

State of Alaska Fish and Game Management



**Commissioner Douglas Vincent-Lang
Senate Resources Committee**

April 1, 2019

Constitutional Foundation/Authority

Alaska Constitution, Article VIII, Natural Resources

§ 1 - Policy of maximum use of resources consistent with public interest.

§ 2 - Gives authority to legislature, which is to provide for utilization, development, and conservation of natural resources for maximum benefit of people.

§ 3 - Wild fish, wildlife, and waters reserved to the people for common use.

§ 4 – Fish and wildlife resources shall be utilized, developed, and maintained on sustained yield principle, subject to preferences among beneficial uses.

§17 -Laws governing disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter & purpose served by law or regulations.

Three Entities

- Legislature
- Boards of Fisheries and Game
- Alaska Department of Fish and Game

Each has a distinct role in enacting the constitutional authorities

The Public Engages with each Entity

Powers Delegated from the Legislature to the Boards

- **AS 16.05.221:** Boards of Fisheries and Game created by the legislature; all powers and authority derived from statute. Established for “conservation and development” of fish and game resources.
- **AS 16.05.221:** Boards have regulation-making powers (quasi-legislative), but no administrative, budgeting, or fiscal powers (executive branch powers).
- **AS 16.05.251 and 255:** Sets out regulation-making authority. The boards have the power and duties to enact regulations, regulating fishing and hunting and subsistence fishing and hunting as needed for the conservation, development, and utilization of fish and game resources.
- **AS 16.05.258:** The Boards shall identify fish and game populations customarily and traditionally used for subsistence, and determine the amount of the harvestable surplus reasonably necessary for subsistence.

Powers Delegated from Boards to ADF&G Commissioner

AS 16.05.270: Board may delegate power to the commissioner to act on its behalf. (Ex: Adoption of waterfowl regulations, Findings [89-14-BG](#); Petitions for Emergency Regulations, Findings [2015-208-BOG](#))

Regulatory Authorities Delegated to the ADF&G Commissioner

AS 16.05.060: Emergency order authority to open or close seasons or areas or to change weekly closed periods on fish or game by means of emergency order.

AS 16.05.020(3): Implied authority to adopt regulations to implement authority.

How it works

- ***ADF&G Determines Sustained Yields for Populations/Stocks***
 - Stock Assessment
 - Federal/International Cooperation
- ***Boards determine allocation and management plans for surplus yields***
 - Board Process
 - Advisory Committee Process (Open Meetings Act)
 - Public Participation
- ***ADF&G using its EO authority to implement management plans***
 - Inseason Management Programs
- ***ADF&G uses its EO authority to close fisheries/hunts to ensure long-term sustainability***

IS IT WORKING?

Sustainable Management of Fish and Wildlife Resources means **\$11.8 billion dollars in economic value to Alaska**

Commercial Fisheries	\$5 billion
Sport Fishing	\$1.9 billion
Wildlife	\$4.6 billion
<u>Subsistence</u>	<u>\$300 million</u>
TOTAL	\$11.8 billion

Subsistence

Subsistence as a State Priority

- Subsistence use has a priority under state law (AS 16.05.258).
- All Alaskans, regardless of their residency, have a subsistence priority.
- Alaska has a mechanism in place to ensure subsistence needs are being met

AS 16.05.258

- Gives a priority to the use of all fish and game customarily and traditionally used for subsistence.
- Boards shall identify all fish and game populations, and portions thereof, that are customarily and traditionally taken or used for subsistence. (AS 16.05.258(a))

AS 16.05.258 Cont'd

- If a portion of a fish and game population can be harvested consistent with sustained yield, the Boards shall determine the amount of the harvestable portion that is reasonable necessary for subsistence (AS 16.05.258(b))
- Must provide a “reasonable opportunity” for subsistence, defined as an opportunity that provides a normally diligent participant with a reasonable expectation of success. (AS 16.05.258(f)).

