

**ALASKA BOARD OF FISHERIES**

**November 2003**

**STATEWIDE FINFISH**

***PROPOSALS GROUPED BY TOPIC***

*Following is a list of proposals that will be considered at the above meeting, sorted by general topic. A board committee roadmap will be developed and distributed prior to the meeting.*

PROP

NO. SUBJECT

**SALMON**

**Sustainable Salmon Fisheries Policy**

- 2 Provide flexibility in setting escapement goals used in the management of salmon fisheries.
- 3 Provide for maximum utilization of salmon stocks.
- 4 Restrict nonresidents first when implementing measures for conservation of salmon stocks.

**Escapement Goal Policy**

- 5 Amend the salmon escapement goal policy to include consideration of economic loss to traditional users.

**Fishing gear specifications and definitions**

- 6 Amend the definition of “to operate fishing gear” to include gear in the water.
- 7 Authorize the use of single strand nylon gillnet webbing.
- 8 Amend the definition of a drift gillnet.
- 9 Amend the definition of a drift gillnet.

**Roe reporting**

- 10 Require fishermen selling salmon roe to report it on a fish ticket.

**DEVELOPING FISHERIES POLICY**

- 11 Establish a developing fisheries policy.

**PERSONAL USE FISHING**

- 12 Amend harvest reporting requirements
- 13 Amend eligibility requirements for personal use permits

**SPORT FISHING**

**Emergency Order Authority**

- 14 Modify the department’s emergency order authority for consistency with the sustainable salmon fisheries policy and the escapement goal policy.
- 15 Allow collection of biological information by department staff before fish are processed in the field.

PROP  
NO. SUBJECT

**Guides**

- 16 Prohibit guides from fishing when clients are present.
- 17 Repeal existing sport fishing business and guide registration programs.

**Trout and Char**

- 18 Create a Dolly Varden sustainable management policy.
- 19 Amend the existing wild trout sustainable management policy.
- 20 Create river corridor or watershed conservation measures on significant trout streams.

**Miscellaneous**

- 21 Require presentment of fishing gear to department staff upon request.
- 22 Allow certain sport caught fish to be used as bait in saltwater.
- 23 Prohibit the use of a gaff on fish intended to be released.
- 24 Extend statewide provisions into all waters of the Exclusive Economic Zone.
- 25 Provide for methods and means disability exemptions.
- 26 Modify definition of freshwater sport fishing gear.
- 27 Allow children to use bait in freshwater.
- 28 Prohibit anchoring when fishing for halibut if it interferes with other fisheries.

ALASKA BOARD OF FISHERIES

November 2003

STATEWIDE FINFISH

**PROPOSAL 2 - 5 AAC 39.222. Policy for the management of sustainable salmon fisheries; and 5 AAC 39.223. Policy for statewide salmon escapement goals.** Amend these regulations as follows:

Changes to these two regulatory policies are needed because of a current lack of flexibility in setting escapement goals to manage salmon fisheries in Alaska. Difficulties arose when implementing these policies in 2001 regarding how to set SEGs for stocks in Upper Cook Inlet with no information on yield. Relevance of the BEG as a management objective emerged as a problem in 2002 for nontargeted, but incidentally exploited chum and sockeye salmon stocks in Prince William Sound and in Southeast Alaska. Moreover, the inability to scientifically defend the upper bounds of SEGs surfaced in deliberations within the department's EGPIT (Escapement Goal Policy Implementation Team). This proposal requests a variety of changes to these policies to provide the department greater flexibility in setting escapement goals to manage salmon fisheries.

**5 AAC 39.222. Policy for the management of sustainable salmon fisheries.** (a) The Board of Fisheries (board) and Department of Fish and Game (department) recognize that

...

(c) Management of salmon fisheries by the state should be based on the following principles and criteria:

...

(2) salmon fisheries shall be managed to allow escapements [WITHIN RANGES] necessary to conserve and sustain potential salmon production and maintain normal ecosystem functioning as follows:

- (A) salmon spawning escapements should be assessed both temporally and geographically; escapement monitoring programs should be appropriate to the scale, intensity, and importance of each salmon stock's use;
- (B) salmon escapement goals, whether sustainable escapement goals, biological escapement goals, optimal escapement goals, or inriver run goals, should be established in a manner consistent with sustained yield; [UNLESS OTHERWISE DIRECTED, THE DEPARTMENT WILL MANAGE ALASKA'S SALMON FISHERIES,] **and** to the extent possible **and desirable**, [FOR] **consistent with** maximum sustained yield;
- (C) salmon escapement goals [RANGES] should allow for uncertainty associated with measurement techniques, observed variability in the salmon stock measured, changes in climatic and oceanographic conditions, and varying abundance within related populations of the salmon stock measured;
- (D) salmon escapement should be managed in a manner to maintain genetic and phenotypic characteristics of the stock by assuring appropriate geographic and temporal distribution of spawners as well as consideration of size range, sex ratio, and other population attributes;
- (E) impacts of fishing, including incidental mortality and other human-induced mortality, should be assessed and considered in harvest management decisions;
- (F) [SALMON ESCAPEMENT AND]harvest management decisions should be made in a manner that protects non-target salmon stocks or species;

- (G) **inter-species relationships** [THE ROLE OF SALMON IN ECOSYSTEM FUNCTIONING] should be [EVALUATED AND] considered in [HARVEST MANAGEMENT DECISIONS AND] setting [OF] salmon escapement goals;
- (H) salmon abundance trends should be monitored and considered in harvest management decisions;

...

- (c)(3)(D) management agencies should have clear authority in statute and regulation to
  - (i) control all sources of fishing mortality on salmon;
  - (ii) protect salmon habitats [AND CONTROL NON-FISHING SOURCES OF MORTALITY];

...

(d) The principles and criteria for sustainable salmon fisheries shall be applied, by the department and the board using the best available information, as follows:

...

- (2) in response to the department's salmon stock status reports, reports from other resource agencies, and public input, the board will review the management plan, or consider developing a management plan, for each affected salmon fishery or stock; management plans will be based on the principles and criteria contained in this policy and will
  - (A) contain goals and measurable and implementable objectives that are reviewed on a regular basis and utilize the best available scientific information;
  - (B) minimize the adverse effects on salmon habitat caused by fishing;
  - (C) protect, restore, and promote the long-term health and sustainability of the salmon fishery and habitat;
  - (D) prevent overfishing; and
  - (E) provide conservation and management measures that are necessary and appropriate to promote maximum [OR OPTIMUM] **sustained benefits from fisheries** [YIELD OF THE FISHERY RESOURCE];

...

(f) In this section, and in implementing this policy,

...

- (3) "biological escapement goal" or "(BEG)" means the escapement **expressed as an index, an estimate, or a count** that provides the greatest potential for maximum sustained yield **from a salmon stock**; [BEG WILL BE THE PRIMARY MANAGEMENT OBJECTIVE FOR THE ESCAPEMENT UNLESS AN OPTIMAL ESCAPEMENT OR INRIVER RUN GOAL HAS BEEN ADOPTED;] BEG will be developed from the best available biological information, and should be scientifically defensible on the basis of available biological information; BEG will be determined by the department and will be expressed as a range based on factors such as salmon stock productivity and data uncertainty; the department will seek to maintain evenly distributed salmon escapements within the bounds of [A] **that** BEG;

...

- (18) "incidental mortality" means the mortality imposed on a salmon stock **as a consequence of fishing beyond harvest of targeted and nontargeted stocks** [OUTSIDE OF DIRECTED FISHING, AND MORTALITY CAUSED BY INCIDENTAL HARVESTS, INTERACTION WITH FISHING GEAR, HABITAT DEGRADATION, AND OTHER HUMAN-RELATED ACTIVITIES];

...

- (21) "management concern" means a concern arising from a chronic inability, despite use of specific management measures, to [MAINTAIN ESCAPEMENTS FOR A SALMON STOCK WITHIN THE BOUNDS OF THE SEG, BEG, OEG, OR OTHER SPECIFIED]

**meet** management objectives **related to a BEG, a SEG, or an OEG for a salmon stock** [FOR THE FISHERY]; a management concern is not as severe as a conservation concern;

(22) "maximum sustained yield" or "(MSY)" means the greatest average annual yield from a salmon stock; in practice, MSY is achieved when a level of escapement is maintained within a specific range on an annual basis, regardless of annual run strength; the achievement of MSY requires a high degree of management precision and scientific information regarding the relationship between salmon escapement and subsequent return; [THE CONCEPT OF MSY SHOULD BE INTERPRETED IN A BROAD ECOSYSTEM CONTEXT TO TAKE INTO ACCOUNT SPECIES INTERACTIONS, ENVIRONMENTAL CHANGES, AN ARRAY OF ECOSYSTEM GOODS AND SERVICES, AND SCIENTIFIC UNCERTAINTY;]

...  
(25) "optimal escapement goal" or "(OEG)" means a specific management objective for salmon escapement that considers biological and allocative factors and may differ from the SEG or BEG; an OEG will be **expected to produce** sustainable **yields** and may be expressed as a range **or a threshold, either of which will be** [WITH THE LOWER BOUND] above the [LEVEL OF] SET **for the stock**, and will be adopted as a regulation by the board; the department will seek to maintain **escapements above the threshold or** evenly distributed [ESCAPEMENTS] within the [BOUNDS] **range** of the OEG;

...  
(36) "sustainable escapement goal" or "(SEG)" means **an** [LEVEL OF] escapement, [INDICATED BY] **expressed as** an index, [OR] an [ESCAPEMENT] estimate, **or a count** that [IS KNOWN TO] provides for sustained yield **from a stock** [OVER A 5 TO 10 YEAR PERIOD, USED IN SITUATIONS WHERE A BEG CANNOT BE ESTIMATED DUE TO THE ABSENCE OF A STOCK SPECIFIC CATCH ESTIMATE]; the SEG [IS THE PRIMARY MANAGEMENT OBJECTIVE FOR THE ESCAPEMENT, UNLESS AN OPTIMAL ESCAPEMENT OR INRIVER RUN GOAL HAS BEEN ADOPTED BY THE BOARD, AND] will be developed from the best available biological information, **and should be scientifically defensible on the basis of available biological information**; the SEG will be determined by the department and will be [STATED] **expressed** as a range **or a threshold** that takes into account data uncertainty; [THE DEPARTMENT WILL SEEK TO MAINTAIN ESCAPEMENTS WITHIN THE BOUNDS OF THE SEG;]

(37) "sustainable salmon fishery" means a salmon fishery that persists and [OBTAINS YIELDS] **produces benefits** on a continuing basis; characterized by fishing activities and habitat alteration, if any, that do not cause or lead to undesirable changes in biological productivity, biological diversity, or ecosystem structure and function, from one human generation to the next;

(38) "sustained yield" means an average annual yield **from a stock** that results from a level of salmon escapement that can be maintained on a continuing basis; a wide range of average annual yield levels is sustainable; a wide range of annual escapement levels can produce sustained yields;

(39) "sustained escapement threshold" or "(SET)" means a threshold level of escapement, below which the ability of the salmon stock to sustain itself is jeopardized; in practice, SET can be estimated based on lower ranges of historical escapement levels, for which the salmon stock has [CONSISTENTLY] demonstrated the ability to sustain itself; the SET is lower than the lower bound of the BEG and lower than the lower bound **or threshold** of the SEG; [THE SET IS ESTABLISHED BY THE DEPARTMENT IN CONSULTATION WITH THE BOARD, AS NEEDED, FOR SALMON STOCKS OF MANAGEMENT OR CONSERVATION CONCERN;]

...

## 5 AAC 39.223. Policy for statewide salmon escapement goals.

...

- (b) The board recognizes the department's responsibility to
- (1) document existing salmon escapement goals [FOR ALL SALMON STOCKS THAT ARE CURRENTLY MANAGED FOR AN ESCAPEMENT GOAL];
  - (2) establish **new or revised** biological escapement goals (BEG) **and sustainable escapement goals (SEG)** for salmon stocks for which the department [CAN RELIABLY ENUMERATE] **has sufficient information on** [SALMON] escapements [LEVELS, AS WELL AS TOTAL ANNUAL RETURNS] **to do so**;
  - [(3) ESTABLISH SUSTAINABLE ESCAPEMENT GOALS (SEG) FOR SALMON STOCKS FOR WHICH THE DEPARTMENT CAN RELIABLY ESTIMATE ESCAPEMENT LEVELS WHEN THERE IS NOT SUFFICIENT INFORMATION TO ENUMERATE TOTAL ANNUAL RETURNS AND THE RANGE OF ESCAPEMENTS THAT ARE USED TO DEVELOP A BEG; ]

...

- (6) review **all** [AN EXISTING, OR PROPOSE A NEW,] BEGs, SEGs and SETs on a schedule that conforms, to the extent practicable, to the board's regular cycle of consideration of area regulatory proposals;

...

- (c) In recognition of its joint responsibilities, and in consultation with the department, the board will

- (1) take regulatory actions as may be necessary to address allocation issues arising from implementation of a new or modified BEG, SEG, [AND] **or** SET;
- (2) during its regulatory process, review [A] BEGs, SEGs, or SETs [determined] **as established** 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 establishing an OEG and provide, 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.

...

