

ALASKA DEPARTMENT OF FISH AND GAME

Staff Comments on Statewide Finfish Proposals

Board of Fisheries Meeting

Anchorage, Alaska

March 9 – March 13, 2007



These staff comments were prepared by the Alaska Department of Fish and Game for use at the Alaska Board of Fisheries Statewide Finfish Meeting, March 9-13, 2007, in Anchorage, Alaska. The comments are designed to assist the public and board. The stated staff comments should be considered preliminary and subject to change, if or when new information becomes available.

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* Note, proposal was discussed during the Jan. 31-Feb. 5, 2007 Arctic-Yukon-Kuskokwim finfish meeting. Separate document labeled RC 4.

PROPOSAL 226: 5 AAC 39.120. Registration of commercial fishing vessels.

PROPOSED BY: Dominic Lee

WHAT WOULD THE PROPOSAL DO? This proposal would allow the registration of a fishing vessel in more than one registration area in the same year. It would also allow an individual to operate multiple salmon fishing permits of different registration areas in the same year.

WHAT ARE THE CURRENT REGULATIONS? 5 AAC 39.120. Registration of commercial fishing vessels, (c)(1) states that a person who owns a fishing vessel to be used to take salmon shall register for one area and that it is unlawful for a vessel to engage in salmon net fishing in an area other than the one selected.

5 AAC 39.115. Designation of salmon net registration area. This regulation requires the holder of more than one salmon net gear permit to designate the area in which he desires to fish in that year.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? If the proposal is adopted, the owner of multiple salmon fishing permits of different registration areas would be able to operate those permits on the same vessel in the same year.

BACKGROUND: By regulation, the board requires Alaska salmon fishermen to choose a single registration area in which to fish each season and to register their fishing vessel for a single area. The Alaska Commercial Fisheries Entry Commission (CFEC) has adopted complementary regulations (20 AAC 05.1940, 20 AAC 05.1942, and 20 AAC 05.1944).

Some permit holders circumvent these requirements by transferring a second permit to a family member or crew member in order to fish in more than one registration area. Such an operation would require the use of a unique and properly registered vessel for each of the registration areas fished, and for the new permit holder to have registered in the intended area. There is some inherent risk in this methodology in that CFEC may seize a permit that is not properly transferred. Additionally, if a permit is properly transferred, the original owner of the permit has no recourse if the new owner chooses to dissolve an arrangement as previously described and retain the permit. These risks are believed to limit this activity to some extent.

CFEC has published comments regarding the potential benefits and downsides of these regulations in *Outline of Options for Fleet Consolidation in Alaska's Salmon Fisheries*, (CFEC 1998 at 21 – 23).

Alaska salmon fishermen have been required to choose a single salmon registration area since before statehood for the benefit of local Alaska fishermen. This issue has been ruled upon by the Alaska Supreme Court in State v. Hebert, 803 P.2d 863 (Alaska 1990). The Alaska Supreme Court upheld the board's authority to require superexclusive area registration in some Western Alaska herring fisheries, while commenting with approval on the salmon net area requirement as an analogy.

DEPARTMENT COMMENTS: The department is NEUTRAL on this proposal. Limited entry ensures that permit numbers within each area are fixed, however participation levels, and thus competition, in some fisheries might increase if latent permits are utilized as a result of the adoption of this proposal. By creating a new market for latent permits, permit values in affected fisheries may increase. In addition, the cost of owning and maintaining multiple vessels in order to participate in more than one salmon net fishery might be reduced by the adoption of this proposal.

COST STATEMENT: The department does not believe that approval of this proposal will result in an additional direct cost for an individual to participate in this fishery.

PROPOSAL 227: 5 AAC 39.280. Identification of stationary fishing gear.

PROPOSED BY: Dan Barr

WHAT WOULD THE PROPOSAL DO? This proposal would change the statewide identification requirements for set gillnet gear and fish wheels. It would require the owner or operator of a set gillnet in operation to place clear identification in a conspicuous place or within 50 feet of the set gillnet. For both gear types, it would specify the name of the fisherman would be in letters at least six inches high with lines at least one inch wide and the CFEC number would be in numbers at least 12 inches high with lines at least one inch wide. Additionally, with increasing distance from the sign to the offshore end of a set gillnet, the height and line width of the letters and numbers would increase.

WHAT ARE THE CURRENT REGULATIONS? The current regulation requires the name of the operating fisherman and the CFEC number be placed in a conspicuous place on or near the set gillnet or fish wheel. The identification name and numbers for fish wheels must be placed on the side of the fish wheel facing midstream of the river. The CFEC numbers must be at least six inches in height with lines at least one inch wide for both fish wheels and set gillnets. There is no size guideline for the name of the operating fisherman.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? If the proposal is adopted, all set gillnet and fish wheel operators would have to modify their identification signage to comply with new letter and number specifications.

BACKGROUND: The current marking requirements for set gillnet gear and fish wheels are intended to provide ADF&G and ABWE personnel with the information necessary to contact the owner/operator of the gear. There are no requests from ADF&G or ABWE for a larger means of identification for set gillnets or fish wheels nor reports of problems with the current system.

DEPARTMENT COMMENTS: The department is **OPPOSED** to this proposal. The addition of a tiered system of marking set gillnets is considered onerous to the operators of these gear types and unnecessary to the enforcement function.

COST STATEMENT: The department believes that approval of this proposal will result in an additional direct cost for an individual to participate in these fisheries. All set gillnet and fish wheel operators will have to change the letter and number height on their signage which will likely require larger sign placards.

PROPOSAL 229: 5 AAC 39.130. Reports required of processors, buyers, fisherman, and operators of certain commercial fishing vessels; transporting requirements.

PROPOSED BY: Alaska Department of Fish and Game

WHAT WOULD THE PROPOSAL DO? This proposal, if adopted, would repeal the current regulation and simultaneously the Commissioner would readopt the reporting regulation and split the existing regulation into two parts. One regulation would reflect the board's authority and the other regulation would reflect the authority of the Commissioner of Fish and Game.

WHAT ARE THE CURRENT REGULATIONS? The current regulation outlines the reporting requirements of processors, buyers, fisherman, and the operators of certain commercial fishing vessels and transporting requirements. The regulation requires an Intent to Operate application to be filed with the department before engaging in these activities and for each Intent to Operate application filed with the department, a Commercial Operator's Annual Report must be filed at the end of the year summarizing the operator's activity or a signed statement of nonactivity.

This regulation also outlines the requirements and activities allowed by catcher/sellers. In addition, the proposal goes into great detail on the reporting requirements of processors, buyers, fisherman, and operators of certain commercial fishing vessels and transporting vessels; pertaining to fish tickets, notifying the department prior to certain activities (i.e. a unlicensed commercial fishing vessel entering state waters must notify the department), and the transporting of fishery resources.

Two requirements (Southeast red sea urchin and Arctic-Yukon-Kuskokwim salmon) have been identified under this regulation and would be placed in their appropriate chapters if the proposal is adopted.

WHAT WOULD BE THE EFFECTS IF THE PROPOSAL IS ADOPTED? The department would continue to collect the same information and as the commissioner adopts this regulation, new language will be added to clarify the reporting requirements.

1. Southeast Red Sea Urchin reporting requirements will be placed in chapter 38 (5 AAC 38.14X).
2. The Arctic-Yukon-Kuskokwim transporting of salmon or salmon roe wording would be placed in chapters 3, 4, 5, and 7 of the AYK reporting requirements.

The commissioner would adopt the Intent to Operate, Commercial Operator's Annual Report, fish tickets, and other reporting requirements of this regulation and in doing so would address the following:

1. Definitions of the different types of license/permits issued under the Intent to Operate application will be added.
2. The eLandings fish ticket reporting system would be identified.

3. Clarify which parties are required to file the Commercial Operator's Annual Report, Intent to Operate application and fish tickets.

