

Alaska Department of Fish and Game

2022 –2023 Statewide Commercial Groundfish Fishing Regulations



This booklet contains regulations regarding **COMMERCIAL GROUND FISH FISHERIES** in the State of Alaska. This booklet covers the period July 2022 through March 2025 or until a new book is available following the Board of Fisheries meetings.

Note to Readers: These statutes and administrative regulations were excerpted from the Alaska Statutes (AS), and the Alaska Administrative Code (AAC) based on the official regulations on file with the Lieutenant Governor. There may be errors or omissions that have not been identified and changes that occurred after this printing. **This booklet is only effective through the printing date of 10/15/2022. To be certain of the current laws, refer to the official statutes and the AAC. An electronic version, that is updated often, is available on the ADF&G website located here:**

<https://adfg.alaska.gov/index.cfm?adfg=fishregulations.commercial>

Changes to Regulations in this booklet: The regulations appearing in this booklet may be changed by subsequent board action, emergency regulation, or emergency order at any time. Supplementary changes to the regulations in this booklet will be available on the department's website and at offices of the Department of Fish and Game.

For information or questions regarding regulations, requirements to participate in commercial fishing activities, allowable activities, other regulatory clarifications, or questions on this publication please contact the Regulations Program Coordinator at (907) 465-6124 or email dfg.fish.regulations@alaska.gov

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ADF&G Mission Statement

The Alaska Department of Fish and Game’s mission is to manage, protect, maintain, and improve the fish, game and aquatic plant resources of Alaska. The primary goals are to ensure that Alaska’s renewable fish and wildlife resources and their habitats are conserved and managed on the sustained yield principle, and the use and development of these resources are in the best interest of the economy and well-being of the people of the state.

Guiding Principles

- Seeking excellence in carrying out its responsibilities under state and federal law, the department will:
- Provide for the greatest long-term opportunities for people to use and enjoy Alaska’s fish, wildlife and habitat resources.
- Improve public accessibility to, and encourage active involvement by the public in, the department’s decision making processes.
- Build a working environment based on mutual trust and respect between the department and the public, and among department staff.
- Maintain the highest standards of scientific integrity and provide the most accurate and current information possible.
- Foster professionalism in department staff, promote innovative and creative resource management, and provide ongoing training and education for career development.

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Sitka 304 Lake Street, Room 103 Sitka, AK 99835; 907-747-6688
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Region 2: Central: Cook Inlet, Bristol Bay, Prince William Sound

Anchorage 333 Raspberry Road Anchorage, AK 99518; 907-267-2105 option 1
Cordova 401 Railroad Avenue Cordova, AK 99574; 907-424-3212
Dillingham 546 Kenny Wren Rd, Dillingham, AK 99576; 907-842-5227
Homer 3298 Douglas Place Homer, AK 99603; 907-235-8191

Region 3: Interior, Yukon, Kuskokwim, Norton Sound

Fairbanks 1300 College Road Fairbanks, AK 99701; 907-459-7274
Nome 103 E Front Street Nome, AK 99762; 907-443-5167, option 1
Kotzebue 160 2nd Ave Kotzebue, AK 99752; 907-442-3420

Region 4: Westward Kodiak, Alaska Peninsula, Aleutian Islands

Kodiak 351 Research Court, Kodiak AK 99615; 907-486-1825
Dutch Harbor, 2315 Airport Beach Rd # 207, Dutch Harbor, AK 99692; 907-521-1239

Seasonal Offices:

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Please note that in the electronic version the above Chapters and Articles are linked to where they are contained within this document.

2022 Revisions:

Chapter 28. Groundfish Fishery.

5 AAC 28.051

5 AAC 28.106

5 AAC 28.130

5 AAC 28.165

5 AAC 28.171

5 AAC 28.267

5 AAC 28.271

5 AAC 28.272

Chapter 39. General Provisions.

5 AAC 39.143

Chapter 28. Groundfish Fishery.

Article

- [1. Registration Areas. \(5 AAC 28.001 - 5 AAC 28.005\)](#)
- [2. General Specifications. \(5 AAC 28.010 - 5 AAC 28.089\)](#)
- [3. Prohibitions. \(5 AAC 28.090 - 5 AAC 28.092\)](#)
- [4. Eastern Gulf of Alaska Area \(Registration Area A\). \(5 AAC 28.100 - 5 AAC 28.195\)](#)
- [5. Prince William Sound Area \(Registration Area E\). \(5 AAC 28.200 - 5 AAC 28.272\)](#)
- [6. Cook Inlet Area \(Registration Area H\). \(5 AAC 28.300 - 5 AAC 28.379\)](#)
- [7. Kodiak Area \(Registration Area K\). \(5 AAC 28.400 - 5 AAC 28.485\)](#)
- [8. Chignik Area \(Registration Area L\). \(5 AAC 28.500 - 5 AAC 28.549\)](#)
- [9. South Alaska Peninsula Area \(Registration Area M\). \(5 AAC 28.550 - 5 AAC 28.589\)](#)
- [10. Bering Sea - Aleutian Islands Area \(Registration Area O\). \(5 AAC 28.600 - 5 AAC 28.690\)](#)
- [11. Chukchi-Beaufort Area \(Registration Area Y\). \(5 AAC 28.700 - 5 AAC 28.732\)](#)
- [12. Definitions. \(5 AAC 28.975 - 5 AAC 28.975\)](#)

Article 1. Registration Areas.

5 AAC 28.001. Application of this chapter

Requirements set out in this chapter apply only to commercial fishing for groundfish, unless otherwise specified. Subsistence, personal use, and sport fishing regulations affecting commercial groundfish fishing vessels or affecting any other commercial groundfish fishing activity are set out in the subsistence fishing regulations in 5 AAC 01 and 5 AAC 02, personal use fishing regulations in 5 AAC 77, and sport fishing regulations in 5 AAC 47 - 5 AAC 75.

5 AAC 28.005. Registration areas established

- (a) The following are the groundfish registration areas and their code letters:

Code Letter

A - Eastern Gulf of Alaska Area (5 AAC 28.100)

E - Prince William Sound Area (5 AAC 28.200)

H - Cook Inlet Area (5 AAC 28.300)

K - Kodiak Area (5 AAC 28.400)

L - Chignik Area (5 AAC 28.500)

M - South Alaska Peninsula Area (5 AAC 28.550)

O - Bering Sea-Aleutian Islands Area (5 AAC 28.600)

Y - Chukchi-Beaufort Area (5 AAC 28.700).

(b) During a state-waters season defined in 5 AAC 28.081(c)(4), each registration area identified in (a) of this section shall be designated as a superexclusive, exclusive, or nonexclusive registration area for Pacific cod.

(c) Unless otherwise specified in this chapter, a vessel that has been validly registered to take Pacific cod in an exclusive registration area may not be used to take Pacific cod in any other exclusive registration area during the same registration year.

(d) During a registration year, a vessel may be registered to take Pacific cod in one or more nonexclusive registration areas and may be registered to take Pacific cod in one exclusive registration area.

(e) A vessel that has been validly registered to take Pacific cod in

(1) a superexclusive registration area may not be used to take Pacific cod in any other registration area during the same registration year;

(2) an exclusive or nonexclusive registration area may not be used to take Pacific cod in a superexclusive registration area during the same registration year.

Article 2. General Specifications.

5 AAC 28.010. Application of groundfish regulations

(a) The regulations in 5 AAC 28 also apply to the adjoining waters of the exclusive economic zone for all

(1) groundfish species, or groundfish species in an area, not included in the federal groundfish management plan; or

(2) groundfish species for which a federal management plan delegates authority to the state to manage a groundfish fishery in the exclusive economic zone.

(b) For the purposes of this section, "exclusive economic zone" means all the waters adjacent to a registration area and seaward to a boundary line drawn in such a manner that each point on the line is 200 nautical miles from the baseline from which the territorial sea is measured.

5 AAC 28.020. Groundfish area registration

(a) Before a person uses a vessel to operate groundfish gear in the territorial waters of Alaska, except for the Eastern Gulf of Alaska registration area, the vessel owner or the owner's authorized agent shall register the vessel with the department. However, the commissioner may waive this registration requirement for a specific fishery or season if the commissioner considers waiver to be necessary.

(b) Unless otherwise specified in this chapter, a vessel may be registered to fish for groundfish in one or more registration areas in a calendar year except that

(1) a vessel may not be validly registered for more than one groundfish registration area at a time;

(2) a vessel validly registered in a Pacific cod exclusive registration area during a state-waters season defined in 5 AAC 28.081(c)(4), may not be used to take Pacific cod in any other exclusive registration area or a superexclusive registration area during a state-waters season;

(3) a vessel validly registered in a Pacific cod superexclusive registration area during a state-waters season defined in 5 AAC 28.081(c)(4), may not be used to take Pacific cod in any other registration area during a state-waters season;

(4) a vessel validly registered to take black rockfish in a

(A) superexclusive registration area may not be used to take black rockfish in any other registration area in the same calendar year;

(B) nonexclusive registration area may not be used to take black rockfish in a superexclusive registration area in the same calendar year.

(c) Before operating groundfish gear within a registration area, the vessel owner, or the owner's authorized agent, shall complete the registration requirements in person, or by mail, facsimile transmission, or electronic mail, at a department office located within the registration area, unless otherwise specified by the department. A completed form validated by the department satisfies the registration requirements. In the form, the department may require check-in and check-out procedures for specified fishing periods or subsections within the registration area. A copy of the completed form must be retained on board a vessel operating groundfish gear in the registration area.

(d) Before registering for another registration area, the vessel operator shall check out of the current registration area by contacting in person, or by telephone, facsimile transmission, electronic mail, or radio, a department representative at an office located within that registration area. Delay in validation of subsequent registration forms in other areas may result if check out has not been accomplished.

(e) A valid registration becomes invalid

(1) 24 hours after the close of the groundfish season in a registration area; or

(2) upon validation of registration for another groundfish registration area.

(f) Groundfish legally taken in one registration area may be landed in another registration area without check out and re-registration if the vessel operator intends to return the vessel to the registration area where validly registered to continue fishing for groundfish and does not fish for groundfish in any other registration area.

(g) In registration areas where a permit issued by the commissioner is required before operating gear to take groundfish, the permit completes the registration, and the requirements of (d) and (e) of this section do not apply.

(h) Repealed 4/4/97.

(i) Repealed 4/4/97.

5 AAC 28.033. Tenders for groundfish

(a) Before engaging in a tendering operation for groundfish, the operator of a tendering vessel shall register that vessel with a local representative of the department who is located in the groundfish registration area, district, or section in which the vessel will be tendering.

(b) Before a vessel used to tender groundfish leaves the groundfish registration area, district, or section for which it is registered, the operator of the tendering vessel shall contact, in person or by radio or telephone, a local representative of the department who is located in the registration area, district, or section where the vessel is operating. At the time of the contact with the representative, the tendering vessel operator shall state the number and pounds of groundfish on board the vessel and the vessel's unloading destination.

5 AAC 28.050. Lawful gear for groundfish

(a) Unless otherwise provided or restricted by specific groundfish regulations in this chapter, groundfish may be taken only by trawls, hand troll gear, seines, mechanical jigging machines, dinglebar troll gear, longlines, or pots, except that

(1) king and Tanner crab pots as described in 5 AAC 34.050(2) and 5 AAC 35.050(2) may not be used to take groundfish;

(2) repealed 5/31/98.

(b) All commercial longline or skate gear buoys, or kegs and buoys for groundfish pots, must be marked with the permanent ADF&G vessel license plate number of the vessel operating the gear.

(c) Repealed 5/31/98.

(d) Repealed 6/15/95.

(e) A groundfish pot is a pot with individual tunnel eye openings with perimeters 36 inches or less.

(f) Pot or buoy identification requirements for groundfish pots are as follows:

(1) in a registration area or a portion of a registration area where a groundfish pot limit is in effect, each groundfish pot must have one identification tag issued by the department placed on the main buoy or on the trailer buoy if more than one buoy is attached to the pot; the main or trailer buoy may not display more than one tag issued under this subsection, and that tag must be the one that was issued for the year that the fishery is occurring;

(2) identification tags are issued before each fishing season, are uniquely numbered for each registration year, and will be issued at the time of vessel registration for that vessel only; the vessel owner, or the owner's agent, shall apply for identification tags at a department office designated to issue the tags; replacement of tags lost during the season is permitted if the vessel operator submits a sworn statement or affidavit, by mail, facsimile, or in person, to a department office designated to issue tags, describing how the tags were lost and listing the numbers of the lost tags; tags shall be renewed annually before each fishing season.

5 AAC 28.051. Gear for halibut

(a) Unless otherwise specified in this chapter, halibut may be taken only by hand troll gear, mechanical jigging machines, dinglebar troll gear, pots, and longlines.

(b) All commercial buoys or kegs must be marked with the permanent vessel license plate number of the vessel operating the gear.

(c) A vessel registered for another pot fishery that has a pot limit in effect may not have on board or in the water more pots in the aggregate allowed in that fishery.

5 AAC 28.055. Seabird avoidance measures in groundfish fisheries

When commercial fishing for groundfish with a longline in state waters, the operator of a vessel that is greater than 26 feet in overall length shall comply with the seabird avoidance measures described in 50 C.F.R. 679.24, revised as of April 27, 2009 and adopted by reference. For the purposes of this section, "overall length" means the straight line length between the extremities of the vessel, excluding the anchor rollers.

5 AAC 28.070. Groundfish possession and landing requirements

(a) Unless otherwise provided in this chapter,

(1) in a groundfish fishery, a CFEC permit holder may not have on board a vessel operated by that permit holder, bycatch of any other species or species group of groundfish;

(2) in a halibut fishery, a CFEC permit holder may not have on board a vessel operated by that permit holder, bycatch of any species or species group of groundfish.

(b) Notwithstanding (a) of this section or any other provision of this chapter, during times when the commissioner determines it necessary for conservation of the resource, to avoid waste of a bycatch species, to prevent overharvest of a bycatch species, or to facilitate consistency of state and federal regulations for a species, the commissioner may close and reopen fishing seasons to provide for changes to groundfish bycatch levels, as provided in this subsection. The commissioner may, by emergency order, close a directed groundfish season and immediately reopen a season during which a CFEC permit holder may have on board a bycatch level of another groundfish species, established by the commissioner and stated in the emergency order, of up to 20 percent, by weight, of the directed groundfish species on board the vessel. Regarding a directed halibut fishery, the commissioner may, by emergency order, close and immediately reopen the fishing season for a bycatch groundfish species during which a CFEC halibut permit holder may have on board a bycatch level of that groundfish species, established by the commissioner and stated in the emergency order, of up to 20 percent, by weight, of the halibut on board the vessel. If a CFEC permit holder has on board the permit holder's vessel fish taken in more than one directed fishery for which a bycatch level has been established under this subsection, each applicable bycatch level percentage is applied to the weight of the fish taken in the applicable directed fishery and the resulting amounts are added together to determine the total weight of the bycatch species that may be on board the vessel.

(c) In the waters of Alaska,

(1) a CFEC permit holder who has a groundfish species on board the permit holder's vessel may not operate groundfish gear in an area in which the taking of that species of groundfish is prohibited;

(2) a CFEC permit holder, while taking fish in an area or having taken fish in an area during the same trip, may not have on board the permit holder's vessel an aggregate amount of a groundfish species that exceeds the amount allowed by regulation for that area, regardless of where the groundfish were taken.

(d) Notwithstanding any other provision of this chapter, if the operator of a catcher-processor vessel has written authorization from the department, the operator may retain on board the vessel an amount of processed fish that exceeds a limit set by this chapter. The department will issue the written authorization if completed fish tickets for all fish on board the vessel have been submitted to the department or an authorized department

representative before the beginning of the next fishing period in which the operator intends to fish.

(e) Notwithstanding any other provision of this section, a CFEC permit holder operating a vessel fishing for groundfish shall bring on board the vessel all Pacific cod and walleye pollock caught while operating the vessel. The permit holder or a crewmember may not take any action intended to discard or release Pacific cod or walleye pollock before the fish is brought on board the vessel. The permit holder shall retain

(1) all Pacific cod brought on board a vessel when a directed fishery for Pacific cod is open and all Pacific cod brought on board a vessel up to the maximum retainable bycatch of Pacific cod when a directed fishery for Pacific cod is closed;

(2) all walleye pollock brought on board a vessel when a directed fishery for walleye pollock is open and all walleye pollock brought on board a vessel up to the maximum retainable bycatch of walleye pollock when a directed fishery for walleye pollock is closed.

(f) Partial deliveries of groundfish may occur as follows:

(1) a CFEC permit holder landing groundfish shall notify the processor of any groundfish remaining on board the vessel after the delivery, and the processor shall report the landing as a partial delivery with the eLandings system or on an ADF&G fish ticket;

(2) except for a reported partial delivery,

(A) a person delivering groundfish to a processor shall land all groundfish on board the vessel;

(B) a processor that accepts delivery of or purchases groundfish from a vessel shall sort and weigh by species all groundfish landed by a vessel, and groundfish may be returned to a vessel only after the landing is reported as specified in 5 AAC 39.130;

(3) groundfish that remains on board, or is returned to, a vessel may not be designated as discarded at sea for eLanding or ADF&G fish ticket purposes;

(4) after making a partial delivery, a vessel operator may not offload any groundfish remaining on board the vessel unless making a final delivery and landing all groundfish from the vessel.

5 AAC 28.073. Trip limits for commercial walleye pollock vessels

In the state waters between 140° W. long. and 170° W. long., a person may not harvest from, off-load from, or retain on board a catcher vessel, during a calendar day, more than 300,000 pounds of unprocessed walleye pollock, or retain on board a tender vessel, during a calendar day, more than 600,000 pounds of unprocessed walleye pollock, harvested in the state waters adjacent to the federal waters of the Western, Central, and a

portion of the Eastern Gulf of Alaska Areas described in 50 C.F.R. 679, Figure 3, revised as of May 21, 2009, adopted by reference.

5 AAC 28.075. Utilization of walleye pollock and Pacific cod taken in a commercial fishery

(a) A processor or processor's agent that accepts delivery of or purchases groundfish from a vessel shall accept delivery of all walleye pollock and Pacific cod retained by the vessel under 5 AAC 28.070(e).

(b) A processor that accepts delivery of or purchases walleye pollock and Pacific cod retained under 5 AAC 28.070(e) shall utilize a portion of each fish in order to achieve at least 15 percent utilization of the flesh by weight based on the total weight of the walleye pollock or Pacific cod accepted or purchased.

(c) In this section,

(1) "flesh" has the meaning given in AS 16.10.165(e), and does not include roe;

(2) "utilization" means use of the flesh of walleye pollock or Pacific cod by processing it for human consumption, for reduction to meal, for production of food for domestic animals or fish, for bait, or for scientific, display, or educational purposes.

5 AAC 28.081. State-Waters Pacific Cod Management Plans

(a) This section applies to the management plans for Pacific cod as set out for the Prince William Sound Area (5 AAC 28.267), Cook Inlet Area (5 AAC 28.367), Kodiak Area (5 AAC 28.467), Chignik Area (5 AAC 28.537), South Alaska Peninsula Area (5 AAC 28.577), and Bering Sea - Aleutian Islands Area (5 AAC 28.647 and 5 AAC 28.648).

(b) Annual guideline harvest levels set out in these management plans depend on the Pacific cod stock assessments conducted by the National Marine Fisheries Service (NMFS).

(c) As used in this chapter, the term

(1) "estimated total allowable harvest" means the annual acceptable biological catch (ABC) established by the North Pacific Fishery Management Council (NPFMC) for Gulf of Alaska and Bering Sea and Aleutian Islands Pacific cod stocks, including the harvest of Pacific cod in a state-waters season defined in this subsection;

(2) "federal season" means a Pacific cod fishing season set by the NPFMC and implemented in the federal waters by the NMFS;

(3) "parallel season" means a Pacific cod fishing season in state waters established by the commissioner, under emergency order authority, to correspond with the times, and unless otherwise specified, the gear of the federal season in adjacent federal waters;

(4) "state-waters season" mean a Pacific cod fishing season in the waters of Alaska that occurs under a guideline harvest level;

(5) "federal Eastern Gulf of Alaska" means the Eastern Gulf of Alaska regulatory area as defined for the federal waters by the NPFMC;

(6) "federal Central Gulf of Alaska" means the Central Gulf of Alaska regulatory area as defined for the federal waters by the NPFMC;

(7) "federal Western Gulf of Alaska" means the Western Gulf of Alaska regulatory area as defined for the federal waters by the NPFMC;

(8) "federal Bering Sea and Aleutian Islands" means the Bering Sea and Aleutian Islands regulatory area as defined for the federal waters by the NPFMC and includes the

(A) "Aleutian Islands Subarea" as defined for the federal waters by the NPFMC;
and

(B) "Bering Sea Subarea" as defined for the federal waters by the NPFMC;

(9) "overall length" means the straight line length between the extremities of the vessel, excluding anchor rollers;

(10) "working day" means a day other than Saturday, Sunday, or a state holiday.

(d) A guideline harvest level specified within an area management plan for Pacific cod in this chapter will be considered to have been achieved in any calendar year if the total harvest is within 10 percent of the guideline harvest level.

5 AAC 28.083. Permit requirements for skates and rays

(a) Except as otherwise specified in this chapter or when taken as allowable bycatch in another directed fishery, skates and rays may be taken only under the conditions of a permit issued by the commissioner. The permit may

(1) restrict the depth of fishing operations;

(2) specify season dates;

(3) specify areas of fishing operations by district, subdistrict, or other portions of a registration area;

(4) establish minimum size limits;

(5) specify the type and configuration of gear;

(6) require the completion of logbooks, provided by the department, and require that the logbooks be attached to a fish ticket at the time of landing; and

(7) require other conditions determined by the commissioner to be necessary for conservation and management purposes.

(b) For the purpose of this section, "skates and rays" are species of the order Rajiformes.

5 AAC 28.084. Fishing seasons, landing requirements, and utilization for sharks

(a) There is no open season for sharks, except sharks may be retained bycatch as specified in 5 AAC 28.070(b).

(b) For the purpose of this section, "sharks" are species of the order Lamniformes, Squaliformes, and Carcharhiniformes.

(c) A person that retains any species of shark as bycatch and sells or retains any species of shark, must sell or utilize the shark. All harvested sharks must have fins, head, and tail attached at the time of sale. In this subsection, "utilize" means use of the flesh of the shark for human consumption, for reduction to meal for production of food for animals or fish, for bait, or for scientific, display, or educational purposes.

5 AAC 28.085. Application of regulations

The regulations in this chapter regarding lingcod fishing also apply in the adjoining waters of the exclusive economic zone.

5 AAC 28.086. Parallel groundfish fishery emergency order authority

(a) In addition to the provisions of this chapter and the reporting requirements specified in 5 AAC 39.130, and notwithstanding any contrary provisions of this chapter, the commissioner may open and close, by emergency order, a parallel groundfish fishery during which area closures, gear and vessel size restrictions, and bycatch control measures may be imposed as the commissioner determines are reasonably necessary to correspond with federal groundfish fishery management measures in adjacent federal waters.

(b) For the purposes of this section, "parallel groundfish fishery" means a groundfish fishery in state waters opened by the commissioner, by emergency order, to correspond with a federal groundfish fishery in adjacent federal waters.

5 AAC 28.087. Management measures in parallel groundfish fisheries for protection of Steller sea lions

(a) Notwithstanding the provisions of this chapter, in managing the parallel groundfish fisheries, the commissioner may open and close, by emergency order, fishing seasons during which area closures, gear restrictions, vessel size limits, reporting, monitoring, and enforcement requirements may be imposed to match federal fishery management measures for the protection of Steller sea lions.

(b) Notwithstanding (a) of this section, during a parallel season for Pacific cod

(1) in the Kodiak Area, the waters within three nautical miles of the Steller sea lion haul out at Cape Barnabas (57° 10.20' N. lat., 152° 53.05' W. long.) shall be open to pot and mechanical jigging machine gear;

(2) in the South Alaska Peninsula Area, the waters within three nautical miles of the Steller sea lion haul out at Caton Island (54° 22.70' N. lat., 162° 21.30' W. long.) shall be open to pot and mechanical jigging machine gear; and

(3) in the Bering Sea - Aleutian Islands Area, the state waters between 175° W. long. and 178° W. long. shall be open to fishing with trawl, pot, mechanical jigging machine, and hand troll gear by vessels that are no more than 60 feet in overall length, and to fishing with longline gear by vessels that are no more than 58 feet in overall length, of which the Steller sea lion protection measures found in Table 5 to 50 C.F.R. 679, (69 Federal Register 75865, December 20, 2004) apply, except that all waters within three nautical miles of the Steller sea lion site at Kanaga Island/Ship Rock at 51° 46.70' N. lat., 177° 20.72' W. long. are closed to the taking of Pacific cod; for the purposes of this paragraph, "overall length" means the straight line length between extremities of the vessel, excluding anchor rollers.

(4) in the Chignik Area, the state waters within 20 nautical miles of the Steller sea lion haul out at Sutwik Island (56° 31.05' N. lat., 157° 20.47' W. long.) shall be open to pot gear, except for waters within three nautical miles of the Steller sea lion haul out at Sutwik Island (56° 31.05' N. lat., 157° 20.47' W. long.).

(c) In state waters west of 144° W. long., a vessel participating in a parallel groundfish fishery must have on board the vessel an activated vessel monitoring system (VMS) approved by the National Marine Fisheries Service. A vessel using only mechanical jigging machines, hand troll gear, or dinglebar troll gear is not required to have a VMS on board the vessel.

(d) For the purposes of this section, "parallel groundfish fisheries" means the Pacific cod, walleye pollock, and Atka mackerel fisheries in state waters opened by the commissioner, under emergency order authority, to correspond with the times, area, and unless otherwise specified, the gear of the federal season in adjacent federal waters.

Article 3. Prohibitions.

5 AAC 28.090. Limitations while fishing for shellfish

(a) A validly registered king crab fishing vessel may not be used to take groundfish with pots in an area closed to the taking of king crab.

(b) A validly registered shrimp trawl vessel may not be used to take groundfish with trawls in an area closed to the taking of shrimp with trawls.

(c) A validly registered Tanner crab fishing vessel may not be used to take groundfish with pots in an area closed to the taking of Tanner crab.

(d) A validly registered Dungeness crab fishing vessel may not be used to take groundfish with pots in an area closed to the taking of Dungeness crab.

5 AAC 28.092. Limitations for halibut

No person may take or possess for commercial purposes any species of halibut (genus *Hippoglossus*) in a manner inconsistent with the regulations of the International Pacific Halibut Commission.

Article 4. Eastern Gulf of Alaska Area (Registration Area A).

5 AAC 28.100. Description of Eastern Gulf of Alaska Area

The Eastern Gulf of Alaska Area consists of all waters of Alaska described in 5 AAC 39.975(13) east of 144° W. long., and to the extent provided in 5 AAC 28.010, waters of the adjacent exclusive economic zone east of 144° W. long.

5 AAC 28.105. Description of Eastern Gulf of Alaska Area districts, subdistricts, sections, and sectors

(a) Southeast District: all waters described in 5 AAC 28.100.

(1) Southern Southeast Inside (SSEI) Subdistrict: All waters of Dixon Entrance, Clarence Strait, Ernest Sound, Behm Canal, Bradfield Canal, Sumner Strait, Cordova Bay, Tlevak Strait, Bucarelli Bay, Gulf of Esquibel, Davidson Inlet, Sea Otter Sound, Stikine Strait, Blake Channel, Zimovia Strait, Eastern Passage, and contiguous bays and inlets and that portion of Frederick Sound, bordered by a line from 54° 43.50' N. lat., 130° 37.62' W. long. to 54° 43.40' N. lat., 130° 37.65' W. long. to 54° 43.25' N. lat., 130° 37.73' W. long. to 54° 43' N. lat., 130° 37.92' W. long. to 54° 42.97' N. lat., 130° 37.95' W. long. to 54° 42.78' N. lat., 130° 38.10' W. long. to 54° 42.37' N. lat., 130° 38.43' W. long. to 54° 41.15' N. lat., 130° 38.97' W. long. to 54° 39.90' N. lat., 130° 38.97' W. long. to 54° 39.23' N. lat., 130° 39.30' W. long. to 54° 39.80' N. lat., 130° 41.58' W. long. to 54° 40.05' N. lat., 130° 42.37' W. long. to 54° 40.70' N. lat., 130° 44.72' W. long. to 54° 40.68' N. lat., 130° 44.98' W. long. to 54° 40.77' N. lat., 130° 45.85' W. long. to 54° 41.10' N. lat., 130° 48.52' W. long. to 54° 41.08' N. lat., 130° 49.28' W. long. to 54° 41.35' N. lat., 130° 53.30' W. long. to 54° 41.43' N. lat., 130° 53.65' W. long. to 54° 42.45' N. lat., 130° 56.30' W. long. to 54° 42.57' N. lat., 130° 57.15' W. long. to 54° 43' N. lat., 130° 57.68' W. long. to 54° 43.77' N. lat., 130° 58.92' W. long. to 54° 44.20' N. lat., 130° 59.73' W. long. to 54° 45.65' N. lat., 131° 03.10' W. long. to 54° 46.27' N. lat., 131° 04.72' W. long. to 54° 42.18' N. lat., 131° 13' W. long. to 54° 40.87' N. lat., 131° 13.90' W. long. to 54° 39.15' N. lat., 131° 16.28' W. long. to 54° 36.87' N. lat., 131° 19.37' W. long. to 54° 29.88' N. lat., 131° 33.80' W. long. to 54° 30.53' N. lat., 131° 38.02' W. long. to 54° 28.30' N. lat., 131° 45.33' W. long. to 54° 26.68' N. lat., 131° 49.47' W. long. to 54° 21.85' N. lat., 132° 02.90' W. long. to 54° 24.87' N. lat., 132° 23.65' W. long. to 54° 24.68' N. lat., 132° 24.48' W. long. to 54° 24.68' N. lat., 132° 24.58' W. long. to 54° 24.65' N. lat., 132° 26.85' W. long. to 54° 25.33' N. lat., 132° 41.53' W. long. to the Cape Muzon Light to the northernmost tip of Eagle Point on Dall Island and passing successively through the southernmost tip of Point Arboleda, the northernmost tip of Point San Rogue, the southernmost tip of Cape Ulitka, the

northernmost tip of Cape Lynch to the southernmost tip of Helm Point, and from a point west of Gish Bay at 55° 54.53' N. lat., 134° 12.50' W. long. to the Cape Decision Light and from Point Camden to Salt Point Light on Keku Strait and from Beacon Point to Wood Point;

(2) Northern Southeast Inside (NSEI) Subdistrict: All waters of Frederick Sound, Stephens Passage, Lynn Canal, Icy Strait, Glacier Bay, Chatham Strait, and contiguous bays and inlets bordered by a line from Beacon Point to Wood Point, from Point Camden to Salt Point Light, the Cape Decision Light to a point west of Gish Bay at 55° 54.53' N. lat., 134° 12.50' W. long. to the southernmost tip of Helm Point to the westernmost tip of Hazy Island to the Cape Ommaney Light, north of 57° 30' N. lat. in Peril Strait, from the westernmost tip of Column Point to the northernmost tip of Soapstone Point and from the southernmost tip of Cape Spencer through Yakobi Rock to Yakobi Island;

(3) Icy Bay Subdistrict: All waters of the Southeast District between 140° W. long. and 144° W. long., including Yakutat Bay three miles seaward of a line from Ocean Cape at 59° 30' N. lat.;

(4) Southeast Outside Subdistrict: All remaining waters of the Southeast District:

(A) Southern Southeast Outside (SSEO) Section: all waters of the Southeast Outside Subdistrict south of 56° N. lat., and east of 137° W. long.;

(B) Central Southeast Outside (CSEO) Section: all waters of the Southeast Outside Subdistrict between 56° N. lat. and 57° 30' N. lat., and east of 137° W. long.;

(C) Northern Southeast Outside (NSEO) Section: all waters of the Southeast Outside Subdistrict north of 57° 30' N. lat., and east of 137° W. long.;

(D) East Yakutat (EYKT) Section: all waters of the Southeast Outside Subdistrict between 137° and 140° W. long.

(b) Repealed 4/15/94.

(c) Repealed 6/15/97.

