

ALASKA DEPARTMENT OF FISH AND GAME

**STAFF COMMENTS
AGENDA CHANGE REQUESTS**

**ALASKA BOARD OF FISHERIES MEETING
GIRDWOOD, ALASKA**

October 9–10, 2013



Regional Information Report No. 5J13-08

The following staff comments were prepared by the Alaska Department of Fish and Game for use at the Alaska Board of Fisheries (board) meeting, October 9-10, 2013 in Girdwood, Alaska. The comments are forwarded to assist the public and board. The comments contained herein should be considered preliminary and subject to change, as new information becomes available. Final department positions will be formulated after review of written and oral public testimony presented to the board.

ABSTRACT

This document contains Alaska Department of Fish and Game staff comments on agenda change requests. These comments were prepared by the department for use at the Alaska Board of Fisheries meeting, October 9-10, in Girdwood, Alaska. The comments are forwarded to assist the public and board. The comments contained herein should be considered preliminary and subject to change, as new information becomes available. Final department positions will be formulated after review of written and oral public testimony presented to the board.

Key words: Alaska Board of Fisheries (board), Alaska Department of Fish and Game (department) staff comments, Agenda Change Request, finfish, management, management plan, regulatory proposals, inriver, subsistence, personal use, sport, guided sport, commercial fisheries

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ACR 5 – Eliminate all other consumptive uses of the Sitka Sound herring stock in order to provide reasonable subsistence opportunity. (5 AAC 27.160, 5 AAC 27.170, and 5 AAC 27.195)

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This request seeks to eliminate fisheries for Sitka Sound sac roe herring, bait pound herring within Sitka Sound, and bait herring by commercial permit holders in Sitka Sound.

PRESENT SITUATION: The Sitka Sound sac roe herring fishery is managed generally according to the *Herring Management Plan for Southeastern Alaska Area* (5 AAC 27.190) and more specifically, by the *Sitka Sound Commercial Sac Roe Herring Fishery Management Plan* (5 AAC 27.195) to distribute the commercial harvest by fishing time and area if the department determines it is necessary to ensure that subsistence users have a reasonable opportunity to harvest the amount of herring spawn necessary for subsistence (ANS) uses specified in 5 AAC 01.716(b).

For Sitka Sound, commercial fishing regulations allow: 1) a harvest rate between 12% and 20% when the spawning biomass exceeds 25,000 tons for the sac roe herring fishery (5 AAC 27.160(g)); 2) a harvest quota of 100 tons for the bait pound herring fishery (5 AAC 27.160(b)(2)); and 3) a Commercial Fisheries Entry Commission (CFEC) permit holder may take, but not sell, herring for bait in the commercial fishery for which the permit is held. The permit holder may not take more than one ton in a calendar year, except as provided under terms of a permit issued by the department (5 AAC 27.170). Additionally, the department harvests approximately 60 tons of herring annually as part of its winter test fishery program to gather biological age-sex-size data in the winter.

Subsistence uses of herring include the harvest of herring spawn on hemlock branches, on *Macrocystis* kelp, and on hair seaweed, among other substrates. In the Sitka Sound area, state regulations allow subsistence harvests of herring and herring spawn in sections 13A and 13B north of Aspid Cape on Baranof Island (5 AAC 01.716(a)(7)), as well as the limited noncommercial exchange of subsistence-harvested herring spawn on kelp for customary trade (5 AAC 01.717). At its February 1989 meeting, the Alaska Board of Fisheries (board) made a positive customary and traditional use determination for the harvest of herring and herring spawn in waters of section 13A and 13B north of the latitude of Aspid Cape. At its January 2002 meeting, the board made a determination that the ANS was between 105,000 and 158,000 pounds of herring spawn (5 AAC 01.716(b)).

Estimates of herring prefishery biomass in Sitka Sound have been generally increasing since the mid-1990s and in recent years, have been among the highest since the department's stock assessment program began in the mid-1970s. Following a peak in 2009, estimated biomass declined somewhat, most notably between 2011 and 2012. However, the 2012 estimated biomass of 81,748 tons was well above the average of 60,271 tons, calculated over the period 1980–2011, for which spawn deposition survey estimates have been made. Recruitment (mature and immature age-3 herring) has been steady at a moderate level for nearly two decades. Mean weight at age and mean weight at length have also been steady for nearly two decades.

