

CONFIDENTIALITY OF FISHERIES INFORMATION

Alaska Department of Fish and Game

Division of Commercial Fisheries

Divisional Operating Procedure (DOP) CF-008

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I. Background

Alaska Statutes 16.05.815 *Confidential nature of certain reports and records* (Appendix I) and 16.40.155 Records and reports confidential (Appendix II) and specific regulations found within 5 AAC prohibit the Alaska Department of Fish and Game (ADF&G) from releasing certain information it receives from fishermen, fish buyers, fish processors, aquatic farms, fish hatcheries, and ADF&G onboard observers. The purpose of such confidentiality is twofold; it ensures detailed information on individual business activities are held confidential, and provides incentive for the public to furnish the department with accurate data. Confidentiality of private data is imperative to a trust relationship between state government and private enterprise.

To ensure information received from industry is as accurate as possible, ADF&G must maintain industry's confidence in the security of the information provided to the state. ADF&G must also balance the public's business needs and other agencies right to know what information fishery decisions are based on, against industry's need to keep some activities confidential. Toward that end, ADF&G staff shall adhere to the following guidelines when working with fishery data or when deciding whether or not to release fishery information to the public.

II. Types of Confidential Information

Information covered by AS 16.05.815 and AS 16.40.155 includes all information obtained by regulatory requirements, whether submitted orally, electronically, or in writing. Information of a voluntary nature, such as from dockside interviews, or where ADF&G has stated the information is confidential, are also covered by these guidelines. There is no time limit on information concerning landings of fish or invertebrates, fishery products, or annual reports. Information on landings of fish or invertebrates, fishery products, or annual reports records may not be released except for reasons listed in AS 16.05.815 and described in this Department Operating Procedure (DOP).¹

II. A. Confidential information and data

1. Completed fish ticket or fish ticket data (no time limit to confidentiality).
2. eLandings landing report, production report, electronic logbook, or traditional logbook data.
3. *Commercial Operator's Annual Report* (COAR) completed report and data conveyed within (no time limit to confidentiality).
4. Onboard observer data.
5. Crab stock abundance survey information that reveals crab catch by sampling location is confidential and is not subject to inspection or copying under AS 40.25.110 – 40.25.120 until the close of the fishing season for which the survey was conducted. (AS 16.05.815(c)).
6. Dockside interview information and data.
7. Inseason catch report from individual fishermen. Aggregated catch reports (rule of three) may not be confidential.
8. Coded wire tag, thermal mark tag (or any other tagging technology) sampling information that indicates the vessel or area of harvest.
9. Port sampling data that identifies area of harvest or landing with a permit or vessel.
10. Information required under the authority of a commissioner-permit fishery.
11. Inseason test fishing data.
12. Aquatic farm or shellfish hatchery report (AS 16.40.155).
13. Annual statistical survey of processor capacity (5 AAC 39.132(g)).
14. With the exception of a business' or individual's name, address, contacts, permit number, and intended fisheries or areas of operation, the information provided on the *Intent to Operate*, *Catcher/Seller Permit Application*, *Independent Buyer Permit Application*, and *Fish Transporter Permit Application* are confidential. This includes phone number because unlisted phone number cannot be disclosed according to AS 40.25.350(2).

¹ According to Attorney General Office advice dated 3/21/2002, "The 25-year period for keeping materials confidential under [AS 16.05.815](d) only applies to the types of information set out in parts (1) and (2). Thus, fish ticket data, processor reports, and other information set out in subsections (a)–(c) have no time limit on their confidentiality. Presumably, they may never be released except for the reason set out in those subsections."

15. Operation registration and business relationship within the eLandings Electronic Reporting System. This includes custom processing arrangement.
16. Personal information which can be used to identify a person, such as social security number, birth date, and death date (AS 40.25.300(2)).
17. ADF&G considers all written material related to draft technical report or scientific publication to be confidential and will not release draft report or publication or any review materials related to the scientific review of any draft report or publication, except as provided in ADF&G Standard Operating Procedure (SOP) III-402.
18. Any other information ADF&G collects and states is confidential.

II. B. Nonconfidential information and data

1. Fishery registration list data, provided the list does not indicate intended location of fishing.
2. Name, address, contact, permit number, and intended fishery or area of operation for licensed processor, buyer, exporter, catcher/seller, direct marketer or transporter from *Intent to Operate* or permit application.
3. State crab stock survey location and catch data **after** the close of the fishing season for which the state survey was conducted (AS 16.05.815(c)). State survey data may be released after the season is closed, even if the closure is by EO and much earlier than usual.² Information about crab populations that result from a survey that is not conducted by or funded by the state is not confidential under state law.
4. Summarized coded wire tag, thermal mark tag (or any other tagging technology) data: brood year, release, and hatchery.
5. Thermal mark data: presence and absence of a thermal mark, number of fish sampled, number of otoliths prepared, brood year, and hatchery of origin.
6. Age, sex, length, and weight data from port sampling in commercial fishery, research harvest, or population survey so long as the data does not identify individual fishermen, buyer, or processor, or the specific location where fish have been taken are public information (AS 16.05.815(b)).
7. Test fishing data **after** the close of a season.
8. Salmon hatchery annual report (AS 16.10.470(a)).
9. Name, address, and permit and license information for Commercial Fisheries Entry Commission (CFEC) commercial fishing permit and vessel license.
10. Any record or report received by ADF&G which do not identify individual fishermen, buyer, or processor, or the specific location where fish have been taken are public information (AS 16.05.815(b)).

III. Access to Confidential Fisheries Data for ADF&G Staff

III. A. ADF&G Staff

ADF&G supervisors who deem it necessary for staff to use specific confidential commercial fisheries information for their official duties may give their staff access to confidential information.

III. B. State of Alaska *Confidentiality of Information Acknowledgment Form*

Upon hire, each ADF&G staff is required to sign the State of Alaska *Confidentiality of Information Acknowledgment* form. The signed form is sent to Division of Personnel and the original is kept in the employee's personnel file. On the form, staff certify they understand their duty to maintain confidentiality of information, they will handle and store confidential information appropriately, and acknowledge penalties for revealing confidential information. A copy of the form may be found in Appendix IV and at:

http://doa.alaska.gov/dop/fileadmin/Human_Resource_Services/pdf/ConfidentialityAcknowledgment.pdf.

III. C. Confidentiality DOP Distribution

Staff within the Division of Commercial Fisheries will be provided a copy of the division's confidentiality policy during initial training. ADF&G staff within the Commissioner's Office, Division of Sport Fish, Division of Habitat, Division of Wildlife Conservation, Division of Subsistence, Division of Administrative Services, and Board Support

² According to Attorney General Office advice dated 9/29/2000, "Under subsection (c), confidential crab survey data may be released after the season is closed by emergency order even if this is much earlier than usual."

Section will be provided a copy of the Division of Commercial Fisheries confidentiality policy when granted access to or given confidential commercial fisheries information.

III. D. Annual Confidentiality Reminder

The Information Services section will annually remind ADF&G staff of the confidential nature of commercial fisheries data and guidelines set out in the division's confidentiality policy.

IV. Agencies and Individuals NOT AUTHORIZED to Access ADF&G Confidential Data

There are many agencies and individuals that ADF&G staff work with on a routine basis who are not entitled to confidential data. The list below is not exhaustive, but simply an example of agencies or individuals that ADF&G routinely interacts with who are not entitled to confidential data.

1. Alaska Board of Fisheries (BOF): All members.
2. North Pacific Fishery Management Council (NPFMC): All members.
3. Alaska Legislature: Legislators, legislative staff, legislative task forces, and legislative work groups (with the exception of the Legislative Budget and Audit Committee³).
4. Alaska Seafood Marketing Institute (ASMI)
5. Alaska Department of Environmental Conservation (DEC)
6. Alaska Department of Commerce, Community, and Economic Development (DCCED).
7. U.S. Coast Guard (USCG).
8. Vessel Owners: Fish ticket data **CANNOT** be disclosed to the vessel owner if they are not the CFEC permit holder or the CFEC permit holder has not authorized a third-party release.
9. U. S. National Park Service.
10. Processor eLandings Accounts: If a processing entity has had a change in ownership, the newly structured business DOES NOT have access to the eLandings operation of the previous business.

V. Guidelines for Working with Confidential Information

V. A. Storing Confidential Documents

Documents containing confidential information should be locked securely in a drawer, filing cabinet, or closet when not in active use by staff. Confidential information should not be left unattended on desks or other locations in the workspace.

V. B. Transporting Confidential Documents

Confidential documents that are collected in the field, such as interviews or biological samples, should be safeguarded until they can be returned to an ADF&G office and secured. For example, if collecting fish tickets from local processing facilities, all records should be sealed in an envelope or folder and transferred back to the ADF&G office without delay.

³ According to Attorney General Office advice dated 3/27/1991, "CFEC should release to the Legislative Budget and Audit Committee fish ticket data and processor reports when the Committee intends to use the information in an audit that will determine why enhancement tax revenues are not consistent with the enhancement tax statute. Another statute authorizes the commission to receive confidential information, and it generally requires that the commission's audit reports and records be held confidential. Under those circumstances, the public purpose for receiving the information outweighs any constitutional privacy interest."

V. C. Removal of Confidential Documents from ADF&G Offices

With the exception of transferring documents to archives, records or summaries containing confidential data should not be removed from an ADF&G office.⁴ If traveling with records or summaries containing confidential information is absolutely necessary, staff should make every effort to safeguard the confidential information whether it is in paper or electronic format.