(d) Southern Southeast Outer Coast (SSEOC) Sector: All waters of the Southern Southeast Outside Section and all waters of the Southern Southeast Inside Subdistrict that are south of 56° N. lat., and west of Prince of Wales Island, or south of 54° 43' N. lat., and west of 132° W. long.

(e) Southern Southeast Internal Waters (SSEIW) Sector: All waters of the Southern Southeast Inside Subdistrict not included in the Southern Southeast Outer Coast Sector.

5 AAC 28.106. Eastern Gulf of Alaska Area registration

(a) The Eastern Gulf of Alaska Area is a nonexclusive registration area for Pacific cod. Notwithstanding 5 AAC 28.020(a), before a person uses a vessel to operate gear to take Pacific cod in a directed Pacific cod fishery in the Eastern Gulf of Alaska Area, the

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vessel owner or the owner's agent shall register the vessel with the department by completing a registration form with the vessel's name, management areas the vessel will be fishing in, contact number, and the signature of the owner or owner's agent.

(b) Notwithstanding 5 AAC 28.020(a), before a person uses a vessel to operate gear to take sablefish in the Northern Southeast Inside (NSEI) Subdistrict or the Southern Southeast Inside (SSEI) Subdistrict, the vessel owner, or the owner's agent, shall register the vessel with the department as follows:

(1) the vessel must be registered before fishing in the sablefish fishery;

(2) the vessel owner, or the owner's agent, shall include on the registration form the vessel's name and the full name and CFEC permit number or interim use permit number of each sablefish permit holder who will be on board the vessel during the open fishing period;

(3) the vessel owner, or the owner's agent, shall sign the registration form;

(4) a person who holds a CFEC sablefish permit or interim use sablefish permit for the NSEI Subdistrict or for the SSEI Subdistrict may not register to fish on more than one vessel at a time;

(5) a separate registration is required for each subdistrict.

(c) Notwithstanding 5 AAC 28.020(a), before a person uses a vessel to operate gear to take lingcod in a directed lingcod fishery in the Eastern Gulf of Alaska Area, the vessel owner or the owner's agent shall register the vessel with the department by completing a registration form with the vessel's name, management areas the vessel will be fishing in, and the signature of the owner or owner's agent.

(d) Notwithstanding 5 AAC 28.020(a), before a person uses a vessel to operate gear to take demersal shelf rockfish in a directed fishery in the Eastern Gulf of Alaska Area, the vessel owner or owner's agent shall register the vessel with the department by completing a registration form with the vessel's name, management areas the vessel will be fishing, contact number, and the signature of the owner or owner's agent. A separate registration is required for the winter and fall fisheries described in 5 AAC 28.111(a).

(e) Notwithstanding 5 AAC 28.020(a), before a person uses a vessel to operate gear to take black rockfish in a directed black rockfish fishery in the Eastern Gulf of Alaska Area, the vessel owner or owner's agent shall register the vessel with the department by completing a registration form with the vessel's name, management areas the vessel will be fishing, contact number, and the signature of the owner or owner's agent.

(f) The Icy Bay Subdistrict is a superexclusive registration area for the directed commercial lingcod fishery. Notwithstanding 5 AAC 28.020(b), a CFEC permit holder who participates in the directed commercial taking of lingcod in the Icy Bay Subdistrict may not participate or have participated in the directed commercial taking of lingcod as a CFEC permit holder in any other registration area or portion of a registration area during that calendar year. A vessel used in the directed commercial taking of lingcod in the Icy

Bay Subdistrict may not be used or have been used in the directed commercial taking of lingcod in any other registration area or portion of a registration area during that calendar year.

(g) The Southeast District is a superexclusive area for the commercial flatfish trawl fishery. Notwithstanding 5 AAC 28.020(a), before a vessel is used to take flatfish in the commercial flatfish trawl fishery in the Southeast District, the vessel owner, or the owner's authorized agent, must register the vessel with the department. The CFEC permit holder that will be operating the gear from the vessel being used and registered to take flatfish under this section must also register with the department. During the calendar year of registration, the

(1) vessel may not be used to take flatfish in a commercial trawl fishery in any other registration area; and

(2) CFEC permit holder may not participate in a commercial flatfish trawl fishery in any other registration area.

5 AAC 28.110. Sablefish fishing seasons for Eastern Gulf of Alaska Area

(a) In the Eastern Gulf of Alaska Area, sablefish may be taken only as follows:

(1) in the Northern Southeast Inside Subdistrict, from 8:00 a.m. August 15 until 12:00 noon November 15;

(2) in the Southern Southeast Inside Subdistrict, from 8:00 a.m. June 1 until 12:00 noon November 15.

(b) Repealed 6/15/97.

(c) Notwithstanding (a) of this section, sablefish may be taken outside of established seasons in order to provide information on stock condition and other research questions, as provided in this subsection. The commissioner may request that permit holders who are interested in fishing outside of established seasons for that purpose notify the department. The commissioner may randomly select from those permit holders. Selected permit holders shall fish under terms specified by the commissioner.

5 AAC 28.111. Demersal shelf rockfish fishing seasons for Eastern Gulf of Alaska Area

(a) In the Southeast District, demersal shelf rockfish may be taken in a management area and in the directed fishery only as follows:

(1) in the Southeast Outside Subdistrict, from January 5 until the day before the start of the commercial halibut season, or until the annual directed harvest limit for the management area is taken, whichever occurs first;

(2) in the Northern Southeast Inside and Southern Southeast Inside Subdistricts,

(A) from January 5 until the day before the start of the commercial halibut season, or until 67 percent of the annual directed harvest limit for the management area is taken, whichever occurs first; and

(B) from the day following the end of the commercial halibut season through December 31, or until the remainder of the annual directed harvest limit for the management area is taken, whichever occurs first.

(b) For all Eastern Gulf of Alaska demersal shelf rockfish fishing periods, the opening time is 9:00 a.m. and the closing time is 4:00 p.m.

5 AAC 28.112. Flatfish (flounder and sole) fishing seasons for Eastern Gulf of Alaska Area

In the waters of Alaska in the Eastern Gulf of Alaska Area, flatfish (flounder and sole) may be taken by trawl only as follows:

(1) in waters of Sumner Strait north and east of a line from Mitchell Point to Point St. John, west of a line from the tip of Low Point to the tip of Point Alexander, south of a line from Point Alexander to the southernmost tip of Woewodski Island, and south of the latitude of the northernmost tip of Butterworth Island in Duncan Canal, from October 1 through November 15 and from February 15 through April 15;

(2) in waters of Zimovia Strait and Anita Bay south of the latitude of Nemo Point and north of the latitude of Village Island, from October 1 through April 15;

(3) in waters of Sumner Strait, Stikine Strait, and Eastern Passage north and east of a line from Point Howe to Neal Point to Woronkofski Point to Point Highfield, north and west of a line from Babbler Point to Hour Point, and south of the latitude of Blaquiere Point, from October 1 through April 15;

(4) in waters of Keku Strait and Port Camden south and east of a line from Point Macartney to Cornwallis Point and west of a line from Point Camden to Salt Point, from October 1 through November 15 and from February 15 through April 15.

5 AAC 28.113. Lingcod fishing seasons for Eastern Gulf of Alaska Area

(a) In the Eastern Gulf of Alaska Area, lingcod may be taken at any time except as otherwise provided in this chapter or when closed by emergency order.

(b) Lingcod may be taken in a directed lingcod fishery only from May 16 through November 30.

(c) Lingcod may be taken as bycatch in the commercial salmon troll gear fishery only from May 16 through November 30.

(d) Lingcod may be taken as bycatch in a commercial groundfish fishery operating mechanical jigging machines or hand troll gear only from May 16 through November 30.

5 AAC 28.115. Pacific cod fishing seasons for Eastern Gulf of Alaska Area

In the Eastern Gulf of Alaska Area, Pacific cod may be taken from January 1 through December 31, unless otherwise provided in this chapter or closed by emergency order.

5 AAC 28.116. Black rockfish fishing seasons for Eastern Gulf of Alaska Area

In the Eastern Gulf of Alaska Area, black rockfish may be taken from January 1 through December 31, unless otherwise provided in this chapter or closed by emergency order.

5 AAC 28.130. Lawful gear for Eastern Gulf of Alaska Area

(a) In the Northern Southeast Inside Subdistrict and Southern Southeast Inside Subdistrict, sablefish may be taken only with longlines and pots.

(b) In the Southeast District, a longline vessel may have aboard or use for taking bait a gillnet with mesh size of not over two and one-half inches and made of not greater than Number 20 gillnet thread.

(c) In the Northern and Southern Southeast Inside Subdistricts, flatfish (flounder and sole) may be taken in a directed trawl fishery only by beam trawl gear, and only under the authority of a permit issued by the commissioner under (l) of this section. In the permit the commissioner may specify open areas, fishing periods, gear and operating specifications, observer requirements, and completion of logbooks, available from the department, by the vessel operator.

(d) In the Southeast District,

(1) lingcod may be taken only by longline, dinglebar troll gear, power troll gear, hand troll gear, and mechanical jigging machines, except that in a directed fishery for lingcod, lingcod may be taken only by dinglebar troll gear, hand troll gear, and mechanical jigging machines;

(2) repealed 7/18/2003;

(3) Pacific cod, rockfish, shortspine thornyhead rockfish, and longspine thornyhead rockfish may be taken only by longline, dinglebar troll gear, power troll gear, hand troll gear, mechanical jigging machines, and pots, except that

(A) in a directed fishery for pelagic shelf rockfish, pelagic shelf rockfish may be taken only by dinglebar troll gear, hand troll gear, and mechanical jigging machines;

(B) in a directed fishery for demersal shelf rockfish, demersal shelf rockfish may be taken only by longline, dinglebar troll gear, hand troll gear, and mechanical jigging machines;

(4) repealed 7/18/2003.

(e) In areas open to a directed fishery for flatfish (flounder and sole) using beam trawl gear in the Northern and Southern Southeast Inside Subdistricts, a registered shrimp

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beam trawl vessel may trawl for flatfish using beam trawl gear in an area closed to shrimp trawling, if a cod-end mesh of at least five inches stretched measure is used.

(f) In the Eastern Gulf of Alaska Area, pots may not be longlined, except that pots may be longlined in the Northern Southeast Inside Subdistrict and Southern Southeast Inside Subdistrict sablefish fishery. At least one buoy on each groundfish pot must be legibly marked with only the permanent department vessel license plate number of the vessel operating the gear. The number must be placed on the top one-third of the buoy in numerals at least four inches high and one-half inch wide, must be in a color contrasting to the color of the buoy, and must be visible above the water surface when the buoy is attached to the groundfish pot. If groundfish pots are longlined under this subsection, a buoy is not required for each pot, but at least one buoy must be attached to the longline, and the buoy must be marked as described in this subsection. In a directed fishery for sablefish, pots used to take sablefish must have at least two circular escape rings with a minimum inside diameter of three and three - fourths inches installed on opposing vertical or sloping walls.

(g) Repealed 7/14/2000.

(h) In the Eastern Gulf of Alaska Area,

(1) dinglebar troll gear is gear that consists of a single line that is retrieved and set with a troll gurdy or hand troll gurdy with a terminally attached weight from which one or more leaders with one or more lures or baited hooks are pulled through the water while a vessel is making way; only one troll gurdy line or hand troll gurdy line may be deployed in the water at any time;

(2) a mechanical jigging machine is a device that deploys a single line with lures or baited hooks and retrieves that line with electrical, hydraulic, or mechanically powered assistance; a mechanical jigging machine allows the line to be fished only in the water column, in a manner that the hooks connected to the line are fished above the seafloor; a mechanical jigging machine line may not be deployed while the vessel is making way under mechanized propulsion; the mechanical jigging machine line may not be anchored to the seafloor or operated unattached from the vessel; no more than five mechanical jigging machines may be operated from a vessel, with no more than 30 hooks per line operated from a mechanical jigging machine.

(i) Repealed 7/18/2003.

(j) Repealed 7/14/2000.

(k) A person may not operate a vessel that is using dinglebar troll gear and mechanical jigging machines at the same time.

(l) In the Eastern Gulf of Alaska Area, groundfish may be taken by trawl gear only under the authority of a permit issued by the commissioner, if the commissioner determines that issuing the permit is not inconsistent with 5 AAC 39.210.

5 AAC 28.133. Groundfish and halibut taken with salmon troll fishing gear in the Eastern Gulf of Alaska Area

(a) Groundfish incidentally taken by hand and power troll gear operated to take salmon consistent with applicable state laws and regulations are legally taken and possessed, except that lingcod may be taken under this subsection only from May 16 through November 30. Notwithstanding the provisions of this subsection, the commissioner may establish groundfish bycatch limits for the salmon fishery described in this subsection, if the commissioner determines it is necessary to manage the groundfish bycatch harvest within total catch limits established in this chapter.

(b) Repealed 5/26/2006.

(c) Halibut incidentally taken during an open commercial halibut season by power and hand troll gear being operated for salmon consistent with applicable state laws and regulations are legally taken and possessed.

5 AAC 28.135. Vessel identification for Eastern Gulf of Alaska Area

(a) In the Eastern Gulf of Alaska Area, a vessel fishing for groundfish with dinglebar troll gear must display the letter "D" and a vessel fishing for groundfish with mechanical jigging machines must display the letter "M"

(1) on both sides of the hull, cabin, or mast;

(2) in symbols at least 12 inches high and one inch wide that contrast with the background;

(3) in a manner that leaves the letter plainly visible and unobscured; and

(4) at all times when fishing with or transporting fish taken with dinglebar troll gear or mechanical jigging machines.

(b) Repealed 7/14/2000.

(c) A person may not operate a vessel that is displaying

(1) more than one letter required under (a) of this section at any time;

(2) any letter required under (a) of this section when the vessel is being used to fish for salmon.

5 AAC 28.150. Closed waters in Eastern Gulf of Alaska Area

(a) The waters of Sitka Sound that are enclosed on the north by lines from Kruzof Island at 57° 20.50' N. lat., 135° 45.17' W. long. to Chichagof Island at 57° 22.05' N. lat., 135° 43' W. long., and from Chichagof Island at 57° 22.58' N. lat., 135° 41.30' W. long. to Baranof Island at 57° 22.28' N. lat., 135° 40.95' W. long., and on the south and west by a line running from the southernmost tip of Sitka Point at 56° 59.38' N. lat., 135° 49.57'

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W. long. to Hanus Point at 56° 51.92' N. lat., 135° 30.50' W. long. to the green day marker in Dorothy Narrows at 56° 49.28' N. lat., 135° 22.75' W. long. to Baranof Island at 56° 49.28' N. lat., 135° 22.60' W. long. are closed to the taking of lingcod. Lingcod taken in these waters must be immediately returned to the water unharmed.

(b) Notwithstanding (a) of this section, lingcod may be retained as bycatch in the halibut longline fishery and for a permit holder's personal use in the commercial salmon troll fishery in the waters described in (a) of this section, as limited by the provisions of 5 AAC 28.173(a) and (e).

(c) Groundfish may not be taken in the waters off Cape Edgecumbe enclosed by a box defined as 56° 55.5' N. lat., 56° 57' N. lat., 135° 54' W. long., and 135° 57' W. long.

(d) The following waters are closed to the directed taking of demersal shelf rockfish:

(1) in the Sitka vicinity: the waters of Sitka Sound that are enclosed on the north by lines from Kruzof Island at 57° 20.50' N. lat., 135° 45.17' W. long. to Chichagof Island at 57° 22.05' N. lat., 135° 43' W. long., and from Chichagof Island at 57° 22.58' N. lat., 135° 41.30' W. long. to Baranof Island at 57° 22.28' N. lat., 135° 40.95' W. long., and on the south and west by a line running from the southernmost tip of Sitka Point at 56° 59.38' N. lat., 135° 49.57' W. long. to Hanus Point at 56° 51.92' N. lat., 135° 30.50' W. long. to the green day marker in Dorothy Narrows at 56° 49.28' N. lat., 135° 22.75' W. long. to Baranof Island at 56° 49.28' N. lat., 135° 22.60' W. long.;

(2) in the Ketchikan vicinity: all waters of Behm Canal, Clarence Strait, Tongass Narrows, Nichols Passage, George Inlet, Carroll Inlet, Thorne Arm, Revillagigedo Channel, and all contiguous waters enclosed by the latitude of Bushy Point Light, a line from Point Alava to the southernmost tip of Ham Island, a line from Cedar Point to Dall Head, and a line from Dall Head to a point in midstream Clarence Strait at the latitude of Dall Head to Caamano Point;

(3) in the vicinity of Craig and Klawock: all waters of Ulloa Channel north of the latitude of Waterfall Cannery, and all waters enclosed by a line from the southernmost tip of St. Philip Island to the northernmost tip of San Fernando Island, to Point Cangrejo.

(e) Black rockfish may not be taken in a directed fishery in the following waters:

(1) Northern Southeast Outside Section between 57° 37' N. lat. and 57° 40' N. lat.;

(2) Central Southeast Outside Section,

(A) between 57° 10' N. lat. and 57° 03' N. lat.;

(B) the waters of Sitka Sound that are enclosed on the north by lines from Kruzof Island at 57° 20.50' N. lat., 135° 45.17' W. long. to Chichagof Island at 57° 22.05' N. lat., 135° 43' W. long., and from Chichagof Island at 57° 22.58' N. lat., 135° 41.30' W. long. to Baranof Island at 57° 22.28' N. lat., 135° 40.95' W. long., and on the south and west by a line running from the southernmost tip of Sitka Point at 56° 59.38' N. lat., 135° 49.57' W. long. to Hanus Point at 56° 51.92' N. lat., 135° 30.50' W. long. to the green day

marker in Dorothy Narrows at 56° 49.28' N. lat., 135° 22.75' W. long. to Baranof Island at 56° 49.28' N. lat., 135° 22.60' W. long.;

(C) between 56° 22.50' N. lat. and 56° 18.70' N. lat.;

(3) Southern Southeast Outside Section between 54° 56.70' N. lat. and 54° 44.40' N. lat.

5 AAC 28.160. Harvest guidelines and ranges for Eastern Gulf of Alaska Area

(a) In the Northern Southeast Inside Subdistrict, the department will set the annual guideline harvest limit for the taking of sablefish based on information available to the department, including estimates of sablefish biomass.

(b) In the Southern Southeast Inside Subdistrict, the department will set the annual guideline harvest limit for the taking of sablefish based on information available to the department, including estimates of sablefish biomass.

(c) The guideline harvest levels for the taking of rockfish are as follows:

(1) in the Southeast Outside Subdistrict,

(A) the annual allowable catch of demersal shelf rockfish is calculated based on the federal total allowable catch (TAC) of demersal shelf rockfish, with 84 percent allocated to the commercial fisheries and 16 percent allocated to the sport fisheries after the estimated subsistence harvest has been subtracted from the TAC;

(B) the directed commercial demersal shelf rockfish quota is calculated based on the commercial allocation of the TAC after estimated bycatch mortality is deducted;

(2) in the directed taking of demersal shelf rockfish in the remaining waters of the Southeast District,

(A) for the Southern Southeast Inside Subdistrict: not more than 110,000 pounds round weight;

(B) in the Northern Southeast Inside Subdistrict: not more than 110,000 pounds round weight;

(3) for the directed taking of black rockfish in the Southeast District, the guideline harvest limits are as follows:

(A) Southern Southeast Outer Coast Sector: not more than 125,000 pounds round weight;

(B) Central Southeast Outside Section: not more than 100,000 pounds round weight;

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(C) Northern Southeast Outside Section: not more than 50,000 pounds round weight;

(D) East Yakutat Section: not more than 25,000 pounds round weight;

(E) Icy Bay Subdistrict: not more than 25,000 pounds round weight.

(d) The guideline harvest ranges or limits for the taking of flatfish (flounder and sole) in the Northern and Southern Southeast Inside Subdistricts are as follows:

(1) in waters of Sumner Strait north and east of a line from Mitchell Point to Point St. John, west of a line from the tip of Low Point to the tip of Point Alexander, south of a line from Point Alexander to the southern tip of Woewodski Island, and south of the latitude of the northernmost tip of Butterworth Island in Duncan Canal: 100,000 - 350,000 pounds round weight;

(2) in waters of Zimovia Strait and Anita Bay south of the latitude of Nemo Point and north of the latitude of Village Island: 20,000 - 100,000 pounds round weight;

(3) in waters of Sumner Strait, Stikine Strait, and Eastern Passage north and east of a line from Point Howe to Neal Point to Woronkofski Point to Point Highfield, north and west of a line from Babler Point to Hour Point, and south of the latitude of Blaquiére Point: 0 - 150,000 pounds round weight;

(4) in waters of Keku Strait and Port Camden south and east of a line from Point Macartney to Cornwallis Point and west of a line from Point Camden to Salt Point: 100,000 - 350,000 pounds round weight;

(5) in the remaining waters of the Northern Southeast Inside and Southern Southeast Inside Subdistricts: not more than 30,000 pounds round weight.

(e) In the Southeast District, the department shall announce, before the season, the annual guideline harvest level (GHL) for lingcod in each management area based on historical fishery performance data and population trends. Each GHL will be within the following ranges, in round pounds:

(1) Icy Bay Subdistrict	0 - 100,000
(2) East Yakutat Section	0 - 225,000
(3) Northern Southeast Outside Section	0 - 40,000
(4) Central Southeast Outside Section	0 - 240,000
(5) Southern Southeast Outer Coast Sector	0 - 167,000
(6) Southern Southeast Internal Sector	0 - 52,000
(7) Northern Southeast Inside Subdistrict	0 - 32,000

(f) The guideline harvest range for the taking of Pacific cod in the Southern and Northern Southeast Inside Subdistricts combined is 750,000 - 1,250,000 pounds round weight.

5 AAC 28.165. Lingcod allocation guidelines for Eastern Gulf of Alaska Area

In the Eastern Gulf of Alaska Area, the department shall annually allocate the harvest in the lingcod commercial and sport fisheries as follows:

(1) Icy Bay Subdistrict:

(A) 46 percent to the directed commercial lingcod fishery;

(B) 12.67 percent to the commercial longline fisheries;

(C) eight percent to the commercial salmon troll fishery; and

(D) 33.33 percent to the sport fishery;

(2) East Yakutat Section:

(A) if the annual guideline harvest level is at or below 200,000 pounds, as follows:

(i) 43 percent to the directed commercial lingcod fishery;

(ii) two percent to the sport fishery;

(iii) 47 percent to bycatch in the commercial longline fishery;

(iv) eight percent to bycatch in the commercial salmon troll fishery;

(B) if the guideline harvest level is over 200,000 pounds, as follows:

(i) 4,000 round pounds to the sport fishery;

(ii) 94,000 round pounds to bycatch in the commercial longline fishery;

(iii) 16,000 round pounds to bycatch in the commercial salmon troll fishery;

(iv) the remainder of the guideline harvest level will be allocated to the directed commercial lingcod fishery;

(3) Northern Southeast Outside Section:

(A) 43 percent to the directed commercial lingcod fishery;

(B) 22 percent to the sport fishery;

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- (C) 27 percent to bycatch in the commercial longline fishery;
- (D) eight percent to bycatch in the commercial salmon troll fishery;
- (4) Central Southeast Outside Section:
 - (A) 36 percent to the directed commercial lingcod fishery;
 - (B) 30 percent to the sport fishery;
 - (C) 23 percent to bycatch in the commercial longline fishery;
 - (D) seven percent to bycatch in the commercial salmon troll fishery;
 - (E) four percent to bycatch in the commercial groundfish fishery using hand troll gear and mechanical jigging machines;
- (5) Southern Southeast Outer Coast Sector:
 - (A) 30 percent to the directed commercial lingcod fishery;
 - (B) 44 percent to the sport fishery;
 - (C) 17 percent to bycatch in the commercial longline fishery;
 - (D) two percent to bycatch in the commercial groundfish fishery using hand troll gear and mechanical jigging machines;
 - (E) seven percent to bycatch in the commercial salmon troll fishery;
- (6) Southern Southeast Internal Sector:
 - (A) no directed commercial lingcod fishery;
 - (B) 92 percent to the sport fishery;
 - (C) four percent to bycatch in the commercial longline fishery;
 - (D) four percent to bycatch in the commercial salmon troll fishery;
- (7) Northern Southeast Inside Subdistrict:
 - (A) no directed commercial lingcod fishery;
 - (B) 50 percent to the sport fishery;
 - (C) 30 percent to bycatch in the commercial longline fishery;
 - (D) 20 percent to bycatch in the commercial salmon troll fishery.

5 AAC 28.170. Sablefish possession and landing requirements for Eastern Gulf of Alaska Area

(a) The operator of a vessel taking sablefish in the Northern or Southern Southeast Inside Subdistricts shall, before taking sablefish in another area, unload all sablefish taken in either subdistrict and submit a completed fish ticket to the department.

(b) The operator of a fishing vessel may not take sablefish in the Northern or Southern Inside Subdistricts with sablefish taken in another area on board.

(c) In the Northern and Southern Southeast Inside Subdistricts, and in the waters of Alaska within the Southeast Outside Subdistrict, a sablefish bearing a fisheries agency tag at the time of capture may be retained and sold at any time, if the fish is landed with the tag intact and the recovery is reported to the department at the time of landing. The tagged fish must be presented to a local representative of the department upon request.

(d) Repealed 6/15/95.

(e) Repealed 11/16/96.

(f) Except as provided in (j) of this section, in the Northern Southeast Inside Subdistrict, the holder of a CFEC permit or interim use permit for sablefish may not retain more sablefish in the directed fishery than the annual amount of sablefish equal quota share that is specified by the department. A permit holder must retain all visibly injured or dead sablefish. Sablefish that are not visibly injured or dead may be released unharmed, but the permit holder must record the live releases in a logbook by gear settings. The department shall determine the annual amount of sablefish equal quota share by dividing the annual harvest objective by the number of CFEC permits and interim use permits eligible to be fished in the fishery. The department shall use the best available information, including harvest rate and biological data, to set the annual harvest objective.

(g) Except as provided in (j) of this section, in the Southern Southeast Inside Subdistrict, the holder of a CFEC permit or interim use permit for sablefish may not retain more sablefish in the directed fishery than the annual amount of sablefish equal quota share specified by the department. A permit holder must retain all visibly injured or dead sablefish. The permit holder may release sablefish that are not visibly injured or dead unharmed to the water, but the permit holder must record the live releases in a logbook provided by the department. The department shall determine the annual amount of sablefish equal quota share by dividing the annual harvest objective by the number of CFEC permits and interim use permits eligible to be fished in the fishery. The department shall use the best available information, including harvest rate and biological data, to set the annual harvest objective.

(h) In the portion of the Southeast Outside Subdistrict that is state waters under 5 AAC 39.975(13), retention of sablefish is prohibited.

(i) When participating in the sablefish fishery in the Northern Southeast Inside Subdistrict or Southern Southeast Inside Subdistrict, a person holding a CFEC permit or interim use permit for that fishery must retain in the person's possession and present for inspection on board the vessel on which that person is registered to fish, a copy of each completed fish ticket issued to the person during the current season. The permit holder shall provide each buyer with the total round weight of sablefish that the permit holder has landed to date in the fishery for that year.

(j) If a permit holder's harvest exceeds the permit holder's equal quota share established under (f) or (g) of this section for that year, by not more than five percent, the department shall reduce the permit holder's equal quota share for the following year by the amount of the overage. The adjusted equal quota share is the permit holder's quota share for that year. If a permit holder's harvest exceeds the permit holder's equal quota share by more than five percent, the proceeds from the sale of the overage in excess of five percent shall be surrendered to the state. A permit holder may not assume that the ability to adjust a quota share under this section is an opportunity to knowingly exceed a quota share or to exceed the equal quota share in an amount greater than five percent as such actions may be prosecuted under AS 16.05.722 or AS 16.05.723.

(k) If a permit holder's harvest is less than the permit holder's equal quota share established under (f) or (g) of this section for that year, the department shall increase the permit holder's equal quota share only for the following year by the amount of the underage that does not exceed five percent of the equal quota share.

(l) Notwithstanding 5 AAC 28.180(c), the holder of a CFEC permit or interim use permit for sablefish may possess live sablefish for delivery as a live product except that, upon request of a local representative of the department or law enforcement, a permit holder must present sablefish for inspection and allow biological samples to be taken.

5 AAC 28.171. Rockfish possession and landing requirements for Eastern Gulf of Alaska Area

(a) In the Eastern Gulf of Alaska Area, a CFEC permit holder fishing for groundfish or halibut must retain, weigh, and report all rockfish and thornyhead rockfish caught. Except as provided in (b) of this section, all demersal shelf rockfish in excess of 10 percent, round weight, of all target species on board the vessel must be weighed and reported as bycatch overage on an ADF&G fish ticket. All rockfish and thornyhead rockfish in excess of allowable bycatch limits shall be reported as bycatch overage on an ADF&G fish ticket. All proceeds from the sale of excess rockfish and thornyhead rockfish bycatch shall be surrendered to the state. Based on harvest data, the commissioner may, by emergency order, close a fishing season or a bycatch season and immediately reopen a fishing season or a bycatch season during which a different rockfish or thornyhead rockfish bycatch level is allowed.

(b) In the Eastern Gulf of Alaska Area, a person operating a trawl vessel shall retain, weigh, and report all rockfish and thornyhead rockfish caught. All demersal shelf rockfish in excess of one percent, round weight, of all target species on board the vessel must be weighed and reported as bycatch overage on an ADF&G fish ticket. All rockfish and thornyhead rockfish in excess of allowable bycatch limits shall be reported as

bycatch coverage on an ADF&G fish ticket. All proceeds from the sale of excess rockfish and thornyhead rockfish bycatch shall be surrendered to the state.

(c) The department may establish additional bycatch allowances by emergency order.

(d) In the Southeast District east of 137° W. long., a vessel or CFEC permit holder may not take or possess on board the vessel, or deliver more than 6,000 pounds of demersal shelf rockfish (whole or bled weight) in any five-day period. All demersal shelf rockfish taken in excess of 6,000 pounds (whole or bled weight) by a vessel or CFEC permit holder in any five-day period must be weighed and reported on an ADF&G fish ticket as a trip limit overage. All proceeds from the sale of demersal shelf rockfish in excess of 6,000 pounds (whole or bled weight) shall be surrendered to the state.

(e) In the East Yakutat Section, a vessel or CFEC permit holder may not take or possess on board the vessel, or deliver more than 8,000 pounds of demersal shelf rockfish (whole or bled weight) in any five-day period. All demersal shelf rockfish taken in excess of 8,000 pounds (whole or bled weight) by a vessel or CFEC permit holder in any five-day period must be weighed and reported on an ADF&G fish ticket as a trip limit overage. All proceeds from the sale of demersal shelf rockfish in excess of 8,000 pounds (whole or bled weight) shall be surrendered to the state.

(f) repealed 9/25/2022.

(g) repealed 9/25/2022.

(h) In the Eastern Gulf of Alaska Area, shortspine thornyhead, longspine thornyhead, shortraker, rougheye, and redbanded rockfish may be taken only as bycatch.

5 AAC 28.172. Flatfish (flounder and sole) possession and landing requirements for Eastern Gulf of Alaska Area

In the Northern and Southern Southeast Inside Subdistricts, a trawl vessel may not land or have on board more than 20,000 pounds (round weight) of flatfish (flounder and sole) in any seven-day period.

5 AAC 28.173. Lingcod possession and landing requirements for Eastern Gulf of Alaska Area

(a) In the Southeast District, a vessel fishing for

(1) halibut with longline gear may not land or have on board lingcod in excess of the bycatch percentage, specified in the first emergency order of the season, by round weight, of all halibut on board the vessel; based on harvest, the commissioner may, by emergency order, close the bycatch season and immediately reopen a bycatch season during which a different lingcod bycatch level is allowed;

(2) sablefish may not land or have on board lingcod, except as specified in (3) of this subsection;

(3) halibut and sablefish at the same time may not land or have on board lingcod in excess of the bycatch percentage, specified in the first emergency order of the season, by round weight, of all halibut on board the vessel; based on harvest data, the commissioner may, by emergency order, close the bycatch fishing season and immediately reopen a bycatch season during which a different lingcod bycatch level is allowed;

(4) salmon with troll gear in the waters of Sitka Sound described in 5 AAC 28.150(a) may retain and have on board no more than two lingcod only from May 16 through November 30, or until closed by emergency order, and only if the permit holder

(A) immediately removes the dorsal fin of the lingcod retained; the head of a lingcod retained under this paragraph must remain attached to determine if the lingcod meets the legal size requirement of (e) of this section;

(B) weighs and reports the lingcod retained for the permit holder's personal use on an ADF&G fish ticket as required in 5 AAC 39.130; a lingcod retained under this paragraph may not be sold.

