ALASKA BOARDS OF FISHERIES AND GAME
PROPOSED REGULATORY CHANGES GOVERNING
SUBLISTENCE USE OF FISH AND GAME
RESOURCES, ADVISORY COMMITTEE BYLAWS
AND REGIONAL RESOURCE COUNCILS...
In 1978, the Alaska Legislature passed HB 960, the "subsistence law." This law provides that "it is in the public interest to clearly establish subsistence use as a priority use of Alaska's fish and game resources and to recognize the needs, customs, and traditions of Alaskan residents." The law also provides that whenever it is necessary to restrict the taking of fish or game, either to assure the maintenance of fish or game resources on a sustained yield basis, or to assure the continuation of subsistence uses of such resources, "subsistence use shall be the priority use."

As a consequence of this law, the Board of Fisheries and the Board of Game will meet in Joint session March 24-28 at the Anchorage Westward Hilton Hotel in the Commodore Room, then separate and meet individually from March 29 to approximately April 8 to consider area, species, harvest method, seasons or other specific items for implementation of the "subsistence law." Other Board business will also be considered in the separate meetings.

Proposed regulations from the public, the staff, and the Boards of Fisheries and Game are included in this packet. The Boards have assembled these options without recommendation. The Boards have not approved or rejected any of these proposals, and will take no action on them or any other proposal until the March meetings. These proposals are ONLY OPTIONS. The Boards may adopt or reject these proposed changes or may develop alternatives based on the subject matter set forth in the legal notice published in compliance with the Administrative Procedure Act. Copies of the legal notice may be obtained from regional offices of the Department of Fish and Game, or may be obtained by writing the Boards of Fisheries and Game, Subport Building, Juneau, Alaska 99801.

The initial and most important definition the Boards need to reach is that to be given "traditional and customary." How those terms are defined will determine in large measure who is to receive the priority the law mandates for subsistence users. It will also determine how the definition of "subsistence use" is to be implemented.

Eventual Board action may include additional regulations, including areas, methods, means and conditions of take, seasons and bag limits. Proposed regulations to implement the subsistence law have the potential to affect commercial and recreational uses.

Also to be considered by the Boards are a proposal to establish Regional Resource Councils and proposals to amend the Uniform Bylaws for Advisory Committees.

Pursuant to the Administrative Procedure Act, public comment is invited on the proposed changes. At the public hearing, commencing March 24 at 1:30 p.m., comments may be offered orally or in writing. Written comments may be submitted in advance of the hearing and should be sent to the Board of Fisheries, Subport Building, Juneau, Alaska 99801, to be received on or before March 20, 1979. Adherence to the March 20 suggested mailing deadline will assure Board members of more time for study and, therefore, fuller consideration of comments submitted by the public. The Board urges that those whose interests may be affected by the proposed changes not hesitate to offer comments.
1. 5 AAC 96.050. MEETINGS. (A)(B)(C) & (D) (new section) (Regulation page 5-166.1) - Travel of chairman or his alternate.

5 AAC 96.050. MEETINGS

A. The committee shall meet at least four times a year, and may meet at other times under State expense if special meetings are approved for travel by the Director of the Advisory Committees, State Department of Fish and Game.

B. Meetings may be called out of the sphere of influence of the local fish and game advisory committee when migratory stocks affecting more than one local committee are to be discussed, or in the event concurrent jurisdiction under section 05. of this chapter requires more than one local committee initiating closure due to the location of the closure being in more than one area/subunit/unit of a management unit.

C. Chairmen of the local fish and game advisory committee, or his designee may travel to the meetings of the Boards of Fisheries and Game at State expense.

D. Expenses incurred in the notice, to members of a meeting, reproducing minutes of the meeting, legitimate meeting expense, and follow-up shall be forwarded to the Director of the Advisory Committees for payment.

Justification: (A) The regulation would satisfy the current situation in regards to State funding for support of fish and game advisory board meetings, and the request for special meeting is made mandatory to implement the closure authority under Chapter 97.005 of this section. Current policies forbid the meeting of advisory boards to practice their closure authority on emergency situations.

(B) Currently, when adjoining local committees require joint meetings to discuss migratory stocks, or concurrent jurisdiction within an area, the Department feels uncomfortable in granting permission for movement of the meeting out of the specific area of the local committee. The Department is concerned that legislative audit will discount the meeting for not following legislative intent. The legislative intent was to make the local committees functional, and joint meeting will further satisfy the legislative intent, and remove the political burden from the Department if the Boards concur with this proposed amendment.

(C) In 1978, the Department issued CTR to advisory committee chairmen to attend the Boards of Fisheries and Game meetings, again following the legislative intent to make the local committees functional. The funding was discretionairy, and the Joint Boards supported the program. By passing this proposed amendment, the joint Boards would put themselves on record as advocating this use of public funds to heighten the opinions of the local committee chairmen representing their local committees.
(D) In fiscal 1978, the Boards approved support for legitimate expenses incurred by the local committees in fulfilling the duties assigned by their uniform bylaws. The Boards passage of this proposed amendment would allow the Director of Advisory Committees for the Department to monitor and expend funds for legitimate expenses incurred in normal local committee operations.

Proposed by: Nunam Kitlutsisti (AC 2) (AC 4)

FISH & GAME ADVISORY COMMITTEES

2. 5 AAC 97.006. REGULATIONS PROPOSED BY ADVISORY COMMITTEES (new section) (Regulation page 5-172) Give advisory committees exclusive jurisdiction over areas of responsibility for purpose of proposing regulations.

5 AAC 97.006. REGULATIONS PROPOSED BY ADVISORY COMMITTEES

For the purpose of proposing regulations, the advisory committee shall have exclusive jurisdiction over the game management unit or subunit, or the portion of the game management unit or subunit which has been established for it by the Alaskan Boards of Fisheries and Game under 5 AAC 96.010.

Justification: 1. 5 AAC 97.005 sets the jurisdiction for emergency closure on fish and game amongst advisory boards.

2. As there is no reference in the existing regulations to which advisory committee has jurisdiction to propose regulations, this proposed regulation clarifies the situation and makes it certain that for regulations to be proposed for a certain area, other advisory committees do not have to approve the proposal for board consideration and passage.

3. This is especially the case for creation of subsistence hunting areas under AS. 16.05.257. Only the advisory committee or committees which are located in a particular area proposed need recommend the creation of the subsistence hunting area, not all the advisory committees that have concurrent jurisdiction for emergency closure of the unit or subunit under 5 AAC 97.005.

Proposed by: Nunam Kitlutsisti

29 MAY 1979

ALASKA RESOURCES I
U.S. Department of the Interior
3. 5 AAC 97.010. INITIATION OF EMERGENCY CLOSURES (d) (new section)
(Regulation page 5-172) Have Fish and Game solicit input from advisory committees after initiation of emergency closure procedures.

5 AAC 97.010. INITIATION OF EMERGENCY CLOSURES

(d) The Commissioner shall notify members of other advisory committees having concurrent jurisdiction in the area in which an emergency closure has been initiated by a local fish and game advisory board, and shall solicit from them their opinion of the emergency closure initiated under section 010 of this chapter. The Commissioner shall notify the members of the appropriate board of the opinion of the local fish and game advisory boards having concurrent jurisdiction over the area in question.

Justification: With adoption of this proposed amendment, the Boards would support the idea of the Department being involved in the local committees exercising closure authority under 97.005 of this chapter, by having the staff support the commissioner in obtaining advisory opinion from other local committees, and having this information available for the members of the Board involved as additional information about a local emergency situation that leads to at least one local committee seeking an emergency closure.

At this time, the entire burden of following regulations falls on the local advisory committee which has the best knowledge of the situations, but is without the means to follow through on all requirements under 97.005 to sustain its emergency closure notice.

Adoption of this proposal would also insure that the Department, when notified by local committees or their representatives of an emergency closure would notify local staff to begin the process of seeking local opinion, and preparing public awareness of the emergency situation.

Proposed by: Nunam Kitlutsisti
4. 5 AAC 97.010. INITIATION OF EMERGENCY CLOSURES (c) (4) (new section) (Regulation page 5-172) Put 48 hour time limit for Fish and Game to notify all appropriate advisory committees after initiation of emergency closure.

5 AAC 97.010. INITIATION OF EMERGENCY CLOSURES

(c) If an emergency closure is initiated under this section, the chairman of the advisory committee or committees voting to initiate the emergency shall
(4) notify the other advisory committees having concurrent jurisdiction under section 05 of this chapter, within 48 hours of the decision to initiate an emergency closure.

Justification: (A) Due to lack of adequate inter-village communications, and no travel funds to allow special meetings of a board, or boards having concurrent jurisdiction in closing, and the fact that even if these two particulars existed in rural Alaska, weather could intercede and make joint meetings impossible, the local committees petition the board to remove the burden of advance notice to practice closure authority within an area/subunit/unit in which the local committee resides on emergency issues.

(B) The lack of time incapacitates the local committees to practice their closure authority under present regulations, and preventing legislative intent from being practiced.

(C) Adoption of the proposed regulation would remove burden from local committees of advance notice, and allow the chairmen of local committees calling for emergency closures to contact the chairmen of other local committees having concurrent jurisdiction under 97.005.

(D) Adoption of this proposal would also place burden of coordinating information on emergency closures to the Department, whose biologists have travel funds and expertise to explain the situation to other local committees having concurrent jurisdiction, as explained in proposal for 97.010. (d).

Proposed by: Nunam Kitlutsisti (AC 7) (AC 8)
5. **5 AAC 97.010. INITIATION OF EMERGENCY CLOSURES** (b) (Regulation page 5-172) Allow one or more advisory committees to initiate an emergency closure.

5 AAC 97.010. INITIATION OF EMERGENCY CLOSURES

(b) An affirmative vote of the majority of the full membership of an advisory committee is necessary to initiate an emergency closure. In areas where two or more advisory committees have concurrent jurisdiction under sec. 05 of this chapter, an affirmative vote of one or more of the advisory committees (THE MAJORITY OF EACH ADVISORY COMMITTEE) in that area is necessary to initiate an emergency closure. Advisory committees and their members shall not vote by proxy or delegation.

Justification: Adoption of this proposed amendment to the 97.005 closure authority would relieve the local committee of having all local committee exercising concurrent jurisdiction from being party to the initial decision to seek emergency closure for a specific area represented by one local committee.

Currently, a lack of adequate support by the Department, travel funds, and communications makes following the 005 regulations impossible, thereby shortcircuiting a local committee efforts to exercise its 005 authority. "How can the committee in McGrath know anything about herring near Cape Newenham," a member of the Central Bering Sea Coast Fish and Game Advisory Board stated when confronted with the current regulations. The second question was how could the Yup'ik speaking chairman of the CBS FGA contact the English speaking chairman of the McGrath Board in advance, explaining the situation, have that Board meet to confirm its support giving no funds for special meetings, and still issue an emergency closure order in a timely manner in response to a local situation.

Proposed by: Nunam Kitlutsisti (AC 3) (AC 6)
FISH & GAME ADVISORY COMMITTEES

6. 5 AAC 96.020. COMPOSITION OF COMMITTEES Creation of alternate advisory committee members, and provide for alternates to travel in place of regular member if necessary.