4. Address the confusion of what is required to be supplied to the department on a fish ticket.

BACKGROUND: Both the board and the commissioner have regulatory authority over fish ticket requirements. The commissioner has the most direct authority to adopt fish ticket reporting requirements under AS 16.05.690(a). The department feels that it makes more sense for the commissioner to take full responsibility for fish tickets for several reasons. Fish tickets generally apply to all species; the board's three year cycle schedule does not contain a category for regulations that apply to all species. Fish ticket issues arise almost every year, and it would be helpful if these issues could be addressed quickly. The commissioner is not tied to the three year cycle and can address any issues that arise in an expedited manner. Most of the issues that arise deal with specific, technical, and enforcement concerns rather than allocative, conservation or development concerns which are more appropriately addressed by the board.

In addition, as it is written now this regulation does not contain all current reporting needs, nor does it address all the various permit possibilities. Consequently, staff and members of the public experience confusion when trying to decide who is responsible for submitting fish tickets, who is responsible for the Department of Fish and Game's Commercial Operator's Annual Report, and what configuration of permit possibilities applies to whom.

Recently, the department, the International Pacific Halibut Commission, and the National Marine Fisheries Service have developed a web-base reporting system called eLandings. This system provides the seafood industry (in certain fisheries) with the ability to submit fish tickets electronically. Currently, the regulation does not address the requirements of this system nor any data collection tool that might be put into place as the industry evolves.

DEPARTMENT COMMENTS: The department, along with the Department of Law, submitted this proposal and SUPPORTS it. By placing the reporting section of this regulation under the authority of the commissioner, the department can address reporting requirements on a yearly basis and clarify requirements as the industry changes and new data collection tools, such as eLandings, are implemented.

COST ANALYSIS: The department does not believe that approval of this proposal would result in additional costs for a person, company, firm, or other organization.

PROPOSAL: 231. 5 AAC 39.250. Gillnet specifications and operations.

PROPOSED BY: Paul A. Shadura II

WHAT WOULD THE PROPOSAL DO? This proposal would disallow the use of monofilament gillnets in salmon fisheries statewide.

WHAT ARE THE CURRENT REGULATIONS? Current regulations allow fishermen in the Cook Inlet Area to use up to 50 fathoms of monofilament mesh web in a drift gillnet or up to 35 fathoms of monofilament mesh web in a set gillnet by emergency order. Before a person uses monofilament mesh web under this subsection, that person must register with the department. The provisions in this subsection do not apply after December 31, 2007.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? If this proposal is adopted, monofilament gillnets would not be a legal gear in salmon fisheries statewide.

BACKGROUND: The use of monofilament gear went into effect for the 2005 fishing season in Cook Inlet. Prior to the board's allowance of this gear, there were comments and discussion on several factors. These factors included cost of monofilament vs. multifilament webbing, catch effectiveness, drop out rates salmon. The current proposal also has language that if there are adverse effects from using monofilament mesh web, the commissioner may close, by emergency order, the fishing season where the use of monofilament mesh web is allowed.

DEPARTMENT COMMENTS: The department is NEUTRAL on this proposal. Currently it is unclear what the affect has been for fishermen using monofilament gear during the past two seasons. With a Cook Inlet BOF meeting scheduled in February of 2008, it may be warranted to wait until after the 2007 fishing season prior to assessing this proposal.

COST ANALYSIS: The department believes that adoption of this proposal may result in an additional direct cost for some private persons to participate in this fishery.

PROPOSAL 243: 5 AAC 39.130. Reports Required of Processors, Buyers, Fishermen, and Operators of Certain Commercial Fishing Vessels; Transporting Requirements.

PROPOSED BY: Midnight Sun Chapter of Trout Unlimited

WHAT WOULD THE PROPOSAL DO? This proposal would require CFEC permit holders throughout Alaska to report on an ADF&G fish ticket the number of steelhead trout taken in commercial fisheries at the time of delivery to a buyer.

WHAT ARE THE CURRENT REGULATIONS? 5AAC 39.130. Reports required of Processors, Buyers, Fishermen, and Operators of Certain Commercial Fishing Vessels; Transporting Requirements (c) requires that “each buyer of raw fish, each fisherman selling to a buyer not licensed to process fish (a catcher/seller), and each person or company who catches and processes his or her own catch or has that catch processed by another person or company, shall record each landing on an ADF&G fish ticket.” Further stated in 5AAC 39.130 (c): “The record must include the following: (8) information applicable to the following species: (C) the pounds of other fish or shellfish by species;” Under 5AAC 39.130 fish tickets must be imprinted with the CFEC card at the time of delivery only and must be submitted to the department within seven days after landing.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? If this proposal is adopted it would require that steelhead caught incidentally during commercial fisheries and sold are correctly reported on a fish ticket at the time of delivery. Current regulations already require this, so this regulation would simply provide clarification by adding a specific reference to steelhead.

BACKGROUND: The harvests of all commercially caught fish that are sold must be reported to the department on ADF&G fish tickets.

The geographic range of steelhead within Alaska includes coastal streams from Dixon Entrance in southeast northward and west around the Gulf of Alaska down to the Cold Bay area of the Alaska Peninsula. There are no steelhead in Bristol Bay, north of the Chignik River system or on the Alaska mainland west of the Susitna River.

DEPARTMENT COMMENTS: The department SUPPORTS this proposal.

COST STATEMENT: The department does not believe that approval of this proposal will result in any additional direct cost for a private person to participate in this fishery.

PROPOSAL 233: 5 AAC 75.003. Emergency order authority.

PROPOSED BY: Frank Casey

WHAT WOULD THE PROPOSAL DO?

If adopted, this proposal would require the department to issue an emergency order to allow crew members working on charter vessels to harvest up to eight halibut per year.

WHAT ARE THE CURRENT REGULATIONS?

The statewide halibut regulations allow all anglers, including sport fishing guides and crew members working on charter vessels, to harvest two halibut per day with no size limit and no annual limit. Some regulatory areas have more restrictive regulations in place for sport fishing guides and crew members.

Halibut are managed by the federal government due to an international halibut treaty with Canada. Halibut regulations are established by the International Pacific Halibut Commission (IPHC) or the North Pacific Fishery Management Council (Council). The BOF may not adopt halibut regulations, unless they are exactly the same as existing federal regulations.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED?

Sport fishing guides and crew members working on charter vessels would be limited to an annual limit of eight halibut when clients were on board.

BACKGROUND:

The BOF cannot adopt regulations for halibut unless the same regulation already exists in federal regulations.

DEPARTMENT COMMENTS: The department is OPPOSED to this proposal.

COST STATEMENT: The department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.

PROPOSAL 239: 5 AAC 75.003. Emergency order authority.

PROPOSED BY: Alaska Department of Fish and Game

WHAT WOULD THE PROPOSAL DO?

If adopted, this proposal would allow the department to change annual limits by emergency order if the criteria cited in the statewide emergency order regulation are met.

WHAT ARE THE CURRENT REGULATIONS?

The existing statewide emergency order regulation allows the department to decrease sport fishing bag and possession limits and restrict methods and means by emergency order when the escapement is projected to be less than the escapement goal or the sport harvest must be curtailed for conservation reasons.

This existing regulation also allows the department to increase sport fishing bag and possession limits and liberalize methods and means by emergency order when the escapement is projected to exceed the escapement goal or if hatchery produced fish return to designated harvest areas in numbers that exceed broodstock needs, any natural spawning requirements, or cost recovery goals.

However, the department can not change annual limits by emergency order. Annual limits must be established by the board within a management plan adopted into regulation; or through the emergency regulation process, which is more complicated and time consuming, and is limited to 90 days in duration.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED?

The department would be able to change annual limits based on the criteria in the existing regulation in a timely manner to either reduce harvest when runs are poor or to increase harvest potential when runs are very good.

BACKGROUND:

When strong runs have been documented in the past the department has been able to increase bag and possession limits but the overall harvest potential of the sport fishery has been hampered by low annual limit regulations that were in place. The same problem occurs when poor runs have been observed. If the board allows the department to change annual limits by emergency order additional management flexibility will be provided to manage runs based on abundance.

DEPARTMENT COMMENTS: The department submitted this proposal and continues to SUPPORT it.

COST STATEMENT: The department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.

PROPOSAL 234: 5 AAC 75.022(c). Fresh water sport fishing.