(b) In the Southeast District, a vessel fishing with longline gear may not land or have on board lingcod in excess of 35 percent, by round weight, of all target species taken in the directed fishery that are on board the vessel.

(c) In the Eastern Gulf of Alaska Area, a vessel using trawl gear may not land or have on board lingcod.

(d) Repealed 6/15/97.

(e) All lingcod retained must measure at least 27 inches from the tip of the snout to the tip of the tail, or 20.5 inches from the front of the dorsal fin to the tip of the tail. Undersized lingcod must be returned to the water immediately without further harm.

(f) In a directed lingcod fishery, if the commissioner determines that a trip limit will contribute to conservation or promote an orderly fishery, the commissioner may close, by emergency order, the directed lingcod fishery and reopen the fishery during which a trip limit is in effect.

(g) If the commissioner determines it necessary for biological sampling purposes, the commissioner may close, by emergency order, a fishing season for lingcod and immediately reopen the season with a requirement that all lingcod be delivered with the head on and with the vent and the external area one inch forward of the vent unmutilated, as evidence of gender.

5 AAC 28.174. Spiny dogfish (*Squalus acanthias*) possession and landing requirements for Eastern Gulf of Alaska Area

In the Eastern Gulf of Alaska Area, spiny dogfish may be taken and retained only as follows:

(1) in the Southeast District, a longline vessel may retain spiny dogfish as bycatch that is not more than 35 percent, by round weight, of all target species taken in the directed fishery on board the vessel;

(2) in the Southeast District, a power troll or hand troll vessel may retain spiny dogfish as bycatch that is not more than 35 percent, by round weight, of all salmon on board the vessel;

(3) in the East Yakutat Section and the Icy Bay Subdistrict, a salmon set gillnet CFEC permit holder may retain all spiny dogfish taken as bycatch during salmon set gillnet operations; all spiny dogfish taken must be recorded on an ADF&G salmon fish ticket.

5 AAC 28.175. Logbooks for Eastern Gulf of Alaska Area

(a) An operator of a vessel fishing for groundfish in the waters of Alaska in the Eastern Gulf of Alaska Area or in a state-managed directed fishery in the waters of the exclusive economic zone adjacent to the Eastern Gulf of Alaska Area shall maintain an accurate logbook of all fishing operations for each type of gear used.

(b) A logbook described in (a) of this section

(1) for longline gear must include, by set, the date, the specific location of harvest by latitude and longitude, in degrees and decimal minutes, for start and ending positions, hook spacing, the amount of gear (number of hooks) used, the depth of each set, the estimated weight of all target species taken, an estimated weight of the bycatch retained or discarded at sea, and the tag number of any tagged fish landed; for the Northern Southeast Inside Subdistrict and the Southern Southeast Inside Subdistrict sablefish fisheries, a logbook must include a record of the round weight delivered, the purchasing processor, and date of each delivery during that season if multiple landings have been made;

(2) for dinglebar troll gear, mechanical jigging machines, or hand troll gear must include the date, the specific location of harvest by latitude and longitude, in degrees and decimal minutes, and nearest headland, the number of lines and total number of hooks used, the average depth fished, the hours fished, and the number of bycatch fish taken, by species, for each unique geographic location fished; for the target species the following is required:

(A) the number retained;

(B) the number discarded; and

(C) for lingcod only, their estimated sex ratio;

(3) must be updated, within 24 hours after midnight local time on the day of operation;

(4) must be retained, with its original pages, for a period of two years by the owner or operator of the vessel; and

(5) must include the tag number of any tagged fish landed, with the date and specific location.

(c) A logbook described in (a) of this section must be kept on board the vessel while operating gear, during transits to or from a port of landing, and for five days after delivering groundfish.

(d) Repealed 6/15/97.

(e) A logbook described in (a) of this section must be made available to a local representative of the department upon request.

(f) A copy of the page of the logbook described in (a) in this section pertaining to a landing must be attached to the fish ticket documenting the landing.

(g) A person may not make a false entry in the logbook described in (a) of this section.

5 AAC 28.179. Permits for miscellaneous groundfish in Eastern Gulf of Alaska Area

(a) Except when taken as allowable bycatch in another directed fishery, miscellaneous groundfish may be taken on an experimental basis in the Eastern Gulf of Alaska Area only under the conditions of a permit issued by the commissioner necessary for conservation or management purposes. The permit may

(1) specify the depth of fishing gear;

(2) specify the fishing season and periods of fishing;

(3) specify the area of fishing;

(4) establish the allowable size of harvested fish;

(5) specify the type and configuration of gear;

(6) require the completion of logbooks provided by the department and require that the logbooks be attached to a fish ticket at the time of landing; and

(7) require other conditions that the commissioner determines are necessary for conservation or management purposes.

(b) For the purpose of this section, "miscellaneous groundfish" are those species of groundfish not specifically addressed in 5 AAC 28.100 - 5 AAC 28.190.

5 AAC 28.180. Prohibitions for Eastern Gulf of Alaska Area

(a) A vessel or a person on board a vessel from which commercial, subsistence, or personal use longline fishing gear was used to take fish in the Northern or Southern Southeast Inside Subdistricts during the 72-hour period immediately before the start of the commercial sablefish fishery in that subdistrict, or from which that gear will be used during the 24-hour period immediately after the closure of the commercial sablefish fishery in that subdistrict, may not participate in the taking of sablefish in that subdistrict during that open sablefish fishing period. A vessel or a person on board a vessel who has harvested and sold that vessel or person's entire equal quota share before the final day of the sablefish season in that subdistrict is exempt from the prohibition on fishing longline gear during the 24-hour period immediately following the closure of the sablefish fishery in that subdistrict.

(b) A vessel or a person on board a vessel commercial fishing for sablefish in the Northern or Southern Southeast Inside Subdistricts may not operate subsistence or personal use longline gear for groundfish from that vessel until all commercial sablefish are offloaded from the vessel.

(c) Unless authorized by the terms of a scientific, propagative, or educational permit issued under AS 16.05.340(b), a person may not possess groundfish in a manner that indicates an intent to keep the groundfish alive.

5 AAC 28.190. Harvest of bait by commercial permit holders in Eastern Gulf of Alaska Area

The holder of a valid CFEC interim use or limited entry permit may take groundfish in the waters of Alaska in the Eastern Gulf of Alaska Area for use as bait in the commercial fishery for which the permit is held as follows:

(1) except for sablefish, lingcod, thornyhead, shortraker, rougheye, and yelloweye rockfish, groundfish may be taken at any time; sablefish, lingcod, thornyhead, shortraker, rougheye, and yelloweye rockfish may not be taken for bait or used for bait, except that the head, tail, fins, closely trimmed skeleton and viscera of delivered and processed commercial sablefish, lingcod, and thornyhead, shortraker, rougheye, and yelloweye rockfish may be used for bait;

(2) unless use of a gear is restricted in 5 AAC 27 - 5 AAC 39, groundfish may be taken by any gear specified in 5 AAC 39.105 except trawls;

(3) repealed 5/26/2006;

(4) a person on board a vessel used to take bait under the provisions of this section may not participate in the sablefish fishery if restricted by 5 AAC 28.180;

(5) a person who takes groundfish for bait during a fishing trip and uses the bait during that trip, must report the bait taken by species and estimated weight on a fish ticket prepared for that fishing trip; a person who makes a separate set to harvest groundfish for bait must report that harvest to the department on a fish ticket using the

gear card for the species for which the bait was intended and must submit the fish ticket within seven days after landing that species;

- (6) groundfish taken under this section may not be
- (A) purchased or sold; or
- (B) transported outside of the waters of Alaska in the Eastern Gulf of Alaska Area;
- (7) repealed 7/18/2003.

Article 5. Prince William Sound Area (Registration Area E).

5 AAC 28.200. Description of Prince William Sound Area

The Prince William Sound Area consists of the waters of Alaska bounded on the west by a line running along the longitude of Cape Fairfield at 148° 50.25' W. long., south to the latitude of Cape Douglas at 58° 51.10' N. lat., then west to 149° W. long., then south along 149° W. long., and on the east by the longitude of Cape Suckling at 144° W. long.

5 AAC 28.205. Description of Prince William Sound Area districts and sections

(a) Inside District: all waters in the Prince William Sound Area enclosed by lines from Point Whittshed to Point Bentinck, from Cape Hinchinbrook to Zaikof Point, and from Cape Cleare to Cape Puget.

(b) Outside District: all waters in the Prince William Sound Area that are seaward of the Inside District and between a line running along the longitude of Cape Fairfield at 148° 50.25' W. long., south to the latitude of Cape Douglas at 58° 51.10' N. lat., then west to 149° W. long., then south along 149° W. long., and the longitude of Cape Suckling at 144° W. long. The Outside District sections are as follows:

(1) Eastern Section: all waters of the Outside District between 147° W. long. and the longitude of Cape Suckling (144° W. long.);

(2) Western Section: all waters of the Outside District west of 147° W. long.

5 AAC 28.206. Prince William Sound Area registration

(a) During a state-waters season for Pacific cod described in 5 AAC 28.267, the Prince William Sound Area is

(1) an exclusive registration area for a vessel validly registered to take Pacific cod with groundfish pot gear or longline gear; and

(2) a nonexclusive registration area for a vessel validly registered to take Pacific cod with mechanical jigging machine and hand troll gear.

(b) In the Prince William Sound Area, for the walleye pollock fishery using trawl gear, the registration deadline for the registration year is January 13.

(c) In the Inside District, a Prince William Sound CFEC sablefish permit holder, or the permit holder's agent, must register for the commercial sablefish fishery before 5:00 p.m. April 1.

(d) In the Prince William Sound Area, prior to operating a vessel in a directed fishery for lingcod or Pacific cod during a parallel season, or Pacific cod during a state-waters season as described in 5 AAC 28.267, the vessel operator or authorized agent of the vessel operator must obtain a fishery-specific registration for that vessel.

5 AAC 28.210. Fishing seasons for Prince William Sound Area

(a) Repealed 5/11/2003.

(b) Sablefish may be taken in the Inside District from April 15 through August 31. There is no open season for commercial sablefish fishing in the Outside District.

(c) Lingcod may be taken only from July 1 through December 31, unless closed earlier by emergency order,

(1) in a directed fishery; and

(2) as bycatch up to 20 percent by round weight of the directed finfish species on board a vessel, unless the commissioner closes the season and opens another season in which the bycatch is prohibited or further limited.

(d) Rockfish may be taken in the Prince William Sound Area only as bycatch as described in 5 AAC 28.265.

(e) Walleye pollock may be taken from 12:00 noon January 20 until 11:59 p.m. March 31, unless closed earlier by emergency order.

(f) Miscellaneous groundfish may be taken only as specified in 5 AAC 28.220(c) and (d).

(g) Pacific cod may be taken only as specified in 5 AAC 28.267.

5 AAC 28.220. Permits for Prince William Sound Area

(a) Repealed 3/14/2009.

(b) Repealed 3/14/2009.

(c) Except when taken as allowable bycatch in another directed fishery, a person may take miscellaneous groundfish on an experimental basis in the Prince William Sound Area only under the conditions of a permit issued by the commissioner necessary for conservation or management purposes. In consideration of whether to issue a permit

under this section, the commissioner may consider whether the harvested fish can be fully utilized. In the permit, the commissioner may

- (1) specify the depth of fishing gear;
- (2) specify the fishing season and periods of fishing;
- (3) specify the area for fishing;
- (4) establish the allowable size of harvested fish;
- (5) specify the type and configuration of gear;

(6) require the completion of logbooks provided by the department and require that the logbooks be attached to a fish ticket at the time of landing; and

(7) require other conditions that the commissioner determines are necessary for conservation or management purposes.

(d) For the purpose of this section, "miscellaneous groundfish" are those species of groundfish that are not specified in 5 AAC 28.200 - 5 AAC 28.271.

5 AAC 28.230. Lawful gear for Prince William Sound Area

(a) Repealed 4/7/93.

(b) Groundfish taken incidentally by drift gillnet gear operated for salmon consistent with applicable state laws and regulations are legally taken and possessed.

(c) A groundfish pot may not be attached to a line connected to another groundfish pot, except that in the Prince William Sound sablefish fishery groundfish pots may be connected if each end of the buoy line is marked as specified in (d) of this section.

(d) At least one buoy on each groundfish pot must be legibly marked with the permanent ADF&G vessel license plate number of the vessel operating the gear. The buoy may bear only a single number - that of the vessel operating the gear. The number must be placed on the top one-third of the buoy in numerals at least four inches high, one-half inch wide, and in a color that contrasts with the color of the buoy. The buoy markings must be visible on the buoy above the water surface when the buoy is attached to the groundfish pot.

(e) Repealed 4/4/97.

(f) In the Prince William Sound Area, nonpelagic trawl gear may not be used to take groundfish, except that sablefish may be taken with shrimp trawl gear operated as specified in 5 AAC 31.225(b).

(g) Notwithstanding (f) of this section, a person operating a vessel that is validly registered to fish for shrimp with trawls may retain a bycatch limit of groundfish taken

during the shrimp fishing season. The bycatch limit that may be retained under this subsection may not exceed 10 percent of the gross weight of the shrimp landed.

(h) In the Prince William Sound Area, a mechanical jigging machine used to take groundfish may not have more than

(1) five lines; and

(2) 30 hooks per line.

(i) In the Prince William Sound Area, the holder of a CFEC permit in a fixed gear or net gear sablefish fishery may use groundfish pots only if two or more pots are connected as specified in (c) of this section.

(j) Except as provided in (k) of this section, in a groundfish fishery, a person may have only one type of legal gear on board the vessel.

(k) In a groundfish fishery, mechanical jigging machines and hand troll gear may be used at the same time. If mechanical jigging machines and hand troll gear are being used under this subsection, only that gear may be on board the vessel.

5 AAC 28.232. Groundfish pot storage requirements for Prince William Sound Area

(a) Following the closure of a parallel season, all groundfish pot gear must be removed from the water, except as specified in (b) of this section.

(b) The owner or operator of a vessel that is registered for a state-waters season for Pacific cod described in 5 AAC 28.267 may store groundfish pots as follows:

(1) rectangular groundfish pots must have all bait and bait containers removed and all doors secured fully open, and cone or pyramid groundfish pots must have all bait and bait containers removed and all doors not secured closed;

(2) pots must be stored in waters not more than 25 fathoms deep and may be stored only on the north side of Montague Island between 147° 25.00' W. long. and 147° 35.00' W. long.; and

(3) pots may be stored only from 10 days before the scheduled opening of the state-waters season until 10 days following the closure of that fishery.

5 AAC 28.250. Closed waters in Prince William Sound Area

(a) Groundfish may not be taken with pots in the waters enclosed by lines from Point Whitshed to Point Bentinck, from Cape Hinchinbrook Light to Seal Rocks Light to Zaikof Point at 60° 18.48' N. lat., 146° 55.10' W. long., and from a point at 60° 11' N. lat., 147° 20' W. long. on the northwest side of Montague Island, north to a point at 60° 30' N. lat., 147° 20' W. long., then east to a point at 60° 30' N. lat., 147° 00' W. long.,

then northeast to Knowles Head at 60° 41' N. lat., 146° 37.50' W. long., except that groundfish may be taken with pots

(1) within Orca Bay, east of 146° 37.50' W. long., excluding the waters of Port Gravina north of a line from Gravina Point to Red Head at 60° 40.25' N. lat., 146° 30.22' W. long.;

(2) in waters not more than 75 fathoms deep within waters enclosed by a line from Johnstone Point Light to Montague Point at 60° 23' N. lat., 147° 06' W. long., to Middle Point at 60° 20.50' N. lat., 147° W. long. to Schooner Rock Light (Zaikof Point) to Cape Hinchinbrook Light.

(b) Repealed 6/20/2010.

(c) In addition to the trawl restrictions specified in 5 AAC 39.165, a person may not use trawl gear for walleye pollock fishing from June 1 through November 1 within 10 nautical miles of the following areas:

- (1) Point Elrington at 59° 56.00' N. lat., 148° 15.20' W. long.;
- (2) Wooded Island at 59° 52.90' N. lat., 147° 20.65' W. long.;
- (3) The Needle at 60° 06.64' N. lat., 147° 36.17' W. long.;
- (4) Glacier Island at 60° 51.30' N. lat., 147° 14.50' W. long.;
- (5) Seal Rocks at 60° 09.78' N. lat., 146° 50.30' W. long.;
- (6) Cape Hinchinbrook at 60° 14.00' N. lat., 146° 38.50' W. long.;
- (7) Hook Point at 60° 20.00' N. lat., 146° 16.50' W. long.

5 AAC 28.263. Prince William Sound Walleye Pollock Pelagic Trawl Fishery Management Plan

(a) For directed walleye pollock fisheries, the Inside District of the Prince William Sound Area is divided into the following three sections:

- (1) Bainbridge Section: all waters of the Inside District west of 148° W. long.;
- (2) Knight Island Section: all waters of the Inside District between 148° W. long. and 147° 20' W. long.;
- (3) Hinchinbrook Section: all waters of the Inside District east of 147° 20' W. long.

(b) Notwithstanding 5 AAC 39.165(1) and (2), during a directed walleye pollock fishery, pelagic trawl gear may be operated in that portion of the Hinchinbrook Section located north of a line from Cape Hinchinbrook Light at 60° 14.25' N. lat., 146° 38.80' W. long. to Zaikof Point at 60° 18.48' N. lat., 146° 55.10' W. long., and west of lines

from Johnstone Point to Knowles Head at 60° 41.00' N. lat., 146° 37.50' W. long., to Porcupine Point at 60° 44.60' N. lat., 146° 42.10' W. long. to the southernmost tip of Bligh Island at 60° 48.30' N. lat., 146° 47.90' W. long., and the northernmost tip of Bligh Island at 60° 52.90' N. lat., 146° 46.00' W. long. to Rocky Point at 60° 57.00' N. lat., 146° 46.20' W. long. to Point Freemantle at 60° 56.00' N. lat., 146° 58' W. long.

(c) During a directed walleye pollock fishery, no more than 60 percent of the guideline harvest level may be taken from any one section described in (a) of this section.

(d) During a directed walleye pollock pelagic trawl fishery, the total bycatch weight of all species combined may not exceed five percent of the total round weight of the walleye pollock harvested.

(e) After registration of a vessel to fish for walleye pollock in the Prince William Sound Area, a CFEC permit holder must contact the department before fishing and again when departing the management area. A CFEC permit holder must contact the department before fishing in a new management area. Department contacts will be specified in writing by the department on registration forms at the time of registration.

(f) Catch reports must be submitted to the department as specified in the registration forms.

(g) Log sheets will be provided by the department at the time of registration and must be filled out completely after each tow. Signed copies of the log sheets must be received by the department's Cordova office, at the address or facsimile number specified on the log sheet, within 10 days after each landing.

(h) The commissioner may require onboard observers on a vessel during fishing operations.

5 AAC 28.265. Prince William Sound Rockfish Management Plan

(a) A vessel may not land or have on board more than a combined total of 3,000 pounds (round weight) of all rockfish species within five consecutive days.

(b) In the Prince William Sound Area, when fishing in a directed fishery, other than for rockfish, a CFEC permit holder must retain all rockfish, except that

(1) unless otherwise specified in this section, all rockfish in excess of 10 percent, round weight, of all directed species on board the vessel must be weighed and reported as bycatch overage on an ADF&G fish ticket; any proceeds from the sale of excess rockfish shall be surrendered to the state;

(2) during the sablefish fishery, all rockfish in excess of 20 percent, round weight, of all sablefish on board the vessel must be weighed and reported as bycatch overage on an ADF&G fish ticket; any proceeds from the sale of excess rockfish shall be surrendered to the state;

(3) during a season for Pacific cod, all rockfish in excess of five percent, round weight, of all Pacific cod on board the vessel must be weighed and reported as bycatch overage on an ADF&G fish ticket; any proceeds from the sale of excess rockfish shall be surrendered to the state;

(4) during the directed walleye pollock pelagic trawl fishery, all rockfish in excess of one-half percent, round weight, of all walleye pollock on board the vessel must be weighed and reported as bycatch overage on an ADF&G fish ticket; any proceeds from the sale of excess rockfish shall be surrendered to the state.

(c) The guideline harvest level is 150,000 pounds (round weight) for all rockfish species combined.

5 AAC 28.267. Prince William Sound Pacific Cod Management Plan

(a) The management plan in this section governs the harvest of Pacific cod in the Prince William Sound Area.

(b) Each year the commissioner

(1) shall open and close, by emergency order, a parallel season for mechanical jigging machine and hand troll gear, groundfish pot gear, and longline gear in the Prince William Sound Area to coincide with the initial federal season in the federal Central Gulf of Alaska Area, as follows:

(A) the parallel season for mechanical jigging machine and hand troll gear will coincide with the initial federal season for jig gear;

(B) the parallel season for groundfish pot gear will coincide with the initial federal season for pot gear;

(C) the parallel season for longline gear will coincide with the initial federal season for hook and line gear operated from vessels less than 50 feet in overall length;

(2) may open and close, by emergency order, a parallel season for mechanical jigging machine and hand troll gear, groundfish pot gear, and longline gear in the Prince William Sound Area to coincide with the federal Central Gulf of Alaska Area "B" season, as follows:

(A) the parallel season for mechanical jigging machine and hand troll gear will coincide with the federal "B" season for jig gear;

(B) the parallel season for groundfish pot gear will coincide with the federal "B" season for pot gear;

(C) the parallel season for longline gear will coincide with the federal "B" season for hook and line gear operated from vessels less than 50 feet in overall length.

(c) The commissioner shall open and close, by emergency order, a state-waters season for mechanical jigging machine and hand troll gear, groundfish pot gear, and longline gear in the Prince William Sound Area, as follows:

(1) for mechanical jigging machine and hand troll gear, the state-waters season will open 24 hours following the closure of the initial federal season in the Central Gulf of Alaska Area for jig gear and will close when the mechanical jigging machine and hand troll gear and groundfish pot gear allocation, as calculated under (e)(1) of this section, is taken, a parallel season for mechanical jigging machine and hand troll gear is opened under (b)(2) of this section, or December 31, whichever occurs first;

(2) for groundfish pot gear, the state-waters season will open 24 hours following the closure of the initial federal season in the Central Gulf of Alaska Area for groundfish pot gear and will close when the mechanical jigging machine and hand troll gear and groundfish pot gear allocation, as calculated under (e)(1) of this section, is taken, a parallel season for groundfish pot gear is opened under (b)(2) of this section, or December 31, whichever occurs first;

(3) for longline gear, the state-waters season will open seven days following the closure of the initial federal season in the Central Gulf of Alaska Area for hook and line gear operated from vessels less than 50 feet in overall length or concurrent with the individual fishing quota halibut season opening date, whichever occurs later, and will close when the longline gear allocation, as calculated under (e)(1) of this section, is taken, a parallel season for longline gear is opened under (b)(2) of this section, or December 31, whichever occurs first;

(4) if there is any guideline harvest level remaining on September 1, the commissioner may close, by emergency order, the state-waters season and immediately reopen a state-waters season to all legal gear on September 1 or following a parallel season closure; the state-waters season will close on December 31 or when the guideline harvest level is reached, whichever occurs first; if the season is closed and immediately reopened under this paragraph, a vessel participating in the state-waters season when it was closed will not be required to comply with the landing requirements specified in 5 AAC 28.371 until the season is closed again.

(d) The commissioner may open and close, by emergency order, fishing seasons at times other than those specified in this section if the commissioner determines it is necessary to

(1) adapt to unanticipated openings or closures of the federal season;

(2) maintain sustained yield management;

(3) provide for orderly fisheries; or

(4) allow for a concurrent state-waters season and federal season for Pacific cod based on inseason assessment of effort, harvest rate, or remaining Pacific cod quota.

(e) During a state-waters season,

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(1) the guideline harvest level for Pacific cod in the Prince William Sound Area is 25 percent of the estimated total allowable harvest of Pacific cod for the federal Eastern Gulf of Alaska Area; mechanical jigging machine and hand troll gear and groundfish pot gear is allocated 15 percent of the guideline harvest level and longline gear is allocated 85 percent of the guideline harvest level, except that if

(A) the guideline harvest level allocated to the mechanical jigging machine and hand troll gear and groundfish pot gear is taken in any calendar year, the mechanical jigging machine and hand troll gear and groundfish pot gear allocation will increase by five percent beginning the following calendar year to a maximum of 30 percent of the guideline harvest level and the longline allocation will decrease by a corresponding five percent the following calendar year to a minimum of 70 percent of the guideline harvest level; and

(B) the guideline harvest level allocated to the mechanical jigging machine and hand troll gear and groundfish pot gear is not taken in any calendar year, the mechanical jigging machine and hand troll gear and groundfish pot gear allocation will decrease by five percent beginning the following calendar year to a minimum of 15 percent of the guideline harvest level and the longline allocation will increase by a corresponding five percent the following calendar year to a maximum of 85 percent of the guideline harvest level;

(2) Pacific cod may be taken in the waters of the Prince William Sound Area described in 5 AAC 28.205, except those waters of the Eastern Section east of 146° 15.12' W. long.;

(3) Pacific cod may be taken only with groundfish pots, mechanical jigging machines, hand troll gear, and longline gear, as follows:

(A) except as provided in (g) of this section, no more than 60 groundfish pots may be operated from a vessel registered to fish for Pacific cod;

(B) no more than five mechanical jigging machines may be operated from a vessel registered to fish for Pacific cod;

(C) in addition to the requirements of 5 AAC 28.020, a vessel must be registered to fish with mechanical jigging machines and hand troll gear (jig gear), pot gear, or longline gear, and may not simultaneously be registered to fish with more than one gear type; a vessel's gear registration may be changed during a state-waters season to a different gear registration if the owner, or the owner's agent, submits a written request for a change in registration by mail, facsimile, or in person, to the department office in Cordova, or other locations specified by the department, for validation, and that registration has been validated by the department.

(f) During a state-waters season for Pacific cod, the Prince William Sound Area is

(1) an exclusive registration area for a vessel validly registered to take Pacific cod with groundfish pot gear or longline gear; and

(2) a nonexclusive registration area for a vessel validly registered to take Pacific cod with mechanical jigging machine and hand troll gear.

(g) If at any time after October 30 the commissioner determines that the guideline harvest level will not be reached by December 31, the commissioner may close, by emergency order, the state-waters season and immediately reopen a state-waters season during which the following shall be implemented to increase the harvest to achieve the guideline harvest level:

(1) removal of the limits on the number of groundfish pots and mechanical jigging machines that may be operated from a vessel;

(2) if needed, designation of the Prince William Sound Area as a nonexclusive registration area for Pacific cod.

(h) If the state-waters season is closed and immediately reopened under (g) of this section, a vessel participating in the state-waters season when it was closed will not be required to comply with the landing requirements of 5 AAC 28.271 until the season is closed again.

(i) Notwithstanding the provisions of 5 AAC 28.070, the commissioner may, by emergency order, open a fishing season under this subsection in which the bycatch amounts allowed during a directed fishery are increased. During a fishing season opened under this subsection, in addition to the allowance of bycatch of other species specified in 5 AAC 28.070, the bycatch allowance of Pacific cod may be up to 20 percent of the directed finfish species on board a vessel using groundfish pot gear, mechanical jigging machine and hand troll gear, or longline gear. The landed weight of Pacific cod taken as bycatch may not exceed 20 percent of the directed finfish species on board the vessel. The commissioner may, by emergency order, close and immediately reopen a season in which the bycatch limit for any species is reduced.

(j) If a state-waters season and a federal season for Pacific cod are opened concurrently for the same gear type or for a different gear type,

(1) a vessel may not participate in a state-waters season and any other Pacific cod season at the same time;

(2) a vessel's registration for the state-waters season in the Prince William Sound Area must be invalidated and all groundfish on board that vessel must be landed before that vessel may participate in any other concurrent Pacific cod season;

(3) registration for a state-waters season may only occur in person or by facsimile from 8:00 a.m. to 5:00 p.m. on a working day at the department office in Cordova, or other locations specified by the department; and

(4) all groundfish on board a vessel must be landed before that vessel may be registered for a Prince William Sound Area state-waters season for Pacific cod.

(k) An operator of a vessel participating in a parallel Pacific cod season in the Prince William Sound Area may not operate gear in any other registration area during the same trip.

5 AAC 28.270. Possession requirements for Prince William Sound Area

(a) Lingcod retained must measure at least 35 inches from the tip of the snout to the tip of the tail, or 28 inches from the front of the dorsal fin to the tip of the tail. Undersized lingcod shall be returned to the water immediately without further injury. No person may mutilate or otherwise disfigure a lingcod in a manner that prevents determination of the minimum size before delivery for sale.

(b) Walleye pollock taken with mechanical jigging machines and hand troll gear during a state-waters season for Pacific cod described in 5 AAC 28.267 may be retained.

(c) If the commissioner determines it necessary for biological sampling purposes, the commissioner may, by emergency order, close a fishing season for lingcod and immediately reopen the season with a requirement that all lingcod be delivered with the head on and with the vent and external area one inch forward of the vent uncut, as evidence of gender.

5 AAC 28.271. Landing requirements for Prince William Sound Area

(a) After 24 hours following the closure of any directed groundfish season within the Prince William Sound Area, a vessel that participated in that fishery may not have that species of groundfish on board unless

(1) that species has been designated as bycatch for another directed fishery and the amount on board is permissible under retained bycatch restrictions specified in regulation; or

(2) the vessel has been delayed due to extraordinary circumstances beyond the control of the vessel operator, and the vessel operator has contacted a local representative of the department within 24 hours following the closure of the season and the representative has granted a reasonable amount of time for the vessel to reach the port of delivery or processing location; any amount of additional time shall be determined under the assumption that the vessel departed the fishing grounds immediately after the closure and proceeded directly to the port of delivery or processing location.

(b) At least six hours before landing lingcod, an operator of a vessel participating in the Prince William Sound Area directed lingcod fishery must notify the department by telephone, to a telephone number specified in writing by the department on the registration forms at the time of registration, the following information:

- (1) vessel name and ADF&G number;
- (2) date and location of landing, and estimated time of arrival;
- (3) name of fish buyer or processor;
- (4) estimated number of pounds of lingcod on board the vessel.

5 AAC 28.272. Sablefish harvest, possession, and landing requirements for Prince William Sound Area

(a) Before commercial fishing for sablefish in another registration area, the operator of a vessel registered to take sablefish in the Prince William Sound Area must land all sablefish taken and submit a copy of the completed fish ticket for the landed fish to the department.

(b) The operator of a fishing vessel may not take sablefish in the Prince William Sound Area while sablefish taken in another registration area are on board the vessel.

(c) In the Prince William Sound Area, the holder of a CFEC limited entry permit or interim-use permit to take sablefish may not take more than the annual amount specified by the department. The department will determine the annual amount as follows:

(1) the annual amount will be the sum of one-half of the annual harvest objective divided by the number of permit holders registered to fish in the commercial sablefish fishery and one-half of the annual harvest objective multiplied by the average percentage of the harvest taken by the vessel category for which the CFEC permit was issued, as specified in 20 AAC 05.779, and divided by the number of permit holders registered to fish sablefish with the permits of that vessel category;

(2) the average percentages of harvest for the vessel categories described in (1) of this subsection are as follows:

(A) combined categories A, vessels with a length of 90 feet, and B, vessels with a maximum overall length of 60 feet: 18.53 percent;

(B) category C, vessels with a maximum overall length of 50 feet: 70.33 percent;

(C) category D, vessels with a maximum overall length of 35 feet: 11.14 percent.

(d) When participating in the commercial sablefish fishery in the Prince William Sound Area, the holder of a CFEC limited entry permit or interim-use permit must retain for inspection on board the vessel a copy of each completed fish ticket issued to the permit holder during the current annual season.

(e) At least six hours before landing sablefish, a CFEC permit holder must notify the department by telephone, to a telephone number specified in writing by the department on the registration forms at the time of registration, the following information:

(1) location of landing, and estimated time of arrival;

(2) name of buyer or processor;

(3) estimated number of pounds of sablefish on board the vessel;

(4) whether the catch is dressed fish or in the round.