V. D. Archiving Records

Records destined for archiving with CFEC should be transferred within a reasonable period, that is, two to three years.⁵

V. E. Passwords and User IDs

ADF&G staff should make every effort to safeguard User IDs and passwords to all applications that house confidential data.

V. F. Confidential Electronic File Handling

Electronic files containing confidential information should not be left open on a workstation or laptop when not in use. Lock your workstation or laptop when away from your desk so confidential information cannot be accessed or seen by unauthorized individuals.

1. Staff should minimize storage of confidential data on portable devices that include, but are not limited to: nonworkstation laptop computers, smart phones, tablets, portable hard drives, or flash drives.
2. If you send an email containing confidential information to someone also authorized to see confidential information, include a statement at the bottom of your email that indicates, *“Confidentiality Notice: This email message including any attachments is for the sole use of the intended recipient(s) and may contain confidential information. Any unauthorized review, use, disclosure, or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message.”*
3. Do not use a personal email address to transmit confidential files, i.e., fish tickets.

V. G. Disposing of Confidential Documents

Documents containing confidential information must be disposed of by shredding the document. Never place confidential information in a garbage can or recycle bin unless it has been shredded or defaced in such a way that confidential information cannot be revealed.

V. H. Transmitting Confidential Data to Authorized Users

When electronically transmitting confidential information, indicate the information is confidential and may not be disclosed. Use language such as, *“The information in this [file, email, document] is confidential and may not be disclosed. There may be consequences for an unauthorized release of this information. Consult with ADF&G staff if you have any questions about how these data should be handled.”*

1. If the recipient is not someone who routinely receives confidential information from ADF&G Commercial Fisheries, prior to providing the information, first confirm that they understand the information is confidential and cannot be disclosed. Use language such as, *“The information you are about to receive is confidential and may not be disclosed. There may be consequences for an unauthorized release of this information. Consult with ADF&G staff if you have any questions about how these data should be handled. Do you understand and agree to keep this information confidential?”*
2. Password protect electronic files that contain confidential information before transmitting. Do not send password in the same email message as the protected file.

⁴ For fish ticket archival procedures see Appendix IV or <https://elandings.atlassian.net/wiki/display/AgencyIf/Agency+Desktop+Documentation> or <https://www.admin.adfg.state.ak.us/confluence/display/CCFI/Fish+Ticket+Archival+Procedures>

⁵ For other Fish and Game Records and Retention, schedules see: http://archives.alaska.gov/records_management/schedules/fishandgame_retention.html.

VI. Consequences of Unauthorized Releases of Confidential Information

Failure to protect confidential information can have serious consequences for all ADF&G employees. Not only can an employee lose access to confidential information, or suffer disciplinary action including discharge from state employment, but the state and the employee can be sued in a civil matter for a breach in confidentiality or face criminal penalties under Alaska Statute 11.56.860, part of the Alaska Criminal Code. Please see Appendix IV for the text of A.S. 11.56.860.

VII. Guidelines for Releasing Confidential Information as Summary Data

VII. A. The Rule of Three

Confidential ADF&G commercial fisheries data may be released to the public in summary format. The data must be aggregated in such a way as to reflect at least **three** entities. Three entities means there must be at least three people; three permits; three vessels (if applicable); **and** three buyers or processors in the summarized data. This is done to protect individual business activities and fishing locations. The source or type of confidential data dictates the type of entities that must be reflected in the aggregate. Table 1 outlines the elements required to meet the summarized confidentiality requirements by data type. Each “X” represents a required element to meet confidentiality.

Table 1. The rule of three summary table by data type and required elements to meet confidentiality.

Data Type	At least three vessels (counted by ADF&G vessel number)	At least three people (counted by SSN or CFEC ID number)	At least three permits (counted by CFEC permit serial)	At least three buyers or processors (counted by processor code)	At least three buyers of processors (counted by federal tax ID)
Summary fish ticket data	X	X	X	X	
Summary inseason catch reports	X	X	X	X	
Summary coded wire tag data	X				
Summary COAR data					X
Summary processor capacity data					X

VII. A. 1. Summary Fish Ticket Data

Summary fish ticket data must reflect three or more permits, people, vessels (if applicable), and buyers or processors. The count of processors should be based upon individual processing facilities or vessel operations based on the ADF&G processor code (i.e., F9999), even though more than one facility or vessel may be owned by the same parent company. For example, if summarized data included three people, three vessels, three permits, but only two processor codes, the data would be confidential. In the case of Individual Processor Quotas (IPQs) where three vessels, three people, three permits deliver to one physical processing location but three total processor codes are involved because of IPQs then the summarized data would be considered nonconfidential.

VII. A. 2. Summary Inseason Catch Reports

A summary of harvest based on inseason catch reports must reflect three or more vessels, permits, people, and three or more buyers or processors.

VII. A. 3. Summary Coded Wire Tag Data

The vessel and harvest information associated with a coded wire tag is confidential. Summary data associated with coded wire tags must reflect three or more vessels.

VII. A. 4. Summary COAR Data

A summary of the buying or production information reported in the Commercial Operator's Annual Report (COAR) must be aggregated to reflect three or more companies. The company count should be based on the federal tax ID of the company (i.e., 999-99-9999) rather than the processor code⁶ of individual facilities or vessels (i.e., F9999).

VII. A. 5. Summary Processor Capacity Survey Data

A summary of processor capacity collected by the division on annual processor capacity surveys must reflect three or more companies. The company count should be based on the Federal ID of the company (i.e., 999-99-9999) rather than the processor code of individual facilities or vessels (i.e., F9999).

VII. A. 6. Aquatic Farm Site Commercial Harvest

Commercial harvest of wild stock on an aquatic farm site reported on a fish ticket may be released to the public if aggregated by year and aquatic farm site (AS 16.40.155(4)).

VIII. B. Counting Entities

Whenever possible, only count valid responses in the data for an entity. Do not count a blank or null value as one of the three entities. Do not count a filler value, such as M9999 indicating the processor code is unknown, as one of the three entities. Please note that processor codes can and do change over time and may represent the same entity. When aggregating data it is important to ensure that each entity is unique; for example, an at-sea processor may have more than one processor code—one for the EEZ and one for processing within state waters, yet both licenses represent one business entity.

⁶ Processor codes are issued by the Department of Revenue (DOR) as part of the Fisheries Business License (FBL) process. An FBL is required of the first processor of a fishery resource within Alaska's 3-mile limit, exporters of unprocessed fishery resources from the state, or those that have someone custom process a fishery resource on their behalf. DOR and ADF&G share a database to assign processor codes; this is why ADF&G-Only permits (Catcher-Sellers and Fish Transporters) still receive a processor code, but do not have a FBL. Additionally, EEZ-Only type permits are assigned a processor code through the shared database, operate in federal waters, and are exempt from the DOR FBL requirement. However, they still need to be assigned a processor code to electronically report harvest and production activities through the eLandings system and on their COAR. Be aware that processor codes for EEZ-Only operators may have changed over time for the same vessel. This happened because the application process assigns a new processor code when the applicant fails to renew their previous year's processor code and applies for a new one instead. This has since been corrected, but has occurred as late as 2012.

Types of Fisheries Business Licenses

- **Direct Marketer License** - Direct marketers are the same as catcher processors but with additional restrictions. They must be sole proprietors, must have a limited-entry permit and must fish from a vessel that is less than 65 feet in length. They cannot buy or process another person's fishery resource. Direct marketers pay a lower tax rate.
- **Shore Based License** – operators buy and process on land as well as export.
- **Shore Based Salmon Cannery** – cans salmon as well as other processing on land.
- **Floating Processor** – buys fish and processes onboard a vessel. May also process their own resource.
- **Catcher Processor** – catches and processes only their own resource onboard a vessel.
- **Catcher Exporter** – catches and exports only their own unprocessed resource.
- **Buyer Exporter** – buys and exports unprocessed resources.

VII. C. Spatial Component of Confidential Data

Many confidential data have a spatial component. The spatial representation of confidential data must also ensure that the identity of an individual person, vessel, and buyer or processor, cannot be determined and entities cannot be associated with particular harvests or locations.

1. The spatial representation must reflect an aggregate of **three** entities (people, permits, vessels, and buyers or processors).
2. Use minimum convex polygons, or a similar method, to represent points of latitude and longitude.

VII. D. Masking Confidential Data in Tables

It may be necessary to mask information that is not confidential in order to prevent any reasonable person from calculating the confidential information using other information provided. For example, Figure 1 shows a hypothetical harvest table. Confidentiality is not masked, as any reasonable person would be able to deduce the harvest and value in statistical area 111-13. Consider aggregating the information in another way to prevent this. In the fictitious example below, the harvest and value of two statistical areas should be combined.

Statistical Area	Harvest	Value
111-11	2,764	\$500
111-12	3,564	\$600
111-13	Confidential	Confidential
Total	10,000	\$3,000

Figure 1. Example of a harvest table where confidentiality is not masked sufficiently.

If there is confidential information in a table, do not just change the color of the text to white and assume that information is now invisible or deleted. It is still there and can be extracted or made visible with PDF accessibility text readers. Please delete that information altogether and type in the word “confidential” or footnote the blank cells informing users that this information is confidential.

VII. E. Answering Questions Concerning Fishing Activity

When answering questions concerning fishing activity ADF&G personnel **MAY NOT** disclose whether or not a permit was fished, whether or not a vessel was operated, or whether or not a buyer or processor operated if the information comes from confidential data such as fish tickets, landings reports, or the Commercial Operator’s Annual Report.

