

**STATEWIDE FINFISH AND SUPPLEMENTAL ISSUES**

**PROPOSAL 226 - 5 AAC 39.120. Registration of commercial fishing vessels.** Amend this regulation as follows:

Fishing vessels are allowed to register and fish in multiple salmon fisheries. An individual can own and operate multiple salmon fishing permits of different areas and gear types on the same vessel.

**ISSUE:** A fishing vessel may only register for one salmon fishery.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Fishing vessels will be underutilized. Capital improvement will not be made to make the vessels geared for producing a quality product. By extending the seasons and areas there will be less economic hardship among the various fishermen.

**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?**

**PROPOSED BY:** Dominic Lee (HQ-06F-097)

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**PROPOSAL 227 - 5 AAC 39.280. Identification of stationary fishing gear.** Amend this regulation as follows:

(a) The owner or operator of a set gillnet or fish wheel in operation shall place in a conspicuous place or within 50 feet of [OR NEAR] CFEC permit numbers must be at least twelve inches in height with lines at least one inch wide if the marking is within 500 feet of the end of the net, at least 24 inches in height with lines at least two inches wide if the marking is within 1000 feet of the end of the net, and at least 30 inches in height with lines at least two and one half inches wide if the marking is more than 1000 feet from the end of the net [NUMBERS MUST BE AT LEAST SIX INCHES IN HEIGHT WITH LINES AT LEAST ONE INCH WIDE AND OF A COLOR CONTRASTING WITH THE BACKGROUND]. The name of the fisherman operating said operation must be at least six inches in height with lines at least one inch wide if the marking is within 500 feet of the end of the net. If in excess of 500 feet the operator's name shall be in letters at least 12 inches in height with lines at least one inch wide. All markings must be of a color contrasting with the background.

**ISSUE:** Current set gillnet site marking requirements are not consistent with setnet skiff and driftnet vessel and general vessel marking requirements and there are no specifications for operator name in 5 AAC 39.280(a). Current regulations call for site markings smaller than set gillnet skiff marking requirements and yet they can be at far greater distances from closest viewing water areas. Setnets are permitted as far as 1,200 feet from the high tide mark and

anchors to 1,300 and there is no specified exact distance how far away the sign might be permitted. Current set and drift gillnet CFEC number requirements are readable to just over 500 feet and yet setnet site marking requirements for numbers are only one half the height of those numbers and can additionally be placed at a distance from the end if considered “near”.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Difficult for safety, enforcement, etc. issues to determine whether it is legally permitted operation and who to contact. Vessels are normally floating and can be easily approached but setnet sill signage can be more than one fourth mile from navigable water viewing.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** Yes, same as other existing regulations—makes consistent.

**WHO IS LIKELY TO BENEFIT?** All safety and resource conscious and law abiding set and driftnet fishers.

**WHO IS LIKELY TO SUFFER?** No one.

**OTHER SOLUTIONS CONSIDERED?** This proposal makes marking requirements consistent with existing regulations and that sill marking signs can be more than 1,300 feet from navigable water viewing and unreadable especially at low water and that there are presently no sign name specifications nor distance from end of net requirements.

**PROPOSED BY:** Dan Barr (HQ-06F-100)  
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**PROPOSAL 228 - 5 AAC 39.222. Policy for the management of sustainable salmon fisheries.** Amend this regulation as follows:

Repeal 5 AAC 39.222. Policy for the Management of Sustainable Salmon Fisheries.

**ISSUE:** Remove the Sustainable Salmon Fisheries Policy from regulation. All aspects of the Sustainable Salmon Fishery Policy (SSFP) are included in the Alaska Department of Fish and Game mission statement and guiding principals.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** A regulation will exist that has no regulatory value. The SSFP is confusing; it requires more pages of definitions in order to understand then the policy itself. It is easy for individuals to take select portions and/or definitions out of the policy and use out of context.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** N/A.

**WHO IS LIKELY TO BENEFIT?** Those that prefer to regulations to have a clear function and need.

**WHO IS LIKELY TO SUFFER?** Those that try to use a portion of the policy out of context to further their agenda.

**OTHER SOLUTIONS CONSIDERED?** Status Quo; rewriting the SSFP into a policy with clear and concise statements of broad intent; or allow the SSFP to become a Board of Fisheries

finding to provide a policy guideline where appropriate.

**PROPOSED BY:** United Fishermen of Alaska

(HQ-06F-102)

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**PROPOSAL 229 - 5 AAC 39.130. Reports required of processors, buyers, fisherman, and operators of certain commercial fishing vessels; transporting requirements.** This proposal would repeal and readopt the reporting regulation and split the existing regulation into two parts. One regulation would reflect the Board of Fisheries authority and the other regulation would reflect the authority of the Commissioner of ADF&G.

**5 AAC 39.130. REPORTS REQUIRED OF PROCESSORS, BUYERS, FISHERMEN, AND OPERATORS OF CERTAIN COMMERCIAL FISHING VESSELS; TRANSPORTING REQUIREMENTS.** (a) A person, company, firm, or other organization who is the first purchaser of raw fish, or who catches and processes fish or byproducts of fish, or who catches and has fish or byproducts of fish processed **or received** by another person or company, or **catches and exports fish or byproducts of fish** shall

(1) furnish to the department each calendar year before operating, a completed Intent to Operate **Application** [REGISTRATION] form, available from the department; a person, company, firm, or other organization described in this subsection may begin to operate only after receiving authorization from the department and only after receiving **a code plate and** fish tickets from the department: forms will not be processed and fish **ticket forms** [TICKETS] will not be issued **or the continuation of the eLandings System authorization of use,** without [CERTIFICATION THAT SURETY BONDS AS REQUIRED BY AS 16.10.290 - 16.10.296 HAVE BEEN POSTED WITH THE COMMISSIONER OF THE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT AND THAT A VALID ALASKA BUSINESS LICENSE OR] a valid Alaska Fisheries Business License [THAT HAS BEEN ISSUED BY THE DEPARTMENT OF REVENUE];

(2) submit, no later than April 1, an **Commercial Operator's Annual Report (COAR) which is a** operator's accurate and complete summary of activity for each Intent to Operate form filed for the previous year or a signed statement of nonactivity on **a form** [FORMS] available from the department;

(3) furnish, verbally or in writing, purchasing or production records as requested by the department or its representative.

(b) A catcher/seller must complete a registration form available from the department each calendar year and may begin to operate only after receiving authorization from the department and only after receiving **a code plate and** fish tickets from the department.