5 AAC 96.020. COMPOSITION OF COMMITTEES

Each advisory committee shall be composed of persons well informed on the fish and game resources of the locality where organized, and shall be representative, insofar as possible, of the resource user groups of the general area. The Board shall solicit from an organized fish and game advisory board a list of alternates to be approved by the Board. The alternates shall satisfy all criteria for fish and game advisory board members in chapter 96 of this section. In the event of an absence known in advance by the chairman of the local fish and game advisory board, the chairman shall authorize the alternate to travel on State GTR to the meeting location. The number of committee members shall not be less than five nor more than 15, the exact number of which shall be determined in accordance with the procedures stated in sec. 50 of this chapter.

Justification: (A) Within the four advisory boards functioning in the Yukon Kuskokwim Delta, the meetings normally last 1½ to 2½ days four times a year. The meetings often coincide with subsistence activities, and the length of the meeting, the personal expenses that occur and not covered for repayment by the State often force a dedicated local committee member to take care of his own household rather than attend the meeting. (B) Although attendance has generally been good, we have had a consistent interest in having alternates approved by the board, and their way to the meetings paid by the State so that a village does not miss the meeting due to lack of funds. (C) Lists have already been submitted one year ago of alternates for the local committees within this region.

Proposed by: Nunam Kitlutsisti (AC 9)
7. 5 AAC 96.050. NOMINATIONS (Regulation page 5-166) Prohibit advisory committee members from nominating people to advisory committees.

5 AAC 96.050. NOMINATIONS

A nomination may be submitted to the advisory committee (BY A MEMBER OR) by a local citizen at any regular meeting or in writing to the Chairman. The Advisory Committee shall vote on all nominations at the next regular meeting.

Justification: The public should have more involvement in the selection of their Advisory Board.

Proposed by: Bill Barr for KAWERAK, Inc. (AC 10)

FISH & GAME ADVISORY COMMITTEES

8. 5 AAC 96.050. MEMBERSHIP (Regulation page 5-166) Prohibit advisory committee members from nominating people to advisory committee.

5 AAC 96.050. MEMBERSHIP

Pursuant to the regulations governing the composition of advisory committees (providing for an indefinite number of members, not less than five nor more than fifteen), it is hereby composed only of persons whose names have been confirmed by the board (unless appointed by the board). Appointed members of the board, employees of the Alaska Department of Fish and Game, National Marine Fisheries Service, and U.S. Fish and Wildlife Service are not eligible for membership on this committee. The Board shall select the first five members of the advisory committee. Thereafter, nominations for additional members may be submitted (BY COMMITTEE MEMBERS OR) by local citizens. The advisory committee shall vote on all nominations at regular public meetings, with a majority of the full membership of the advisory committee necessary to elect a new member. Newly elected members have full voting and office holding rights until confirming action by the board. Any proposed member refused confirmation by the board loses membership status when his nomination is refused.

Justification: The Public should have more involvement in the selection of their Advisory Board.

Proposed by: Bill Barr for KAWERAK, Inc. (AC 11)
9. 5 AAC 96.050. ADOPTION OF UNIFORM BYLAWS (Number 4) (page 5-166)
Requires that the first five members of the advisory committee be selected for nominations submitted by the public.

5 AAC 96.050. ADOPTION OF UNIFORM BYLAWS

Number 4. Membership

Pursuant to the regulations governing the composition of advisory committees (providing for an indefinite number of members, not less than five nor more than fifteen), it is hereby composed only of persons whose names have been confirmed by the board (unless appointed by the Board). Appointed members of the board, employees of the Alaska Department of Fish and Game, National Marine Fisheries Service, and U.S. Fish and Wildlife Service are not eligible for membership on this committee. The board shall select the first five members of the advisory committee from nominations made by the public. Thereafter, nominations for additional members may be submitted by committee members or by local citizens. The advisory committee shall vote on all nominations at regular public meetings, with a majority of the full membership of the advisory committee necessary to elect a new member. Newly elected members have full voting and office holding rights until confirming action by the board. Any proposed member refused confirmation by the board loses membership status when his nomination is refused.

Justification: The public should have more involvement in the selection of their Advisory Committee.

Proposed by: Bill Barr for KAWERAK, Inc. (AC 12)
10. 5 AAC 96.050. ADOPTION OF UNIFORM BYLAWS (Number 6) (Regulation page 5-166.1) Provides for the filling of vacancies on advisory committees.

5 AAC 96.050. ADOPTION OF UNIFORM BYLAWS

Number 6. Vacancies

A vacancy in the advisory committee shall be declared by the chairman on the happening of any of the following events: (a) the death of, the resignation of, or the refusal to accept election by, any member; (b) the recurring absence of a member from regularly advertised meetings without reasonable cause, as determined by a majority vote of the committee. Vacancies shall be filled following a public notice and the opening for nominations shall be made public four weeks, by radio and local newspaper or whatever media is available, prior to the voting on all nominations at the next regular meeting. Vacancies shall be filled through nomination and election by the advisory committee as set forth in Number 4. However, if a vacancy causes the number of the committee members to fall below five, the board shall fill the vacancy, or dissolve the committee. Terms for members filling vacancies shall be set in accordance with Number 5.

Justification: The public should be notified of vacancies and nominations for their advisory committee in order to make nominations.

Proposed by: Bill Barr for KAWERAK, Inc. (AC 13)
FISH & GAME ADVISORY COMMITTEES

11. 5 AAC 96.050. ADOPTION OF UNIFORM BYLAWS (Number 14) (Regulation page 5-166.1) Provides for public notice of regular advisory committee meetings.

5 AAC 96.050. ADOPTION OF UNIFORM BYLAWS

Number 14. Meetings

The committee shall meet at least twice during each year and may meet at such other times as considered necessary. Meetings may be called by the chairman or at the request of a majority of the committee members. The Advisory Committee shall post a notice, by radio, newspaper or whatever media available, of the date of each meeting at least 2 weeks prior to the advisory board meeting along with a tentative agenda.

Justification: Since each Advisory Board serves the public, their meetings and tentative agenda should be made public for input from the people.

Proposed by: Bill Barr for KAWERAK, Inc. (AC 14)

FISH & GAME ADVISORY COMMITTEES

12. 5 AAC 96.050. ADOPTION OF UNIFORM BYLAWS (Number 5) (Regulation page 5-166.1) Restricts persons to no more than two consecutive terms on an advisory committee.

5 AAC 96.050. ADOPTION OF UNIFORM BYLAWS

Number 5. Terms of Members

The board or the advisory committee (depending on whether a member is appointed or elected) shall set the terms of members so that not more than one-third of the advisory committee terms expire in one calendar year; or members may serve for overlapping four-year terms with one-half of the membership being elected each two years. Under either system terms shall commence on January 1 and run for four years or until a successor has been duly elected. Any Advisory Committee member may not serve more than 2 consecutive terms.

Justification: The Advisory Committee should be set up to have more involvement by new members every 2 consecutive terms of any member.

Proposed by: Bill Barr for KAWERAK, Inc. (AC 15)
FISH & GAME ADVISORY COMMITTEES

13. 5 AAC 96.050. ADOPTION OF UNIFORM BYLAWS (Number 16) (Regulation page 5-166.1) Requires that all meetings and public hearings be advertised in the locality where the advisory committee is organized.

5 AAC 96.050. ADOPTION OF UNIFORM BYLAWS

Number 16. Public Proceedings

Meetings and hearings of this advisory committee shall be open to the public and advertised by radio, newspaper, and whatever media is available in the locality where the committee is organized.

Justification: The Public should be made fully aware of meeting dates for more input to the Advisory Board regulatory process.

Proposed by: Bill Barr for KAWERAK, Inc. (AC 16)

FISH & GAME ADVISORY COMMITTEES

14. 5 AAC 96.030. REPORT OF ACTIVITIES (Regulation page 5-165) Have name of advisory committee members printed in local paper annually.

5 AAC 96.030. REPORT OF ACTIVITIES

The chairman of each advisory committee shall annually, no later than December 31, furnish the board a current list of the names and addresses of those members of the committee and expiration date of term for each member of the committee. Written reports of committee activities for the calendar year shall be made to the board annually during the ensuing January. This provision shall be satisfied if minutes of each meeting and all changes in membership status are submitted to the coordinator for advisory committees on a regular basis after each meeting throughout the year. It is also required that there be an annual printing, in a local paper of the Advisory Board Game Unit of Advisory Board Members including the names of Chairman, Vice Chairman, Secretary and their expiration dates.

Justification: Since the Advisory Boards serve the public each region or game management unit should have an idea of who is on their advisory board for input into the Fish & Game regulatory process.

Proposed by: Bill Barr for KAWERAK, Inc. (AC 17)
SUBSISTENCE

15. 5AAC XXX.XXX. SUBSISTENCE PRIORITY. Prohibit sport and commercial harvests when subsistence restrictions are in effect.

The proposed regulation reads as follows:

5AAC XX.XXX. SUBSISTENCE PRIORITY. When it is necessary to restrict the taking of fish or game to assure the maintenance of fish or game resources on an optimum sustained yield basis, or to assure the continuation of subsistence uses of such resources, subsistence shall be the priority use. When such restrictions are necessary, none of the permissible harvest shall be allocated to sport or commercial harvest until the species reaches a population large enough to exceed subsistence needs.

JUSTIFICATION: This proposal makes clear the intention of the legislature that if subsistence needs cannot be met under the existing allocation system, recreational and commercial use must cease upon the particular fish or game resource so that the subsistence need can be satisfied. The legislature mandated that as long as subsistence needs cannot be met, the other, non-priority uses shall cease in order to provide for as much of the subsistence need as possible. The term "subsistence need" does not indicate that subsistence is a welfare program where needy persons should be allowed to get fish and game at the expense of other users. It indicates that in order for a person practicing a subsistence lifestyle to continue to do so, it is necessary for there to be conservation of the resource and the recognition that the fish and game resources are not limitless requiring that some uses of them must be curtailed.

Proposed by: Rural Alaska Resources Association
Mauneluk Association
NANA Regional Corporation
Alaska Legal Services
16. **5AAC XX.XXX. SUBSISTENCE PRIORITY.** Specify when each Board may establish priorities among subsistence users according to the statutory criteria.

The proposed regulation reads as follows:

5AAC XX.XXX. SUBSISTENCE PRIORITY. When it is necessary to restrict or limit the subsistence use of fish or game, the appropriate authority shall establish priorities of subsistence users based upon:

1. local residence;
2. customary and direct dependence upon the resource as the mainstay of one's livelihood; and
3. availability of alternative resources.

**JUSTIFICATION:** This proposal is intended to make clear the legislative intent that only after recreational and commercial uses of the fish and game resources have been eliminated can the Boards then allocate between different subsistence users. These three criteria are only to be used to differentiate between subsistence users and not to eliminate some subsistence use of fish and game in order to be able to allocate the resources to commercial or recreational uses.