PROPOSED BY: Dwight Kramer

WHAT WOULD THE PROPOSAL DO? This proposal would allow anglers to retain sockeye salmon that are unintentionally hooked elsewhere than in the mouth. It would still be unlawful to intentionally snag or attempt to snag any fish in fresh water.

WHAT ARE THE CURRENT REGULATIONS? It is unlawful to intentionally snag or attempt to snag any fish in fresh water. Fish unintentionally hooked elsewhere than in the mouth must be released immediately. “Snag” means hook a fish elsewhere than in the mouth.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? If this proposal were adopted it would increase the harvest of sockeye salmon by increasing angler efficiency. The increased harvest efficiency could alter present allocations among commercial, sport, and personal use fishermen and could also attract additional participants.

BACKGROUND: Snagging has been prohibited in the fresh waters of Alaska since 1975.

DEPARTMENT COMMENTS: The department is **OPPOSED** to this proposal. This proposal is similar to a number of proposals that have been submitted to the board during previous meetings. The proposal indicates that the intent is not to permit snagging, but to allow retention of sockeye salmon that are hooked elsewhere than in the mouth. In effect this would be a liberalization of the current anti-snagging regulation and would make enforcement of that part of the regulation which prohibits intentional snagging difficult.

COST ANALYSIS: The department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.

PROPOSAL 235: 5 AAC 75.011. Sport fishing by proxy.

PROPOSED BY: Howard Delo

WHAT WOULD THE PROPOSAL DO? This proposal would eliminate the sport fish proxy system in the nonsubsistence use areas of the state.

WHAT ARE THE CURRENT REGULATIONS? Alaska's proxy laws allow Alaska residents to harvest fish and shellfish for other Alaska residents who meet at least one of the following three criteria:

- 65 years of age or older;
- Legally blind (affidavit required);
- 70% or greater physically disabled (affidavit required).

These are the only three conditions for which proxy fishing is allowed. If none of these conditions apply, then proxy fishing for that resident is not allowed. The intent of the proxy fishing program is to provide food for Alaska residents who are unable to harvest fish for themselves due to one of the above three conditions. The person doing the fishing is called the "proxy." The person receiving the fish is called the "beneficiary." Proxy fishing is allowed in Alaska's sport, personal use, and subsistence fisheries under very similar rules. A Proxy Fishing Information Form is required to be completed and is only available from ADF&G offices or on-line.

The proxy fishing program allows an angler to take his/her own bag limit and one beneficiary's bag limit in the same day. The angler may not take more than 2 bag and possession limits during any fishing trip, and they may not fish with more than one legal limit of gear. The beneficiary may not take or attempt to take fish or shellfish at the same time as his/her proxy is attempting to take fish for them. The beneficiary cannot give or receive money, goods, or services to have someone fish for them. This restriction applies to any type of reimbursement, including gas, food or lodging.

When proxy fishing, the angler must carry the ADF&G-certified Proxy form, his/her fishing license or ADF&G PID card, the original fishing license or ADF&G PID card of the beneficiary, and any original permits and harvest record card (if necessary) for themselves and for his/her beneficiary. The angler may not have more than one Proxy form in his/her possession while fishing, and the angler must deliver the fish and return all licenses, permits, and records to that beneficiary before proxy fishing for another beneficiary.

A nonsubsistence area is an area or community where dependence upon subsistence is not a principal characteristic of the economy, culture and way of life of the area or community. The Joint Boards of Fisheries and Game may not permit subsistence hunting or fishing in a nonsubsistence area. The Joint Board established the current nonsubsistence areas as required under AS 16.05.258(c) in 1992. The Joint Board nonsubsistence areas include Ketchikan, Juneau, Anchorage-Matsu-Kenai, Fairbanks, and Valdez nonsubsistence areas (5 AAC 99.015).

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? If this proposal were adopted it would reduce the ability for Alaska residents who live in nonsubsistence use areas and are either 65 years of age or older, legally blind, or 70% or greater physically disabled to have another resident gather fish and shellfish for them. It is likely that the harvest of fish and shellfish would be reduced by some unknown amount.

BACKGROUND: The statute providing for proxy hunting and fishing was designed to provide food for physically incapacitated or older residents who are unable to participate in the physically-demanding activities required to obtain their needs. Approximately 97% of proxy permits are issued from area offices located in nonsubsistence use areas. The actual amount of fish and shellfish harvested under the proxy permit system is unknown.

In 2005:

- 188,697 resident licenses were sold.
- 3,809 proxy permits were issued
- 21 individuals (0.6%) obtained more than two proxy permits out of the 3,809 proxy permits that were issued statewide.

DEPARTMENT COMMENTS: The department is NEUTRAL to this proposal because it is a social problem, not a biological problem. However, the department notes that acceptance of this proposal would effectively eliminate the proxy fishing system developed by the Alaska state legislature because almost all the proxy fishing is likely taking place in nonsubsistence use areas. In addition, fish and shellfish resources are managed for sustained yield by the department regardless of which user group is conducting the harvest.

The Alaska Bureau of Wildlife Enforcement has documented sport fishing and big game proxy violations. While the proxy program is often used for the legitimate purposes there are individuals who have taken advantage of the program for personal benefit. Accountability in the present proxy fishing program is lacking and portions of the program are difficult to enforce, especially the requirement that proxies deliver fish or game to proxy recipients. The Board of Game took recent action to reduce proxy violations by: prohibiting many big game trophy species from being taken by proxy hunters, requiring that antlers of both proxy hunters and proxy recipients be cut to destroy trophy value, eliminating some areas from proxy hunting, and some limitations on the number of persons one hunter may proxy for in a season.

COST ANALYSIS: The department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.

PROPOSAL 236: 5 AAC 75.011. Sport fishing by proxy.

PROPOSED BY: Howard Delo

WHAT WOULD THE PROPOSAL DO? This proposal would eliminate the sport fish proxy system for king and coho salmon.

WHAT ARE THE CURRENT REGULATIONS? Alaska's proxy laws allow Alaska residents to harvest fish and shellfish for other Alaska residents who meet at least one of the following three criteria:

- 65 years of age or older;
- Legally blind (affidavit required);
- 70% or greater physically disabled (affidavit required).

These are the only three conditions for which proxy fishing is allowed. If none of these conditions apply, then proxy fishing for that resident is not allowed. The intent of the proxy fishing program is to provide food for Alaska residents who are unable to harvest fish for themselves due to one of the above three conditions. The person doing the fishing is called the "proxy." The person receiving the fish is called the "beneficiary." Proxy fishing is allowed in Alaska's sport, personal use, and subsistence fisheries under very similar rules. A Proxy Fishing Information Form is required to be completed and is only available from ADF&G offices or on-line.

The proxy fishing program allows an angler to take his/her own bag limit and one beneficiary's bag limit in the same day. The angler may not take more than 2 bag and possession limits during any fishing trip, and they may not fish with more than one legal limit of gear. The beneficiary may not take or attempt to take fish or shellfish at the same time as his/her proxy is attempting to take fish for them. The beneficiary cannot give or receive money, goods, or services to have someone fish for them. This restriction applies to any type of reimbursement, including gas, food or lodging.

When proxy fishing, the angler must carry the ADF&G-certified Proxy form, his/her fishing license or ADF&G PID card, the original fishing license or ADF&G PID card of the beneficiary, and any original permits and harvest record card (if necessary) for themselves and for his/her beneficiary. The angler may not have more than one Proxy form in his/her possession while fishing, and the angler must deliver the fish and return all licenses, permits, and records to that beneficiary before proxy fishing for another beneficiary.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? If this proposal were adopted it would reduce the ability for Alaska residents who are either 65 years of age or older, legally blind, or 70% or greater physically disabled to have another resident gather king and coho salmon for them. It is likely that the harvest of these species would be reduced by some unknown amount.

BACKGROUND: The statute providing for proxy hunting and fishing was designed to provide food for physically incapacitated or older residents who are unable to participate in the physically-demanding activities required to obtain their needs. The actual amount of fish and shellfish harvested under the proxy permit system is unknown.

In 2005:

- 188,697 resident licenses were sold.
- 3,809 proxy permits were issued
- 21 individuals (0.6%) obtained more than two proxy permits out of the 3,809 proxy permits that were issued statewide.

