

Submitted by the Alaska Department of Fish and Game
January 15, 2013

Conventions:

- **Black Font = original regulation narrative and changes described in Proposal 105.**
- **[TEXT IN ALL CAPS] to be deleted**
- **Text in bold and underscore to be added**

1 **5 AAC 07.365. Kuskokwim River Salmon [REBUILDING] Management Plan.** (a) The purpose of
2 this management plan is to provide guidelines for [THE REBUILDING AND] management of the
3 Kuskokwim River salmon **fisheries that** [FISHERY THAT WILL] result in the sustained yield of salmon
4 stocks large enough to meet [THE] escapement goals, amounts necessary for subsistence, and for
5 nonsubsistence fisheries. **The department shall use the best available data, including preseason and**
6 **inseason run projections, test fishing indices, age and sex composition, harvest reports, and passage**
7 **estimates from escapement monitoring projects to assess run abundance for the purpose of**
8 **implementing this plan.**

9 (b) It is the intent of the Board of Fisheries that the Kuskokwim River salmon stocks shall be
10 managed [DURING JUNE AND JULY] in a conservative manner consistent with the Policy for the
11 Management of Sustainable Salmon Fisheries (5 AAC 39.222) **to meet escapement goals** and the
12 subsistence priority.

13 (c) **In the king salmon fishery,**

14 **(1) when the projected escapement of king salmon is below the drainagewide**
15 **escapement goal range, the commissioner shall, by emergency order, close the commercial, sport,**
16 **and subsistence king salmon fisheries;**

17 **(2) when the projected escapement of king salmon is within the drainagewide**
18 **escapement goal range, the commissioner shall, open and close, by emergency order, fishing periods**
19 **for the**

20 **(A) subsistence directed king salmon fishery to provide harvest opportunity**
21 **on surplus king salmon in excess of escapement needs;**

22 **(B) commercial and sport fisheries to provide harvest opportunity on**
23 **surplus king salmon in excess of escapement and subsistence needs;**

24 **(3) when the projected escapement of king salmon exceeds the drainagewide**
25 **escapement goal range, the**

26 **(A) king salmon directed subsistence fishery will be open seven days per**
27 **week; and**

28 **(B) commercial and sport fisheries will be managed to provide harvest**
29 **opportunity on surplus king salmon in excess of escapement and subsistence needs.**

30 (d) In the subsistence fishery, in the Kuskokwim River drainage, in the waters of the mainstem
31 of the river and other salmon spawning tributaries, unless otherwise specified by the department,

32 (1) the subsistence salmon net and fish wheel fisheries will be open **seven** [FOR FOUR
33 CONSECUTIVE] days per week [IN JUNE AND JULY AS ANNOUNCED BY EMERGENCY
34 ORDER]; however, **in order to achieve escapement goals**, the commissioner may alter fishing periods,
35 by emergency order, based on run **abundance** [STRENGTH AND TO ACHIEVE ESCAPEMENT
36 GOALS];

37 (2) **in addition to the gear specifications and operations provisions of 5 AAC**
38 **01.270(n), when the commissioner determines it is necessary to conserve king salmon to achieve**
39 **escapement goals, the commissioner may, by emergency order, close the subsistence fishery and**
40 **immediately reopen the fishery during which the gillnet mesh size may not exceed four inches until**
41 **sockeye and chum abundance exceeds the king salmon abundance;**

42 (3) **actions to conserve king salmon may be applied to the entire Kuskokwim River,**
43 **its sections, or tributaries consistent with migratory timing as the run progresses upstream**
44 [DURING SUBSISTENCE CLOSURES OF THREE CONSECUTIVE DAYS PER WEEK IN JUNE
45 AND JULY, ALL SALMON NETS WITH A MESH SIZE LARGER THAN FOUR INCHES MUST BE
46 REMOVED FROM THE WATER, AND FISH WHEELS MAY NOT BE OPERATED; HOWEVER,
47 THE COMMISSIONER MAY ALTER FISHING PERIODS BY EMERGENCY ORDER BASED ON
48 RUN STRENGTH AND TO ACHIEVE ESCAPEMENT GOALS;

49 (3) AS THE SALMON RUN PROGRESSES UPSTREAM FROM DISTRICTS 1 - 2,
50 AND FURTHER UPSTREAM, THE PROVISIONS OF (1) OF THIS SECTION WILL BE
51 IMPLEMENTED IN THE MAINSTEM OF THE KUSKOKWIM RIVER AND SALMON SPAWNING
52 TRIBUTARIES];

53 (4) the commissioner may alter the subsistence hook and line bag and possession limits
54 specified in 5 AAC 01.295 by emergency order if the commissioner determines that inseason
55 **information** [INDICATORS] indicates it is necessary for conservation purposes.

