

(The following proposal has been scheduled for the March 2007 meeting)

PROPOSAL 255 (Formerly ACR #5) - 5 AAC 37.100. Permits; 5 AAC 37.200. Seasons; 5 AAC 01.713. Subsistence use of aquatic plants in Southeastern Alaska Area; and 5 AAC 01.745(d). Subsistence bag and possession limits. Allow non-commercial harvest of aquatic plants statewide as follows:

5 AAC 37.100. Permits. A processor, buyer, harvester of aquatic plants, aquatic plant farmer operating under a permit authorized by AS 16.40.100, or a person intending to collect and supply wild stock to such an aquatic farm must obtain a harvest permit issued by the commissioner, or the commissioner's authorized representative, before operating, **except that a permit is not required for the harvesting of aquatic plants for noncommercial uses outside the nonsubsistence areas as defined in 5 AAC 99.015.** The permit must include the following provisions: (see 5AAC 37.100 (1) through (5)).

5 AAC 37.200. Seasons. The opening and closing dates of harvesting of aquatic plants will be made by emergency order, **except that there is no closed season for the noncommercial harvesting of aquatic plants outside the nonsubsistence areas as defined in 5 AAC 99.015.**

5 AAC 01.713. Subsistence use of aquatic plants in Southeastern Alaska Area. **Repealed XX/XX/XX.**

5 AAC 01.745(d). **Repealed XX/XX/XX.**

ISSUE: Noncommercial harvesting of aquatic plants, primarily seaweeds and kelp, is common and widespread in coastal communities of Alaska. Under AS 16.05.920, "Unless permitted by AS 16.05 – AS 16.40 or by regulation adopted under AS 16.05 – AS 16.40, a person may not take, possess, transport, sell, offer to sell, purchase, or offer to purchase fish, game, or marine aquatic plants, or any part of fish, game, or aquatic plants, or a nest or egg of fish or game." Except in the Southeastern Alaska Area (5 AAC 01.713, 5 AAC 01.745(d)), current regulations do not allow the harvesting of aquatic plants unless the harvester obtains a permit issued by the department (5 AAC 37.100) and a season is opened by emergency order (5 AAC 37.200). Although there is no legally-mandated subsistence priority in statute for taking aquatic plants, the board may identify customary and traditional uses and provide for a noncommercial taking of aquatic plants, as the board has done in the Southeastern Area.

Until recently, the permit requirement and closed seasons for noncommercial harvesting of aquatic plants have not been enforced by the Alaska Bureau of Wildlife Enforcement because the impact of such harvesting was negligible. However, in a well-publicized incident in April 2006, citations were issued to seaweed gatherers in Seward due to excessive harvests that had caused damage to kelp beds. This harvest occurred in an area readily accessible by road, and could remain prohibited if the Board only allows noncommercial harvesting of aquatic plants in less accessible areas, such as those outside the nonsubsistence areas already defined in regulation (5 AAC 99.015). The April 2006 enforcement action highlighted the lack of authorizing regulations, except in Southeastern Alaska, for the small-scale noncommercial harvests of

aquatic plants that continue to occur in the more remote communities outside the nonsubsistence areas.

If the Board chooses to schedule a discussion of this topic, the Department will provide information on historic and current noncommercial uses of aquatic plants in communities outside the nonsubsistence areas in the form of a customary and traditional use worksheet.

There has been no Board of Fisheries discussion of noncommercial uses of aquatic plants in any area of the state other than the Southeastern Area. Therefore, noncommercial harvesting of aquatic plants in most of the state is closed unless opened by emergency order, and all harvesters are required to obtain a permit even for harvesting small amounts of aquatic plants for home use and sharing. This is likely an oversight, and not a deliberate restriction on traditional uses, due to the lack of management issues related to aquatic plants outside the nonsubsistence areas. Also, because the board has no authority to adopt preferential subsistence regulations for aquatic plants, Department of Law advises that all regulations governing the noncommercial harvest of aquatic plants should be placed in 5 AAC 37 and that 5 AAC 01.713 and 5 AAC 01.745(d) be repealed. The proposed change to 5 AAC 37 will effectively subsume those regulations.

All Alaskans may participate in the taking of fish, wildlife, and aquatic plant resources for noncommercial uses. We do not foresee any increases in noncommercial harvests outside the nonsubsistence areas resulting from adoption of the proposed regulation that would require reallocation of aquatic plant resources.

WHAT WILL HAPPEN IF NOTHING IS DONE? Consideration will be delayed and would further prolong the lack of opportunity in most of the state to engage in noncommercial harvests of aquatic plants.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? NA

WHO IS LIKELY TO BENEFIT? Those interested in harvesting aquatic plants.

WHO IS LIKELY TO SUFFER? No one

OTHER SOLUTIONS CONSIDERED? None

PROPOSED BY: Alaska Department of Fish and Game

(ACR-005)

(The following proposal has been scheduled for the March 2007 meeting)

PROPOSAL 256 (Formerly ACR # 7) - 5 AAC 39.XXX new regulation. This proposal is to provide the board the opportunity to address the transport of live fish. With the exception of statute AS 16.10.240 that allows the shipments of live crab out of Alaska, there are no regulations involving the live shipments of any of the other species taken in the commercial, sport, and subsistence fisheries in Alaskan waters. This would create a new regulation.