Subsistence harvests of herring spawn have been monitored annually through a collaborative project with the Sitka Tribe of Alaska since 2002. Over this time period, harvests have varied widely, ranging from a low of 71,936 pounds in 2008 to a high of 381,226 pounds in 2004. Since 2002, the lower end of the ANS range has been achieved or exceeded six times; since 2007, the ANS has been achieved in two years.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** Regulations for commercial herring fisheries found in Chapter 27 of the AAC provide for beneficial use, conservation, allocation, and orderly fisheries based on the sustained yield principle. Because the Sitka sound herring biomass level remains relatively high, the department does not have immediate concerns about overall stock health or conservation.
- b) **Does the agenda change request correct an error in regulation?** N/A.
- c) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** N/A.

ADDITIONAL INFORMATION: Recent board actions include: 1) In 2009 the board increased the ANS finding from 105,000–158,000 pounds to 136,000–227,000 pounds for sections 13-A and 13-B north of the latitude of Aspid Cape; 2) also in 2009, the board increased the minimum spawning biomass threshold required to hold a commercial sac roe fishery from 20,000 tons to 25,000 tons and changed the minimum harvest rate from 10% to 12%; and 3) in February 2012, the board adopted regulations closing an area of Sitka Sound to the commercial harvest of herring (5 AAC 27.150(7)). The closed area encompasses waters used to harvest subsistence herring eggs and is intended to reduce conflict between the commercial fishery and the subsistence fishery.

Since 1978, the Sitka Sound herring sac roe fishery has been conducted annually, with a range of harvests from 1,838 tons in 1991 to 19,429 tons in 2011, with an average harvest of 8,383 tons. In most years, the actual harvest rate was below the target harvest rate because the biomass increased at a faster rate than was forecasted. From 1980 to 2012, the target harvest rate specified by regulation averaged 17.4%, whereas the harvest rate based on actual fish harvested averaged 14.4%. Over the most recent 10-year period, 2003–2012, the harvest rate averaged only 13.1%, although the target harvest rate averaged 19.5%. Over the past 15 or more years, herring biomass in Sitka Sound has increased to the highest levels observed in the past few decades. Between 2011 and 2012, there was an apparent downturn in biomass level; however, biomass remains at a relatively high level.

PROPOSED BY: Aaron Bean.

ACR 12 – Modify the time period the Nushagak River single hook regulation is in effect from year round to May 1–July 31. (5 AAC 67.022(g)(6))

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request seeks to limit the Nushagak River single-hook restriction to the king salmon season of May 1–July 31. The request seems to indicate that bait is also prohibited year round.

PRESENT SITUATION: In the Nushagak River drainage, excluding the Wood River drainage, only one single-hook artificial lure or one single hook may be used year round. The year-round restriction prohibits the use of multiple hooks in fisheries that occur after July 31 targeting species such as coho salmon and northern pike. After retaining a bag limit of king salmon 20 inches or greater in length, a person may not fish with bait for the remainder of that day in the Nushagak River drainage.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** No conservation issues have been identified for any Nushagak River stock.
- b) **Does the agenda change request correct an error in regulation?** No error in regulation has been identified.
- c) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** At the December 2012 Bristol Bay meeting, the board extended the time period of the single-hook restriction from the Nushagak king salmon season of May 1–July 31 listed in proposal 239 to year round through substitute language contained within RC 102. Potential effects of the year-round single-hook restriction were not discussed in committee because RC 102 was introduced during deliberations. As a result, it is difficult to determine what effects were anticipated or intended outside of the May 1–July 31 time period, and whether effects were unforeseen.

ADDITIONAL INFORMATION: At the October 2012 Work Session, the board generated Proposal 239 for consideration at the December 2012 Bristol Bay board meeting. The proposal sought to restrict the Nushagak River drainage to single-hook artificial lures during the king salmon fishery from May 1 through July 31. During deliberations at the Bristol Bay meeting, board-generated RC 102 was adopted as substitute language and subsequently passed, which effectively implemented the single-hook restriction year round. The board also adopted board-generated RC 103 amending the proposal, requiring a person to cease sport fishing with bait for the remainder of the day in the Nushagak River drainage after retaining a bag limit of king salmon 20 inches or greater in length.

PROPOSED BY: Nushagak Advisory Committee.

ACR 14 – Modify the time period the Nushagak River single hook regulation is in effect from year round to May 1–July 31. (5 AAC 67.022(g)(6))

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request seeks to limit the Nushagak River single-hook restriction to the king salmon season of May 1–July 31. The request seems to indicate that bait is also prohibited year round.