56 (e) [(d)] In the commercial fishery,

57 (1) the guideline harvest level for king salmon **and sockeye salmon is as follows:**

58 (A) **0-50,000 king salmon; and**

59 (B) **0-50,000 sockeye salmon** [IS 0 – 50,000 FISH];

60 (2) only those waters of District 1 [DOWNSTREAM OF THE ADF&G REGULATORY
61 MARKERS LOCATED AT BETHEL] may be opened during the first commercial salmon fishing period;

62 (3) the commissioner shall open and close the Kuskokwim River commercial salmon
63 fishery by emergency order if inseason **information indicates** [INDICATORS OF RUN STRENGTH
64 INDICATE] a run strength that is large enough to provide for a harvestable surplus and a reasonable
65 opportunity for subsistence uses and for non-subsistence fisheries [, THE SUBSISTENCE FISHING
66 SHALL REVERT TO THE FISHING PERIODS AS SPECIFIED IN 5 AAC 01.260];

67 (4) the department shall provide, to the extent practicable, at least 24 hours advance
68 notice of the opening of Districts 1 and 2 to commercial fishing periods;

69 (5) Districts 1 and 2 commercial fishing periods are from **12:00** [1:00] p.m. through **6:00**
70 [7:00] p.m.; when longer fishing periods are allowed, the extra time is to be divided before **12:00** [1:00]
71 p.m. and after **6:00** [7:00] p.m.;

72 (6) **the department shall manage the commercial fishery to ensure there is no**
73 **significant impact on escapement or allocations of salmon species harvested incidentally in**
74 **commercial fisheries directed at other salmon species;**

75 (7) **in June and when king salmon are abundant, the department shall manage the**
76 **commercial fishery conservatively to ensure king salmon escapement goals are achieved and**
77 **reasonable opportunity for subsistence use is provided on available surpluses, as follows:**

78 (A) **when the projected escapement of king salmon is within the**
79 **drainagewide escapement goal range,**

80 (i) **the first opening may not occur until after June 23;**

81 (ii) **only the waters of Subdistrict 1-B may be opened during the first**
82 **commercial fishing period;**

83 (iii) **72 hours must pass between the first Subdistrict 1-B opening**
84 **and the first Subdistrict 1-A opening;**

85 (B) **when the projected escapement of king salmon exceeds the**
86 **drainagewide escapement goal range, the commercial fishery will be managed to provide**
87 **harvest opportunity on surplus king salmon in excess of escapement and subsistence needs;**

88 (8) **when** [IN JUNE, AND UNTIL COHO SALMON RELATIVE ABUNDANCE
89 EXCEEDS] chum salmon [RELATIVE] abundance **exceeds king salmon relative abundance,** the
90 department shall manage, to the extent practicable, the commercial salmon fishery based on the chum
91 salmon run strength;

92 [(7) THE GUIDELINE HARVEST LEVEL FOR SOCKEYE SALMON IS 0-50,000
93 FISH;]

94 (9) [(8) WHEN CHUM SALMON ABUNDANCE IS SUFFICIENT TO PROVIDE
95 FOR ESCAPEMENT AND SUBSISTENCE NEEDS, AND] when coho salmon [RELATIVE]
96 abundance exceeds chum salmon [RELATIVE] abundance, the department shall manage, to the extent
97 practicable, the commercial salmon fishery based on the strength of the coho salmon run;

98 [(9) WHEN THE CHUM SALMON RUN IS PROJECTED TO BE INADEQUATE TO
99 MEET ESCAPEMENT AND SUBSISTENCE NEEDS, THE DEPARTMENT SHALL MANAGE THE
100 COMMERCIAL COHO SALMON FISHERY TO MINIMIZE THE INCIDENTAL HARVEST OF
101 CHUM SALMON AND TO PROVIDE FOR COHO SALMON ESCAPEMENT AND SUBSISTENCE
102 NEEDS];

103 (10) a person may not sell salmon roe taken in Districts 1 and 2.