Secondly, the proposal makes clear that in Alaska, the easiest method of making distinctions is based upon locale of residency. The legislature placed the three criteria in a random order and did not mean to place customary and direct dependence above residency or availability of alternative resources. As residency is the easiest to regulate, it has been placed as the number one criterion to be used in differentiating among subsistence users.

Proposed by: Rural Alaska Resources Association
Maeneluk Association
NANA Regional Corporation
Alaska Legal Services
17. 5MAC XX,XXX. GUIDELINES FOR SUBSISTENCE. Develop regulatory intent and guidelines for the prioritizing of subsistence hunting and fishing.

The proposed regulation reads as follows:

5MAC XX,XXX. GUIDELINES FOR SUBSISTENCE. There is a need to develop a statewide policy on the utilization, development and conservation of fish and game resources, and to recognize that those resources are not inexhaustible and that preferences must be established among beneficial users of the resource. It is in the public interest to clearly establish subsistence as a priority use of Alaska's fish and game resources and to recognize the needs, customs and traditions of Alaskan residents. Beneficial use of those resources by all state residents should be carefully monitored and regulated. The Boards will seek maximum involvement from the affected users, so that the viability of fish and game resources is not threatened and so that resources are conserved in a manner consistent with the sustained-yield principal. The permissible harvest of Alaska's fish and game shall be divided in such a way as to primarily ensure the continuation of customary and traditional subsistence hunting and fishing and secondarily for recreational and commercial hunting and fishing.

JUSTIFICATION: The legislature has set forth a priority among consumptive users of fish and game resources. It specifically states that subsistence is to have the highest use and that recreational and commercial uses of the resources are to be secondary. This proposal restates this legislative intent and shows that the Boards of Fisheries and Game recognize this mandate from the legislature. Further, this proposal shows the good faith of the Boards in carrying out their duty to allocate the fish and game resources pursuant to the legislature's direction.

This proposal also emphasizes the need to involve the affected users of the resources in the Boards' decision-making processes. It is only through open channels of communication that the Boards will be able to properly regulate the fish and game resources.

Finally, this proposal expresses the opinion that subsistence is a lifestyle of many Alaskans and, as such, deserves to be given preferential treatment by the Department of Fish and Game and the Boards of Fisheries and Game.

Proposed by: Rural Alaska Resources Association
              Maunaluk Association
              NANA Regional Corporation
              Alaska Legal Services
18. **5 AAC XX.XXX. APPLICATION OF REGULATIONS.** Specify that the subsistence regulations supersede other regulations governing seasons, bag limits, closed waters, gear and other restrictions.

The proposed regulation reads as follows:

**5 AAC XX.XXX. APPLICATION OF REGULATIONS.** The restrictions and limitations set forth in this article shall take precedence over other regulations governing bag limits, seasons, closed waters, legal gear, methods of taking, permits, and eligibility standards contained in other chapters and articles of this title.

**JUSTIFICATION:** This is a technical proposal which is intended to make it easier for subsistence users to be appraised of the regulations that affect them. Presently, subsistence regulations are spread throughout the administrative sections dealing with fish and game. This creates a confusing situation when a person is trying to find and understand which regulations affect his use of the resources. With this proposal, it is clear that the regulations placed within the subsistence article of the code will have precedence over the regulations which are located elsewhere in the code. As an example, subsistence fishing regulations are now contained within the commercial fishing article and subsistence users are expected to comply with commercial regulations. This creates an undue burden upon the subsistence fisherman where he not only must abide by the subsistence regulations but he is responsible for understanding and following the commercial fishing regulations as well. Therefore, with this proposal, a subsistence user will be able to rely upon the subsistence article alone.

Proposed by: Rural Alaska Resources Association
Mauneluk Association
NANNA Regional Corporation
Alaska Legal Services
19. 5 AAC xx.xxx. UNLAWFUL POSSESSION OF FISH OR GAME. Prohibit the possession of unlawfully taken fish and game resources.

The proposed regulation reads as follows:

5 AAC xx.xxx. UNLAWFUL POSSESSION OF FISH OR GAME. It is unlawful for any person to possess or transport on, to, or across State or private lands any raw or unprocessed subsistence or sport caught fish, game or parts thereof, that have been taken, possessed or transported in violation of State law.

Justification: It is anticipated that the State Boards of Fisheries and of Game will establish regulations for the conservation and use of fish and wildlife species in various parts of the State that reflect the general welfare of the populations concerned. Because fish and wildlife populations cross jurisdictional boundaries, as into international waters or onto Federal enclaves where regulations may be in effect that are not accurately aligned with overall population welfare. Therefore, it is important that the Boards be able to effect regulations that ensure compatible uses of fish and wildlife in areas not under direct control of the State.

Proposed by: Staff

20. 5 AAC XX.XXX. SUBSISTENCE REPORTS REQUIRED. Provide that failure to submit subsistence reports will result in ineligibility for a subsequent permit.

The proposed regulation reads as follows:

5 AAC XX.XXX. SUBSISTENCE REPORTS REQUIRED. Failure to comply with subsistence reporting requirements of this chapter will result in ineligibility for a subsistence permit for that activity in the next calendar year. A permittee who fails to comply with the reporting requirements provided by regulation will be ineligible to receive a permit during the next calendar year. The permit applicant demonstrates to the issuing officer that failure to report was due to (a) loss in the mail, or (b) accident, sickness or similar circumstances. The permit applicant shall have the burden of proving any excusable failure to report, and that he took all reasonable measures to insure that the report was mailed certified mail, return receipt requested, or personally delivered. A person aggrieved by denial of a permit under this section may request a hearing pursuant to AS 44.62.360 et. seq.

Justification: It is important that all permittees report their success and other information required on a permit, since analysis of harvests and decisions regarding closures, extensions, or continuations of any use depends on this information. This is particularly true in hunts like the western arctic caribou where a maximum quota is established. Persons jeopardizing the entire system by failing to report should not be allowed to participate the following season.

Proposed by: Staff
21. **5 AAC XX.XXX. QUARTERLY REPORTS.** Require all subsistence hunters and/or fishermen to file a quarterly report stipulating time and money spent and equipment used, with the Alaska Department of Fish and Game for review and consideration.

The proposed regulation reads as follows:

**5 AAC XX.XXX. QUARTERLY REPORTS.** In order to maintain their right of subsistence hunting and/or fishing, all persons with this privilege are required to file a quarterly report with the Alaska Department of Fish and Game stating the time and money spent, and the equipment used for subsistence hunting and fishing.

**JUSTIFICATION:** To completely comply with the concept of subsistence hunting and fishing, this privilege should be extended only to people for whom it is truly a means of subsistence. Too often the concept of subsistence is made a farce by people plundering the resources with expensive modern equipment, often beyond their subsistence needs. The above mentioned requirement would give the Alaska Department of Fish and Game a tool to monitor subsistence activities and to prevent any misuses.

Proposed by: Gunther Matschke - Fairbanks

22. **5 AAC XX.XXX. EVIDENCE.** (New section) Require all fish and game seized by the state as evidence be cleaned and used as food.

The proposed regulation reads as follows:

**5 AAC XX.XXX. EVIDENCE:** Any fish or game seized by the state of Alaska as evidence shall be cleaned and preserved as food.

**Justification:** To avoid waste and conserve food. The evidence can be preserved through photographs and weight and testimony.

Proposed by: Kachemak Bay Subsistence Group
23. 5AAC XX.XXX. PERMITS AND HARVEST REPORTS. Simplify the format and reporting requirements for subsistence permits and harvest reports, and provide that failure to report will not jeopardize future permits.

The proposed regulation reads as follows:

5AAC XX.XXX. PERMITS AND HARVEST REPORTS. To minimize the paperwork required for subsistence hunting and fishing, permits or harvest reports required by the appropriate authority shall be simplified to the extent possible. Failure to comply with harvest reports will not result in loss of future subsistence permits.

JUSTIFICATION: One of the major problems in rural Alaska is the lack of communications, based upon language, cultural, technical and geographical barriers. In order not to aggravate this situation, this regulation mandates that the Boards recognize this situation and make every effort to minimize the problems when dealing with permits and harvest reports. It is precisely in those areas of the State where the communication problems are the worst that most of the subsistence hunting and fishing occurs. Therefore, in order not to place too many burdens upon the subsistence user and not penalize the failure to abide by these new and sometimes burdensome requirements that this proposal is made.

Proposed by: Rural Alaska Resources Association
Mauneluk Association
NANA Regional Corporation
Alaska Legal Services

24. 5AAC XX.XXX. BAG LIMITS. Specify that subsistence bag limits are effective only when the commissioner determines it necessary for sustained yield, and divide the allowable take among permittees.

The proposed regulation reads as follows:

5AAC XX.XXX. BAG LIMITS. There shall be no bag or possession limit on subsistence hunting or fishing unless the Commissioner determines that to maintain the sustained yield of the resource, that each permittee be placed on a specified number of the take.

JUSTIFICATION: This will leave discretion to area biologists, on an area to area basis. It will provide for management systems.

Proposed by: Alaska Native Brotherhood
25. 5AAC XX.XXX. SUBSISTENCE LIMITS. Specify that subsistence bag and possession limits do not apply unless such restrictions are necessary to insure a sustained yield harvest.

The proposed regulation reads as follows:

5AAC XX.XXX. SUBSISTENCE LIMITS. There are no bag or possession limits on subsistence hunting or fishing unless the appropriate authority determines that they are necessary to insure a sustained yield harvest.

JUSTIFICATION: This proposal is made for the purpose of having the Boards recognize that in order to justify a limitation upon non-wasteful subsistence hunting and fishing there must be a basis to do so. This proposal recognizes that subsistence hunting and fishing are by definition limited by the amount needed by subsistence users to satisfy their personal and family needs. If more than necessary is taken, then it could not be justified as subsistence use of the resource. Then, only when limits need be placed on subsistence use for the conservation of the resource will they be justified.

Proposed by: Rural Alaska Resources Association
Mauneluk Association
NANA Regional Corporation
Alaska Legal Services

26. 5AAC XX.XXX. BAG LIMITS. Provide for no bag limits for fish and game taken for subsistence purposes.

The proposed regulation reads as follows:

5AAC XX.XXX. BAG LIMITS. (a) The numbers at fish and game taken for subsistence purposes may not be limited provided the resources are not wasted.

JUSTIFICATION: None provided.

Proposed by: Kevin McKinley

27. 5AAC XX.XXX. BAG AND POSSESSION LIMITS. Provide for no subsistence limits unless determined necessary by a Subsistence Fish and Game Board.

The proposed regulation reads as follows:

5AAC XX.XXX. BAG AND POSSESSION LIMITS. There shall be no bag or possession limits on subsistence hunting or fishing unless the Subsistence Fish and Game Board determines that they are necessary to insure a sustained yield harvest.

JUSTIFICATION: None provided.

Proposed by: North Slope Borough
28. 5AAC XX.XXXX. SEALING. Delete any sealing requirement unless the Board finds it necessary to insure sustained yield.

The proposed regulation reads as follows:

5AAC XX.XXXX. SEALING. There shall be no requirement that subsistence game be sealed unless the Boards or appropriate regional authority determines that scaling is necessary to insure optimum sustained yield.