(c) Each **first** 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 **or exports** his or her own catch or has that catch processed **or received** by another person or company shall record each landing on an ADF&G fish ticket. A catcher/seller must complete an ADF&G form in order to obtain fish tickets. Fish tickets must be submitted to a local representative of the department within seven days after landing, or as otherwise specified by the department for each particular area and fishery. **When a processor is using the eLanding System the processor must electronically submit the initial landing report at the completion of the off-load, and submit the final landing report and the eLandings fish ticket within seven days.** The operator of a fishing vessel whose port of landing is outside Alaska, or who sells, transfers, **receives** or delivers fish in the **Exclusive Economic** [A SEAWARD BIOLOGICAL INFLUENCE] Zone (**EEZ**), shall submit a completed ADF&G fish

ticket, [OR AN EQUIVALENT DOCUMENT CONTAINING ALL OF THE INFORMATION REQUIRED ON AN ADF&G FISH TICKET] to the department before the fish are transported out of the jurisdiction of the state. **Fish tickets** [THE RECORD] must include the following:

- (1) the name of the individual or company buying the fish, the processor code assigned to each buyer **imprinted on the fish ticket from the code plate issued** by the department, and the signature of the buyer or his representative;
- (2) the full name and signature of the permit holder **at the time of off-loading**;
- (3) the name or the Coast Guard number **or Department of Transportation number** of the vessel employed in taking the fish;
- (4) the date **fishing gear was deployed and the date** of the landing of the fish;
- (5) the permanent vessel license plate number or, for set gillnets and fish wheels, the fisherman's five-digit CFEC permit serial number, **as appropriate to the fishery**;
- (6) the type of gear by which the fish were taken **by gear code number**;
- (7) the **ADF&G statistical area, district or subdistrict, or the** nearest headland or bay or statistical catch area in which the fish were taken;
- (8) information applicable to the following species:
  - (A) the number and pounds of salmon by species;
  - (B) the number and pounds of king, Dungeness, and Tanner crab;
  - (C) the pounds of other fish or shellfish by species;
  - (D) the tons of herring;**
  - (E) the number and pounds of deadloss crab by species;**
- (9) the CFEC permit number of the operator of the unit of gear with which the fish were taken, imprinted on the fish ticket from the valid permit card at the time of delivery only; the imprinting requirement of this paragraph may be suspended by a local representative of the department after presentation by the fisherman of documentation from the department or CFEC that the permit card has been lost, transferred or destroyed; if the above suspension is granted, then the buyer or fisherman shall write the permit number on the fish ticket at the time of delivery only;
- (10) **any** other information the department may require.

(d) Each fisherman shall furnish to the buyer factual catch data necessary for completion of reports required by the department.

(e) Each shellfish fisherman shall furnish in writing **or electronically through eLandings System** to the department, directly or through the buyer, data necessary for reports required by the department.

(f) The following information regarding the transporting of unprocessed fish shall be transmitted to an authorized representative of the department either verbally, in writing, or by telephone:

(1) the number and species of salmon taken in any regulatory area shall be reported before being transported to any other area or out of the state;

(2) the numbers or pounds by species of all other fish shall be reported before being transported out of the state.

(g) Operators of floating fish processing vessels shall report in person, **electronically through eLandings System** or by radio or telephone, to the local representative of the department located within the management area of intended operation before the start of processing operations. The report must include the initial processing location by district or

subdistrict, the exact latitude and longitude of the location, and the date of intended operation. Before moving the operation and upon arriving at a new location, the operator shall notify the local department representative in person, or by radio or telephone, of the new location of operation by district or subdistrict and exact latitude and longitude of the location. The local representative of the department may waive all or part of the above requirements if he determines they are not necessary for the conservation or management of the fishery in that area.

(h) No person may possess a fish ticket that has been imprinted with a CFEC permit number until the time of delivery to the purchaser of the fish listed on the fish ticket, **unless fish with a fish ticket issued by the catcher have been transferred to a permitted commercial fish transporter for delivery to a processor.**

(i) In addition to other requirements of this section, each person, as that term is defined in AS 01.10.060, that is the first purchaser of or that first processes raw groundfish shall comply with the recordkeeping and **electronic reporting through eLandings System or any other reporting requirements in 50 C.F.R. 679 (updated October 1, 2005)** [(UPDATED DECEMBER 10, 1997)].

(j) Before entering the waters of Alaska, an operator of an unlicensed commercial fishing vessel shall report by telephone, and shall leave a recorded report, at a telephone number designated by the department for that purpose, or shall report by other means specified by the department. A report under this subsection must (1) identify the vessel and operator; (2) certify that no unprocessed fish are on board the vessel; (3) include the destination, travel route, and dates of transit; and, (4) if any processed fish are on board the vessel, include the quantity, species, and the location from which the fish were taken. The commissioner may, upon request by a local representative of the department, waive all or part of the requirements of this subsection if the commissioner determines that compliance with this subsection is not necessary for conservation, management, or enforcement in a designated geographical area. For the purposes of this subsection,

(1) "commercial fishing vessel" means a floating craft powered, towed, rowed, or otherwise propelled, which is used for or equipped to be used for

**(A) commercial fishing; or**

**(B) fish processing;**

**(C) fish transport;**

**(D) fish storage, including temporary storage;**

(2) "unlicensed " means not licensed under AS 16.05.490 - 16.05.530.

(k) For purposes of this section, a

(1) "catcher/seller" **means** [IS] a person who sells or attempts to sell unprocessed fish that were legally taken by the catcher/seller,

(A) to the general public for use for noncommercial purposes;

(B) for use as bait for commercial or noncommercial purposes; or

(C) to restaurants, grocery stores, and established fish markets;

**(2) "catcher/exporter" means a person who catches and exports unprocessed fish out of state;**

**(3) "catcher/processor" means a person who catches and sells processed or unprocessed fish or fish products and**

**(A) can export processed or unprocessed fish or fishery resource out of state;**

**(B) can process or have their catch custom processed for sale in state or out of state;**

**(4) "buyer/exporter" means the first buyer of unprocessed fish or fishery resource from a fisherman and transports that unprocessed resource out of state;**

**(5) "first buyer" means the first purchaser of raw fish directly from the fisherman and are purchasing for their own business and not acting as a buying agent for another business;**

**(6) "commercial fish transporter" has the same meaning as defined in 16.05.671;**

**(7) "eLandings System" means the electronic and internet based reporting system developed by the National Marine Fisheries Service and ADF&G.**

**This regulation would be placed in chapters 3, 4, 5, and 7 AYK salmon reporting requirements.**

(X) In the Arctic-Yukon-Kuskokwim Area, a buyer or processor transporting salmon or salmon roe to the point of initial processing shall have in his or her possession, and display, upon request, to a peace officer of the state, a completed fish ticket, or a copy of it, for all salmon or salmon roe in the buyer's or processor's possession at the time. Such a buyer or processor, while transporting commercially caught salmon or salmon roe, may not possess or transport subsistence caught salmon or salmon roe.

**This would be a new regulation placed in chapter 38, 5 AAC 38.14X. SE Red Sea Urchin reporting requirements.**

(X) In addition to the requirements of this section, in Statistical Area A, the owner or operator of a facility or vessel that purchases unprocessed red sea urchins shall,

(1) within 30 days after the purchase, submit to the department a report indicating the pounds of red sea urchins purchased, the pounds of red sea urchin roe recovered, the price paid to the person who delivered the urchins, and the number of the ADF&G fish ticket prepared at the time of delivery;

(2) upon the request of an employee or representative of the department, report information regarding the dates, locations, and times of any delivering, transporting, unloading, or processing of red sea urchins.

(XX) In Statistical Area A, a person shall obtain a transport permit from the department before transporting unprocessed red sea urchins from Statistical Area A. Before issuing a transport permit, a department employee or representative shall inspect the unprocessed urchins and the fish tickets, and take biological samples of the urchins. The department shall conduct the inspections and sampling in Ketchikan or at other locations specified by the department. A person shall request the inspections and sampling by contacting the department office in Ketchikan in person, by telephone, or by radio from 8:00 a.m. through 4:30 p.m. Monday - Friday, excluding state holidays.

**Editor's Notes** -For purposes of 5 AAC 39.130(k), the designated phone number to report to the department is (907) 247-ADFG (2334).

For purposes of 5 AAC 38.14X the department's Ketchikan office telephone number is (907) 225-5195.

