



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

**Department of  
Fish and Game**

DIVISION OF COMMERCIAL FISHERIES  
Central Region Office

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To: Mr. John Jensen, Chair  
Alaska Board of Fisheries

Date: May 10, 2018

Through: Scott Kelley, Director  
Division of Commercial Fisheries

From: Bert Lewis, Regional Supervisor  
Region II Division of Commercial Fisheries

Subject: Emergency Petition to the Alaska Board of Fisheries (board) requesting the Commissioner of the Alaska Department of Fish and Game stay hatchery pink salmon production increases in Prince William Sound.

#### **Action Requested**

On May 1, 2018 a group of nine stake holders submitted a petition requesting the board make a finding of emergency and schedule a meeting to consider management options for fisheries targeting hatchery-produced pink salmon in Lower Cook Inlet and Prince William Sound and to formally request the Commissioner of the Alaska Department of Fish and Game stay increases in the number of pink salmon eggs taken at private non-profit hatcheries in Prince William Sound.

#### **Background**

Under AS 44.62.220, an interested person may petition an agency, including the Boards of Fisheries and Game, for the adoption, amendment, or repeal of a regulation. The petition must clearly and concisely state the substance or nature of the regulation, amendment, or repeal requested, the reason for the request, and must reference the agency's authority to take the requested action.

The board has limited regulatory authority over the operations of hatcheries, and the board may not adopt regulations that effectively veto or override a fundamental department policy decision regarding whether to authorize the operation of a particular hatchery or adopt regulations preventing the department from exercising its authority to permit a hatchery operation<sup>1</sup>.

#### **Summary**

The relief sought by this petition does not request a regulatory change, but rather requests that the board "formally request" the Commissioner of Alaska Department of Fish and Game to stay the commissioner's approval of hatchery pink salmon production increases in Prince William Sound. The petition also asks the board to make a finding of emergency and schedule a meeting to consider management options for fisheries targeting hatchery-produced pink salmon in Lower Cook Inlet and Prince William Sound. Because neither of these actions are regulatory in nature the petition does not meet the standards of AS 44.62.220 or 5 AAC 96.625(f).

cc: Glenn Haight, Executive Director, Alaska Board of Fisheries  
Scott Kelley, Director, Division of Commercial Fisheries  
Tom Brookover, Director, Division of Sport Fisheries  
Hazel Nelson, Director, Division of Subsistence  
Seth Beausang, Chief Assistant Attorney General, Department of Law  
Bradley Meyen, Senior Assistant Attorney General, Department of Law

<sup>1</sup>Robert C. Nauheim and Lance B. Nelson, November 6, 1997, Memorandum to Dr. John White, Chair, Alaska Board of Fisheries and The Honorable Frank Rue, Commissioner, Alaska Department of Fish and Game, *Authority of the Board of Fisheries Over Private Nonprofit Hatchery Production*, 14 pages.