(f) An operator of a vessel participating in the Prince William Sound Area commercial sablefish fishery shall obtain sablefish log sheets provided by the department. The vessel operator must have the log sheets on board the vessel at all times and must submit to the department no later than seven days following delivery completed log sheets that correspond with each ADF&G sablefish fish ticket.

(1) A log sheet under this section must:

(A) include the date, the specific location of harvest by latitude and longitude, the number of hooks fished or the number of pots fished, the average depth, and the time gear is deployed and hauled, for each set;

(B) include for the target species, and for each bycatch species, the number of fish retained and discarded for each set;

(C) be updated not later than 11:59 p.m. local time on the day after the day of operation; and

D) be made available to a local representative of the department upon request.

(2) A person may not make a false entry in a log sheet described in this section.

(g) An operator of a vessel retaining sablefish in federal waters may not operate gear in state waters of the Prince William Sound Area during the same trip.

Article 6. Cook Inlet Area (Registration Area H).

5 AAC 28.300. Description of Cook Inlet Area

The Cook Inlet Area consists of all waters of Alaska enclosed by a line extending east from Cape Douglas (58° 51.10' N. lat.) and a line extending south from Cape Fairfield (148° 50.25' W. long.).

5 AAC 28.305. Description of Cook Inlet Area districts

(a) Cook Inlet District: all waters of Alaska in the Cook Inlet Area north of a line from Cape Douglas (58° 51.10' N. lat.) to Point Adam (59° 15.27' N. lat.).

(b) North Gulf District: all waters of Alaska in the Cook Inlet Area north of Cape Douglas (58° 51.10' N. lat.) and west of the longitude of Cape Fairfield (148° 50.25' W. long.), excluding the Cook Inlet District.

5 AAC 28.306. Cook Inlet Area registration

(a) The Cook Inlet Area is an exclusive registration area for Pacific cod during a state-waters season described in 5 AAC 28.367.

(b) In the Cook Inlet Area, before operating a vessel in a directed fishery for lingcod, pelagic shelf rockfish, sablefish, Pacific cod during a parallel season, or Pacific cod during a state-waters season, the vessel operator or authorized agent must obtain a fishery-specific registration for that vessel.

5 AAC 28.310. Fishing seasons for Cook Inlet Area

(a) Repealed 3/8/2002.

(b) Lingcod may be taken only from July 1 through December 31.

(c) Sablefish may be taken only from July 15 until closed by emergency order.

(d) Pelagic shelf rockfish may be taken only in a directed fishery from July 1 until closed by emergency order, and as specified in 5 AAC 28.365.

(e) Pacific cod may be taken only as specified in 5 AAC 28.367.

(f) Miscellaneous groundfish may be taken only under the conditions of a miscellaneous groundfish permit as specified in 5 AAC 28.379. For the purpose of this subsection, "miscellaneous groundfish" has the meaning given in 5 AAC 28.379(c).

5 AAC 28.330. Lawful gear for Cook Inlet Area

(a) Except as provided in (b) of this section, groundfish may be taken only by pelagic trawls, hand troll gear, longlines, pots, or mechanical jigging machines.

(b) Groundfish taken incidentally by drift or set gillnet gear lawfully operated for salmon or herring may be retained.

(c) A groundfish pot may not be attached to a line connected to another groundfish pot, except that in the Cook Inlet Area sablefish fishery, groundfish pots may be connected by a line if at least one buoy is attached to each end of the line and each buoy is marked as specified in (d) of this section; no more than 15 groundfish pots may be attached to the same line.

(d) At least one buoy on each groundfish pot must be legibly marked with the permanent ADF&G vessel license plate number of the vessel operating the gear. The buoy may bear only a single number - that of the vessel operating the gear. The number must be placed on the top one-third of the buoy in numerals at least four inches high, one-half inch wide, and in a color that contrasts with the color of the buoy. The buoy markings must be visible on the buoy above the surface when the buoy is attached to the groundfish pot.

(e) Except as provided in (f) of this section, in a groundfish fishery for which more than one type of gear is legal gear, a person may have only one type of gear on board the vessel at any one time.

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(f) In a directed fishery for lingcod, rockfish, or Pacific cod during a state-waters season as specified in 5 AAC 28.367, those species may be taken by mechanical jigging machines and hand troll gear at the same time. If mechanical jigging machines and hand troll gear are being used under this subsection, only that gear may be on board the vessel.

(g) Lingcod and rockfish may be taken only by mechanical jigging machines and hand troll gear.

(h) Pacific cod may be taken only by groundfish pots, mechanical jigging machines, and hand troll gear during a state-waters season, as specified in 5 AAC 28.367.

(i) In the Cook Inlet Area, a mechanical jigging machine used to take groundfish may not have more than

(1) five lines; and

(2) 30 hooks per line.

5 AAC 28.332. Groundfish pot storage requirements for Cook Inlet Area

(a) Except as specified in (b) of this section, following the closure of a groundfish season to pot gear, groundfish pots must have all bait and bait containers removed, and may be stored in the water as follows:

(1) rectangular groundfish pots must have all doors secured fully open; and

(2) cone or pyramid groundfish pots must have all doors not secured closed.

(b) All groundfish pots must be removed from the water no later than five days after the closure of a season to pot gear.

5 AAC 28.334. Groundfish reporting requirements for the Cook Inlet Area

In the Cook Inlet Area, a commercial fisherman shall report, on an ADF&G fish ticket, at the time of landing, all groundfish taken in a directed groundfish or halibut fishery and retained but not sold.

5 AAC 28.350. Closed waters in Cook Inlet Area

(a) Repealed 4/4/97.

(b) Groundfish may not be taken by pot gear in the following locations:

(1) waters west of a line from Cape Douglas to Chinitna Point (59° 41.6' N. lat., 153° 03.2' W. long.) that are deeper than 15 fathoms;

(2) waters of Kachemak Bay enclosed by a line from a point on the southern shore of Kachemak Bay at 59° 34.68' N. lat., 151° 19.27' W. long., to the southernmost point of Gull Island at 59° 35.05' N. lat., 151° 19.90' W. long., southwest to 59° 32.20' N. lat.,

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151° 35.00' W. long., south to 59° 30.40' N. lat., 151° 35.00' W. long., west to 59° 30.40' N. lat., 151° 45.00' W. long., northeast to 59° 33.00' N. lat., 151° 41.00' W. long., northeast to 59° 34.70' N. lat., 151° 30.00' W. long., and north along 151° 30.00' W. long. to the point that intersects the mainland.

(c) Lingcod may not be taken in the waters of Resurrection Bay north of a line between Cape Resurrection and Cape Aialik.

(d) At least six hours before landing sablefish, an operator of a vessel participating in the Cook Inlet Area sablefish fishery must notify the department by telephone, to a telephone number specified in writing by the department on the registration forms at the time of registration, the following information:

- (1) vessel name and ADF&G number;
- (2) date and location of landing, and estimated time of arrival;
- (3) name of fish buyer or processor;
- (4) estimated number of pounds of sablefish on board the vessel;
- (5) whether the catch is dressed fish or whole (in the round) fish.

5 AAC 28.360. Cook Inlet Sablefish Management Plan

(a) Sablefish may be retained only during an open directed sablefish fishery on board a vessel that is registered to participate in the Cook Inlet sablefish fishery.

(b) An operator of a vessel participating in the Cook Inlet Area sablefish fishery shall obtain sablefish log sheets provided by the department. The vessel operator must have the log sheets on board the vessel at all times and must submit to the department no later than seven days following delivery completed log sheets that correspond with each ADF&G sablefish fish ticket.

(1) A log sheet described in this section must:

(A) include the date, the specific location of harvest by latitude and longitude, the number of hooks fished or the number of pots fished, the average depth, and the time gear is deployed and hauled, for each set;

(B) include for the target species, and for each bycatch species, the number of fish retained and discarded for each set;

(C) be updated not later than 11:59 p.m. local time on the day after the day of operation; and

(D) be made available to a local representative of the department upon request.

(2) A person may not make a false entry in a log sheet described in this section.

(c) An operator of a vessel participating in the Cook Inlet sablefish fishery may not land or have on board the vessel more than 3,000 pounds (round weight) of sablefish in any two consecutive days.

(d) At least six hours before landing sablefish, an operator of a vessel participating in the Cook Inlet Area sablefish fishery must notify the department by telephone, to a telephone number specified in writing by the department on the registration forms at the time of registration, the following information:

- (1) vessel name and ADF&G number;
- (2) date and location of landing, and estimated time of arrival;
- (3) name of fish buyer or processor;
- (4) estimated number of pounds of sablefish on board the vessel;
- (5) whether the catch is dressed fish or whole (in the round) fish.

(e) A vessel retaining sablefish in federal waters may not operate gear in state waters of the Cook Inlet Area during the same trip.

5 AAC 28.365. Cook Inlet Rockfish Management Plan

(a) A vessel fishing in the Cook Inlet District may not land or have on board more than a combined total of 1,000 pounds (round weight) of all rockfish species within five consecutive days.

(b) A vessel fishing in the North Gulf District may not land or have on board more than 4,000 pounds (round weight) of all rockfish species within five consecutive days.

(c) If the commissioner determines a closure is necessary to ensure that the guideline harvest level for rockfish is not exceeded, the commissioner shall close, by emergency order, the directed rockfish fishery and may adjust rockfish bycatch allowances in other directed groundfish and halibut fisheries.

(d) The guideline harvest level for the Cook Inlet Area is 150,000 pounds (round weight) for all rockfish species combined.

(e) An operator of a vessel participating in the Cook Inlet Area directed rockfish fishery shall obtain a rockfish log sheets provided by the department. The vessel operator must have the log sheets on board the vessel at all times and must submit to the department no later than seven days following delivery completed log sheets that correspond with each ADF&G directed rockfish fish ticket.

- (1) A log sheet described in this section must:

(A) include the date, the specific location of harvest by latitude and longitude, the number of hooks fished, the average depth, and the time gear is deployed and hauled, for each set;

(B) include for the target species, and for each bycatch species, the number of fish retained and discarded for each set;

(C) be updated not later than 11:59 p.m. local time on the day after the day of operation; and

(D) be made available to a local representative of the department upon request.

(2) A person may not make a false entry in a log sheet described in this section.

(f) In the Cook Inlet Area, in a halibut or directed groundfish fishery, other than for rockfish, a CFEC permit holder must retain all rockfish, and, unless otherwise specified in this section or by emergency order, all rockfish in excess of 10 percent, round weight, of aggregate targeted groundfish species and halibut on board the vessel must be weighed and reported as bycatch overage on an ADF&G fish ticket. All proceeds from the sale of excess rockfish shall be surrendered to the state.

(g) In the Cook Inlet Area, the directed rockfish fishery targets pelagic shelf rockfish, as defined in 5 AAC 39.975. During the directed rockfish fishery, a CFEC permit holder must retain all rockfish. All nonpelagic rockfish in excess of 20 percent, combined round weight, of the gross round weight of all pelagic shelf rockfish on board the vessel must be weighed and reported as bycatch overage on an ADF&G fish ticket. All proceeds from the sale of excess rockfish shall be surrendered to the state.

(h) At least six hours before landing rockfish, an operator of a vessel participating in the Cook Inlet Area directed rockfish fishery must notify the department by telephone, to a telephone number specified in writing by the department on the registration forms at the time of registration, the following information:

(1) vessel name and ADF&G number;

(2) date and location of landing, and estimated time of arrival;

(3) name of fish buyer or processor; and

(4) estimated number of pounds of rockfish on board the vessel.

5 AAC 28.367. Cook Inlet Pacific Cod Management Plan

(a) The management plan in this section governs the harvest of Pacific cod in the Cook Inlet Area.

(b) Each year the commissioner

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(1) shall open and close, by emergency order, a parallel season in the Cook Inlet Area to coincide with the initial federal season in the federal Central Gulf of Alaska Area during which the use of the gear allowed in the federal season for Pacific cod is permitted, unless use of that gear is prohibited under 5 AAC 28.050, 5 AAC 28.330, or 5 AAC 28.350;

(2) may open and close, by emergency order, a parallel season to coincide with the federal Central Gulf of Alaska Area "B" season, during which the use of the gear allowed in the federal season for Pacific cod is permitted, unless use of that gear is prohibited under 5 AAC 28.050, 5 AAC 28.330, or 5 AAC 28.350.

(c) The commissioner shall open, by emergency order, a state-waters season for mechanical jigging machine and hand troll gear and groundfish pot gear in the Cook Inlet Area 24 hours following the closure of the initial federal season in the federal Central Gulf of Alaska Area for jig gear and pot gear and shall close or reopen, by emergency order, the state-waters season, as follows:

(1) close the state-waters season for mechanical jigging machine and hand troll gear when 15 percent of the guideline harvest level is taken by mechanical jigging machine and hand troll gear, a parallel season for mechanical jigging machine and hand troll gear is opened under (b)(2) of this section, or December 31, whichever occurs first; if 90 percent of the mechanical jigging machine and hand troll gear allocation is reached in any calendar year, the allocation to that gear will increase by five percent beginning the following calendar year to a maximum of 25 percent;

(2) close the state-waters season for pot gear when a maximum of 85 percent of the guideline harvest level, or the percentage of the guideline harvest level as adjusted by any change in the mechanical jigging machine and hand troll gear allocation as specified in (1) of this subsection, is taken by pot gear, a parallel season for pot gear is opened under (b)(2) of this section, or December 31, whichever occurs first;

(3) if there is any guideline harvest level remaining on September 1, the commissioner may close, by emergency order, the state-waters season and immediately reopen a state-waters season to all legal gear on September 1, or following the closure of a parallel season; the state-waters season will close on December 31 or when the guideline harvest level is reached, whichever occurs first; if the season is closed and immediately reopened under this paragraph, a vessel participating in the state-waters season when it was closed will not be required to comply with the landing requirements of 5 AAC 28.371 until the season is closed again;

(4) close the state-waters season for vessels longer than 58 feet in overall length fishing with pot gear when 25 percent of the guideline harvest level has been taken by those vessels, unless the state-waters season for pot gear has already been closed for the remainder of the season under (2) of this subsection; this restriction does not apply if the season for pot gear is still open under (3) of this subsection.

(d) The commissioner may open and close, by emergency order, fishing seasons at times other than those specified in this management plan if the commissioner determines it is necessary to

(1) adapt to unanticipated openings and closures of the federal season;

(2) maintain sustained yield management;

(3) provide for orderly fisheries; or

(4) allow for a concurrent state-waters season and federal season for Pacific cod based on inseason assessment of effort, harvest rate, or remaining Pacific cod quota.

(e) During a state-waters season,

(1) the guideline harvest level for Pacific cod in the Cook Inlet Area is 3.75 percent of the estimated total allowable harvest of Pacific cod for the federal Central Gulf of Alaska Area;

(2) Pacific cod may be taken only with groundfish pot gear, mechanical jigging machines, and hand troll gear, as follows:

(A) except as provided in (g) of this section, no more than 60 groundfish pots may be operated from a vessel registered to fish for Pacific cod;

(B) no more than five mechanical jigging machines may be operated from a vessel registered to fish for Pacific cod;

(C) in addition to the requirements of 5 AAC 28.020, a vessel must be registered to fish with groundfish pot gear or with mechanical jigging machine and hand troll gear (jig gear), and may not simultaneously be registered to fish with more than one gear type; a vessel's gear registration may be changed during a state-waters season to a different gear registration if the owner, or the owner's agent, submits a written request for a change in registration by mail, facsimile, or in person, to the department office in Homer, or other locations specified by the department, for validation, and that registration has been validated by the department.

(f) The Cook Inlet Area is an exclusive registration area for Pacific cod during a state-waters season.

(g) If at any time after October 30 the commissioner determines that the guideline harvest level for Pacific cod will not be reached by December 31, the commissioner may close, by emergency order, the fishing season and immediately reopen a state-waters season during which the following shall be implemented to increase the harvest rate to achieve the guideline harvest level:

(1) removal of the limits on the number of groundfish pots and mechanical jigging machines that may be operated from a vessel;

(2) if needed, designation of the Cook Inlet Area as a nonexclusive registration area for Pacific cod.

(h) If the season is closed and immediately reopened under (g) of this section, a vessel participating in the state-waters season when it was closed will not be required to comply with the landing requirements of 5 AAC 28.371 until the season is closed again.

(i) If a state-waters season and a federal season for Pacific cod are opened concurrently for the same gear type or for a different gear type,

(1) a vessel may not participate in a state-waters season and any other Pacific cod season at the same time;

(2) a vessel's registration for the state-waters season in the Cook Inlet Area must be invalidated and all groundfish on board that vessel must be landed before that vessel may participate in any other concurrent Pacific cod season;

(3) registration for a state-waters season may only occur in person or by facsimile from 8:00 a.m. to 5:00 p.m. on a working day at the department office in Homer, or other locations specified by the department; and

(4) all groundfish on board a vessel must be landed before that vessel may be registered for a Cook Inlet Area state-waters season for Pacific cod.

(j) A vessel participating in a parallel Pacific cod season in the Cook Inlet Area may not operate gear in any other registration area during the same trip.

5 AAC 28.370. Possession requirements for Cook Inlet Area

(a) Lingcod retained must measure at least 35 inches from the tip of the snout to the tip of the tail, or 28 inches from the front of the dorsal fin to the tip of the tail. Undersized lingcod shall be returned to the water immediately without further injury. No person may mutilate or otherwise disfigure a lingcod in any manner that prevents determination of the minimum size before delivery for sale.

(b) If the commissioner determines it necessary for biological sampling purposes, the commissioner may close, by emergency order, a fishing season for lingcod and immediately reopen the season with a requirement that all lingcod be delivered with the head on and with the vent and external area one inch forward of the vent unamutilated, as evidence of gender.

(c) Walleye pollock taken with mechanical jigging machines and hand troll gear during a state-waters season for Pacific cod described in 5 AAC 28.367 may be retained.

5 AAC 28.371. Landing requirements for Cook Inlet Area

(a) After 24 hours following the closure of any directed groundfish season within the Cook Inlet Area, a vessel that participated in that fishery may not have that species of groundfish on board unless

(1) that species has been designated as bycatch for another directed fishery and the amount on board is permissible under retained bycatch restrictions specified in regulation;

(2) the vessel has been delayed due to extraordinary circumstances beyond the control of the vessel operator, and the vessel operator has contacted a local representative of the department within 24 hours following the closure of the season and the representative has granted a reasonable amount of time for the vessel to reach the port of delivery or processing location, any amount of additional time shall be determined under the assumption that the vessel departed the fishing grounds immediately after the closure and proceeded directly to the port of delivery or processing location; or

(3) the vessel is in port at the vessel's delivery location no later than 24 hours following the closure of the season and available and scheduled for offloading, with the permit holder on board the vessel.

(b) At least six hours before landing lingcod, an operator of a vessel participating in the Cook Inlet Area lingcod fishery must notify the department by telephone, at a telephone number specified in writing by the department on the registration forms at the time of registration, of the following information:

- (1) vessel name and ADF&G number;
- (2) date and location of landing, and estimated time of arrival;
- (3) name of fish buyer or processor;
- (4) estimated number of pounds of lingcod on board the vessel.

5 AAC 28.379. Permit for miscellaneous groundfish

(a) Except when taken as allowable bycatch in a directed fishery, and notwithstanding 5 AAC 28.084, a person may take miscellaneous groundfish, including spiny dogfish (*Squalus acanthias*), on an experimental basis in the Cook Inlet Area only under the conditions of a permit issued by the commissioner under this section necessary for conservation or management purposes. In the permit, the commissioner may

- (1) specify the depth of fishing gear;
- (2) specify the fishing season and periods of fishing;
- (3) specify the area of fishing;
- (4) establish the allowable size of harvested fish;
- (5) specify the type and configuration of gear;
- (6) require the completion of logbooks provided by the department and require that the logbooks be attached to a fish ticket at the time of landing; and

(7) require other conditions that the commissioner determines are necessary for conservation or management purposes.

(b) In deciding whether to issue a permit under this section, the commissioner may consider whether the harvested fish can be fully utilized.

(c) For the purpose of this section, "miscellaneous groundfish"

(1) are those species of groundfish that are not specified in 5 AAC 28.300 - 5 AAC 28.371; and

(2) includes spiny dogfish (*Squalus acanthias*).

Article 7. Kodiak Area (Registration Area K).

5 AAC 28.400. Description of Kodiak Area

The Kodiak Area consists of all waters of Alaska south of line extending east from Cape Douglas at 58° 51.10' N. lat., west of 149° W. long., and east of line extending south from the Alaska Peninsula near Kilokak Rocks at 156° 20.22' W. long.

5 AAC 28.404. Description of Kodiak Area districts

(a) Afognak District: all waters of the Kodiak Area south of the latitude of Cape Douglas (58° 51.10' N. lat.), north of 58° N. lat., and east of a line extending through Shelikof Strait from a point at 58° 51.10' N. lat., 152° 50.00' W. long., to a point at 56° 37.00' N. lat., 156° 20.22' W. long.

(b) Northeast District: all waters of the Kodiak Area south of 58° N. lat., north of 57° 30.00' N. lat., and east of 153° W. long.

(c) Eastside District: all waters of Ugak and Kiliuda Bays, all waters of the Kodiak Area on the east side of Kodiak Island that are south of 57° 30.00' N. lat. and east of 153° W. long., and all waters of Sitkalidak Strait east of 153° 16.00' W. long.

(d) Southeast District: all waters of Sitkalidak Strait west of 153° 16.00' W. long., and all waters of the Kodiak Area south of Kodiak and Sitkalidak Islands, west of 153° W. long., and east of 154° W. long.

(e) Southwest District: all waters of Olga and Alitak Bays and all waters of the Kodiak Area southwest of Kodiak Island, south of 57° N. lat., and west of 154° W. long., excluding the waters of the Mainland District.

(f) Westside District: all waters of the Kodiak Area on the west side of Kodiak Island, south of 58° N. lat., north of 57° N. lat., west of 153° W. long., and east of a line extending through Shelikof Strait from a point at 58° 51.10' N. lat., 152° 50.00' W. long., to a point at 56° 37.00' N. lat., 156° 20.22' W. long.

(g) Mainland District: all waters of the Kodiak Area south of the Alaska Peninsula, including Wide and Imuya Bays, and all waters south of 58° 51.10' N. lat., east of 156° 20.22' W. long., and west of a line extending through Shelikof Strait from a point at 58° 51.10' N. lat., 152° 50.00' W. long., to a point at 56° 37.00' N. lat., 156° 20.22' W. long.

5 AAC 28.406. Kodiak Area registration

(a) The Kodiak Area is

(1) an exclusive registration area for Pacific cod during a state-waters season described in 5 AAC 28.467; and

(2) a nonexclusive registration area for black rockfish.

(b) A vessel that is registered for the Kodiak Area under 5 AAC 28.020 for a groundfish fishery, other than a state-waters season for Pacific cod described in 5 AAC 28.467 or a directed fishery for black rockfish under this section, also shall be considered registered for that fishery in the Chignik Area described in 5 AAC 28.500, the South Alaska Peninsula Area described in 5 AAC 28.550, the Bering Sea-Aleutian Islands Area described in 5 AAC 28.600, and the Chukchi-Beaufort Area described in 5 AAC 28.700.

(c) A vessel's salmon seine registration is automatically invalidated during the time period described in 5 AAC 28.430(d) when the vessel owner, or the owner's agent, has registered that vessel under 5 AAC 28.020 and this section to take groundfish with seine gear. The vessel's salmon seine registration becomes valid again when the prohibition described in 5 AAC 28.430(d) is not in effect, or when the vessel owner, or the owner's agent, contacts a local representative of the department within the registration area in person or in writing, by mail or facsimile, and invalidates the vessel's groundfish registration.

(d) In the Kodiak Area, before a person uses a vessel to operate gear in a directed fishery for black rockfish, the vessel owner or the owner's agent shall register the vessel for a specific black rockfish district with the department. A vessel validly registered for black rockfish fishing under this subsection may not be registered for a state-waters season or parallel season for Pacific cod at the same time.

(e) Repealed 4/21/2011.

5 AAC 28.410. Fishing seasons for Kodiak Area

(a) Unless otherwise specified in this chapter, groundfish may be taken only during seasons established by emergency order or under a permit issued by the commissioner.

(b) Lingcod may be taken only from July 1 through December 31.

(c) Repealed 5/1/2014.

(d) There is no open fishing season for a directed fishery for sablefish in the Kodiak Area.

(e) Black rockfish may be taken from January 1 through December 31, unless closed by emergency order.

5 AAC 28.430. Lawful gear for Kodiak Area

(a) A groundfish pot may not be attached to a line connected to another groundfish pot.

(b) At least one buoy on each groundfish pot must be legibly marked with the permanent ADF&G vessel license plate number of the vessel operating the gear. The buoy may bear only a single number - that of the vessel operating the gear. The number must be placed on the top one-third of the buoy in numerals at least four inches high, one-half inch wide, and in a color that contrasts with the color of the buoy. The buoy markings must be visible on the buoy above the water surface when the buoy is attached to the groundfish pot.

(c) Repealed 7/21/99.

(d) A vessel registered as a salmon seine vessel under 5 AAC 39.120 may not be used to take groundfish with seine gear from June 1 through October 31 unless the vessel owner, or the owner's agent, has registered the vessel as specified in 5 AAC 28.406(c).

(e) Rockfish may be taken in a directed fishery for rockfish only by mechanical jigging machine and hand troll gear.

(f) In the Kodiak Area, a mechanical jigging machine used to take groundfish may not have more than

(1) six lines; and

(2) 30 hooks per line.

(g) In the Kodiak Area, a vessel using mechanical jigging machines in the directed black rockfish fishery or state-waters Pacific cod fishery may have no more than 500 hooks, in the aggregate, deployed in the water and on board the vessel, of which no more than 180 hooks may be deployed in the water as described in (f) of this section.

(h) Lingcod may be taken in a directed fishery for lingcod only by mechanical jigging machine and hand troll gear.

5 AAC 28.432. Groundfish pot storage requirements for Kodiak Area

(a) Rectangular groundfish pots with all bait and bait containers removed and with all doors secured fully open, and cone or pyramid groundfish pots with all bait and bait containers removed and all doors not secured closed may be stored in waters not more than 25 fathoms deep.

(b) Following the closure of a parallel season or state-waters season for Pacific cod, all groundfish pot gear used by a vessel registered to fish Pacific cod must be removed from the water, except that

(1) rectangular groundfish pots may be stored as described in (a) of this section; or

(2) rectangular groundfish pots with all bait and bait containers removed and with all doors secured fully open, and cone or pyramid groundfish pots with all bait and bait containers removed and all doors not secured closed may be stored in waters more than 25 fathoms deep for seven days following the closure.

5 AAC 28.450. Closed waters in Kodiak Area

(a) From June 1 through October 31, groundfish may not be taken by seines in waters listed in 5 AAC 18.350.

(b) Rockfish (genus *Sebastes*) may not be taken in waters of Monashka Bay inside of a line from the tip of Termination Point to the tip of Miller Point.

(c) Repealed 4/7/93.

(d) Repealed 4/4/97.

(e) The waters of Alaska in the Kodiak Area that are approximately three miles on either side of the mouth of the Karluk River bounded on the north by a line from 57° 36.26' N. lat., 154° 23.73' W. long., to a point at the state waters boundary at 57° 38.51' N. lat., 154° 27.92' W. long., and bounded on the south by a line from 57° 32.34' N. lat., 154° 32.15' W. long., to a point at the state waters boundary at 57° 34.84' N. lat., 154° 36.80' W. long. are closed to fishing with trawl gear.

5 AAC 28.465. North Gulf District Rockfish Management Plan

Repealed.

5 AAC 28.466. Kodiak Area Rockfish Management Plan

(a) This management plan governs the harvest of black rockfish and dark rockfish in the Kodiak Area.

(b) Unless otherwise specified in this section, a person operating a vessel in a directed black rockfish fishery may not have on board the vessel or sell more than 5,000 pounds (round weight) of black rockfish within a five-day period. All black rockfish taken in excess of 5,000 pounds must be weighed, sold, and reported on an ADF&G fish ticket. All proceeds from the sale of black rockfish in excess of 5,000 pounds (round weight) shall be surrendered to the state.

(c) A person operating a catcher-processor vessel in a directed black rockfish fishery may not have on board the vessel or sell more than 5,000 pounds (round weight) of black rockfish within a five-day period and may not exceed 10,000 pounds sold or on board the

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vessel within a 10-day period. All black rockfish taken in excess of the specified time-period harvest limit must be weighed, sold, and reported on an ADF&G fish ticket. All proceeds from the sale of black rockfish in excess of a legal limit shall be surrendered to the state.

(d) If a district guideline harvest level for black rockfish is not taken by August 15, the commissioner may, by emergency order, close the fishing season and immediately reopen a fishing season in a district during which a person operating a vessel participating in a directed black rockfish fishery may not have on board the vessel or sell more than 7,000 pounds (round weight) of black rockfish within a five-day period. All black rockfish taken in excess of 7,000 pounds must be weighed, sold, and reported on an ADF&G fish ticket. All proceeds from the sale of black rockfish in excess of 7,000 pounds (round weight) shall be surrendered to the state.

(e) If a district guideline harvest level for black rockfish is not taken by August 15, the commissioner may, by emergency order, close the fishing season and immediately reopen a fishing season in a district during which a person operating a catcher-processor vessel in a directed black rockfish fishery may not have on board the vessel or sell more than 7,000 pounds (round weight) of black rockfish within a five-day period and may not exceed 14,000 pounds sold or on board the vessel within a 10-day period. All black rockfish taken in excess of the specified time-period harvest limit must be weighed, sold, and reported on an ADF&G fish ticket. All proceeds from the sale of black rockfish in excess of a legal limit shall be surrendered to the state.

(f) Unless otherwise provided in this subsection, bycatch limits for black rockfish and dark rockfish shall be established by the commissioner in an emergency order. A person operating a vessel that takes black rockfish or dark rockfish in excess of the established bycatch limit for each species must weigh and report the bycatch overage on an ADF&G fish ticket. All proceeds from the sale of excess bycatch of black rockfish and dark rockfish shall be surrendered to the state. A vessel operator participating in a groundfish fishery using gear other than mechanical jigging machine gear may not harvest black rockfish or dark rockfish in excess of five percent, (round weight) of all directed target species on board the vessel. All black rockfish or dark rockfish in excess of five percent must be weighed, sold, and reported as bycatch overage on an ADF&G fish ticket. All proceeds from the sale of excess bycatch of black rockfish and dark rockfish shall be surrendered to the state. If a black rockfish district guideline harvest level is reached, the commissioner may, by emergency order, close the fishing season and immediately reopen a fishing season during which the bycatch limit for black rockfish and dark rockfish may be reduced to prevent overharvest.

(g) In the directed black rockfish fishery, an owner or operator of a catcher-processor vessel must report, as specified on the registration form, to the local representative of the department in the Kodiak office by radio or telephone, the whole pounds of black rockfish and dark rockfish retained during the previous five-day fishing period, and any other information that the commissioner determines is necessary for the management and conservation of the fishery.

(h) The annual Kodiak Area black rockfish guideline harvest range is 0 - 120,000 pounds.