JUSTIFICATION: There is no reason why resources taken for personal or family consumption or use should be sealed, without adequate showing that sealing is vital to resource management. Additionally, sealing requirements often work a hardship on subsistence users who often must hunt when and where resources are available. Requiring a subsistence hunter to present game to be sealed at a Fish and Game office during normal business hours often interferes with his ability to engage in subsistence hunting.

Proposed by: Mauneluk Association
NANA Regional Corporation
Alaska Legal Services

29. 5AAC XX.XXXX. WASTE. Restrict wastage of subsistence resources.

The proposed regulation reads as follows:

5AAC XX.XXXX. WASTE. Subsistence hunting and fishing shall be conducted in such a manner as to minimize and avoid unnecessary waste of the resource.

JUSTIFICATION: Subsistence users are those most concerned with preserving the resources used. By definition, subsistence use requires use of the resource for personal and family consumption.

Proposed by: Mauneluk Association
NANA Regional Corporation
Alaska Legal Services

30. 5AAC XX.XXXX. EMERGENCY TAKING. Permit unrestricted use of fish or game in cases of dire emergency.

The proposed regulation reads as follows:

5AAC XX.XXXX. EMERGENCY TAKING. Nothing in these regulations shall prohibit a person from taking fish or game in violation of these regulations in the case of dire emergency, nor do they prohibit the taking of fish or game to protect life or property.

JUSTIFICATION: This section is consistent with the current law. It is included in the interest of proposing comprehensive subsistence regulations.

Proposed by: Mauneluk Association
NANA Regional Corporation
Alaska Legal Services
31. 5 AAC 20.015. SUBSISTENCE HUNTING AND FISHING GENERALLY. Permit the subsistence taking of fish or game at any time, by any means in any area unless restricted by Board regulation.

The proposed regulation reads as follows:

5 AAC 20.015. SUBSISTENCE HUNTING AND FISHING GENERALLY. Shellfish, fish and game may be taken for subsistence purposes at any time, in any legal manner, and in any areas of the State unless the Board determines otherwise pursuant to the Administrative Procedures Act.

JUSTIFICATION: If subsistence is to be guaranteed the priority required by SLA 151, the regulatory system must reflect this preference. Therefore, regulations addressing subsistence will have priority over regulations addressing sport or commercial fishing or hunting. Additionally, in the absence of Board action to the contrary, subsistence use, as defined in the law, will be permitted. These sections give the Boards, rather than subsistence users, the responsibility for limiting, when necessary, subsistence use.

Proposed by: Mauneluk Association
NANA Regional Corporation
Alaska Legal Services

32. 5 AAC 20.015. Provide criteria for implementing subsistence regulations by defining the statutory terms in the new subsistence law.

Sec.4 AS 16.05.251(b) (1) Determine direct dependence upon a resource by income, i.e. low income people should have priority. 3) Availability of alternative resources is dependent on the price as well as location.

Sec.5 AS 16.05.225 (Same as the above)

Sec.15 AS 16.05.940(26) The term subsistence shall apply to all Alaskan residents using the resources noncommercially. Direct personal or family consumption shall include dog food.

Sec.15 AS 16.05.940(27)(B) A commercial exchange should mean exchange of an item for money.

Fisheries: No closed season for subsistence. Continue restrictions from disturbing spawning salmon.

Hunting: Continue season closure designed to protect reproduction. Continue closure of areas designated as overhunted. Eliminate any closures not oriented toward reproduction or restocking.

JUSTIFICATION: Store-bought meat may be available in a village but the prices are probably too high to afford on a regular basis. Dogs are important in Eskimo culture and some user in hunting and sledding (transportation). I doubt any other exchange (as listed above) would pose a significant problem for fish and game management, if on a "limited" scale. Special editions of hunting and fishing regulations should be written at the reading level of the populations in Alaska that have limited reading capabilities.

Proposed by: Dan Thomas - Nome
33. 5 AAC XX.XXX. EXCLUSION FROM PERMIT DRAWINGS. Exclude those individuals with subsistence privileges from participation in permit drawings for the resources they use for subsistence.

The proposed regulation reads as follows:

5 AAC XX.XXX. EXCLUSION FROM PERMIT DRAWINGS. Residents with subsistence hunting and fishing privileges are prohibited from participating in any permit drawing for the resource they use for subsistence.

JUSTIFICATION: Under the new subsistence regulations, there is very little fish and game left for the traditional recreational user. The utilization of this resource is completely out of balance in favor of the subsistence user. Excluding those people from participating in recreational hunting would be a small attempt to balance a completely unfair system. It would forego the possibility that the subsistence user also claims right to the limited amount of permits. Too often subsistence privileges are misused as a disguise for sport hunting.

Proposed by: Gunther Matschke - Fairbanks

34. 5 AAC XX.XXX. SEASONS. Provide for no closed season for the taking of fish and game resources for subsistence purposes.

The proposed regulation reads as follows:

5 AAC XX.XXX. SEASONS. (a) There is no closed season on the taking of fish and game for subsistence use.

JUSTIFICATION: None provided.

Proposed by: Kevin McKinley

35. 5 AAC XX.XXX. COMMERCIAL ACTIVITY PROHIBITED. Prohibit commercial use of subsistence utilized resources in Southeast Alaska unless authorized by statute or regulation.

The proposed regulation reads as follows:

5 AAC XX.XXX. COMMERCIAL ACTIVITY PROHIBITED. Commercial activity is prohibited on all resources utilized for subsistence in the South­eastern Alaska region unless authorized by statute or regulation of the Board of Fisheries or the Board of Game.

JUSTIFICATION: None provided.

Proposed by: Alaska Native Brotherhood
36. 5AAC XX.XXX. PRIORITY FOR SUBSISTENCE USE BY GEOGRAPHIC RESIDENCY. Specify subsistence users on a regional basis as determined by customary and traditional harvest areas, availability and other criteria.

The proposed regulation reads as follows:

5AAC XX.XXX. PRIORITY FOR SUBSISTENCE USE BY GEOGRAPHIC RESIDENCY. Because of the great diversity of Alaska's land, people and natural resources, a determination of means and methods of hunting and fishing, as well as dates for seasons, bag limits, determinations of subsistence users and subsistence hunting zones shall be done on a regional basis, employing game management units or subunits, fisheries area or sub-areas or other regional designations. These users near boundaries of different units must be included in their customary and traditional harvest areas. In determining seasons traditional and customary hunting and fishing times, edibility and availability of the species shall be primary considerations. In determining limits, local residence; customary and direct dependence upon the resource as a mainstay of one's livelihood, and availability of alternative resources, shall be primary considerations.

JUSTIFICATION: This proposal is aimed at the differences not only among the subsistence users of the fish and game resources but also at the differences among the regions of the State. It is virtually impossible to make specific regulations which are intended to reach all of Alaska and the Boards should do their best to make determinations based upon the particular situation in particular regions. The proposal also recognizes that whatever boundaries are used to determine use patterns, these boundaries are arbitrary and consideration must be given to those subsistence users who have customarily and traditionally crossed these lines when harvesting fish and game. As the fish and game are not limited by boundaries, neither can subsistence users be limited by these same boundaries.

The next portion of the proposal deals with the timing of hunting and fishing seasons. It makes little sense to create these seasons when the resource is not available or inedible. Therefore, care must be taken to place seasons in connection with traditional and customary use patterns. If under OSY, restrictions on harvest must occur, first sport and commercial harvest must be curtailed, allowing for non-wasteful subsistence harvest. If in the event further restrictions on harvest are in order, the three criteria listed are recommended in their order of highest priority.

Proposed by: Rural Alaska Resources Association
37. 5 AAC XX.XXX. DEFINITIONS. Define the term barter as the term is used in the exchange of subsistence taken fish or game for other resources and materials, and present optional restrictions governing the barter of these substances.

The proposed regulation reads as follows:

5 AAC XX.XXX. DEFINITIONS. Unless specified otherwise by the subsistence regulations in this chapter, the following definitions apply:

(1) "barter" means the exchange or trade of subsistence taken fish and game or their parts for:

(A) other fish or game or their parts;

(B) other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature;

One or more of the following options may be used to further define barter:

(1) barter may occur only between subsistence users; or

(2) barter may occur only between subsistence users domiciled within the same regulatory area (or other geographical portion of the State); or

(3) bartered fish and game or their parts may not be transported out of the State; or

(4) the following species may be only bartered for other fish and game species: salmon, rainbow trout, moose, sheep, caribou or their parts; or

(5) prohibit the exchange or trade of fish and game for nonedible or manufactured items in areas where this use has not occurred in recent years; or

(6) fish and game or their parts and other items exchanged or traded shall not be sold; or

(7) barter for non-food items may not exceed a total value of $500 in any year (or $250, $1000, etc.); or

(8) no more than 25 percent (or 15%, 50%, etc.) of a subsistence user's total take of any species may be bartered; or
(9) fish and game or their parts may be bartered for tools, fuel, shelter and transportation items, but if such items are processed the total value of such items may not exceed $____; or

(10) if the edible portions of any species are utilized for human or animal consumption, then the nonedible parts of those species may be bartered without limit; or

(11) any food or clothing item may be traded or exchanged for any fish and game species or their parts without limit;

(12) the following manufactured items may not be exchanged or traded for fish and game or their parts: fuel, outboard motors, transportation vehicles, etc.; or

(13) manufactured goods may only be used for barter if they are essential for the maintenance of tools, shelter or means of transportation already possessed by the subsistence user; or

(14) other specifications as may be determined by regulation of the Boards.

Justification: A definition of "barter" is required for compliance with the subsistence law. Also, regulatory options are presented for placing additional restrictions on bartering for the purpose of preventing waste or damage to the fish and game resources and circumvention of management programs. There is concern that the present definition of barter may encourage greater effort and utilization beyond traditional personal use requirements by some subsistence users. This could adversely affect the subsequent harvests available to all user groups and frustrate the State's ability to give preference to traditional subsistence users.

Proposed by: Joint Boards of Fisheries and Game
38. 5AAC XX.XXX. DEFINITIONS. Define the term barter.

The proposed regulation reads as follows:

5AAC XX.XXX. DEFINITIONS. "Barter" means the exchange or trade of fish and game and plants or their parts taken or possessed under applicable subsistence regulations. Bartering shall be limited only to the exchange or trade of other fish and game and plants or their parts taken or possessed for subsistence use under provisions of these regulations. Such fish and game and plants or their parts taken or possessed for subsistence uses and subsequently bartered may not be sold or offered for resale.

Except that the edible meat of walrus, seal, sea lion and whales and the ivory of walrus and the baleen of whales that have been substantially altered by native Eskimo or Indian handicraft such as by carving or scrimshawing may be sold.

"Substantially altered" for the purpose of this section means that any ivory or baleen taken or possessed for subsistence uses that are to be sold shall first have been rendered into such a state either by carving or scrimshawing so as to recognizably change its form or appearance from its original state. Etching only of the artist's name could not be considered being "substantially altered."

JUSTIFICATION: We would prefer no sale of subsistence taken items be allowed at all but realize that certain privileges have already been given. This proposal allows for the sale of some items under conditions.