PRESENT SITUATION: In the Nushagak River drainage, excluding the Wood River drainage, only one single-hook artificial lure or one single hook may be used year round. The year-round restriction prohibits the use of multiple hooks in fisheries that occur after July 31 targeting species such as coho salmon and northern pike. After retaining a bag limit of king salmon 20 inches or greater in length, a person may not fish with bait for the remainder of that day in the Nushagak River drainage.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** No conservation issues have been identified for any Nushagak River stock.
- b) **Does the agenda change request correct an error in regulation?** No error in regulation has been identified.
- c) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** At the December 2012 Bristol Bay meeting, the board extended the time period of the single-hook restriction from the Nushagak king salmon season of May 1–July 31 listed in proposal 239 to year round through substitute language contained within RC 102. Potential effects of the year-round single-hook restriction were not discussed in committee because RC 102 was introduced during deliberations. As a result, it is difficult to determine what effects were anticipated or intended outside of the May 1–July 31 time period, and whether effects were unforeseen.

ADDITIONAL INFORMATION: At the October 2012 Work Session, the board generated Proposal 239 for consideration at the December 2012 Bristol Bay board meeting. The proposal sought to restrict the Nushagak River drainage to single-hook artificial lures during the king salmon fishery from May 1 through July 31. During deliberations at the Bristol Bay meeting, board-generated RC 102 was adopted as substitute language and subsequently passed, which effectively implemented the single-hook restriction year round. The board also adopted board-generated RC 103 amending the proposal, requiring a person to cease sport fishing with bait for the remainder of the day in the Nushagak River drainage after retaining a bag limit of king salmon 20 inches or greater in length.

PROPOSED BY: Dan Dunaway.

ACR 10 – Remedy a navigational obstruction in Ugashik River set gillnet salmon fishery. (5 AAC 06.331)

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request seeks to modify 5 AAC 06.331(m) to remedy a navigational obstruction in Ugashik River set gillnet salmon fishery.

PRESENT SITUATION: Regulation 5 AAC 06.331(m)(8), adopted at the 2012 Bristol Bay Board of Fisheries (board) meeting, did not remedy navigational obstruction as intended and proved difficult to enforce. The regulation wording allows for an interpretation that the distance from shore could be measured from either bank of the river. Regulation 5 AAC 06.331(m)(8)(A) states “...the shoreward end of the set gillnet is a least 400 from the 18 foot high tide mark;” but does not identify which bank that measurement is based from. This unintentionally allows for net configurations based on distance from the west bank that obstructs navigation.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** N/A.
- b) **Does the agenda change request correct an error in regulation?** The regulation did not identify from which bank of the river measurements were to be taken and did not preclude setting nets seaward of a permit holder’s own gear.
- c) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Regulation 5 AAC 06.331(m)(8)(A) does not identify which bank is referenced for measurements associated with anchoring and shoreward end of nets. This unintentionally allows for net configurations based on distance from the west bank that obstructs navigation. The regulation also unintentionally allowed gear deployment offshore of a permit holder’s own gear which serves to further obstruct navigation.

ADDITIONAL INFORMATION: The regulation modification proposed here addresses the navigational issue by providing a clear channel for vessel traffic, is enforceable, and is equitable for all permit holders in the Ugashik River. If not rectified, the problem of obstructed navigation caused by set gillnet gear will persist and the regulation will remain difficult to enforce until the next opportunity to address it at the regular cycle Bristol Bay board meeting in December 2015.

PROPOSED BY: Alaska Department of Fish and Game.

ACR 11 – Define commercial salmon fishing boundaries for the Outer Port Heiden, Ilnik, and Three Hills sections in the Northern District of Area M using GPS coordinates (5 AAC 09.200, 5 AAC 09.350, and 5 AAC 09.369).

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request seeks to further define the current closed water area within the Outer Port Heiden, Ilnik, and Three Hills sections using GPS coordinates. While the request does not mention the Bear River Section, it is within the current management plan that includes the Ilnik and Three Hills sections, and presumed to be included in the proposed request.

PRESENT SITUATION: In the Outer Port Heiden Section, fishing is permitted west of a line from 57°05.52' N lat, 158°34.45' W long to 57°08.85' N lat, 158°37.50' W long (5 AAC 09.310(a)(2)(B) and 5 AAC 09.350 (3)). The Outer Port Heiden Section is open to commercial salmon fishing from 0 to 1.5 nautical miles (nmi) from the baseline and is closed from 1.5 nmi to 3.0 nmi following action taken by the Alaska Board of Fisheries (board) at the February 2013 Area M meeting (Figure 1). This line applies for the entire commercial salmon fishing season in the Outer Port Heiden Section from June 20 to July 31.