**PROBLEM:** Changes to these two regulatory policies are needed because of a current lack of flexibility in setting escapement goals to manage salmon fisheries in Alaska. Difficulties arose when implementing these policies in 2001 regarding how to set SEGs for stocks in Upper Cook Inlet with no information on yield. Relevance of the BEG as a management objective emerged as a problem in 2002 for nontargeted, but incidentally exploited chum and sockeye salmon stocks in Prince William Sound and in Southeast Alaska. Moreover, the inability of scientifically defending the upper bounds of SEGs surfaced in deliberations within the department's EGPIT (Escapement Goal Policy Implementation Team). The changes proposed above are designed to resolve the following issues:

**BEG as the default, primary management objective:** The department's mission is to maximize benefits from fisheries. Yield is defined in policy as harvest with the BEG representing the escapement that should produce the maximum, long-term average yield from a stock. If a salmon fishery is a single-stock, terminal fishery, then escapements within the BEG should maximize benefits. However, if a fishery is a multi-stock fishery in which users for economic or social reasons target some stocks or species and not others, managing the fishery to attain MSY from non-targeted stocks, if possible at all, most likely will not maximize benefits from the fishery.

Many chum and sockeye salmon are caught incidentally in large fisheries for pink salmon in Alaska. The department has not managed these pink salmon fisheries in the past to keep chum or sockeye salmon escapements within a range; and for good reason.

SEG and OEG as a range only: The department or the board should have the flexibility to set an SEG or an OEG as either a range or a threshold according to circumstances. Thresholds are more efficient for nontargeted stocks where “overescapement” is not a concern, or for targeted stocks where serendipitous large escapements would provide information needed to eventually determine a BEG. A range would be useful in keeping escapements for a targeted stock within the levels known to produce sustained yields, thereby maintaining the status quo. The point is to have goals such that management and yield concerns arise when we really should be concerned, not as a result of an attempt to make policies where “one size fits all.”

SEG not scientifically defensible: In the existing policy the BEG is required to be scientifically defensible and the SEG not. An escapement goal is “scientifically defensible” when there is evidence confirming an expectation of sustained yield. That evidence could be a history of yields from given levels of escapement. If there is no information on yields, theory indicates that all escapements in the lower half of the observed range would be scientifically defensible as SEGs. By the existing policy SEGs like BEGs are to be based on the best scientific information, however, to be credible, they should also be scientifically defensible.

Additional editorial changes are also suggested.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** The department will lack the added flexibility needed to properly set escapement goals to manage Alaska’s salmon fisheries. Lacking a requirement for scientific defensibility will continue to degrade the department’s ability to use SEGs as thresholds to credibly manage incidentally harvested or nontargeted salmon stocks.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** Yes. In many ways, added flexibility in managing salmon fisheries statewide could result in increased quality of the resource harvested.

**WHO IS LIKELY TO BENEFIT?** Fishery managers and fishermen statewide will benefit from the increased flexibility to properly set salmon escapement goals and the ability to defend all types of escapement goals on a scientific basis.

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

**OTHER SOLUTIONS CONSIDERED?** Status quo wording in these two policies was considered and rejected in favor of increased flexibility in setting escapement goals.

**PROPOSED BY:** Alaska Department of Fish and Game (HQ-03-F-185)  
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**PROPOSAL 3 - 5 AAC 39.222. Policy for the management of sustainable salmon fisheries.**  
Amend this regulation as follows:

- (a) The Board of Fisheries (board) and Department of Fish and Game (department) recognize that
  - (1) while, in the aggregate, Alaska's salmon fisheries are healthy and sustainable largely because of abundant pristine habitat and the application of sound, conservation

management practices, there is a need for a comprehensive policy for the regulation and management of sustainable salmon fisheries;

- (2) in formulating fishery management plans designed to achieve maximum [OR OPTIMUM] salmon production, the board and department must consider factors including environmental change, habitat loss or degradation, data uncertainty, limited funding for research and management programs, existing harvest patterns, and new fisheries or expanding fisheries;
  - (3) to effectively assure **maximum** sustained yield and habitat protection for wild salmon stocks, fishery management plans and programs require specific guiding principles and criteria, and the framework for their application contained in this policy.
- (b) The goal of the policy under this section is to ensure conservation of salmon and salmon's required marine and aquatic habitats, protection of customary and traditional subsistence uses and other uses, and the sustained economic health of Alaska's fishing communities.
- (c) Management of salmon fisheries by the state should be based on the following principles and criteria:

**(1) management of salmon stocks and salmon fisheries. The commissioner and the board shall manage the important and dominant salmon stocks of the state for maximum sustained yield, to the extent practicable, to achieve the greatest benefit to the people of the state:**

**(A) the commissioner shall adopt and revise as necessary escapement goals and harvest goals for important and dominant salmon stocks utilizing the best reliable scientific information available to the department. In the absence of sufficient information to establish an escapement goal or harvest goals for a salmon stock consistent with maximum sustained yield, the department shall manage the stock for sustained yield. To the extent practicable, the commissioner shall expeditiously collect information necessary to manage important or dominant salmon stocks for maximum sustained yield. The commissioner shall manage salmon fisheries through emergency orders issued under AS 16.05.060 to achieve escapement goals or harvest goals where established and use the collective judgment of the department that stocks without goals are managed to highest level of sustained yield as is possible or practical. For minor stocks for which the commissioner finds that it is not practical to manage each stock for maximum sustained yield, the commissioner shall exercise the professional judgment of the department to ensure that the escapement levels are maintained at a level that provides for the sustained yield of these stocks. The commissioner shall manage salmon for sustained yield in accordance with the following requirements:**

**(B) where the presence of multiple salmon stocks or species in a fishery or management area results in the inability to simultaneously achieve escapement goals for all of the stocks or species, the commissioner shall seek a balance during the fishing season of the escapements for all stocks and species in a manner that does the least harm collectively to the productivity of all stocks and species in the fishery or management area;**

**(i) the commissioner shall balance the harm of reducing escapements below the escapement goal for weaker salmon stocks with increasing escapements above the escapement goal for stronger salmon stocks without regard to the allocative effects of the decision;**

**(ii) the commissioner shall manage important, dominant, and more productive salmon stocks for maximum sustained yield and minor or less productive salmon stocks for sustained yield if necessary to achieve the greatest benefit to the people of the state;**



**(iii) in the absence of a management plan, when management measures affect two or more competing groups of users, the commissioner shall regulate salmon fisheries in a manner that allows for the best probability of simultaneously achieving the escapement goals for all important and dominant salmon stocks with the least disruption to users with no other local alternative salmon fisheries;**

**(iv) the commissioner shall avoid over harvest that may threaten the sustained yield of a salmon stock.**

**(2)** [(1)] wild salmon stocks and the salmon's habitats should be maintained at levels of resource productivity that assure **maximum** sustained yields as follows:

(A) salmon spawning, rearing, and migratory habitats should be protected as follows:

(i) salmon habitats should not be perturbed beyond natural boundaries of variation;

(ii) scientific assessments of possible adverse ecological effects of proposed habitat alterations and the impacts of the alterations on salmon populations should be conducted before approval of a proposal;

(iii) adverse environmental impacts on wild salmon stocks and the salmon's habitats should be assessed;

(iv) all essential salmon habitat in marine, estuarine, and freshwater ecosystems and access of salmon to these habitats should be protected; essential habitats include spawning and incubation areas, freshwater rearing areas, estuarine and nearshore rearing areas, offshore rearing areas, and migratory pathways;

(v) salmon habitat in fresh water should be protected on a watershed basis, including appropriate management of riparian zones, water quality, and water quantity;

(B) salmon stocks should be protected within spawning, incubating, rearing, and migratory habitats;

(C) degraded salmon productivity resulting from habitat loss should be assessed, considered, and controlled by affected user groups, regulatory agencies, and boards when making conservation and allocation decisions;

(D) effects and interactions of introduced or enhanced salmon stocks on wild salmon stocks should be assessed; wild salmon stocks and fisheries on those stocks should be protected from adverse impacts from artificial propagation and enhancement efforts;

(E) degraded salmon spawning, incubating, rearing, and migratory habitats should be restored to natural levels of productivity where known and desirable;

(F) ongoing monitoring should be conducted to determine the current status of habitat and the effectiveness of restoration activities;

(G) depleted salmon stocks should be allowed to recover or, where appropriate, should be actively restored; diversity should be maintained to the maximum extent possible, at the genetic, population, species, and ecosystem levels;

**(3)** [(2)] salmon fisheries shall be managed to allow escapements within ranges necessary to conserve and **maximize** [SUSTAIN] potential salmon production and maintain normal ecosystem functioning as follows:

(A) salmon spawning escapements should be assessed both temporally and geographically; escapement monitoring programs should be appropriate to the scale, intensity, and importance of each salmon stock's use;

(B) salmon escapement goals, whether sustainable escapement goals, biological escapement goals, [OPTIMAL ESCAPEMENT GOALS], or inriver run goals, should be established in a manner consistent with **maximum** sustained yield; [UNLESS OTHERWISE DIRECTED,] the department will manage Alaska's salmon fisheries, to the extent possible, for maximum sustained yield;

**(i) inriver escapement goals will be established in a manner as to allow the fishery to be managed within the BEG or SEG ranges;**

- (C) salmon escapement goal ranges should allow for uncertainty associated with measurement techniques, observed variability in the salmon stock measured, changes in climatic and oceanographic conditions, and varying abundance within related populations of the salmon stock measured;
  - (D) salmon escapement should be managed in a manner to maintain genetic and phenotypic characteristics of the stock by assuring appropriate geographic and temporal distribution of spawners as well as consideration of size range, sex ratio, and other population attributes;
  - (E) impacts of fishing, including incidental mortality and other human-induced mortality, should be assessed and considered in harvest management decisions;
  - (F) salmon escapement and harvest management decisions should be made in a manner that protects non-target salmon stocks or species;
  - (G) the role of salmon in ecosystem functioning should be evaluated and considered in harvest management decisions and setting of salmon escapement goals;
  - (H) salmon abundance trends should be monitored and considered in harvest management decisions;
- (4)** [(3)] effective management systems should be established and applied to regulate human activities that affect salmon as follows:
- (A) salmon management objectives should be appropriate to the scale and intensity of various uses and the biological capacities of target salmon stocks;
  - (B) management objectives should be established in harvest management plans, strategies, guiding principles, and policies, such as for mixed stock fishery harvests, fish disease, genetics, and hatchery production, that are subject to periodic review;
  - (C) when wild salmon stocks are fully allocated, new fisheries or expanding fisheries should be restricted, unless provided for [BY MANAGEMENT PLANS OR] by application of the board's allocation criteria;
  - (D) management agencies should have clear authority in statute and regulation to
    - (i) control all sources of fishing mortality on salmon;
    - (ii) protect salmon habitats and control non-fishing sources of mortality;
  - (E) management programs should be effective in
    - (i) controlling human-induced sources of fishing mortality and should incorporate procedures to assure effective monitoring, compliance, control, and enforcement;
    - (ii) protecting salmon habitats and controlling collateral mortality and should incorporate procedures to assure effective monitoring, compliance, control, and enforcement;
  - (F) fisheries management implementation and outcomes should be consistent with regulations, regulations should be consistent with statutes, and effectively carry out the purpose of this section;
  - (G) the board **may suggest** [WILL RECOMMEND] to the commissioner the development of effective joint research, assessment, and management arrangements with appropriate management agencies and bodies for salmon stocks that cross state, federal, or international jurisdictional boundaries; the board will recommend the coordination of appropriate procedures for effective monitoring, compliance, control, and enforcement with those of other agencies, states, or nations;
  - (H) the board will work, within the limits of its authority, to assure that **the board:**
    - (i) [MANAGEMENT] activities are accomplished in a timely and responsive manner to implement objectives, based on the best available scientific information;
    - (ii) **has** effective mechanisms for the collection and dissemination of information and data necessary to carry out its [MANAGEMENT] activities are developed, maintained, and utilized;

- (iii) **activities** [MANAGEMENT PROGRAMS] and decision-making procedures are able to clearly distinguish, and effectively deal with biological and allocation issues;
- (I) the board will recommend to the commissioner and legislature that adequate staff and budget for research, management, and enforcement activities be available to fully implement sustainable salmon fisheries principles;
- (J) proposals for salmon fisheries development or expansion and artificial propagation and enhancement should include assessments required for **maximum** sustainable management of existing salmon fisheries and wild salmon stocks;
- (K) plans and proposals for development or expansion of salmon fisheries and enhancement programs should effectively document resource assessments, potential impacts, and other information needed to assure **maximum** sustainable management of wild salmon stocks;
- (L) the board will work with the commissioner and other agencies to develop effective processes for controlling excess fishing capacity;
- (M) procedures should be implemented to regularly evaluate the effectiveness of fishery management and habitat protection actions in sustaining salmon populations, fisheries, and habitat, and to resolve associated problems or deficiencies;
- (N) conservation and management decisions for salmon fisheries should take into account the best available information on biological, environmental, economic, social, and resource use factors;
- (O) research and data collection should be undertaken to improve scientific and technical knowledge of salmon fisheries, including ecosystem interactions, status of salmon populations, and the condition of salmon habitats;
- (P) the best available scientific information on the status of salmon populations and the condition of the salmon's habitats should be routinely updated and subject to peer review;
- (5)** [(4)] public support and involvement for sustained use and protection of salmon resources should be sought and encouraged as follows:
  - (A) effective mechanisms for dispute resolution should be developed and used;
  - (B) pertinent information and decisions should be effectively disseminated to all interested parties in a timely manner;
  - (C) the board's regulatory [MANAGEMENT] and allocation decisions will be made in an open process with public involvement;
  - (D) an understanding of the proportion of mortality inflicted on each salmon stock by each user group, should be promoted, and the burden of conservation should be allocated across user groups in a manner consistent with applicable state and federal statutes, including AS 16.05.251(e) and AS 16.05.258; in the absence of a regulatory management plan that otherwise allocates or restricts harvests, and when it is necessary to restrict fisheries on salmon stocks where there are known conservation problems, the burden of conservation shall be shared among all fisheries in close proportion to each fisheries' respective use, consistent with state and federal law;
  - (E) the board will work with the commissioner and other agencies as necessary to assure that adequately funded public information and education programs provide timely materials on salmon conservation, including habitat requirements, threats to salmon habitat, the value of salmon and habitat to the public and ecosystem (fish and wildlife), natural variability and population dynamics, the status of salmon stocks and fisheries, and the regulatory process;
- (6)** [(5)] in the face of uncertainty, salmon stocks, fisheries, artificial propagation, and essential habitats shall be managed conservatively as follows:

- (A) a precautionary approach, involving the application of prudent foresight that takes into account the uncertainties in salmon fisheries and habitat management, the biological, social, cultural, and economic risks, and the need to take action with incomplete knowledge, should be applied to the regulation and control of harvest and other human-induced sources of salmon mortality; a precautionary approach requires
  - (i) consideration of the needs of future generations and avoidance of potentially irreversible changes;
  - (ii) prior identification of undesirable outcomes and of measures that will avoid undesirable outcomes or correct them promptly;
  - (iii) initiation of any necessary corrective measure without delay and prompt achievement of the measure's purpose, on a time scale not exceeding five years, which is approximately the generation time of most salmon species;
  - (iv) that where the impact of resource use is uncertain, but likely presents a measurable risk to **maximum** sustained yield, priority should be given to conserving the productive capacity of the resource;
  - (v) appropriate placement of the burden of proof, of adherence to the requirements of this subparagraph, on those plans or ongoing activities that pose a risk or hazard to salmon habitat or production;
- (B) a precautionary approach should be applied to the regulation of activities that affect essential salmon habitat.
- (d) The principles and criteria for **maximum** sustainable salmon fisheries shall be applied, by the department and the board using the best available information, as follows:
  - (1) at regular meetings of the board, the department [WILL], to the extent practicable, provide the board with reports on the status of salmon stocks and salmon fisheries under consideration for regulatory changes, which should include
    - (A) a stock-by-stock assessment of the extent to which the management of salmon stocks and fisheries is consistent with the principles and criteria contained in the policy under this section;
    - (B) descriptions of habitat status and any habitat concerns;
    - (C) identification of healthy salmon stocks and sustainable salmon fisheries;
    - (D) identification of any existing salmon escapement goals, or management actions needed to achieve these goals, that may have allocative consequences such as the
      - (i) identification of a new fishery or expanding fishery;
      - (ii) identification of any salmon stocks, or populations within stocks, that present a concern related to yield, management, or conservation; and
      - (iii) description of management and research options to address salmon stock or habitat concerns;
  - (2) in response to the department's salmon stock status reports, reports from other resource agencies, and public input, the board will review the management plan, or consider developing a management plan, for each affected salmon fishery or stock; management plans will be based on the principles and criteria contained in this policy and will
    - (A) contain goals and measurable and implementable objectives that are reviewed on a regular basis and utilize the best available scientific information;
    - (B) minimize the adverse effects on salmon habitat caused by fishing;
    - (C) protect, restore, and promote the long-term health and sustainability of the salmon fishery and habitat;
    - (D) regulate fishing to desired levels; and
    - (E) provide conservation and management measures that are necessary and appropriate to promote maximum [OR OPTIMUM] sustained yield of the fishery resource;
  - (3) in the course of review of the salmon stock status reports and management plans described in (1) and (2) of this subsection, the board, **on agreement of the**

- commissioner, may** [IN CONSULTATION WITH THE DEPARTMENT, WILL] determine if any new fisheries or expanding fisheries, stock yield concerns, stock management concerns, or stock conservation concerns exist; if so, the board will **on agreement with the commissioner**, as appropriate, amend or develop salmon fishery management plans to address these concerns; the extent of regulatory action, if any, should be commensurate with the level of concerns and range from milder to stronger as concerns range from new and expanding salmon fisheries through yield concerns, management concerns, and conservation concerns;
- (4) in association with the appropriate management plan, the department and the board will, as appropriate, **agree on** [COLLABORATE IN] the development and periodic review of an action plan for any new or expanding salmon fisheries, or stocks of concern; action plans should contain goals, measurable and implementable objectives, and provisions, including:
- (A) measures required to restore and protect salmon habitat, including necessary coordination with other agencies and organizations;
- (B) identification of salmon stock or population rebuilding goals and objectives;
- (C) fishery management actions needed to achieve rebuilding goals and objectives, in proportion to each fishery's use of, and hazards posed to, a salmon stock;
- (D) descriptions of new or expanding salmon fisheries, management concern, yield concern, or conservation concern; [AND]
- (E) performance measures appropriate for monitoring and gauging the effectiveness of the action plan that are derived from the principles and criteria contained in this policy; **and**
- (F) recovery goals that when reached will automatically remove any management or conservation measures or harvest restrictions imposed by the board or commissioner.**
- (5) each action plan will include a research plan as necessary to provide information to address concerns; research needs and priorities will be evaluated periodically, based on the effectiveness of the monitoring described in (4) of this subsection;
- (6) where actions needed to regulate human activities that affect salmon and salmon's habitat that are outside the authority of the department or the board, the department or board shall correspond with the relevant authority, including the governor, relevant boards and commissions, commissioners, and chairs of appropriate legislative committees, to describe the issue and recommend appropriate action **upon which both the board and commissioner must agree.**
- (e) Nothing in the policy under this section is intended to expand, reduce, or be inconsistent with, the statutory regulatory authority of the board, the **commissioner** [DEPARTMENT], or other state agencies with regulatory authority that impacts the fishery resources of the state.
- (f) In this section, and in implementing this policy,
- (1) "allocation" means the granting of specific harvest privileges, usually by regulation, among or between various user groups; "allocation" includes quotas, time periods, area restrictions, percentage sharing of stocks, and other management measures providing or limiting harvest opportunity;
- (2) "allocation criteria" means the factors set out in AS 16.05.251(e) considered by the board as appropriate to particular allocation decisions under 5 AAC 39.205, 5 AAC 75.017, and 5 AAC 77.007;
- (3) "biological escapement goal" or "(BEG)" means the escapement that provides the greatest potential for maximum sustained yield; BEG will be the primary management objective for the escapement unless an [optimal escapement or] in-river run goal has been adopted; BEG will be developed from the best available biological information, and should be scientifically defensible on the basis of available biological information; BEG will be

determined by the department and will be expressed as a range based on factors such as salmon stock productivity and data uncertainty; the department will seek to maintain evenly distributed salmon escapements within the bounds of a BEG;

- (4) "burden of conservation" means the restrictions imposed by the board or **commissioner** [DEPARTMENT] upon various users in order to achieve escapement, rebuild, or in some other way conserve a specific salmon stock or group of stocks; this burden, in the absence of a salmon fishery management plan, will be generally applied to users in close proportion to the users' respective harvest of the salmon stock;
- (5) "chronic inability" means the continuing or anticipated inability to meet escapement thresholds over a four to five year period, which is approximately the generation time of most salmon species;
- (6) **"conservation" is the supervision, management and maintenance of natural resources; the protection, improvement and use of natural resources in a way that ensures the highest social as well as economic benefits;**
- (7) [(6)] "conservation concern" means concern arising from a chronic inability, despite the use of specific management measures, to maintain escapements for a stock above a sustained escapement threshold (SET); a conservation concern is more severe than a management concern;
- (8) [(7)] "depleted salmon stock" means a salmon stock for which there is a conservation concern;
- (9) [(8)] "diversity", in a biological context, means the range of variation exhibited within any level of organization, such as among genotypes within a salmon population, among populations within a salmon stock, among salmon stocks within a species, among salmon species within a community, or among communities within an ecosystem;
- (10) **"emergency" is a finding of fact that threatens a fishery resource, an anticipated or unforeseen resource situation where a biologically allowable resource harvest would be precluded by delayed management actions (emergency orders are fisheries announcements and not included in this emergency designation);**
- (11) [(9)] "enhanced salmon stock" means a stock of salmon that is undergoing specific manipulation, such as hatchery augmentation or lake fertilization, to enhance its productivity above the level that would naturally occur; "enhanced salmon stock" includes an introduced stock, where no wild salmon stock had occurred before, or a wild salmon stock undergoing manipulation, but does not include a salmon stock undergoing rehabilitation, which is intended to restore a salmon stock's productivity to a higher natural level;
- (12) [(10)] "escapement" means the annual estimated size of the spawning salmon stock; quality of the escapement may be determined not only by numbers of spawners, but also by factors such as sex ratio, **spawning success**, age composition, temporal entry into the system, and spatial distribution within the salmon spawning habitat;
- (13) [(11)] "expanding fishery" means a salmon fishery in which effective harvesting effort has recently increased significantly beyond historical levels and where the increase has not resulted from natural fluctuations in salmon abundance;
- (14) [(12)] "expected yields" mean levels at or near the lower range of recent historic harvests if they are deemed sustainable;
- (15) [(13)] "genetic" means those characteristics (genotypic) of an individual or group of salmon that are expressed genetically, such as allele frequencies or other genetic markers;
- (16) [(14)] "habitat concern" means the degradation of salmon habitat that results in, or can be anticipated to result in, impacts leading to yield, management, or conservation concerns;
- (17) [(15)] "harvestable surplus" means the number of salmon from a stock's annual run that is surplus to escapement needs and can reasonably be made available for harvest;

- (18)** [(16)] "healthy salmon stock" means a stock of salmon that has annual runs typically of a size to meet escapement goals and a potential harvestable surplus to support optimum or maximum sustained yield;
- (19)** [(17)] "incidental harvest" means the harvest of fish, or other species, that is captured in addition to the target species of a fishery;
- (20)** [(18)] "incidental mortality" means the mortality imposed on a salmon stock outside of directed fishing, and mortality caused by incidental harvests, interaction with fishing gear, habitat degradation, and other human-related activities;
- (21)** [(19)] "in-river run goal" means a specific management objective for salmon stocks that are subject to harvest upstream of the point where escapement is estimated; the inriver run goal will be set in regulation by the board and is comprised of the SEG, BEG, [OR OEG], plus specific allocations to inriver fisheries;
- (22)** [(20)] "introduced stock" means a stock of salmon that has been introduced to an area, or portion of an area, where that stock had not previously occurred; an "introduced salmon stock" includes a salmon stock undergoing continued enhancement, or a salmon stock that is left to sustain itself with no additional manipulation;
- (23)** [(21)] "management concern" means a concern arising from a chronic inability, despite use of specific management measures, to maintain escapements for a salmon stock within the bounds of the SEG **or** BEG [OEG OR OTHER SPECIFIED MANAGEMENT OBJECTIVES FOR THE FISHERY]; a management concern is not as severe as a conservation concern;
- (24)** [(22)] "maximum sustained yield" or "(MSY)" means the greatest average annual yield from a salmon stock; in practice, MSY is achieved when a level of escapement is maintained within a specific range on an annual basis, regardless of annual run strength; the achievement of MSY requires a high degree of management precision and scientific information regarding the relationship between salmon escapement and subsequent return; the concept of MSY should be interpreted in a broad ecosystem context to take into account species interactions, environmental changes, an array of ecosystem goods and services, and scientific uncertainty;
- (25)** [(23)] "mixed stock fishery" means a fishery that harvests fish from a mixture of stocks;
- (26)** [(24)] "new fishery" means a fishery that new units of effort or expansion of existing effort toward new species, areas, or time periods, results in harvest patterns substantially different from those in previous years, and the difference is not exclusively the result of natural fluctuations in fish abundance;
- [(25) "OPTIMAL ESCAPEMENT GOAL" OR "(OEG)" MEANS A SPECIFIC MANAGEMENT OBJECTIVE FOR SALMON ESCAPEMENT THAT CONSIDERS BIOLOGICAL AND ALLOCATIVE FACTORS AND MAY DIFFER FROM THE SEG OR BEG; AN OEG WILL BE SUSTAINABLE AND MAY BE EXPRESSED AS A RANGE WITH THE LOWER BOUND ABOVE THE LEVEL OF SEG, AND WILL BE ADOPTED AS A REGULATION BY THE BOARD; THE DEPARTMENT WILL SEEK TO MAINTAIN EVENLY DISTRIBUTED ESCAPEMENTS WITHIN THE BOUNDS OF THE OEG;]
- [(26) "OPTIMUM SUSTAINED YIELD" OR "(OSY)" MEANS AN AVERAGE ANNUAL YIELD FROM A SALMON STOCK CONSIDERED TO BE OPTIMAL IN ACHIEVING A SPECIFIC MANAGEMENT OBJECTIVE OTHER THAN MAXIMUM YIELD, SUCH AS ACHIEVEMENT OF A CONSISTENT LEVEL OF SUSTAINED YIELD [PROTECTION OF A LESS ABUNDANT OR LESS PRODUCTIVE SALMON STOCK OR SPECIES, ENHANCEMENT OF CATCH PER UNIT EFFORT IN SPORT FISHERY, FACILITATION OF A NON-CONSUMPTIVE USE, FACILITATION OF A SUBSISTENCE USE, OR ACHIEVEMENT OF A SPECIFIC ALLOCATION;]