DEPARTMENT COMMENTS: The department is NEUTRAL to this proposal because it is a social problem, not a biological problem. However, the department notes that acceptance of this proposal would effectively eliminate the proxy fishing system developed by the Alaska state legislature since many of the fish harvested are probably king and coho salmon. In addition, fish and shellfish resources are managed for sustained yield by the department regardless of which user group is conducting the harvest.

The Alaska Bureau of Wildlife Enforcement has documented sport fishing and big game proxy violations. While the proxy program is often used for the legitimate purposes there are individuals who have taken advantage of the program for personal benefit. Accountability in the present proxy fishing program is lacking and portions of the program are difficult to enforce, especially the requirement that proxies deliver fish or game to proxy recipients.

COST ANALYSIS: The department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.

PROPOSAL 237: 5 AAC 75.011. Sport fishing by proxy.

PROPOSED BY: Howard Delo

WHAT WOULD THE PROPOSAL DO? This proposal would limit a proxy holder to obtaining only two proxies per year and require the proxy holder to be related within the second degree of kindred to the beneficiary. "Second degree of kindred" is defined as father, mother, son, daughter, brother, sister, grandfather, grandmother, grandson, or granddaughter, in a full, half, or step relationship.

WHAT ARE THE CURRENT REGULATIONS? Alaska's proxy laws allow Alaska residents to harvest fish and shellfish for other Alaska residents who meet at least one of the following three criteria:

- 65 years of age or older;
- Legally blind (affidavit required);
- 70% or greater physically disabled (affidavit required).

These are the only three conditions for which proxy fishing is allowed. If none of these conditions apply, then proxy fishing for that resident is not allowed. The intent of the proxy fishing program is to provide food for Alaska residents who are unable to harvest fish for themselves due to one of the above three conditions. The person doing the fishing is called the "proxy." The person receiving the fish is called the "beneficiary." Proxy fishing is allowed in Alaska's sport, personal use, and subsistence fisheries under very similar rules. A Proxy Fishing Information Form is required to be completed and is only available from ADF&G offices or on-line.

The proxy fishing program allows an angler to take his/her own bag limit and one beneficiary's bag limit in the same day. The angler may not take more than 2 bag and possession limits during any fishing trip, and they may not fish with more than one legal limit of gear. The beneficiary may not take or attempt to take fish or shellfish at the same time as his/her proxy is attempting to take fish for them. The beneficiary cannot give or receive money, goods, or services to have someone fish for them. This restriction applies to any type of reimbursement, including gas, food or lodging.

When proxy fishing, the angler must carry the ADF&G-certified Proxy form, his/her fishing license or ADF&G PID card, the original fishing license or ADF&G PID card of the beneficiary, and any original permits and harvest record card (if necessary) for themselves and for his/her beneficiary. The angler may not have more than one Proxy form in his/her possession while fishing, and the angler must deliver the fish and return all licenses, permits, and records to that beneficiary before proxy fishing for another beneficiary.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? If this proposal were adopted it may reduce the ability for Alaska residents who are either 65 years of age or older, legally blind, or 70% or greater physically disabled and have no relatives in Alaska to have

another resident gather fish and shellfish. It is unknown whether this proposal if adopted would reduce the harvest of fish and shellfish.

BACKGROUND: The statute providing for proxy hunting and fishing was designed to provide food for physically incapacitated or older residents who are unable to participate in the physically-demanding activities required to obtain their needs. The actual amount of fish and shellfish harvested under the proxy permit system is unknown.

In 2005:

- 188,697 resident licenses were sold.
- 3,809 proxy permits were issued
- 21 individuals (0.6%) obtained more than two proxy permits out of the 3,809 proxy permits that were issued statewide.

DEPARTMENT COMMENTS: The department is **OPPOSED** to this proposal. If adopted, enforcement of this proposal would have little or no effect on this social issue due to the low percentage of Alaskan residents who obtain more than two proxy permits. Acceptance of this proposal would require the department to implement an expensive proxy tracking system for less than 1% of all current proxy fishermen who hold more than two proxy permits per year.

COST ANALYSIS:

The department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.

PROPOSAL 238: 5 AAC 75.011. Sport fishing by proxy.

PROPOSED BY: Matanuska Valley Advisory Committee

WHAT WOULD THE PROPOSAL DO? This proposal would limit a proxy holder to obtaining only two proxies per year.

WHAT ARE THE CURRENT REGULATIONS? Alaska's proxy laws allow Alaska residents to harvest fish and shellfish for other Alaska residents who meet at least one of the following three criteria:

- 65 years of age or older;
- Legally blind (affidavit required);
- 70% or greater physically disabled (affidavit required).

These are the only three conditions for which proxy fishing is allowed. If none of these conditions apply, then proxy fishing for that resident is not allowed. The intent of the proxy fishing program is to provide food for Alaska residents who are unable to harvest fish for themselves due to one of the above three conditions. The person doing the fishing is called the "proxy." The person receiving the fish is called the "beneficiary." Proxy fishing is allowed in Alaska's sport, personal use, and subsistence fisheries under very similar rules. A Proxy Fishing Information Form is required to be completed and is only available from ADF&G offices or on-line.

The proxy fishing program allows an angler to take his/her own bag limit and one beneficiary's bag limit in the same day. The angler may not take more than 2 bag and possession limits during any fishing trip, and they may not fish with more than one legal limit of gear. The beneficiary may not take or attempt to take fish or shellfish at the same time as his/her proxy is attempting to take fish for them. The beneficiary cannot give or receive money, goods, or services to have someone fish for them. This restriction applies to any type of reimbursement, including gas, food or lodging.

When proxy fishing, the angler must carry the ADF&G-certified Proxy form, his/her fishing license or ADF&G PID card, the original fishing license or ADF&G PID card of the beneficiary, and any original permits and harvest record card (if necessary) for themselves and for his/her beneficiary. The angler may not have more than one Proxy form in his/her possession while fishing, and the angler must deliver the fish and return all licenses, permits, and records to that beneficiary before proxy fishing for another beneficiary.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? If this proposal were adopted it may reduce the ability for Alaska residents who are either 65 years of age or older, legally blind, or 70% or greater physically disabled to gather fish and shellfish. It is unknown whether this proposal if adopted would reduce the harvest of fish and shellfish.

BACKGROUND: The statute providing for proxy hunting and fishing was designed to provide food for physically incapacitated or older residents who are unable to participate in the

physically-demanding activities required to obtain their needs. The actual amount of fish and shellfish harvested under the proxy permit system is unknown.

In 2005:

- 188,697 resident licenses were sold.
- 3,809 proxy permits were issued (2% of resident licenses sold).
- 21 individuals (0.6%) obtained more than two proxy permits out of the 3,809 proxy permits that were issued statewide.

DEPARTMENT COMMENTS: The department is OPPOSED to this proposal. If adopted, enforcement of this proposal would have little or no effect on this social issue due to the low percentage of Alaskan residents who obtain more than two proxy permits. Acceptance of this proposal would require the department to implement an expensive proxy tracking system for less than 1% of all current proxy fishermen who hold more than two proxy permits per year.

COST ANALYSIS: The department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.

PROPOSAL 240: 5AAC 75.034. Sport fishing gear for northern pike.

PROPOSED BY: Delta Fish and Game Advisory Committee

WHAT WOULD THE PROPOSAL DO? This proposal would set minimum requirements for spears used when fishing for northern pike.

WHAT ARE THE CURRENT REGULATIONS? 5 AAC 75.034. Unless otherwise provided in 5 AAC 47 – 5 AAC 75, northern pike may be taken by spear.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? If adopted, this proposal would set minimum requirements for spears used when fishing for northern pike.

BACKGROUND: Statewide sport fishing regulations permit the use of a spear to take northern pike (5 AAC 75.034), but a spear or its dimensions are not defined in the sport fishing regulations. Under statewide subsistence regulations (5 AAC 01.010(a)(3)) a spear is defined as “a shaft with a sharp point or fork-like implement attached to one end, used to thrust through the water to impale or retrieve fish and which is operated by hand”.

