider any of its preliminary findings or its proposal and report the results of its reconsideration to the Board.

(5) When CFEC proposes regulations for a fishery, during the following public comment period, the Board and CFEC will hold joint hearings to receive public comment on the proposal. In addition, the Commission will share any written public comment it receives with the Board.


(6) In addition to the Board's opportunity to comment under the procedures of paragraphs (2), (4), and the following paragraph (7), the Board is free to comment throughout the public comment period.

(7) Following the public comment period, based on public comment received, the Commission will develop and present to the Board its preliminary findings with respect to the proposed regulations including proposed modifications of the original proposal. The Board may concur in these preliminary findings. In the event the Board takes issue with any of the preliminary findings, the Board may ask the Commission to reconsider its preliminary findings specifying where they failed to serve standards set forth in the Act or other policies of the Board. In the event the Board raises such issues, the Commission will reconsider any of its preliminary findings.

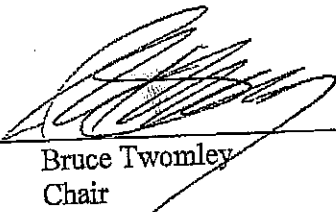
(8) In making their final decision on proposed regulations for a fishery, the Commission will fully consider any comments by the Board and will specifically address those comments in writing in the Commission's rationale supporting its final decision.

(8) Future Commission regulatory proposals pursuant to the Act will be governed by the procedures outlined herein.

Alaska Board of Fisheries

by  _____ 4/6/2005
Date
Arthur N. Nelson
Chair

Alaska Commercial Fisheries Entry Commission

by  _____ 4/5/2005
Date
Bruce Twomley
Chair