From June 20 through July 31, the department manages the Bear River, Three Hills, and Ilnik sections to conserve Bear and Nelson rivers sockeye salmon stocks by allowing passage of sockeye salmon from the northeast to the southwest of the Northern District (Figure 2). From June 20 through July 31, waters that are between the 3 nmi seaward boundary line, described in 5 AAC 09.301 and a line that is 1.5 nmi shoreward of the 3 nmi seaward boundary, are closed for one 24-hour period during a seven-day period. The waters located to the southwest of the open waters, where a 24-hour closure has occurred, have sequential closures that allow fishing in the waters out to the 1.5 nmi for the first 24 hours of an open fishing period. The five areas that follow this management strategy include:

- Bear River Section:
 - 1) from Cape Seniavin to Cape Kutuzof (160° 19.64' W. long); and
 - 2) from Cape Kutuzof to Wolf Point (160° 48.47' W. long.).
- Three Hills Section;
- Ilnik Section:
 - 1) from that portion of the Ilnik Section between the longitude of Strogonof Point at 159° 50.45' W. long and the longitude of Unangashak Bluffs at 159° 10.25' W. long; and;
 - 2) that portion of the Ilnik Section between the longitude of Unangashak Bluffs and the longitude of Three Hills at 159° 49.45' W. long.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** Fisheries associated with these areas are regularly assessed and are meeting salmon escapement objectives.
- b) **Does the agenda change request correct an error in regulation?** Enforcement of the 1.5 nmi line was discussed during the February 2013 Area M board meeting when the regulation was adopted.

- c) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Issues with enforcement were discussed when the new regulation was deliberated by the board and it was assumed the 1.5 nmi line would be as enforceable as the 3 nmi line. However, the department has been advised by the Alaska Wildlife Troopers that the current line is nearly unenforceable due to the difficulty of ascertaining the shoreline of those sections.

ADDITIONAL INFORMATION: Alaska Wildlife Troopers patrolled the North Peninsula by aircraft periodically through the 2013 commercial salmon season.

PROPOSED BY: Pilot Point Village Council.

ACR 3 – Remove dip net size restrictions for the Yukon Area districts 1–3 commercial summer chum salmon fishery. (5 AAC 05.362)

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This request would allow Yukon Area districts 1–3 commercial permit holders to use dip net gear with unrestricted dip net opening to commercially harvest surplus summer chum salmon during times of king salmon conservation. The request does not seek to change mesh size of dip net web.

PRESENT SITUATION: Yukon River king and summer chum salmon runs greatly overlap in run timing and Yukon River king salmon are a stock of concern. Regulations allowing use of dip nets and beach seines to allow commercial fishing on abundant summer chum salmon, while protecting king salmon, were adopted in January 2013. During times of king salmon conservation, dip net gear is allowed to target summer chum salmon in the Yukon Area districts 1–3 commercial fishery, and permit holders are required to release king salmon alive from this gear type. Permit holders may use up to four dip nets with gear specifications defined in 5 AAC 39.105(d)(24). The dip net frame may not exceed five feet as measured by the maximum straight-line distance between any two points on the net opening. The depth of the bag must be at least one-half of the greatest straight-line distance of the net opening. The bag webbing is restricted to a maximum stretched measurement of 4.5 inches. Additionally, the dip net must be attached to a rigid handle and operated by hand.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** The original intent of allowing the use of dip nets was to provide a gear option that provides for selective harvest of summer chum salmon, while allowing for the release of king salmon unharmed, which are a stock of concern. However, the purpose of this request is primarily focused on increasing the efficiency of dip net commercial harvest of surplus summer chum salmon in districts 1–3 of the Yukon Area. Increasing the efficiency of dip nets will likely increase incidental contact with king salmon.
- b) **Does the agenda change request correct an error in regulation?** N/A.
- c) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Existing general provisions regarding dip net gear specifications were applied to the Yukon Area districts 1–3 commercial summer chum salmon fishery. Thus, the gear specifications were not made specific to commercial fishing in the Yukon River delta.

ADDITIONAL INFORMATION: Harvest of surplus summer chum salmon has been greatly reduced during recent years because of the need to minimize incidental harvest of king salmon during poor runs. In 2013, despite the marked improvement in commercial summer chum salmon harvest in Yukon Area districts 1 and 2, there was a foregone commercial harvest of approximately one million fish. However, despite taking the most restrictive conservation measures ever implemented, only three of seven king salmon escapement goals were achieved in

2013. It is critical that any gear specifications and operations allow king salmon to be safely and easily returned to the water alive.