104 **(f)** [(e)] In the sport fishery,

105 (1) if the commissioner restricts the fishery by emergency order for conservation
106 purposes, the restrictions will be based on the level of abundance;

107 (2) in the Aniak River drainage, the king salmon fishery is open from May 1 through
108 July 25, with a bag and possession limit of two fish, 20 inches or greater in length, with an annual limit of
109 two fish, 20 inches or greater in length; the sockeye, pink, chum, and coho salmon fisheries are open year
110 round, with a combined daily bag and possession limit of three fish, of which no more than two may be
111 king salmon;

112 **(3) actions to conserve king salmon will be implemented when king salmon are**
113 **present, consistent with migratory timing as the run progresses upstream.**

Discussion:

This RC is submitted for consideration to amend the *Kuskokwim River Salmon Management Plan* (5 AAC 07.365) in association with Proposal 105. This proposal was submitted by the Alaska Department of Fish and Game (department). In addition to specifying the department's recommended amendments to 5 AAC 07.365, this RC also addresses concerns, and recommended alternatives as warranted, associated with PC 5 submitted by the Kuskokwim River Salmon Management Working Group (Working Group).

Department staff was directly involved with a committee initiated by the Working Group to discuss and reach agreement on amendments to 5 AAC 07.365. The committee was comprised of select Working Group members, and state and federal fisheries managers that met by teleconference and in person multiples times since the Alaska Board of Fisheries' Work Session in October 2012. While this was an effective and productive process that resulted in good discussion, resolution, and agreement on many aspects of Proposal 105, the department maintains concerns for several recommended amendments included in PC 5 as follows.

1. **Midpoint/Escapement Goals:** Recommended language in PC 5 specifying managing for the midpoint of king salmon escapement goals is inconsistent with policy and management conventions. Consistent with existing practice, policy, and regulations, the department manages salmon fisheries to ensure escapements fall within specific ranges or above specific thresholds, not for the midpoint or other threshold within established escapement goals. The department's recommended drainagewide and amended tributary escapement goals for Kuskokwim River king salmon are represented as ranges.

Language in PC 5 states managing for the midpoint of escapement goals should be adopted in recognition of uncertainty inherent to assessment programs utilized in the

Kuskokwim River; however, given inseason tools and analysis used for run assessment, uncertainty is variable and must be addressed on a case by case basis from year to year. The level of assessment uncertainty is not a constant that can be adequately addressed through a specific measure or trigger point such as the midpoint of escapement goals. Depending on the level of uncertainty associated with run assessment from year to year, managing for the midpoint may be inadequate to ensure escapement goals will be achieved, or may be too restrictive, resulting in unnecessary foregone harvest opportunity. The department's recommended alternative is to maintain existing language, "to meet escapement goals" as stated in lines 4, 11, 34, 38-39, and 76 of this RC.

Additionally, the department has recommended more specific regulatory language for managing the king salmon fishery under a new drainagewide escapement goal, which can be found in lines 5-8, 13-29, 78-79, and 85-87 of this RC. This recommended language is consistent with department mandates and management objectives, and provides for king salmon conservation while ensuring harvest opportunity on surpluses in excess of escapement that is consistent with regulatory allocations.

2. **Managing for Weather:** Recommended language contained in PC 5 (pg. 9) under 5 AAC 07.365(c)(1)(A) states, "...furthermore, to the degree practicable, weather should be considered in the timing of subsistence openings to better assure reasonable conditions to harvest and process fish." It is unrealistic to expect the department to manage fisheries in consideration of weather conditions in this fishery. Weather forecasts can be inaccurate and weather conditions can be highly variable throughout the Kuskokwim River drainage. Assessing and projecting how weather may affect subsistence harvesting and processing activities, in concert with achieving management objectives, would be excessively complex and uncertain. Requiring the department to do so results in an objective that would be impossible to achieve. The department does not support this amended language and recommends it be removed from consideration.