VII. F. Encryption or Proxy Values

ADF&G **CANNOT** disclose confidential information using encrypted, surrogate, or proxy values to mask the real identifiers found in ADF&G data. For example, do not disclose confidential information using encrypted values in place of the fisherman’s name, permit number, vessel ADF&G number or name, ADF&G processor code, or statistical area, etc.⁷

VII. G. Fisheries Where Harvest Location Fluctuates

In fisheries where harvest locations can fluctuate, ADF&G **CANNOT** disclose a location where there are fewer than three permits, vessels, or buyers or processors associated with harvest. Instead, aggregate several areas and provide the combined harvest for the areas. For example in Figure 2, the Other category combines the harvest of five statistical areas where there were less than three vessels that recorded harvest from those areas.

⁷ According to advice CFEC received from the AG’s office that encrypting data does not provide sufficient protection to the identity of individual fishermen and harvest locations as is required by AS 16.05.815 (advice dates 03/29/2013).

Table 2-4.-Bristol Bay commercial red king crab IFQ fishery catch by statistical area, 2010/11.

Statistical area	Number of			Harvest ^{a,b}	Deadloss ^b	Average	
	Landings	Crab ^a	Pots lifted			Weight ^b	CPUE ^e
605630	31	65,237	3,722	393,086	2,114	6.0	18
605700	20	11,720	994	72,381	306	6.2	12
615601	66	100,501	6,570	641,518	6,109	6.4	15
635600	55	104,144	6,171	648,382	6,477	6.2	17
645530	19	114,790	4,808	770,113	2,137	6.7	24
Other ^d	-	4,029	244	26,785	65	6.4	27
Total	236^c	2,157,354	118,458	13,349,929	99,612	6.2	18

^a Deadloss included.
^b In pounds.
^c Number of legal crab per pot lift.
^d Combination of 5 statistical areas from which less than 3 vessels made landings from each statistical area.
^e Number of statistical area landings is greater than the total number of landings because a single vessel may fish in several statistical areas.

Figure 2. Example of combing harvest to preserve confidentiality.

VII. H. Fisheries Where Harvest Location Does Not Fluctuate

In fisheries where harvest locations do not fluctuate (i.e., low-mobility species harvested in dive fisheries), it is sufficient to simply mask the harvest associated with an area where fewer than three permits, vessels, or processors are associated with the harvest. In Figure 3, areas where there were less than three divers were masked to maintain confidentiality.

Do not just put a block of color over the text and assume that information is now invisible or deleted. It is still there and can be extracted or made visible with PDF accessibility text readers. Please delete the data altogether before blacking out the cell.

HARVEST IN POUNDS	2014-2015 GEODUCK CLAM HARVEST														Preliminary Data	
	SOUTHEAST ALASKA														Compiled 01-26-2015	
	Foggy Bay	Cat & Dog Island	Vegas and Hotspur***	Lower Cordova Bay	East San Fernando	Ulitka Bay	Steamboat Bay***	Blanquiza Islands	Palisades Islands	St. Nicholas N. Lulu	Port Alice	Cone Is. North	Cone Is. S. Paloma (103-50/104-35)-006	Warren Island (103-90,105-4143,60)-005	Port Santa Cruz	NW Dall Island (104-(20/30)-003)
SUB DIST	101-23-001	101-(23/41)-005	101-25-003	102-10, 103-(11,21)	103-60-001	103-70-001	103-70-003	103-70-005	103-70-006	103-70-007	103-90-002	103-50-005			104-30-002	104-(20/30)-003
GHL	45,700	47,000	76,400	22,200	35,300	9,400	11,600	45,300	122,000	107,800	9,100	68,200	55,300	15,300	61,800	18,300
October 2	10,010	**	**	**	4,907	**	**	7,948	13,941	11,689	**	**	**	**	**	**
October 3	13,979	**	**	**	13,563	**	**	14,645	0	14,340	**	**	**	**	**	**
October 16	**	**	33,869	**	20,434	**	**	**	**	**	**	**	**	**	**	**
October 23	15,246	**	**	**	Closed	**	**	**	21,036	**	**	**	**	**	**	**
October 30	**	**	**	**	**	**	**	**	24,088	3,707	**	**	**	**	**	**
November 6	Closed	12,292	**	**	**	**	**	6,016	22,243	**	**	**	**	**	**	**
November 13	**	**	**	**	**	**	**	3,180	33,580	**	**	**	**	**	**	**
November 20	**	**	**	**	**	**	**	Closed	8,505	**	**	**	**	**	10,560	**
November 27	**	**	**	**	**	**	**	Closed	**	**	**	**	**	**	**	**
December 4	**	**	5,579	**	**	**	**	**	8,660	**	**	12,191	**	**	**	**
December 11	**	**	0	**	**	**	**	**	**	**	**	10,715	**	**	**	9,028
December 18	**	**	15,410	**	**	**	**	**	15,613	**	**	**	**	**	0	4,292
December 25	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**
January 1	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**	**
January 8	**	**	11,020	**	**	**	**	**	**	12,074	**	**	7,951	**	**	7,404
January 15	**	**	8,405	**	**	**	**	**	**	12,852	**	**	**	**	**	Closed
January 22	**	**	Closed	**	**	**	**	**	12,000	Closed	**	**	**	**	**	**

Figure 3. Example of masked harvest to preserve confidentiality.

VIII. Release of Confidential Information to Authorized Users and Agencies

VIII. A. Commercial Fisheries Entry Commission (CFEC)

1. ADF&G may release confidential commercial fishery data in either unaggregated or aggregated forms to the CFEC (AS 16.05.815). CFEC must maintain confidentiality of information provided to them.
2. Designated ADF&G staff may access confidential CFEC data. Examples of confidential CFEC data include but are not limited to social security numbers and birthdates of individuals on the permit, vessel license, and gross earnings files and survey data from permit transfer forms. The CFEC gross earnings file is largely an “enhanced fish ticket file,” therefore, any piece of data that is confidential on an ADF&G fish ticket is also confidential when it appears in the CFEC’s Gross Earnings file. ADF&G should not release CFEC data but refer the requestor to CFEC. The reasoning for this is that the agency that collects the data is the best source of information for those data.⁸

VIII. B. National Marine Fisheries Service (NMFS)

1. ADF&G may release to NMFS any records or reports as needed for preparation and implementation of fishery management plans (FMPs) within the exclusive economic zone (EEZ) to NMFS (AS 16.05.815(a)(1)).
2. Designated ADF&G personnel may release to NMFS fish ticket information, COAR data, and annual statistical reports for enforcement purposes in state waters and the adjacent EEZ (AS 16.05.815(a)(9)).
3. Designated ADF&G personnel may release to NMFS fish ticket or buying information for enforcing the industry fee system of a fishing capacity reduction program under the Magnuson-Stevens Fishery Conservation and Management Act (AS 16.05.815(a)(13)).
4. NMFS must maintain the confidentiality of information provided to them for the preparation and implementation of FMPs or for enforcing a fishing capacity reduction program. NMFS does not need to maintain the confidentiality of information provided to them for **enforcement purposes** (AS 16.05.815(a)).⁹
5. ADF&G, CFEC, and NMFS have a Memorandum of Agreement (MOA) concerning reciprocal access to confidential fisheries data. Examples of federal fisheries data include but are not limited to production reports and federal logbook entries. ADF&G should not release federal fisheries data but refer the requestor to NMFS. The reasoning for this is that the agency that collects the data is the best source of information for those data. The MOA provides additional detail and guidance, above and beyond AS 16.05.815, as to who in the agency may access confidential data, safeguards that should be in place to protect the information, and responsibilities of staff in either agency. See section IX.A. of this policy for additional information concerning this MOA.¹⁰

VIII. C. Professional Staff of the North Pacific Fishery Management Council (NPFMC)

1. ADF&G may release to the professional staff of the North Pacific Fishery Management Council (NPFMC) any record or report as needed for preparation and implementation of Fishery Management Plans (FMPs) within the EEZ (AS 16.05.815(a)(1)).

⁸ For a copy of the MOA between ADF&G, NMFS, and CFEC see:

<https://www.admin.adfg.state.ak.us/confluence/display/CCFI/Confidentiality+MOAs+and+Cooperative+Agreements>

⁹ AS 16.05.815(a) explicitly excludes the instances outlined in AS 16.05.815(a)(5) – (9) from the requirements to keep the records confidential once released. “...The department and the Alaska Commercial Fisheries Entry Commission may release the records and reports set out in this subsection to the recipients identified in this subsection if the recipient, *other than a recipient under (5) – (9) of this subsection*, agrees to maintain the confidentiality of the records and reports...”(emphasis added). **AS 16.05.815 (a)(9)**, “fish tickets, fish ticket information, records required of sport fishing guides, and annual statistical reports of fishermen, buyers, and processors and information in those reports to the law enforcement personnel of the National Marine Fisheries Service and the Nation Oceanic and Atmospheric Administration for the purpose of enforcing fishery laws in waters of this state in waters of the exclusive economic zone adjacent to this state;”

¹⁰ A copy of MOA between ADF&G, NOAA, and CFEC can be found here:

<https://www.admin.adfg.state.ak.us/confluence/display/CCFI/Confidentiality+MOAs+and+Cooperative+Agreements> .