In response to a poor king salmon run and a concurrent strong summer chum salmon run, liberal commercial fishing opportunity with dip net and beach seine gear was allowed to harvest the surplus summer chum salmon in Yukon Area districts 1 and 2 in 2013. The department allowed fifteen 12-hour periods in District 1 and seventeen periods in District 2 with gear restricted to beach seines and dip nets, for a total of approximately 188,000 summer chum salmon harvested by dip net gear. Relatively minimal impacts to king salmon were observed in this fishery, and approximately 900 king salmon were reported as released alive from dip nets during these commercial fishing periods. Dip net harvest was a major contributor to the overall commercial harvest of approximately 379,000 summer chum salmon in 2013, the largest harvest since 1989.

PROPOSED BY: Gene Sandone.

ACR 4 – Establish monofilament purse seines as a new legal gear for the Yukon Area districts 1–3 commercial summer chum salmon fisheries. (5 AAC 39.170 and 5 AAC 05.362)

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This request seeks to allow Yukon Area districts 1–3 commercial permit holders to use monofilament purse seine gear to commercially harvest surplus summer chum salmon during times of king salmon conservation. Live release of king salmon would be required from this new gear type.

PRESENT SITUATION: Only gillnet, dip net, and beach seine gear is allowed in the Yukon Area districts 1–3 commercial fishery. The use of monofilament seine webbing is prohibited under 5 AAC 39.170.

Yukon River king and summer chum salmon runs greatly overlap in run timing and Yukon River king salmon are a stock of concern. Regulations allowing use of dip nets and beach seines to allow commercial fishing on abundant summer chum salmon, while protecting king salmon, were adopted in January 2013. During times of king salmon conservation, dip net and beach seine gear is allowed to target summer chum salmon in the Yukon Area districts 1–3 commercial fishery, and permit holders are required to release king salmon alive from these gear types. To direct the commercial harvest at summer chum salmon, the department also may, by emergency order, restrict gillnets to either six-inch or smaller mesh size or to a mesh size of five and one-half inches or less and not more than 30 meshes in depth. Additionally, the department has limited areas open to commercial fishing where king salmon abundance is low and established short fishing periods to reduce incidental harvest of king salmon.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** The original intent of allowing for the use of dip nets and beach seines was to provide a gear option that provides for selective harvest of summer chum salmon, while allowing for the release of king salmon unharmed, which are a stock of concern. However, the purpose of this request is primarily focused on increasing the commercial harvest of surplus summer chum salmon in districts 1–3 of the Yukon Area. The addition of a new gear type will likely increase incidental contact with king salmon.
- b) **Does the agenda change request correct an error in regulation?** N/A.
- c) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** N/A.

ADDITIONAL INFORMATION: Harvest of surplus summer chum salmon has been greatly reduced during recent years because of the need to minimize incidental harvest of king salmon during poor runs. In 2013, despite the marked improvement in commercial summer chum salmon harvest in Yukon Area districts 1 and 2, there was a foregone commercial harvest of approximately one million fish. However, despite taking the most restrictive conservation measures ever implemented, only three of seven king salmon escapement goals were achieved in 2013.

In response to a poor king salmon run and a concurrent strong summer chum salmon run, liberal commercial fishing opportunity with dip net and beach seine gear was allowed to harvest the surplus summer chum salmon in Yukon Area districts 1 and 2 in 2013. The department allowed fifteen 12-hour periods in District 1 and seventeen periods in District 2 with gear restricted to beach seines and dip nets, for a total of approximately 188,000 summer chum salmon harvested by dip net gear and 1,000 summer chum salmon in beach seines. The number of permit holders utilizing dip net gear increased through time. The use of beach seine gear was affected by high water conditions and use of this gear type is still developing. Relatively minimal impact to king salmon was observed using these gear types, and approximately 900 king salmon were reported as released alive during these commercial fishing periods. Commercial fishing using gillnets was delayed until after the majority of the king and summer chum salmon runs had passed. The combined summer chum salmon harvest, using gillnets for districts 1 and 2, was approximately 190,000 salmon, and 440 king salmon were caught, but not sold. The overall commercial harvest of approximately 379,000 summer chum salmon in 2013 was the largest harvest since 1989.

A test fishery was conducted by Yukon Delta Fisheries Development Association to assess the feasibility of using purse seine gear in District 1. However, the study occurred after the vast majority of both summer chum and king salmon runs had passed. While various types of gear and methods for operating purse seine gear were developed, it is difficult to evaluate how this gear, particularly the effect of monofilament web, would be when king salmon are present and caught along with larger volumes of other salmon, such as chum and pink salmon. In addition, there is some mortality on nonsalmon species, such as Bering cisco. It is critical that any gear specifications and operations minimize mortality of king salmon and other nontarget species, and that king salmon can be safely and easily returned to the water unharmed.