In the past we have had concern as to baleen in particular not being altered at all, other than the inscription of a name scratched in somewhere. This would require more both for ivory and baleen.

Proposed by: Department of Public Safety
39.  5AAC XX.XXX. DEFINITIONS. Define subsistence uses as applicable only to residents, and define barter.

The proposed regulation reads as follows:

5AAC XX.XXX. DEFINITIONS. As used in this article or in regulations pertaining to subsistence fishing or hunting in this title, subsistence uses means the customary and traditional uses in Alaska by residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter or sharing for personal or family consumption. Family means all persons related by blood, marriage, or adoption and any person living within the household on a permanent basis. Barter means the trade of fish or game or their parts, taken for subsistence purposes (1) for other fish or game or their parts; or (2) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

JUSTIFICATION: This proposal merely restates the definition of subsistence uses, family and barter as contained within the subsistence law, as well as also recognizing that only residents of the State of Alaska come within the definition of customary and traditional subsistence use.

Proposed by: Rural Alaska Resources Association
Mauneluk Association
NANA Regional Corporation
Alaska Legal Services
40. 5 AAC XX.XXX. DEFINITIONS. Define the meanings of the terms "customary and traditional uses" as these terms are used to identify those individuals who may engage in subsistence hunting and fishing.

The following options are presented, alternatively or in any combination, to define or implement a definition of "customary and traditional uses":

(1) a specified time of prior residency by an individual or family in the entire State or in any portion of the State in which the subsistence use occurs, for example 12 months, 5 years or 10 years prior residency may be required; or

(2) an individual or family must have taken the fish and game resource in question for 3 out of the last 5 years, (or 10 out of the last 15 years, etc.); or

(3) the user of fish and game resources which currently predominates in the regulatory area in question; or

(4) limitation on methods and means of harvesting fish and game resources for subsistence uses, for example prohibit or restrict use of certain types of fishing gear, aircraft, snowmachines, road and all-terrain vehicles; or

(5) other requirements as may be considered appropriate or necessary by the Boards.

Justification: In 1978, the "subsistence law" was enacted. This law provides that"...it is in the public interest to clearly establish subsistence use as a priority use of Alaska's fish and game resource, and to recognize the needs, customs, and traditions of Alaskan residents." The law also provides that "Whenever it is necessary to restrict the taking of game to assure the maintenance of game resources on a sustained yield basis, or to assure the continuation of subsistence uses of such resources, subsistence use shall be the priority use."

This proposal is being submitted by the Joint Boards to allow public comment on a wide range of possible interpretations of terms in the subsistence law that may be used to determine subsistence use eligibility and preference.

The Board offers the options in this proposal without recommendation. The Board has not approved or rejected these proposals and will not take action on any of them, or on any other proposal, until the March Board meeting.
Subsistence eligibility and preference criteria will often differ between various areas and, in fact, may not be required if the fish and game populations are healthy and subsistence uses are afforded the priority use under current regulations.

Proposed by: Joint Boards of Fisheries and Game

41. 5AAC XX.XXX. DEFINITIONS. pg. 150. Define the terms "customary and traditional."

The proposed regulation reads as follows:

5AAC XX.XXX. DEFINITIONS. "Customary and traditional" methods and means of taking fish and game means any method that:

(1) was commonly used by rural Alaskans prior to statehood; and
(2) is legal within the current fish and game code. This, "customary and traditional" methods and means include such modern refinements as firearms, motorized boats of limited horsepower, and sno-goes, but excludes aircraft.

JUSTIFICATION: Recent discussions over what constitutes "traditional and customary" have been concerned primarily with use of fish and game, rather than how it was obtained. Since the purpose of the subsistence law is, in part, to preserve a unique Alaskan lifestyle, and since cultural value lies not only in utilizing wild game and fish but in obtaining it as well, it seems that a definition of traditional methods and means should be included.

Proposed by: Jay Massey - Eagle River

42. 5AAC XX.XXX. DEFINITIONS. Define "customary and traditional uses."

The proposed regulation reads as follows:

5AAC XX.XXX. DEFINITIONS. (4) "Customary and traditional uses" means the practice of local residents taking a wide, diverse, and varying selection of wild, renewable resources to meet their needs. As the availability, edibility, and populations of species vary periodically, it is recognized that the particular areas where subsistence practices occur, the species used, and the amount taken should vary in response to environmental, social, and technological change in order to insure that subsistence users can fill their needs in the most practical and efficient manner.

JUSTIFICATION: Subsistence users have always used whatever local resources were available to meet their needs. This is the "customary and traditional" manner of using fish and game.

If a species of great importance to subsistence users of an area were depleted, local people must be able to meet their needs through increased take of other species of fish and game in the area.

Seasonal subsistence needs vary. While subsistence users may only take a small amount of a certain species, that species may be the only one available at that time or the taking of that species may be important to fill the cultural and traditional practice of using the total array of local resources to meet ones needs.

Proposed by: Kodiak Subsistence Council
43. 5AAC 39.975. DEFINITIONS. Regulation page 29. Define "customary and traditional" use of resources for subsistence purposes.

The proposed regulation reads as follows:

5AAC 39.975. DEFINITIONS. "Traditional and customary use" means uses by Alaska Natives and rural residents of wild, renewable resources for direct personal or family consumption or for cultural events as food, fuel, shelter, clothing, tools, or transportation, for the making and selling of handicraft articles out of non-edible byproducts of fish and wildlife resources taken for personal or family consumption, cultural events and for customary trade or barter.

JUSTIFICATION: None provided.

Proposed by: Alaska Native Brotherhood
5 AAC XX.XXX. DEFINITIONS. Define the meanings of the terms 1) "customary and direct dependence upon the resource as the mainstay of one's livelihood"; 2) "local residency"; and 3) "availability of alternate resources" as those terms are used individually or collectively as criteria for the Board to establish restrictions, limitations or priorities for consumptive uses of fish and game resources.

The following options are presented, alternatively or in any combination, to define or implement a definition of the above terms:

(1) subsistence taken fish and game must comprise more than 50 percent (or 25%, 75%, etc.) of an individual's or family's diet including consumption by domestic animals; or

(2) subsistence taken fish and game must comprise a majority of the food consumed in a community or regulatory area; or

(3) adjusted gross income must be less than $5,000 for the preceding year (or $8,000, $10,000, etc.) or average less than $5,000 (or $8,000, $10,000, etc. for the three preceding years.

(A) this could be applied to individuals, families or all the individuals and families within a community or regulatory area; or

(B) adjusted gross income may be similar to the Federal poverty guideline income levels for Alaska, as follows:

<table>
<thead>
<tr>
<th>Family Size</th>
<th>1977 Adjusted Gross Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$ 3,940</td>
</tr>
<tr>
<td>2</td>
<td>5,210</td>
</tr>
<tr>
<td>3</td>
<td>6,480</td>
</tr>
<tr>
<td>4</td>
<td>7,750</td>
</tr>
<tr>
<td>5</td>
<td>9,020</td>
</tr>
<tr>
<td>6</td>
<td>10,290</td>
</tr>
</tbody>
</table>

For families with more than 6 members, add 1,270.00 for each additional member.

(4) individuals utilizing or capable of utilizing fish or game taken under commercial or recreational regulations may be given lesser preference for subsistence use of these resources; or
(5) availability of processed food, for example individuals living in remote areas where there are no stores or where store inventories become periodically exhausted may have greater preference for subsistence uses of fish and game; or

(6) availability of other fish and game resources, for example individuals having less opportunity to harvest other species of fish and game may receive a greater preference for subsistence use of a particular intensively exploited fish and game species; or

(7) a specified time of prior residency by an individual or family in the regulatory area in which the subsistence use occurs, for example 12 months, 5 years, 10 years prior residency may be required; or

(8) residency in the regulatory area in which the subsistence use occurs; or

(9) distance between place of residence and the harvest area, for example a greater subsistence use preference may be given to individuals living closer to where the resource is harvested; or

(10) other requirements or standards as may be considered appropriate or necessary by the Boards.

Justification: In 1978, the "subsistence law" was enacted. This law provides that "...it is in the public interest to clearly establish subsistence use as a priority use of Alaska's fish and game resource, and to recognize the needs, customs, and traditions of Alaskan residents." The law also provides that "Whenever it is necessary to restrict the taking of game to assure the maintenance of game resources on a sustained yield basis, or to assure the continuation of subsistence uses of such resources, subsistence use shall be the priority use."

This proposal is being submitted by the Joint Boards to allow public comment on a wide range of possible interpretations of terms in the subsistence law that may be used to determine subsistence use eligibility and preference.

The Board offers the options in this proposal without recommendation. The Board has not approved or rejected these proposals and will not take action on any of them, or on any other proposal, until the March Board meeting.

Subsistence eligibility and preference criteria will often differ between various areas and, in fact, may not be required if the fish and game populations are healthy and subsistence uses are afforded the priority use under current regulations.

Proposed by: Joint Boards of Fisheries and Game
45. 5AAC XX.XXX. DEFINITIONS. Define "availability of alternative resources" pertaining to the allocation of fish and game resources.

The proposed regulation reads as follows:

5AAC XX.XXX. DEFINITIONS. (a) "Availability of alternative resources" is a criterion to be used when competition for a particular resource is so great that not only have other consumptive uses been eliminated, but there must be an allocation between subsistence users of the resource.

JUSTIFICATION: The phrase "alternative resources" does not mean that the Boards of Fisheries and Game can decide to allocate a less desirable species to subsistence users, particularly if the species in question has traditionally been used for subsistence purposes in that locality. The phrase refers rather to allocation questions between subsistence user groups competing for the same limited resource.

Proposed by: Kodiak Subsistence Council
46. **5 AAC XX.XXX.** Develop criteria for determining whether individuals are eligible to participate in subsistence uses of fish and game resources under the terms of any regulatory definitions or implementing the statutory language governing subsistence hunting and fishing.

The following examples, individually or in combination, may be considered by the Boards:

1. an individual or member of his immediate family must have returned game harvest tickets for the affected species in at least 3 out of the last 5 years; or

2. an individual or member of his immediate family must have purchased a hunting, trapping or sport fishing license in at least 3 out of the last 5 years; or

3. an individual or member of his immediate family must have returned a completed record of fish captured under authority of a permit in at least 3 out of the last 5 years; or

4. an individual or member of his immediate family must be listed as having harvested the affected species in at least 3 out of the last 5 years in records mentioned by the department; or

5. for species and/or regulatory areas which do not require completion of catch records or licensing by regulation or law:

   (A) an affidavit signed by two persons with personal knowledge of the applicant's hunting and fishing activities; or

   (B) an affidavit signed by a local advisory committee member, magistrate, city or village council authority or other local authority affirming the hunting or fishing activities; or

6. the adjusted gross income may be determined from Federal and/or State Income Tax Return forms or an affidavit from the individual; or

7. other criteria considered to be appropriate or necessary by the Boards.

Justification: In 1978, the "subsistence law" was enacted. This law provides that...it is in the public interest to clearly establish subsistence use as a priority use of Alaska's
fish and game resource, and to recognize the needs, customs, and traditions of Alaskan residents." The law also provides that "Whenever it is necessary to restrict the taking of game to assure the maintenance of game resources on a sustained yield basis, or to assure the continuation of subsistence uses of such resources, subsistence use shall be the priority use."

