

MEMORANDUM

STATE OF ALASKA

Department of Law

To: Jim Marcotte
Executive Director
Alaska Board of Fisheries
Kristy Tibbles
Executive Director
Alaska Board of Game

Date: October 4, 2007

File No.: 993-08-0049

Tel. No.: 269-5235

From: Lance B. Nelson
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Natural Resources Section,
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Subject: **Comments on Specific
Proposals Scheduled for
October 5-8, 2007 Joint Boards
of Fisheries and Game Meeting**

The Department of Law has the following comments on certain of the proposals to be considered by the Joint Boards of Fisheries and Game at its October 5-8 Meeting on Advisory Committee and Non-subsistence-Area issues:

Proposals 33-36: These proposals deal with the way Advisory committees participate in Board meetings. The proposals are not regulatory in the sense that their requests can be considered and granted by either or both boards without adoption of a regulation. No regulation governs the way that Advisory Committee representatives currently participate in board meetings. If the Joint Boards or either board, individually, desires to institute the practices proposed, they can do that without adopting a regulation.

We believe that because Advisory Committees are statutory creations with a defined responsibility to advise, and make recommendations to, the boards, it is permissible to give additional opportunity for Advisory Committee representatives to testify longer than other members of the public during the public testimony portion of board meetings, and to be called upon for further information during deliberations, as deemed appropriate by either board. It should be remembered, however, that increased participation is justified by the committee's representative speaking for the committee as a whole, and not as an individual.

Proposals 37-38: Similar to past advice we've given on proposals to modify Customary and Traditional Determinations, the Joint Boards should carefully consider proposals to modify Nonsubsistence Area regulations. The current Nonsubsistence Area regulations are presumed to be legally valid. They were based on an extensive administrative record, and reviewed and approved by the Department of Law. We recommend that, in considering the current proposals, the Joint Boards concentrate on any new information that has been developed since the adoption of the current regulations in 1993.