In the Susitna River, Knik Arm, West Cook Inlet, and the Anchorage Bowl drainages, northern pike may be taken by spear in all lakes except Alexander Lake (Susitna River drainage) from January 1 – December 31. In the Kenai Peninsula and Kenai River drainage areas, northern pike may be taken by spear from January 1 – December 31. In the AYK region, northern pike may be taken by spear or bow and arrow from September 1 through April 30. The exceptions are in the Tanana River drainage, where Harding Lake is closed to the taking of northern pike by spear or bow and arrow, the Chatanika and Tolovana River drainages where the open season for northern pike is June 1 through October 14, and in George and Volkmar lakes where the open season is June 1 through March 31. In the Dall River (Yukon River drainage), the open season for northern pike is May 20 through September 30.

The average statewide harvest of northern pike from 2001-2005 was 23,439 fish and average catch was 117,112. The statewide harvest survey does not separate northern pike harvests by rod and reel and spear, as a result, the actual number of northern pike taken by spear is unknown. It is assumed that the majority of northern pike harvested are taken by rod and reel.

DEPARTMENT COMMENTS: The department is **OPPOSED** to this proposal. At this time the department is unaware of any issues associated with the northern pike spear fishery. There is uncertainty whether the proposed specifications would be effective in reduced fishing mortality. In addition, this proposal if adopted would add complexity to the regulations and result in enforcement issues due to the exacting specifications which may cause a sport angler to be in violation due to wear and/or damage to a spear through normal use.

COST ANALYSIS: The department believes that adoption of this proposal would result in additional direct costs for private individuals to participate in the northern pike spear fishery if the angler needs to purchase a new spear to meet the minimum requirements.

PROPOSAL 241: 5AAC 75.995. Definitions.

PROPOSED BY: Ethan Birkholz

WHAT WOULD THE PROPOSAL DO? This proposal would define a “tip up” as an ice fishing mechanism with an attached flag or signal device to indicate fishing action, used to hold a fishing rod, spindle or pole with a spool for line and hook.

WHAT ARE THE CURRENT REGULATIONS? Tip up is not defined under sport fish regulations.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? If adopted, this proposal would require “tip ups” to meet minimum requirements when used for ice fishing.

BACKGROUND: Statewide sport fishing regulations define sport fishing as “the use of a single line having attached to it not more than one plug, spoon, spinner, or series of spinners, or two flies, or two hooks. The line must be closely attended.” (5 AAC 75.020). Ice fishing is further defined as “the use of two closely attended lines, provided only one hook or artificial lure is used on each line, except that additional gear may be used for northern pike and burbot as specified by statewide or area regulations.” “Tip ups” currently fall under the definition of ice fishing gear.

“Tip ups” are commercially available fishing gear that allows an angler to fish, generally with bait, without actively fishing the line. A strike indicator alerts the angler that a fish has taken the bait. “Tip ups” are generally used to target northern pike, lake trout, or burbot where setlines are not permitted. In lakes where there may be a conservation concern for a fish population the department would likely restrict the use of bait to reduce fishing success or associated hooking mortality to reduce harvest. Eliminating bait would negate the effectiveness of “tip ups” and therefore make the prohibition of “tip ups” for a management action a moot point. There is no difference between the terminal gear (baited hooks or lures) in “tip ups” and sport fishing gear. Unless the terminal gear on a “tip up” was different than sport fishing gear the definition for a “tip up” would be unenforceable, due to the wide variety of models of “tip ups” which would make concisely defining a “tip up” difficult.

DEPARTMENT COMMENTS: The department is OPPOSED to this proposal. Due to the variety of “tip ups” available, adoption of this proposal will likely cause confusion among anglers and enforcement staff through interpretation of whether a specific “tip up” meets the definition criteria. The department prefers to take action regarding the use of “tip ups” through bait restrictions as opposed to adding complexity to the regulations which may not resolve the issue.

COST ANALYSIS: The department believes that adoption of this proposal would result in additional direct costs for private individuals to participate in the ice fisheries, if they would be required to purchase a new “tip up” to meet the minimum requirements set in a definition of “tip up”.

PROPOSAL 242: 5 AAC 75.010. Possession of sport-caught fish.

PROPOSED BY: Clinton W. Crusberg

WHAT WOULD THE PROPOSAL DO? This proposal would establish a statewide daily bag limit of 5 king salmon and an annual limit of 5 king salmon.

WHAT ARE THE CURRENT REGULATIONS? There are no statewide bag or annual limit regulations for adult king salmon in freshwaters for resident anglers.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? If this proposal were adopted it may increase the harvest of king salmon statewide and potentially effect the sustainability of king salmon stocks in areas of low abundance and areas of high effort.

BACKGROUND: The following areas have annual limits on king salmon 20” or longer in freshwater for resident anglers:

- Alaska Peninsula/Aleutian Islands – 5 king salmon
- Kodiak Island – 5 king salmon
- Bristol Bay - 5 king salmon
- Cook Inlet - 5 king salmon
- Upper Copper River/Upper Susitna River - 4 king salmon
- Unalakeet River - 2 king salmon
- Nushagak/Mulchatna River – 4 king salmon
- Aniak River - 2 king salmon

The following areas have a daily limit greater than 1 king salmon 20” or longer in freshwater for resident anglers:

- Alaska Peninsula/Aleutian Islands – 3 per day (only 2 longer than 28”)
- Kodiak Island – 3 per day (only 2 longer than 28”)
- Bristol Bay – 3 per day
- Yukon River drainage – 3 per day (only 2 longer than 28”)
- Kuskokwim-Goodnews drainages - 3 per day (only 2 longer than 28”)
- Nushagak/Mulchatna River – 2 per day
- Ninilchik River – 2 per day (only one may be a wild king salmon)

DEPARTMENT COMMENTS: The department is **OPPOSED** to this proposal. Bag, possession, and annual limits have been established according to the circumstances of each region, area, and drainage. The board, the department, and the public have worked together throughout the years developing specific limits to ensure sustained yield of unique stocks. A statewide approach to bag and annual limits is not consistent with principles of sound management.

COST ANALYSIS: The department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.

PROPOSAL 244: 5 AAC 28.XXX. New regulation.

PROPOSED BY: James Winslow

WHAT WOULD THE PROPOSAL DO? If adopted this proposal would require the department to provide the public an opportunity to purchase game fish from state operated fish hatcheries for stocking and rearing, subject to the department fish transport permit process, and stock them into private/commercial fee fishing ponds.

WHAT ARE THE CURRENT REGULATIONS?

AS 16.40.210. Finfish Farming Prohibited. (a) A person may not grow or cultivate finfish in captivity or under positive control for commercial purposes.

(b) This section does not restrict

(1) the fishery rehabilitation, enhancement, or development activities of the department;

(2) the ability of a nonprofit corporation that holds a salmon hatchery permit under AS 16.10.400 to sell salmon returning from the natural water of the state, as authorized under AS 16.10.450 , or surplus salmon eggs, as authorized under AS 16.10.420 and 16.10.450;

(3) rearing and sale of ornamental finfish for aquariums or ornamental ponds provided that the fish are not reared in or released into water of the state.

(c) In this section "ornamental finfish" means fish commonly known as "tropical fish," "aquarium fish," or "goldfish," that are imported, cultured, or sold in the state customarily for viewing in aquaria or for raising in artificial systems, and not customarily used for sport fishing or human consumption purposes.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? If this proposal is adopted it would require amendment of AS16.40.210 to allow private finfish farming as currently defined. Statutory amendments must be done by the legislature, not the BOF or the department.

BACKGROUND: Stocking of private ponds is prohibited under AS 16.40.210.

DEPARTMENT COMMENTS: The department is OPPOSED to this proposal.

COST STATEMENT: Adoption of this proposal is not expected to result in additional costs to the general public as the proposal allows for program costs to be recovered in accordance with actual expenditures. Accurately defining all costs involved in producing a small portion of any hatchery program is difficult at best.

PROPOSAL 261 5 AAC 75.XXX. New Regulation.

PROPOSED BY: Alaska Board of Fisheries

WHAT WOULD THE PROPOSAL DO? If adopted, this proposal would create a statewide requirement to record the harvest of any species of fish for which annual limits were in effect.