This proposal is being submitted by the Joint Boards to allow public comment on a wide range of possible interpretations of terms in the subsistence law that may be used to determine subsistence use eligibility and preference.

The Board offers the options in this proposal without recommendation. The Board has not approved or rejected these proposals and will not take action on any of them, or on any other proposal, until the March Board meeting.

Subsistence eligibility and preference criteria will often differ between various areas and, in fact, may not be required if the fish and game populations are healthy and subsistence uses are afforded the priority use under current regulations.

Proposed by: Joint Boards of Fisheries and Game

47. SMC XX.XXX. DEFINITIONS. Define "subsistence user."

SMC XX.XXX. DEFINITIONS. "Subsistence user" means any resident of the State of Alaska who hunts, kills, and utilizes any food animal as defined by the State of Alaska for their own consumption regardless of their economic status or ethnic background.

JUSTIFICATION: The traditional Alaskan lifestyle needs to be preserved for all residents through sound wildlife management. Urban residents as well as rural residents need to be included in defining subsistence.

Proposed by: Terry Hill - North Pole
Randy Pitney

-36-
48. 5AAC XX.XXX. DEFINITIONS. Define "subsistence user."

The proposed regulation reads as follows:

5AAC XX XXX  DEFINITIONS. "Subsistence user" means one who lives outside of the cash economy and does not use the monetary system to provide food and shelter for themselves or their family. In addition, this person does not and will not obtain public assistance for food and shelter. Annually, this person must be certified by the Department of Fish and Game as a qualified subsistence person. Previous to obtaining their certification this person would present proof that he or she has been living a subsistence lifestyle for at least three months. Certification would be valid for one year. The fish and game products taken while living in this manner cannot be converted into cash nor can these products be sold for cash after he or she discontinues living a subsistence lifestyle.

JUSTIFICATION: It is obvious that a clear and precise definition of subsistence utilizer has to be established, supported, and understood by all resource users in Alaska. Criteria which discriminates because of locality, income level, transportation method, degree of dependence on a particular resource and available alternate resources will not have public support and will result in the fracturing of good will between resource users. The resulting lack of cooperation between resource users would cause a decline of public support for the proper management of renewable resources. A clear and precise definition of subsistence utilizer would have public support now and in the future. This criteria would make it possible for the true subsistence person to continue living in his or her chosen style except that now it would be a legal lifestyle.

Proposed by: Kevin McKinley

49. 5AAC XX.XXX. DEFINITIONS. Define "subsistence area."

The proposed regulation reads as follows:

5AAC XX.XXX. DEFINITIONS. (a) "Subsistence area" means the entire State of Alaska.

JUSTIFICATION: All residents of Alaska qualify for subsistence and occupy all portions of the State.

Proposed by: Thomas Scarborough
50. 5AAC XX.XXX. DEFINITIONS. Define "local residency."

The proposed regulation reads as follows:

5AAC XX.XXX. DEFINITIONS. (4) "Local resident" means any Alaskan who is, by law, a resident of the State of Alaska.

JUSTIFICATION: By constitutional law, the game of Alaska belongs to all Alaskans. Any other definitions would be unconstitutional.

Proposed by: Gene V. Carlson

51. 5AAC XX.XXX. DEFINITIONS. Define "local resident."

The proposed regulation reads as follows:

5AAC XX.XXX. DEFINITIONS. "Local resident" means any Alaskan resident.

JUSTIFICATION: This definition of "local resident" will ensure that no resident of the State of Alaska is discriminated against when it comes to allocating fish and game resources.

Proposed by: Louis Barton - Anchorage

52. 5AAC XX.XXX. DEFINITIONS. Define the term subsistence and exclude any related commercial activities, and define sport hunting and fishing.

The proposed regulation reads as follows:

5AAC XX.XXX. DEFINITIONS. (a) "Subsistence" means the taking of game or fish by resident Alaskans solely for consumption by that Alaskan, his family and friends, and any commercial enterprise based on subsistence taken fish and game is prohibited.

(b) "Sport hunting and fishing" means non-resident hunting, trophy hunting or participating for the thrill of the chase, with meat as a secondary consideration.

JUSTIFICATION: My biggest concern is the definition of the term "subsistence," and who is eligible to take subsistence fish and game in Alaska. As you are well aware, the trend in game management laws has been biased on the side of the natives, especially during this last legislative session, primarily because of their newfound political savvy and strong lobby. Unless a moderating trend is established, the resentment building in the urban, non-native population will culminate in a bitter political fight over wildlife resources. You can go a long way toward preventing that with a strong unbiased definition of subsistence, with equal opportunity for all Alaskans to share, regardless of race, creed or color.

It may be argued that such a loose definition leaves too much room for abuse, with all hunting falling into the subsistence category, but I believe all Alaskans needing meat are entitled to a share of our wildlife resources, not just the natives or the whites living in remote areas.

Proposed by: Ken Nesting
Although fish and game resources were once a crucial factor in the survival of all Alaskans, a growing population segment is becoming partially or totally independent of these resources. This change is the result of advanced food production technologies elsewhere, rapidly improving logistics, and a growing immigrant population whose demands mainly involve recreational uses of the resource. Nevertheless, direct domestic utilization of fish and game is still vital to the existence of many rural Alaskans and is an essential supplement to the larders of some urban citizens. Beyond directly satisfying food requirements, home consumption of fish and game tends to preserve cultures and traditions and gives gratification to a strong desire possessed by many to hunt and fish. The latter functions seem genuinely important to the physical and psychological well-being of a large number of Alaskans.

By reason of culture, location, economic situation or choice, large numbers of people will find it impossible to abandon or alter their way of life at a pace paralleling changes brought by new shifts in land status and ownership, non-renewable resource developments, transportation improvements and a phenomenal rate of population growth.

The Fish and Game Boards and the Commissioner of Fish and Game recognize that existing cultures and life styles in Alaska are of great value and should be preserved.

The Boards and the Commissioner believe that, although limitations on the productivity of fish and game stocks limit continued increases in the numbers of subsistence resource users, domestic utilization is still of fundamental importance to many Alaskans. Accordingly it is assigned the highest priority among beneficial uses.

When any subsistence species becomes limited in supply, that species will be allocated to subsistence users on the basis of need. Needs of individuals, families or cultural groups differ in type and degree and it is recognized that subjective judgment will be an unavoidable necessity in weighing actual need. Elements considered in establishing the level of need include cultures and customs, economic status, alternative resources (availability of social services), location and voluntary choice of life style.

The Boards of Fisheries and Game and the Commissioner also understand that subsistence requirements will not affect all resources in all areas equally, and recreational and commercial uses will continue to be permitted where and to the extent that they do not interfere with or jeopardize subsistence resource use.

The Boards and the Commissioner recognize the need for regional differences in the approach to fish and game management.
Subsistence use will be maintained in general as it occurred during the years 1974-1978. The Boards and the Commissioner will maintain flexibility by periodically examining social and economic conditions, as well as biological stock conditions, which may warrant a change in subsistence uses.

New, non-traditional subsistence use will not be allowed. Subsistence uses will be confined to areas and/or species and stocks where such use has occurred during and since 1974.

Whenever possible, regulations for subsistence will be by seasons, bag limits, methods and means, and permits. Establishment of special regulations for designated subsistence users will be resorted to only if the above approach is inappropriate and ineffective.
ADVISORY COMMITTEES AND REGIONAL RESOURCE COUNCIL PROPOSALS TO BE CONSIDERED BY THE JOINT BOARDS OF FISHERIES AND GAME IN ANCHORAGE

MARCH 24 - 28, 1979

TITLE 5.
FISH AND GAME

PART 7.

FISH AND GAME ADVISORY COMMITTEES

1. Chapter 96. Fish and Game Advisory Committees is repealed and Advisory Committee establishment is reenacted to make language, number and organizational changes; provide for the establishment of Regional Resource Councils, and the membership, functions, operational procedures, reporting, boundaries of the Regional Resource Councils; the administration of Local Advisory Committees and Regional Resource Councils including operation, petition for creating committees, review of nominations and qualifications for membership, dissolution of advisory committees and direction from the Boards of Fish and Game; Procedures governing the development, consideration, implementation, and modification of the regulatory process; creation of general provisions and definitions for the implementation of this chapter.

The proposed regulation reads as follows:

Chapter 96. Fish and Game Advisory Committees, Sections 10 through 60 is repealed and reenacted to read:

CHAPTER 96.

LOCAL ADVISORY COMMITTEES AND REGIONAL RESOURCE COUNCILS

ARTICLE 1.

ADVISORY COMMITTEES

5 AAC 96.910. ESTABLISHMENT OF A LOCAL ADVISORY COMMITTEE SYSTEM. Under authority of AS 16.05.260, there is established a system of Local Advisory Committees to provide a local forum for the collection and
expression of opinions and recommendations on matters relating to the
management of fish and game resources.

5 AAC 96.020. CREATION OF LOCAL ADVISORY COMMITTEES. Three or
more interested persons in the State may petition the Boards of Fisheries
and Game for creation of a Local Advisory Committee. A committee must
be approved by the statewide Boards before commencing its operations,
and the Boards will designate the geographical boundaries of the committee.

5 AAC 96.030. COMPOSITION OF LOCAL ADVISORY COMMITTEES. Each
Local Advisory Committee shall be comprised of a membership which, to
the extent possible, is representative of the full range of user-groups
in that general area. The number of committee members shall be not less
than five nor more than 15, with the exact number to be determined in
accordance with procedures set forth in Sec. .060 of this chapter.

5 AAC 96.040. QUALIFICATIONS FOR MEMBERS. To qualify for membership
on a Local Advisory Committee, a candidate must be a resident of the
State and the area served by the committee, be informed and experienced
with regard to the fish and game resources of the area, and be of a
reputation within the community consistent with the responsibility of
committee membership.

5 AAC 96.050. FUNCTIONS OF LOCAL ADVISORY COMMITTEES. Local
Advisory Committees shall be responsible for

(a) developing regulatory proposals for submission to the Boards;

(b) advising the appropriate Regional Resource Council on needed
measures for the conservation and utilization of fish and wildlife
resources;

(c) evaluating regulatory proposals submitted to it and making re­
commendations to the appropriate statewide Board.

(d) providing a local forum for the expression of opinions and
recommendations by persons interested in any phase of fish and wildlife
conservation and utilization;

(e) cooperating with the appropriate Regional Resource Council in
the development of proposed subsistence management plans and harvest
strategies;

(f) cooperating and consulting with interested persons and organizations
(including government agencies) in order to accomplish the foregoing.

5 AAC 96.060. UNIFORM RULES OF OPERATION. All actions undertaken
in conjunction with the formation or operation of a Local Advisory
Committee shall comply with the uniform rules of operation, which are as
follows:

(a) Organization. The Committee shall be organized under authority
of AS 16.05.260 and shall be administered by the Boards of Fisheries and
Game.
(b) Responsibilities. The Committee shall be responsible for performing the functions described in Sec. .010 of this Chapter in accordance with the provisions of Chapters 96 and 97 of this Title.