**ISSUE:** Both the board and 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). 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 a three-year cycle, and could address these issues in an expedited fashion. Most of the issues that arise deal with specific technical and enforcement concerns rather than broader 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 to submit 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.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Continued confusion and lack of clarity involving the use of the regulation, and an outdated regulation.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** No.

**WHO IS LIKELY TO BENEFIT?** Departmental staff and members of the public.

**WHO IS LIKELY TO SUFFER?** No one.

**OTHER SOLUTIONS CONSIDERED?** None.

**PROPOSED BY:** Alaska Department of Fish and Game and Department of Law (HQ-06F-170)  
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**PROPOSAL 230 - 5 AAC 39.223(c)(2). Policy for statewide salmon escapement goals.**  
Amend this regulation as follows:

(c)(2) during its regulatory process, review a BEG, SEG, or SET determined by the department and, with the assistance of the department, determine the appropriateness of establishing an optimal escapement goal (OEG); the board will provide an explanation of the reasons for establish an OEG and provide **at the meeting, documentation for the public and the board members to review before final decisions to be made on adopting any past or present OEGs what economic, historical, traditional and allocative changes will occur. The department will submit this report prior to the regulatory meeting for each area in cycle and will evaluate using the best available science (peer reviewed) to determine the differences in yield of any salmon stocks relative to maximum sustained yield resulting from implementation past and present of an OEG.** [TO THE EXTENT PRACTICABLE,] and with the assistance of the department, an estimate of expected differences in yield of any salmon stock, relative to maximum sustained yield, resulting from implementation of an OEG.

Modify the language in (d) redefine and clarify the terms used in 5 AAC 39.222(f) to establish a clear understanding as it relates to this regulation.

**ISSUE:** Lack of clarity.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Insufficient information to the public, stakeholders and others.

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

**WHO IS LIKELY TO BENEFIT?** All users.

**WHO IS LIKELY TO SUFFER?** No one.

**OTHER SOLUTIONS CONSIDERED?**

**PROPOSED BY:** Paul A. Shadura II (HQ-06F-171)  
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**PROPOSAL 231 - 5 AAC 39.250. Gillnet specifications and operations.** Amend these regulations as follows:

Add section (c)(1)(C)

**Monofilament single filament gillnet cannot be used for salmon fishing in any state waters.**

**ISSUE:** Monofilament gillnets.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** High mortality with no benefit.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** Yes, domestic markets that are sustainable fisheries sensitive are confused at the difference between high seas monofilament drift nets and gillnet fisheries within state waters.

**WHO IS LIKELY TO BENEFIT?** All users.

**WHO IS LIKELY TO SUFFER?** Individuals who care nothing about marketing and high drop out mortality.

**OTHER SOLUTIONS CONSIDERED?** Test netting that has no scientific parameters or guidelines.

**PROPOSED BY:** Paul Shadura II (HQ-06F-172)  
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**PROPOSAL 232 - 5 AAC 39.223. Policy for state wide salmon escapement goals.** Amend this regulation as follows:

Consider changes that make the department and the board more accountable.

**ISSUE:** Regulation is in place but the department and the board does not properly facilitate a public review process before, during or after the regulatory meeting. The regulation should be

clarified and enforced.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** The public will continue to be left out of the decision making process.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** Improves predictability and consistency to allow implementation of quality measures.

**WHO IS LIKELY TO BENEFIT?** All users.

**WHO IS LIKELY TO SUFFER?** Those who do not wish to be accountable.

**OTHER SOLUTIONS CONSIDERED?**

**PROPOSED BY:** Paul Shadura II (HQ-06F-175)

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**PROPOSAL 233 - 5 AAC 75.003. Emergency order authority.** Amend this regulation as follows:

Crew members may keep up to eight fish per year. Since all halibut caught are recorded in your log book it will be easy to track.

**ISSUE:** Charter boat crew retaining fish for personal use. This regulation as written will close retaining of all species of fish, not just halibut. It also would prohibit me from catching halibut for my personal use. A large charter boat uses about \$200 worth of fuel to get to fishing grounds. A fisher would not want to go fishing on a day off.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Charter crew will not get halibut for their families.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** Limits crew to yearly maximum.

**WHO IS LIKELY TO BENEFIT?** Families of crew members.

**WHO IS LIKELY TO SUFFER?** No one, crew members are entitled to some halibut for their families.

**OTHER SOLUTIONS CONSIDERED?**

**PROPOSED BY:** Frank Casey (HQ-06F-008)

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**PROPOSAL 234 - 5 AAC 75.022. Freshwater sport fishing.** Amend this regulation as follows:

(c) It is unlawful to intentionally snag or attempt to snag any fish in fresh water. **Except for sockeye salmon,** a fish unintentionally hooked elsewhere than in the mouth must be released immediately.

**ISSUE:** Allow sockeye salmon unintentionally hooked other than in the mouth to be retained. Sockeye salmon do not feed when they enter a fresh water stream; therefore, virtually all are snagged, either by drawing the line through their mouth or elsewhere on their body. By changing this regulation we would reduce injury and damage to the fish themselves, relieve crowding, and reduce injuries to fishermen.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Fishermen will be forced to continue the practice of sorting through and releasing many foul hooked fish in an attempt to harvest their limit. This is not good for the resource (fish), fishery (crowding) nor the fishermen (lengthened exposure to potential injury).

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** Yes, damage to the flesh of these fish (tearing and scaring) would be greatly reduced. In the current fishery many fish are hooked and released numerous times causing flesh damage and increasing mortality losses.

**WHO IS LIKELY TO BENEFIT?** Everyone. This would help reduce crowding because [people would retain their limit faster and their exposure to injury, from flying hooks or leads, would also be greatly reduced. Most of the emergency room patients seen at the Central Peninsula hospital in Soldotna for fishing related injuries are derived from the sockeye fishery.

**WHO IS LIKELY TO SUFFER?** Nobody. I realize this is a departure from pure fishing etiquette; however, these fish are mainly prized for their flavor as illustrated by the popularity of the personal use fisheries for this same species which allows great numbers to be harvested in a single outing. What is the difference when we are considering a species that is neither feeding nor striking?

**OTHER SOLUTIONS CONSIDERED?** None.

**PROPOSED BY:** Dwight Kramer (HQ-06F-009)

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**PROPOSAL 235 - 5 AAC 75.011. Sport fishing by proxy.** Amend this regulation as follows:

Eliminate the sport fish proxy system in the non-subsistence areas of the state.

**ISSUE:** Alaska’s sport fish proxy laws allow residents to harvest fish by sportfishing or personal use methods for other residents who are either blind, have a 70 percent or greater physical disability, or are 65 years of age or older.

The fishing proxy system was originally established by the legislature to address the practice of sharing food. It is closely related to subsistence and was geared toward a “community harvest” where others could legally harvest fish for the elders in a village. This system was designed to benefit those people who are dependent on wild fish to supplement their food supply and who really cannot get out to fish for themselves.

What had started out as a rurally-oriented program to allow the designated hunters of a community to legally harvest subsistence foods for the elders and others in that community unable to harvest their own fish has transitioned into the urban orientation of proxies legally

harvesting fish for anyone who qualifies, whether they are dependent on the resource or not.

Many proxy holders view this program as a “recreational entitlement”, allowing them to abuse the system to increase their own harvest of fish. Many beneficiaries have no dependence on the resource for sustenance. For these reasons, the sportfishing proxy program should be eliminated in the non-subsistence areas of the state. Please reference the attached maps for these areas.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Serious abuse of the fishing proxy system will continue if this problem is not addressed.