WHAT ARE THE CURRENT REGULATIONS? Reporting requirements are in regulation for each species with annual limits within each different regulatory area.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? If this proposal is adopted, the board and the department would not have to remember to amend the recording requirements each time a new annual limit regulation is adopted for a specific regulatory area.

BACKGROUND: Annual limit regulations are becoming more common throughout the state. Each time an annual limit is adopted for a specific species of fish in one or more regulatory areas the area specific recording regulations must be amended to include the new species. Adoption of this statewide recording regulation eliminates the need to amend the specific area recording regulations and simplifies the regulatory process.

DEPARTMENT COMMENTS: The department SUPPORTS this proposal.

COST STATEMENT: The department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.

PROPOSAL 262 5 AAC 41.070. Prohibitions on importation and release of live fish.

PROPOSED BY: Alaska Board of Fisheries

WHAT WOULD THE PROPOSAL DO? If adopted, this proposal would prohibit persons from importing, owning, possessing, breeding, transporting, distributing, releasing, purchasing or selling within Alaska any species of injurious fish, mollusk, crustacean, or their eggs already listed in federal regulations.

WHAT ARE THE CURRENT REGULATIONS? Statewide regulations prohibit persons from possessing, transporting, and releasing live fish or live fish eggs without a permit issued by the Commissioner. However, these prohibitions do not apply to “ornamental” fish.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? Adoption of this regulation would make state regulations identical to federal regulations that prohibit interstate and intrastate importation, transport, etc.

BACKGROUND: State regulations are not current with federal regulations on prohibitions of injurious species. State regulations prohibit the possession, transport, etc. of live fish or live fish eggs. “Ornamental” fish are excluded from this prohibition. Species that are potentially invasive in Alaska, such as snakeheads, and other “injurious species”, can be argued by individuals to be ornamental fish that are not prohibited. Adoption of this regulation would eliminate this loophole. The list of species prohibited under state regulations would be identical to the list prohibited under federal regulations.

DEPARTMENT COMMENTS: The department SUPPORTS this proposal.

COST STATEMENT: The department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.

PROPOSAL 258: 5 AAC 47.030. Methods, means, and general provisions – Finfish.

PROPOSED BY: Alaska Department of Fish and Game

WHAT WOULD THE PROPOSAL DO? If adopted, this proposal would allow anglers fishing in the Southeast Alaska area to use sport-caught pink and chum salmon as bait.

WHAT ARE THE CURRENT REGULATIONS? Current statewide regulations prohibit the use of sport-caught fish as bait, except for whitefish, herring, and other species of fish for which no seasonal or harvest limits are specified. Pink and chum salmon have harvest limit regulations in the Southeast Alaska area and can not be used for bait.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? Anglers could use sport-caught pink and chum salmon as bait.

BACKGROUND: 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. 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 Chairman Nelson submitted a letter to Commissioner Campbell 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.

DEPARTMENT COMMENTS: The department submitted this proposal at the request of the BOF and SUPPORTS it.

COST STATEMENT: The department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.

PROPOSAL 245: 5 AAC 77.010. Methods, means, and general restrictions.

PROPOSED BY: Steve Vanek

WHAT WOULD THE PROPOSAL DO? This proposal would set the personal use dip net limits equal to the bag limit in the sport fishery.

WHAT ARE THE CURRENT REGULATIONS? “Personal use fishing” means the taking, attempting to take or possession of finfish, shellfish or aquatic plants by an individual for consumption as food or use as bait by that individual or his immediate family. The following areas allow the use of dip nets in personal use salmon fisheries:

- Tanana River (during times of conservation for chum salmon)
- Naknek River – annual limit is 75 salmon, no daily limit
- Kenai River - annual limit for each personal use salmon fishing permit is 25 salmon for the head of a household and 10 salmon for each dependent of the permit holder.
- Kasilof River - annual limit for each personal use salmon fishing permit is 25 salmon for the head of a household and 10 salmon for each dependent of the permit holder.
- Fish Creek - annual limit for each personal use salmon fishing permit is 25 salmon for the head of a household and 10 salmon for each dependent of the permit holder.
- China Poot Creek – bag and possession limit of 6 sockeye salmon.
- Copper River – annual limit is 15 salmon for a household of one and 30 salmon for a household of two or more persons.
- Southeast Alaska – A number of personal use fisheries allow dip nets. Bag and possession limits are specified on the permit and vary by area and year.

Except for the China Poot Creek fishery, the harvest limits for the personal use fisheries are more liberal than sport fisheries.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? If this proposal were adopted it would decrease the harvest of salmon in these personal use fisheries.

BACKGROUND: The board found that before the enactment of the state's subsistence priority law in chapter 151, SLA 1978, an individual could fulfill that individual's personal use needs for fish under subsistence fishing regulations. The state's subsistence priority law changed the definition of subsistence in a manner that now precluded some individuals from participating in customary and traditional subsistence fisheries and efficiently harvesting fish for their personal use. Since the sale of fish is not appropriate or permissible, this fishery cannot be classified as commercial. In addition, since the use is not a customary and traditional use, this fishery cannot be classified as subsistence and since the gear for this fishery is often different from that historically associated with sport fishing, this fishery should not be classified as a sport fishery, to prevent confusion among the public. It is the intent of the board that the taking of fish under 5 AAC 77 will be allowed when that taking does not jeopardize the sustained yield of a resource and either does not negatively impact an existing resource use or is in the broad public interest.

The China Poot Creek personal use sockeye salmon fishery is a stocked terminal harvest fishery. There are no biological concerns associated with its management.

DEPARTMENT COMMENTS: The department is NEUTRAL on this allocative proposal. Fish and shellfish resources are managed for sustained yield by the department regardless of which user group is conducting the harvest. The department uses its emergency order authority to modify personal use dip net fisheries to meet the established escapement goals and harvest objectives.

COST ANALYSIS: The department believes that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.

PROPOSAL 246: 5 AAC 77.010. Methods, means, and general restrictions.

PROPOSED BY: Steve Vanek

WHAT WOULD THE PROPOSAL DO? This proposal would not allow a personal use dip net fishery to open until the biological escapement goal (BEG) has been met in systems where BEGs have been established.

WHAT ARE THE CURRENT REGULATIONS? “Personal use fishing” means the taking, attempting to take or possession of finfish, shellfish or aquatic plants by an individual for consumption as food or use as bait by that individual or his immediate family.

The Naknek River Personal Use Sockeye Salmon Fishery Management Plan states the department shall allow the taking of salmon by dip nets and gillnets in the Naknek River from its terminus upstream to ADF&G regulatory markers located near Savonski from when the department has estimated that 900,000 sockeye salmon are in the river through July 25.

The Kenai River Late-Run Sockeye Salmon Management Plan states that subject to the requirement of achieving the lower end of the optimal escapement goal, the department shall provide for a personal use dip net fishery in the lower Kenai River as specified in 5 AAC 77.540.

The Upper Cook Inlet Personal Use Salmon Fishery Management Plan states salmon may be taken by dip net in the Kasilof River from June 25 through August 7, 24-hours per day.

The Kachemak Bay Personal Use Dip Net Fishery Management Plan states that in China Poot Creek, upstream from ADF&G regulatory markers, sockeye salmon may be taken by dip net from July 1 through August 7, with a bag and possession limit of six fish. King, pink, chum, and coho salmon may not be retained or possessed. All king, pink, chum, and coho salmon caught must be released immediately and returned to the water unharmed.

The Copper River Personal Use Dip Net Salmon Fishery Management Plan states that salmon may be taken from June 1 through September 30. The commissioner shall establish a preseason schedule, including fishing times, for the period June 1 through August 31 based on daily projected sonar counts at the sonar counter located near Miles Lake. This abundance-based preseason schedule will distribute the harvest throughout the season. The commissioner may close, by an emergency order effective June 1, the Chitina Subdistrict personal use salmon fishing season and shall reopen the season, by emergency order, on or before June 11 depending on the run strength and timing of the sockeye salmon run. Adjustments shall be made to the preseason schedule based on actual sonar counts compared to projected counts.