(c) Title. The Committee shall have a title.

(d) Membership. The Committee is composed of not less than five nor more than fifteen persons who have been appointed by or confirmed by the Boards. The Boards shall approve the first five members of the Committee. Thereafter, nominations for additional members may be submitted by committee members or by local citizens. The Committee and attending public shall vote on all nominations at a duly noticed public meeting. A majority of those in attendance is necessary to elect a new member. Newly elected members have full voting and office-holding rights until confirming action is taken by the Boards. Any proposed member refused confirmation by the joint Boards loses membership status when his nomination is refused. The Committee may commence its operations as soon as the first five members are appointed by the Boards.

(e) Terms of Members. Terms shall be set by the Boards so that not more than one third of the committee members terms expire in one calendar year. Terms shall commence on January 1 and expire on December 31 of the year designated, or until a successor has been duly elected at the next meeting scheduled.

(f) Vacancies. Vacancies shall be filled through nomination and election as set forth in (d) above. However, if a vacancy causes the number of committee members to fall below five, the Boards shall fill the vacancy, or dissolve the Committee. Terms for members filling vacancies shall be set in accordance with (e) above. A vacancy in the Committee shall be declared by the Chairman on the happening of any of the following events:

1. the death of, the resignation of, or the refusal to accept election by any member;

2. the recurring absence of a member from regularly advertised meetings without reasonable justification, as determined by a majority vote of the Committee; or

3. removal of a member by the Boards for cause.

(g) Nominations. A nomination for committee membership may be submitted to the Committee by a member or by a local citizen at any regular meeting or in writing to the Chairman. The Committee shall act on all nominations in accordance with Sec. .060(d) at the next regular meeting.

(h) Officers. The officers of the Committee shall consist of a Chairman, a Vice-chairman, and a Secretary.

(i) Terms of Officers. The term of office for officers is two years commencing January 1 and ending December 31 of the following year, or until the next meeting that new officers can be elected, or ending at the end of the term of the member, when such term is for less than two years.
(j) Chairman. The chairman shall be elected by a majority vote of the Committee and shall be the presiding officer. The Chairman may call special meetings of the Committee as necessary in addition to the four regular meetings required in (n) of this section with concurrence of the majority of the Committee members.

(k) Vice-chairman. The Vice-chairman shall be elected by a majority vote of the Committee and shall assist the Chairman and assume his duties when the Chairman is absent.

(l) Secretary. The Secretary shall be elected by a majority vote of the Committee and may, but need not, be a member of the Committee. The Secretary shall carry out the usual duties associated with this office. If the Secretary is not a committee member, he shall have no vote in committee business.

(m) Resignation of Officers. If an officer withdraws before his term expires a special election shall be held to fill the office for the unexpired term.

(n) Meetings.

(1) Regular Meetings. The Committee shall meet at least four times each year at such times as are necessary to participate in the process described in 5 AAC 96.610, and at such other times as considered desirable to formulate regulatory proposals and consider other appropriate matters, including subsistence management policies.

(2) Special Meetings. Special meetings at which any interested years.

(o) Quorum. A majority of the members serving on the Committee constitutes a quorum for the transaction of business. Every act or decision done or made by a majority of the members present at a meeting of the Committee duly held, at which a quorum is present, is the act of the Committee.

(p) Rules of Meetings. The meetings of the Committee shall be conducted according to the latest edition of Robert's Rules of Order. All meetings are open to the public.

(q) Record of Meetings. The minutes of the Committee meetings shall be recorded and forwarded to the joint Boards of Fisheries and Game on a regular basis after each meeting.

5 AAC 96.070. REPORT OF ACTIVITIES. The Chairman of each Local Advisory Committee annually, no later than December 31, shall furnish the Boards with a current list of the names and addresses of all members of the Committee and the expiration date of term for each member of the Committee. Written reports of committee activities for the calendar year shall be made to the Boards during the ensuing January. This provision shall be satisfied if minutes of each meeting and all changes in membership status are submitted to the Boards on a regular basis after each meeting throughout the year.
5 AAC 96.080. INTERACTION WITH REGIONAL RESOURCE COUNCIL. Local Advisory Committees shall coordinate their activities to the fullest extent possible with those of the applicable Regional Resource Council so that their respective functions and actions are complementary. In selecting a Chairman, Local Advisory Committees shall insure that the individual elected meets the qualifications of Sec. .230 of this Chapter. The Chairman of each committee is a member of the Regional Resource Council as established in Sec. .210.

5 AAC 96.090. ATTENDANCE AT MEETINGS. If funding is approved in conformance with 5 AAC 96.530 (b), the Chairman (or his designee) of each Local Advisory committee shall attend meetings of the applicable Regional Resource Council. Each committee shall cooperate with other Local Advisory committees on matters of mutual interest and concern, and may hold joint meetings to effectuate this purpose.
ARTICLE 2.

REGIONAL RESOURCE COUNCILS

5 AAC 96.200. ESTABLISHMENT OF A REGIONAL RESOURCE COUNCIL SYSTEM. Under authority of AS 16.05.260, there is established a system of Regional Resource Councils to provide a regional forum for the collection and expression of opinions and recommendations on matters relating to fish and wildlife resources and to attend Statewide regulatory Board meetings.

5 AAC 96.210. CREATION OF REGIONAL RESOURCE COUNCILS. (a) There are created five Regional Resource Councils, each of which shall operate in and be responsible for the following areas:

1. Region I: Game Management Units 1 - 5 and that portion of Unit 6A from Cape Suckling to the boundary of Unit 6 with Unit 5;

2. Region II: Game Management Units 6 (exclusive of the area described above as part of Region I), 7, 9A, 11, 13, 14, 15, and 16;

3. Region III: Game Management Units 8, 9B, 9C, 9D, 9E, 10, and 17;

4. Region IV: Game Management Units 12, 19, 20, 21, 24, and 25;

5. Region V: Game Management Units 18, 22, 23, 26 and the western portions of Units 19 and 21 beginning at a line running approximately southeast from the headwaters of the Woman River, crossing the Yukon River to the west of Blackburn Village and crossing the Kuskokwim River to the east of Lime Village and Stony River Village and terminating at the headwaters of the Hoholitna River.

(b) Each of the above regions encompasses all lands, fresh waters of the State, and adjacent marine waters subject to the jurisdiction of the State.

5 AAC 96.220. COMPOSITION. Each Regional Resource Council shall be composed of the Chairmen (or designees of the Chairmen) of the Local Advisory Committees of that Region.

5 AAC 96.230. QUALIFICATIONS FOR MEMBERSHIP. To qualify for membership on a Regional Resource Council, a candidate must meet the following qualifications:

(a) resident of the Region;

(b) informed and experienced with regard to fish and wildlife resources of the Region; and

(c) free of conviction of fish and wildlife regulatory violations (including disciplinary action) for the previous five years.

5 AAC 96.240. NONVOTING MEMBERS. Each Regional Resource Council at its discretion may appoint up to a total of three nonvoting members from among the Federal and State natural resource management and enforcement agencies active in the Region.
5 AAC 96.250. FUNCTIONS OF REGIONAL RESOURCE COUNCILS. (a) Each Regional Resource Council shall be responsible for:

(1) reviewing, developing, and making recommendations to the Boards of Fisheries and Game on proposals for policies, management plans, and other matters relating to the conservation and utilization of fish and wildlife resources.

(2) resolving conflict between Local Advisory Committees within the Region.

(3) providing a forum for the expression of opinions and recommendations by persons interested in any phase of fish and wildlife conservation and utilization;

(4) maximizing local and regional participation in the decision-making process for managing fish and wildlife resources;

(5) be responsible for preparing proposed Regional management strategies for a well regulated and orderly harvest.

(6) cooperating and consulting with Local Advisory Committees and with other interested persons and organizations (including government agencies) in order to accomplish the foregoing.

(b) preparation of a proposed "Subsistence Resource Management Plan" for the region. The plan shall contain the following elements:

(1) identification of current and anticipated subsistence uses;

(2) evaluation and definition of subsistence needs;

(3) identification of users, zones, and other elements and concepts which must be recognized in any plan;

(4) proposed subsistence management strategy for the Region;

(5) proposals for policies, standards, guidelines, and regulations necessary to implement the plan.

(c) The Subsistence Resource Management Plan described in (b) shall be prepared in consultation with the Local Advisory Committees, affected users, interested individuals and organizations, and State and Federal fish and wildlife management agencies to the extent possible. The plans shall be submitted so as to be considered for approval by the Boards at a meeting designated by the Boards, and proposals shall be submitted for updating the plans annually by the Regional Resource Council.

5 AAC 96.260. INTERACTION WITH LOCAL COMMITTEES. (a) Regional Resource Councils shall provide a forum for and assist Local Advisory Committees in obtaining the opinions and recommendations of interested persons on fish and wildlife matters in a manner which maximizes local participation in the decision-making process. Where differences of opinion exist between Local Advisory Committees, the Regional Resource
Council shall attempt to develop areas of compromise and to reach a Regional consensus on matters of controversy.

(b) Regional Resource Councils may make recommendations to the Boards on the creation, consolidation, distribution, or other matters pertaining to the operation of the Local Advisory Committee system.

5 AAC 96.270. UNIFORM RULES OF OPERATION. All actions undertaken by a Regional Resource council shall comply with the uniform rules of operation contained in Sec. .060 of this Chapter, except that the rules set forth in the remainder of this Section shall supplant the corresponding rules in Sec. .060.

(b) Responsibilities. The Council shall be responsible for performing the functions described in Sec. .250 of this Chapter in accordance with the provisions of Chapters 96 and 97 of this Title.

(d) Membership. Membership is governed by Sec. .220 of this Chapter.

5 AAC 96.280. REPORT OF ACTIVITIES. The requirements of Sec. .060 of this Chapter apply to Regional Resource Councils.

5 AAC 96.290. ATTENDANCE AT MEETINGS. The Chairman (or his designee) and one member at large selected by the members of each Regional Resource Council shall attend regulatory meetings of the Boards of Fisheries and Game. Each Regional Resource Council shall cooperate with other Regional Resource Councils on matters of mutual interest and concern, and may hold joint meetings to effectuate this purpose.

5 AAC 96.300. APPEAL OF BOARDS OF FISHERIES AND GAME REGULATORY DECISIONS. If any three of the Chairmen of Regional Resource Councils in attendance at a regulatory Board meeting do not agree with a Board decision on a regulatory proposal the Board shall give reconsideration only once at that time.
OPERATING PROCEDURES OF THE
BOARDS OF FISHERIES AND GAME

Article 3.

ADMINISTRATION OF LOCAL ADVISORY COMMITTEES

5 AAC 96.400. OPERATION OF LOCAL ADVISORY COMMITTEE SYSTEM. The Boards will endeavor to provide the necessary assistance to Local Advisory Committees and to maintain the Committee system in a manner which will obtain maximum public input on local fish and wildlife resources in the decision-making process and which will permit the Boards to be fully aware of local opinions and conditions in conjunction with their proceedings.