In 1999, the Palmer Fish and Game office issued 244 sportfishing proxies. In 2004, the same office issued 866 sportfishing proxies. Between 1999 and 2004, the number of fishing proxies issued in Palmer has almost quadrupled.

Statewide, the numbers of sportfishing proxies issued look like this:

<u>Year</u>	<u>Sportfishing Proxies Issued</u>
2000	2,033
2001	2,758
2002	3,123
2003	3,804
2004	4,568

In that same five-year period, statewide, the number of sport fish proxies has more than doubled.

In 2004, the numbers of sportfishing proxies issued by department offices around Southcentral and Fairbanks are as follows:

Homer	276
Soldotna	708
Anchorage	1,993
Palmer	866
<u>Fairbanks</u>	<u>406</u>
Subtotal	4,249

The other 319 sportfishing proxies issued were scattered across the rest of the state.

As the numbers show, the vast majority of sportfishing proxies are issued along the road system connecting the Kenai Peninsula with Fairbanks.

A high number of people come into the Palmer Fish and Game office to get both their senior license or department Permanent Identification Card (PID) and their proxy fishing forms on the same day. Since an individual is eligible for the PID card at age 60, but has to be 65 to qualify on age for the proxy, this same day application strongly suggests the individual has not previously held a fishing license, at least within the previous five years.

Many of these folks are already well past age 65 when they come in and, in addition to applying for their PID cards, have only recently heard about the proxy system and realized that they qualified. A younger person eager to hold a sport fish proxy for the applicant often accompanies the person to the department office.

These beneficiaries are taking advantage of the proxy system. They are putting extra pressure on the fisheries resources by allowing another person to harvest their bag limit for them. Without the proxy system, this individual, generally with no recent history of active participation in the consumptive use of the resource, would not be placing any extra demands on the limited numbers of fish available for harvest.

In years with “average” or better salmon returns, this increased demand on the fishery resource has not been a major management problem. However, the real concern arises when the salmon numbers are below normal and increased harvesting occurs in the name of people not physically present.

Other wild fisheries stocks, like rainbow trout, can be even more severely affected than a below average salmon return.

Many proxies, while fishing for king salmon, will keep the first king caught and then catch-and-release several fish before keeping the proxy fish. This practice defeats the “catch a king and stop fishing in those waters” management plan, causes mortalities among the released fish, and causes problems when other anglers report this apparent illegal activity.

A specific example of sportfishing proxy abuse occurred when a beneficiary had a proxy fish halibut for him in Kachemak Bay. This happened prior to the regulation change bringing the state in line with federal requirements on sportfishing for halibut. The proxy fishing regulations stipulate that a proxy cannot receive any remuneration for proxy fishing. When the beneficiary was to receive his fish, the proxy wanted to charge him \$100 for the cost of packaging the fish and gave the man the previous year’s frozen fish.

Another example of abuse includes a person who lined up all his proxies to fish for him during the summer while he was outside the state, traveling in his motorhome. When he returned in the fall, his freezer was well stocked. He was able to travel around the country and still enjoy that summer’s fish without any effort of his own.

Individuals looking to take advantage of this “recreational entitlement” by becoming proxy holders have visited senior centers and retirement homes on recruiting trips, looking to “sign up” beneficiaries, usually people they have never met before. This increases the proxy holder’s potential to harvest more fish than otherwise would be legal. This recruiting practice also occurs at work among co-workers, at social gatherings and community meetings, with friends who have older relatives, during neighborhood visits, and so on.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** This proposal does not directly address the quality of the harvested resource. It does address the allocation of opportunity to harvest that resource.

The department maintains that sportfishing effort has been increasing at the rate of five to eight percent per year for the last decade or more. The numbers of fish available for harvest have remained relatively unchanged over that same period.

The numbers of sportfishing proxies, statewide, have more than doubled in the last five years and almost quadrupled in the Matanuska-Susitna Valley. The resource can only tolerate so much harvest before the fisheries managers will be forced to step in and limit sportfishing opportunity.

When a resource is limited, as the numbers of harvestable fish are, then at some point, the current users of the resource have to drop out to allow the new users of the resource to begin. This brings up an allocation question. At what point do we stop allocating for a particular user group or accommodating a special class of user without impacting other users and the resource itself?

**WHO IS LIKELY TO BENEFIT?** Everyone who participates in either sports or personal use fishing activities in the non-subsistence areas of the state will benefit from the reduced competition for the resource because no one will be holding a proxy allowing the harvest of double his/her daily bag limit.

**WHO IS LIKELY TO SUFFER?** Those people who regularly participate in either sports or personal use fisheries while holding a proxy and view the proxy system as a “recreational entitlement” will lose their double-bag-limit opportunity.

Those people living in the non-subsistence area who are truly dependent on the fisheries resource for their sustenance and who have no family or friends willing to share a part of their normal bag limit of fish could suffer.

This very limited problem can be addressed by having the department act as a contact clearinghouse. Each office could maintain a list of individuals willing to share their fisheries bounty with others. A simple phone call to the department could provide a person in need with a list of individuals or groups like church organizations they can then contact to make their request for fish.

Under current sportfishing regulations, the only species of salmon with a season limit is king salmon. Sockeye, coho, chum and pink salmon do not have a season limit.

Generous personal use bag limits apply to dipnet fisheries both near Chitina and on the Kenai Peninsula. No season bag limits apply to common saltwater species and the same is true for freshwater lakes and rivers, other than a season size limit bag on rainbow trout.

Under the existing personal use and regular sportfishing bag limits, one good angler can easily supply his own family with a year’s worth of fish. Once their freezer is stocks, the virtually unlimited regular sports fishing bag limits allow ample fish to be caught and shared with friends and extended family members. If people would be willing to share fish from their regular sportfishing bag limits, the proxy fishing system would not be necessary.

**OTHER SOLUTIONS CONSIDERED?** The total elimination of the sportfishing proxy system statewide would address the abuse problem. The board does not have the authority to eliminate a program established by the legislature. The board does have the authority to set limits on such a program. By defining the acceptable areas for sportfishing proxies as the subsistence use areas, the majority of abuse problems can be significantly reduced while still complying with the original intent of the program.

Establish the requirement that a individual, in order to have a proxy issued in their name, has to demonstrate a history of consumptive use of and reliance for sustenance on the fisheries resource. One method to demonstrate this use and reliance would be by having purchased at least one resident Alaskan fishing license. This requirement would probably be unconstitutional under the “equal access” provisions of the state constitution.

Another correction would be requiring that a proxy holder can only fish for either his or his beneficiary's bag limit within a 24-hour period, but not both, as is currently allowed. A second loophole closure would mandate that the proxy could not keep any part of the fish harvested for the beneficiary, even if the beneficiary is willing to give the fish to the proxy. While these last two suggestions sound good, according to ABWE troopers, some serious legal issues and/or enforceability problems exist if they were implemented.

**PROPOSED BY:** Howard Delo (HQ-06F-071)  
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**PROPOSAL 236 - 5 AAC 75.011. Sport fishing by proxy.** Amend this regulation as follows:

The three most commonly abused fish in proxy fishing have been halibut, chinook and coho salmon. The Board recently eliminated proxy fishing to comply with existing federal law. Eliminating proxy fishing for chinook and coho salmon statewide would significantly reduce abuse of the proxy system.