5 AAC 28.467. Kodiak Area Pacific Cod Management Plan

- (a) The management plan in this section governs the harvest of Pacific cod in the Kodiak Area.
- (b) Each year the commissioner shall open and close, by emergency order, a parallel season in the Kodiak Area during which use of the gear allowed in the federal season for Pacific cod in the Central Gulf of Alaska Area is permitted, unless that gear is prohibited under 5 AAC 28.050, 5 AAC 28.430, or 5 AAC 28.450.
- (c) Each year the commissioner shall open and close, by emergency order, a state-waters season in the Kodiak Area for mechanical jigging machine and hand troll gear and for pot gear, as follows:
- (1) when a state-waters season for Pacific cod is opened for mechanical jigging machine and hand troll gear or pot gear, the parallel season for the applicable gear type is closed; the fishing season for mechanical jigging machine and hand troll gear or pot gear will close when the applicable gear type takes 50 percent of the annual Kodiak Area guideline harvest level;
 - (2) the fishing season for vessels longer than 58 feet in overall length fishing with pot gear will close when 25 percent of the guideline harvest level has been taken by those vessels or December 31, whichever occurs first, unless the pot gear season has already been closed because pot gear has already taken 50 percent of the Kodiak Area guideline harvest level; the restrictions under this paragraph do not apply to a season reopened under (f) of this section.
- (d) The seasons for mechanical jigging machine and hand troll gear are as follows:
- (1) the state-waters season shall open January 1 and shall close when the mechanical jigging machine and hand troll gear allocation is taken;
 - (2) the parallel season that coincides with the federal Central Gulf of Alaska jig "A" season shall open 48 hours after the closure of the mechanical jigging machine and hand troll gear state-waters season;
 - (3) the parallel season that coincides with the federal Central Gulf of Alaska jig gear "B" season shall open June 10 or later based on inseason assessment of effort, harvest rate, or remaining Pacific cod guideline harvest level;
 - (4) the state-waters season shall reopen 48 hours after the closure of the federal Central Gulf of Alaska jig gear "B" season if the mechanical jigging machine and hand troll gear allocation has not been taken.
- (e) The seasons for pot gear are as follows:

- (1) the state-waters season shall open seven days following the closure of the federal Central Gulf of Alaska pot gear "A" season;

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(2) the state-waters season shall close when the pot gear allocation is taken or August 28, whichever occurs first;

(3) the parallel season that coincides with the federal Central Gulf of Alaska pot gear "B" season shall open on September 1.

(f) If during a state-waters season

(1) the commissioner determines that the mechanical jigging machine and hand troll gear guideline harvest level allocation will not be taken by June 10, the commissioner may reopen a state-waters season at 12:00 noon on April 1 and allow 50 percent of the remaining jig gear allocation, as of March 25, to be harvested by vessels using all legal gear;

(2) the state-waters season guideline harvest level is not taken by the conclusion of the federal Central Gulf of Alaska pot gear "B" season, the commissioner may reopen a state-waters season during which all legal gear may be used, and shall close, by emergency order, the season on December 31 or when the guideline harvest level is achieved, whichever occurs first.

(g) The commissioner may open and close, by emergency order, fishing seasons at times other than those specified in this management plan if the commissioner determines it is necessary to

(1) adapt to unanticipated openings and closures of the federal season;

(2) maintain sustained yield management; or

(3) provide for orderly fisheries.

(h) During a state-waters season,

(1) the guideline harvest level for Pacific cod in the Kodiak Area is 12.5 percent of the estimated total allowable harvest of Pacific cod for the federal Central Gulf of Alaska Area;

(2) Pacific cod may be taken only with groundfish pots, mechanical jigging machines, and hand troll gear, as follows:

(A) except as provided in (j) of this section, no more than 60 groundfish pots may be operated from a vessel registered to fish for Pacific cod;

(B) no more than six mechanical jigging machines may be operated from a vessel registered to fish for Pacific cod;

(C) in addition to the requirements of 5 AAC 28.020, a vessel must be registered to fish with pot gear or with mechanical jigging machine and hand troll gear (jig gear), and may not simultaneously be registered to fish with more than one gear type; a vessel's gear

registration may be changed during a state-waters season to a different gear registration if the owner, or the owner's agent, submits a written request for a change in registration by mail, facsimile, or in person, to the department office in Kodiak, or other locations specified by the department, for validation, and that registration has been validated by the department;

(D) during the seven days following the opening of the state-waters season, an operator of a vessel registered to fish for Pacific cod may store or transport groundfish pots in excess of the pot limit established in (A) of this paragraph if the pots are

(i) stored in waters not more than 25 fathoms deep as described in 5 AAC 28.432(a); or

(ii) being transported on board the vessel and are not marked with identification tags.

(i) The Kodiak Area is an exclusive registration area for Pacific cod during a state-waters season.

(j) If at any time after the dates set forth below the commissioner determines that the guideline harvest level for Pacific cod will not be achieved by December 31, the commissioner may close, by emergency order, the fishing season and immediately reopen a state-waters season during which the following shall be implemented to increase the harvest rate in an attempt to reach the guideline harvest level:

(1) after September 1, the commissioner may remove the limits on the number of groundfish pots and mechanical jigging machines that may be operated from a vessel;

(2) after October 30, the commissioner may designate the Kodiak Area as a nonexclusive registration area for vessels validly registered to take Pacific cod with groundfish pot gear;

(3) after June 10, the commissioner may designate the Kodiak Area as a nonexclusive registration area for vessels validly registered to take Pacific cod with mechanical jigging machine and hand troll gear.

(k) If the season is closed and immediately reopened under (j) of this section, a vessel participating in the state-waters season when it was closed will not be required to comply with the landing requirements of 5 AAC 28.471 until the season is closed again.

(l) If a state-waters season and federal season for Pacific cod are opened concurrently for the same gear type,

(1) a vessel may not participate in a state-waters season and any other Pacific cod season at the same time;

(2) a vessel's registration for the state-waters season in the Kodiak Area must be invalidated before that vessel may participate in any other Pacific cod season;

(3) registration for a state-waters season may only occur in person or by facsimile from 8:00 a.m. to 5:00 p.m. on a working day at a department office designated by the department; and

(4) all groundfish on board a vessel must be landed before that vessel may have the vessel's registration invalidated or be registered for a state-waters season for Pacific cod in the Kodiak Area.

(m) If a state-waters season and federal season for Pacific cod are open concurrently for different gear types, a vessel may not participate in a state-waters season and any other Pacific cod season at the same time.

5 AAC 28.470. Lingcod possession and bycatch requirements for Kodiak Area

(a) Lingcod that are retained must measure 35 inches or more from the tip of the snout to the tip of the tail, or 28 inches from the front of the dorsal fin to the tip of the tail. Undersized lingcod shall be returned to the water immediately without further injury. A person may not mutilate or otherwise disfigure a lingcod in any manner that prevents determination of the minimum size.

(b) If the commissioner determines that there is no conservation concern for lingcod, the commissioner may, by emergency order, increase the bycatch limit for lingcod, for vessels using mechanical jigging machines and hand troll gear.

5 AAC 28.471. Landing requirements for Kodiak Area

After 48 hours following the closure of any directed groundfish season within the Kodiak Area, a vessel that participated in that fishery may not have that species of groundfish on board unless

(1) that species has been designated as bycatch for another directed fishery and the amount on board is permissible under retained bycatch restrictions specified in regulation; or

(2) the vessel has been delayed due to extraordinary circumstances beyond the control of the vessel operator, and the vessel operator has contacted a local representative of the department within 48 hours following the closure of the season and the representative has granted a reasonable amount of time for the vessel to reach the port of delivery or processing location; any amount of additional time shall be determined under the assumption that the vessel departed the fishing grounds immediately after the closure and proceeded directly to the port of delivery or processing location.

5 AAC 28.472. Black rockfish possession and landing requirements for Kodiak Area

Repealed.

5 AAC 28.479. Permit for miscellaneous groundfish in the Kodiak Area

(a) Except when taken as allowable bycatch in another directed fishery, miscellaneous groundfish may be taken on an experimental basis in the Kodiak Area only under the conditions of a permit issued by the commissioner necessary for conservation or management purposes. The permit may

- (1) specify the depth of fishing gear;
- (2) specify the fishing season and periods of fishing;
- (3) specify the area of fishing;
- (4) establish the allowable size of harvested fish;
- (5) specify the type and configuration of gear;

(6) require the completion of logbooks provided by the department and require that the logbooks be attached to a fish ticket at the time of landing; and

(7) require other conditions that the commissioner determines are necessary for conservation or management purposes.

(b) For the purpose of this section, "miscellaneous groundfish" are those species of groundfish not specifically addressed in 5 AAC 28.400 - 5 AAC 28.485.

5 AAC 28.485. Logbook requirements for black rockfish fishery in the Kodiak Area

(a) In the Kodiak Area, an operator of a vessel fishing for black rockfish in a directed fishery shall maintain an accurate logbook of all fishing operations for each type of gear used.

(b) A logbook described in (a) of this section must

(1) include the date, the specific location of harvest by latitude and longitude, the number of hooks and lines used, the average depth of each set fished, and the hours fished for each line;

(2) include, for the target species, and for each bycatch species, the number of fish

(A) retained; and

(B) discarded;

(3) be updated not later than 11:59 p.m. local time on the day after the day of operation;

(4) be retained, with its original pages, for a period of two years by the owner or operator of the vessel;

(5) be kept on board the vessel while operating gear, during transits to or from a port of landing, and for five days after delivering groundfish;

(6) be made available to a local representative of the department upon request.

(c) A copy of the page of the logbook described in (a) in this section pertaining to a landing must be attached to the fish ticket documenting the landing.

(d) A person may not make a false entry in the logbook described in (a) of this section.

Article 8. Chignik Area (Registration Area L).

5 AAC 28.500. Description of Chignik Area

The Chignik Area consists of all waters of Alaska on the south side of the Alaska Peninsula enclosed by a line extending south from the Alaska Peninsula near Kilokak Rocks at 156° 20.22' W. long., and a line extending from Kupreanof Point at 55° 33.98' N. lat., 159° 35.88' W. long., to a point offshore at 53° 40.46' N., 156° 20.22' W. long.

5 AAC 28.505. Description of Chignik Area districts

(a) Sutwik Island District: all waters of the Chignik Area west of 156° 20.22' W. long. and north of 56° 30.00' N. lat.

(b) Chignik Bay District: all waters of the Chignik Area south of 56° 30.00' N. lat. and north of a line at 56° N. lat. extending east from Seal Cape.

(c) Mitrofanina District: all waters of Kuiu Bay, and those waters of the Chignik Area south of a line at 56° N. lat. extending east from Seal Cape, and east of a line extending from Kupreanof Point at 55° 33.98' N. lat., 159° 35.88' W. long., to a point offshore at 53° 40.46' N. lat., 156° 20.22' W. long.

5 AAC 28.506. Chignik Area registration

(a) The Chignik Area is a superexclusive registration area for Pacific cod during a state-waters season described in 5 AAC 28.537.

(b) A vessel that is registered for the Chignik Area under 5 AAC 28.020 for a groundfish fishery, other than a state-waters season for Pacific cod described in 5 AAC 28.537 or a directed fishery for black rockfish under this section, also shall be considered registered for that fishery in the Kodiak Area described in 5 AAC 28.400, the South Alaska Peninsula Area described in 5 AAC 28.550, the Bering Sea-Aleutian Islands Area described in 5 AAC 28.600, and the Chukchi-Beaufort Area described in 5 AAC 28.700.

(c) A vessel's salmon seine registration is automatically invalidated during the time period described in 5 AAC 28.530(e) when the vessel owner, or the owner's agent, has registered that vessel under 5 AAC 28.020 and this section to take groundfish with seine gear. The vessel's salmon seine registration becomes valid again when the prohibition

described in 5 AAC 28.530(e) is not in effect or when the vessel owner, or the owner's agent, contacts a local representative of the department within the registration area in person or in writing, by mail or facsimile, and invalidates the vessel's groundfish registration.

(d) In the Chignik Area, before a person uses a vessel to operate gear in a directed fishery for black rockfish, the vessel owner, or the owner's agent, shall register the vessel with the department.

(e) The Chignik Area is a superexclusive registration area for black rockfish.

5 AAC 28.510. Fishing seasons for Chignik Area

(a) Unless otherwise specified in this chapter, groundfish may be taken only during seasons established by emergency order or under a permit issued by the commissioner.

(b) Lingcod may be taken only from July 1 through December 31.

(c) There is no open fishing season for a directed fishery for sablefish in the Chignik Area.

(d) Black rockfish may be taken from January 1 through December 31, unless closed by emergency order.

5 AAC 28.530. Lawful gear for Chignik Area

(a) Unless otherwise specified in this chapter, groundfish may be taken with the gear specified in 5 AAC 28.050.

(b) A groundfish pot may not be attached to a line connected to another groundfish pot.

(c) At least one buoy on each groundfish pot must be legibly marked with the permanent ADF&G vessel license plate number of the vessel operating the gear. The buoy may bear only the number of the vessel operating the gear. The number must be placed on the top one-third of the buoy in numerals at least four inches high, one-half inch wide, and in a color that contrasts with the color of the buoy. The buoy markings must be visible on the buoy above the water surface when the buoy is attached to the groundfish pot.

(d) Rockfish may be taken in a directed fishery for rockfish only by mechanical jigging machine and hand troll gear.

(e) A vessel registered as a salmon seine vessel under 5 AAC 39.120 may not be used to take groundfish with seine gear from June 1 through October 31 unless the vessel owner, or the owner's agent, has registered the vessel as specified in 5 AAC 28.506(c).

(f) In the Chignik Area, a mechanical jigging machine used to take groundfish may not have more than

- (1) five lines; and
- (2) 30 hooks per line.

5 AAC 28.532. Groundfish pot storage requirements for Chignik Area

(a) Except as specified in (c) of this section or during a state-waters season for Pacific cod, rectangular groundfish pots with all bait and bait containers removed and with all doors secured fully open, and cone or pyramid groundfish pots with all bait and bait containers removed and all doors not secured closed may be stored in waters not more than 25 fathoms deep.

(b) Following the closure of a parallel season or state-waters season for Pacific cod, all groundfish pot gear used by a vessel registered to fish Pacific cod must be removed from the water, except that

- (1) groundfish pots may be stored as described in (a) of this section; or

(2) rectangular groundfish pots with all bait and bait containers removed and with all doors secured fully open, and cone or pyramid groundfish pots with all bait and bait containers removed and all doors not secured closed may be stored in waters more than 25 fathoms deep for seven days following the closure.

(c) During the seven days before the opening of the state-waters season for Pacific cod in the Chignik Area, rectangular groundfish pots with all bait and bait containers removed and with all doors secured fully open, and cone or pyramid groundfish pots with all bait and bait containers removed and all doors not secured closed may be stored in waters more than 25 fathoms deep.

5 AAC 28.537. Chignik Area Pacific Cod Management Plan

(a) The management plan in this section governs the harvest of Pacific cod in the Chignik Area.

(b) Each year the commissioner shall open and close, by emergency order, a parallel season in the Chignik Area corresponding to the federal Central Gulf of Alaska Area and the federal Western Gulf of Alaska Area, during which use of the gear allowed in the federal seasons for Pacific cod is permitted, unless that gear is prohibited under 5 AAC 28.050 or 5 AAC 28.530. A person may not operate a vessel in a parallel season for Pacific cod that is more than 58 feet in overall length.

(c) Each year the commissioner shall open and close, by emergency order, a state-waters season in the Chignik Area for mechanical jigging machine and hand troll gear and for pot gear. For purposes of this section, when a state-waters season for Pacific cod is opened to mechanical jigging machine and hand troll gear or pot gear, the parallel season for the applicable gear type is closed. During a state-waters season,

(1) mechanical jigging machine and hand troll gear is allocated 10 percent of the annual Chignik Area guideline harvest level; and

(2) pot gear is allocated 90 percent of the annual Chignik Area guideline harvest level.

(d) The seasons for mechanical jigging machine and hand troll gear are as follows:

(1) the state-waters season shall open on March 15;

(2) the state-waters season for mechanical jigging machine and hand troll gear shall close when the mechanical jigging machine and hand troll gear allocation is taken or on December 31, whichever occurs first; if the allocation is not taken by June 8, the commissioner shall close the state-waters season for mechanical jigging machine and hand troll gear on June 8 or later based on inseason assessment of effort, harvest rate, or remaining Pacific cod guideline harvest level;

(3) the parallel season that coincides with the federal Central Gulf of Alaska jig gear "B" season shall open on June 10 or later based on inseason assessment of effort, harvest rate, or remaining Pacific cod guideline harvest level;

(4) repealed 2/21/2019.

(e) The seasons for pot gear are as follows:

(1) the parallel season for pot gear shall close when the federal Central Gulf of Alaska pot gear "A" season is closed; the state-waters season shall open March 1 or seven days after the closure of the parallel season for pot gear, whichever is later;

(2) the state-waters season for pot gear shall close when the pot gear allocation is taken or on December 31, whichever occurs first;

(3) the parallel season that coincides with the federal Central Gulf of Alaska pot gear "B" season shall open 48 hours after the guideline harvest level is achieved or on October 30, whichever occurs first.

(f) If the state-waters season guideline harvest level is not taken by

(1) August 14, the commissioner may close, by emergency order, the state-waters season for pot gear and immediately reopen a state-waters season during which all legal gear may be used, and shall close, by emergency order, the season on October 30 or when the guideline harvest level is achieved, whichever occurs first; or

(2) the conclusion of the federal Central Gulf of Alaska pot gear "B" season, the commissioner may reopen a state-waters season during which all legal gear may be used, and shall close, by emergency order, the season on December 31 or when the guideline harvest level is achieved, whichever occurs first.

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(g) The commissioner may open and close, by emergency order, fishing seasons at times other than those specified in this section if the commissioner determines it is necessary to

- (1) adapt to unanticipated openings and closures of the federal season;
- (2) maintain sustained yield management; or
- (3) provide for orderly fisheries.

(h) During a state-waters season,

(1) the guideline harvest level for Pacific cod in the Chignik Area is 8.75 percent of the estimated total allowable harvest of Pacific cod for the federal Central Gulf of Alaska Area;

(2) Pacific cod may be taken only with groundfish pots, mechanical jigging machines, and hand troll gear, as follows:

(A) except as provided in (j) of this section, no more than 60 groundfish pots may be operated from a vessel registered to fish for Pacific cod;

(B) no more than five mechanical jigging machines may be operated from a vessel registered to fish for Pacific cod;

(C) in addition to the requirements of 5 AAC 28.020, a vessel must be registered to fish with pot gear or with mechanical jigging machines and hand troll gear (jig gear), and may not simultaneously be registered to fish with more than one gear type; a vessel's gear registration may be changed during a state-waters season to a different gear registration if the owner, or the owner's agent, submits a written request for a change in registration by mail, facsimile, or in person, to the department office in Kodiak, or other locations specified by the department, for validation, and that registration has been validated by the department;

(D) a vessel registered to take Pacific cod may not be longer than 58 feet in overall length;

(E) notwithstanding 5 AAC 28.532(a), during the seven days immediately following the opening of the state-waters season, an operator of a vessel registered to fish for Pacific cod may store or transport groundfish pots in excess of the pot limit established in (A) of this paragraph if the pots are

(i) stored in waters not more than 25 fathoms deep as described in 5 AAC 28.532(a); or

(ii) being transported on board the vessel and are not marked with identification tags.

(i) The Chignik Area is a superexclusive registration area for Pacific cod during a state-waters season.

(j) If at any time after the dates set forth below the commissioner determines that the guideline harvest level for Pacific cod will not be achieved by December 31, the commissioner may close, by emergency order, the fishing season and immediately reopen a state-waters season during which the following may be implemented to increase the harvest rate in an attempt to reach the guideline harvest level:

(1) after August 14, if needed, removal of the limits on the number of groundfish pots and mechanical jigging machines that may be operated from a vessel;

(2) after October 30, if needed, allow a vessel of any size to register and fish for Pacific cod in the Chignik Area.

(k) If the season is closed and immediately reopened under (f)(1) or (j) of this section, a vessel participating in the state-waters season when it was closed is not required to comply with the landing requirements of 5 AAC 28.541 until the season is closed again.

(l) If the allocation for mechanical jigging machines and hand troll gear specified in (c) of this section is harvested in any calendar year, the allocation will be increased an additional five percent of the guideline harvest level beginning the next calendar year, and the pot gear allocation will be reduced by five percent accordingly. If the increased allocation for mechanical jigging machines and hand troll gear is harvested in any calendar year thereafter, the allocation will again be increased an additional five percent beginning the next calendar year, until the allocation for mechanical jigging machines and hand troll gear reaches 25 percent of the guideline harvest level.

(m) If a state-waters and federal Pacific cod season are open concurrently for the same gear type,

(1) a vessel may not participate in a state-waters season and any other Pacific cod season at the same time;

(2) a vessel's registration for the state-waters season in the Chignik Area must be invalidated before that vessel may participate in any other Pacific cod season;

(3) registration for a state-waters season may occur only in person or by facsimile from 8:00 a.m. to 5:00 p.m. on a working day at a department office designated by the department; and

(4) all groundfish on board a vessel must be landed before that vessel may have the vessel's registration invalidated or be registered for state-waters season for Pacific cod in the Chignik Area.

(n) If a state-waters season and federal season for Pacific cod are open concurrently for a different gear type, a vessel may not participate in a state-waters season and any other Pacific cod season at the same time.

5 AAC 28.540. Possession requirements for Chignik Area

Lingcod that are retained must measure 35 inches or more from the tip of the snout to the tip of the tail, or 28 inches from the front of the dorsal fin to the tip of the tail. Undersized lingcod shall be returned to the water immediately without further injury. A person may not mutilate or otherwise disfigure a lingcod in any manner that prevents determination of the minimum size.

5 AAC 28.541. Landing requirements for Chignik Area

After 48 hours following the closure of any directed groundfish season within the Chignik Area, a vessel that participated in that fishery may not have that species of groundfish on board unless

(1) that species has been designated as bycatch for another directed fishery and the amount on board is permissible under retained bycatch restrictions specified in regulation; or

(2) the vessel has been delayed due to extraordinary circumstances beyond the control of the vessel operator, and the vessel operator has contacted a local representative of the department within 48 hours following the closure of the season and the representative has granted a reasonable amount of time for the vessel to reach the port of delivery or processing location; any amount of additional time shall be determined under the assumption that the vessel departed the fishing grounds immediately after the closure and proceeded directly to the port of delivery or processing location.

5 AAC 28.545. Logbook requirements for Chignik Area

(a) An operator of a vessel fishing for black rockfish in the Chignik Area shall maintain an accurate logbook of all fishing operations for each type of gear used.

(b) A logbook described in (a) of this section must

(1) include the date, the specific location of harvest by latitude and longitude, the number of hooks and lines used, the average depth of each set fished, and the hours fished for each line;

(2) include, for the target species, and for each bycatch species, the number of fish

(A) retained; and

(B) discarded;

(3) be updated not later than 11:59 p.m. local time on the day after the day of operation;

(4) be retained, with its original pages, for a period of two years by the owner or operator of the vessel;

(5) be kept on board the vessel while operating gear, during transits to or from a port of landing, and for five days after delivering groundfish;

(6) be made available to a local representative of the department upon request.

(c) A copy of the page of the logbook described in (a) in this section pertaining to a landing must be attached to the fish ticket documenting the landing.

(d) A person may not make a false entry in the logbook described in (a) of this section.

5 AAC 28.549. Permit for miscellaneous groundfish in the Chignik Area

(a) Except when taken as allowable bycatch in another directed fishery, miscellaneous groundfish may be taken on an experimental basis in the Chignik Area only under the conditions of a permit issued by the commissioner necessary for conservation or management purposes. The permit may

(1) specify the depth of fishing gear;

(2) specify the fishing season and periods of fishing;

(3) specify the area of fishing;

(4) establish the allowable size of harvested fish;

(5) specify the type and configuration of gear;

(6) require the completion of logbooks provided by the department and require that the logbooks be attached to a fish ticket at the time of landing; and

(7) require other conditions that the commissioner determines are necessary for conservation or management purposes.

(b) For the purpose of this section, "miscellaneous groundfish" are those species of groundfish not specifically addressed in 5 AAC 28.500 - 5 AAC 28.545.

Article 9. South Alaska Peninsula Area (Registration Area M).

5 AAC 28.550. Description of South Alaska Peninsula Area

The South Alaska Peninsula Area consists of all waters of Alaska in the Pacific Ocean between a line extending from Kupreanof Point at 55° 33.98' N. lat., 159° 35.88' W. long., to a point offshore at 53° 40.46' N. lat., 156° 20.22' W. long. and 170° W. long., including those waters south of the latitude of Nichols Point (54° 51.30' N. lat.) near False Pass, and south of a line extending from Unimak Island (54° 23.74' N. lat., 164° 44.73' W. long.) to Akun Island (54° 11.71' N. lat., 165° 23.09' W. long.), and from Akun Island (54° 08.40' N. lat., 165° 38.29' W. long.) to Akutan Island (54° 07.69' N. lat., 165° 39.74' W. long.), and from Akutan Island (54° 02.69' N. lat., 166° 02.93' W. long.) to

Unalaska Island (53° 58.97' N. lat., 166° 16.50' W. long.), and from Unalaska Island (53° 18.95' N. lat., 167° 51.06' W. long.) to Umnak Island (53° 23.13' N. lat., 167° 50.50' W. long.), and from Umnak Island (52° 49.24' N. lat., 169° 07.10' W. long.), to Chuginadak Island (52° 49.18' N. lat., 169° 40.47' W. long.)

5 AAC 28.555. Description of South Alaska Peninsula Area districts and sections

The districts and sections for the sablefish and rockfish fisheries in the South Alaska Peninsula Area are described as follows:

(1) Eastern District: all waters of the South Alaska Peninsula Area east of the longitude of Scotch Cap Light at 164° 44.72' W. long., which includes the following sections:

(A) Shumagin Islands Section: all waters of the Eastern District west of a line extending from Kupreanof Point at 55° 33.98' N. lat., 159° 35.88' W. long., to a point offshore at 53° 40.46' N., 156° 20.22' W. long., and east of 161° W. long.;

(B) Pavlof Bay Section: all waters of the Eastern District west of 161° W. long. and east of the 162° W. long.;

(C) Sanak Island Section: all waters of the Eastern District west of 162° W. long. and east of the longitude of Scotch Cap Light at 164° 44.72' W. long.;

(2) Western District: all waters of the South Alaska Peninsula Area west of the longitude of Scotch Cap Light at 164° 44.72' W. long.

5 AAC 28.556. South Alaska Peninsula Area registration

(a) The South Alaska Peninsula Area is an exclusive registration area for Pacific cod during a state-waters season described in 5 AAC 28.577.

(b) A vessel that is registered for the South Alaska Peninsula Area under 5 AAC 28.020 for a groundfish fishery, other than a state-waters season for Pacific cod described in 5 AAC 28.577, a sablefish fishery described in 5 AAC 28.640, or a directed black rockfish fishery, shall also be considered registered for that fishery in the Kodiak Area described in 5 AAC 28.400, the Chignik Area described in 5 AAC 28.500, the Bering Sea-Aleutian Islands Area described in 5 AAC 28.600, and the Chukchi-Beaufort Area described in 5 AAC 28.700.

(c) A vessel's salmon seine registration is automatically invalidated during the time period described in 5 AAC 28.570(c) when the vessel owner, or the owner's agent, has registered that vessel under 5 AAC 28.020 and this section to take groundfish with seine gear. The vessel's salmon seine registration becomes valid again when the prohibition described in 5 AAC 28.570(c) is not in effect or when the vessel owner, or the owner's agent, contacts a local representative of the department within the registration area in person or in writing, by mail or facsimile, and invalidates the vessel's groundfish registration.

(d) Before a person uses a vessel to operate gear to take sablefish in the waters of the Western District, the vessel must be validly registered as described in 5 AAC 28.640.

(e) In the Eastern and Western Districts, before a person uses a vessel to operate fishing gear in a directed black rockfish fishery, the vessel's owner, or the owner's agent, shall register the vessel with the department. A vessel validly registered for the black rockfish fishery under this subsection may be registered for other groundfish fisheries in the South Alaska Peninsula Area at the same time.

(f) Before a vessel registered for the state-waters Pacific cod season in the South Alaska Peninsula Area participates in a groundfish fishery outside of state waters from 170° W. long. to the longitude of Castle Cape at 158° 20' W. long., the vessel operator must invalidate the vessel registration for the state-waters season and remove all gear from, or validly store all gear in, state waters of the South Alaska Peninsula Area.

5 AAC 28.560. Fishing seasons for South Alaska Peninsula Area

(a) Unless otherwise specified in this chapter, groundfish may be taken only during seasons established by emergency order or under a permit issued by the commissioner.

(b) In the Western District, sablefish may be taken only as described in 5 AAC 28.640.

(c) In the Eastern District, there is no open season for directed sablefish fishing.

(d) In the Eastern District, black rockfish may be taken from January 1 through December 31, unless closed by emergency order.

(e) In the Western District, black rockfish may be taken from January 1 through December 31, unless closed by emergency order.

5 AAC 28.570. Lawful gear for South Alaska Peninsula Area

(a) Unless otherwise specified in this chapter, groundfish may be taken with the gear specified in 5 AAC 28.050.

(b) Rockfish may be taken in a directed rockfish fishery only by mechanical jigging machine and hand troll gear.

(c) A vessel registered as a salmon seine vessel under 5 AAC 39.120 may not be used to take groundfish with seine gear from June 1 through October 31 unless the vessel owner, or the owner's agent, has registered the vessel as specified in 5 AAC 28.556(c).

(d) In the South Alaska Peninsula Area, a mechanical jigging machine used to take groundfish may not have more than

(1) five lines; and

(2) 30 hooks per line.

(e) At least one buoy on each groundfish pot must be legibly marked with the permanent ADF&G vessel license plate number of the vessel operating the gear. The buoy may bear only the number of the vessel operating the gear. The number must be painted on the top one-half of the buoy in numerals at least four inches high, one-half inch wide, and in a color that contrasts with the color of the buoy. The buoy markings must be visible on the buoy above the water surface when the buoy is attached to the groundfish pot.

(f) Sablefish may be taken only with pots, longlines, mechanical jigging machines, and hand troll gear as described in 5 AAC 28.640.

5 AAC 28.571. Groundfish pot storage requirements for South Alaska Peninsula Area

(a) Except as specified in (c) of this section or during a state-waters season for Pacific cod, rectangular groundfish pots with all bait and bait containers removed and with all doors secured fully open, and cone or pyramid groundfish pots with all bait and bait containers removed and all doors not secured closed may be stored in waters not more than 25 fathoms deep.

(b) Following the closure of a parallel season or state-waters season for Pacific cod, all groundfish pot gear used by a vessel registered to fish Pacific cod must be removed from the water, except that

(1) groundfish pots may be stored as described in (a) of this section; or

(2) rectangular groundfish pots with all bait and bait containers removed and with all doors secured fully open, and cone or pyramid groundfish pots with all bait and bait containers removed and all doors not secured closed may be stored in waters more than 25 fathoms deep for seven days following the closure; however, groundfish pots may be stored longer than seven days until the season is opened, if the season opening for the Pacific cod state-waters season is delayed as described in 5 AAC 28.577(l).

(c) During the seven days before the opening of the state-waters season for Pacific cod in the South Alaska Peninsula Area, rectangular groundfish pots with all bait and bait containers removed and with all doors secured fully open, and cone or pyramid groundfish pots with all bait and bait containers removed and all doors not secured closed may be stored in waters more than 25 fathoms deep, except that pots may be stored longer than seven days if the season opening is delayed due to weather as described in 5 AAC 28.577(l).

5 AAC 28.577. South Alaska Peninsula Area Pacific Cod Management Plan

(a) The management plan in this section governs the harvest of Pacific cod in the South Alaska Peninsula Area.

(b) Each year the commissioner shall open and close, by emergency order, a parallel season in the South Alaska Peninsula Area during which use of gear allowed in the

federal season for Pacific cod in the Western Gulf of Alaska Area is permitted, unless that gear is prohibited under 5 AAC 28.050 or 5 AAC 28.570. A vessel participating in a parallel season for Pacific cod may not be more than 58 feet in overall length.

(c) Each year the commissioner shall open and close by emergency order, a state-waters season in the South Alaska Peninsula Area for mechanical jigging machine and hand troll gear and for pot gear. For the purposes of this section, when a state-waters season for Pacific cod is opened to mechanical jigging machine and hand troll gear or pot gear, the parallel season for the applicable gear type is closed. During a state-waters season,

(1) mechanical jigging machine and hand troll gear is allocated 15 percent of the annual South Alaska Peninsula Area guideline harvest level; and

(2) pot gear is allocated 85 percent of the annual South Alaska Peninsula Area guideline harvest level.