2. NPFMC staff must maintain the confidentiality of information provided to them for preparing and implementing FMPs.
3. ADF&G and NPFMC have a Memorandum of Agreement (MOA) concerning NPFMC staff access to confidential fisheries data. The MOA provides additional detail and guidance, above and beyond AS 16.05.815, as to who in the agency may access confidential data, safeguards that should be in place to protect the information, and responsibilities of staff in either agency. See section IX. B. of this policy for additional information concerning this MOA.¹¹

VIII. D. Professional staff of the Pacific States Marine Fisheries Commission (PSMFC) employed in the Alaska Fisheries Information Network (AKFIN)

1. ADF&G may release to professional staff of the Pacific States Marine Fisheries Commission (PSMFC) employed in the Alaska Fisheries Information Network (AKFIN) any record or report for exchanging information with users authorized by ADF&G (AS 16.05.815(a)(2)).
2. AKFIN staff must maintain the confidentiality of information provided to them.
3. ADF&G, CFEC, and AKFIN have an MOA concerning reciprocal access to confidential fisheries data. The MOA provides additional detail and guidance, above and beyond AS 16.05.815, as to which AKFIN staff may access confidential data, who AKFIN may release confidential data to, safeguards that should be in place to protect the information, and responsibilities of staff in either agency. See section IX. C. of this policy for additional information concerning this MOA.

VIII. E. International Pacific Halibut Commission (IPHC)

1. ADF&G may release to the International Pacific Halibut Commission (IPHC) fish ticket and fish ticket information regarding halibut (AS 16.05.815(a)(10)).
2. IPHC must maintain the confidentiality of information provided to them.

VIII. F. Alaska Department of Revenue (DOR)

1. ADF&G may release to the Alaska Department of Revenue (DOR) any record or report for carrying out DOR's statutory responsibilities (AS 16.05.815(a)(3)).
2. ADF&G may release to DOR confidential mariculture and shellfish hatchery information for carrying out DOR's statutory responsibilities (AS 16.40.155(1)).
3. DOR must maintain the confidentiality of information provided to them.
4. ADF&G and DOR have a cooperative agreement in place concerning Oracle views of select fields in the current and three year's prior fish ticket databases.¹²

VIII. G. Alaska Department of Public Safety (DPS)

1. ADF&G may release to the Alaska Department of Public Safety (DPS) any record or report for law enforcement purposes (AS 16.05.815(a)(8)).
2. DPS does not need to maintain the confidentiality of information provided to them for enforcement purposes (AS 16.05.815(a)).¹³
3. To provide a certified copy of a fish ticket to DPS personnel, locate the ticket, make a copy, type onto a separate page, "I certify that this is a true and accurate copy". Sign and notarize and distribute to DPS personnel.

¹¹ A copy of the MOA between ADF&G and NPFMC can be found here:

<https://www.admin.adfg.state.ak.us/confluence/display/CCFI/Confidentiality+MOAs+and+Cooperative+Agreements> .

¹² A copy of the cooperative agreement between DOR and ADF&G can be found here:

<https://www.admin.adfg.state.ak.us/confluence/display/CCFI/Confidentiality+MOAs+and+Cooperative+Agreements>

¹³ AS 16.05.815(a) explicitly excludes the instances outlined in AS 16.05.815(a)(5) – (9) from the requirements to keep the records confidential once released. "...The department and the Alaska Commercial Fisheries Entry Commission may release the records and reports set out in this subsection to the recipients identified in this subsection if the recipient, *other than a recipient under (5) – (9) of this subsection*, agrees to maintain the confidentiality of the records and reports..."(emphasis added). AS 16.05.815 (a)(8), "any of the records and reports to the Department of Public Safety for law enforcement purposes;"

VIII. H. Alaska Department of Revenue Child Support Services Agency

1. ADF&G may release to the Alaska Department of Revenue Child Support Agency any record or report for child support purposes authorized under law (AS 16.05.815(a)(11)).
2. The DOR Child Support Services agency must maintain the confidentiality of information provided to them for child support purposes.

VIII. I. Child support enforcement agencies of other states

1. ADF&G may release to child support enforcement agencies of the other states any record or report for child support purposes authorized under law (AS 16.05.815(a)(11)).
2. Other child support enforcement agencies must maintain the confidentiality of information provided to them.

VIII. J. Municipalities that collect tax on fish, shellfish, or fishery products

1. ADF&G may release to municipalities that collect tax on fish, shellfish, or fishery products any record or report of the total value purchased by each buyer for verification of taxes due (AS 16.05.815(a)(4)).
2. Municipalities must maintain the confidentiality of information provided to them for tax verification purposes.

VIII. K. Alaska Department of Natural Resources (DNR)

1. ADF&G may release to the Alaska Department of Natural Resources (DNR) confidential mariculture and shellfish hatchery information for carrying out its statutory responsibilities (AS 16.40.155(1)).
2. ADF&G may release to DNR any record or report to assist DNR with carrying out DNR's statutory responsibilities in regard to sport fishing operations and sport fishing guides within the Kenai River Special Management Areas under AS 41.21.500-AS 41.21.514 (AS 16.05.815(a)(12)).

VIII. L. CFEC Permit Holder

1. ADF&G may release records and reports to an individual fisherman, buyer, or processor whose activity is the subject of the report or data (AS 16.05.815(a)(6); AS 16.05.815(a)(7)).
2. The confidentiality of the report or data does not need to be maintained by the individual fisherman, buyer or processor once the information has been released to the person, fisherman, buyer, or processor whose activity is the subject of the report or data.¹⁴
3. **Fish Ticket Data:** ADF&G may release the CFEC permit holder's fish ticket data upon submittal of a *Fish Ticket Data Report Request* form from the permit holder.¹⁵
4. **Observer Data:** Upon submittal of a *Request for Onboard Observer Data* form, onboard observer data can be provided to the CFEC permit holder who was in command of the vessel while the observer was on the vessel collecting data.¹⁶

VIII. M. CFEC Permit Holder in a Dual Permit Fishery

1. ADF&G may release records and reports to an individual fisherman, buyer, or processor whose activity is the subject of the report or data (AS 16.05.815(a)(6); AS 16.05.815(a)(7)).

¹⁴ AS 16.05.815(a) explicitly excludes the instances outlined in AS 16.05.815(a)(5) – (9) from the requirements to keep the records confidential once released. "...The department and the Alaska Commercial Fisheries Entry Commission may release the records and reports set out in this subsection to the recipients identified in this subsection if the recipient, *other than a recipient under (5) – (9) of this subsection*, agrees to maintain the confidentiality of the records and reports..."(emphasis added). The release subsections:

- **AS 16.05.815 (a)(6)**, "on request, the report of a person to the person whose fishing activity is the subject of the report, or to a designee of the person whose fishing activity is the subject of the report;"
- **AS 16.05.815 (a)(7)**, "on request, annual statistical reports of a fisherman, buyer, or processor whose activity is the subject of the report, or to a designee of the fisherman, buyer or processor whose activity is the subject of the report;"

¹⁵ The Fish Ticket Data Report Request form can be found on the ADF&G website here:

<http://www.adfg.alaska.gov/static/license/fishing/pdfs/1100-540.pdf>

¹⁶ This form is available on the Westward Region Wiki at:

http://kodweb.fishgame.state.ak.us/view/Wiki:Guides_and_HOWTOs:Observer_Data_Management:Releasing_Data_to_the_Public:Protocol.

2. The confidentiality of the report or data does not need to be maintained by the individual fisherman, buyer or processor once the information has been released to the person, fisherman, buyer, or processor whose activity is the subject of the report or data.¹⁷
3. In dual-permit fisheries¹⁸, where two permit holders are identified on a fish ticket, the fish ticket information may be released to either permit holder upon submittal of a *Fish Ticket Data Report Request* form.¹⁹ ADF&G staff may indicate which landings are associated with more than one permit, if indicated on the landing report via the dual permit check box. Remember that this is self-reported data. ADF&G may only provide the permit information for the requesting individual. Do not indicate information pertaining to the second permit number. Document on the report that, “*Some landings have been attributed to a dual permit operation. ADF&G is not privy to the business arrangements of dual permit operations and cannot differentiate ownership between permit holders for these landings.*”²⁰ Only the permit information of the requesting individual should be provided, however.

VIII. N. Processor or Buyer

1. ADF&G may release records and reports to an individual fisherman, buyer, or processor whose activity is the subject of the report or data (AS 16.05.815(a)(6); AS 16.05.815(a)(7)).
2. The confidentiality of the report or data does not need to be maintained by the individual fisherman, buyer or processor once the information has been released to the person, fisherman, buyer, or processor whose activity is the subject of the report or data.²¹
3. **Fish Ticket Data:** ADF&G may release to processor or buyer the processor or buyer’s fish ticket data upon submittal of the form: *Request for Release of Processor Information – Fish Ticket Summary* form.²² CFEC permit number, vessel name, and vessel number **CANNOT** be provided on these reports. Harvest or buying information must be aggregated so as to not identify specific fishermen or vessel.
4. **COAR Data:** ADF&G may release to processor or buyer the processor or buyer’s COAR data upon submittal of the form: *Request for Release of Processor Information – COAR Data* form.²³
5. **Processor eLandings Accounts:** If a processing entity has had a change in ownership, the newly structured business **DOES NOT** have access to the eLandings operation of the previous business.

¹⁷ AS 16.05.815(a) explicitly excludes the instances outlined in AS 16.05.815(a)(5) – (9) from the requirements to keep the records confidential once released. “...The department and the Alaska Commercial Fisheries Entry Commission may release the records and reports set out in this subsection to the recipients identified in this subsection if the recipient, ***other than a recipient under (5) – (9) of this subsection***, agrees to maintain the confidentiality of the records and reports...”(emphasis added). The release subsections:

- **AS 16.05.815 (a)(6)**, “on request, the report of a person to the person whose fishing activity is the subject of the report, or to a designee of the person whose fishing activity is the subject of the report”;
- **AS 16.05.815 (a)(7)**, “on request, annual statistical reports of a fisherman, buyer, or processor whose activity is the subject of the report, or to a designee of the fisherman, buyer or processor whose activity is the subject of the report”;

¹⁸ Dual permit fisheries have been authorized by the Board of Fisheries in three fisheries: 1) Bristol Bay salmon drift gillnet fishery (5AAC 06.333; 5 AAC 06.370); 2) Cook Inlet salmon drift gillnet fishery (5 AAC 21.333); and the Southeast herring gillnet fishery (5 AAC 27.131(j)).