**ISSUE:** The sport fishing proxy system has more than doubled (an increase of 125 percent) in the past five years. Most of this growth is abuse. Beneficiaries are granting proxies when they have no need for the fish. The proxy is merely receiving a "recreational entitlement" to allow a person to catch double their daily bag limit. To protect the proxy system, some control need to be implemented.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Continued abuse of the proxy system will continue and most likely will increase. This abuse will threaten legitimate anglers' because in weak return years, emergency closures could be instituted to protect the resource.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** No.

**WHO IS LIKELY TO BENEFIT?** All chinook and coho anglers be fishing with the same daily bag limits.

**WHO IS LIKELY TO SUFFER?** Those who fish proxies for chinook and coho salmon merely to extend their fishing time and daily bag limit catch.

**OTHER SOLUTIONS CONSIDERED?** Eliminating the sport fish proxy system. The board does not have that authority.

**PROPOSED BY:** Howard Delo (HQ-06F-072)  
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**PROPOSAL 237 - 5 AAC 75.011. Sport fishing by proxy.** Amend this regulation as follows:

The proxy holder would be limited to holding no more than two proxies per year. Further, the proxy holder must be related within the second degree of kindred to the beneficiary. These changes would make the sport fish proxy system similar to the recent changes adopted for the hunting proxy system.

**ISSUE:** The proxy sportfishing program has more than doubled in size statewide in the last five years. A significant amount of this proxy fishing system is simple abuse of the system. Beneficiaries are not receiving their fish or had no need for them to begin with. They were merely granting their proxy a “recreational entitlement” to catch twice the daily bag limit.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** In weak salmon return years, the resource could be damaged due to over fishing or premature season closures could occur because of this abuse of the system. Enforcement concerns will continue when troopers are called to respond to someone seen over fishing, when they were, in fact, holding a proxy. With continued levels of abuse, the entire proxy program will be in jeopardy of being eliminated to protect the fisheries resource.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** No.

**WHO IS LIKELY TO BENEFIT?** All sportfishing people would benefit from the reduction in abuse of the current sportfishing proxy system.

**WHO IS LIKELY TO SUFFER?** Some qualified beneficiaries might suffer if they have no family available to proxy for them. However, they can simply ask their friends to share their own catch, since there are no season bag limits other than king on sport-caught fish.

**OTHER SOLUTIONS CONSIDERED?** Elimination of the entire proxy system. The board does not have that authority.

**PROPOSED BY:** Howard Delo (HQ-06F-073)  
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**PROPOSAL 238 - 5 AAC 75.011. Sport fishing by proxy.** Amend this regulation as follows:

Limit the use of a proxy to no more than two in one calendar year as follows:  
A resident who takes, or attempts to take fish on behalf of a person under this section may also simultaneously engage in fishing for the residents use; however, the resident may not take or attempt to take fish by proxy for more than one person at a time **or two in one calendar year.**

**ISSUE:** Abuse of a well intended proxy system. Currently, a person fishing proxy for their beneficiary is limited to only fishing for one beneficiary at a time, but can fish for as many beneficiaries as he/she wishes during a season. Abuse of this system by anglers allows one angler to harvest as many limits of fish as he can find people to proxy for. As daily and seasonal bags decrease for the general sport fishing public, no one angler can have a much bigger impact on the resource through proxy fishing than several other anglers fishing only for themselves, especially Chinook salmon, which have a five fish per season limit. Limit the amount of proxies one angler can fish to two per season, in addition to the current rules that a proxy may only fish for one beneficiary in a day, and have only two bag and possession limits in possession.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Anglers will continue to abuse the proxy system, in some cases retaining far more than double the annual bag limit of fish with annual possession limits, such as chinook salmon. Fisheries managers will have a difficult time

predicting harvest, and management of fisheries will suffer.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** No.

**WHO IS LIKELY TO BENEFIT?** All users of the state's proxy system, as the system will be able to remain in place.

**WHO IS LIKELY TO SUFFER?** People abusing the current proxy regulations, harvesting everything they catch with no regard to standard limits. Beneficiaries of proxy fishing will not suffer, as each proxy fisher can still fish for two beneficiaries in a season.

**OTHER SOLUTIONS CONSIDERED?** Leave status quo. Not viable, as the status quo is broken. Eliminate proxies. No, because the proxy system does not provide access to the resource that elderly and disabled would otherwise be denied.

**PROPOSED BY:** Matanuska Valley Advisory Committee (HQ-06F-074)  
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**PROPOSAL 239 - 5AAC 75.003. Emergency Order Authority.** Amend the regulation to allow the following:

The department may, by emergency order, change bag and possession limits, annual limits, or alter methods and means in sport fisheries...

- (1) The commissioner or an authorized designee may decrease sport fish bag and possession limits, annual limits, and restrict methods and means of harvest by emergency order when...
- (2) The commissioner or an authorized designee may increase sport fish bag and possession limits, annual limits, and liberalize methods and means of harvest by emergency order when...

**ISSUE:** When exceptionally strong returns of salmon exceed the upper bounds of their biological escapement goals, liberalizing bag and possession limits or altering methods and means in sport fisheries may not result in an increased harvest, especially when an annual limit is in place. As a result, salmon that are surplus to the spawning escapement need in a particular drainage will remain unharvested. Conversely, the authority to decrease an annual harvest limit for a specific salmon return would provide the department additional flexibility in managing returns. A reduction in the annual limit for a particular return can either be used to reduce the overall harvest or to allow a greater number of anglers to participate in harvesting a more limited available surplus.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Salmon that are surplus to the number required for spawning escapements will remain unharvested, resulting in lost opportunities for anglers and businesses that provide services to anglers. Salmon returns that are small, weak, or heavily fished may only benefit a limited number of anglers.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** No

**WHO IS LIKELY TO BENEFIT?** Anglers, and businesses that provide services to anglers, may benefit if an annual limit is increased.

**WHO IS LIKELY TO SUFFER?** Anglers, and businesses that provide services to anglers, may not benefit if an annual limit is decreased.

**OTHER SOLUTIONS CONSIDERED?** The Department could seek the same emergency order authority to alter annual limits individually, for each management area or management plan, over the course of a three-year board cycle.

**PROPOSED BY:** Alaska Department of Fish and Game (HQ-06F-124)

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**PROPOSAL 240 - 5 AAC 75.034. Sport fishing gear for northern pike.** Amend this regulation as follows:

Northern pike may be taken by spear. The minimum spear size stand shall be:

- 1) seven tines
- 2) tines that are 7/8 inch between centers
- 3) tines are 1/4 inch diameter steel
- 4) the smallest tine, unobstructed length is six inches
- 5) minimum length of spear is 48 inches

These standards are based upon a common commercially available spear model.

**ISSUE:** We believe that there is a potential for increased Northern pike spear fishing in future years and if fishermen are not using the proper gear there will be a high incidence of hitting fish and losing them, resulting in high pike mortality. When a fish is hit using a small spearhead there is more likelihood of that fish struggling off the spear tines and lost. There may be a high incidence of mortality associated with hit fish.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Northern pike fished using spears will have a higher incidence of wounding or mortality if spear guidelines are not imposed. If proper equipment is used there will be a high success rate of landing speared fish.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** Yes, there will be fewer fish found wounded or dead as a result of using proper gear. Anglers have reported seeing scars on pike likely as a result of spearing.

**WHO IS LIKELY TO BENEFIT?** To ensure opportunity that spear fishing as a method continues and populations of Northern pike are protected from unnecessary mortality.