(d) The seasons for mechanical jigging machine and hand troll gear are as follows:

(1) the state-waters season shall open 48 hours after the closure of the federal Western Gulf of Alaska jig gear "A" season; if the federal "A" season has not closed by March 15, the commissioner may open the state-waters season based on inseason assessment of effort, harvest rate, or remaining federal Pacific cod quota;

(2) the state-waters season for mechanical jigging machine and hand troll gear shall close when the mechanical jigging machine and hand troll gear allocation is taken; if the allocation to the state-waters season for mechanical jigging machine and hand troll gear is not taken by June 8, the commissioner shall close the state-waters season for mechanical jigging machine and hand troll gear on June 8 or later based on inseason assessment of effort, harvest rate, or remaining Pacific cod guideline harvest level;

(3) the parallel season that coincides with the federal Western Gulf of Alaska jig gear "B" season shall open on June 10 or later based on inseason assessment of effort, harvest rate, or remaining Pacific cod guideline harvest level;

(4) the state-waters season shall reopen 48 hours after the closure of the federal Western Gulf of Alaska jig gear "B" season if the mechanical jigging machine and hand troll gear allocation has not been taken.

(e) The seasons for pot gear are as follows:

(1) the state-waters season shall open 12:00 noon on March 7 or seven days following the closure of the federal Western Gulf of Alaska pot gear "A" season, whichever is later;

(2) the state-waters season for pot gear shall close when the pot gear allocation is taken; if the allocation to the state-waters season for pot gear is not taken by August 28, the commissioner shall close the state-waters season for pot gear on August 28;

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(3) the parallel season that coincides with the federal Western Gulf of Alaska pot gear "B" season shall open on September 1.

(f) If the state-waters season guideline harvest level is not taken by the conclusion of the federal Western Gulf of Alaska pot gear "B" season, the commissioner may reopen a state-waters season during which all legal gear may be used, and shall close, by emergency order, the season on December 31 or when the guideline harvest level is achieved, whichever occurs first.

(g) The commissioner may open and close, by emergency order, fishing seasons at times other than those specified in this section if the commissioner determines it is necessary to

- (1) adapt to unanticipated openings and closures of the federal season;
- (2) maintain sustained yield management; or
- (3) provide for orderly fisheries.

(h) During a state-waters season,

(1) the guideline harvest level for Pacific cod in the South Alaska Peninsula Area is 30 percent of the estimated total allowable harvest of Pacific cod for the federal Western Gulf of Alaska Area;

(2) Pacific cod may be taken only with groundfish pots, mechanical jigging machines, and hand troll gear, as follows:

(A) except as provided in (j) of this section, no more than 60 groundfish pots may be operated from a vessel registered to fish for Pacific cod;

(B) no more than five mechanical jigging machines may be operated from a vessel registered to fish for Pacific cod;

(C) in addition to the requirements of 5 AAC 28.020, a vessel must be registered to fish with pot gear or with mechanical jigging machines and hand troll gear (jig gear), and may not simultaneously be registered to fish with more than one gear type; a vessel's gear registration may be changed during a state-waters season to a different gear registration if the owner, or the owner's agent, submits a written request for a change in registration by mail, facsimile, or in person, to the department office in Kodiak, or other locations specified by the department for validation, and that registration has been validated by the department;

(D) a vessel registered to take Pacific cod may not be longer than 58 feet in overall length;

(E) notwithstanding 5 AAC 28.571(a), during the seven days immediately following the opening of the state-waters season, an operator of a vessel registered to fish

for Pacific cod may store or transport groundfish pots in excess of the pot limit established in (A) of this paragraph if the pots are

(i) stored in waters not more than 25 fathoms deep as described in 5 AAC 28.571(a); or

(ii) being transported on board the vessel and are not marked with identification tags.

(i) The South Alaska Peninsula Area is an exclusive registration area for Pacific cod during a state-waters season.

(j) If at any time after October 30 the commissioner determines that the guideline harvest level for Pacific cod will not be achieved by December 31, the commissioner may close, by emergency order, the fishing season and immediately reopen a state-waters season during which the following shall be implemented to increase the harvest rate in an attempt to reach the guideline harvest level:

(1) removal of the limits on the number of groundfish pots and mechanical jigging machines that may be operated from a vessel;

(2) if needed, designation of the South Alaska Peninsula Area as a nonexclusive registration area for Pacific cod;

(3) if needed, allow a vessel of any size to register and fish for Pacific cod in the South Alaska Peninsula Area.

(k) If the season is closed and immediately reopened under (j) of this section, a vessel participating in the state-waters season when it was closed will not be required to comply with the landing requirements of 5 AAC 28.581 until the season is closed again.

(l) The opening of the state-waters season for vessels using pot gear will be delayed for 24 hours if the National Weather Service marine forecast issued at 4:00 a.m. on the scheduled opening date specified in (e)(1) of this section for the current day and night or the following day and night for the state waters between Castle Cape and Cape Sarichef contains a gale warning. If, after the initial weather delay, the following day's 4:00 a.m. National Weather Service marine forecast for the current day and night or the following day and night contains a gale warning, the opening of the state-waters season will be delayed an additional 24 hours. The season opening delays may continue on a rolling 24-hour basis for seven days beyond the initial opening date, when the season will open regardless of any gale warning forecast.

(m) In the state-waters season, a vessel owner or operator using pot gear must report, as specified in the registration form, to the local representative of the department by radio or telephone

(1) the number of pot lifts conducted from the vessel in the previous 24-hour reporting period;

(2) the pounds of Pacific cod retained on the vessel during the previous 24-hour period; and

(3) any other information that the commissioner determines is necessary for the management and conservation of the fishery.

(n) If a state-waters and federal Pacific cod season are open concurrently for the same gear type,

(1) a vessel may not participate in a state-waters season and any other Pacific cod season at the same time;

(2) a vessel's registration for the state-waters season in the South Alaska Peninsula Area must be invalidated before that vessel may participate in any other Pacific cod season;

(3) registration for a state-waters season may occur only in person or by facsimile from 8:00 a.m. to 5:00 p.m. on a working day at a department office designated by the department; and

(4) all groundfish on board a vessel must be landed before that vessel may have the vessel's registration invalidated or be registered for a state-waters season for Pacific cod in the South Alaska Peninsula Area.

(o) If a state-waters season and federal season for Pacific cod are open concurrently for a different gear type, a vessel may not participate in a state-waters season and any other Pacific cod season at the same time.

5 AAC 28.581. Landing requirements for South Alaska Peninsula Area

(a) After 48 hours following the closure of any directed groundfish season within the South Alaska Peninsula Area, a vessel that participated in that fishery may not have that species of groundfish on board unless

(1) that species has been designated as bycatch for another directed fishery and the amount on board is permissible under retained bycatch restrictions specified in regulation; or

(2) the vessel has been delayed due to extraordinary circumstances beyond the control of the vessel operator, and the vessel operator has contacted a local representative of the department within 48 hours following the closure of the season and the representative has granted a reasonable amount of time for the vessel to reach the port of delivery or processing location; any amount of additional time shall be determined under the assumption that the vessel departed the fishing grounds immediately after the closure and proceeded directly to the port of delivery or processing location.

(b) The landing requirements for sablefish in the Western District are specified in 5 AAC 28.640.

5 AAC 28.585. Logbook requirements for South Alaska Peninsula Area

(a) An operator of a vessel fishing for black rockfish in the South Alaska Peninsula Area shall maintain an accurate logbook of all fishing operations for each type of gear used.

(b) A logbook described in (a) of this section must

(1) include the date, the specific location of harvest by latitude and longitude, the number of hooks and lines used, the average depth of each set fished, and the hours fished for each line;

(2) include, for the target species, and for each bycatch species, the number of fish

(A) retained; and

(B) discarded;

(3) be updated not later than 11:59 p.m. local time on the day after the day of operation;

(4) be retained, with its original pages, for a period of two years by the owner or operator of the vessel;

(5) be kept on board the vessel while operating gear, during transits to or from a port of landing, and for five days after delivering groundfish;

(6) be made available to a local representative of the department upon request.

(c) A copy of the page of the logbook described in (a) in this section pertaining to a landing must be attached to the fish ticket documenting the landing.

(d) A person may not make a false entry in the logbook described in (a) of this section.

5 AAC 28.589. Permit for miscellaneous groundfish in the South Alaska Peninsula Area

(a) Except when taken as allowable bycatch in another directed fishery, miscellaneous groundfish may be taken on an experimental basis in the South Alaska Peninsula Area only under the conditions of a permit issued by the commissioner necessary for conservation or management purposes. The permit may

(1) specify the depth of fishing gear;

(2) specify the fishing season and periods of fishing;

(3) specify the area of fishing;

(4) establish the allowable size of harvested fish;

(5) specify the type and configuration of gear;

(6) require the completion of logbooks provided by the department and require that the logbooks be attached to a fish ticket at the time of landing; and

(7) require other conditions that the commissioner determines are necessary for conservation or management purposes.

(b) For the purpose of this section, "miscellaneous groundfish" are those species of groundfish not specifically addressed in 5 AAC 28.550 - 5 AAC 28.585.

Article 10. Bering Sea - Aleutian Islands Area (Registration Area O).

5 AAC 28.600. Description of Bering Sea-Aleutian Islands Area

The Bering Sea-Aleutian Islands Area consists of all territorial waters of Alaska in the Bering Sea, and in that portion of the North Pacific Ocean adjacent to the Aleutian Islands and west of 170° W. long., including those waters north of the latitude of Nichols Point (54° 51.30' N. lat.) near False Pass, and north of a line extending from Unimak Island (54° 23.74' N. lat., 164° 44.73' W. long.) to Akun Island (54° 11.71' N. lat., 165° 23.09' W. long.), and from Akun Island (54° 08.40' N. lat., 165° 38.29' W. long.) to Akutan Island (54° 07.69' N. lat., 165° 39.74' W. long.), and from Akutan Island (54° 02.69' N. lat., 166° 02.93' W. long.) to Unalaska Island (53° 58.97' N. lat., 166° 16.50' W. long.), and from Unalaska Island (53° 18.95' N. lat., 167° 51.06' W. long.) to Umnak Island (53° 23.13' N. lat., 167° 50.50' W. long.), and from Umnak Island (52° 49.24' N. lat., 169° 07.10' W. long.), to Chuginadak Island (52° 49.18' N. lat., 169° 40.47' W. long.).

5 AAC 28.605. Description of Bering Sea-Aleutian Islands Area districts

(a) Aleutian Islands District: all waters of Alaska in the Bering Sea-Aleutian Islands Area south of the latitude of Cape Sarichef (54° 36' N. lat.).

(b) Bering Sea District: all waters of Alaska in the Bering Sea-Aleutian Islands Area north of the latitude of Cape Sarichef (54° 36' N. lat.).

5 AAC 28.606. Bering Sea-Aleutian Islands Area registration

(a) Repealed 1/18/2020.

(b) A vessel that is registered for the Bering Sea-Aleutian Islands Area under 5 AAC 28.020 for a groundfish fishery, other than a state-waters season for Pacific cod described in 5 AAC 28.647 or a sablefish fishery described in 5 AAC 28.640, also shall be considered registered for that fishery in the Kodiak Area described in 5 AAC 28.400, the Chignik Area described in 5 AAC 28.500, the South Alaska Peninsula Area described in 5 AAC 28.550, and the Chukchi-Beaufort Area described in 5 AAC 28.700.

(c) Before a person uses a vessel to operate gear to take deacon and black rockfish in the Bering Sea-Aleutian Islands Area, the vessel owner, the owner's authorized agent, or the vessel operator shall validly register the vessel with the department office in Dutch Harbor.

(d) Before a person uses a vessel to operate gear to take sablefish in the Aleutian Islands District, the vessel must be validly registered as described in 5 AAC 28.640.

5 AAC 28.610. Fishing seasons for Bering Sea-Aleutian Islands Area

(a) Unless otherwise specified in this chapter, groundfish may be taken only during seasons established by emergency order or under a permit issued by the commissioner.

(b) In the Aleutian Islands District, sablefish may be taken only as described in 5 AAC 28.640.

(c) In the Bering Sea District, there is no open season for directed sablefish fishing.

(d) In the Aleutian Islands District, black rockfish may be taken from January 1 through December 31, unless closed by emergency order.

5 AAC 28.629. Lawful gear for Bering Sea-Aleutian Islands Area

(a) Unless otherwise specified in this section, groundfish may be taken with the gear specified in 5 AAC 28.050.

(b) Rockfish may not be taken with seine gear.

(c) Only five mechanical jigging machines may be operated from a vessel.

(d) In the Sitkin Sound waters described in 5 AAC 28.690(a), rockfish may be taken only with pot, longline, mechanical jigging machine, and hand troll gear.

(e) Repealed 6/1/2013.

(f) Notwithstanding (d) of this section, in the Bering Sea-Aleutian Islands Area, deacon and black rockfish may be taken in a directed fishery only with mechanical jigging machines and handlines.

(g) Sablefish may be taken only with pots, longlines, mechanical jigging machines, and hand troll gear as described in 5 AAC 28.640.

5 AAC 28.630. Gear

Repealed 4/7/93.

5 AAC 28.632. Groundfish pot storage requirements for Bering Sea-Aleutian Islands Area

(a) Rectangular groundfish pots with all bait and bait containers removed and with all doors secured fully open, and cone or pyramid groundfish pots with all bait and bait containers removed and all doors not secured closed may be stored in waters not more than 25 fathoms deep.

(b) Following the closure of a parallel season or state-waters season for groundfish, all groundfish pot gear used by a vessel registered to fish for groundfish must be removed from the water, except that

(1) rectangular and cone or pyramid groundfish pots may be stored as described in (a) of this section; or

(2) rectangular groundfish pots with all bait and bait containers removed and with all doors secured fully open, and cone or pyramid groundfish pots with all bait and bait containers removed and all doors not secured closed may be stored in waters more than 25 fathoms deep for seven days following the closure.

5 AAC 28.640. Aleutian Islands District and Western District of the South Alaska Peninsula Area Sablefish Management Plan

(a) The management plan under this section governs the harvest of sablefish in the Aleutian Islands District and the Western District of the South Alaska Peninsula Area described in 5 AAC 28.555.

(b) The commercial fishing season for sablefish in state waters will open and close concurrently with the federal IFQ season for directed fishing for sablefish in the adjacent federal waters, unless closed by emergency order.

(c) Sablefish may be taken only with pots, longlines, mechanical jigging machines, and hand troll gear. Pot gear may be longlined in the Aleutian Islands and Western Districts.

(d) Before a person uses a vessel to operate gear to take sablefish in the waters of the Aleutian Islands District or the Western District, the vessel owner, the owner's authorized agent, or the vessel operator shall validly register the vessel with the department office in Dutch Harbor. A vessel that is registered under this subsection shall be considered registered in the Aleutian Islands District and the Western District.

(e) Notwithstanding 5 AAC 28.020(f), before departing from the Aleutian Islands District and the Western District, the operator of a vessel fishing for sablefish must notify a local representative of the department to report the amount, by weight, of sablefish on board the vessel and the location that the sablefish will be landed.

(f) Each processor of sablefish shall report the amount, by weight, of sablefish received and processed to the department's Dutch Harbor office each week or as otherwise directed by the department.

(g) An operator of a vessel fishing for sablefish in the Aleutian Islands District and the Western District of the South Alaska Peninsula Area shall maintain an accurate

logbook of all fishing operations for each type of gear used. The following requirements apply to a logbook under this subsection:

(1) a logbook must

(A) include the date, specific locations of harvest by latitude and longitude, type and number of gear, average depth, and hours fished for each set of gear;

(B) include the round weight of sablefish retained and discarded;

(C) be updated not later than 11:59 p.m. local time on the day after the day of operation;

(D) be retained, with its original pages, for a period of two years by the owner or operator of the vessel;

(E) be kept on board the vessel while operating gear, during transits to or from a port of landing, and for 14 days after landing sablefish;

(F) be made available to a local representative of the department upon request;

(2) a copy of each logbook page described in this subsection corresponding with an ADF&G fish ticket must be submitted to the department within seven days of the landing;

(3) a person may not make a false entry in the logbook described in this section.

(h) After 72 hours following the closure of a directed sablefish season within the Aleutian Islands District and the Western District of the South Alaska Peninsula Area, a vessel that participated in the sablefish fishery may not have sablefish that was taken in state waters on board the vessel, unless the vessel has been delayed due to extraordinary circumstances beyond the control of the vessel operator, and the vessel operator has contacted a local representative of the department within 72 hours following the closure of the season and the representative of the department has granted a reasonable amount of time for the vessel to reach the port of delivery or a processing location. Any additional time shall be determined based on the assumption that the vessel departed the fishing grounds immediately after the fishery closure and proceeded directly to the port of delivery or processing location.

(i) All waters within three nautical miles of the Steller sea lion site on Kanaga Island/Ship Rock at 51° 46.70' N. lat., 177° 20.72' W. long. are closed to the taking of sablefish.

5 AAC 28.645. Aleutian Islands District Walleye Pollock Management Plan

Repealed.

5 AAC 28.647. Aleutian Islands Subdistrict Pacific Cod Management Plan

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(a) This management plan governs the harvest of Pacific cod in the Aleutian Islands Subdistrict, including the Adak Section. For the purposes of this section, the

(1) Aleutian Islands Subdistrict is comprised of the state waters in the Aleutian Islands District west of 170° W. long.; and

(2) Adak Section is comprised of the state waters of the Aleutian Islands Subdistrict between 175° W. long. and 178° W. long.

(b) Each year, the commissioner shall open and close, by emergency order, a parallel season in the Aleutian Islands Subdistrict, except the Adak Section, to coincide with the initial federal season in the Bering Sea and Aleutian Islands Area. The commissioner shall open and close, by emergency order, the parallel season during which the use of the same gear allowed in the federal Bering Sea and Aleutian Islands Area Pacific cod season is permitted, unless that gear is prohibited under 5 AAC 28.050.

(c) The commissioner shall open and close, by emergency order, a state-waters season in the Aleutian Islands Subdistrict as follows:

(1) the Adak Section shall open January 1;

(2) all waters of the Aleutian Islands Subdistrict shall open as follows:

(A) for nonpelagic trawl gear, pot gear, longline gear, hand troll gear, and mechanical jigging machines four days after the Bering Sea and Aleutian Islands parallel "A" season for the catcher-vessel greater than or equal to 60 feet in overall length pot gear fishery is closed;

(B) for vessels over 60 feet in overall length using nonpelagic trawl gear and vessels over 100 feet in overall length using potgear, at 12:00 noon on March 15;

(C) except as otherwise specified in this chapter, when a state-waters season is open, the parallel season for the applicable gear type and vessel length is closed.

(3) repealed 2/28/2020.

(d) During a state-waters season,

(1) the 2019 guideline harvest level for Pacific cod in the Aleutian Islands Subdistrict is 31 percent of the estimated total allowable harvest of Pacific cod for the federal Aleutian Islands Subarea;

(A) if the guideline harvest level established under this paragraph is achieved in a calendar year, the guideline harvest level will increase by 4 percent of the estimated total allowable harvest of Pacific cod for the federal Aleutian Islands Subarea beginning the next calendar year, but may not exceed 39 percent of the estimated total allowable harvest or 15 million pounds;

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(B) if the guideline harvest level established under this paragraph is not achieved during two consecutive calendar years, the guideline harvest level will be reduced by 4 percent of the estimated total allowable harvest of Pacific cod for the federal Aleutian Islands Subarea beginning the next calendar year, but may not be reduced below 15 percent of the estimated total allowable harvest;

(C) a guideline harvest level is considered to have been achieved under this subsection if, by November 15, 90 percent of that guideline harvest level is projected to be harvested by the end of that calendar year;

(2) Pacific cod may be taken only with groundfish pots, mechanical jigging machines, longline, nonpelagic trawl, and hand troll gear; groundfish pots may be longlined; each end of the groundfish pot longline must have a buoy attached and each buoy must be marked with the permanent ADF&G vessel plate number of the vessel operating the groundfish longlined pot gear and the letters "GFL" to designate the gear as longlined groundfish pot gear; the numbers and letters must be marked on the top one-half of the buoy in numbers and letters that are at least four inches high, one-half inch wide, and in a color that contrasts with the color of the buoy; the buoy markings must be visible on the buoy above the water surface when the buoy is attached to the longlined pot gear; for the purposes of this paragraph, "longlined" means more than one groundfish pot is attached to a stationary, buoyed, and anchored line;

(3) a vessel used to harvest Pacific cod when

(A) only the Adak Section is open under (c)(1) of this section, with

(i) longline gear, may not be more than 58 feet in overall length;

(ii) nonpelagic trawl gear, mechanical jigging machines, or pot gear, may not be more than 60 feet in overall length;

(B) all waters of the Aleutian Islands Subdistrict are open under (c)(2) of this section, with

(i) mechanical jigging machines, may not be more than 60 feet in overall length;

(ii) longline gear, may not be more than 58 feet in overall length;

(iii) nonpelagic trawl gear, may not be more than 60 feet in overall length prior to 12:00 noon on March 15, and may not be more than 100 feet in overall length after 12:00 noon on March 15;

(iv) pot gear, may not be more than 100 feet in overall length prior to 12:00 noon on March 15 and may not be more than 125 feet in overall length after 12:00 noon on March 15;

(4) a vessel operator may be concurrently registered to harvest Pacific cod with mechanical jigging machines and longline gear, but may not be concurrently registered to harvest Pacific cod with any other gear types;

(5) a vessel's gear registration may be changed during a state-waters season to a different gear registration if the owner, or owner's agent, submits a written request for a change in registration by mail, facsimile, or in person, to the department office in Dutch Harbor, or other locations specified by the department for validation, and that registration has been validated by the department; a vessel may not fish outside of the designated registration area; a vessel may not change registration while unprocessed fish are on board the vessel;

(6) a vessel may harvest up to 150,000 pounds of Pacific cod per day and may not have more than 150,000 pounds of unprocessed Pacific cod on board the vessel at any time; a vessel may not have on board the vessel more processed fish than the round weight equivalent of the fish reported on ADF&G fish tickets; a validly registered vessel must report daily to the department the pounds of Pacific cod taken and on board the vessel;

(7) all Pacific cod taken must be retained; any overage of a limit specified in (6) of this subsection must be immediately reported to the department by the vessel operator; all proceeds from the sale of Pacific cod in excess of a limit specified in (6) of this subsection shall be immediately surrendered to the state.

(e) The commissioner may open and close, by emergency order, fishing seasons at times other than those specified in this section if the commissioner determines it is necessary to

- (1) adapt to unanticipated openings and closures of federal seasons;
- (2) provide for maximum fishing opportunity;
- (3) maintain sustained yield management; or
- (4) provide for orderly fisheries.

(f) The Aleutian Islands Subdistrict is an exclusive registration area for Pacific cod during a state-waters season. If at any time after closure of the Dutch Harbor Subdistrict state-waters Pacific cod season for pot gear as described in 5 AAC 28.648, the commissioner determines that the guideline harvest level for Pacific cod will not be achieved by December 31, the commissioner may close, by emergency order, the fishing season and immediately reopen a state-waters season during which the Aleutian Islands Subdistrict is designated as a nonexclusive registration area for Pacific cod.

(g) The commissioner may, by emergency order, impose bycatch limitations and retention requirements based on conservation of the resource, to avoid waste of a bycatch species, to prevent overharvest of bycatch species, or to facilitate consistency of state and federal regulations for a species.

(h) The following closures apply during a state-waters season:

(1) Seguum foraging area for Steller sea lions as specified in 50 C.F.R. 679.22(a)(8)(i), updated March 9, 2012, as defined in 68 Federal Register 204, January 2, 2003;

(2) groundfish closures within three nautical miles of Steller sea lion sites of the Aleutian Islands District west of 170° W. long. as specified in 50 C.F.R. 679.22(a)(8)(iii), updated March 9, 2012, found in Table 12 of 50 C.F.R. 679, as defined in 75 Federal Register 81921 - 81941, December 29, 2010;

(3) all Steller sea lion protection measures for Pacific cod found in Table 5 of 50 C.F.R. 679, as defined in 79 Federal Register 70286 - 70338, November 25, 2014, except that the 10 nautical mile closure around the Steller sea lion site at Kanaga Island/Ship Rock at 51° 46.70' N. lat., 177° 20.72' W. long. shall be closed to the taking of Pacific cod only within three nautical miles;

(4) all habitat closures specified in 5 AAC 39.167 that are located in the Aleutian Islands District west of 170° W. long.

(i) If a state-waters season and federal season for Pacific cod are open concurrently for the same gear type,

(1) a vessel may not participate in a state-waters season and any other Pacific cod season at the same time;

(2) before entering or exiting a state-waters fishery, a vessel operator must

(A) check in and check out by contacting a local representative of the department in person, or by telephone, facsimile transmission, electronic mail, or radio; and

(B) deliver all unprocessed Pacific cod on board the vessel;

(3) the commissioner may close, by emergency order, the state-waters season and immediately reopen a state-waters season during which there are modified landing requirements and check-in and check-out requirements based on effort, harvest rate, or remaining quota.

(j) The board intends that a vessel operator generally harvest less than the vessel's allowable harvest limit, possess less than the vessel's allowable possession limit, and limit the vessel's fishing activities if there is a possibility of exceeding those limits. A vessel operator of a vessel harvesting more than an allowable harvest limit or that is in possession of more than the allowable possession limit is considered to have engaged in improper operation of gear. Nothing in this section is intended to preclude or discourage additional enforcement action under AS 16.05.722, AS 16.05.723, or any other applicable law for any violation of this section.

5 AAC 28.648. Dutch Harbor Subdistrict Pacific Cod Management Plan

(a) This management plan governs the harvest of Pacific cod in the Dutch Harbor Subdistrict. For the purposes of this section, the Dutch Harbor Subdistrict is comprised of

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the state waters in the Aleutian Islands District east of 170° W. long., and the state waters of the Bering Sea District that are west of 162° 30.00' W. long., east of 170° W. long., and south of 55° 30.00' N. lat., except that the waters of the Dutch Harbor Subdistrict south of 53° 06.11' N. lat. are closed to taking Pacific cod during a state-waters season.

(b) Each year the commissioner shall open and close, by emergency order, a parallel season in the Dutch Harbor Subdistrict during which the use of gear allowed in the federal season for Pacific cod in the Bering Sea and Aleutian Islands Area is permitted, unless that gear is prohibited under 5 AAC 28.050 or 5 AAC 28.629.

(c) Each year the commissioner shall open and close by emergency order, a state-waters season in the Dutch Harbor Subdistrict for pot gear and mechanical jigging machines. For the purposes of this section, when a state-waters season for Pacific cod for pot gear or mechanical jigging machines is open, the parallel season for the applicable gear type is closed for vessels that are 58 feet or less in overall length. The commissioner shall close the state-waters season by emergency order when the guideline harvest level is achieved or December 31, whichever occurs first.

(d) The state-waters season shall open as follows:

(1) for pot gear, at 12:00 noon seven days following the closure of the initial season for the federal Bering Sea and Aleutian Islands hook-and-line and pot catcher vessel less than 60 feet in overall length sector;

(2) for mechanical jigging machines, on May 1.

(e) During a state-waters season,

(1) the guideline harvest level for Pacific cod in the Dutch Harbor Subdistrict is:

(A) for pot gear, 8 percent of the estimated total allowable harvest of Pacific cod for the federal Bering Sea Subarea; if the guideline harvest level established under this paragraph is achieved in a calendar year, the guideline harvest level will increase by 1 percent of the estimated total allowable harvest the subsequent calendar year. A guideline harvest level established under this subparagraph

(i) may not exceed 15 percent of the estimated total allowable harvest of Pacific cod for the federal Bering Sea Subarea; and

(ii) is considered to have been achieved if, by November 15, 90 percent of that guideline harvest level is projected to be harvested by the end of that calendar year; and

(B) for mechanical jigging machines, 100,000 pounds of the estimated total allowable harvest of Pacific cod for the federal Bering Sea Subarea;

(2) Pacific cod may be taken only with groundfish pots and mechanical jigging machines as follows:

(A) except as provided in (h) of this section, no more than

(i) 60 groundfish pots may be operated from a vessel registered to fish for Pacific cod;

(ii) 5 mechanical jigging machines may be operated from a vessel registered to fish for Pacific cod;

(B) in addition to the requirements of 5 AAC 28.020, a vessel must be registered to fish;

(C) a vessel registered to take Pacific cod may not be longer than 58 feet in overall length;

(D) during the seven days immediately following the opening of the state-waters season, an operator of a vessel registered to fish for Pacific cod may store or transport groundfish pots in excess of the pot limit established in (A) of this paragraph if the pots are

(i) stored in waters not more than 25 fathoms deep as specified in 5 AAC 28.632; or

(ii) are being transported on board the vessel and are not marked with identification tags.

(f) The commissioner may open and close, by emergency order, fishing seasons at times other than those specified in this section if the commissioner determines it is necessary to

(1) adapt to unanticipated openings and closures of the federal season;

(2) maintain sustained yield management; or

(3) provide for orderly fisheries.

(g) The Dutch Harbor Subdistrict is

(1) an exclusive registration area for a vessel validly registered to take Pacific cod with pot gear; and

(2) a nonexclusive registration area for a vessel validly registered to take Pacific cod with mechanical jigging machines.

(h) If at any time after October 1 the commissioner determines that the guideline harvest level for Pacific cod will not be achieved by December 31, the commissioner may close, by emergency order, the fishing season and immediately reopen a state-waters season during which the following shall be implemented to increase the harvest rate in an attempt to reach the guideline harvest level:

(1) removal of the limits on the number of pots and mechanical jigging machines that may be operated from a vessel;

(2) if needed, designation of the Dutch Harbor Subdistrict as a nonexclusive registration area for Pacific cod;

(3) if needed, allow a vessel of any size to register and fish for Pacific cod in the Dutch Harbor Subdistrict;

(4) if the season is closed and immediately reopened under this subsection, a vessel participating in the state-waters season when it was closed will not be required to comply with landing requirements until the season is closed again.

(i) If the season is closed and immediately reopened under (f) of this section, a vessel operator participating in the state-waters season when it was closed may not have Pacific cod on board the vessel after 48 hours after the closure, unless the vessel has been delayed due to extraordinary circumstances beyond the control of the vessel operator, and the vessel operator has contacted a local representative of the department not later than 48 hours following the closure of the season and the representative has granted a reasonable amount of time for the vessel to reach the port of delivery or processing location. Any amount of additional time shall be determined under the assumption that the vessel departed the fishing grounds immediately after the closure and proceeded directly to the port of delivery or processing location.

(j) In the state-waters season, a vessel owner or operator using pot gear must report, as specified in the registration form, to the local representative of the department by telephone, electronic mail, or radio

(1) the number of pot lifts from the vessel in the previous 24-hour reporting period;

(2) the number of pounds of Pacific cod retained on the vessel during the previous 24-hour period; and

(3) any other information that the commissioner determines is necessary for the management and conservation of the fishery.

(k) If a state-waters season and federal season for Pacific cod are open concurrently for a different gear type,

(1) a vessel may not participate in a state-waters season and any other Pacific cod season at the same time;

(2) a vessel's registration for the state-waters season in the Dutch Harbor Subdistrict must be invalidated before that vessel may participate in any other Pacific cod season;

(3) registration for a state-waters season may occur only in person, or by facsimile transmission or electronic mail, from 8:00 a.m. to 5:00 p.m. on a working day at a department office designated by the department; and

(4) all groundfish on board a vessel must be landed before that vessel may have the vessel's registration invalidated or be registered for a state-waters season for Pacific cod outside the Dutch Harbor Subdistrict.

(l) The federal fishery management measures for the protection of Steller sea lions are imposed as specified for the Bering Sea Area in Table 5 to 50 C.F.R. 679, as defined in 79 Federal Register 70286 - 70338, November 25, 2014, and as specified in Table 12 to 50 C.F.R., Part 679, as defined in 75 Federal Register 81921 - 81941, December 29, 2010, except that the following Steller sea lion haulouts listed in Table 5 are closed to the taking of Pacific cod within three nautical miles:

(1) Umnak Island/Cape Aslik at 53° 25.00' N. lat., 168° 24.50' W. long.;

(2) Uliaga at 53° 04.00' N. lat., 169° 47.00' W. long. to 53° 05.00' N. lat., 169° 46.00' W. long.;

(3) Kagamil at 53° 02.10' N. lat., 169° 41.00' W. long.

5 AAC 28.650. Closed waters in Bering Sea-Aleutian Islands Area

(a) All waters of Alaska surrounding St. Matthew, Hall, and Pinnacle Islands are closed to commercial groundfish fishing.

