

(previously #95-01-FB)
See 96-05-FB

**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).

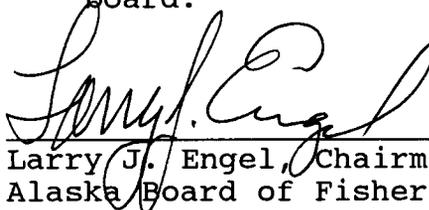
In developing such a delegation, the Board of Fisheries makes the following findings:

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