- (27) "overfishing" means a level of fishing on a salmon stock that results in a conservation or management concern;
- (28) "phenotypic characteristics" means those characteristics of an individual or group of salmon that are expressed physically, such as body size and length at age;
- (29) "rehabilitation" means efforts applied to a salmon stock to restore it to an otherwise natural level of productivity; "rehabilitation" does not include an enhancement, which is intended to augment production above otherwise natural levels;
- (30) "return" means the total number of salmon in a stock from a single brood (spawning) year surviving to adulthood; because the ages of adult salmon (except pink salmon) returning to spawn varies, the total return from a brood year will occur over several calendar years; the total return generally includes those mature salmon from a single brood year that are harvested in fisheries plus those that compose the salmon stock's spawning escapement; "return" does not include a run, which is the number of mature salmon in a stock during a single calendar year;
- (31) "run" means the total number of salmon in a stock surviving to adulthood and returning to the vicinity of the natal stream in any calendar year, composed of both the harvest of adult salmon plus the escapement; the annual run in any calendar year, except for pink salmon, is composed of several age classes of mature fish from the stock, derived from the spawning of a number of previous brood years;
- (32) "salmon" means the five wild anadromous semelparous Pacific salmon species *Oncorhynchus sp.*, except steelhead and cutthroat trout, native to Alaska as follows:
- (A) chinook or king salmon (*O. tshawytscha*);
  - (B) sockeye or red salmon (*O. nerka*);
  - (C) coho or silver salmon (*O. kisutch*);
  - (D) pink or humpback salmon (*O. gorbuscha*); and
  - (E) chum or dog salmon (*O. keta*);
- (33) "salmon population" means a locally interbreeding group of salmon that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics, comprised of an entire stock or a component portion of a stock; the smallest uniquely identifiable spawning aggregation of genetically similar salmon used for monitoring purposes;
- (34) "salmon stock" means a locally interbreeding group of salmon that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics or an aggregation of two or more interbreeding groups which occur within the same geographic area and is managed as a unit;
- (35) "stock of concern" means a stock of salmon for which there is a yield, management, or conservation concern;
- (36) "sustainable escapement goal" or "(SEG)" means a level of escapement, indicated by an index or an escapement estimate, that is known to provide for sustained yield over a 5 to 10 year period, used in situations where a BEG cannot be estimated due to the absence of a stock specific catch estimate; the SEG is the primary management objective for the escapement, unless an optimal escapement or inriver run goal has been adopted by the board, and will be developed from the best available biological information; the SEG will be determined by the department and will be stated as a range that takes into account data uncertainty; the department will seek to maintain escapements within the bounds of the SEG;
- (37) "sustainable salmon fishery" means a salmon fishery that persists and obtains yields on a continuing basis; characterized by fishing activities and habitat alteration, if any, that do not cause or lead to undesirable changes in biological productivity, biological diversity, or ecosystem structure and function, from one human generation to the next;



- (38) "sustained yield" means an average annual yield that results from a level of salmon escapement that can be maintained on a continuing basis; a wide range of average annual yield levels is sustainable; a wide range of annual escapement levels can produce sustained yields;
- [(39)] "SUSTAINED ESCAPEMENT THRESHOLD" OR "(SET)" MEANS A THRESHOLD LEVEL OF ESCAPEMENT, BELOW WHICH THE ABILITY OF THE SALMON STOCK TO SUSTAIN ITSELF IS JEOPARDIZED; IN PRACTICE, SET CAN BE ESTIMATED BASED ON LOWER RANGES OF HISTORICAL ESCAPEMENT LEVELS, FOR WHICH THE SALMON STOCK HAS CONSISTENTLY DEMONSTRATED THE ABILITY TO SUSTAIN ITSELF; THE SET IS LOWER THAN THE LOWER BOUND OF THE BEG AND LOWER THAN THE LOWER BOUND OF THE SEG; THE SET IS ESTABLISHED BY THE DEPARTMENT IN CONSULTATION WITH THE BOARD, AS NEEDED, FOR SALMON STOCKS OF MANAGEMENT OR CONSERVATION CONCERN;]
- (39)** [(40)] "target species" or "target salmon stocks" means the main, or several major, salmon species of interest toward which a fishery directs its harvest;
- (40)** [(41)] "yield" means the number or weight of salmon harvested in a particular year or season from a stock;
- (41)** [(42)] "yield concern" means a concern arising from a chronic inability, despite the use of specific management measures, to maintain expected yields, or harvestable surpluses, above a stock's escapement needs; a yield concern is less severe than a management concern, which is less severe than a conservation concern;
- (42)** [(43)] "wild salmon stock" means a stock of salmon that originates in a specific location under natural conditions; "wild salmon stock" may include an enhanced or rehabilitated stock if its productivity is augmented by supplemental means, such as lake fertilization or rehabilitative stocking; "wild salmon stock" does not include an introduced stock, except that some introduced salmon stocks may come to be considered "wild" if the stock is self-sustaining for a long period of time;
- (43)** [(44)] "action point" means a threshold value for some quantitative indicator of stock run strength at which an explicit management action will be taken to achieve an optimal escapement goal.

**PROBLEM:** Revise the Statewide Sustainable Fishery Policy to provide for maximum utilization of the state's fishery resources. Provide for management flexibility and harvest possibilities once stocks have recovered following a conservation concern. Present policy does not provide for harvest possibilities between board meetings, even though the stocks have fully recovered. The current sustainable fish policy does not adequately provide policy directions for mixed stocks situations. These proposed changes provide the policy directions for yields and harvests when there are major differences in run strengths. Currently the policy provides for harvests based on the strength of the weakest stocks resulting in lost harvest opportunities. Simplify the types of escapements, current policy has many types of escapements that are inappropriate or not needed to maintain maximum sustained yields.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** There will continue to be large foregone harvest opportunities by all users.

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

**WHO IS LIKELY TO BENEFIT?** Resource harvesters, sport, commercial sport, subsistence and commercial fishermen.

**WHO IS LIKELY TO SUFFER?** Hopefully, no one.

**OTHER SOLUTIONS CONSIDERED?** None.

**PROPOSED BY:** United Cook Inlet Drift Association (HQ-03-F-064)

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**PROPOSAL 4 - 5 AAC 39.222. Policy for the management of sustainable salmon fisheries.**

Amend this regulation to provide the following:

In times where a conservation reason is determined and there needs to be a restriction on resource users, nonresidents will be restricted before residents.

**PROBLEM:** Burden sharing and resident opportunity.

**WHAT WILL HAPPEN IF NOTHING IS DONE?**

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

**WHO IS LIKELY TO BENEFIT?** Resource harvesters, sport, commercial, sport, subsistence and commercial fishermen.

**WHO IS LIKELY TO SUFFER?** Hopefully, no one.

**OTHER SOLUTIONS CONSIDERED?**

**PROPOSED BY:** Paul A. Shadura II (HQ-03-F-194)

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**PROPOSAL 5 - 5 AAC 39.223. Policy for statewide salmon escapement goals.** Amend this

regulation as follows:

(c)(2)...an estimate of expected differences in **and economic loss to traditional user group** of any salmon stock...

**PROBLEM:** Clarify escapement goal policies (modify as necessary).

**WHAT WILL HAPPEN IF NOTHING IS DONE?**

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

**WHO IS LIKELY TO BENEFIT?** Resource harvesters, sport, commercial sport, subsistence and commercial fishermen.

**WHO IS LIKELY TO SUFFER?** Hopefully, no one.

**OTHER SOLUTIONS CONSIDERED?** None.

**PROPOSED BY:** Paul A. Shadura II (HQ-03-F-193)

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**PROPOSAL 6 - 5 AAC 39.975(22). Definitions.** Define “to operate fishing gear” as follows:

(22) “to operate fishing gear” means

(A) the deployment of gear **or having gear deployed** in the waters of Alaska;

**PROBLEM:** The current definition of operation of commercial fishing gear includes deployment and removal of gear from the water but does not specifically include gear that is already deployed and fishing. Under certain circumstances the legal interpretation by the courts could preclude enforcement action against violators when enforcement personnel did not specifically observe the violator deploy or remove the gear, e.g., shellfish pots, set gillnets, longlines, etc., that are found fishing unattended in violation of regulations.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** In circumstances where enforcement personnel do not observe deployment or removal of gear, enforcement actions may be prevented. Common sense dictates that gear in the water and fishing is operating, however, the legal description of operation does not presently include this.

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

**WHO IS LIKELY TO BENEFIT?** Enforcement actions will be effective when illegal fishing gear is located already fishing and the deployment or removal from the water is not specifically observed.

**WHO IS LIKELY TO SUFFER?** Fishermen who violate regulations and wish to use the present definition as a defense.

**OTHER SOLUTIONS CONSIDERED?** Status quo, with a possible defense to illegal fishing being that enforcement personnel did not see the illegal gear deployed or removed from the water by the fisherman.

**PROPOSED BY:** Department of Public Safety (HQ-03-F-038)

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**PROPOSAL 7 - 5 AAC 39.250. Gillnet specifications and operations.** Amend this regulation as follows:

(c) Gillnet web must contain **from one up to** [AT LEAST] 30 filaments, except that

(1) in the Southeast Alaska, Yakutat, and Prince William Sound, and Cook Inlet Areas, gillnet web must meet one of the following requirements:

(A) the web must contain **from one up to** [AT LEAST] 30 filaments and all filaments must be of equal diameter, or

(B) the web must contain **from one up to** [AT LEAST] six filaments, each of which must be at least 0.20 millimeter in diameter.

(2) the requirements contained in (1)(A) and (B) of this subsection apply in the Kodiak, Chignik, Aleutian Islands, Alaska Peninsula, Bristol Bay, Kuskokwim, Yukon-Northern, Norton Sound-Port Clarence, and Kotzebue areas.

**PROBLEM:** The current regulation contained in 5 AAC 39.250 prohibits the use of less than 30 or six equal filaments of nylon in gillnet web. Single strand nylon gillnet webbing is about 60 percent

the cost of 30 or six filament webbing. As a means of easing the economic cost of replacing gillnet webbing provide in regulations the flexibility to use single filament gillnet web if the fisherman chooses.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Continued high costs of replacing gillnet webbing.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** Reduces cost by about 40 percent for gillnet web replacement.

**WHO IS LIKELY TO BENEFIT?** Commercial fishermen.

**WHO IS LIKELY TO SUFFER?** No one, intended to be allocatively neutral.

**OTHER SOLUTIONS CONSIDERED?** None.

**PROPOSED BY:** United Cook Inlet Drift Association (HQ-03-F-063)  
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**PROPOSAL 8 - 5 AAC 39.105(d)(3). Types of legal gear.** Amend this regulation as follows:

(d)(3) a drift gillnet is a drifting gillnet that has not been intentionally staked, anchored, or otherwise fixed **in any manner that would cause it not to drift in common with all other drift nets.**

**PROBLEM:** The problem is arbitrarily and inconsistent application of this regulation without regard to the reason the regulation was created.

Boats are often cited for fishing in shallow water, where their nets are not drifting because the lead line is resting on the bottom, and there is not enough current to cause the net to drift. The purpose of this regulation was not to make this type of fishing illegal. For if it were, every boat that has ever fished in Bristol Bay would be guilty of intentionally violating this regulation. Rather, the intention of this regulation was to assure that all nets would drift in common with each other.

If a net were to be anchored so that it would not drift with the current, then all the unanchored nets would drift into the anchored net causing obvious conflicts. Avoiding this gear conflict was clearly the purpose for this regulation. Recently the size of the legal fishing districts within Bristol Bay have been greatly reduced, forcing increased competition within the shallow waters. Many boats have been developed to operate more safely and efficiently in shallow waters.

Without a clear definition as to the purpose of this regulation, it is impossible for Fish and Wildlife Protection to apply its rule fairly and consistently. The boats fishing in shallow water do not know if today they will be cited or ignored.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Enforcement will continue to apply this regulation unfairly, inconsistently, and arbitrarily, thus creating undo anxiety, resentment and legal expense for honest fishermen. Boats fishing in shallow water will not have a clear understanding of what will be considered legal today.

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

**WHO IS LIKELY TO BENEFIT?** Enforcement will benefit by having clear guidance as to why and when to apply this regulation. Shallow water drift fishermen will benefit because they will not be cited without reason. All fishermen, set and drift, will benefit because FWP will have more time to enforce the regulations that protect our fishery.

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

**OTHER SOLUTIONS CONSIDERED?** My only other solution is to quit fishing in shallow water. I rejected this solution because it is not fair or reasonable and there is not enough deep water available in today's fishing districts. This solution will certainly not be adopted by the other shallow water fishermen of Bristol Bay.

**PROPOSED BY:** David L. Kopra (SC-03-F-008)

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**PROPOSAL 9 - 5 AAC 39.105(d)(3). Types of legal gear.** Amend this regulation as follows:

(3) a drift gillnet is a [DRIFTING] gillnet that has not been permanently [INTENTIONALLY] staked, anchored, or otherwise fixed at both ends to a specific location. A drift net which is temporarily dry on a beach or sand bar is not a set gillnet.

