

FEDERAL SUBSISTENCE BOARD

Meeting Guidelines

AUTHORITY: The statutory authority for the following guidelines is Title VIII of the Alaska National Interest Lands Conservation Act, P.L. 96-487, 16 USC 3101, et seq. The regulatory framework establishing the Federal Subsistence Board (Board) and describing the Board's authority and responsibilities is contained in 36 CFR 242 and 50 CFR 100.

I. BOARD STRUCTURE

The members of the Board are the Chair and the Regional or State Directors of the U.S. Fish and Wildlife Service, National Park Service, Bureau of Land Management, Bureau of Indian Affairs, and the Regional Forester, U.S.D.A. Forest Service. A Board member's designated representative will serve with the same authority and privileges as the principal member.

Liaisons representing the ten regional advisory councils and the State of Alaska serve as consultants to the Board. These liaisons will not vote in Board decisions. Liaisons will not participate in executive sessions of the Board, unless invited by the Chair. The council liaisons will be the chairs of the councils. The State liaison will be nominated by the Governor and appointed by the Secretary. These liaisons may designate others to act on their behalf.

II. BASIC MEETING PROCEDURES

The Board's objective is to hear and consider the full range of advice and opinions available on issues of concern to the public. The Board shall operate under such rules of procedure, as it shall from time to time adopt. Generally, the Board will utilize the most current edition of Robert Rules of Order, Newly Revised. General procedures for consideration of regulatory proposals will be in the following sequence: presentation of the analysis; summary of written public comments; public testimony; Regional Advisory Council recommendation(s); ADF&G comments; Interagency Staff Committee comments; Board discussion with Council Chairs and State liaison (Board members may invite additional participation); and, lastly, Board action. During Board proceedings prior to a motion, the liaisons will fully participate and be recognized by the Chair when they want to ask questions, raise concerns, or provide additional information or clarification. Once a motion is made, the liaisons may be invited to participate in Board deliberations or may be recognized by the Chair when they want to ask questions or provide additional information or clarification. Board members may also ask for additional testimony, information and/or clarification from the Federal/State staff or members of the public. This sequence may be modified or revised by a majority vote of the Board members present.

III. SCHEDULING

Meetings to take action on regulatory proposals shall be held at least once a year at such time and place as the Chair designates. Wildlife regulations will be revised in even-numbered years and fish/shellfish regulations in odd-numbered years; customary and traditional use determinations will be addressed during the applicable biennial cycle. The Chair may call additional meetings at

such times and under such circumstances as deemed necessary to carry out the duties of the Board.

IV. MEETING FORMATS

There are three types of meetings that the Board may hold – public meetings, work sessions, and executive sessions. Public meetings and work sessions are open to the public and liaisons, while executive sessions are not.

A. Public Meetings

Purpose -- Public meetings are regularly scheduled meetings held primarily for the purpose of engaging in regulatory rulemaking, including the establishment or modification of seasons, harvest limits, or methods and means, as well as customary and traditional use determinations, rural/non-rural determinations, § 804 determinations, and the adoption of customary trade regulations. In addition, public meetings shall be held to take final action on requests for reconsideration, to render decisions on temporary special actions and delegations of authority, and to extend emergency regulations beyond the sixty day limit described in § ___.19(a)(2) of the Board regulations. At the discretion of the Chair, any other topic or issue permitted by law may be discussed and acted upon in a public meeting.

Attendance -- A quorum of the Board members or their designees must be present before the Board may engage in rulemaking. Liaisons representing the Regional Advisory Councils and the State of Alaska are invited to attend and act in a consultative role. Attendance by teleconference, videoconference, or other electronic medium is sufficient for the purposes of establishing a quorum or permitting participation under these guidelines.

Public Participation -- The public will be given advance notice of the time, date, and place of a public meeting. In addition, every reasonable effort will be made to provide a draft agenda to the public in advance of the meeting. Items may be added to or deleted from any draft agenda provided to the public when reasonably necessary to accommodate the best interests of the public or the needs of the Board.

Participation by the public is encouraged. This participation shall include the presentation and reading of summaries of written public comments by Federal staff. Unless prohibited by the Chair for reasons to be explained on the record, the public shall also be permitted to present verbal testimony. The Chair may limit verbal testimony by the public on regulatory proposals to specified time periods. The Chair may permit the representatives of the Regional Advisory Councils to present summaries of public comments heard at Council meetings or elsewhere.

Record keeping -- A record must be kept of each public meeting.

B. Work Sessions

Purpose – The Chair calls work sessions for the purposes of gathering information, conducting preparatory work and research on regulatory proposals, and resolving administrative

problems and issues. In addition, if a quorum is present, the Board may make decisions on administrative matters, including, among others, the adoption or modification of Board policies and protocols, threshold acceptance or rejection of requests for reconsideration, closure reviews, decisions on proposed research projects, the formation of committees and task forces, and the adoption of MOUs. The Board may not make decisions on regulatory proposals, except for emergency special actions as set forth in paragraph V below.

Attendance – A quorum is not necessary to hold a work session, but a quorum is required if the Board intends to make a decision on special actions or administrative matters. Liaisons representing the Regional Advisory Councils are invited but do not routinely attend work sessions; they may do so either in person or via teleconference as dictated by the agenda. The State liaison is invited to participate in all work sessions.

Public Participation -- Work sessions are open to the public. Although prior public notice is not legally required for the Board to hold a work session, every reasonable effort will be made to provide prior notice and a draft agenda to the public in advance of a work session.

