

See 95-01-FB

ALASKA BOARD OF FISHERIES

DELEGATION OF AUTHORITY TO ADOPT EMERGENCY REGULATIONS

The Board of Fisheries ("board") makes the following findings:

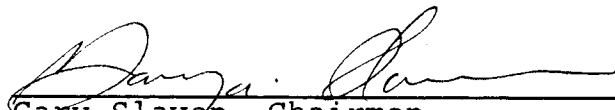
1. The board normally holds only two regulatory meetings each year.
2. The board attempts to meet only in the off-season, thereby minimizing the difficulty in obtaining the attendance of all members and the interested public.
3. The custom of the board to meet in the off-season results in the board not being convened during peak periods of resource harvesting.
4. Unusual or unforeseen developments regarding resources necessitating regulatory action often occur when the board is not in session.
5. The emergency powers of the Commissioner of Fish and Game set forth in AS 16.05.060 may not be sufficiently comprehensive to permit necessary regulatory action.
6. If the emergency powers of the commissioner are not sufficient, and the board itself cannot act, the state may be without any authority to adopt necessary regulatory measures.
7. The board and the Joint Boards of Fisheries and Game have avoided this problem in the past by making standing delegations of authority to the commissioner to adopt emergency regulations, which delegation has existed since the 1960's.

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

- A. The commissioner may adopt, in accordance with the Administrative Procedure Act (AS 44.62), emergency regulations where an emergency exists as described in AS 44.62.250.
- B. To the fullest extent practicable, any regulations adopted shall be consistent with all expressions of current board intent.

- C. To the extent it is possible within the time available to act, the commissioner shall attempt to obtain the views of the members of the board before adopting such emergency regulations under this delegation if the matter involves a major policy decision.
- D. Emergency regulations adopted under this delegation may be made permanent in accordance with the Administrative Procedure Act (AS 44.62) if the emergency regulation will expire before the next regularly scheduled meeting of the board and the commissioner determines, after consultation with the board, that it is necessary that the regulation remain in effect until the time of that meeting. Consultation shall be made in a manner, such as by telephone conference call, that will allow the members of the board and the commissioner to conduct simultaneous discussions, and must be in accordance with AS 44.62.310.
- E. This delegation replaces #75-2-FB, #75-4-FB, and #79-53-FB.
- F. This delegation shall remain in effect until revoked by the board.

Dated: March 13, 1988



Gary Slaven, Chairman
Alaska Board of Fisheries

At: Anchorage, Alaska

Vote: consensus