**WHO IS LIKELY TO SUFFER?** Those who will have to change the gear they use.

**OTHER SOLUTIONS CONSIDERED?** Eliminate spear fishing. We reject this because spear fishing is a traditional method and we want to preserve the opportunity.

**PROPOSED BY:** Delta Advisory Committee (I-06F-010)

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**PROPOSAL 241 - 5 AAC 75.995. Definitions.** Amend this regulation to include the following:

Add the following definition:

“Tip up” means 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.

**ISSUE:** There is no definition for tip-up in Article 9, Definitions. In order to propose modifications to the methods and means of the regulations, first there must be a definition to base the proposal.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** If this definition is not addressed, then fishing methods for sensitive fishing lakes cannot be addressed and fishing mortality may remain higher than necessary.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** Yes. This definition will provide a basis for future regulations addressing tip-up use.

**WHO IS LIKELY TO BENEFIT?** Fishermen concerned about the value of the fishing resource.

**WHO IS LIKELY TO SUFFER?** No one.

**OTHER SOLUTIONS CONSIDERED?** None.

**PROPOSED BY:** Ethan Birkholz (I-06F-006)  
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**PROPOSAL 242 - 5 AAC 75.010. Possession of sport-caught fish.** Amend this regulation as follows:

Establish a resident, freshwater only, seasonal bag limit of five king salmon. The fish may be harvested on one day or over the entire season. Once the angler has harvested five fish they may not fish for king salmon until the following season. Once a king salmon is killed it must be annotated immediately on the fishing license.

**ISSUE:** An inequity of practical opportunity and loss of interested anglers to a fishing area, amount of time available and unnecessary excessive use of fuel for multiple long-distance trips. The time, effort and expense needed by many anglers to pursue king salmon is difficult to accept when you are only allowed to harvest one fish and then you must stop fishing and go home. Most places are one fish in possession and no catch-and-release fishing after harvest.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Resident anglers are losing interest in fishing due to decreased opportunity and expense. Many people must expend significant time, effort and money just to get to a king salmon stream. Currently it is not worth the effort and I believe many people are opting to quit fishing.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** It could have an overall effect of reducing the number of fresh water king salmon killed by anglers. Currently anglers who live close to the resource can harvest a fish per day all season except in a few drainages already on five per year status.

**WHO IS LIKELY TO BENEFIT?** Residents who must travel long distances at great expense of time and effort to fish for king salmon. The department may stimulate people to purchase licenses and king salmon stamps.

**WHO IS LIKELY TO SUFFER?** People who want to harvest more than five freshwater king salmon. It would not affect saltwater fishing or nonresidents.

**OTHER SOLUTIONS CONSIDERED?** The acceptable bag limit number to allow is not known. Five is enough. It could be higher if the board sees fit. This idea is needed for resident halibut fishing as well as the same argument applies.

**PROPOSED BY:** Clinton W. Crusberg (I-06F-012)  
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**PROPOSAL 243 - 5 AAC 39.130. Reports required of processors, buyers, fishermen, and operators of certain commercial fishing vessels; transporting requirements.** Amend this regulation as follows:

All steelhead landed by CFEC permit holders must be reported on an ADF&G fish ticket at the time of delivery.

**ISSUE:** Biological data are lacking on numbers of steelhead taken by commercial fishermen. Escapement data provides an incomplete picture of populations, especially small populations. Escapement counts are inadequate to establish run strength without harvest information.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** The department would not have information on incidental harvest of steelhead. Steelhead management and conservation would be more difficult if this problem is not solved.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** Yes. Improved data and documentation will help the department better manage the steelhead resource.

**WHO IS LIKELY TO BENEFIT?** All users will benefit from more complete information to use for stock assessment, and steelhead management and conservation.

**WHO IS LIKELY TO SUFFER?** No one.

**OTHER SOLUTIONS CONSIDERED?** None.

**PROPOSED BY:** Midnight Sun Chapter of Trout Unlimited (I-06F-015)  
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**PROPOSAL 244 - 5 AAC 28.XXX.** Create a new regulation to provide the following:

The department shall provide the public an opportunity to purchase game fish from state operated fish hatcheries. Funds collected from the sale of game fish shall be put into the department fund and returned to the fish hatcheries to make the program self sustaining. The price paid by the public shall equal the cost of producing the fish. Fish stockings shall be subject to the department fish transport permit process to ensure that fish stockings will not adversely affect native fish populations.

**ISSUE:** Compel the department to sell hatchery-reared game fish to the public subject to the department fish transport permit process.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Not selling fish to the public for stocking private ponds will prevent new business opportunities, result in lost recreational opportunities for tourist and communities, and lost revenue to communities and the state. Selling fish to the public will create more business opportunities, sell more fishing licenses, and provide a positive economic benefit to communities and the state.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** Entrepreneurs will purchase small fish and grow them to a large size to attract tourist who are willing to pay for an opportunity to catch large fish. Most tourists do not have the time or money to spend for a remote fishing trip. But tourists are willing to purchase a sport fishing license and pay a fee to fish for large fish in private ponds along the road system. This enterprise will attract more angler participation which will result in more money for local businesses and the state through fishing fees and sales of fishing gear and fishing licenses. It is important that this request be quickly approved because businesses must invest at least two years growing the fish to large size to attract anglers.

**WHO IS LIKELY TO BENEFIT?** This is not a difficult problem. Selling the fish to the public will generate business, increase fishing opportunities, and provide economic benefit to the state.

**WHO IS LIKELY TO SUFFER?** No one.

**OTHER SOLUTIONS CONSIDERED?** None. Department policy does not allow hatchery game fish to be sold to the public.

**PROPOSED BY:** James Winslow (I-06F-028)

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**PROPOSAL 245 - 5 AAC 77.010. Methods, means, and general restrictions.** Amend this regulation as follows:

The bag limit for dipnetting in any stream will be the same as the bag limit for the hook and line sport fishery in the same stream.

**ISSUE:** The bag limit for personal use dipnetting is too high. Dipnetting is a recreational activity. A person must have a sportfishing license in order to participate, thus making it a recreational activity. It is not subsistence, therefore, should not have a subsistence bag limit.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Sportfishing and commercial fishing will be restricted or delayed because of the large number of fish taken in the dipnet fishery. Before there was a dipnet fishery the fish were already totally allocated. Dipnetting reallocate fish primarily away from the commercial fishery without compensation to the commercial fishermen. This reallocation is in direct conflict with the intent of the limited entry law which was passed to provide economic stability to commercial fishermen. Commercial fishing is restricted to allow more fish to be available to dipnetters. This contributes to economic instability for commercial fishermen.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** N/A.

**WHO IS LIKELY TO BENEFIT?** Traditional hook and line sport fishermen and commercial fishermen.

**WHO IS LIKELY TO SUFFER?** Dipnetters who want to be subsistence fishermen.

**OTHER SOLUTIONS CONSIDERED?** Take dipnetters out of the streams.

**PROPOSED BY:** Steve Vanek (HQ-06F-013)  
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**PROPOSAL 246 - 5 AAC 77.010. Methods, means, and general restrictions.** Amend this regulation as follows:

Personal use dipnetting will not begin on any stream until the biological escapement goal (BEG) has been met where there is a BEG.

**ISSUE:** Personal use dipnetting occurs before the BEG is achieved. Personal use dipnetting first began on stocks that had a surplus because the sport fishery or commercial fishery was unable to harvest this surplus. Now dipnetting has priority over other fisheries and begins before the BEG is reached.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** In years of low returns, sportfishing and commercial fishing will be restricted or delayed because dipnetting has already begun and the BEG will be reached later. Commercial fishing will be curtailed so that the dipnetters can get their allocation before the BEG is reached.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** N/A.