¹⁹ The Fish Ticket Data Report Request form can be found on the ADF&G website here:

<http://www.adfg.alaska.gov/static/license/fishing/pdfs/1100-540.pdf>

²⁰ According to advice from Lance Nelson, dated 3/ 13, 2012, “In a dual permit fishery the amount of fish for each fish ticket is not allocated between the permit holders on the ticket in question. If it were and the other permit holder’s harvest info could be redacted, then possibly we could redact and withhold the other permit holder’s information. But those who fish jointly together need to understand that that choice renders the information subject to disclosure to either person.”

²¹ AS 16.05.815(a) explicitly excludes the instances outlined in AS 16.05.815(a)(5) – (9) from the requirements to keep the records confidential once released. “...The department and the Alaska Commercial Fisheries Entry Commission may release the records and reports set out in this subsection to the recipients identified in this subsection if the recipient, ***other than a recipient under (5) – (9) of this subsection***, agrees to maintain the confidentiality of the records and reports...”(emphasis added). The release subsections:

- **AS 16.05.815 (a)(6)**, “on request, the report of a person to the person whose fishing activity is the subject of the report, or to a designee of the person whose fishing activity is the subject of the report”;
- **AS 16.05.815 (a)(7)**, “on request, annual statistical reports of a fisherman, buyer, or processor whose activity is the subject of the report, or to a designee of the fisherman, buyer or processor whose activity is the subject of the report”;

²² The form is available on the ADF&G website here: <http://www.adfg.alaska.gov/static/license/fishing/pdfs/1100-640.pdf>.

²³ The form is available on the ADF&G website here: <http://www.adfg.alaska.gov/static/license/fishing/pdfs/1100-740.pdf>.

VIII. O. Executor of Estate or Immediate Family Member of Deceased Permit Holder

1. **Personal Representative:** ADF&G may release to the deceased CFEC permit holder's personal representative or executor of the estate fish ticket data upon submittal of a copy of the death certificate and a *Request for Release of Deceased Permit Holder Fish Ticket Data* form.²⁴ **Immediate Family Member:** ADF&G may release to the deceased CFEC permit holder's immediate family member (if there is no personal representative²⁵) fish ticket data upon submittal of a copy of the death certificate and a *Request for Release of Deceased Permit Holder Fish Ticket Data* form.²⁶

VIII. P. Aquatic Farm or Shellfish Hatchery Permit Holders

1. ADF&G may release records or reports to an aquatic farm or shellfish hatchery permit holders whose activity is the subject of the records or reports (AS 16.40.155(3)).

VIII. Q. Third Party

1. ADF&G may release records or reports to a third party designated by the individual, fisherman, buyer, or processor whose activity is the subject of the records or reports. (AS 16.05.815(a)(6), AS 16.05.815(a)(7), and 5 AAC 39.135.) The confidentiality of the records or reports does not need to be maintained by the third party designated by the individual fisherman, buyer, or processor whose activity is the subject of the report of data once the information has been released to the designated third party.²⁷
2. When releasing information concerning landing of fish, invertebrates, fishery products, or annual reports to someone designated (i.e., third party) by the person, fisherman, buyer, or processor whose activity is the subject of the records or reports, the release must be in the form of a limited power of attorney on a request form provided by ADF&G. The third-party release is valid between 30 days and up to a year. The person, fisherman, buyer, or processor whose activity is the subject of the report or data must show identification to ADF&G staff or have the request form notarized. Information may only be released upon receipt of the original request form (5 AAC 39.135).
3. Examples of the third-party release forms include:
 - a. *Request for Release of Fish Ticket Data to a Third Party* (Limited Power of Attorney).²⁸
 - b. *Request for Release of Deceased Permit Holder Fish Ticket Data to a Third Party* (Limited Power of Attorney) form.
 - c. *Request for Release of Summary Fish Ticket Data to a Third Party* (Limited Power of Attorney).²⁹
 - d. *Request for Release of COAR Data to a Third Party* (Limited Power of Attorney).³⁰
 - e. *Request for Release of State Observer Data to a Third Party* (Limited Power of Attorney).³¹

²⁴ This form can be found on the data release forms page

<https://www.admin.adfg.state.ak.us/confluence/display/CCFI/Confidentiality+Forms>

²⁵ According to Attorney General Office advice dated 9/11/2002, "ADF&G may release fish ticket information to an immediate family member of a deceased permit holder when there is no personal representative ("executor") for the estate. Before release, however, the family member must provide ADF&G with a copy of the death certificate and a notarized document in which the family member states (1) his or her relationship to the deceased, (2) that the deceased's estate has no personal representative, and (3) that he or she will defend and indemnify the State for any liability arising from the release of the information."

²⁶ This form can be found on the data release forms page

<https://www.admin.adfg.state.ak.us/confluence/display/CCFI/Confidentiality+Forms>

²⁷ AS 16.05.815(a) explicitly excludes the instances outlined in AS 16.05.815(a)(5) – (9) from the requirements to keep the records confidential once released. "...The department and the Alaska Commercial Fisheries Entry Commission may release the records and reports set out in this subsection to the recipients identified in this subsection if the recipient, ***other than a recipient under (5) – (9) of this subsection***, agrees to maintain the confidentiality of the records and reports..."(emphasis added). The release subsection that deals with third party release is:

- **AS 16.05.815 (a)(7)**, "on request, annual statistical reports of a fisherman, buyer, or processor whose activity is the subject of the report, or to a designee of the fisherman, buyer or processor whose activity is the subject of the report";

²⁸ This form can be found on the ADF&G website here: <http://www.adfg.alaska.gov/static/license/fishing/pdfs/1100-541.pdf>.

²⁹ This form can be found on the ADF&G website here: <http://www.adfg.alaska.gov/static/license/fishing/pdfs/1100-641.pdf>.

³⁰ This form can be found on the ADF&G website here: <http://www.adfg.alaska.gov/static/license/fishing/pdfs/1100-741.pdf>.

VIII. R. Court Order Signed by a Judge

1. ADF&G may release confidential fisheries data to comply with a court order signed by an Alaska³² judge (AS 16.05.815(a)(5) and AS 16.40.155(2)).³³
2. The confidentiality of records or reports provided in response to a court order does not need to be maintained once the records or reports have been released to the court.³⁴

VIII. S. Subpoena Issued by Federal Grand Jury

1. ADF&G may release confidential fisheries information in response to a subpoena issued by a federal grand jury.³⁵
2. The confidentiality of records or reports provided in response to a court order does not need to be maintained once the records or reports have been released to the court.³⁶
3. ADF&G staff should flag the information as confidential, but once information has been provided to the court, the court does not need to maintain its confidentiality. ADF&G staff must provide information by the appearance date. Failure to do so may result in being charged with contempt. If ADF&G staff have questions about the subpoena, please consult the Information Services section and the Department of Law for guidance.

VIII. T. Subpoena Issued by State Courts

1. ADF&G **CANNOT** release confidential information in response to a subpoena issued by state courts.
2. In order to avoid being held in contempt of court, ADF&G staff must respond to the subpoena but cannot provide confidential information. Consult with the Information Services section and the Department of Law on the correct content of the response.

VIII. U. Subpoena or Summons Issued by the Internal Revenue Service (IRS)

1. ADF&G may release confidential fisheries information in response to a subpoena or summons by the IRS.³⁷
2. A summons will describe the requested information, the format in which the response is requested (i.e., response by mail), the date the material must be received by, and the address that the material

³¹ This form is available on the Westward Region Wiki at:

http://kodweb.fishgame.state.ak.us/view/Wiki:Guides_and_HOWTOs:Observer_Data_Management:Releasing_Data_to_the_Public:Protocol

³² According to Attorney General Office advice dated 04/04/2016, "We need a court order from an Alaska court to release the records".

³³ According to Attorney General Office advice dated 10/14/1994 and July 1995, "Generally, a subpoena to produce records, signed by a court official who is not a judge, is not a "court order" under AS 16.05.815(a)(4), and fish tickets may not be released in response to a subpoena." **Note: the court order provision is now AS 16.05.815(a)(5).**

³⁴ AS 16.05.815(a) explicitly excludes the instances outlined in AS 16.05.815(a)(5) – (9) from the requirements to keep the records confidential once released. "...The department and the Alaska Commercial Fisheries Entry Commission may release the records and reports set out in this subsection to the recipients identified in this subsection if the recipient, ***other than a recipient under (5) – (9) of this subsection***, agrees to maintain the confidentiality of the records and reports..."(emphasis added). The release subsection that deals with court order is: **AS 16.05.815 (a)(5)**, "such records and reports as necessary to be in conformity with a court order";

³⁵ According to Attorney General Office advice dated 8/30/2002, "An exception is a subpoena issued by a federal grand jury. The Federal District Court of Alaska has ruled that, under the federal supremacy clause, the state must turn over documents requested by a federal grand jury subpoena notwithstanding the fact that they are confidential under state law."