PROPOSED BY: Gene Sandone.

ACR 7 – Define and allow use of a lead for commercial fish wheel gear. (5 AAC 05.333)

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This request seeks to create a definition in regulation to allow use of leads with commercial fish wheel gear.

PRESENT SITUATION: Fish wheels are only allowed as commercial gear in the Upper Yukon River in districts 4–6. It has come to the attention of fishermen, as well as fishery managers, that the use of leads with fish wheels is not authorized by regulation for commercial fishing because there is no specific definition or allowance for this type of use. Leads have been used with fish wheels for subsistence fishing, as well as for commercial fishing, for many years.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** N/A.
- b) **Does the agenda change request correct an error in regulation?** It was unknown at the time that subsistence regulations were adopted allowing the use of leads that the commercial fishery was not considered or was not included.
- c) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** It may have been unforeseen that to operate fish wheels efficiently requires the use of a lead. Commercial fishing periods in districts 4–6 are often concurrent with subsistence fishing periods and many fishermen use the same wheel for subsistence and commercial fishing. Since regulations allow use of leads for subsistence fishing and leads are not specifically prohibited in the commercial fishery, the practice of using leads may have continued during commercial fishing periods because it was unknown whether leads were allowed for commercial fishing.

ADDITIONAL INFORMATION: The use of leads while subsistence fishing is authorized in 5 AAC 01.010(a)(4), which states: a lead which is a length of net employed for guiding fish into a seine, or a length of net or fencing employed for guiding fish into a fish wheel, fyke net, or dip net. The use of leads with seines and set gillnets is defined as legal commercial gear in 5 AAC 39.105(d)(18). However, the specification for use of leads is provided in individual area regulations.

PROPOSED BY: Virgil Umphenour.

ACR 9 – Remove the exception allowing for a dead king salmon to be taken, but not retained, in the Yukon Area districts 1–3 dip net and beach seine commercial summer chum salmon fisheries. (5 AAC 05.362)

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This request seeks to remove the exception allowing for a dead king salmon to be taken, but not retained, in the *Yukon River Summer Chum Salmon Management Plan*. Proposed regulatory language to address this request:

5 AAC 05.362(k)(2) all king salmon caught in dip net and beach seine gear must be **released** [RETURNED] immediately **and returned** to the water **unharm**ed [ALIVE, EXCEPT THAT A DEAD KING SALMON MAY BE TAKEN BUT MAY NOT BE RETAINED; THE DEAD KING SALMON MUST BE RECORDED ON A FISH TICKET AND FORFEITED TO THE STATE].

PRESENT SITUATION: Regulations allowing use of dip nets and beach seines to allow commercial fishing on abundant summer chum salmon while protecting king salmon were adopted in January 2013. However, after this summer’s fishery it was discovered that this regulation provided an unforeseen loophole that poses an enforcement problem. Under current regulations, enforcement personnel indicate that some fishermen may illegally harvest king salmon while commercial fishing with beach seine and dip net gear, and claim to enforcement officers the king salmon was severely injured or killed when caught and they intend to forfeit these fish to the state. It is difficult, if not impossible, to implement requirements or processes that ensure a dead king salmon would always be forfeited to the state.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** The purpose of the request is to ensure all king salmon will be returned to the water unharmed, which is necessary to conserve king salmon and assist in achieving escapement goals in the Yukon River. It is unlikely for king salmon to die when caught in a dip net or beach seine if proper care is taken in handling the gear. Yukon River king salmon are currently classified a stock of yield concern.
- b) **Does the agenda change request correct an error in regulation?** N/A.
- c) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** It was unforeseen that enforcement of this regulation would be difficult and that illegal harvest of king salmon may occur. There is concern that the original intent of the regulation would be nullified: to protect king salmon while allowing for commercial harvest of chum salmon.

ADDITIONAL INFORMATION: Given observations from dip net fisheries in other areas of the state, as well as the results of the dip net and beach seine commercial activity in the Yukon River this season, it is unlikely for king salmon to incur severe injury or mortality when caught with beach seines or dip nets. Encouraging and enforcing the practice of returning king salmon

immediately to the water unharmed can be best achieved by removing language that allows taking of king salmon. To continue commercial fishing for summer chum salmon with beach seine and dip net gear, regulations need to emphasize and ensure all king salmon are released alive.

PROPOSED BY: Alaska Department of Fish and Game.