(b) The waters of Unalaska Bay south of a line from Cape Kalekta at 54° 00.50' N. lat., 166° 22.50' W. long. to Cape Cheerful at 54° 01' N. lat., 166° 40' W. long. are closed to groundfish fishing with pelagic trawl gear.

(c) The waters of the Dutch Harbor Subdistrict, described in 5 AAC 28.648(a), that are south of 53° 06.11' N. lat. are closed to taking Pacific cod during a state-waters season.

5 AAC 28.670. Harvest of bait by commercial permit holders for Bering Sea-Aleutian Islands Area

The holder of a valid CFEC interim use or limited entry permit may take but may not sell groundfish for use as bait in the commercial fishery for which the permit is held as follows:

(1) groundfish may be taken at any time;

(2) groundfish may be taken by any gear specified in 5 AAC 39.105, except trawls;

(3) groundfish may be taken under this section only in the waters north of the latitude of Cape Romanzof at 61° 49' N. lat. and south of the latitude of Point Hope at 68° 21' N. lat.

5 AAC 28.681. Landing requirements for Bering Sea - Aleutian Islands Area

The landing requirements for sablefish in the Aleutian Islands District are specified in 5 AAC 28.640.

5 AAC 28.685. Logbook requirements for Bering Sea - Aleutian Islands Area

(a) An operator of a vessel fishing for black rockfish in the waters of Alaska in the Aleutian Islands District of the Bering Sea - Aleutian Islands Area shall maintain an accurate logbook of all fishing operations for each type of gear used.

(b) A logbook described in (a) of this section must

(1) include the date, the specific location of harvest by latitude and longitude, the number of hooks and lines used, the average depth of each set fished, and the hours fished for each line;

(2) include for the target species, and for each bycatch species, the number of fish

(A) retained; and

(B) discarded;

(3) be updated within 24 hours after midnight local time on the day of operation;

(4) be retained, with its original pages, for a period of two years by the owner or operator of the vessel;

(5) be kept on board the vessel while operating gear, during transits to or from a port of landing, and for five days after delivering groundfish;

(6) be made available to a local representative of the department upon request.

(c) A copy of the page of the logbook described in (a) in this section pertaining to a landing must be attached to the fish ticket documenting the landing.

(d) A person may not make a false entry in the logbook described in (a) of this section.

5 AAC 28.690. Vessel length restrictions for the Bering Sea-Aleutian Islands Area

(a) A person may not use a vessel that is longer than 60 feet in overall length to take rockfish in the waters of Sitkin Sound and the surrounding area enclosed by lines from Cape Adagdak northeast to Swallow Head to Teapot Rock southeast to a point on the northwesternmost tip of Tagalak Island, and then from the southernmost tip of Tagalak Island to the southernmost tip of Umak Island, and then from the southernmost tip of Umak Island south southwest to Cape Azimas, and then from Cape Azimas west southwest to the southernmost tip of Kagalaska Island, and then from the southernmost tip of Kagalaska Island to Boot Point on Adak Island, and then from Boot Point southwest to Cape Kagigkak, to 51° 53' N. lat., 176° 45.75' W. long., south to Careful Point.

(b) Repealed 10/16/2011.

(c) In the Bering Sea-Aleutian Islands Area, a vessel participating in a parallel season for Pacific cod with longline gear may not be more than 58 feet in overall length.

(d) In this section, "overall length" means the straight line length between extremities of the vessel, excluding anchor rollers.

Article 11. Chukchi-Beaufort Area (Registration Area Y).

5 AAC 28.700. Description of Chukchi-Beaufort Area

The Chukchi-Beaufort Area consists of all territorial waters of Alaska north of the latitude of Cape Prince of Wales (65° 36' N. lat.).

5 AAC 28.706. Chukchi-Beaufort Area registration

(a) The Chukchi-Beaufort Area is a nonexclusive registration area for Pacific cod.

(b) A vessel that is registered for the Chukchi-Beaufort Area under 5 AAC 28.020 for a groundfish fishery, other than a state-waters season for Pacific cod described in 5 AAC 28.081, also shall be considered registered for that fishery in the Kodiak Area described in 5 AAC 28.400, the Chignik Area described in 5 AAC 28.500, the South Alaska Peninsula Area described in 5 AAC 28.550, and Bering Sea-Aleutian Islands Area described in 5 AAC 28.600.

5 AAC 28.710. Fishing seasons for Chukchi-Beaufort Area

Groundfish may be taken only during seasons established by emergency order or under a permit issued by the commissioner.

5 AAC 28.732. Groundfish pot storage requirements for Chukchi-Beaufort Area

Rectangular groundfish pots with all bait and bait containers removed and with all doors secured fully open, and cone or pyramid groundfish pots with all bait and bait containers removed and all doors not secured closed may be stored in waters not more than 25 fathoms deep.

Article 12. Definitions.

5 AAC 28.975. Definitions

Unless otherwise provided in this chapter,

(1) "bycatch" means any species or species group taken incidentally in the course of participating in a directed fishery for another species or species group;

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(2) "directed fishery" means a fishery that is managed for the taking of one or more target species or species groups;

(3) "landing" means the act of offloading fish for sale or for transport to a buyer for later sale;

(4) "target species" means a species or species group for which there is sufficient data to allow that species or species group to be managed on its own biological merits.

Chapter 39. General Provisions.

Article 1. General.

Please note that in the electronic version the individual Sections are linked to where they are contained within this document.

Selected Sections

[5 AAC 39.001. Application of this chapter](#)

[5 AAC 39.002. Liability for violations](#)

[5 AAC 39.010. Retention of fish taken in a commercial fishery](#)

[5 AAC 39.105. Types of legal gear](#)

[5 AAC 39.110. Crewmember fishing license requirements](#)

[5 AAC 39.111. Personal identification required](#)

[5 AAC 39.117. Vessel length; bulbous bow](#)

[5 AAC 39.119. Vessel identification](#)

[5 AAC 39.128. Reporting requirements for unlicensed commercial fishing vessels in the waters of Alaska](#)

[5 AAC 39.130. Reports required of fishermen, processors, buyers, exporters, and operators of certain commercial fishing vessels; transporting requirements](#)

[5 AAC 39.140. Inspection of fishing establishments and vessels](#)

[5 AAC 39.141. Onboard observer program](#)

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[5 AAC 39.145. Escape mechanism for shellfish and groundfish pots](#)

[5 AAC 39.146. Onboard observer briefing and debriefing](#)

[5 AAC 39.163. Bottom Trawl Fisheries Management Plan](#)

[5 AAC 39.164. Nonpelagic trawl gear restrictions](#)

[5 AAC 39.165. Trawl gear unlawful](#)

[5 AAC 39.166. Mandatory retention of prohibited salmon species by commercial trawl vessels for counting and sampling](#)

5 AAC 39.167. Commercial fishing gear prohibited in waters of Alaska surrounding essential fish habitat areas

5 AAC 39.185. Policy on closures due to illegal fishing

5 AAC 39.195. Announcement of emergency orders

5 AAC 39.197. Unlawful possession of fish

5 AAC 39.198. Foreign fish processing permits

5 AAC 39.200. Application of fishery management plans

5 AAC 39.205. Criteria for the allocation of fishery resources among personal use, sport, and commercial fisheries

5 AAC 39.212. Forage Fish Management Plan

5 AAC 39.001. Application of this chapter. Unless otherwise specified in this section or 5 AAC 01 - 5 AAC 77, requirements in this chapter apply to commercial fishing only, except that 5 AAC 39.002 and 5 AAC 39.999 apply to all of 5 AAC 01 - 5 AAC 77. Subsistence, personal use, and sport fishing regulations affecting commercial fishing vessels or affecting any other commercial fishing activity are set out in the subsistence fishing regulations in 5 AAC 01 and 5 AAC 02, personal use regulations in 5 AAC 77, and sport fishing regulations in 5 AAC 47 - 5 AAC 75.

5 AAC 39.002. Liability for violations. Unless otherwise provided in 5 AAC 01 - 5 AAC 41 or in AS 16, a person who violates a provision of 5 AAC 01 - 5 AAC 41 is strictly liable for the offense, regardless of his intent.

5 AAC 39.010. Retention of fish taken in a commercial fishery. (a) A person engaged in commercial fishing may retain fish from lawfully taken commercial catch for that person's own use, including for the use as bait in a commercial fishery. Fish retained under this section may not be sold or bartered.

(b) Except as otherwise specified in 5 AAC 01 - 5 AAC 39, a commercial fisherman shall report on an ADF&G fish ticket, at the time of delivery of the commercial catch, the number of steelhead retained from the commercial catch but not sold. For the purposes of this subsection, "delivery" means the offloading of the finfish for sale or for transport to a buyer for later sale.

5 AAC 39.105. Types of legal gear. (a) All gear shall be operated in a manner conforming to its basic design.

(b) The size of meshes of a gillnet shall be substantially consistent.

(c) All references to mesh size in the regulations are considered to be "stretched measure."

(d) Unless otherwise provided in this title, the following are legal types of gear:

- (1) a **gillnet** is a net primarily designed to catch fish by entanglement in the mesh and consisting of a single sheet of webbing hung between cork line and lead line, and fished from the surface of the water;
- (2) a **set gillnet** is a gillnet that has been intentionally set, staked, anchored, or otherwise fixed;
- (3) a **drift gillnet** is a drifting gillnet that has not been intentionally staked, anchored, or otherwise fixed;
- (4) a **purse seine** is a floating net designed to surround fish and which can be closed at the bottom by means of a free-running line through one or more rings attached to the lead line;
- (5) a **hand purse seine** is a floating net designed to surround fish and which can be closed at the bottom by pursing the lead line; pursing may only be done by hand power, and a free-running line through one or more rings attached to the lead line is not allowed;
- (6) a **beach seine** is a floating net designed to surround fish which is set from and hauled to the beach;
- (7) **power troll** gear consists of a line or lines with lures or baited hooks which are deployed, drawn through the water, and retrieved by means of a power troll gurdy, for which the power source may be hydraulic, electrical or mechanical; power troll gear does not include hand troll gear;
- (8) **hand troll** gear consists of a line or lines with lures or baited hooks which are drawn through the water from a vessel by hand trolling, strip fishing or other types of trolling, and which are retrieved by hand power or hand-powered crank and not by any type of electrical, hydraulic, mechanical or other assisting device or attachment;
- (9) a **fish wheel** is a fixed, rotating device, with no more than four baskets on a single axle, for catching fish which is driven by river current or other means;
- (10) a **trawl** is a bag-shaped net towed through the water to capture fish or shellfish;
- (A) a **beam trawl** is a trawl with a fixed net opening utilizing a wood or metal beam;
- (B) an **otter trawl** is a trawl with a net opening controlled by devices commonly called otter doors;
- (C) a **pelagic trawl** is a trawl where the net, or the trawl doors or other trawl-spreading device, do not operate in contact with the seabed, and which does not have attached to it any protective device, such as chafing gear, rollers, or bobbins, that would make it suitable for fishing in contact with the seabed;

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(11) a **pot** is a portable structure designed and constructed to capture and retain fish and shellfish alive in the water;

(12) a **ring net** is a bag-shaped net suspended between no more than two frames; the bottom frame may not be larger in perimeter than the top frame; the gear must be nonrigid and collapsible so that when fishing it does not prohibit free movement of fish or shellfish across the top of the net;

(13) a **longline** is a stationary buoyed or anchored line or a floating, free drifting line with lures or baited hooks attached;

(14) a **shovel** is a hand-operated implement for digging clams or cockles;

(15) a **mechanical clam digger** is a mechanical device used or capable of being used for the taking of clams;

(16) a **scallop dredge** is a dredge-like device designed specifically for and capable of taking scallops by being towed along the ocean floor;

(17) a **fyke net** is a fixed, funneling (fyke) device used to entrap fish;

(18) a **lead** is a length of net employed for guiding fish into a seine or set gillnet;

(19) an **anchor** is a device used to hold a salmon fishing vessel or net in a fixed position relative to the beach; this includes using part of the seine or lead, a ship's anchor or being secured to another vessel or net that is anchored;

(20) a **herring pound** is an enclosure used primarily to retain herring alive over extended periods of time;

(21) **diving gear** is any type of hard hat or skin diving equipment including scuba, a tethered, umbilical, surface-supplied system, and a snorkel;

(22) a **hydraulic clam digger** is a device using water or a combination of air and water to remove clams from their environment;

(23) a **grappling hook** is a hooked device with flukes or claws and attached to a line and operated by hand;

(24) a **dip net** is a bag-shaped net supported on all sides by a rigid frame; the maximum straight-line distance between any two points on the net frame, as measured through the net opening, may not exceed five feet; the depth of the bag must be at least one-half of the greatest straight-line distance, as measured through the net opening; no portion of the bag may be constructed of webbing that exceeds a stretched measurement of 4.5 inches; the frame must be attached to a single rigid handle and be operated by hand;

(25) a **mechanical jigging machine** is a device that deploys a line with lures or baited hooks and retrieves that line with electrical, hydraulic, or mechanically powered

assistance; a mechanical jigging machine allows the line to be fished only in the water column; a mechanical jigging machine must be attached to a vessel registered to fish with a mechanical jigging machine; the mechanical jigging machine may not be anchored or operated unattached from the vessel;

(26) an **abalone iron** is a flat device used for taking abalone and which is more than one inch (24 mm) in width and less than 24 inches (61 cm) in length and with all prying edges rounded and smooth;

(27) a **handline** is a hand-held line, with one or more hooks attached, which may only be operated manually; a handline is legal gear only for smelt in the Bristol Bay Area, described in 5 AAC 06.100;

(28) **dinglebar troll** gear consists of one or more lines, retrieved and set with a troll gurdy or hand troll gurdy, with a terminally attached weight from which one or more leaders with one or more lures or baited hooks are pulled through the water while a vessel is making way;

(29) a **sea urchin rake** is a hand-held implement, no longer than four feet, equipped with projecting prongs used to gather sea urchins;

(30) a **cast net** is a circular net with a mesh size of no more than one and one-half inches and weights attached to the perimeter which, when thrown, surrounds the fish and closes at the bottom when retrieved.

5 AAC 39.110. Crewmember fishing license requirements. (a) Each commercial fisherman who does not hold a valid interim-use or entry permit card issued by the Commercial Fisheries Entry Commission shall obtain a crewmember fishing license before fishing in any waters of Alaska. A crewmember fishing license is not required for the holder of a valid interim-use or entry permit card.

(b) Repealed 8/15/2008.

(c) A crewmember licensee who does not hold a valid CFEC permit may crew in any fishery if he or she is working for the holder of a valid CFEC permit for that fishery who is operating the fishing gear in the manner described in 5 AAC 39.107.

(d) A valid interim-use or entry permit card holder may crew in any fishery.

(e) In this section, "crew" means the activities of a commercial fisherman as defined in AS 16.05.940(4), who is actively engaged in the operation of fishing gear that is being operated in the manner described in 5 AAC 39.107.

(f) Each holder of a commercial fishing license, as required in AS 16.05.480(a), who is 16 years of age or older and participating in a commercial fishery in which crewmember participation is restricted by exclusive or superexclusive area registration requirements shall possess an identification card that has been issued to the commercial fishing license holder by a state or federal agency or other organization specified by the

Department of Public Safety that bears a photograph of the commercial fishing license holder.

(g) The department will issue a duplicate crewmember license to a person whose crewmember license has been lost or destroyed and who submits a request for a duplicate crewmember license on a form prescribed by the department along with a \$5 duplicate crewmember license fee.

5 AAC 39.111. Personal identification required. A person who is in possession of a CFEC interim-use or entry permit card shall, upon the request of a buyer of fish or a peace officer of the state, present the personal identification required under AS 16.10.267(a)(2) to establish that the permit card is in the possession of the person to whom the permit card is issued.

5 AAC 39.119. Vessel identification. (a) Unless otherwise specified, a commercial fishing vessel required to be licensed under AS 16.05.490 must display its permanent vessel license plate number

(1) in permanent symbols at least 12 inches high and with lines at least one inch wide that contrast with the background;

(2) on both sides of the hull, cabin, or mast;

(3) in a manner such as to be plainly visible and unobscured; and

(4) at all times when registered to fish.

(b) Repealed 10/1/98.

(c) The following vessels are exempt from the requirements of this section:

(1) those exempt from licensing under AS 16.05.495;

(2) seine skiffs operating with a seine vessel;

(3) repealed 2/10/2005.

5 AAC 39.128. Reporting requirements for unlicensed commercial fishing vessels in the waters of Alaska. (a) Before entering the waters of Alaska,

(1) an operator of an unlicensed commercial fishing vessel shall report by telephone, and shall leave a recorded report at a telephone number designated by the department for that purpose, or shall report by other means specified by the department. A report under this section must

(A) identify the vessel and vessel operator;

(B) certify that no unprocessed fish are on board the vessel;

(C) include the destination, travel route, and dates of transit; and

(D) include the quantity, species, and the location from which the fish were taken if any processed fish are on board the vessel.

(b) The commissioner may, upon request by a local representative of the department, waive all or part of the requirements of this section if the commissioner determines that compliance with this section is not necessary for conservation, management, or enforcement in a designated geographical area.

(c) For the purposes of this section,

(1) "commercial fishing vessel" means a floating craft powered, towed, rowed, or otherwise propelled, which is used for or equipped to be used for

(A) commercial fishing;

(B) fish processing;

(C) fish transport; or

(D) fish storage, including temporary storage;

(2) "unlicensed" means not licensed under AS 16.05.490 - 16.05.530.

5 AAC 39.130. Reports required of fishermen, processors, buyers, exporters, and operators of certain commercial fishing vessels; transporting requirements. (a)

Before operating during a calendar year, an individual, company, firm, or other organization that is a first purchaser, catcher-exporter, catcher-processor, or catcher-seller shall submit to the department a completed intent to operate application provided by the department or available online, together with a \$25 processing fee for each individual, company, firm, or other organization identified in the application; the fee is not required of an applicant that paid the annual fee required by AS 43.75.020(a). The individual, company, firm, or other organization may begin to operate only after receiving authorization from the department to begin operating, along with the individual's or organization's processor code for the current year.

(b) An individual, company, firm, or other organization described in (a) of this section that intends or is required to use the eLandings Electronic Reporting System shall access the system by completing an operator documentation and user agreement on the Interagency eLandings Electronic Reporting System's website. In addition to the other requirements of this section, an individual, company, firm, or other organization described in (a) of this section that the commissioner determines has submitted at least 2,000 salmon harvest fish tickets or bought more than 20 million pounds of salmon during any of the previous three calendar years shall thereafter use the eLandings Electronic Reporting System for all salmon delivered to a tender vessel, floating processor, or shorebased processor. In addition to the other requirements of this section, a first purchaser shall use the tLandings application for all groundfish delivered to a tender vessel.

(c) An individual, company, firm, or other organization described in (a) of this section shall record each delivery on an ADF&G fish ticket. A fish ticket must be completed for all fish or byproducts of fish harvested in the waters of Alaska and for all fish or byproducts of fish harvested in waters outside of the waters of Alaska and offloaded or processed in the waters of Alaska. Fish tickets for each fishery must be finalized and submitted to a local representative of the department not later than seven days after a delivery or partial delivery, or as otherwise specified by the department, such as for each vessel trip. The operator of a vessel that has harvested fish in the waters of Alaska and whose port of delivery is outside this state, or who sells, transfers, receives, or delivers fish in the Exclusive Economic Zone (EEZ), shall submit a completed hauled weight fish ticket or a fish ticket to the department before the fish are transported out of the jurisdiction of this state. At the time of delivery or partial delivery, or as otherwise directed by the department, fish tickets must include the following information:

(1) the name and signature of the applicable individual, company, firm, or other organization described in (a) of this section;

(2) the name and signature of the CFEC permit holder that operated the unit of gear with which the fish were taken;

(3) the processor code imprinted on the fish ticket from the code plate issued by the department, the processor code handwritten on the fish ticket if instructed by an authorized representative of the department, or the electronically captured information from the eLandings Electronic Reporting System, except that if a catcher-seller is shipping fish to a fisheries business, the fisheries business must imprint the fish ticket, or electronically capture the information on the eLandings Electronic Reporting System, with the processor code of the fisheries business; in this paragraph, "fisheries business" has the meaning given in AS 43.75.290;

(4) the name, or the United States Coast Guard number or Department of Transportation number, of the vessel employed in taking the fish, if applicable;

(5) the date fishing gear was deployed and the date the delivery or partial delivery of the fish is completed;

(6) the permanent ADF&G vessel license plate number, if applicable;

(7) the type of gear by which the fish were taken by the gear code number specified by the department;

(8) the statistical areas, districts, and subdistricts in which the fish were taken and, if required by a local representative of the department, the nearest headland or bay in which the fish were taken;

(9) the pounds, including any applicable weight modifier such as with ice and slime, delivery condition code, and disposition code, including any applicable overage code, of fish by species, except that

(A) for salmon and crab, the number is also required;

(B) for herring, only the weight, in pounds or tons, and delivery condition are required;

(10) an indication of a partial delivery, including a partial delivery of groundfish as specified in 5 AAC 28.070(f), if applicable;

(11) the CFEC permit number of the operator of the unit of gear with which the fish were taken, imprinted on the fish ticket from the valid permit card or electronically captured from the valid permit card; the imprinting requirement under this paragraph may be suspended by a local representative of the department after presentation by the commercial fisherman of the operator's permit application validated by CFEC or documentation from the department or CFEC that the permit card has been damaged, lost, or stolen; if a suspension is granted, the buyer or commercial fisherman must handwrite the name of the permit holder, the permit holder's permit number, and, if applicable, the permanent ADF&G vessel license plate number on the fish ticket, and attach a copy of the supporting documentation;

(12) the number or pounds of fish by species retained by a commercial fisherman for that person's own use, if applicable;

(13) the number of licensed crewmembers, including the vessel operator, if applicable;

(14) the number of certified onboard observers, if applicable;

(15) the management program code, if using the eLandings Electronic Reporting System;

(16) the permanent ADF&G vessel license plate number of the tender vessel, if applicable;

(17) for a dual permit, the second CFEC permit number, if required by the department;

(18) any other information that the commissioner determines is necessary.

(d) A person may not possess a fish ticket that has been imprinted with a CFEC permit number until the time of delivery or partial delivery.

(e) A buyer of fish harvested through a CDQ program, as described in 6 AAC 93, shall electronically submit a fish ticket at least one time per week. The buyer may use the consolidated fish ticket feature in the eLandings Electronic Reporting System, including seaLandings, to generate the fish ticket. In this subsection, "week" means a seven-day period of time that begins on Sunday and ends on Saturday.

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(f) An individual, company, firm, or other organization described in (a) of this section shall furnish, verbally or in writing, purchasing, production, or other information as required by the commissioner.

(g) Not later than April 1, a first purchaser, catcher-exporter, or catcher-processor that has been assigned a processor code under (a) of this section shall submit a Commercial Operator's Annual Report (COAR), which is an operator's accurate and complete summary of activity for each intent to operate application approved by the department for the previous year, or a signed statement of nonactivity for the previous year, on a form provided by the department or available online. The department will not authorize operations for the current year to an applicant that has not submitted all COAR reports due under this section for any previous year.

(h) A commercial fisherman shall furnish to the buyer information necessary for completion of reports required by the commissioner.

(i) An individual, company, firm, or other organization described in (a) of this section using the eLandings Electronic Reporting System must electronically submit the initial landing report at the completion of a delivery or partial delivery, and submit to the department the final landing report and a copy of the fish ticket generated and printed from the eLandings Electronic Reporting System not later than seven days after the delivery or partial delivery.

(j) A commercial fisherman shall submit to the department verbally, in writing, or electronically through the eLandings Electronic Reporting System, directly or through the buyer, information necessary for reports required by the commissioner.

(k) Unless otherwise specified in this chapter, in addition to other requirements of this section, each person that is the first purchaser of or that first processes raw groundfish or halibut shall comply with the record keeping and electronic reporting requirements through the eLandings Electronic Reporting System and any other reporting requirements in 50 C.F.R. 679.5, revised as of October 1, 2013.

(l) The commissioner may, by emergency order, close a fishing season and immediately reopen a fishing season during which a different reporting requirement is in effect.

(m) In addition to the other provisions of this section, if the commissioner determines it is necessary, the following information regarding the transporting, delivery, or shipping of unprocessed fish must be transmitted to an authorized local representative of the department either in person, in writing, by radio or telephone, or by other means specified by the department:

(1) the number and species of salmon taken in a regulatory area must be reported before being transported to any other area or out of this state;

(2) the number or pounds, by species, of all other fish must be reported before being transported out of this state;

(3) the number or pounds, by species, of fish taken by a catcher-seller must be reported upon delivery or before shipping the fish within the state.

(n) A floating processor shall report in person, by radio or telephone, or by other means specified by the department, to the local representative of the department located within the management area of intended operation before the start of processing operations. The report must include the initial processing location by district or subdistrict and latitude and longitude, and the date of intended operation. Before moving the operation and upon arriving at a new location, the operator shall notify the local representative of the department in person, by radio or telephone, or by other means specified by the department, of the new location of operation by district or subdistrict and latitude and longitude. A local representative of the department may waive all or part of the requirements of this subsection upon determining that the requirements are not necessary for the conservation or management of the fishery in that area.

(o) In this section,

(1) "buyer-exporter" means the first purchaser of unprocessed fish that exports or attempts to export out of this state the fish either unprocessed or custom processed;

(2) "catcher-exporter" means a commercial fisherman who exports or attempts to export out of this state unprocessed or custom processed fish that were legally taken by the catcher-exporter;

(3) "catcher-processor" means a commercial fisherman who sells or attempts to sell processed or unprocessed fish that were legally taken by the catcher-processor in or out of this state;

(4) "catcher-seller" means a commercial fisherman who sells or attempts to sell unprocessed fish that were legally taken by the catcher-seller

(A) to the general public for use for noncommercial purposes;

(B) for use as bait for commercial or noncommercial purposes;

(C) to restaurants, grocery stores, and established fish markets;

(D) by shipping the fish to a licensed buyer, processor, or exporter within this state;

(5) "commercial fish transporter" means those individuals whose activities require a permit under AS 16.05.671;

(6) "custom processed" means that the fish is processed by a person that does not own the fish;

(7) "delivery" means offloading fish for sale or for transport to a buyer for later sale;

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(8) "dual permit" means the use of additional fishing gear on board a vessel or at a set gillnet site under a second CFEC permit as allowed under the applicable provisions in this title;

(9) "eLandings Electronic Reporting System"

(A) means the electronic and Internet based reporting system maintained by the department, the National Marine Fisheries Service, Alaska Region, and the International Pacific Halibut Commission to provide an alternative to paper fish tickets;

(B) includes the following:

(i) eLandings, which is a web application for shore side and Internet capable vessels;

(ii) seaLandings, which is a desktop application for sea vessels without Internet capability;

(iii) tLandings, which is a portable data storage application for tender and other operations;

(10) "first purchaser:

(A) means the person that first purchases unprocessed fish directly from the commercial fisherman for the purchaser's own business and does not act as a buying agent for another business;

(B) includes a

(i) buyer-exporter;

(ii) floating processor;

(iii) independent buyer;

(iv) shorebased processor;

(11) "fish ticket" includes

(A) a department issued paper copy form for recording harvest; and

(B) an electronically generated record of harvest from the eLandings Electronic Reporting System;

(12) "floating processor" includes the operator of a vessel who

(A) operates as a catcher-processor;

(B) is the first purchaser of unprocessed fish and sells or attempts to sell processed or unprocessed fish in or out of this state;

(13) "independent buyer" means the first purchaser of unprocessed fish for sale unprocessed within this state to a shorebased processor, floating processor, or buyer-exporter;

(14) "partial delivery" means the offloading of fish for sale or for transport to a buyer of only a portion of the total harvest from one vessel's trip, excluding catch retained for

(A) personal use under 5 AAC 39.010;

(B) bait under applicable provisions of this title;

(15) "shorebased processor" means a land-based first purchaser that purchases unprocessed fish and sells or attempts to sell that fish, processed or unprocessed, in or out of this state;

(16) "trip" means

(A) for a vessel on which fish are harvested but not processed, the period of time from when the vessel commences fishing until completion of the final delivery; a trip may include one or more partial deliveries; or

(B) a period of time designated by the department, such as every seven days.

(17) "tender vessel" means a vessel whose operator acts as an agent for a processor and accepts delivery of fish from a commercial fisherman or another tender vessel for transport to a shore-based or floating processor.

5 AAC 39.140. Inspection of fishing establishments and vessels. (a) Representatives of the Department of Fish and Game or the Department of Public Safety shall have free and unobstructed access to all fishing vessels, canneries, salteries, and other land-based or floating processing establishments to inspect catch, equipment, gear, and operational compliance with AS 16 and regulations promulgated thereunder.

(b) Upon being approached by a vessel or aircraft under the control of a representative of the Departments of Fish and Game or Public Safety, the operator of a fishing vessel, catcher-processor, or floating processor shall be alert for, and immediately comply with, signals conveying enforcement intent. A vessel operator signaled to stop or heave to for boarding shall

(1) stop immediately and lay to or maneuver in such a way as to permit the representative and his party to come aboard;

(2) if requested, provide a safe ladder for the representative and his party;

(3) when necessary to facilitate the boarding, provide a man rope, safety line and illumination of the ladder;

(4) take such other actions as necessary to ensure the safety of the representative and party and to facilitate the boarding; and

(5) make every effort to comply with all lawful orders given by the representative, except that the owner or operator of the vessel is solely responsible for navigation, supervision, and control of the vessel and his decisions shall be final in all matters pertaining to proper navigation and safety of the vessel crew, and fishing gear.

(c) On a vessel which catches and processes crab and is required to carry an observer under 5 AAC 39.645, the vessel operator must separate crab to be retained and, before butchering, must make those crab available to the observer for inspection.

(d) Notwithstanding the requirements of 5 AAC 30.392(a), 5 AAC 30.393, 5 AAC 33.392(d), and 5 AAC 33.393, upon request by a local representative of the department or a peace officer of the state, a fisherman or processor shall relinquish the tag and head of adipose-fin-clipped salmon, and shall inform the representative or peace officer of the date and location of the catch, if known.

5 AAC 39.141. Onboard observer program. (a) The Board of Fisheries finds that, in particular fisheries, observers on board fishing vessels would greatly enhance management, primarily by facilitating information gathering, and by improving regulatory compliance. Onboard observers may be the only practical fishery monitoring, data-gathering, or enforcement mechanism in some Alaska fisheries where a large component of vessels, such as catcher-processors and floating processors, rarely or never enter Alaskan ports. The Board of Fisheries, therefore, finds it necessary to authorize the Alaska Department of Fish and Game to implement onboard observer programs in particular fisheries when the board determines that it

(1) is the only practical data-gathering or enforcement mechanism;

(2) will not unduly disrupt the fishery; and

(3) can be conducted at a reasonable cost.

(b) Every onboard observer shall have free and unobstructed access to inspect the catch, equipment, gear, or operations of the fishing vessel or the tender to which the observer is assigned, and to board vessels delivering to the vessel to which the observer is assigned and inspect the catches of vessels delivering to the vessel to which the observer is assigned while the vessel to which the observer is assigned is

(1) within waters under the jurisdiction of the state;

(2) taking or intending to take any species of fish; or

(3) transporting or processing any species of fish.

(c) Onboard observers must be as unintrusive to vessel operations as practicable and must make the scope of their activities as predictable as possible in the performance of their assigned observer duties.

(d) Onboard observers are not required to obtain criminal or administrative search warrants to conduct their duties.

(e) Onboard observers shall carry out such scientific and other duties as deemed necessary or appropriate to manage, protect, maintain, improve, and extend the fish and aquatic plant resources of the state.

(f) Onboard observers shall have access to all vessel location information at any time, including free and unobstructed access to vessel coordinates and depths for all sampled pots.

(g) Every independent contracting agent, and their office personnel and business agents while employed by the independent contracting agent and for six months after terminating that employment, may not work as an onboard observer.