**PROBLEM:** Amend the definition of a drift gillnet. We need a better definition of a drift gillnet so that the uncertainty of what is a set gillnet and what is a drift gillnet can be differentiated. A driftnetter will usually get a citation for setnetting without a set net permit if all or part of their drift gillnet temporarily goes dry on a sand bar or beach by accidental grounding or when they set where there is no tidal action that stage of the tide and their leadline keeps them from drifting and part of their net goes dry. This definition will be specific enough to prevent the issuance of a citation when a drift net temporarily goes dry.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Uncertainty by both enforcement and drift gillnetters.

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

**WHO IS LIKELY TO BENEFIT?** Enforcement and drift gillnetters by removing the uncertainty.

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

**OTHER SOLUTIONS CONSIDERED?** N/A.

**PROPOSED BY:** William P. Johnson (SW-3-F-020)

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**PROPOSAL 10 - 5 AAC 39.130 Reports required of processors, buyers, and operators of certain commercial fishing vessels; transporting requirements.** Amend this regulation to require that salmon roe sold as a separate byproduct from the salmon be reported on a department fish ticket, as follows:

(c) Each buyer of raw fish or salmon roe, 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. 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. The operator of a fishing vessel whose port of landing is outside the waters of Alaska, or who sells, transfers, or delivers fish in a Seaward Biological Influence Zone, 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 or salmon roe are transported out of the jurisdiction of the state. The record must include the following:

- (1) the name of the individual or company buying the fish or salmon roe, 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 the buyer's representative;

...

**(10) except in the Arctic/Yukon/Kuskokwim areas, when salmon is sold as a byproduct, either with the salmon from which that roe was extracted, or sold separately from the salmon from which the roe was extracted, the following information is required on the ADF&G fish ticket:**

**(A) the number of pounds of roe by salmon species;**

**(B) the number of pounds of salmon roe sold for human consumption;**

**(C) the number of pounds of salmon roe sold for bait;**

**(D) the number of carcasses and pounds by species of the female salmon from which the roe was harvested;**

- (11)** [10] other information the department may require.

**PROBLEM:** Sales of salmon roe, as a byproduct to the harvesting of salmon, especially chum salmon, have grown exponentially during the last ten years, as prices for salmon flesh have declined while prices for salmon roe have remained relatively high. The lack of reporting requirements has frustrated the ability of the department to accurately account for harvests and to estimate harvest value, when large volumes of salmon roe are being sold, but not reported. There have also been widespread allegations, and some convictions, for wanton waste of salmon associated with roe stripping operations. The lack of a reporting requirement for salmon roe hampers enforcement efforts. The department has attempted to utilize a voluntary reporting system for salmon roe, but compliance has been mixed and the quality of the data collected poor.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** The capability of the department to accurately account for harvests and estimate salmon harvest values will be reduced because of the lack of reporting of the sales of salmon roe. Enforcement efforts directed at the salmon waste laws will be hampered by a lack of data on salmon roe harvests.

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

**WHO IS LIKELY TO BENEFIT?** Everyone interested in accurate catch and harvest value reporting and effective enforcement of the laws preventing the waste of salmon.

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

**OTHER SOLUTIONS CONSIDERED?** Continued voluntary reporting which has not worked effectively.

**PROPOSED BY:** Alaska Department of Fish and Game

HQ-03-F-161

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**PROPOSAL 11 - 5 AAC 39.XXX. Developing fishery policy.** Create a new regulation to provide the following:

Add a new section that establishes the regulatory requirements and criteria that will be used to guide the development of new fisheries on species or stocks currently not utilized or underutilized. Specific regulatory language will be available prior to the board meeting. For information regarding the principles and approach, the public should refer to the draft “A Plan for the Development of New Fisheries in Alaska.” This plan can be found as a PDF file at the following web site: <http://www.cf.adfg.state.ak.us/>.

**PROBLEM:** 5 AAC 39.210, Management Plan for High Impact Emerging Commercial Fisheries, applies to fisheries that are already in the early stages of development. There is no regulatory framework for guiding the development of new fisheries from the start. Without guidelines for the orderly development of new fisheries, new fisheries are developed on an ad hoc basis or not at all. This first strategy carries a high risk of stock failure and unacceptable impacts on other fisheries through bycatch and gear conflicts. The second alternative forecloses new economic opportunity.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** The development of new fisheries will be impeded or new fishery development will follow the failed pattern of boom and bust.

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

**WHO IS LIKELY TO BENEFIT?** Individuals who wish to develop new fisheries will have a clear path they can follow. The rules and expectations will be known. Orderly fishery development will be facilitated. The public will know what is expected of those proposing to develop a new fishery and what to expect from the department.

**WHO IS LIKELY TO SUFFER?**

**OTHER SOLUTIONS CONSIDERED?** To not allow the development of new fisheries. Allow fisheries to develop without adequate biological information about the size, distribution, and productivity of the targeted species and associated impacts such as bycatch.

**PROPOSED BY:** Alaska Department of Fish and Game (HQ-03-F-041/HQ-02-F-427)  
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**PROPOSAL 12 - 5 AAC 77.015(d). Personal use fishing permits and reports and display of personal use fish.** Amend this regulation to delete the following:

[(d) IF THE RETURN OF CATCH INFORMATION NECESSARY FOR MANAGEMENT AND CONSERVATION PURPOSES IS REQUIRED BY A PERSONAL USE FISHING PERMIT, PERMITTEE WHO FAILS TO COMPLY WITH SUCH REPORTING REQUIREMENTS IS INELIGIBLE TO RECEIVE A PERSONAL USE PERMIT FOR THAT ACTIVITY DURING THE FOLLOWING CALENDAR YEAR, UNLESS THE PERMIT APPLICANT DEMONSTRATES TO THE DEPARTMENT THAT FAILURE TO REPORT WAS DUE TO UNAVOIDABLE CIRCUMSTANCES.]

**PROBLEM:** In some areas of the state a significant percentage of the permits fail to report harvests as required on the permit. Because these permits are issued by license vendors and to a household instead of to an individual person it is not possible to prevent the issuance of a permit

to someone for noncompliance. With this verbiage stricken from regulation a citation and fine can then be imposed for people who do not return the permit as required after a reminder is sent. This is typically how other permit or report compliance regulations are enforced.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Harvest reporting will continue to be incomplete and unenforceable.

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

**WHO IS LIKELY TO BENEFIT?** All users with better reporting compliance.

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

**OTHER SOLUTIONS CONSIDERED?** None.

**PROPOSED BY:** Department of Public Safety & Department of Fish and Game (HQ-03-F-053)

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**PROPOSAL 13 - 5 AAC 77.015(b). Personal use fishing permits and reports and display of personal use fish.** Amend this regulation as follows:

You must be an Alaska resident to participate in personal use fisheries or to receive a permit.

**PROBLEM:** Eliminate the requirement to have a sport fish licensee to receive a personal use permit; this is not sport fishing. If money is needed to manage the fishery charge a fee for the permit. Many people are getting a stack of permits from the stores without even having a sport license. Someone should see that there is some oversight in how these permits get given out.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Personal use fisheries will continue to be discriminated against.

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

**WHO IS LIKELY TO BENEFIT?** All Alaska residents.

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

**OTHER SOLUTIONS CONSIDERED?**

**PROPOSED BY:** Tom Obrien

(HQ-03-F-100)

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**PROPOSAL 14 - 5 AAC 75.003. Emergency order authority.** Amend this regulation as follows:

(2) The commissioner or authorized designee may increase sport fish bag and possession limits and liberalize methods and means of harvest by emergency order when

- (A) the total escapement of a species of anadromous fish is projected to exceed the [OPTIMUM ESCAPEMENT GOAL BY 25 PERCENT OR THE UPPER LIMIT OF THE] escapement **goal** [RANGE] for that species listed in management plans that have been adopted by the Board of Fisheries or established by the department, if the total



harvest under the increased bag and possession limit will not reduce the escapement below the [OPTIMUM ESCAPEMENT GOAL OR THE UPPER LIMIT OF THE] escapement **goal** [RANGE]

**PROBLEM:** As written, 5 AAC 75.003(2)(A) contains language that is inconsistent with the current text and proposed changes to Policy for the Management of Sustainable Salmon Fisheries (5 AAC 39.222) and Policy for Statewide Salmon Escapement Goals (5 AAC 39.223). The inconsistencies concern authority relating to how escapement goals are expressed.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** In times of high abundance, anadromous salmon returns will continue to exceed the upper limits of the escapement goal needs resulting in surplus fish not being harvested.

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

**WHO IS LIKELY TO BENEFIT?** If this proposal is adopted, anglers will benefit from abundance based management.

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

**OTHER SOLUTIONS CONSIDERED?** None.

**PROPOSED BY:** Alaska Department of Fish and Game (HQ-03-F-186)

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**PROPOSAL 15 - 5 AAC 75.003. Emergency order authority.** Create a new regulation as follows:

(3) For purposes of data collection to improve harvest or stock assessment, or for purposes of improved enforcement of bag and size limits, the commissioner or an authorized designee may establish, by emergency order, areas and times in which anglers may not fillet, mutilate, discard the head, or otherwise disfigure specific species of fish in a manner that prevents collection of information, such as species identification, examination of the adipose fin of salmonids, recovery of tags, or determination of length, sex, or age, until the fish are brought to shore and offloaded from a vessel or transported away from a shoreline fishing site if the fish was taken from shore. Fish taken from vessels may be preserved or consumed onboard. The commissioner or authorized designee may also require that certain parts of a fish still be attached for purposes of species identification or data collection. This authority would not apply to fish preserved or consumed aboard a vessel.

**PROBLEM:** Under current regulations, anglers fishing from boats are allowed to clean state-managed species and dispose of the carcasses before returning to shore. Shore anglers may also clean fish in a manner that prevents determination of wild or hatchery status or recovery of tag information. These practices result in a loss of species, size, sex, age, or tag number information that is needed to assess the sport harvest or the status of stocks. In some cases anglers may engage in this practice to avoid detection of undersize fish or bag limit violations.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** The department's ability to collect species, size, sex, and age data needed to estimate sport harvests and assess stock status will be compromised.

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

**WHO IS LIKELY TO BENEFIT?** The public will benefit from more complete data, better assessment and management of fish stocks, and increased enforcement.

**WHO IS LIKELY TO SUFFER?** Anglers or charter boat operators that clean fish and discard the carcasses before returning to shore for convenience, and shore anglers that clean fish before leaving the fishing site. This regulation will require anglers to dispose of carcasses on shore, or away from a fishing site after landing the fish, at the places and during the times specified in the emergency order.

**OTHER SOLUTIONS CONSIDERED?** We considered a year-round, statewide regulation that would prohibit filleting or cleaning of rockfish or fishes for which there are size limits in a manner that prevented determination of the length of the fish. We believe that rather than impose a blanket requirement, it would be better to apply such a regulation on an emergency order basis only when and where data collection programs are in place.

**PROPOSED BY:** Alaska Department of Fish and Game (HQ-03-F-182)

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**PROPOSAL 16 - 5 AAC 75.XXX. Sport fishing guides.** Created a new regulation to provide the following:

Guide boats: Guides may not sportfish while a client is present or within the guide's control or responsibility, unless the guide is providing assistance to a client with disability, as defined in the Americans with Disabilities Act.

**PROBLEM:** Guides fishing while client present not allowed.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Sport take and bag limits will increase endangering adequate salmon escapement.

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

**WHO IS LIKELY TO BENEFIT?** Future generations of fishers, other sport fishers.

**WHO IS LIKELY TO SUFFER?** The guides.

**OTHER SOLUTIONS CONSIDERED?**

**PROPOSED BY:** R. Weaver Ivanoff (HQ-03-F-024)

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**PROPOSAL 17 - 5 AAC 75.075. Fishing services and sport fishing guides; registration requirements; regulation of activities.** Amend this regulation as follows:

The Board of Fisheries should repeal the sport fishing operators and guide registration.

**PROBLEM:** The State of Alaska commercial sport fishing operators registration and sport fishing guides registration.

The current registration system does not provide the Department of Fish and Game with any credible data on the guiding industry.

Because there is absolutely no requirement to register, many people register to get guide discounts from tackle companies, or they think guiding will go limited entry one day.

In the fall of 2000 I obtained the complete list of registered guides and operators from the department. I was looking for an assistant manager and wanted to send a notice to registered guides that I had a sport fishing lodge management position available.

In looking at the list it became very clear that the registration system was being abused. Examples are the family where both parents, two daughters and a son all registered as fishing guides and they lived in Oregon.

I selected names from Alaska and the western half of the U.S. I had people apply who were registered guides and had never been in Alaska. One person said he had been registered for a few years because he always dreamed of coming to Alaska and being a fishing guide.

Another person had guided in Alaska two years earlier but kept his registration because he could get guide discounts from tackle makers.

The data that the department gets from the guide registration program is absolutely useless.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** The department will continue to waste money and staff time administrating a program that does not benefit any management decision that the board or the department might make.