**WHO IS LIKELY TO BENEFIT?** Sport fishermen will benefit. Commercial fishermen will benefit since they may be otherwise restricted until the BEG is met.

**WHO IS LIKELY TO SUFFER?** Dipnetters who will have to wait until there is a surplus above the BEG.

**OTHER SOLUTIONS CONSIDERED?** Close dipnetting and re-open the beaches for personal use. Not likely to happen.

**PROPOSED BY:** Steve Vanek (HQ-06F-014)  
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**PROPOSAL 247 - 5 AAC 93.3XX.** The Commissioner of ADF&G, under AS 16.05.831, is proposing to adopt a statewide permanent regulation that will give the commissioner emergency order authority to allow salmon hatcheries to recover roe without further utilization of the salmon carcass in limited situations under restrictive conditions, where such use is consistent with the maximum and wise use of the resource. The following are two options for the proposed regulation the commissioner may adopt. The final regulation may contain elements of either or both options

suggested during the public comment process. The commissioner may also amend 5 AAC 93.350(d).

**Option 1:**

**5 AAC 93.3XX. Hatchery Salmon Use Authorization.** (a) Notwithstanding AS 16.05.831(a) and 5 AAC 93.310, the commissioner may, by emergency order, open a fishing season in any area during which a hatchery operator, processor, or catcher processor may remove and sell pink or chum salmon roe without further utilization of the carcasses of the salmon, under the terms of this section.

(b) This section applies only to pink and chum salmon that,

- (1) originated from a hatchery;
- (2) are harvested in a hatchery terminal area or hatchery special harvest area;
- (3) are part of a return that exceeds the forecast return by at least 50 percent;
- (4) have matured to the point that their flesh cannot be marketed or put to other lawful use without an unreasonable risk of incurring a financial loss;
- (5) cannot be put to other lawful use or be given away despite compliance with the requirements of this section;
- (6) are retained until after completion of a fish ticket; and
- (7) are disposed of at the same time as other salmon on the same fish ticket.

(c) Before operating under this section in any calendar year, a hatchery operator, processor, or catcher processor must

(1) submit a written notice of intent to operate under this section to the commissioner that includes

- (A) a plan for complying with the requirements of this section;
- (B) a report documenting any and all preseason efforts to find lawful uses for pink and chum salmon and to allocate necessary resources for processing for such use; and

(C) estimates as to what it would cost the hatchery permit holder, processor, or catcher processor to put unmarketable pink and chum salmon carcasses to lawful use; estimates must include transportation, equipment purchase or lease costs, and other processing costs;

(2) receive a written acknowledgment from the department that the department has received a completed notice of intent to operate under this section and that the hatchery operator, processor, or catcher processor is not precluded from operating under this section.

(d) After receiving the written acknowledgment described in (c)(2) of this section, during seasons announced by emergency order, a hatchery operator, processor, or catcher processor may remove the roe from pink or chum salmon carcasses without further use of the carcasses if the hatchery operator, processor, or catcher processor, for each lot of salmon carcasses to be disposed of, first does the following:

(1) makes a written determination (A) that the pink or chum salmon satisfy the requirements of (b)(1) - (5) of this section; and (B) of estimated proceeds from roe sales and salmon sales and costs to put the salmon carcasses to lawful use;

(2) records on ADF&G fish tickets, the date, time, location and quantity of the salmon roe harvested and the number of salmon carcasses that are disposed of, and attaches to the ticket a statement documenting the location and manner of disposal; and

(3) except as provided in (e) of this section, makes the salmon carcasses available, free of charge, to food banks and to the public; in making the salmon carcasses available, a hatchery operator, processor, or catcher processor shall

(A) refrigerate, ice, or otherwise preserve the salmon carcasses adequately to prevent decomposition or unwholesomeness;

(B) transport the salmon carcasses to a location where public access is available by road to a city, and keep the salmon carcasses available at that location for at least 36 hours before disposal;

(C) at least 72 hours before the disposal, provide public notice of the availability of the salmon carcasses by posting of notices at its normal places of business and by publication in a newspaper or through radio or television announcement; additional notices shall be given if reasonably necessary to alert food banks and the public of the availability of the salmon carcasses.

(e) As an alternative to making all salmon carcasses available as required in (d)(2) of this section, a hatchery operator, processor, or catcher processor may instead transport, as described in (d)(2)(B) of this section, 100 salmon carcasses, or an amount of salmon carcasses sufficient to meet public and food bank demands, whichever is greater, and then may immediately dispose of other pink or chum salmon carcasses. The hatchery operator, processor, or catcher processor shall maintain the transported salmon carcasses at that location under the conditions described in (d)(2)(A) of this section. The hatchery operator, processor, or catcher processor shall (1) replace transported salmon as necessary to maintain freshness but at least every 72 hours; and (2) for a period of 72 hours after any disposal, replenish the supply of transported salmon in amounts sufficient to maintain 100 salmon carcasses or to meet public and food bank demands, whichever is greater. Except as otherwise specified in this subsection, operations under this subsection are subject to all other provisions of this section, including the notice requirements of (d)(2)(C) of this section.

(f) A hatchery operator, processor, or catcher processor disposing of pink and chum salmon under this section shall keep detailed records, which must include the date, time, location, species, quantity, and quality grades, of all lots of salmon carcasses offered, and given away, to food banks and the public, and of all salmon carcasses that are disposed of under this section. The records shall be retained for two years.

(g) A hatchery operator, processor, or catcher processor shall keep detailed records of all attempts to sell or market pink and chum salmon carcasses that are disposed of under this section. The records must include a bid package containing information on location, species, quantity, and quality grades of salmon offered for sale and must also include a list of all buyers contacted and copies of any offers received. The records shall be retained for two years.

(h) Before December 15 of a year in which a hatchery permit holder submits a written notice of intent to operate under this section, the hatchery permit holder shall submit to the department a written report documenting

- (1) the number of pink and chum salmon carcasses disposed of, by species;
- (2) copies of the hatchery operator, processor, or catcher processor's written determinations required by (d)(1) of this section;
- (3) the number of pink and chum salmon carcasses, by species, made available, and given away, to food banks and the public under (d) and (e) of this section;
- (4) how the salmon in (3) of this subsection were made available under (d) and (e) of this section;
- (5) estimated costs that would be necessary to increase processing capacity to provide for lawful use if an equivalent number of salmon were to return the next year under similar market conditions; and
- (6) how the salmon carcasses were disposed of, including reference to all applicable local, state, and federal permits.

(i) Reports and other information provided to the department under this section will be considered to be public records.

(j) Records maintained under this section shall be provided, upon request, to the department, the department's agent, or the Department of Public Safety for inspection.

(k) A hatchery permit holder, processor, or catcher processor, disposing of pink or chum salmon carcasses under this section shall comply with all applicable state, federal, and local laws.

(l) A hatchery operator, processor, or catcher processor may not operate under this section if notified by the commissioner that its operations are not covered by this section.

(m) The commissioner will notify a hatchery permit holder, processor, or catcher processor, in writing, that its operations are not covered by this section if the commissioner determines that the permit holder, processor, or catcher processor, has

(1) substantially failed to comply with the requirements of this section;

(2) failed to submit a report required by this section or to maintain records required by this section;

(3) falsified information contained in reports or records required by this section;

(4) disposed of salmon in a manner inconsistent with state, federal, or local laws.