³⁶ AS 16.05.815(a) explicitly excludes the instances outlined in AS 16.05.815(a)(5) – (9) from the requirements to keep the records confidential once released. "...The department and the Alaska Commercial Fisheries Entry Commission may release the records and reports set out in this subsection to the recipients identified in this subsection if the recipient, ***other than a recipient under (5) – (9) of this subsection***, agrees to maintain the confidentiality of the records and reports..."(emphasis added). The release subsection that deals with court order is: **AS 16.05.815 (a)(5)**, "such records and reports as necessary to be in conformity with a court order";

³⁷ According to Attorney General Office advice dated 3/17/1983 and 5/2/1984, "Under the Supremacy Clause of the U.S. Constitution, confidential information must be released to the IRS, but only if there is a subpoena or summons issued by the IRS (or it obtains a court order under AS 16.05.815(a)(4))" and advice dated 6/17/2002, "Although a subpoena does not go "stale" and can be re-presented several years later, it must accurately and specifically describe the documents that the requester desires. Thus, and IRS subpoena calling for "summary fish ticket data" does not support release of individual fish tickets." **Note: the court order provision is now AS 16.05.815(a)(5).**

should be sent to.³⁸ The date and address are identified as the place and time for appearance. Confidential data should be flagged as such and sent so it can be received by the appearance date. Failure to do so may result in being charged with contempt. If ADF&G staff question the IRS subpoena or are unable to comply within the specified timeframe, please contact Department of Law for guidance.

VIII. V. State of Alaska Legislative Budget and Audit Committee

1. ADF&G is authorized to release confidential fisheries information to the Legislative Budget and Audit Committee.³⁹
2. The confidentiality of information provided to the committee must be maintained by the Legislative Budget and Audit Committee.

VIII. W. Waived Confidentiality

ADF&G can release confidential fisheries information where confidentiality has been waived by the fisherman, buyer, or processor that the data relates to.

VIII. X. ADF&G Division of Commercial Fisheries Contractors

1. ADF&G is allowed to release confidential fisheries information to ADF&G Division of Commercial Fisheries contractors.⁴⁰
2. If confidential information will be used by division contractors to fulfill their commitment to ADF&G, the contract, reimbursable services agreement (RSA), or cooperative agreement between ADF&G and the contractor should contain language that outlines contractor responsibilities for maintaining the confidentiality of the data, for destroying or returning confidential data at the end of the contract, and defending ADF&G in any lawsuit that results from an unauthorized release of confidential data.
3. The contractor will be provided a copy of the division's confidentiality policy when the contract, RSA, or cooperative agreement is established.
4. Each contractor or employee of the contractor involved in the project will sign a *Contractor/Employee Agreement*⁴¹ form acknowledging their understanding and adherence to the responsibilities.

IX. Memorandums of Agreement for Confidential Data

ADF&G has entered into a number of memorandums of agreement (MOAs) with agencies identified in the confidentiality statute, AS 16.05.815(a), regarding access to confidential information concerning landings of fish, invertebrates, fishery products, or annual reports. The MOAs identify confidential information covered by each agreement and lists responsibilities of each party. The responsibilities provide additional guidelines on how confidential data should be handled.

³⁸ According to advice ADF&G received from the AG's office, "Under the Supremacy Clause of the U.S. Constitution, confidential information must be released to the IRS, but only if there is a subpoena or summons issued by the IRS (or it obtains a court order under AS 16.05.815(a)(4)[now AS 16.05.815(a)(5)]). (This advice is dated 3/17/1983 and 5/2/1984).

³⁹ According to Attorney General Office advice dated 3/27/1991, "CFEC should release to the Legislative Budget and Audit Committee fish ticket data and processor reports when the Committee intends to use the information in an audit that will determine why enhancement tax revenues are not consistent with the enhancement tax statute. Another statute authorizes the commission to receive confidential information, and it generally requires that the commission's audit reports and records be held confidential. Under those circumstances, the public purpose for receiving the information outweighs any constitutional privacy interest."

⁴⁰ According to Attorney General Office advice dated 3/21/2002, "Although ADF&G does not have an explicit right to share confidential information with its private contractors, they are indistinguishable from the department's own staff in having a legitimate need and use for the information. Thus, as long as the contractors enter into an agreement concerning their duties for handling confidential data, the department may release information to contractors but only to the extent that it is needed for fulfilling their contracts with the department."

⁴¹ A copy of the *Contractor/Employee Agreement* form and Contract Amendment is posted on the Information Services Confluence site: <https://www.admin.adfg.state.ak.us/confluence/display/CCFI/Confidentiality+Forms>

IX A. MOA Between ADF&G, CFEC, and NOAA

The MOA with ADF&G, CFEC, and the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration (NOAA) outlines conditions under which ADF&G will provide confidential state fisheries information to NMFS staff, and NMFS will provide confidential federal fisheries information to ADF&G staff.⁴²

IX. A. 1. ADF&G Terms

1. ADF&G may use confidential federal fisheries data for fishery management and monitoring purposes. Use of confidential data is limited to purposes related to conservation and management (including research and enforcement) of living marine resources.
2. Confidential data that ADF&G may access includes groundfish catch and production data, groundfish observer data, prohibited species catch, CDQ information, and harvest, survey data, economic data, Restricted Access Management (RAM) data, and other data.
3. A list of ADF&G staff, and its contractors, grantees, or agents, who may have access to confidential NMFS information, is maintained on the *Confidential Signers List* (see following section in this DOP). NMFS staff may only release confidential information to those individuals on the list.
4. The preferred procedure is to direct any requestor of federal fisheries data to NMFS. The reasoning for this is that the agency that collects the data is the best source of information for those data. ADF&G staff may only release confidential NMFS information in an aggregated format so the identity of a fisherman, buyer, processor, or other entity cannot be determined and entities cannot be associated with particular harvests, harvest locations, or purchases. Per the MOA definition, information must be aggregated in such a way as to represent **four** or more fishermen, vessels, buyers, processors, or entities. The MOA defines unaggregated data as, “groups based on an aggregation of similar data from less than four separate entities, and also includes data structured in such a way that it is apparent that the identity of the submitter can be determined either from release of the subject data or in combination with other releases that have occurred or that are anticipated.”

IX. A. 2. NMFS Terms

1. NMFS may use confidential state fisheries data for preparation and implementation (including related research activities and enforcement) of FMPs for the fisheries occurring in the waters of Alaska or in the waters of the EEZ adjacent to Alaska.
2. Confidential data NMFS may access includes fish ticket data, *Intent to Operate* data, *Commercial Operator's Annual Report* data, groundfish and shellfish observer data, crab survey data, and CFEC data.
3. A list of NMFS staff, and its contractors, grantees, or agents, who may have access to confidential ADF&G information, is maintained on the *Confidential Signers List* (see following section in this DOP). ADF&G staff may only release confidential information to individuals on the list.
4. NMFS staff may only release confidential ADF&G information in an aggregated format so the identity of a fisherman, buyer, processor, or other entity cannot be determined and entities cannot be associated with particular harvests, harvest locations, or purchases. Per the MOA definition, information must be aggregated in such a way as to represent **four** or more fishermen, vessels, buyers, processors, or entities. The MOA defines unaggregated data as, “groups based on an aggregation of similar data from less than four separate entities, and also includes data structured in such a way that it is apparent that the identity of the submitter can be determined either from release of the subject data or in combination with other releases that have occurred or that are anticipated.”

IX. B. MOA Between ADF&G and NPFMC

1. The MOA between ADF&G and the NPFMC outlines the conditions under which ADF&G will provide confidential fisheries information to council staff for preparation and implementation of FMPs for fisheries

⁴² A copy of the MOA between ADF&G, CFEC, and NOAA can be found here:
<https://www.admin.adfg.state.ak.us/confluence/display/CCFI/Confidentiality+MOAs+and+Cooperative+Agreements>

occurring in the waters of Alaska or in the waters of the EEZ adjacent to Alaska and how the council staff will protect the confidentiality of that information.⁴³

2. Shared confidential data includes fish ticket data, *Intent to Operate*, *Commercial Operator's Annual Report*, groundfish and shellfish observer data, crab stock abundance survey information, port sampling data, and CFEC gross earnings data.
3. A list of council staff, and council contractors, grantees, or agents, who may have access to confidential ADF&G information, is maintained on the *Confidential Signers List* (see following section in this DOP). ADF&G staff may only release confidential information to individuals on the list. The confidentiality statute and this MOA do not impart NPFMC council members the right to confidential state fisheries data.
4. Council staff may only release confidential information in an aggregated format so the identity of a fisherman, buyer, or processor cannot be determined and entities cannot be associated with particular harvests, harvest locations, or purchases. Per the MOA's definition of aggregated data, information must be aggregated in such a way as to represent **four** or more fishermen, vessels, buyers, or processors.

IX. C. MOA Between ADF&G, CFEC, and AKFIN

1. The MOA between ADF&G, CFEC, and PSMFC–AKFIN outlines conditions under which AKFIN staff may have access to confidential fisheries information for the purpose of furnishing information to users authorized by ADF&G and CFEC. The MOA also details how AKFIN staff will protect confidentiality of information.⁴⁴
2. Shared confidential data with AKFIN staff includes fish ticket data, *Intent to Operate*, *Commercial Operator's Annual Report*, groundfish and shellfish observer data, logbook data, survey data, port sampling data, and CFEC data.
3. A list of AKFIN staff, and AKFIN contractors, grantees, or agents, who may have access to confidential ADF&G information, is maintained on the *Confidential Signers List* (see following section in this DOP). ADF&G staff may only release confidential information to AKFIN staff on the list. AKFIN staff may then only release unaggregated confidential information to an individual listed on the *Confidential Signers List*.
4. AKFIN staff may also release confidential information in an aggregated format so the identity of a fisherman, buyer, or processor cannot be determined and entities cannot be associated with particular harvests, harvest locations, or purchases. Per the MOA's definition of aggregated data, information must be aggregated in such a way as to represent **four** or more fishermen, vessels, buyers, or processors. AKFIN uses processor code and not federal tax ID to count four processors. AKFIN staff should contact ADF&G before release of COAR data, so that ADF&G can verify more than three companies as defined by federal tax ID. Federal tax ID is data that AKFIN does not have.