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

**WHO IS LIKELY TO BENEFIT?** State of Alaska, Sport Fish Division will save time and money.

**WHO IS LIKELY TO SUFFER?** Those who are abusing the system.

**OTHER SOLUTIONS CONSIDERED?** The best solution would be to have guide licensing instead of guide registration. The Alaska State Legislature would have to pass a statute requiring licensing, and charge a fee and other requirements to eliminate those who have no intention of guiding.

**PROPOSED BY:** Bud Hudson (SC-03-F-001)

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**PROPOSAL 18 - 5 AAC 75.XXX. Policy for the management of sustainable wild Dolly Varden char.** Create a new regulation to provide the following:

(a) The Board of Fisheries (board) and the Department of Fish and Game (department) recognize that:

- (1) In formulating new or modifying existing management strategies, objectives, or plans under 5 AAC 75.XXX. (Statewide Wild Dolly Varden Char Fishery Management Plan) designed to achieve optimal sustained yield from Alaska's wild Dolly Varden char, the board and department must consider factors including environmental change, habitat loss

or degradation, data uncertainty, limited funding for research and management programs, and existing regulatory regimes; and,

- (2) To effectively assure optimal sustained yield and habitat protection for wild Dolly Varden char stocks, fishery management plans and programs require specific guiding principles and criteria, and the framework for their application contained in this policy.

(b) The goal of this policy under this section is to ensure conservation, sustainability, and optimal sustained yield, including but not limited to, subsistence, quality of experience, diversity of opportunity, conservative consumptive harvest opportunities, and economic benefits, of wild Dolly Varden char and their attendant ecosystems.

(c) Management of wild Dolly Varden char fisheries should be based on the following principals and criteria:

(1) wild Dolly Varden char stocks and their habitats should be maintained at levels of resource productivity that assure for optimal sustained yield as follows:

(A) wild Dolly Varden char spawning, rearing, and migratory habitats should be protected as follows:

(i) wild Dolly Varden char habitats should not be perturbed beyond natural boundaries of variation;

(ii) scientific assessments of possible adverse ecological effects of proposed habitat alterations and impacts of alterations of wild Dolly Varden char stocks should be conducted before approval of a regulatory proposal;

(iii) adverse environmental impacts on wild Dolly Varden char stocks and their habitats should be assessed;

(iv) all essential wild Dolly Varden char habitat in marine, estuarine, and freshwater ecosystems and access to wild Dolly Varden char to these habitats should be protected; essential habitats include spawning and incubation areas, freshwater feeding and overwintering areas, estuarine and nearshore rearing areas, offshore rearing areas, and migratory pathways; and

(v) wild Dolly Varden char habitat in freshwater should be protected on a watershed basis, including appropriate management of riparian zones, and water quality (instream flows);

(B) wild Dolly Varden char should be protected within their spawn, incubating, rearing, and migratory habitats;

(C) degraded wild Dolly Varden char productivity resulting from habitat loss should be assessed, considered, and controlled by affected user groups, regulatory agencies, and boards when making conservation and allocation decisions;

(D) degraded wild Dolly Varden char spawning, incubating, rearing, and migratory habitats should be restored to natural productivity;

(E) ongoing monitoring should be conducted to determine the current status of habitat and effectiveness of restoration activities; and

(F) depleted wild Dolly Varden stocks should be allowed to recover; diversity should be maintained to the maximum extent possible, at the genetic, population, species, and ecosystem levels;

(2) wild Dolly Varden char populations shall be managed for optimal sustained yield as follows:

(A) wild Dolly Varden char populations and their trends should be assessed both temporally and geographically; fishery monitoring programs should be appropriate to the scale, intensity, and importance of each wild Dolly Varden char stock's use.

- (B) wild Dolly Varden populations shall be managed in a manner consistent with their optimal sustained yield; unless otherwise directed, the department will manage Alaska's wild Dolly Varden char fisheries, to the extent possible, to maintain desired size compositions and stock levels;
  - (C) wild Dolly Varden char shall be managed at abundance levels such that stocking is not required to enhance or supplement the wild stocks;
  - (D) wild Dolly Varden char management should allow for uncertainty associated with measurement and assessment techniques, observed variability in the wild Dolly Varden char stock measured, changes in climatic, aquatic and oceanographic conditions, and varying abundance within related populations of the wild Dolly Varden char stock measured;
  - (E) wild Dolly Varden char should be managed in a manner to maintain genetic and phenotypic characteristics of the stock by ensuring appropriate geographic and temporal distribution of spawners as well as consideration of size range, sex ration, and other population attributes;
  - (F) impacts of fishing, including incidental mortality, should be assessed and considered in harvest management decisions;
  - (G) wild Dolly Varden char harvest management decisions should be made in a manner that protects nontarget stocks or species;
  - (H) the role of wild Dolly Varden char in ecosystem functioning should be evaluated and considered in the setting of wild Dolly Varden char management strategies; and
  - (I) food sources important to wild Dolly Varden char populations should be identified.
- (3) effective management systems should be established and applied to regulate human activities that affect wild Dolly Varden char as follows:
- (A) wild Dolly Varden char management objectives should be appropriate to the scale and intensity of various uses and biological capacities of the target wild Dolly Varden char stocks;
  - (B) Management agencies should have clear authority in statute and regulation to:
    - (i) when practicable, control all sources of fishing mortality on wild Dolly Varden char; and
    - (ii) protect wild Dolly Varden char habitat and control nonfishing sources of mortality;
  - (C) management programs should be effective in:
    - (i) controlling human-induced sources of fishing mortality and should incorporate procedures to assure effective monitoring, compliance, control and enforcement; and
    - (ii) protecting wild Dolly Varden char habitats and controlling collateral mortality and should incorporate procedures to ensure effective monitoring, compliance, control, and enforcement;
  - (D) fisheries management implementation and outcomes should be consistent with regulations, regulation should be consistent with statutes, and effectively carry out the purpose of this section;
  - (E) the board will recommend to the commissioner the development of effective joint research, assessment, and management arrangements with appropriate management agencies and bodies for wild Dolly Varden char stocks that cross state or federal jurisdictions. The board will recommend the coordination of appropriate procedures for effective monitoring, compliance, control, and enforcement with those of agencies or states;
  - (F) the board will work, within the limits of its authority, to ensure that:
    - (i) management activities are accomplished in a timely and responsive manner to implement objectives, based on the best available scientific information;

- (ii) effective mechanisms for the collection and dissemination of information and data necessary to carry out management activities are developed, maintained, and utilized; and
- (iii) management programs and decision-making procedures are able to clearly distinguish, and effectively deal with biological and allocation issues;
- (G) the board will recommend to the commissioner and the legislature that adequate staff and budget for research, management, and enforcement activities be available to fully implement sustainable wild Dolly Varden char fisheries principles;
- (H) the board will consider, and where appropriate adopt, options to maintain diversity of experience in wild Dolly Varden char fisheries;
- (I) the board will consider gear regulations that assure for minimal levels of injury and mortality to wild Dolly Varden char;
- (J) the board will work with the commissioner and other agencies to develop effective processes for maintaining benefits and diversity;
- (K) procedures should be implemented to regularly evaluate the effectiveness of the fishery management and habitat protection actions in sustaining wild Dolly Varden char populations, fisheries, and habitat, and to resolve associated problems or deficiencies;
- (L) conservation and management decisions for wild Dolly Varden char fisheries should take into account the best available information on biological, environmental, economic, social, and resource use factors;
- (M) research and data collection should be undertaken to improve scientific and technical knowledge of wild Dolly Varden char fisheries, including ecosystem interactions, status of wild Dolly Varden char populations, and the condition of wild Dolly Varden char habitats; and,
- (N) the best available scientific information on the status of wild Dolly Varden char populations and condition of the wild Dolly Varden char's habitats should be routinely updated and subject to peer review;
- (4) public support and involvement for sustained use and protection of wild Dolly Varden char resources should be sought and encouraged as follows:
  - (A) the board will work with the department and the public to determine the benefits desired for wild Dolly Varden char and whether the current opportunities are meeting these desires; identified benefits should promote quality of experience, diversity of opportunity, conservative consumptive harvest opportunity, and economic benefits and be implementable by management objectives;
  - (B) effective mechanisms for dispute resolution should be developed and used;
  - (C) pertinent information and decisions should be effectively disseminated to advisory committees and all other interested parties in a timely manner;
  - (D) the board's regulatory management and allocation decisions will be made in an open public involvement process;
  - (E) an understanding of the proportion of mortality inflicted on each wild Dolly Varden char stock by each user group should be conveyed, and the burden of conservation should be allocated across user groups in a manner consistent with applicable state and federal statutes. In the absence of a regulatory management plan that otherwise allocates or restricts uses, and when it is necessary to restrict fisheries on wild Dolly Varden char stocks where there are known conservation problems, the burden of conservation shall be shared among all fisheries in close proportion to each fisheries' respective use, consistent with state and federal law; and
  - (F) the board will work with the commissioner, other agencies, advisory committees, and the legislature as necessary to assure that adequate funded public information and education programs provide timely materials on wild Dolly Varden char

- conservation, including habitat requirements, threats to wild Dolly Varden char habitat, the value of wild Dolly Varden char and habitat to the public and ecosystem (fish and wildlife), natural variability and population dynamics, the status of wild Dolly Varden char stocks and fisheries, and the regulatory process;
- (5) in the face of uncertainty, wild Dolly Varden char stocks, fisheries, and essential habitats shall be managed conservatively as follows:
- (A) a precautionary approach, involving the application of prudent foresight that takes into account the uncertainties in wild Dolly Varden char fisheries and habitat management; the biological, social, cultural, and economic risks; and the need to take action with incomplete knowledge should be applied to the regulatory and control of harvest and human-induced sources of wild Dolly Varden char mortality; a precautionary approach requires:
- (i) consideration of the needs of future generations and avoidance of potentially irreversible changes;
  - (ii) prior identification of undesirable outcomes and of measures that will avoid undesirable outcomes or correct them promptly;
  - (iii) initiation of any necessary corrective measures without delay and prompt achievement of the measure's purpose;
  - (iv) that where the impact of resource use is uncertain, priority should be given to conserving the productive capacity of the resource; and,
  - (v) that the appropriate burden of proof is placed on those plans or ongoing activities that pose a risk or hazard to wild Dolly Varden char habitat or production;
- (B) a precautionary approach should be applied to the regulation activities that affect essential wild Dolly Varden char habitat.
- (d) The principles and criteria for wild Dolly Varden char fisheries shall be applied, by the department and the board, using the best available information, as follows:
- (1) at regular meetings of the board, the department will, to the extent practicable, provide the board with reports on the status of wild Dolly Varden char stocks and fisheries under consideration for regulatory changes, which should include:
- (A) a stock-by-stock assessment of the extent to which the management of wild Dolly Varden char stocks and fisheries is consistent with the principles and criteria contained in the policy under this section;
  - (B) description of habitat status and any habitat concerns;
  - (C) identification of healthy wild Dolly Varden char and sustainable wild Dolly Varden char fisheries; and,
  - (D) identification of any existing wild Dolly Varden char management actions needed to achieve these goals, that have allocative consequences such as:
    - (i) identification of any wild Dolly Varden char stocks, or populations within stocks, that present a concern related to conservation or optimal sustained yield; and
    - (ii) description of management and research options to address wild Dolly Varden char stock or habitat concerns;
  - (E) food sources important to wild Dolly Varden char populations should be identified;
- (2) in response to the department's wild Dolly Varden char stock status reports, reports from other resource agencies, advisory committees, and public input, the board will review the manage plan or consider developing a management plan for each affected wild Dolly Varden char fishery or stock. Management plans will be based on principles and criteria contained in this policy and will:
- (A) contain goals and measurable and implementable objectives that are reviewed on a regular basis and utilize the best available scientific information;

- (B) minimize, as practicable, the adverse effects on wild Dolly Varden char habitat caused by fishing;
  - (C) protect, restore, and promote the long-term health and sustainability of the wild Dolly Varden char fishery and habitat;
  - (D) provide, where feasible, recommendations regarding food sources;
  - (E) prevent overfishing; and,
  - (F) provide conservation and management measures that are necessary and appropriate to promote optimal sustained yield of wild Dolly Varden char fishery resources;
- (3) in the course of review of the wild Dolly Varden char stock reports and management plans described in (1) and (2) of this subsection, the board, in consultation with the department, will determine if sustainability or optimal sustained yield concerns exist; if so, the board will, as appropriate, amend or develop wild Dolly Varden char fishery management plans to address these concerns;
  - (4) in association with the appropriate management plan, the department and the board will, as appropriate, collaborate in the development and periodic review of an action plan for any stock of concern; action plans should contain goals, measurable and implementable objectives, and provisions, including:
    - (A) measures required to restore and protect wild Dolly Varden char habitat, including necessary coordination with other agencies and organizations;
    - (B) identification of wild Dolly Varden char stock or population rebuilding goals and objectives;
    - (C) fishery management actions needed to achieve rebuilding goals and objectives, in proportion to each fishery's use of, and hazards posed to, a wild Dolly Varden char stock;
    - (D) description of sustainability or optimal sustained yield concerns; and
    - (E) performance measures appropriate for monitoring and gauging the effectiveness of the action plan that are derived from the principles and criteria contained in this policy.
  - (5) Each action plan will include a research plan as necessary to provide information to address concerns; research needs and priorities will be evaluated periodically, based on the effectiveness of the monitoring described in (4) of this subsection; and
  - (6) where action is needed to regulate human activities that affect wild Dolly Varden char and wild Dolly Varden char's habitat that are outside the authority of the department or the board, the department or board shall correspond with the relevant authority, including the governor, relevant boards and commissions, commissioners, and chairs of appropriate legislative committees, to describe the issue and recommend appropriate action.
- (e) Nothing in this policy under this section is intended to expand, reduce, or be inconsistent with, the statutory regulatory authority of the board, the department, or other state agencies with regulatory authority that impacts the fishery resources of the state.
  - (f) In this section, and in implementing this policy and 5 AAC 75.XXX., Statewide Wild Dolly Varden Char Fishery Management Plan;
    - (1) "depleted wild Dolly Varden char stock" means a wild Dolly Varden char stock for which there is sustainability concern;
    - (2) "diversity," in a biological context, means the range of variation exhibited within any level of organization, such as among genotypes within a wild Dolly Varden char population, among populations within a wild Dolly Varden char stock, among wild Dolly Varden char stocks within a species, among wild Dolly Varden species within a community, or among communities within an ecosystem;



