

## Department of Public Safety

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THE STATE  
of **ALASKA**  
GOVERNOR MICHAEL J. DUNLEAVY

March 7, 2019

Chairman Morisky  
Board of Fisheries

Please consider the comments and suggested language from the Department of Public Safety, Division of the Alaska Wildlife Troopers (AWT), on four proposals before the board:

**PROPOSALS 163 & 164** – 5 AAC 01.010 Waste of Subsistence Caught Fish

Should the board desire to adopt language regulating the salvage of subsistence caught fish AWT offers the following suggested language:

5 AAC 01.010 **(o) subsistence-taken fish shall be salvaged for subsistence use.**

- (1) **“salvage” means to transport fish to a location where the fish will be processed to save or preserve the fish for subsistence use. Subsistence use is defined in AS 16.05.940(34);**
- (2) **It is a defense to a charge that the failure to salvage the fish was due to circumstances beyond the control of the person charged, including**
  - (A) **theft of the fish;**
  - (B) **unanticipated weather conditions or other acts of God;**
  - (C) **unavoidable loss in the field to a wild animal.**

Notes: The salvage definition in (1) mirrors the intent of the definition of salvage for game animals found in 5 AAC 92.990(a)(70).

The defense language in (2) is the same language used in AS 16.30.017 for wanton waste of game animals with one exception. Rather than saying “it is a defense to a **criminal** charge”, the word criminal is removed to clarify that it is a defense for either a criminal or non-criminal charge as a person who violates a provision of 5 AAC 01 – 5AAC 41, which includes subsistence regulations, is strictly liable for the offense, regardless of intent (Ref. 5 AAC 39.002).

**PROPOSAL 166** – 5 AAC 75.020 Sport fishing gear

This would require all sport fishing anglers to use a deepwater release mechanism (DRM) to release a rockfish at the depth it was hooked, or 100 feet, whichever is shallower.

As worded, enforcing the use of a DRM would be difficult enough that the regulation would be ineffective in achieving the intended goal. The only practical way to enforce compliance is to require possession of a DRM while fishing for rockfish from a vessel. Suggested language:

**5 AAC 75.020 (f) a person fishing for non-pelagic rockfish from a vessel must have in their possession a deepwater release mechanism, in addition**

- (1) if released non-pelagic rockfish must be released using a deepwater release mechanism and**
- (2) if released non-pelagic rockfish must be released at the depth it was hooked.**

AWT recognizes that (1&2) of the proposed language will be difficult to enforce but there could be circumstances that it will, and the language will help guide the activities of law abiding fishermen.

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**PROPOSAL 168** – 5 AAC 39.260(j). Seine specifications and operations.

This proposal would limit the length of any line used to make the attachment between a skiff and a purse seine used in a commercial salmon fishery to no more than 10 fathoms. The intent of the proposal is to close a potential loophole in the law that could allow a seine net to stay open and fishing after a fishing period has closed by using a very long towline on the seine skiff. AWT supports the effort to close a loophole but is concerned that proposed language could still be exploited.

The real issue at hand is defining when a seine has ceased fishing, this issue is addressed in (c) of this section and says, “*Unless otherwise provided in 5 AAC 03-05AAC 38, a purse seine is considered to have ceased fishing when all the rings are out of the water.*” In most areas of the state the “*unless otherwise provided*” is exercised and other language used to define when a seine has ceased fishing. These areas include Southeast, Prince William Sound, Cook Inlet, Kodiak and Chignik. Of the five areas, four different phrases are used to describe when a seine has ceased fishing but they all have the same basic intent. The intent is that when both ends of the seine are attached to the seine vessel the seine has ceased fishing. Here is a synopsis of the language varieties:

**Southeast**

5 AAC 33.332. Seine specifications and operation

(g) A purse seine is considered to have ceased fishing when the bunt end of the seine is attached to the purse seine vessel and the tow end of the seine is attached to the vessel or moving through the power block.

**Prince William Sound**

5 AAC 24.332. Seine specifications and operations

(f) A purse seine is considered to have ceased fishing when both ends of the seine or both ends of the aggregate of seine and lead are attached to the fishing vessel

Cook Inlet

5 AAC 21.332. Seine specifications and operation

(c) A purse seine is considered to have ceased fishing when both ends of the seine are fast to the vessel.

Kodiak

5 AAC 18.332. Seine specifications and operations

(l) A purse seine has stopped fishing when both ends of the seine, excluding tow lines and straps, are attached to the fishing vessel.

Chignik

5 AAC 15.332. Seine specifications and operations

(g) A purse seine has stopped fishing when both ends of the seine, excluding tow lines and straps, are attached to the fishing vessel.

There are only a few salmon seine fisheries in the state in which the statewide “rings-up” regulation applies, Area M is an example. The language used in the five areas mentioned above is less restrictive than the language in statewide regulations.

AWT recommends that the board amend language in this section, 5 AAC 39.260(c), to reflect the intent of the language already in use in most salmon seine fisheries in the state. Of the language options from area regulations, the language in the Kodiak and Chignik area regulations is preferred from an enforcement perspective. It is clear, concise and addresses the problem this proposal is attempting to fix.

Recommended language:

5 AAC 39.260(c) [UNLESS OTHERWISE PROVIDED IN 5 AAC 03 – 5 AAC 38, A PURSE SEINE IS CONSIDERED TO HAVE CEASED FISHING WHEN ALL THE RINGS ARE OUT OF THE WATER]. **A purse seine has stopped fishing when both ends of the seine, excluding tow lines and straps, are attached to the seine vessel.**

The only deviation from Kodiak and Chignik area language is to change the phrase “fishing vessel” to “seine vessel” which is defined in 5 AAC 39.975(33).