

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

(Previously
(Finding #96-05-FB)

(Replacing #75-4-FB, #79-53-FB, #88-119-FB, and #95-01-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 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 be brought 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. Although the board may, on its own initiative, adjust its schedule, this authority is rarely used.
5. These facts indicate the extreme importance the board attaches to the public process and to predictability in the regulatory process.
6. The board recognizes that unforeseen circumstances may lead to instances where existing fishery regulations may have a deleterious impact on resource conservation. The board acknowledges that emergency regulations may be needed to respond to such situations outside the normal board meeting cycle.
7. The board acknowledges that, in rare instances, unforeseen circumstances may arise during the course of a fishery which would prevent 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 or are not inconsistent with prior board guidance.

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 and finding 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 content of the proposed regulation and whether or not the proposed regulation should be made permanent;

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

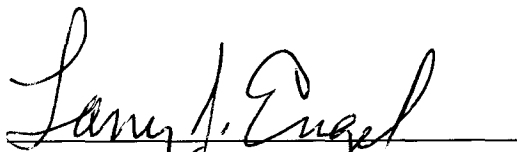
(4) such proposed regulations are adopted to achieve conservation goals, respond to court orders, or provide for taking of a biologically allowable resource harvest;

(5) such proposed regulations have minimal or no direct allocation impacts unless required by court order or consistent with current board intent as expressed in regulatory management plans.

B. The commissioner, may make regulations adopted under this delegation permanent in accordance with the Administrative Procedure Act (AS 44.62) if the commissioner determines that the emergency regulation would be likely to expire before the board could make the regulation permanent through a regularly scheduled meeting (including legal review) and that the emergency regulation should remain in effect.

C. This delegation replaces #95-01-FB.

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


Larry J. Engel, Chairman
Alaska Board of Fisheries

DATE: March 2, 1996

At: Anchorage, Alaska

Vote: 7-0