- (3) “genetic” means those characteristics (genotypic) of an individual or group of wild Dolly Varden char that are expressed genetically, such as allele frequencies or other genetic markers;
- (4) “habitat concern” means the degradation of wild Dolly Varden char habitat that results in, or can be anticipated to result in, impacts leading to a sustainability or optimal sustained yield concern;
- (5) “healthy wild Dolly Varden char stock” means a wild Dolly Varden char stock that is able to sustain a specified optimal sustained yield benefit management objective such that stocking is not required and which is characterized by fishing activity and habitat alteration, if any, that do not cause or lead to significant undesirable changes in the biological productivity, biological diversity, or ecosystem structure and function, from one human generation to the next;
- (6) “incidental harvest” means the harvest of fish, or other species, that is captured in addition to the target species of a fishery;
- (7) “incidental mortality” means the mortality imposed on a wild Dolly Varden char stock other than directed harvest and includes mortality caused by incidental harvests, interaction with fishing gear, habitat degradation, and other human-related activities;
- (8) “optimal sustained yield” means an average annual yield from a stock managed for objectives other than maximum yield considered to be optimal in achieving a specified management objective designed to attain a specific benefit while maintaining healthy stock status and genetic integrity. Benefits include but are not limited to quality of experience, diversity of opportunity, conservative consumptive harvest opportunity, or economic benefit;
- (9) “optimal sustained yield concerns” means a threshold level of size composition, genetic diversity, or abundance below which the ability of the wild Dolly Varden char stock to maintain a desired optimal sustained yield management objective is jeopardized;
- (10) “overfishing” means a level of fishing on a wild Dolly Varden char stock that results in a sustainability or optimal sustained yield concern;
- (11) “phenotypic characteristics” means those characteristics of an individual or group of wild Dolly Varden Char that are expressed physically, such as body size and length in age;
- (12) “stock of concern” means a stock of wild Dolly Varden char for which there is sustainability or optimal sustained yield concern;
- (13) “sustainability concern” means indications of a trend expected to result in a threshold level of size composition, genetic diversity, or abundance below which the ability of the wild Dolly Varden char stock to sustain itself is jeopardized;
- (14) “Dolly Varden char” means Dolly Varden (*Salvelinus malma*);
- (15) “wild Dolly Varden char populations” means a locally interbred group of wild Dolly Varden char that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics, comprised of an entire stock or a component portion of a stock; the smallest uniquely identifiable spawning aggregation of genetically similar wild Dolly Varden char used for monitoring purposes;
- (16) “wild Dolly Varden char stock” means a locally interbreeding group of wild Dolly Varden char that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics or an aggregation of two or more interbreeding groups which occur within the same geographic area that is managed as a unit.

#### 5 AAC 75.XXX. Statewide Dolly Varden Char Fishery Management Plan

(a) The Board of Fisheries (board) finds that wild Dolly Varden char and their attendant ecosystems are important to Alaskans, their quality of life, and Alaska’s economy. The board

recognizes the current lack of stock status information for many wild Dolly Varden char stocks, the potential for increased angler effort on wild Dolly Varden char throughout Alaska, the potential for loss of fishing opportunity, and the potential for overexploitation of wild Dolly Varden char stocks. The board intends to maintain quality fisheries and habitat for wild Dolly Varden char stocks throughout Alaska in accordance with the policy in this section.

(b) The board finds that wild Dolly Varden char should be managed for optimal sustained yield, based on management objectives that maximize benefits of the fisheries while maintaining genetic diversity, biologically desired size composition, and at abundance levels that do not require stocking to enhance or supplement the wild stocks.

(c) Based on concerns and objectives in (a) and (b) of this section, the board intends that wild Dolly Varden char fisheries will be managed conservatively. Regional wild Dolly Varden char management plans should be added as need requires and funding will allow. Conservative management norms should be established by area and need.

**PROBLEM:** Wild Dolly Varden char occur throughout the coastal areas of Alaska, providing for both subsistence and sport fishing opportunities. Wild Dolly Varden need and deserve the same protection statewide in policy and plan as provided for wild trout.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Without a statewide policy for sustainability, Dolly Varden could be mismanaged in favor of wild trout and salmon and in some areas would no longer be sustainable.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** A statewide policy and plan will insure better Dolly fishing for all user groups.

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

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

**OTHER SOLUTIONS CONSIDERED?** The status quo is no longer acceptable.

**PROPOSED BY:** Cooper Landing Advisory Committee (HQ-03-F-127)  
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**PROPOSAL 19 - 5 AAC 75.XXX. Statewide sustainable wild trout policy.** Amend this regulation as follows:

KPFA recommends that the proposed committee documents from the board's March 2003 meeting and the options go out for a final review so that all affected users and the public join in the process. Considerable changes have been made and we believe that these documents have valid points.

New information became available at the March 2003 meeting. When KPFA requested time to read this document sighting the need to review documents in a timely manner prior to this meeting, a board member commented that he had reviewed this document the prior day. Others in the crowd, selected participants in the past governor's Trout Task Force, commented they had sufficient time to review this material prior to this meeting. Questioning a staff member of the department, he informed me that the new plan was formulated at the October meeting (2002). The board voted to take no action on the wild trout policy or plan at the October 2002 meeting. An informal meeting

continued afterwards but no official notes or documents have been dispersed to the public until this committee meeting.

### Option 1

We believe that the first option that was worked out in committee is a better document than that of #2. We would consider this document would be the best document to initiate another public review with the intent of adoption at the statewide meeting (2004).

### Option 2 to address Issue 5

Option 1 to address issue 5 deals only with the special area criteria and does not allow leniency for the statewide management plan that restrict unclassified areas. This language is critical to allow the flexibility for resident harvest in regions and specific areas of the state that are in special management areas and in the other areas. We agree that this statement (Option 2 for 5) should be moved forward.

### Discussion on Food Source

KPFA believes that the references to food sources are vague and subject to interpretation. An example of this is the Tazimina River area of the Kvichak watershed. In the wild trout conservation initiative booklet, reference to the sockeye escapement data on the tab with the same heading does not show a clear relationship with food source. Yet data like this may be misconstrued. Or as we have requested before, what is the relationship with the salmon and food that the plan seems to relate to in several subsections.

The mention of food sourcing in a particular ecosystem should be a consideration when establishing high abundances. Identifying different food source in itself is not a clear quantitative science but one where determining the specific adaptations that are necessary for the individual trout species to survive.

(c)(2)(I) Under the “managed for optimal sustained yield” paragraph we see a reference to food sources that should be identified. We believe that this is acceptable under this definition.

(d)(1)(E) Delete from the policy this reference to food source. This information would not be easily attainable for each regulatory meeting and subject to natural variations and gross analysis. This is not a cost effective plan and should not be part of the board or department process.

(d)(2)(D) Delete from the policy this reference to food source. This is redundant and not necessary to identify food sources. What does the term “recommendation” direct the department to accomplish? This is not clarified and we feel that this is just another way to get at the salmon escapement goals to penalize commercial fishermen. The use of “will” in the (2) of this chapter is bothersome when it relates to this requested department action. Again, we emphatically protest references to commercial fisheries management plans that are hidden within this policy. Without the relevant interpretation of what downstream ramifications there might be with this language, we view this as being unfair and subversive.

**PROBLEM:** Board adjourned before comments and would like Statewide Trout Policy and Plan amended.

**WHAT WILL HAPPEN IF NOTHING IS DONE?**

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

**WHO IS LIKELY TO BENEFIT?** Resource harvesters, sport, commercial sport, subsistence and commercial fishermen.

**WHO IS LIKELY TO SUFFER?** Hopefully, no one.

**OTHER SOLUTIONS CONSIDERED?**

**PROPOSED BY:** Kenai Peninsula Fishermen’s Association (HQ-03-F-195)

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**PROPOSAL 20 - 5 AAC 75.XXX. Statewide process for recommending river corridor or watershed conservation measures on significant trout streams.** Create a new regulation to provide the following:

The following is drafted so that it could be incorporated into the sustainable trout policy, or the sustainable salmon policy, or could stand alone as a separate section. If the board adopts a proposed statewide trout policy, 5 AAC 75.XXX, then consider adding to it a subsection that establishes a process for restarting river corridor conservation.

The board will use the following process to assess proposals under AS 16.05.251(a)(1), and to work cooperatively with the Board of Game to implement its similar authority in AS 16.05.255(a)(1), and to identify and recommend to the legislature that certain lands and waters of river corridors be legislatively designated for retention in public ownership and for conservation, public use, and access.

(a) Recommendations for Study. The public, the department, advisory committees, other agencies, and the board on its own initiative may propose river corridors, watersheds or portions thereof as candidates for possible recommendation to the legislature for retention in public ownership and for conservation, public use and access. A proposal should identify the drainage, or the portion of the drainage, proposed.

(b) Board Action. The board, in cooperation with the Board of Game so that game-related issues can also be addressed, will schedule a hearing on the proposed river corridor or drainage, at one or more locations including convenient to the area in question, to obtain public comment after the department has submitted its analysis of the proposal. Such analysis should identify the lands and waters important for conserving the corridor, fish and wildlife, and public uses. The department may prepare its analysis in conjunction with other state or local agencies, and may recommend an appropriate management authority, such as the Department of Fish and Game or in the Department of Natural Resources. If the proposal is well-justified in terms of conservation, assuring quality fisheries, economic values, other social values, and similar factors, then the board, or boards, may adopt or amend a proposal to include the lands and waters among those in subsection (c) as recommended river conservation areas and communicate appropriately to the legislature and the governor. If the board acts independently of the Board of Game, then it will act under AS 16.05.251(a)(1) only with respect to the waters, but it may communicate by resolution or otherwise with respect to adjacent lands.

(c) The following lands and waters are recommended to the legislature, the governor, and the Department of Natural Resources for conservation:

(1) [XXX River identified as follows:.....]

**PROBLEM:** Throughout the 1980s the legislature used five methods to designate and protect river corridors: 1) the Kenai River Special Management Area (not to be confused with trout special management areas created by the board) managed by DNR/Division of State Parks, 2) recreational rivers in the Susitna Valley and managed by DNR/Division of Land, Water and Mining, 3) recreation area, such as Willow Creek, managed by DNR/Division of State Parks, 4) public uses areas, managed by DNR/Division of Land, Water and Mining, and 5) ordinary state parks. That process stopped in the 1990s.

This proposal would set up a process for restarting river corridor conservation on trout waters. This is submitted to generate discussion on how the public, the board, advisory committees, and the department can play a more active role in river corridor conservation.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** The process of legislatively conserving rivers will continue to be stalled and my problems may get worse before they get better.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** Helps protect habitat, fish, sustained yield, minimizes conflicts.

**WHO IS LIKELY TO BENEFIT?** Those who support fish habitat, public access to public lands, and keeping public lands public.

**WHO IS LIKELY TO SUFFER?** Those who do not get along with either the public or fish.

#### **OTHER SOLUTIONS CONSIDERED?**

**PROPOSED BY:** Jeff Parker and Jack Willis for the Alaska State Council of Trout Unlimited, and Jim Stubbs of Alaska Wild Trout Chapter of TU (HQ-03-F-163)

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**PROPOSAL 21 - 5 AAC 75.010. Possession of sport-caught fish.** Amend this regulation as follows:

(c) Upon request by an employee of the department **or a peace officer of the state**, a person must **present for inspection** [SHOW TO THE EMPLOYEE] **any** fish taken [AND] **or** possessed by the person in a sport fishery.

**(d) Upon request by an employee of the department or a peace officer of the state, a person must present for inspection any apparatus designed to be, and capable of being, used to take fish in a sport fishery.**

**PROBLEM:** Currently, there is no provision which requires sport fishermen to present sport fishing gear to a department employee or peace officer to allow inspection for compliance. Present regulations require that sport fishermen are required to present licenses and fish but do not require presenting of gear. This provision is required for all hunting equipment and appears to be an oversight in the sport fishing regulations. In a day and age where sport fishing gear is becoming highly restricted, e.g., single hook, artificial lures, artificial flies, no bait, etc., the requirement for sport fishermen e.g., to present fishing gear for inspection is essential to effective enforcement.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Sport fishermen could legally refuse to present gear for inspection and violators using illegal gear or bait could go undetected. Both the

legal user public and enforcement agencies would continue to be frustrated with the ability of violators to legally evade detection.