X. Confidentiality Certificate Signers

The *Confidentiality Certificate Signers List*, often referred to as the *Confidential Signers List* is a list of agency staff, contractors, grantees, or agents, authorized to access confidential fisheries data of other agencies. The list was generated and is maintained as a condition of MOAs ADF&G has entered into with other agencies concerning confidential fisheries data sharing. An explanation of these MOAs can be found in the previous section of this DOP.

X. A. Individuals on the *Confidentiality Certificate Signers List*

1. ADF&G staff that have access to confidential federal fisheries data from NMFS.
2. ADF&G contractors, grantees, and agents have access to confidential state fisheries data from ADF&G and CFEC or confidential federal fisheries data from NMFS. The contract between ADF&G and the contractor, grantee, or agent must stipulate the confidential data they may access.
3. CFEC staff have access to confidential state fisheries data from ADF&G and confidential federal fisheries data from NMFS.

⁴³ For a copy of the MOA between ADF&G and NPFMC see:

<https://www.admin.adfg.state.ak.us/confluence/display/CCFI/Confidentiality+MOAs+and+Cooperative+Agreements>

⁴⁴ For a copy of the MOA between ADF&G, CFEC, and AKFIN see:

<https://www.admin.adfg.state.ak.us/confluence/display/CCFI/Confidentiality+MOAs+and+Cooperative+Agreements>

4. NMFS staff have access to confidential state fisheries data from ADF&G and CFEC. This includes staff of the Alaska Fishery Science Center (AFSC). The AFSC includes the Auke Bay and RACE Laboratories.
5. NMFS contractors, grantees, and agents have access to confidential state fisheries data from ADF&G and CFEC.
6. NPFMC staff have access to confidential state fisheries data from ADF&G and CFEC and confidential federal fisheries data from NMFS.
7. NPFMC contractors have access to confidential state fisheries data from ADF&G and CFEC and confidential federal fisheries data from NMFS.
8. AKFIN staff have access to confidential state fisheries data from ADF&G and CFEC and confidential federal fisheries data from NMFS.
9. AKFIN contractors, grantees, and agents have access to confidential state fisheries data from ADF&G and CFEC and confidential federal fisheries data from NMFS.
10. NOAA finance staff access confidential state fisheries data from ADF&G and CFEC for fishing capacity reduction programs, and are listed under the 'Other Federal Employees' heading on the *Confidential Signers List*.

X. B. ADF&G Staff That Require Access to Confidential Federal Fisheries Data

1. ADF&G staff that need confidential federal fisheries data in the course of their work must complete a *Certificate of Awareness* form and be listed on the *Confidential Signers List*. The *Certificate of Awareness* form states the employee has read the MOA between ADF&G, CFEC, and NOAA, is aware of its provisions for the use and protection of confidential federal fisheries information, and is aware of the possible consequences for the misuse of information.
2. A copy of the *Certificate of Awareness* form and each of the materials referenced in it are available on the Information Services Confluence site at:
<https://www.admin.adfg.state.ak.us/confluence/display/CCFI/Confidentiality+MOAs+and+Cooperative+Agreements>.
3. The signed and witnessed form should be returned to the Information Services section.

X. C. Distribution of the Confidentiality Certificate Signers List

1. The *Confidential Signers List* is updated periodically and distributed to regional supervisors, representatives from each of the agencies on the list, and any interested ADF&G staff. Once a year, each individual on the *Confidential Signers List* will be contacted via email to confirm their information is still valid.
2. The most recent version of the *Confidential Signers List* is available here:
http://www.adfg.alaska.gov/static/fishing/pdfs/commercial/confidential_signers_list.pdf.

X. D. How to Add Individuals to the Confidentiality Certificate Signers List

If ADF&G staff receive requests for confidential information from staff of CFEC, NMFS, NPFMC, AKFIN, or contractors, grantees, and agents of any of these agencies, they should only disclose the information to those personnel listed on the *Confidential Signers List*. If personnel are not on the list, but have a legitimate need to access confidential state fisheries data, have them work in conjuncture with the Information Services section and the confidentiality representative for their agency to be added to the list. A list of representatives and their contact information can be found on the Information Services Confluence site: <https://www.admin.adfg.state.ak.us/confluence/display/CCFI/Confidentiality+Certificate+Signers> .

Appendix I. AS 18.05.815:**Sec. 16.05.815. Confidential nature of certain reports and records.**

(a) Except as provided in (b) and (c) of this section, records required by regulations of the department concerning the landings of fish, shellfish, or fishery products, and annual statistical reports of fishermen, buyers, and processors required by regulation of the department are confidential and may not be released by the department or by the Alaska Commercial Fisheries Entry Commission except as set out in this subsection. The department may release the records and reports set out in this subsection to the Alaska Commercial Fisheries Entry Commission. The department and the Alaska Commercial Fisheries Entry Commission may release the records and reports set out in this subsection to the recipients identified in this subsection if the recipient, other than a recipient under (5) - (9) of this subsection, agrees to maintain the confidentiality of the records and reports. The department and the Alaska Commercial Fisheries Entry Commission may release

(1) any of the records and reports to the National Marine Fisheries Service and the professional staff of the North Pacific Fishery Management Council as required for preparation and implementation of the fishery management plans of the North Pacific Fishery Management Council within the exclusive economic zone;

(2) any of the records and reports to the professional staff of the Pacific States Marine Fisheries Commission who are employed in the Alaska Fisheries Information Network project for the purpose of exchanging information with users authorized by the department;

(3) any of the records and reports to the Department of Revenue to assist the department in carrying out its statutory responsibilities;

(4) records or reports of the total value purchased by each buyer to a municipality that levies and collects a tax on fish, shellfish, or fishery products if the municipality requires records of the landings of fish, shellfish, or fishery products to be submitted to it for purposes of verification of taxes payable;

(5) such records and reports as necessary to be in conformity with a court order;

(6) on request, the report of a person to the person whose fishing activity is the subject of the report, or to a designee of the person whose fishing activity is the subject of the report;

(7) on request, annual statistical reports of a fisherman, buyer, or processor to the fisherman, buyer, or processor whose activity is the subject of the report, or to a designee of the fisherman, buyer, or processor whose activity is the subject of the report;

(8) any of the records and reports to the Department of Public Safety for law enforcement purposes;

(9) fish tickets, fish ticket information, records required of sport fishing guides, and annual statistical reports of fishermen, buyers, and processors and information in those reports to the law enforcement personnel of the National Marine Fisheries Service and the National Oceanic and Atmospheric Administration for the purpose of enforcing fishery laws in waters of this state and in waters of the exclusive economic zone adjacent to this state;

(10) fish tickets, fish ticket information, and records required of sport fishing guides regarding halibut to the International Pacific Halibut Commission;

(11) any of the records and reports to the child support services agency created in AS 25.27.010, or the child support enforcement agency of another state, for child support purposes authorized under law;

(12) any of the records and reports to the Department of Natural Resources to assist the department in carrying out its statutory responsibilities in regard to sport fishing operations and sport fishing guides within the Kenai River Special Management Area under AS 41.21.500 - 41.21.514; and

(13) fish ticket information and records or reports of the total value purchased by each fisherman, buyer, or processor to the National Marine Fisheries Service for the purpose of enforcing the industry fee system of a fishing capacity reduction program under 16 U.S.C. 1861a (Magnuson-Stevens Fishery Conservation and Management Act).

(b) Except as provided in (c) of this section, records or reports received by the department which do not identify individual fishermen, buyers, or processors or the specific locations where fish have been taken are public information.

(c) Crab stock abundance survey information that reveals crab catch by sampling location is confidential and is not subject to inspection or copying under AS 40.25.110 - 40.25.120 until the close of the fishing season for which the survey was conducted.

(d) Except as otherwise provided in this section, the department shall keep confidential (1) personal information contained in fish and wildlife harvest and usage data; and (2) the records of the department that concern (A) telemetry radio frequencies of monitored species; (B) denning sites; (C) nest locations of raptors that require special attention; (D) the specific location of animal capture sites used for wildlife research or management; and (E) the specific location of fish and wildlife species. The department may release records and information that are kept confidential under this subsection if the release is necessary to comply with a court order, if the requestor is a state or federal agency, if the requestor is under contract with the state or federal agency to conduct research on a fish or wildlife population, or if the requestor has been authorized by the department to perform specific activities and agrees to use the records and information only for purposes as provided under a contract or agreement with the department. After 25 years, the records and information that are kept confidential under this subsection become public records subject to inspection and copying under AS 40.25.110 - 40.25.140 unless the department determines that the release of the records or information may be detrimental to the fish or wildlife population. In this subsection, "personal information" has the meaning given in AS 40.25.350.