ISSUE: There has been an increase in applications to ship live fish out of Alaska. The department feels that a statewide regulation requiring a commissioner's permit is necessary to allow the commissioner the discretionary authority to control the species and areas of specific concern. In addition it is necessary to put into regulation when and where the fish ticket on live shipments would be filled out and who was responsible for the fish ticket.

WHAT WILL HAPPEN IF NOTHING IS DONE? There will continue to be a lack of guidelines and regulation.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Possibly.

WHO IS LIKELY TO BENEFIT? Anyone wanting to ship live product and the department with guidelines to use.

WHO IS LIKELY TO SUFFER? No one.

OTHER SOLUTIONS CONSIDERED? None

PROPOSED BY: Alaska Department of Fish and Game (ACR-007)

(The following proposal has been scheduled for the March 2007 meeting)

PROPOSAL 257 (Formerly ACR # 8) - 5 AAC 39.XXX new regulation. This proposal is asking to create a statewide regulation to authorize the use of net pens under the conditions of a commissioner's permit. This would create a new regulation.

ISSUE: The current interest in this processing method is increasing. A statewide regulation would give management staff the option to permit net pens in appropriate areas as a way to further enhance fish marketability.

WHAT WILL HAPPEN IF NOTHING IS DONE? There would not be a statewide approach to the use of net pens.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Yes.

WHO IS LIKELY TO BENEFIT? Everyone.

WHO IS LIKELY TO SUFFER? No one.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Alaska Department of Fish and Game (ACR-008)

(The following proposal has been scheduled for the March 2007 meeting)

PROPOSAL 258 (Formerly ACR # 17) - 5 AAC 75.026. Use of sport-caught fish as bait. Create a new regulation to allow the use of sport caught pink and chum salmon for bait in sport, personal use and subsistence fisheries.

(d) Notwithstanding 5 AAC 75.026, in the Southeast Alaska Area, pink and chum salmon taken in a sport fishery may be used as bait in a sport, personal use, or subsistence fishery.

ISSUE: During the January, 2006 Southeast Alaska Board of Fisheries meeting, the Board received two proposals requesting that the Board allow sport-caught pink and chum salmon as allowable bait for sport fishing and personal use shellfish pots. The Board was inclined to approve these proposals but received advice from Department of Law staff that the Commissioner has not authorized such uses as he has for commercial, personal use, and subsistence-caught salmon in 5 AAC 93.350(a).

After the January board meeting, the Chairman submitted a letter to the Commissioner requesting that he amend 5 AAC 93.350(a) to allow the Board to consider allowing the use of sport-caught salmon as allowable bait in sport, personal use, and subsistence fisheries. The Commissioner agreed to this request and amended the regulation.

Now the Board has the authority to consider proposals that would allow sport-caught salmon as bait. The department is submitting this proposal to allow the use of sport-caught pink and chum salmon as legal bait in sport, personal use, and subsistence fisheries in the Southeast Alaska regulatory area.

Adoption of a proposal to allow sport-caught salmon as bait would not change sport fishing bag or possession limits for these species already established by the Board. It would allow an additional legal use for the salmon harvested. Allowing sport caught pink and chum salmon as bait may increase the sport harvest by some unknown degree, but there are no known conservation concerns for these species in Southeast Alaska.

WHAT WILL HAPPEN IF NOTHING IS DONE? Nothing.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Yes, the salmon caught would have full utilization.

WHO IS LIKELY TO BENEFIT? Sport fisherman.

WHO IS LIKELY TO SUFFER? No one.

OTHER SOLUTIONS CONSIDERED? None.

PROPOSED BY: Alaska Department of Fish and Game (ACR-017)

(The following proposal has been scheduled for the March 2007 meeting)

PROPOSAL 259 - 5 AAC 39.167. Commercial fishing closures around essential fishery habitat areas. This proposal would create a new regulation that would restrict fishing gear in habitat protection and conservation areas to conserve essential fish habitat as follows:

5 AAC 39.167. Commercial fishing closures around essential fishery habitat areas. (a) In state waters the following essential fish habitat areas are closed to commercial fishing gear as follows:

- (1) in the Aleutian Islands Coral Habitat Protection Area, closed to nonpelagic trawl, dredge, dinglebar, pot, and hook and line gear;
- (2) in the Aleutian Islands Habitat Conservation Area, closed to nonpelagic gear;
- (3) in the Bowers Ridge Habitat Conservation Zone, closed to nonpelagic trawl, dredge, dinglebar gear;
- (4) in the Gulf of Alaska Slope Habitat Conservation Areas, closed to nonpelagic trawl gear;
- (5) in the Gulf of Alaska Coral Habitat Protection Areas, closed to nonpelagic trawl, dredge, dinglebar, pot, and hook and line gear;
- (6) Alaska Seamount Habitat Protection Areas, closed to nonpelagic trawl, dredge, dinglebar, pot, and hook and line gear.

(b) The areas listed in (a) of this subsection are further defined in 71 CFR 36694, July 28, 2006.

ISSUE: To coordinate with federal regulations the commissioner of Fish and Game closed these waters by emergency order, this proposal if adopted puts that emergency order into regulation.

WHAT WILL HAPPEN IF NOTHING IS DONE? The public will not have a regulation to review only a standing emergency order.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED? Not applicable.

WHO IS LIKELY TO BENEFIT? No one.

WHO IS LIKELY TO SUFFER? Any one who might have used the restricted gear and fished in the listed areas.

OTHER SOLUTIONS CONSIDERED? Continue emergency order.

PROPOSED BY: Alaska Board of Fisheries