5 AAC 96.410. DISTRIBUTION OF LOCAL ADVISORY COMMITTEES. The Boards will, provide for, to the extent possible, in conjunction with .260(b), a Local Advisory Committee system and a distribution of the Committees which allows a reasonable opportunity for all citizens to take advantage of the system.

5 AAC 96.420. REVIEW OF PETITIONS FOR LOCAL ADVISORY COMMITTEES. The Boards will review petitions for the creation of Local Advisory Committees at the meeting following receipt of the petition. Factors which will be evaluated by the Boards include, but are not limited to,

(a) existing Committees in the area;
(b) representation of user groups on existing Committees in the area;
(c) the likelihood of active participation on the proposed Committee by residents of the area;
(d) the likelihood of a sufficient number of qualified persons being interested in serving on the proposed Committee;
(e) logistical problems in providing assistance to the proposed Committee;
(f) the probability that the Committee will enhance participation in the decision-making process by persons dependent on fish and wildlife resources; and
(g) recommendations of the appropriate Regional Resource Council.

5 AAC 96.430. REVIEW OF NOMINATIONS FOR MEMBERSHIP OF LOCAL ADVISORY COMMITTEES. (a) The Boards will review nominations for membership on Local Advisory Committees at the meeting following receipt of such nominations. Factors which will be evaluated by the Boards include, but are not limited to:

(1) whether the candidate meets the qualifications of Sec. .040;

.(49)
(2) whether confirmation of the candidate will enhance the purposes of the Committee as described in 5 AAC 96.010 and 5 AAC 96.050; and

(3) whether confirmation of the candidate would result in broader or more balanced representation of user-groups in the area.

(b) The Commissioner of Public Safety will provide the Boards with information concerning violations of the fish and game laws (including pending charges) and disciplinary proceedings involving any candidate for committee membership prior to consideration of the candidacy by the Boards. The determination of the Boards on any candidacy is final.

5 AAC 96.440. REGULAR AND SPECIAL MEETINGS. The Boards will provide direction to Local Advisory Committees so that their meetings may be timed in a manner which will maximize their participation in deliberations concerning fish and wildlife resources. In addition, the Boards may request any Local Advisory Committee to meet and to formulate recommendations on a subject or issue identified by the Boards.

5 AAC 96.450. DISSOLUTION OF LOCAL ADVISORY COMMITTEES. A Local Advisory Committee may be dissolved by the Boards if the Committee becomes inactive, or if membership falls below the minimum number required, or for failure to act in accordance with the provisions of Chapters 96 and 97 of this Title.
Article 4.

ADMINISTRATION OF REGIONAL RESOURCE COUNCILS

5 AAC 96.500. OPERATION OF REGIONAL RESOURCE COUNCIL SYSTEM. The Boards will endeavor to provide the necessary assistance to Regional Resource Councils and to maintain the Regional Resource Council system in a manner which will enable the Councils to realize their purposes and functions as described in 5 AAC 96.200 and .250. Special emphasis will be placed on the preparation of proposed "resource management plans" for each Region.

5 AAC 96.510. STAFF ASSISTANCE. Provided that adequate funding exists and that such action is in compliance with applicable law, the Boards will assign the necessary board staff to each Regional Resource Council so that their interaction with Local Advisory Committees and with the Boards is maximized. The Commissioner of Fish and Game will assign required staff to Regional Resource Councils to assure maximum interaction of Local Advisory Committees, Boards, and the Department.

5 AAC 96.520. REGULAR AND SPECIAL MEETINGS. The Boards will provide direction to Regional Resource Councils so that their meetings may be timed in a manner which will maximize their participation in deliberations concerning fish and wildlife resources. In addition, the Boards may request any Regional Resource Council to meet and to formulate recommendations on a subject or issue identified by the Boards. The Boards may remand any recommendation received from a Regional Resource Council for further action, or may require that a Regional Resource Council act in concert with another Regional Resource Council on matters of mutual concern.

5 AAC 96.530. ATTENDANCE AT MEETINGS. (a) Provided that adequate funding exists and that such action is in compliance with applicable law, the Boards will reimburse council members for travel and expenses incurred in attending Regional Resource Council meetings required or requested by the Boards, and will reimburse each Regional Resource Council Chairman or his designee and one member at large for travel and other approved expenses incurred in attending meetings of the Boards of Fisheries and Game, where approved by the Boards.

(b) Provided that adequate funding exists and that such action is in compliance with applicable law, the statewide Boards will provide funds to Regional Resource Councils for travel and other approved expenses incurred in attending other Regional Resource Council meetings and for other administrative and clerical costs as required for the orderly conduct of the Council's duties.

(c) At least one member of the Board of Fisheries or the Board of Game will attend each meeting of a Regional Resource Council to the extent practicable.

5 AAC 96.540. DIRECTION FROM THE BOARDS. The Boards may give direction to the Regional Resource Councils on the nature and format of their actions to enhance the usefulness of their work in conjunction with the deliberations of the Boards.
Article 5.
ADOPTION OF FISH AND GAME REGULATIONS

5 AAC 96.600  MEETINGS. The Boards of Fisheries and Game will hold at least one meeting a year and as many other meetings as considered necessary, including at least five regional meetings, in accordance with AS 16.05.300. The joint Boards will hold at least one meeting annually to consider matters of mutual concerns, including matters relating to the Local Advisory Committee and Regional Resource Council system.

5 AAC 96.610. PROCEDURE FOR DEVELOPING, CONSIDERING, AND IMPLEMENTING FISH AND GAME REGULATIONS. (a) For the purpose of developing, considering, and implementing fish and game regulations, the Boards will observe the procedure set forth in this Section. The dates constituting deadlines for each phase will be set by the Boards for each meeting and will be announced to the Local Advisory Committees and to the public.

(b) The procedure governing the regulatory process is as follows:

(1) Phase 1. The Boards will solicit proposed regulations. The Boards may limit those sections or portions of the existing regulations which will be open for change in conjunction with each meeting to facilitate their deliberations. The Boards will provide forms to be used in preparing proposals. Notices soliciting proposals will be distributed statewide. In order to be considered the proposals must be received by the Boards before the designated deadline;

(2) Phase 2. After the deadline for receiving proposals, those proposals received (including all proposals from the Alaska Department of Fish and Game staff and other government agencies) will be compiled by the board staff and distributed to the public through departmental offices. Proposals also will be sent to Local Advisory Committees for review and comment;

(3) Phase 3. Local Advisory Committees will review at a public meeting all proposals received, and shall forward their recommendations to the appropriate Board:

(A) Local Advisory Committees, to the extent possible within the time limitations, shall consult with user groups, other Local Advisory Committees, and other interested organizations and individuals;

(B) Regional Resource Councils shall explore areas of compromise where there are conflicting points of view between Local Advisory Committees and shall attempt to reach a consensus before making their recommendation to the Boards;

(C) Local Advisory Committees and Regional Resource Councils can request technical and scientific support data and/or prepared testimony from the Department's staff as desired;

(D) In forwarding their recommendations to the Boards, Regional Resource Councils and Local Advisory Committees shall provide a justification or explanation for their action;
(4) Phase 4. The Boards will legally notice all the proposals, or the subject matter to be considered received from the Local Advisory Committees and/or the Regional Resource Councils. In accordance with procedures required by the Administrative Procedure Act (AS 44.62) the Boards will hold a public hearing and will consider and vote on each proposal, or develop alternatives on the subject matter legally noticed after reviewing the recommendations of the Regional Resource Councils and Local Advisory Committees. While the final determination on all proposals is the province of the Boards, it is the general intent of the Boards that regional recommendations approved by the Regional Resource Council will be followed unless one of the following circumstances is present:

(A) the Regional Council recommendation is not supported by the evidence;

(B) there are conflicting recommendations from Regional Councils on the same matter;

(C) there is a need for statewide uniformity on a particular matter, which would not be achieved if the Regional Council recommendation was followed;

(D) the action recommended by the Regional Council would be inconsistent with the Constitution or the laws of the State of Alaska or the United States;

(E) the action recommended by the Regional Council, if followed by the Boards, would be contrary to the public interest, conservation of the resources, or would be inconsistent with the duties and obligations of the Boards as trustees for the fish and wildlife resources of Alaska;

(F) A majority vote of the five chairmen (or their designees) of the Regional Councils in attendance at a Board meeting that opposes any decision of the Boards will serve to have that decision reconsidered by the Boards in conference with the Regional Council representatives. The second decision by the Boards after reconsideration will be final;

(5) Phase 5. After completion of procedures required by the Administrative Procedure Act, the Boards will notify the Local Advisory Committees of the actions taken and the reasons therefore.

5 AAC 96.620. SUPPLEMENTAL REGULATIONS AND ACTIONS. The Boards may adopt other regulations and, take other action necessary to implement, administer, or enforce the regulations adopted in conjunction with the procedures set forth in Sec. .610 of this Chapter.

5 AAC 96.630. SPECIAL MEETINGS. In conjunction with any special meeting, the Boards will follow the procedures set forth in Sec. .610 of this Chapter to the extent time permits. However, the Boards may use a modified or different procedure if it would be more suitable for any particular special meeting.
5 AAC 96.640. MODIFICATION. The Boards may modify or make exceptions to the procedure set forth in Sec. .610 of this Chapter in conjunction with any regular meeting if to do so would enhance public, committee, or council participation in the deliberations of the Boards.

5 AAC 96.650. STAFF ASSISTANCE. The Boards, through their Executive Director and the staff assigned to the Executive Director, will provide assistance to Regional Resource Councils and Local Advisory Committees and to the public in conjunction with the procedures and proceedings of the Boards.

5 AAC 96.660 COMPLIANCE. The failure of a Local Advisory Committee, Regional Resource Council, or a Board to observe procedures set forth in Chapter 96 or 97, except as required by the Administrative Procedures Act (AS 44.62), does not invalidate a regulation adopted by a Board.
Article 6.

GENERAL PROVISIONS

5 AAC 96.900. REMOVAL FOR CAUSE. The Boards may remove any member of a Local Advisory Committee for cause. As used in this Section, "cause" includes:

(a) repeated unjustifiable absence from meetings;

(b) malfeasance or misfeasance in office;

(c) conviction of a crime or administrative disciplinary action for behavior inconsistent with the responsibility of Committee or Council membership;

(d) disregard for or disobedience of the provisions of Chapters 96 and 97 of this title governing the Committee and Council system and the intent behind such provisions; or

(e) failure, at any time, to meet the qualifications for Committee or Council membership.

5 AAC 96.910. CONSTRUCTION OF TERMS. As used in Chapters 96 and 97 of this title, the term "Board" or "Boards" means:

(a) the Boards of Fisheries and Game acting jointly on matters relating to the administration of the Local Advisory Committee and Regional Resource Council system and on procedures for Board meetings; or

(b) the Board of Fisheries and the Board of Game acting individually on substantive matter relating to fish or game.

5 AAC 96.920. SUPPLEMENTAL ACTION. The Boards may take any action necessary and proper for the administration, enforcement, or implementation of Chapters 96 and 97 of this Title regardless of whether it is expressly mentioned herein.