

# MEMORANDUM

State of Alaska  
Department of Law

TO: Jim Marcotte  
Executive Director  
Board of Fisheries

DATE: January 13, 2011

FILE NO.:

THRU:

TEL. NO.:

FAX:

FROM: Lance Nelson  
Senior Assistant Attorney General  
Natural Resources Section

SUBJECT: January 2011 Chignik Area Finish  
Proposals, Board of Fisheries.

## COMMENTS RE: LEGAL ISSUES WITH JANUARY 2011 CHIGNIK AREA FINFISH PROPOSALS

We note the following legal issues with the following proposals:

**Proposal 91:** This proposal would limit participation in the state-waters Pacific cod fishery in the Chignik Area to fishermen who had three years of prior participation with a minimum annual harvest or five deliveries. The Board has no authority to limit entry into a fishery; only the Commercial Fisheries Entry Commission has the authority to establish limited entry qualifications.

**Proposals 95-96:** These proposals would add spear, rod & reel, and power purse seine to the gear that may be used for subsistence salmon fishing in some parts of the Chignik Area. The subsistence statute requires that subsistence fishing regulations provide a reasonable opportunity to harvest fish, but does not require that a particular type of gear be authorized or that all types of gear that have been customarily and traditionally used be authorized.