



Alaska Department of Fish and Game
Board of Fisheries
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Resolution of the Alaska Board of Fisheries 2015-277-FB

Standing Delegation of Authority to the Commissioner Regarding Petitions for Emergency Regulations

The Board of Fisheries (“board”) finds as follows:

1. The board will normally hold three to five regulatory meetings each year scheduled well in advance at which it will consider regulatory proposals on topics according to its three-year cycle.
2. The board supports, values, and encourages public input in the board’s adoption of regulations during these regularly scheduled meetings.
3. From time to time, the board receives a petition for adoption of an emergency regulation submitted by a member of the public that, according to the proposal, needs to be addressed on an emergency basis under AS 44.62.250.
4. When such emergency petitions are received within 30 days before a regularly scheduled board meeting, the Board addresses the petition at the upcoming board meeting. When a petition is received more than 30 days before a regular meeting, the Board is required to address the petition outside of a meeting or hold a special meeting under AS 16.05.310 at the call of the commissioner or at least two board members.
5. To avoid the expense and inconvenience of holding a special board meeting every time a petition alleging an emergency is received outside the regular meeting schedule, the board wishes to delegate its authority to the Commissioner, as authorized by AS 16.05.270, to address such petitions to determine whether an emergency exists for purposes of convening a meeting of the board, as further described below.
6. As set forth in 5 AAC 96.625(f), it is an established board policy to recognize that in rare instances circumstances may require regulatory changes outside a regularly scheduled meeting. A petition will be denied and not scheduled for a hearing unless the commissioner finds the alleged problem outlined in the petition justifies a finding of emergency. Emergencies will be held to a minimum and are rarely found to exist.




7. An emergency, for purposes of 5 AAC 96.625(f), "is an unforeseen, unexpected event that either threatens a fish or game resource, or an unforeseen, unexpected resource situation where a biologically allowable resource harvest would be precluded by delayed regulatory action and such delay would be significantly burdensome to the petitioners because the resource would be unavailable in the future."

THEREFORE THE BOARD RESOLVES and makes the following delegation of its authority to the Commissioner of the Department of Fish and Game pursuant to AS 16.05.270:

1. Each petition received by the board for an emergency regulation submitted more than 30 days before a regularly scheduled meeting of the board, shall be forwarded by the executive director to the commissioner. The commissioner is delegated the authority under AS 16.05.270 to determine whether the facts presented by the petition constitute an emergency pursuant to the standards set forth in 5 AAC 96.625(f).
2. The Commissioner may rely on relevant information, including information provided from the petitioner and from the Department of Fish and Game.
3. If the Commissioner does not find that an emergency exists, the commissioner shall deny the petition in writing as required by AS 44.62.230.
4. If the Commissioner finds that the problem outlined in the petition justifies a finding of emergency, the Commissioner will call a special meeting of the board under the Commissioner's authority under AS 16.05.310.
5. At a special meeting called by the commissioner, the board retains the authority to review the petition and make an independent determination as to whether an emergency exists, and what, if any, regulatory action may be desired.
6. This delegation does not preclude two or more members from calling a special meeting of the board at any time for any purpose pursuant to AS 16.05.310.
7. This delegation shall remain in effect until revoked by the board.

Adopted: March 20, 2015.
Vote: 6/0



Tom Kluberton, Chair
Alaska Board of Fisheries