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

**WHO IS LIKELY TO BENEFIT?** Enforcement of illegal sport fishing gear will be supported with a regulation similar to present hunting regulations. Persons using illegal sport fishing gear will be deterred. The sport fishing public who take the time and effort to report gear violations would be supported, as enforcement personnel would have the specific authority to require viewing of gear used by violators.

**WHO IS LIKELY TO SUFFER?** Persons who choose to use illegal gear or bait and hide those actions by refusing to present gear for inspection.

**OTHER SOLUTIONS CONSIDERED?** Status quo, which allows persons to utilize illegal sport fishing gear without detection.

**PROPOSED BY:** Department of Public Safety (HQ-03-F-039)

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**PROPOSAL 22 - 5 AAC 75.055. Possession or marking of live fish or live fish eggs.** Amend this regulation as follows:

It is unlawful to possess, transport, and release live fish or live fish eggs, or in any way mark any live fish before release, except:

- (a) in accordance with the terms of a permit issued by the commissioner under 5 AAC 41 or AS 16.05.930(a); **and,**
- (b) sport caught fish taken in saltwater of a regulatory area for which bag limits, seasons, or other regulatory methods and means for that species are not provided in 5 AAC 47—70, may be possessed, transported, and released into saltwater of the same regulatory area they were taken in, as live bait.**

**PROBLEM:** Statewide provision 5 AAC 75.065, Waste of fish, states, “white fish, herring, and species for which bag limits, seasons, or other regulatory methods and means are not provided...may be used for bait...” However, the regulations do not specify whether these species can be used as live bait in saltwater or not. This proposal would clarify the regulations by stating that the use of live bait is allowed in saltwater, provided that the species being used as live bait was caught in saltwater of the same regulatory area in which it is being used as bait. In addition, the species being used as live bait cannot have established bag limits, seasons, or other regulatory methods and means associated with it.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** The legality of using live bait in saltwater will remain unclear.

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

**WHO IS LIKELY TO BENEFIT?** Clarifying whether using live bait in saltwater is legal or not should help all parties involved.

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

**OTHER SOLUTIONS CONSIDERED?** None. The department considers this a housekeeping proposal.

**PROPOSED BY:** Alaska Department of Fish and Game (HQ-03-F-184)

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**PROPOSAL 23 - 5 AAC 75.065. Waste of fish.** Amend the following regulation by adding a new section as follows:

**(b) A gaff, knife, or any other sharp object may not be used to puncture the flesh of any part of a fish during a closed season for that species, any fish that is not of legal size, or any fish that is subsequently released. All fish landed with a gaff must be retained as part of the angler's bag and possession limit. For purposes of this regulation, a gaff is any hook that is not attached an angler's fishing line.**

If this regulation were to pass, there would be no reason that a legal-size lingcod intended to be retained could not be gaffed. The following regulations should therefore be repealed or amended as indicated:

In the Kenai Peninsula Area:

[5 AAC 55.030(d). LINGCOD MAY BE LANDED ONLY BY HAND OR WITH A LANDING NET.] (**repeal** in its entirety)

In the Cook Inlet-Resurrection Bay Saltwater Area:

5 AAC 58.022(a)(7). Lingcod: may be taken from July 1 – December 31; bag and possession limit of two fish; minimum size is 35 inches in length with the head attached of 28 inches in length with the head removed [LINGCOD MAY BE LANDED ONLY BY HAND OR WITH A LANDING NET];

In the Kodiak Area:

[5 AAC 64.030(c). LINGCOD MAY ONLY BE LANDED BY HAND, BY GAFF, OR WITH A LANDING NET, EXCEPT THAT LINGCOD MAY NOT BE LANDED BY GAFF DURING THE CLOSED SEASON FOR LINGCOD. DURING THE OPEN SEASON FOR LINGCOD, A PERSON WHO LANDS A LINGCOD WITH A GAFF MUST RETAIN THAT LINGCOD AS PART OF THAT PERSON'S DAILY BAG AND POSSESSION LIMIT.] (**repeal** in its entirety)

In the Southeast Area:

5 AAC 47.060(b). If the commissioner determines that the regulations must be modified to attain the allocation, the commissioner may establish, by emergency order, minimum size limits, maximum size limits, and annual limits in any of the seven management areas for guided and nonresident sport anglers. [IF THE COMMISSIONER ESTABLISHES A SIZE LIMIT UNDER THIS SUBSECTION, THE EMERGENCY ORDER WILL ALSO SPECIFY THAT LINGCOD IN THAT AREA MAY BE LANDED ONLY BY HAND OR WITH A LANDING NET.]

**PROBLEM:** The regulation governing waste of fish is not specific enough about the use of gaffs or other objects that are used to land fish, but may cause injury and eventual mortality of fish that are released. In addition, existing area regulations are not consistent regarding the use of gaffs to land lingcod.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** Fish may continue to be gaffed and then released, resulting in an unknown level of fishery-related mortality. Anglers may also be confused about when it is legal to gaff a fish.

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

**WHO IS LIKELY TO BENEFIT?** All users will benefit by reducing mortality and waste of fish.

**WHO IS LIKELY TO SUFFER?** Anglers that routinely use gaffs to land fish may have to invest in nets, mechanical grips, or other methods of landing fish.

**OTHER SOLUTIONS CONSIDERED?** None.

**PROPOSED BY:** Alaska Department of Fish and Game (HQ-03-F-183)

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**PROPOSAL 24 - 5 AAC 75.001. Application of regulations.** Amend this regulation to include the following:

All regulations in this chapter, except those that apply specifically to freshwater fishing, also apply in the adjoining waters of the Exclusive Economic Zone (EEZ).

**PROBLEM:** No recreational fisheries are included in the current federal fishery management plan. Section 306 of the Magnuson-Stevens Fishery Conservation and Management Act allows for state management of fisheries in federal waters for which there is no fishery management plan or other applicable federal fishing regulations in place. The state has used this provision to apply area-specific sport fishing regulations to the EEZ (5 AAC 47.095, 55.095, 58.095, 63.095, 67.095). However, no regulation explicitly applies statewide regulations, such as emergency order authority, possession of fishing licenses and harvest stamps and records, sport fishing by proxy, bag, possession, and annual limits, sale of sport-caught fish, methods and means, waste of fish, possession and marking of live fish, or guide and logbook regulations, to federal waters of the EEZ.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** It is in the state's best interest to regulate recreational fisheries in the EEZ. The continued lack of clear regulatory authority in federal waters could compromise the state's ability to enforce sport fishing regulations or provide for sustained yield of state-managed stocks that move between state and federal waters.

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

**WHO IS LIKELY TO BENEFIT?** Recreational users will benefit from the consistent and unambiguous application of state sport fishing regulations in all waters off Alaska's coast.

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

**OTHER SOLUTIONS CONSIDERED?** None. The department considers this a housekeeping proposal.

**PROPOSED BY:** Alaska Department of Fish and Game (HQ-03-F-181)

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**PROPOSAL 25 - 5 AAC 75.006. Authorization for methods and means disability exemptions.** This proposal is submitted at the request of the board to create a statewide regulation to set the criteria for disability exemptions, as follows:

- (a) A person with a disability, or the personal representative of a person with a disability, may submit an application on a form available from the department for an exemption from a method and means requirement specified in 5 AAC 47 – 75. The application must
  - (1) include a signed statement from a licensed physician explaining the nature and extent of the person's disability;
  - (2) specifically identify the methods and means limitation at issue and the type of exemption requested;
  - (3) include a statement by the person with a disability that explains the causal relationship between the disability and the requested accommodation, or how the regulation at issue prohibits meaningful access to a program, service, or benefit; and
  - (4) be submitted at least 30 days before the requested effective date of exemption, unless the exemption is being requested as a result of an emergency order or emergency regulation.
- (b) The department shall issue a special authorization in writing that grants the requested exemption or an alternative exemption, if it determines that the exemption would provide a person with a disability with meaningful access to the program, service, or benefit in question, and meets the standard set out in this section. In granting the exemption, the department may include any conditions it determines are reasonable to conform the exemption to existing conservation and management objectives. In considering whether to grant the exemption, the department may consider, among other factors whether the exemption would
  - (1) fundamentally alter a program, service, or benefit of the department;
  - (2) place an undue administrative burden or expense on the department;
  - (3) have an unreasonable impact on the conservation, development, or utilization of fish; or
  - (4) constitute an unreasonable risk to public health or safety.
- (c) The department may require a sport fisherman who receives an exemption under this section to be accompanied by another licensed or permitted sport fisherman.
- (d) The department will not authorize an exemption under this section if
  - (1) the regulation does not substantially prohibit the person from meaningful access to the program, service, or benefit;
  - (2) the authorization would allow an exemption or modification to seasons or bag limits; or
  - (3) the Board of Fisheries has previously reviewed and acted on the same request for an accommodation.

**PROBLEM:** A statewide provision on accommodations for sport fishers is needed. This proposal mirrors language that the board adopted in 2002 for the Kenai Peninsula Area in 5 AAC 56.038.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** There will be confusion on how sport fishers with disabilities request exemptions in methods and means requirements.

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

**WHO IS LIKELY TO BENEFIT?** Disabled sport fishers and those assisting them.

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

**OTHER SOLUTIONS CONSIDERED?** None.

**PROPOSED BY:** Alaska Department of Fish and Game and Department of Law(HQ-03-F-159)  
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**PROPOSAL 26 - 5 AAC 75.022. Freshwater sport fishing.** Amend this regulation as follows.

In all flowing waters of Alaska, and for the purpose of fly and spin fishing, attractors (beads) fished up the line for flies or lures or bare hooks must be either fixed within two inches of the fly or lure, or bare hook, or be free sliding on the line or leader. For the purposes of this statewide regulation, a bead not attached to the hook is an attractor, not a fly.

**PROBLEM:** Except where the use of beads as attractors is prohibited by regulation, bead regulations for the entire State of Alaska should be uniform. A uniform statewide regulation would be easy for both angler compliance and enforcement and would be beneficial for trout and Dolly Varden conservation. Many people fish beads above a bare hook which could be considered a lure. However, without the word “bare hook” in regulation the issue is ambiguous.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** As the use of beads spreads across Alaska, inconsistent compliance and enforcement will become a greater problem. Fish will be injured and catch and release mortality will increase if bead fishing is not properly regulated.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** As most trout and Dolly Varden caught are released, a lower catch and release mortality will improve fishing for all users.

**WHO IS LIKELY TO BENEFIT?** Primarily the trout and Dolly Varden caught by people using egg patterns.

**WHO IS LIKELY TO SUFFER?** Nobody. This does to require anybody to use beads.

**OTHER SOLUTIONS CONSIDERED?** There is no alternate solution.

**PROPOSED BY:** Cooper Landing Advisory Committee (HQ-03-F-126)  
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**PROPOSAL 27 - 5 AAC 75.022. Freshwater sport fishing.** Amend this regulation to provide the following:

A new regulation allowing children under the age of 12?, 11?, 10?, be allowed to use bait on the freshwater systems in Alaska, with the exception of systems in danger of stock extinction in which case no fishing should be allowed. If needed require a \$2.00 sticker or license for proof of age.

**PROBLEM:** Due to the no bait allowed on several of the freshwater systems located throughout the state, trout fishing has become some what of a nightmare for children under 12 years of age and their parents. Most children under the age of 12 do not have the motor skills to operate a fly rod or master the task of casting a spinning rod over and over. Most of us started our enjoyment of the outdoors with a fishing trip that involved casting a bobber and a chunk of bait out into a creek or lake. It was easy, successful and most of all fun. Now days the first trip involves several spinners, tangles and piles of frustration. Trying to coax the child to go again can be impossible.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** The loss of a source of innocent entertainment for Alaska’s children. At a time of drugs, gangs, and who knows what, any source of entertainment that keep children out of trouble is a must.

**WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?** Most definitely. It will change those beginning fishing trips with young children from a six pound test ball of monofilament, children crying, parent cussing nightmare to a great fishing trip.

**WHO IS LIKELY TO BENEFIT?** Anyone taking a youngster fishing.

**WHO IS LIKELY TO SUFFER?** It is possible that some river charter organizations would not be in favor of this. Whether they will suffer from such a regulation is questionable.

**OTHER SOLUTIONS CONSIDERED?** State of Alaska allow parents with young children to use dynamite while trout fishing. I rejected this, too noisy.

**PROPOSED BY:** Steve Merritt (HQ-03-F-003)  
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**PROPOSAL 28 - 5 AAC 75.XXX. Methods and means.** Create a new regulation as follows:

Anchoring will not be allowed offshore to fish for halibut whenever it interferes with another previously existing fishery.

**PROBLEM:** Emerging fisheries are creating a safety hazard by anchoring in historic drift areas, i.e., halibut charter vessels anchoring in Cook Inlet.

**WHAT WILL HAPPEN IF NOTHING IS DONE?** An accident resulting in loss of gear, vessel, and possibly injury and death.

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

**WHO IS LIKELY TO BENEFIT?** By creating a safer environment all people will benefit.

**WHO IS LIKELY TO SUFFER?**

**OTHER SOLUTIONS CONSIDERED?** This is a reasonable proposal. The board has ignored this for eight years. This impact will be a safer overall fishery.

**PROPOSED BY:** John McCombs (HQ-03-F-116/W-03-F-006)  
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