3. **Redundant Regulations:** Some of the recommended language contained in PC 5 already exists in Kuskokwim River salmon fishery regulations. Specifically, recommended language concerning the use of fish wheels in the subsistence fishery for conservation of king salmon in PC 5 (pg. 9) under 5 AAC 07.365(c)(2)(A) and (B) is already contained in 5 AAC 01.270(n)(2), *Lawful gear and gear specifications and operations*. Additionally, language concerning gillnets used in the commercial fishery not exceeding 6 inches in PC 5 (pg. 11) under 5 AAC 07.365(d)(3)(F) is already contained in 5 AAC 07.331(c), *Gillnet specifications and operations*. It is redundant and unnecessary to duplicate existing regulations under 5 AAC 07.365. However, the department does recommend language referencing 5 AAC 01.270(n) as contained in lines

37–38 of this RC. This regulatory reference addresses the proponent’s intent for including duplicate regulations as described in PC 5. (Note: use of mesh sizes in excess of 6 inches in the commercial fishery will be deliberated by the board in association with Proposal 110.)

4. **Incidental Harvest:** Recommended language contained in PC 5 (pg. 11) under 5 AAC 07.365(d)(6)(A) and (d)(8)(A) specifies numbers of salmon harvested incidentally in the commercial fishery that are not to be exceeded. The department agrees with the need to address incidental salmon harvest in the commercial fishery; however, specifying a number of fish not to be exceeded is problematic for the following reasons:
- a. The acceptable number of incidentally-harvested salmon not to be exceeded is variable contingent on annual run abundance for that species. For example, an incidental harvest cap of 1,000 king salmon during years of very poor run abundance may be too high to ensure escapement and subsistence opportunity is provided for, while an incidental harvest cap of 1,000 king salmon during years when run abundance is only below-average may be too low and would unnecessarily impact commercial harvest opportunity.
 - b. The number of an incidentally-harvested species typically declines as a directed commercial fishery proceeds. For example, the number of king salmon incidentally harvested would decline dramatically into July as the king salmon run comes to a close, while a chum salmon directed fishery would continue through July. If a number of incidentally-harvested king salmon is specified, the department has concerns it would have the unintended consequence of closing the chum salmon directed fishery in late July when the chance of incidentally harvesting additional king salmon has decreased to insignificant levels.
 - c. There may be incentive for commercial fishermen to not accurately report their incidental harvest if exceeding a specific number results in closure of the commercial fishery. Enforcement and management issues may arise if there is an inability to secure accurate inseason reporting for a low harvest cap.

The department prefers flexibility to manage incidental commercial harvest for all salmon species contingent on observed run abundance and specific circumstances encountered on a year-to-year basis. The department’s recommended alternative can be found in lines 72–74 of this RC, and specifically uses the regulatory language that incidental commercial harvest, “...will have no significant impact on escapement or allocations of these species;” This mirrors regulatory language adopted by the board when it deliberated a petition in 2009, and subsequently adopted permanent regulations in the Yukon River during the 2010 AYK regulatory meeting over concerns for fall chum salmon incidental harvest during coho salmon directed commercial fishing. This same language is most appropriate for addressing concerns over commercial incidental harvest

in the Kuskokwim River.

5. **Overly Complex Regulation(s):** While the department is in general agreement with the intent of remaining recommended regulatory changes contained in PC 5, some of the language is overly complex or inconsistent with regulatory writing and conventions. Department staff has attempted to address this minor concern using condensed language and reorganization of amendments while maintaining the proponent's intent. For example, the language contained in lines 80–84 of this RC is expected to be consistent with PC 5 (pg. 10) and the intent of recommended amendments under 5 AAC 07.365(d)(3), (A), (B), and (C). An additional example includes condensing the amended language addressing incidental salmon harvest found in PC 5 (pg. 11) under 5 AAC 07.365(d), (6)(A), and (8)(A) into the single amendment addressing incidental harvest of all species found in lines 72–74 of this RC.

6. **Sport Fisheries:** Lastly, the department recommends an additional amendment not contained in Proposal 105 or PC 5, and can be found in lines 112–113 of this RC. This recommended amendment addresses concerns and misunderstanding expressed by stakeholders during the 2012 season regarding how conservation measures for king salmon will be implemented in the sport fishery. It clarifies that conservation measures will be implemented consistent with migratory timing as the king salmon run progresses upstream.