ACR 13 – Modify the Kuskokwim River salmon management plan for king salmon conservation. (5 AAC 01, 5 AAC 07, and 5 AAC 71)

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: Review and possibly modify the current Kuskokwim River salmon management plan and all Kuskokwim River subsistence, commercial, and sport fishing regulations for the conservation of king salmon.

PRESENT SITUATION: The current *Kuskokwim River Salmon Management Plan* (5 AAC 07.365) was adopted by the Alaska Board of Fisheries (board) at the Arctic-Yukon-Kuskokwim finfish meeting in January 2013. This management plan was a collaborative effort by the Alaska Department of Fish and Game (department) and stakeholders in the Kuskokwim Area. There was extensive public input and discussion that aided in the development of this management plan.

The language found in the *Kuskokwim River Salmon Management Plan*, specifies that its purpose is to provide guidelines for management of the Kuskokwim River salmon fisheries that result in the sustained yield of salmon stocks large enough to meet escapement goals, amounts necessary for subsistence, and for nonsubsistence fisheries. The department shall use the best available data, such as preseason and inseason run projections, test fishing indices, age and sex composition, harvest reports, passage escapement estimates, and recognized uncertainty, to assess run abundance for the purpose of implementing this plan. This plan provides specific management actions (liberalizations and restrictions) to subsistence, commercial, and sport fisheries in order to achieve escapement goals.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** The purpose of this request is to review Kuskokwim River salmon fishing regulations to conserve king salmon because escapement goals were not met in 2013.
- b) **Does the agenda change request correct an error in regulation?** N/A.
- c) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** The recently adopted management plan provides the tools to manage Kuskokwim River salmon fisheries effectively. However, management strategies implemented in 2013 were not successful in achieving escapement goals.

ADDITIONAL INFORMATION: In 2013, preseason sport and subsistence king salmon fishing closures were implemented in the Kuskokwim River tributaries from Aniak River downstream. During the early part of the 2013 fishing season, preseason forecasts, inseason run projections, test fishing indices, and subsistence harvest reports indicated there was adequate abundance of king salmon to allow subsistence fishing in the mainstem with very little restriction. As the season progressed, inseason data began to show the run was weaker than initially assessed and escapement goals might not be achieved. Therefore, the department used emergency order authority to restrict the subsistence fishery to the use of six-inch or smaller

mesh size gillnets for 12 days from Chuathbaluk downriver to the mouth of the Kuskokwim River. The overall escapement in 2013 is expected to be the lowest on record and only two of 12 tributary escapement goals were achieved. The *Kuskokwim River Salmon Management Plan* provides the tools to manage the various fisheries to achieve escapement goals. A much more conservative management approach will be utilized in 2014 to ensure escapement goals will be achieved.

State regulations allow the subsistence harvest of salmon in the Kuskokwim Area as the priority use (5 AAC 01.286.). In 1987, the board first found that salmon in the Kuskokwim Area are customarily and traditionally taken or used for subsistence (C&T finding). In 1993, the board revisited the C&T uses of salmon in the Kuskokwim Area, reaffirmed the 1987 C&T finding, and then in 2001, identified the amount reasonably necessary for subsistence (ANS) for all salmon, and corresponding species-specific ANS findings for the Kuskokwim River drainage. However, the board maintained a C&T finding for salmon, as a group, for the remainder of the Kuskokwim Area, rather than making species-specific findings. In 2013, due to methodological changes, the board revisited and increased the ANS finding for king salmon in the Kuskokwim River drainage from 64,500–83,000 to 67,200–109,800 in order to provide reasonable opportunities to subsistence users. In 2012, due to the low escapement and 35 days of subsistence fishing closures, approximately 25,000 king salmon were harvested for subsistence use, 70% below the 10-year average.

PROPOSED BY: Bering Sea Fisherman’s Association.

ACR 6 – Establish statewide regulation to allow use of dipnet gear in place of commercial gillnet and seine gear for salmon stock conservation purposes. (5 AAC 39.2XX)

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request seeks to allow, by emergency order, the use of dipnet gear on a statewide basis as an alternate gear type in commercial fisheries to reduce the harvest of non-target salmon species.

PRESENT SITUATION: Dipnet gear is not a legal commercial fishery gear type statewide. Dipnet gear was used inriver with some success in 2013 on the Yukon River to target chum salmon and release king salmon.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** The purpose is to add a gear type that allows for the live release of nontarget, weak stock salmon species.
- b) **Does the agenda change request correct an error in regulation?** No.
- c) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

ADDITIONAL INFORMATION: Mixed stock salmon fisheries composed of relatively large numbers of a healthy stock and smaller numbers of a weak stock present management challenges. For example, king salmon stocks have declined in some areas of Alaska and these declines have led to restrictions and closures of subsistence, commercial, personal use, and sport fisheries. In some cases these restrictions and closures to protect weaker king salmon stocks occur in areas where there are abundant sockeye and/or chum salmon stocks. In instances of weak stock salmon management on other systems, alternative gear types that are intended to facilitate live release of nontarget salmon stocks would have to be evaluated on a case by case basis.