The public generally does not participate in a work session unless the Chair requests either public testimony or testimony by a specific individual(s) on a particular issue. For example, the Chair may permit the proponent of a request for reconsideration (or his/her representative) to present testimony concerning the threshold acceptance or rejection of the request. During Board proceedings prior to a motion (as applicable) the Council and State liaisons in attendance will fully participate and be recognized by the Chair when they want to ask questions, raise concerns or provide additional information or clarification. Once a motion is made, all deliberations are limited to the members of the Board. However, Board members may ask for additional testimony, information and/or clarification, from the liaisons, Federal/State staff, and/or members of the public.

Record keeping -- A record is not required to be kept at a work session unless the Board plans to make a decision. In that event, a record will be kept only of that portion of the meeting during which a decision was made. At the discretion of the Chair, records of non-decision portions of work sessions may be kept.

C. Executive Sessions

Purpose -- Executive sessions are held at the discretion of the Chair for the purpose of reviewing proprietary data or private information, engaging in attorney-client communications, making decisions on personnel matters (including Regional Advisory Council nominations), and addressing other issues determined by the Chair to be appropriate for a closed session and for which a public meeting is not required by law. The Board will minimize the use of executive sessions to the extent possible and will not engage in regulatory rulemaking or act on regulatory proposals during an executive session.

Attendance – A quorum of Board members is not required to hold an executive session. However, a quorum is required if the Board is rendering a decision on an administrative issue, such as Regional Advisory Council nominations, that requires a vote. Only Board members,

legal counsel, Interagency Staff Committee members, and required support staff may attend executive sessions unless the Chair concludes that a particular individual's input is required on a specific issue.

Public Participation -- Executive sessions are closed to the public. Although prior public notice is not legally required for the Board to hold an executive session, every reasonable effort will be made to provide prior notice and a draft agenda to the chairs of the Regional Advisory Councils and public in advance of an executive session. If an executive session is called during a public meeting, the topics to be discussed will be announced prior to the executive session and upon its conclusion a general summary of the topics discussed will be announced to the public.

Record keeping -- A summary of each executive session will be kept and at a minimum will include who was in attendance and subjects that were discussed. This summary will be available to the Regional Advisory Councils and, upon request, the public.

V. EMERGENCY SPECIAL ACTIONS

The Board may take action on requests for emergency special actions at public meetings; work sessions, or by telephonic/e-mail polling. A meeting that is open to the public is the preferred forum. A quorum of the Board must participate. As set forth in § ____ .19(a) of the Board regulations, no prior public notice of the Board's action on an emergency special action is required. However, a record of the Board's discussion and decision-making process must be compiled and retained.

VI. VOTING

Decisions of the Board on agenda items will be by majority vote. All members of the Board, including the Chair, shall vote, unless abstaining. In the event of a tie vote, a motion fails.

VII. DECISIONS

The Chair will initiate Board action on a proposed regulatory rulemaking by entertaining a motion on a proposal. When offering such a motion, or additional motions to amend, a Board member must either state his or her reasoning on the record, or expressly adopt reasons offered by a Regional Advisory Council, the Interagency Staff Committee, the State of Alaska, or a testifying member of the public.

- A motion should address the proposal and be made in the positive, that is, to adopt the proposal. The motion should be clear and understandable. The motion should be followed by a clear statement of position in terms of how the motion maker intends to vote. This should be followed by a statement as to how the position relates to the Regional Advisory Council's recommendation; e.g. "contrary to" or "consistent with" the Council's recommendation.

- If the position is contrary to a Council’s recommendation, it must be supported by a rationale that addresses at least one of the three criteria from § 805(c). A Council recommendation may be rejected when it is 1) not supported by substantial evidence, 2) violates recognized principles of fish and wildlife conservation, or 3) would be detrimental to the satisfaction of subsistence needs.
- § 815 authorizes restrictions to non-subsistence uses only when necessary for the conservation of healthy populations of fish and wildlife (natural and healthy populations in a national park or monument), to continue subsistence uses of such populations, for reasons of public safety or administration, or pursuant to other applicable law.

When a Board member votes in favor of a motion on a regulatory rulemaking, it is presumed that he or she agrees with the reasoning and justification set forth by the movant, unless the Board member casting the vote states, on the record, a different justification for voting in favor of the motion. Any written materials proffered to or relied upon by the Board when making its decision shall be preserved as part of the administrative record.

When offering a motion on a matter not involving a regulatory rulemaking, a Board member may verbally state his or her reasoning and justification. This statement shall be incorporated into the meeting record if one is being kept.

VIII. MEETING RECORD

An accurate and complete record of every public meeting and every portion of work sessions in which the Board makes decisions will be prepared within thirty days after the meeting. Summaries of executive sessions will be maintained in the administrative record. At the discretion of the Chair, records of non-decision portions of work sessions or Board polling may also be prepared. The U.S. Fish and Wildlife Service shall be responsible for retaining an original copy of the meeting record for inclusion in the Board’s administrative record. Copies of records of public sessions will be made available to the public on the Federal Subsistence Management Program website.

IX. OTHER

These guidelines do not create any legally cognizable rights or impose any legal obligation on the Secretary, the Board, and its members, the members of the Regional Advisory Councils, the State of Alaska, or any employee of the Federal government. Rather, the Board has compiled these guidelines for the sole purpose of providing a general framework for conducting its administrative and decision-making functions. They are not intended to anticipate or encompass each and every function of the Board, nor do they impose any limitations on the Board’s ability to fulfill its duties under Title VIII of ANILCA. Consequently, the Chair and the Board retain the discretion to adjust, modify, or deviate from these guidelines when required by law or when unusual or unanticipated circumstances warrant such actions. It is the Board’s intent to be fully transparent when this policy is revised, as such, when revised this policy will be posted on the Federal Subsistence Management Program website.

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