Appendix II. AS 16.40.155, AS 16.40.170, and AS 16.40.199 (as of 1/2015)**Sec. 16.40.155. Records and reports confidential.**

Records required by statute or by a regulation adopted by the department concerning aquatic farm stocks or production, prices, and harvests of aquatic farm products and wild stocks, and annual statistical reports of individual aquatic farms or hatcheries required by statute or by a regulation adopted by the department are confidential and may not be released by the department, except that the department may release the records and reports

- (1) to the Department of Revenue and the Department of Natural Resources to assist the departments in carrying out their respective statutory responsibilities;
- (2) as necessary to comply with a court order;
- (3) provided by an aquatic farm or hatchery permit holder to the permit holder whose activity is the subject of the records or reports;
- (4) regarding cumulative annual harvests of wild stocks at individual aquatic farm sites. (§ 5 ch 13 SLA 2005)

Sec. 16.40.170. Penalty.

A person who violates a provision of AS 16.40.100 — 16.40.199, a regulation adopted under AS 16.40.100 — 16.40.199, or a term or condition of a permit issued under AS 16.40.100 — 16.40.199, is guilty of a class B misdemeanor. (§ 2 ch 145 SLA 1988)

Sec. 16.40.199. Definitions.

In AS 16.40.100 - 16.40.199

(1) “aquatic farm” means a facility that grows, farms, or cultivates aquatic farm products in captivity or under positive control; (2) “aquatic farm product” means an aquatic plant or shellfish, or part of an aquatic plant or shellfish, that is propagated, farmed, or cultivated in an aquatic farm and sold or offered for sale; (3) “aquatic plant” means a plant indigenous to state water or that is authorized to be imported into the state under a permit issued by the commissioner; (4) “commissioner” means the commissioner of fish and game; (5) “hatchery” means a facility for the artificial propagation of stock, including rearing of juvenile aquatic plants or shellfish; (6) “insignificant population” means a population of shellfish that, in the determination of the commissioner, would not attract and support a commercial fishery for that species of shellfish and the harvest and sale of the shellfish would not result in significant alteration in traditional fisheries or other existing uses of fish and wildlife resources if the population were included within an aquatic farm site; (7) “positive control” means, for mobile species, enclosed within a natural or artificial escape-proof barrier; for species with limited or no mobility, such as a bivalve or an aquatic plant, “positive control” also includes managed cultivation in unenclosed water; (8) “shellfish” means a species of crustacean, mollusk, or other invertebrate, in any stage of its life cycle, that is indigenous to state water or that is authorized to be imported into the state under a permit issued by the commissioner; (9) “stock” means live aquatic plants or shellfish acquired, collected, possessed, or intended for use by a hatchery or aquatic farm for the purpose of further growth or propagation. (§ 2 ch 145 SLA 1988; am § 6 ch 13 SLA 2005) Revisor’s notes. — Paragraph (6) was enacted as (9). Renumbered in 2005, at which time former paragraphs (6) — (8) were renumbered as (7) — (9). NOTES TO DECISIONS “Stock” implies growth through action. — By requiring stock to be intended for use for further growth or propagation, the statutory definition of “stock” demands something more than passive growth; its express terms command an intent to “use” the wild stock “for” further growth, and these purposive words unmistakably signal an intended use that will produce growth through action; a mere waiting period between issuance of a permit and commercial harvest would not meet this definition. Alaska Trademark Shellfish, LLC v. State, 91 P. 3d 953 (Alaska 2004).

Appendix III. AS 11.56.860:

Sec. 11.56.860. Misuse of confidential information.

(a) A person who is or has been a public servant commits the crime of misuse of confidential information if the person

(1) learns confidential information through employment as a public servant; and

(2) while in office or after leaving office, uses the confidential information for personal gain or in a manner not connected with the performance of official duties other than by giving sworn testimony or evidence in a legal proceeding in conformity with a court order.

(b) As used in this section, "confidential information" means information which has been classified confidential by law.

(c) Misuse of confidential information is a class A misdemeanor.

Appendix IV: Fish Ticket Archiving Procedures as of 1/2015***Fish Ticket Archiving Procedures***

The Commercial Fisheries Entry Commission is the designated records manager for ADF&G fish ticket records. Fish ticket records are retained by the Commission for 45 years. Fish ticket records are confidential as defined by AS 16.05.815 and 16.40.155.

- The fish tickets may be kept at the local Fish and Game office for 1 – 2 years before transfer to CFEC. Prior to transfer all fish tickets records shall be stored in a secure area, such as a lockable file cabinet or storage closet.

- The tickets should be mailed, return receipt (third class) to:

Commercial Fisheries Entry Commission
Attn: Managing Paralegal
8800 Glacier Highway, Suite 109
Juneau, AK 99801-8079

- In each box there should be a detailed listing with this information:
 - Fishery/Mgt Area
 - Year
 - Batch Number
 - Beginning and ending ticket numbers

- The Managing Paralegal, Jill Wood can be reached at: (907) 790-6951 if you have questions or need assistance with the transfer of records.

- If you plan to retain fish ticket records beyond 2 years, please contact Ms Woods to inform the Commission of the status of the records.

You are not required to complete a records transfer or archiving form. CFEC staff request a detailed listing be included in each box to verify the contents of the box. CFEC converts the tickets into archived boxes.

Please send Jill Wood an e-mail the day the boxes are mailed: Jill.wood@alaska.gov. A reply will be sent to you the day the tickets are received at CFEC.

Appendix V. State of Alaska New Hire Confidentiality of Information Acknowledgement Form



STATE OF ALASKA Confidentiality of Information Acknowledgment

In performing their duties, many employees/contractors have access to confidential personal or financial information concerning state employees or entities that do business with the state. It is important that persons with access to confidential information understand their duty to maintain the confidentiality of that information.

1. I, _____, am an employee / contractor of the Department of _____. I understand that, in performing my duties, I may have access to confidential information about state employees or entities that do business with the state. I agree that I will not discuss, disclose, or cause disclosure of any such confidential information to anyone who does not have a business need and a legal right to know the information.
2. I will handle and store confidential information in accordance with state and department policy.
3. I acknowledge that I could suffer disciplinary action, including discharge from state employment, and, in certain circumstances, face criminal penalties for revealing confidential information to someone who does not have both a business need and a legal right to know the information, or for misusing confidential information. If I do not know whether a person requesting confidential information is entitled to receive the information, I will consult my supervisor.

Examples of confidential information covered by this acknowledgement:

- Personnel information covered by AS 39.25.080 (see page 2), as well as information such as social security numbers, birth dates, home addresses/phone numbers, leave balances, personnel actions, investigations, grievances, applications, appeals, or any other personnel matter, and other state business that is confidential under statute.
- All information that is confidential by law, including but not limited to tax matters and beneficiary programs.
- Information that by its nature must be secured to prevent harm to the state or its business partners, including but not limited to credit card information and vendor tax information.

Certification Statement: By signing below I acknowledge that I have read and understand the information included in this acknowledgement.

Printed Name

Signature

Date



STATE OF ALASKA

Confidentiality of Information Acknowledgment

Alaska Statute 39.25.080

Sec. 39.25.080. Personnel records confidential; exceptions.

(a) State personnel records, including employment applications and examination and other assessment materials, are confidential and are not open to public inspection except as provided in this section.

(b) The following information is available for public inspection, subject to reasonable regulations on the time and manner of inspection:

- (1) The names and position titles of all state employees;
- (2) The position held by a state employee;
- (3) Prior positions held by a state employee;
- (4) Whether a state employee is in the classified, partially exempt, or exempt service;
- (5) The dates of appointment and separation of a state employee;
- (6) The compensation authorized for a state employee; and
- (7) Whether a state employee has been dismissed or disciplined for a violation of AS 39.25.160 (l) (interference or failure to cooperate with the Legislative Budget and Audit Committee).

(c) A state employee has the right to examine the employee's own personnel files and may authorize others to examine those files.

(d) An applicant for state employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used in future examinations.

(e) In addition to any access to state personnel records authorized under (b) of this section, state personnel records shall promptly be made available to the child support services agency created in AS 25.27.010 or the child support enforcement agency of another state. If the record is prepared or maintained in an electronic data base, it may be supplied by providing the requesting agency with access to the data base or a copy of the information in the data base and a statement certifying its contents. The agency receiving information under this subsection may use the information only for child support purposes authorized under law.

Alaska Statute 39.25.900

Sec. 39.25.900. Penalties.

(a) A person who willfully violates a provision of this chapter or of the personnel rules adopted under this chapter is guilty of a misdemeanor.

(b) A state employee who is convicted of a misdemeanor under this chapter or the personnel rules adopted under this chapter immediately forfeits the employee's office or position.

The Alaska Whistleblower Act

The Alaska Whistleblowers Act (AS 39.90.100 — 39.90.150) prohibits public employers from discharging, threatening, or otherwise discriminating against employees for reporting matters of public concern to a public body. The whistleblower protection extends to those who have made — or are about to make — reports on matters of public concern, as well as those who participate in court actions, investigations, hearings, or inquiries on matters of public concern.

A "matter of public concern" means a violation of state, federal, or municipal law, regulation, or ordinance; a danger to public health or safety; gross mismanagement, substantial waste of funds, or clear abuse of authority; a matter that the office of the ombudsman has accepted for investigation; or interference or failure to cooperate with the Legislative Budget and Audit Committee.

A "public body" means an officer or agency of the federal government, the state, a political subdivision of the state, a public or quasi-public corporation or authority established by state law, or the University of Alaska. Consequently, whistleblower protection could apply to a state employee's report to his or her own employer.

Whistleblower protection applies only when the reporting person reasonably believes that the information reported is or is about to become a matter of public concern and the person reports the matter in good faith. The protection does not apply if the matter of public concern is the result of the reporting person's own conduct, unless the reporting person's employer required that conduct.