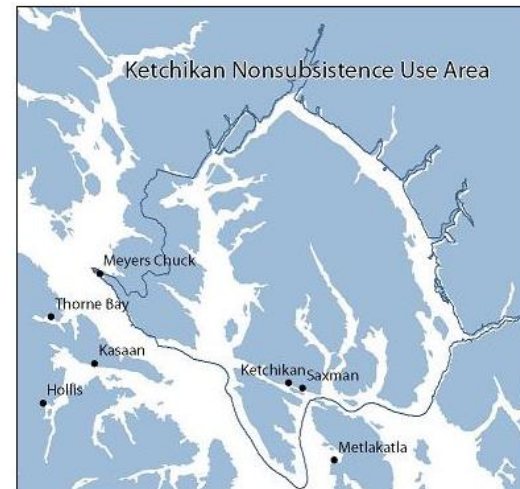
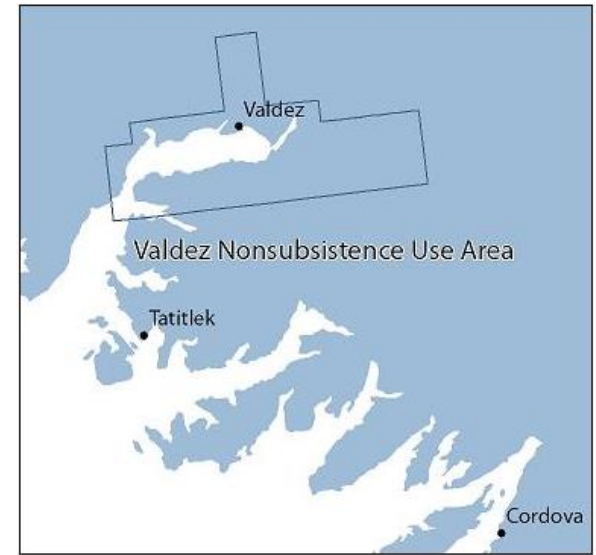
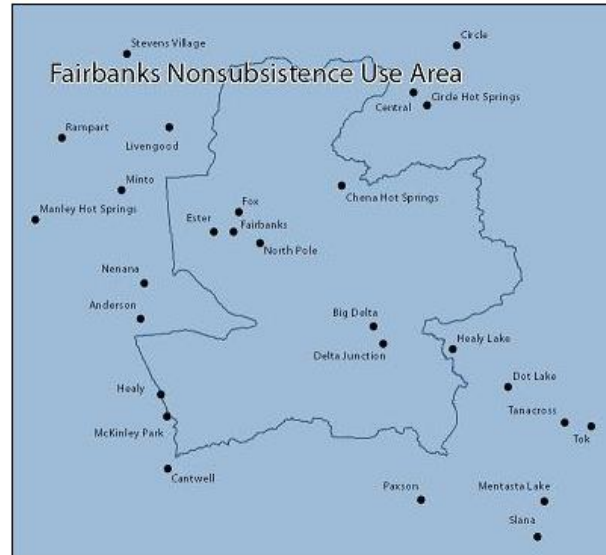
Priority for subsistence fishing and hunting; Tier II permits

- If the harvestable portion is not sufficient to provide a reasonable opportunity for subsistence uses, the board shall adopt regulations eliminating consumptive uses other than subsistence and distinguishing among subsistence users based on specified criteria.

Nonsubsistence Use Areas

- Under 5 AAC 99.015, the Joint Boards may establish nonsubsistence areas.
- A nonsubsistence area is an area or community where dependence upon subsistence is not a principle characteristic of the economy, culture, and way of life of the community.
- Four are currently established:
 - Anchorage-MatSu-Kenai
 - Fairbanks
 - Valdez
 - Ketchikan

Nonsubsistence Use Areas Cont'd



HOW IT WORKS

- Board considers a proposal
- ADF&G provides assessment on Customary and Traditional Use of affected populations and whether Amounts Necessary for Subsistence are provided for
- Public and Advisory Committee Input
- Board determines if reasonable opportunity exists
- Regulation adopted

State Subsistence Regulations

- **5 AAC 01.100-.760, 5 AAC 02.100-.625, and 5 AAC 99.025:** Board's customary and traditional (C&T) findings are in regulation.
- **5 AAC 01.100-.760, 5 AAC 02.100-.625 and 5 AAC 99.025:** Amount necessary for subsistence (ANS) should be put in regulation, if practicable.

Federal Subsistence Program

➤ Federal Subsistence Board

- 3 public members
- Federal agencies: BIA, BLM, USFWS, NPS
- Liaisons include all RACs and the ADF&G Commissioner

➤ Regional Advisory Councils

- Public Advisory Committees under FACA

➤ State Role/Participation

Federal Subsistence under ANILCA (Section 804)

- Except as otherwise provided in this Act and other federal laws, the taking on public lands of fish and wildlife for non-wasteful subsistence uses shall be accorded priority over the taking on such lands of fish and wildlife for other purposes.
- Whenever it is necessary to restrict the taking of populations of fish and wildlife on such lands for subsistence uses in order to protect the continued viability of such populations, or to continue such uses, such priority shall be implemented through appropriate limitations based on the application of the following criteria:
 1. Customary and direct dependency upon the populations as the mainstay of livelihood
 2. Local residency
 3. The availability of alternative resources

Difference between State and Federal Process

- ***State Process:*** C&T determination coupled with ANS determination.
- ***Federal Process:*** Customary and traditional use determinations; No ANS determination nor an assessment of reasonable opportunity.

FSB Process

- Call for proposals
- Federal Staff review
- Regional Advisory Councils review
- Interagency Staff Committee review
- Federal Subsistence Board meeting
- Publication of final rules
- Request for reconsideration option

Questions?