PROPOSED BY: Virgil Umphenour.

ACR 1 – Modify groundfish possession and landing requirements to specify when groundfish bycatch levels are assessed. (5 AAC 28.070(2))

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request seeks to amend statewide groundfish possession and landing requirements so that the retainable bycatch level of a species of groundfish is assessed at the time of landing rather than on board a vessel.

PRESENT SITUATION: Current statewide groundfish possession and landing requirements allow a halibut or groundfish fisherman to have on board a bycatch level of a groundfish species, of up to 20%, by weight, of the directed groundfish species or halibut on board the vessel.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** The department is unaware of a fishery conservation purpose that would be corrected by this agenda change request.
- b) **Does the agenda change request correct an error in regulation?** N/A.
- c) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** The department is unaware of any effects of this regulation that were unforeseen when it was adopted.

ADDITIONAL INFORMATION: All groundfish and halibut landings are reported on an ADF&G fish ticket and compliance with bycatch retention levels is determined using fish ticket records. Current regulation does not allow exceeding the onboard allowable bycatch level for a species. A fisherman cannot exceed the bycatch level on board and sort those fish before landing. Fish in excess of the allowable bycatch level must be returned to the sea immediately. These discarded fish should be reported on the fish ticket as discarded at sea. For example, if a fisherman landed a bycatch species prior to landing any directed species, the bycatch species would have to be discarded at sea; however, if a directed species was landed first, the bycatch species would be retained for landing.

PROPOSED BY: Petersburg Vessel Owners Association.

ACR 8 – Implement a management plan for an open-access weathervane scallop fishery in waters of Alaska. (5 AAC 38.0XX)

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request seeks to create a new regulation implementing a management plan for an open-access weathervane scallop fishery in waters of Alaska.

PRESENT SITUATION: Vessel participation in weathervane scallop fisheries in waters of Alaska is currently restricted by a vessel-based limited entry permit system that will sunset December 30, 2013. In federal waters, a license limitation program (LLP) constrains vessel participation in the weathervane scallop fishery.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** This request provides a mechanism to adopt management measures that prevent overharvest of the weathervane scallop resource during an open-access fishery in waters of Alaska. Scallop beds in state and federal waters are managed jointly, under a single statewide scallop fishery management plan, because fishing effort is stable due to vessel-based limited entry in state waters and the LLP program in federal waters. After the vessel-based limited entry program sunsets the state will need additional tools to sustainably manage the scallop resource in waters of Alaska separately from the federal-waters component if effort increases in the open-access state-waters fishery.
- b) **Does the agenda change request correct an error in regulation?** N/A.
- c) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** N/A.

ADDITIONAL INFORMATION: The weathervane scallop fishery off Alaska will open on July 1, 2014, which is prior to the next time the board will consider miscellaneous shellfish proposals in cycle. This request does not seek to modify the existing statewide scallop fishery management plan.

PROPOSED BY: Alaska Department of Fish and Game.

ACR 2 – Implement a management plan for an open-access weathervane scallop fishery in waters of Alaska. (5 AAC 38.0XX)

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request seeks to create a new regulation implementing a management plan for an open-access weathervane scallop fishery in waters of Alaska.

PRESENT SITUATION: Vessel participation in weathervane scallop fisheries in waters of Alaska is currently restricted by a vessel-based limited entry permit system that will sunset December 30, 2013. In federal waters, a license limitation program (LLP) constrains vessel participation in the weathervane scallop fishery.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** Scallop beds in state and federal waters are managed jointly under a single statewide scallop fishery management plan because fishing effort is stable due to vessel-based limited entry in state waters and the LLP program in federal waters. After the vessel-based limited entry program sunsets, the state will need additional tools to sustainably manage the scallop resource in waters of Alaska separately from the federal-waters component if effort increases in the open-access state-waters fishery.
- b) **Does the agenda change request correct an error in regulation?** N/A.
- c) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** N/A.

ADDITIONAL INFORMATION: The weathervane scallop fishery off Alaska will open on July 1, 2014, which is prior to the next time the board will consider miscellaneous shellfish proposals in cycle.

PROPOSED BY: Donald Lane.