The Southeast Alaska personal use salmon fishery regulations state that salmon may only be taken under the authority of a personal use permit and that these permits will be issued for places and times when resource abundance will allow a harvest without jeopardizing the sustained yield of the stock and in a manner which provides for an orderly fishery. Additional specific regulations apply to the Chilkat River, Take River, Shipley Bay, Yes Bay, Sitkoh Bay and river, Klawock Inlet and river and Lynn Canal.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? If this proposal were adopted it may decrease the harvest of salmon in these personal use fisheries. Harvests in these fisheries may be concentrated on the later portion of the run rather than distributed throughout the season.

BACKGROUND: The Board of Fisheries found that before the enactment of the state's subsistence priority law in chapter 151, SLA 1978, an individual could fulfill that individual's personal use needs for fish under subsistence fishing regulations and that the state's subsistence priority law changed the definition of subsistence in a manner that now precluded some individuals from participating in customary and traditional subsistence fisheries and efficiently harvesting fish for their personal use. There presently are areas of the state with harvestable surpluses of fish in excess of both spawning escapement needs and present levels of subsistence, commercial and sport uses and it is necessary to establish a fishery classified as "personal use" because since the sale of fish is not appropriate or permissible, this fishery cannot be classified as commercial. In addition, since the use is not a customary and traditional use, this fishery cannot be classified as subsistence and since the gear for this fishery is often different from that historically associated with sport fishing, this fishery should not be classified as a sport fishery, to prevent confusion among the public. It is the intent of the board that the taking of fish under 5 AAC 77 will be allowed when that taking does not jeopardize the sustained yield of a resource and either does not negatively impact an existing resource use or is in the broad public interest.

DEPARTMENT COMMENTS: The department is OPPOSED to this proposal. The department uses its emergency order authority to modify personal use dip net fisheries to meet the established escapement goals and harvest objectives.

COST ANALYSIS: The department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.

PROPOSAL 255: 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 noncommercial harvest of aquatic plants outside nonsubsistence areas.

PROPOSED BY: Alaska Department of Fish and Game

WHAT WOULD THE PROPOSAL DO? 5 AAC 37.100 and 5 AAC 37.200 would be amended to allow year-round noncommercial harvesting of aquatic plants and eliminate the permit requirement in those areas of the state outside the nonsubsistence areas defined in 5 AAC 99.015. Also, because the board has no authority to adopt preferential subsistence regulations for aquatic plants, the Department of Law advises that all regulations governing the noncommercial harvest of aquatic plants be placed in 5 AAC 37 and to repeal the regulations in 5 AAC 01.713 and 5 AAC 01.745(d), pertaining to subsistence harvesting of aquatic plants in the Southeastern Alaska Area. The proposed change to 5 AAC 37 will effectively include those regulations and will provide the same and current noncommercial harvest opportunities in the Southeastern Area under the personal use portion of the regulations.

WHAT ARE THE CURRENT REGULATIONS? Except in the Southeastern Alaska Area, under 5 AAC 37.100 and 5 AAC 37.200, the noncommercial harvesting of aquatic plants is closed unless opened by emergency order and a permit is obtained from the department.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? Harvesting of aquatic plants for noncommercial use outside the nonsubsistence areas would be allowed year-round without a permit.

BACKGROUND: Throughout much of coastal rural Alaska, small amounts of aquatic plants are traditionally taken for home use. Under current regulations, except for Southeastern Alaska, noncommercial harvests of aquatic plants require a permit and may only take place during seasons established by emergency order. ADF&G has prepared a separate short report with background information on these traditional uses of aquatic plants in Alaska communities. See the proposal's issue statement for additional background.

DEPARTMENT COMMENTS: The department submitted this proposal but based on further consideration and SUPPORTS it with modifications that will be presented at the meeting. Under the proposed change, noncommercial harvests of aquatic plants within the nonsubsistence areas defined in 5 AAC 99.015 would remain closed unless opened by emergency order, and a permit would continue to be required. Because of the accessibility by road of aquatic plants to large populations, an unregulated harvest in nonsubsistence areas is not advisable.

The department also has concerns about a potential harvest of aquatic plants beyond sustainable levels in areas outside the nonsubsistence areas that are reasonably accessible to the road system by boat, such as portions of Kachemak Bay in Lower Cook Inlet; which are accessed via water taxis and personal vessels. The department is prepared to discuss regulatory options for these areas.

In 2006, the department's office in Homer learned of significant kelp harvests along Kachemak Bay by noncommercial users soon after regulatory closure signs were posted in Seward and increased enforcement efforts took place there. Such activities suggested simple displacement or redirection of harvesting effort rather than a reduction in effort, leading to the conclusion that a considerable demand for aquatic plants continues to exist. The department believes the adoption of this proposal as written could result in adverse impacts to stocks of aquatic plants in locations such as those described above. In a proactive attempt to preclude localized depletion of aquatic plant stocks, the department suggests that the board consider an amendment to Proposal 255 to establish a daily harvest limit in the Cook Inlet Management Area. The department does not believe that requiring a permit is necessary at this time, except in nonsubsistence areas.

COST ANALYSIS: The department does not believe that approval of this proposal would result in a direct cost for a private person to participate in this fishery.

PROPOSAL: 256. 5 AAC 39.XXX. New regulation regarding the shipment of live fish out of state.

PROPOSED BY: Alaska Department of Fish and Game

WHAT WOULD THE PROPOSAL DO? This proposal is requesting the board to either disallow the transporting of live fish, with the exception of shellfish, out of state or to provide guidelines to the department in the transporting of live fish.

WHAT ARE THE CURRENT REGULATIONS? With the exception of AS 16.10.240 (which allows the shipment of live crab out of Alaska) and 5 AAC 28.180(b) (...a person may not possess groundfish in a manner that indicates an intent to keep the groundfish alive.), there are no statewide regulations involving the live shipment of fish taken in the commercial, sport, and subsistence fisheries in Alaskan waters.

WHAT WOULD BE THE EFFECTS IF THE PROPOSAL IS ADOPTED? This would facilitate the development of live-fish fisheries by allowing fishermen to ship live fish, allowing for a higher quality product to be delivered to market, increasing the value of the fishery.

BACKGROUND: There has been an increasing interest in obtaining permits to ship live fish out of state. The department has identified numerous concerns surrounding these requests including possible recruitment with the intent to farm; violation of interstate regulations, and pathology issues to name a few.

Allowing the shipment of live fish, beyond those species currently approved, raises several issues that directly apply to the department's charge of sustainable yield and should be approached cautiously. The capture, holding, and shipment of fish taken in existing, developed fisheries, presents management challenges including harvest documentation, undocumented mortality due to sorting on the grounds or discards of dead or dying fish, and biological sampling of the catch. The need to maintain fish vitality preparatory to shipping precludes much of the handling involved in conventional harvest accounting techniques and biological sampling, particularly retrieval of age structures or determination of sex and gonad maturity, require dead fish.

However, it is the development of new fisheries on species or stock segments previously untargeted that poses the greatest challenge to research and management. The California experience with live-fish fisheries provides an example of the potential for rapid increases in effort due to the relatively high product values and low overhead necessary to enter these fisheries, which have historically targeted small or immature fish in nearshore and reef areas and are characterized by numerous small landings. The fisheries' size-selectivity due to market demand required the release of unmarketable sizes and species and resulted in undocumented mortality. They also presented problems similar to the examples above, including documentation of harvest that does not flow through conventional fishery product streams and the difficulty of biological sampling due to its economic impact. Current literature also highlights impacts to reef fish in the South Pacific due to high demand in Asian markets as well as declines in species diversity in nearshore and reef areas, particularly in the kelp understory.

DEPARTMENT COMMENTS: The department proposed this proposal due to the increased interest in this issue, the department wanted to bring the issue before the board to get guidance from the board and give the public the opportunity to comment. The department is NEUTRAL on the allocative aspects of this proposal. However, the department is OPPOSED to this proposal without stringent criteria in place to issue a commissioner's permit.

If the board decides to permit the shipping of live fish, the department recommends development of a clear, statewide regulation that ensures the department's ability to document and sample the catch as well as provide for area regulation that prohibits shipping of live product without board review. This will ensure an opportunity for careful consideration the potential effects to area resources and local economies. Additionally, the board should guard against development of new fisheries, particularly for immature fish as well as rapid increases in effort that can confound current management structures. Substantial discussion is required prior to adoption of this proposal.