(n) If the commissioner determines that operations under this section are not consistent with the maximum and wise use of the resource, the commissioner will, in the commissioner's discretion, issue a new emergency order closing the season and opening a new season in which the terms of this authorization are modified or revoked for salmon processed or caught in any fishing district, subdistrict, or section. The commissioner, by emergency order, may limit an authorization under this section to hatchery operators, processors, catcher processors, or any combination thereof, if the commissioner determines that such limitation is consistent with the maximum and wise use of the resource.

(o) In this section, "unreasonable risk of incurring a financial loss" means that, for a given lot of fish, as designated by the hatchery operator, processor, or catcher processor, with reasonable inseason and preseason effort and allocation of resources, cost of putting the salmon to lawful use and from selling the roe removed from the salmon, without foregoing processing of other salmon, could be expected to exceed the proceeds of sale of the salmon and roe. Cost of putting the salmon to lawful use and from selling the roe removed from the salmon, without foregoing processing of other salmon, shall not be considered to exceed the proceeds of sale of the salmon and roe if another person is willing to accept the lot salmon, with roe intact, free of charge, and put the salmon to lawful use.

(p) A person may not possess salmon for use under this section while possessing at the same facility or on the same vessel

(1) salmon taken outside the special harvest area or terminal harvest area opened under (a) of this section; or

(2) salmon taken before the issuance of an emergency order under (a) of this section.

## **Option 2:**

**5 AAC 93.3XX. Hatchery Salmon Use Authorization.** (a) Notwithstanding AS 16.05.831(a) and 5 AAC 93.310, the commissioner may, by emergency order, open a fishing season in any area during which a hatchery operator or a processor, or catcher processor working under contract for the hatchery operator may remove and sell pink or chum salmon roe without further utilization of the carcasses of the salmon, under the terms of this section.

(b) This section applies only to pink and chum salmon that

(1) originated from a hatchery;

(2) are harvested in a hatchery terminal area or hatchery special harvest area;

(3) if left unharvested could create a public nuisance or could stray and intermix with or interfere with natural stocks;

(4) have matured to the point that the hatchery operator reasonably determines that the flesh cannot be marketed or put to other lawful use without an unreasonable risk of incurring a financial loss;

- (5) are required to be harvested under the terms of a hatchery permit,
  - (6) are retained until after completion of a fish ticket; and
  - (7) are disposed of at the same time as other salmon on the same fish ticket.
- (c) Before operating under this section in any calendar year, a hatchery operator must:
- (1) submit a written notice of intent to operate under this section to the department and identify any processor or catcher processor that will be involved in operations under this section; and
  - (2) receive a written acknowledgment from the department that the department has received a completed notice of intent to operate under this section and that the hatchery operator and any processor, or catcher processor it proposes to utilize is not precluded from operating under this section.
- (d) After receiving the written acknowledgment described in (c)(2) of this section, during seasons announced by emergency order, a hatchery operator, or a processor or catcher processor working for the hatchery operator may remove the roe from pink or chum salmon carcasses without further use of the carcasses if the hatchery operator, processor, or catcher processor, for each lot of salmon carcasses to be disposed does the following:
- (1) prior to disposal, makes a written determination that the requirements of (b) of this section will be met;
  - (2) keeps written records of all direct costs of harvesting the salmon, removing and processing the roe, disposing of the carcasses, marketing of the roe, and of all revenue generated from sales of the roe, and
  - (3) surrenders all proceeds from sale of the roe minus the direct costs of harvesting the salmon, removing and processing the roe, disposing of the carcasses, and marketing of the roe, to the state.
- (e) A hatchery operator, processor, or catcher processor shall retain all records required under this section for seven years.
- (f) Before December 15 of a year in which a hatchery permit holder submits a written notice of intent to operate under this section, the hatchery permit holder shall submit to the department a written report documenting
- (1) the number of pink and chum salmon carcasses disposed of, by species;
  - (2) copies of the written records required under this section from the hatchery operator and from any processor or catcher processor working for the hatchery operator;
  - (3) copies of records documenting the surrender of proceeds required by (d)(2) of this section;
- (g) Reports and other information provided to the department under this section will be considered to be public records.
- (h) Records maintained under this section shall be provided, upon request, to the department, the department's agent, the Department of Revenue, or the Department of Public Safety for inspection.
- (i) A hatchery permit holder, processor, or catcher processor, disposing of pink or chum salmon carcasses under this section shall comply with all applicable state, federal, and local laws.
- (j) A hatchery operator, processor, or catcher processor may not operate under this section if notified by the commissioner that its operations are not covered by this section.
- (k) The commissioner will notify a hatchery permit holder, processor, or catcher processor, in writing, that its operations are not covered by this section, if the commissioner determines that the permit holder, processor, or catcher processor, has
- (1) substantially failed to comply with the requirements of this section;
  - (2) failed to submit a report required by this section or to maintain records required by this section;
  - (3) falsified information contained in reports or records required by this section;

(4) disposed of salmon in a manner inconsistent with state, federal, or local laws.

(l) If the commissioner determines that operations under this section are not consistent with the maximum and wise use of the resource, the commissioner will, in the commissioner's discretion, issue a new emergency order closing the season and opening a new season in which the terms of this authorization are modified or revoked for salmon processed or caught in any fishing district, subdistrict, or section.

(o) In this section, "direct costs" does not include overhead or general marketing costs, but does include shipping and storage costs.

5 AAC 93.350(d) is amended to read:

(d) Notwithstanding AS 16.05.831 (a) and 5 AAC 93.310, a person may dispose of the carcass of a salmon from which milt or eggs are extracted under a permit issued under AS 16.10.400 - 16.10.480 for lawful use as brood stock **if the permit holder first documents milt and roe extraction and carcasses disposal information on a form provided by the department, and:**

**(1) eggs that are not used for fertilization are removed from no more than 10 percent of the permit holder's brood stock goal during milt and egg extraction; or**

**(2) the department is immediately notified in writing of any extraction of eggs that will not be used for fertilization that exceed the limits established in paragraph (1) of this subsection, and all proceeds from sale of eggs exceeding the limits established in paragraph (1) of this subsection are immediately forfeited to the State.**

**ISSUE:** During years of unexpectedly large salmon returns to various hatcheries the continued use of an emergency regulation has been necessary to prevent wandering of returning salmon and to prevent public nuisances from arising due to the accumulation of dead and dying salmon on the beaches and in the streams and surrounding areas. Because this issue has continued to arise, and because it is difficult to provide adequate incentives for maximum and wise use of the resource through last minute emergency regulations, permanent regulations are needed.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Continued reliance on emergency regulations is likely to be needed to assure that unexpectedly large returns of hatchery pink and chum salmon are harvested and it will be difficult to provide incentives for greater use of the resource.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** Yes, this regulation will allow for immediate orderly and timely clean up salmon fisheries within Terminal Harvest Areas and Special Harvest Areas.

**WHO IS LIKELY TO BENEFIT?** ADF&G staff and members of the public who would like to see greater utilization of hatchery returns, greater hatchery responsibility for handling unexpectedly large returns, and reduced accumulations of dead and dying salmon on beaches and in streams.

**WHO IS LIKELY TO SUFFER?** Hatchery operators and members of the public who would like the hatcheries to be able to maximize benefits from large returns without investing in increased processing capacity.

**OTHER SOLUTIONS CONSIDERED?** Status quo.

**PROPOSED BY:** Commissioner of ADF&G (HQ-06-F-169)

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