COST ANALYSIS: The department believes that adoption of this proposal may result in an additional direct cost for some private persons to participate in this fishery.

PROPOSAL 257: 5 AAC 39.XXX. New regulation.

PROPOSED BY: Alaska Department of Fish and Game

WHAT WOULD THE PROPOSAL DO? This proposal would allow the Commissioner to issue permits for the use of net pens to hold salmon before processing in all areas of the state.

WHAT ARE THE CURRENT REGULATIONS? Prior to 2007, the only current regulation that allows the use of a net pen is for the Kodiak Area: 5 AAC 18.392. Net pens and other devices for holding live, commercially-caught salmon before processing in the Kodiak Area. In the Kodiak Area, a net pen or other device may be used to hold live salmon before processing, only under the conditions specified in a commissioner's permit. This same language was just adopted in the Alaska Peninsula and Aleutian Islands Area board meeting in February, 2007.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? Allowing net pens to hold salmon before processing may provide for a higher quality product to be delivered to market, increasing the value of the fishery.

BACKGROUND: The department has fielded numerous inquiries by processors investigating the potential of holding salmon in net pens prior to processing. The department currently has no regulations in place to allow net pens to hold salmon before processing with the exception of Kodiak and Alaska Peninsula and Aleutian Islands Areas.

DEPARTMENT COMMENTS: The department submitted this proposal and SUPPORTS it. This proposal would allow the commissioner to make localized decisions regarding the use of net pens to hold salmon before processing without waiting for each area's three year cycle of the board.

COST ANALYSIS: The department believes that adoption of this proposal would not result in an additional direct cost for private persons to participate in this fishery.

PROPOSAL 259: 5 AAC 39.167. New regulation.

PROPOSED BY: North Pacific Fishery Management Council and the Alaska Board of Fisheries

WHAT WOULD THE PROPOSAL DO? Close state waters around the following areas 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 Areas, closed to nonpelagic gear;
3. in the Bowers Ridge Habitat Conservation Zone, closed to nonpelagic trawl gear, dredge, and 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.

The areas listed above are further defined in 71 CFR 36694, July 28, 2006.

WHAT ARE THE CURRENT REGULATIONS? There are no closures for these waters except for the area listed as Aleutian Islands which were closed for the state waters Pacific cod fishery.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? State managed fisheries in these areas would be closed to specified gear use.

BACKGROUND: The Magnuson-Stevens Act mandates that any FMP must include a provision to describe and identify essential fish habitat (EFH) for the fishery, minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat. Essential Fish habitat has been broadly defined by the Act to include "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." The North Pacific Fishery Management Council proposed regulations on Essential Fish Habitat areas and the National Marine Fisheries Service adopted them into regulation in June 2006. As part of the federal regulation, for purposes of EFH and Habitat Areas of Particular Concern (HAPC) management, the final rule requires a Vessel Monitoring System (VMS) transmission while the vessel is operating in the Aleutian Islands subarea or while a vessel is operating in the Gulf of Alaska with mobile bottom contact gear on board. Mobile bottom contact gear includes nonpelagic trawl, dredge, and dinglebar gear.

DEPARTMENT COMMENTS: This proposal was submitted at the request of the Alaska Board of Fisheries. The department is NEUTRAL on this proposal.

COST ANALYSIS: The department believes that approval of this proposal may result in an additional direct cost for a private person to participate in fisheries mentioned above.

PROPOSAL 228 5 AAC 39.222. Policy for the management of sustainable salmon fisheries.

PROPOSED BY: United Fishermen of Alaska.

WHAT WOULD THE PROPOSAL DO? If adopted, this proposal would repeal the regulation containing the policy for management of sustainable salmon fisheries.

WHAT ARE THE CURRENT REGULATIONS? The current regulation contains principles, criteria, procedures, recommendations and definitions for the board and the department to use for management of sustainable salmon fisheries.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? The existing regulation would be repealed and removed from the Alaska Administrative Code.

BACKGROUND: A joint committee, consisting of representative of ADF&G and the BOF, was formed in February 1997 to develop a Sustainable Salmon Fisheries Policy. The intent of this policy was to ensure that the state's abundant salmon resource remains healthy and available for use by future generations. In the course of developing the policy the committee issued several draft versions of the policy which were widely distributed and reviewed. In addition, the board convened a public advisory panel, the department convened a technical advisory panel, and technical reports received formal peer review.

The Sustainable Salmon Fisheries Policy was presented and adopted into regulation as the Policy for the Management of Sustainable Salmon Fisheries (5 AAC 39.222) by the Board in March 2000 at the Statewide Finfish regulatory meeting.

In 2003, the department submitted a proposal seeking to make some changes to the both the Policy for the Management of Sustainable Salmon Fisheries and in the Policy for Statewide Salmon Escapement Goals (5 AAC 39.223). The department felt that these changes were needed because of a lack of flexibility in current policy relative to managing salmon fisheries in Alaska. Intensity of exploitation rates, quality of stock assessment, fishing power, stock preferences by users and the department's ability to manage salmon fisheries inseason vary widely across the state. Maximum sustained yield (MSY) is the logical management objective for some fisheries, but not for others; therefore the department felt that the BEG is impractical as the primary management objective for all stocks. Most of the other proposed changes to the policies concerned a redefinition of the SEG into a flexible alternative for the "universal" BEG.

This proposal generated considerable public comment, and the board formed a public panel to discuss the issue. There was consensus among the public panel that this proposal should not be passed at this meeting and further discussion would be required prior to making any changes to the policy. Regulatory action was tabled to the February 2004 regulatory meeting. No action was taken on the proposal at the February 2004 BOF meeting.

DEPARTMENT COMMENTS: The department is NEUTRAL to this proposal. However, elements of the Policy for the Management of Sustainable Salmon Fisheries are essential to the

integrity of the Policy for Statewide Salmon Escapement Goals. If the former is removed from the administrative code, the latter would require adaptation or removal from regulation as well.

COST STATEMENT: The department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.

PROPOSAL 230: 5 AAC 39.223. Policy for statewide salmon escapement goals.

PROPOSED BY: Paul Shadura II

WHAT WOULD THE PROPOSAL DO? If adopted, this proposal would require the department to submit a report prior to each Board meeting on every change proposed to past or present Optimal Escapement Goals (OEG). The report would include changes in economics, fishing history and tradition and allocation. The report would be required to be peer reviewed prior to the Board meeting.

WHAT ARE THE CURRENT REGULATIONS? Current regulations allow the Board to set an OEG for a salmon stock during regulatory Board meetings. The Board makes this decision after hearing from the department and the public during the meeting on the status of the particular salmon stock and how the various user groups want it managed.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? The department would have to write a report outlining proposed changes in fisheries, economics, allocations, etc., and have the report available for peer review several months prior to the Board meeting it would be taken up in.

BACKGROUND: Currently individuals or groups proposing changes in OEGs are responsible for providing background on potential socio-economic consequences of adopting their proposals. This information is presented to the Board through public testimony or recorded comments. The intent of this proposal is to shift the burden of this analysis away from those making a proposal to the department. The department has does not have the funds, staff, or statutory authority to accept this burden.

DEPARTMENT COMMENTS: The department is OPPOSED to this proposal.

COST STATEMENT: The department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.

PROPOSAL: 232 - 5 AAC 39.223. Policy for statewide salmon escapement goals. Amend this regulation.

PROPOSED BY: Paul Shadura II

WHAT WOULD THE PROPOSAL DO? The proposer asks that the board consider changes that would make the department and the board more accountable.

WHAT ARE THE CURRENT REGULATIONS? 5 AAC 39.223. Policy for statewide salmon escapement goals. The escapement goal policy is a policy between the board and the department to work collaboratively to establish the procedures, criteria, and concepts for modifying or establishing salmon escapement goals.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? Unknown.

BACKGROUND: This policy is in regulation as a follow-up to the Sustainable Salmon Fisheries Policy which is also in regulation.

DEPARTMENT COMMENTS: The department is unclear as to what the proposer is asking for.

COST STATEMENT: The department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.