5 AAC 39.142. Conflict of interest standards for onboard observers and independent contracting agents. (a) A department approved fisheries onboard observer

(1) must be employed by

(A) an independent contracting agent who has been certified by the department; or

(B) the department;

(2) may not have a financial interest in the observed fishery;

(3) may not have a personal interest in the vessel to which he or she is assigned;

(4) may not serve as a crewmember or processing worker on the vessel to which he or she is assigned;

(5) may not solicit, accept, or receive, directly or indirectly, a gift, whether in the form of money, service, loan, travel, entertainment, hospitality, employment promise, or in any other form, that is a benefit to the observer's personal or financial interests, under circumstances in which it could be reasonably inferred that the gift is intended to influence the performance of official duties, actions, or judgment;

(6) may not have been convicted of a misdemeanor or felony involving fraud, dishonesty, an "offense against the person" in violation of AS 11.41, arson under AS 11.46.400, or a fish and game misdemeanor or fish and game infraction with a penalty in excess of \$300 for a period of seven years preceding application to the onboard observer program;

(7) may not have a personal or financial interest, other than that of the observer's employee relationship, in the entity that employs the observer;

(8) may not spend more than 90 days on board any one vessel in 12 consecutive months, unless the 90-day limitation is waived by the department for good cause, except that an onboard observer may spend up to 120 days on board any one vessel in 12 consecutive months during a crab fishery that is 75 days or longer in duration;

(9) may be assigned to a vessel only upon approval by the department.

(b) An independent contracting agent who provides onboard observers

(1) may not be an individual, partnership, or corporation with a personal or direct financial interest in the proceeds of any vessel licensed to process or harvest in the affected fishery, other than the provision of observers;

(2) shall assign observers to vessels without regard to requests from vessel owners or operators for a specific individual;

(3) repealed 12/26/97;

(4) may not knowingly or negligently hire as an observer an individual who has a personal or financial interest, other than that of the observer's employee relationship, with the contracting agent;

(5) may not hire an observer on a commission basis;

(6) shall for each observer assignment to a vessel, submit to the department, upon request, a written statement, signed by the contracting agent under oath and subject to applicable criminal penalties, stating that the contracting agent does not have a personal interest and does not have a direct or subsidiary financial interest in the vessel or in fishing activities of the vessel;

(7) shall obtain and submit to the department, upon request, for each observer assignment to a vessel, a written statement, signed by the vessel owner, operator, or owner's agent, under oath and subject to applicable criminal penalties, stating that the vessel owner or operator does not have a personal interest and does not have a direct or subsidiary financial interest in the contracting agent.

(c) In this section

(1) "financial interest" means any source of income to, or a capital investment held by, an individual or the individual's spouse or blood relation up to and including the second degree of kindred;

(2) "personal interest" means an interest held or involvement by an individual, partnership, or corporation, or an individual's immediate family member or parent, including membership in any organization from which, or as a result of which, a person or organization receives a benefit.

5 AAC 39.143. Onboard observer certification and decertification. (a) To become certified as a crab or scallop onboard observer, a person must first obtain a crab or scallop onboard observer trainee permit and complete the trainee requirements of this section. The department shall issue a crab or scallop onboard observer trainee permit to a person who completes training and orientation specified by the department and who passes, with a score of at least 90 percent, an exam administered by the department.

(b) Before embarking on each observer trip, a crab or scallop observer trainee shall participate in a briefing with the department.

(c) An observer trainee permit expires as follows:

(1) a crab observer trainee permit expires on the earlier of the

(A) 36th day after the crab observer trainee has participated in a briefing for an observer trip if, during this 36-day period, the trainee has not participated in a debriefing with the department; or

(B) 180th day after the crab observer trainee permit was issued; however, if a crab trainee observer has been deployed at least once during the first 180 days after the observer permit was issued, the trainee permit may be extended up to 365 days, at the discretion of the department;

(2) a scallop observer trainee permit expires on the earlier of the

(A) 36th day after the scallop observer trainee has participated in a briefing for an observer trip if, during this 36-day period, the trainee has not participated in a debriefing with the department; or

(B) 180th day after the scallop observer trainee permit was issued; however if a scallop trainee observer has been deployed at least once during the first 180 days after the observer permit was issued, the trainee permit may be extended, up to 270 days, at the discretion of the department.

(d) The department may revoke a trainee permit for the reasons listed under (j) of this section or at the department's discretion and under the procedures set out in (l) - (n) of this section. If revocation proceedings are pending on the date the permit would expire under (c)(1) of this section, the permit expires under that paragraph, and all rights under the permit cease. If revocation proceedings are pending on the date the permit would expire under (c)(2) of this section, the permit does not expire on that date, but is suspended until conclusion of the revocation proceedings. The trainee may not act under the permit during the period of suspension. The permit expires at the conclusion of the revocation proceedings unless the department determines that the permit should not be revoked and that the trainee should be certified as an observer under (f) of this section.

(e) A person whose crab or scallop observer trainee permit has expired or has been revoked may not be issued another trainee permit unless that person completes retraining and reorientation specified by the department and repasses, with a score of at least 90 percent, an exam administered by the department.

(f) The department shall certify as a crab or scallop onboard observer a trainee who

(1) has a valid crab or scallop observer trainee permit;

(2) has satisfactorily completed all assigned trainee tasks specified by the department in writing, or assigned verbally in person, or during radio, telephone, or other electronic communication transmission while the observer is deployed to a vessel;

(3) has not engaged in behavior described in (j) of this section;

(4) has completed the number of observer trips that the department, in its discretion, determines from debriefing the trainee are necessary to prepare the trainee to perform as a crab or scallop onboard observer; and

(5) is not the subject of revocation proceedings under this section.

(g) A trainee may appeal a denial of certification as a crab or scallop onboard observer to the commissioner. The appeal must be in writing and must be received by the commissioner within 15 days after the denial. The commissioner or the commissioner's designee shall conduct an investigation and review, and may hold a hearing on the matter. If a designee conducts an investigation and review or holds a hearing, the designee shall recommend action to the commissioner. The commissioner shall make a decision within 45 days after receiving an appeal. The commissioner's decision under this section is the final administrative action.

(h) Until the commissioner's decision in an appeal under (g) of this section, the trainee may act under the terms of a valid trainee permit. If, while an appeal under (g) of this section is pending, the permit expires under (c) of this section or is revoked under (d) of this section, all rights under the permit cease.

(i) An onboard observer certification expires for a shellfish observer who has not functioned as a shellfish onboard observer for 18 consecutive months, the onboard observer certification expires; to become recertified after 18 consecutive months of not functioning as a shellfish observer, a person must successfully complete all trainee and certification requirements set out in (a), (b), (c), (e), and (f) of this section.

(j) An onboard observer certification may be revoked for any one of the following reasons:

(1) failure to satisfactorily complete all assigned tasks specified by the department in writing, or assigned verbally in person, or during radio, telephone, or other electronic communication transmission while the observer is deployed to a vessel;

(2) use, possession, or being under the influence of alcohol or an illegal controlled substance on board the assigned vessel, boarding any vessel under the influence of alcohol or an illegal controlled substance, missing an appointment with the department due to alcohol or an illegal controlled substance, or attending an appointment with the department under the influence of alcohol or an illegal controlled substance;

(3) engaging in violent or criminal behavior, including behavior that may endanger a person or property on the assigned vessel or that prevents the observer from performing tasks according to the standards of the onboard observer manual;

(4) soliciting or accepting items or services, other than basic life necessities, from an operator, owner, or crewmember of a vessel to which the observer is assigned;

(5) failure to report known criminal behavior or cooperate with the investigation or prosecution of criminal behavior arising from fishing operations of the vessel to which the observer is assigned;

(6) engaging in sexual relations with an employee, operator, crewmember, officer, director, agent, owner, or shareholder of the vessel or any entity with ownership of, or management authority over, the vessel to which the observer is assigned while the observer is deployed to a vessel;

(7) repealed 7/21/99;

(8) exhibiting poor judgment or unprofessional behavior that interferes with the observer's ability to perform assigned tasks or results in a breach of confidentiality, lack of observer coverage, or other actions detrimental to the observer program.

(k) A certified onboard observer may be demoted to trainee status for failure to satisfactorily perform assigned tasks specified by the department.

(l) The department shall notify an observer in writing of its intent to revoke a certification or to demote a certified onboard observer to trainee status. Notice may be served by personal delivery or by sending the notice by certified mail, return receipt requested. The department may revoke the certification or may demote a certified onboard observer to trainee status if, within 45 days after serving or sending the notice, the department does not receive a written objection from the observer that specifies the reasons why revocation or demotion should not occur.

(m) If the department receives an objection under (l) or (n) of this section, the commissioner, or the commissioner's designee, shall conduct an investigation and review, and may hold a hearing on the matter. If a designee conducts the investigation and review, or holds a hearing, the designee shall recommend action to the commissioner. Until the commissioner's decision under this subsection, the observer may act under the terms of the certification. If the commissioner determines that one or more of the grounds for revocation of the certification have been met, the commissioner may revoke the certification. If the commissioner determines that one or more of the grounds for demotion have been met, the commissioner may demote the onboard observer to trainee status. The commissioner's determination under this subsection is the final administrative action.

(n) If the commissioner determines that the performance of an onboard observer creates an immediate, substantial threat to the orderly conduct of the fishery or the conservation of fishery resources, the commissioner, upon notice to the observer, without

first conducting a hearing, may suspend the certification or may demote the observer to trainee status. If a certification is suspended or if an observer is demoted to trainee status under this subsection, the commissioner shall notify the observer, in writing, and specify the grounds for the immediate suspension or demotion. The observer may submit a written objection to the department's action that specifies the reasons why the certification should not be suspended or why the demotion should not occur. If an objection is not received within 45 days after the date that the notice was mailed or served by personal delivery, the commissioner shall notify the observer that the certification is revoked or that the observer is retained on trainee status, subject to (b) - (h) of this section, as the final administrative determination. Notice under this subsection may be served by personal delivery or certified mail, return receipt requested, to the observer's last known address. If a timely objection is received, the provisions of (m) of this section apply. The suspension or demotion terminates, and the observer is returned to certified observer status, if, within 90 days after the department's receipt of an objection, the commissioner

(1) makes the final administrative determination to return the observer to certified observer status;

(2) fails to provide notice of the revocation or demotion under this section; or

(3) fails to make a final determination under (m) of this section that revokes the certification or demotes the observer to trainee status.

(o) Repealed 12/26/97.

(p) In this section,

(1) "briefing" means a meeting between the department and an observer in which the upcoming observer trip is discussed;

(2) "debriefing" means a meeting between the department and

(A) an observer in which the observer's collected data are reviewed;

(B) a trainee observer to determine if the trainee will be granted certification status under (f) of this section;

(3) "trainee" means a person who holds a crab or scallop onboard observer trainee permit and is a candidate to be a certified crab or scallop onboard observer.

5 AAC 39.144. Onboard observer independent contracting agent certification and decertification. (a) To become certified or to renew certification as an independent contracting agent authorized to provide onboard observers, an applicant must meet the requirements of this section. The department shall issue or renew an independent contracting agent certificate only after

(1) the applicant has completed a written application on a form provided by the department; in this application the applicant shall

(A) verify that the applicant is familiar with the requirements of 5 AAC 39.141 - 5 AAC 39.143, 5 AAC 39.146, 5 AAC 39.645, 5 AAC 39.646, and this section for onboard observers and contracting agents;

(B) acknowledge that the applicant's certification as an independent contracting agent will be subject to revocation by the commissioner at any time under the procedures set out in (e) - (j) of this section;

(C) designate an agent in this state for service of process;

(D) provide a current mailing address, daytime business phone number, and a contact or message phone number;

(E) provide all other information requested by the department to assist the department in administration, management, or enforcement of its onboard observer program or certification of onboard observer independent contracting agents;

(F) verify that the applicant is not precluded from certification under (i) of this section;

(2) the applicant has completed a written conflict-of-interest statement on a form provided by the department;

(3) the department has reviewed the application and the conflict-of-interest statement submitted under this section and has determined that the application is complete and that no conflict of interest appears to exist under 5 AAC 39.142;

(4) the department has determined that certification is not precluded under (i) of this section.

(b) An independent contracting agent's certification expires on December 31 of the year it was issued unless a certification renewal application is received by the department before December 31 of that year, or unless the certification has been previously canceled or revoked under this section. The department shall renew a certification if a completed certification renewal application is timely received by the department and no revocation proceedings are pending against the contracting agent on the date the certification would expire or the application is received, and the department has determined that the applicant meets the requirements of this section.

(c) A certified independent contracting agent shall submit a new conflict-of-interest statement to the department

(1) within 30 days after any event that would change any information provided in the contracting agent's most recent conflict-of-interest statement;

(2) when submitting a certification renewal application described in (b) of this section; or

(3) at any time upon request by the department.

(d) The commissioner may revoke an independent contracting agent's certification as provided in (e) - (h) of this section. If revocation proceedings are pending on the date the certification would expire under (b) of this section, and if a certification renewal application has been received by the department, the certification will not expire on that date, but is suspended until the conclusion of the revocation proceedings. If a certification renewal application is received by the department before the contracting agent's certification would expire under (b) of this section and revocation proceedings begin after the certification has been renewed, the contracting agent may continue to operate under its existing certification until the conclusion of the revocation proceedings, unless a suspension has occurred under (g) of this section.

(e) An independent contracting agent's certification may be revoked for any of the following reasons:

(1) violation of conflict-of-interest standards in 5 AAC 39.142(b) by the contracting agent;

(2) failure to require employees to follow conflict-of-interest standards;

(3) a substantial violation of the requirements of 5 AAC 39.141, 5 AAC 39.143, 5 AAC 39.146, 5 AAC 39.645, 5 AAC 39.646, and this section;

(4) any other violation of the requirements of 5 AAC 39.141 - 5 AAC 39.143, 5 AAC 39.146, 5 AAC 39.645, 5 AAC 39.646, and this section that is not described in (1) and (3) that is not cured within a reasonable time specified by the department after the department has notified the contracting agent, in writing, of the violation;

(5) failure to respond, within the time specified by the department, to a request from the department for information, unless within the specified time the contracting agent demonstrates to the department that the request is unreasonable;

(6) failure to maintain an effective means of communication between the contracting agent and the department;

(7) failure to report known violations of conflict-of-interest standards or known attempts to violate conflict-of-interest standards;

(8) failure to report known criminal behavior by an observer or criminal behavior arising from fishing operations of the fishing vessel to which the contracting agent has assigned an observer;

(9) failure to cooperate with investigation or prosecution of an observer employed by the contracting agent or a fishing vessel for which the contracting agent has provided an observer.

(f) The commissioner shall notify an independent contracting agent, in writing, of its intent to revoke the contracting agent's certification. Notice under this subsection may be

served by personal delivery or by sending the notice by certified mail, return receipt requested, to the contracting agent or to the agent's designee for service of process in this state. The commissioner may revoke the certification without further proceedings if, within 45 days after the date that the notice was mailed or served by personal delivery, the department does not receive a written objection from the contracting agent that specifies the reasons why the revocation should not occur.

(g) If the commissioner determines that the performance of an independent contracting agent creates an immediate, substantial threat to the orderly conduct of the fishery or the conservation of fishery resources, the commissioner, upon notice to the contracting agent, without first conducting a hearing, may suspend the certification. If a certification is suspended under this subsection, the commissioner shall notify the contracting agent in writing and specify the grounds for immediate suspension. The contracting agent may submit a written objection to the department's action that specifies the reasons why the revocation should not occur. If an objection is not received within 45 days after the date that the notice was mailed or served by personal delivery, the commissioner shall notify the contracting agent that the certification is revoked, subject to (a) - (c) and (i) of this section, as the final administrative determination. Notice under this subsection may be served by personal delivery or certified mail, return receipt requested, to the contracting agent or to the agent's designee for service of process in this state. If a timely objection is received, the provisions of (h) of this section apply. The suspension terminates within 90 days after the department's receipt of an objection, if the commissioner

(1) makes the final administrative determination to withdraw the suspension; or

(2) fails to make a final determination under (h) of this section.

(h) If the department receives a timely objection under (f) or (g) of this section, the commissioner, or the commissioner's designee, shall conduct an investigation and review and may hold a hearing on the matter. The contracting agent's certification shall remain in effect during an investigation and review unless it is suspended under (g) of this section. If a designee conducts the investigation and review or holds a hearing, the designee shall recommend action to the commissioner who may then adopt it as the final administrative determination. If the commissioner disagrees with the recommendation, the commissioner may reject the recommendation and review the record or conduct a new hearing to make a final administrative determination. If the commissioner determines that one or more of the grounds for revocation of certification have been met, the commissioner may revoke the certification. The commissioner's determination under this subsection is the final administrative action.

(i) An independent contracting agent whose certification has been revoked under this section may not apply for a new certification for a period of one year following revocation. If the contracting agent is a partnership or corporation, its partners, shareholders who hold 20 percent or more of the corporation's outstanding stock, officers, directors, any person with management authority over the activity or activities that significantly contributed to the revocation may not apply for a contracting agent certification for a period of one year following revocation.

(j) The department may cancel an independent contracting agent's certification upon the request of the contracting agent. The department, in its discretion, may proceed with revocation proceedings despite a request for cancellation from a contracting agent.

(k) The provisions of (a) - (j) of this section do not apply until April 1, 1998 to an independent contracting agent approved by the department before the effective date of this section.

5 AAC 39.145. Escape mechanism for shellfish and groundfish pots. Pot gear must include an escape mechanism in accordance with the following provisions:

(1) a sidewall, which may include the tunnel, of all shellfish and groundfish pots must contain an opening equal to or exceeding 18 inches in length, except that in shrimp pots the opening must be a minimum of six inches in length; the opening must be laced, sewn, or secured together by a single length of untreated, 100 percent cotton twine, no larger than 30 thread; the cotton twine may be knotted at each end only; the opening must be within six inches of the bottom of the pot and must be parallel with it; the cotton twine may not be tied or looped around the web bars; Dungeness crab pots may have the pot lid tie-down straps secured to the pot at one end by a single loop of untreated, 100 percent cotton twine, no larger than 60 thread, as a substitute for the above requirement; the pot lid must be secured so that, when the twine degrades, the lid will no longer be securely closed;

(2) all king crab, Tanner crab, shrimp, miscellaneous shellfish and groundfish pots may, instead of complying with (1) of this section, satisfy the following: a sidewall, which may include the tunnel, must contain an opening at least 18 inches in length, except that shrimp pots must contain an opening at least six inches in length; the opening must be laced, sewn, or secured together by a single length of treated or untreated twine, no larger than 36 thread; a galvanic timed release (GTR) device, designed to release in no more than 30 days in salt water, must be integral to the length of twine so that, when the device releases, the twine will no longer secure or obstruct the opening of the pot; the twine may be knotted only at each end and at the attachment points on the galvanic timed release device; the opening must be within six inches of the bottom of the pot and must be parallel with it; the twine may not be tied or looped around the web bars;

(3) in an area open to commercial, personal use, sport, or subsistence fishing with pot gear, including a pot storage area, a registered commercial fishing vessel or a vessel used for personal use, sport, or subsistence fishing may not have on board the vessel or in the water, in fishing or stored condition, any groundfish or shellfish pot gear that does not have an opening or rigging as specified in (1) or (2) of this section;

(4) all commercial, subsistence, personal use, and sport shellfish pots constructed with rigid mesh must have at least one opening in a sidewall of the pot which may include the tunnel, except Dungeness crab pots that have a pot lid tie-down that complies with (1) of this section; the opening in a king crab or Tanner crab pot must be equal to or exceed a 12-inch by 8-inch rectangle; the opening in a Dungeness crab pot must be equal to or exceed a 10-inch by 6-inch rectangle; the lower long edge of the opening must be parallel to, and within six inches of, the bottom of the pot; the opening in a shrimp pot must be equal to or exceed a four-inch square; the lower edge of the opening must be

parallel to, and within six inches of, the bottom of the pot; the opening may be covered with a single panel secured to the pot with no more than four single loops of untreated, 100 percent cotton twine, no larger than 30 thread; each single loop of cotton twine may contain only one knot and may not be laced along the opening; the panel must be attached to the pot in a manner that when the cotton twine degrades the panel will drop away from the pot exposing the opening completely.

5 AAC 39.146. Onboard observer briefing and debriefing. (a) An onboard observer shall attend a briefing before deployment on the observer's assigned vessel. An observer shall bring to the observer's briefing all equipment that is specified, in writing, by the department.

(b) An onboard observer shall immediately notify the department of the observer's departure from the assigned vessel. After departure, an observer shall return directly to the department office responsible for management of the fishery that the observer's assigned vessel participated in for a debriefing, unless the observer contacts the department for authorization to do otherwise.

(c) An onboard observer shall be briefed and debriefed only at the department office responsible for management of the fishery that the observer's assigned vessel participates in, unless the department authorizes a different department office. The observer's independent contracting agent shall schedule briefings and debriefings with the department at least 48 hours in advance.

(d) If an onboard observer's vessel returns to any port for any reason, the observer shall contact the department immediately and be prepared to provide all of the observer's data and deployment information to the department. The department may schedule a midtrip debriefing, which will allow a preliminary data check and provide the department an opportunity to resolve sampling problems or answer observer questions.

(e) Trainee observers shall be fully briefed and debriefed for each individual fishery they observe prior to observing any subsequent fisheries. Observers holding a current certification with the department may be briefed and debriefed for multiple fisheries with prior authorization, at the discretion of the department.

5 AAC 39.163. Bottom Trawl Fisheries Management Plan. (a) The Board of Fisheries and the Department of Fish and Game are concerned about the bycatch of fish, particularly crab and halibut, by nonpelagic trawl gear used to harvest bottomfish. King and Tanner crab populations in most areas of the state are either depressed or declining and are in need of protection from human-induced mortality if they are to be allowed to rebuild to levels that will allow future harvests. Halibut populations, while high, are fully utilized in directed fisheries, and any additional harvest by nondirected fisheries may increase exploitation rates above those used to maintain a sustained harvest level. There is an indication that nonpelagic trawl gear may, at certain times and in certain locations, inflict unacceptable mortalities on these nondirected species. Since there is not, at this time, enough data available to quantify the effects of nonpelagic trawl fisheries on nondirected species, the board adopts the Bottom Trawl Fisheries Management Plan as a means of ensuring that the data can be obtained.

(b) The Board of Fisheries finds that in fisheries operating nonpelagic trawls, onboard observers provide the only effective means of collecting information essential to managing the resource. These fisheries generally harvest large numbers of prohibited finfish and shellfish that cannot be legally retained. Since a large portion of the prohibited species taken will be killed or seriously damaged in the trawl, avoidance of prohibited species is essential to conservation and wise use of the resource. Without onboard observers, scientifically reliable data on prohibited species catch and related biological information cannot be developed. In the absence of a reliable database, the department cannot effect time and area restrictions or set nonpelagic trawl catch quotas to provide protection for prohibited species.

(c) Based on findings that onboard observers provide the only way to establish reasonable resource protection measures in managing certain nonpelagic trawl fisheries, and consistent with 5 AAC 39.141 and AS 16.05.251(a)(12), a vessel may not operate nonpelagic trawl gear in waters specified in 5 AAC 39.164(a) without an onboard observer present. Because no management alternatives exist, other than disallowing operation of such vessels and gear, all costs associated with the observer are determined to be an attendant fishing-related cost and must therefore be borne by the vessel owner or operator on board whose vessel the observer serves.

(d) When sufficient reliable data has been collected to determine times and locations where nonpelagic trawl gear can be operated without significant detrimental impact on prohibited species, the limitations in this section and 5 AAC 39.164 will be appropriately modified.

5 AAC 39.164. Nonpelagic trawl gear restrictions. (a) Nonpelagic trawl gear may be operated in all waters of Tanner crab Registration Area J (5 AAC 35.500) only if, as may be required under 5 AAC 39.163(c), an onboard observer is present on the vessel when gear is being operated, only under the conditions of a permit issued by the commissioner, and only in locations and during periods not otherwise closed to nonpelagic trawling under (b) or (c) of this section. The permit

(1) must specify the locations and times when nonpelagic trawl gear may be operated;

(2) may restrict the amount of fish and shellfish that may be harvested within a specified location; and

(3) must be obtained in person at a department office located within the statistical area.

(b) Nonpelagic trawl gear may not be operated in waters of Alaska as follows:

(1) the waters of Alaska in the Kodiak groundfish registration area described in 5 AAC 28.400;

(2) repealed 7/2/99;

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(3) in waters of the Chignik groundfish registration area described in 5 AAC 28.500, and in that portion of the South Alaska Peninsula groundfish registration area described in 5 AAC 28.550 between a line extending from the southernmost tip of Kupreanof Point at 55° 33.98' N. lat., 159° 35.88' W. long., to a point offshore at 53° 40.46' N. lat., 156° 20.22' W. long. and the longitude of Scotch Cap Light at 164° 44.72' W. long., except the waters

(A) in the area enclosed by 55° 14' N. lat., 55° 34' N. lat., 159° 20' W. long., and 160° 04' W. long.;

(B) of Alaska around Sanak and Caton Islands north of 54° 22.80' N. lat. and east of 162° 41.83' W. long.;

(4) in the following waters of king crab Registration Area O (5 AAC 34.600) from January 1 through December 31:

(A) Akutan Bay closure, all waters of Akutan Bay south of a line from Akun Head (54° 18' N. lat., 165° 38' W. long.) to North Head (54° 13.50' N. lat., 165° 56' W. long.), and north of 54° 08' N. lat.;

(B) Unalaska Bay closure, all waters of Unalaska Bay enclosed by a line from Cape Cheerful (54° 01' N. lat., 166° 40' W. long.) to Cape Kalekta (54° 00.50' N. lat., 166° 22.50' W. long.);

(C) Makushin Bay closure, all waters of Makushin Bay enclosed by a line from Cape Kovrizhka (53° 51' N. lat., 167° 09.50' W. long.) to Cape Idak (53° 31.33' N. lat., 167° 48' W. long.) to Konets Head (53° 19' N. lat., 167° 51' W. long.);

(D) Inanudak Bay closure, all waters of Inanudak Bay enclosed by a line from Cape Aslik (53° 25' N. lat., 168° 24.50' W. long.) to Cape Illmalianuk (53° 16.50' N. lat., 168° 36' W. long.);

(E) Akun Bay closure, all waters of Akun Bay enclosed by a line from Billings Head (54° 17.50' N. lat., 165° 28.50' W. long.) to 54° 13' N. lat., 165° 24.50' W. long. on the opposite shore;

(F) Beaver Inlet closure, all waters of Beaver Inlet south of a line from Brundage Head (53° 56' N. lat., 166° 12.50' W. long.) to Cape Sedanka (53° 50.50' N. lat., 166° 05.33' W. long.) and north of 53° 42' N. lat.;

(5) the department shall close, by emergency order, waters of king crab Registration Area T (5 AAC 34.800) in a manner that matches closures of the exclusive economic zone made by the federal government;

(6) repealed 2/22/2015;

(7) repealed 4/24/2009;

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(8) the St. Lawrence Island Habitat Conservation Area as described in 50 C.F.R. Part 679, Table 45, as revised as of August 25, 2008;

(9) the Northern Bering Sea Research Area as described in 50 C.F.R. Part 679, Table 43, as revised as of August 25, 2008;

(10) the Nunivak Island, Etolin Strait, and Kuskokwim Bay Habitat Conservation Area as described in 50 C.F.R. Part 679, Table 44, as revised as of August 25, 2008;

(11) the waters of Alaska of the Bering Sea east of 162° W. long.

(c) Repealed 7/21/99.

5 AAC 39.165. Trawl gear unlawful. A person may not use any type of trawl gear for any commercial fishing purposes in the following locations:

(1) waters of Prince William Sound enclosed by a line from Point Whitshed to Point Bentinck, and a line from Cape Hinchinbrook Light at 60° 14.25' N. lat., 146° 38.80' W. long. to Seal Rocks Light at 60° 09.78' N. lat., 146° 50.30' W. long. to Zaikof Point at 60° 18.48' N. lat., 146° 55.10' W. long., and from a point at 60° 11.00' N. lat., 147° 20.00' W. long. on the northwest side of Montague Island, north to a point at 60° 30.00' N. lat., 147° 20.00' W. long., then east to a point at 60° 30.00' N. lat., 147° W. long., then northeast to Knowles Head at 60° 41.00' N. lat., 146° 37.50' W. long.;

(2) the waters east of a line from Porcupine Point at 60° 44.60' N. lat., 146° 42.10' W. long. in Port Fidalgo to the southernmost tip of Bligh Island at 60° 48.30' N. lat., 146° 47.90' W. long. to the northernmost tip of Bligh Island at 60° 52.90' N. lat., 146° 46.00' W. long. to Rocky Point at 60° 57.00' N. lat., 146° 46.20' W. long.;

(3) the state waters of Bristol Bay, described in 5 AAC 06.100;

(4) Karluk River Closure: all waters of Alaska in the Kodiak Area that are approximately three miles on either side of the mouth of the Karluk River bounded on the north by a line from 57° 36.26' N. lat., 154° 23.73' W. long., to a point at the state waters boundary at 57° 38.51' N. lat., 154° 27.92' W. long., and bounded on the south by a line from 57° 32.34' N. lat., 154° 32.15' W. long., to a point at the state waters boundary at 57° 34.84' N. lat., 154° 36.80' W. long.

5 AAC 39.166. Mandatory retention of prohibited salmon species by commercial trawl vessels for counting and sampling. (a) The operator of a vessel taking groundfish with trawl gear in the waters of Alaska in the Bering Sea-Aleutian Islands Area described in 5 AAC 28.600 shall retain, on board the vessel or at the shoreside processing plant, salmon taken as bycatch with the trawl gear. After the salmon bycatch has been counted and sampled by a groundfish observer certified by the National Marine Fisheries Service (NMFS), the vessel operator shall provide for the disposal of the salmon in marine waters in a manner not inconsistent with applicable state or federal statutes and regulations.

(b) The operator of a vessel taking groundfish with trawl gear in federal waters adjacent to the area described in (a) of this section shall comply with (a) of this section if salmon taken as bycatch with the trawl gear are brought into the waters of Alaska.

(c) For the purposes of this section "sample" means to examine a portion of the bycatch, and may include

(1) noting sex, species, length, and weight;

(2) taking scale or tissue specimens; and

(3) taking other measurements or specimens considered necessary by either the groundfish observer or a representative of the department.

(d) Repealed 6/2/95.

5 AAC 39.167. Commercial fishing gear prohibited in waters of Alaska surrounding essential fish habitat areas. In the waters of Alaska surrounding essential fish habitat areas, as defined in 50 C.F.R. 679.22, as revised as of August 25, 2008, during state managed fisheries, the following commercial fishing gear is prohibited as follows:

(1) the Aleutian Islands Coral Habitat Protection Area is closed to nonpelagic trawl, scallop dredge, dinglebar troll, pot, and longline gear;

(2) the Aleutian Islands Habitat Conservation Area is closed to nonpelagic trawl gear;

(3) the Bowers Ridge Habitat Conservation Zone is closed to nonpelagic trawl, scallop dredge, and dinglebar troll gear;

(4) the Gulf of Alaska Coral Habitat Protection Areas are closed to nonpelagic trawl, scallop dredge, dinglebar troll, pot, and longline gear;

(5) the Alaska Seamount Habitat Protection Areas are closed to nonpelagic trawl, scallop dredge, dinglebar troll, pot, and longline gear.

5 AAC 39.185. Policy on closures due to illegal fishing. (a) Some fisheries have had a documented history of illegal commercial fishing dating back to 1968. Enforcement efforts by the Department of Public Safety have been largely ineffective in controlling this recurring problem on a long-term basis. The Board recognizes the difficulty of enforcement in some areas of the state and although the current regulations are sufficient to protect fish stocks, they may be ineffective due to special enforcement problems.

(b) In the interest of the conservation of valuable renewable fish resources, the Board of Fisheries directs the commissioner, or his authorized designee, to take the following actions given the specified circumstances. If illegal fishing activities develop to the point that regulations pertaining to protection of fish stocks become ineffective, the commissioner shall consider closing the affected fishery by emergency order for a period

of up to one week. When the fishery reopens and illegal fishing continues to be a problem, the appropriate fishery may be closed for an additional period of time. Continued violations may result in additional closures of the fishery.

5 AAC 39.195. Announcement of emergency orders. Announcement of emergency orders will be publicized and made known to interested persons, fishermen, buyers, packers, and canneries by one or more of the following means, if possible:

- (1) radio transmission by department stations;
- (2) notices posted at canneries and public places;
- (3) press releases and announcements in
 - (A) the department's website;
 - (B) local newspapers; and
 - (C) commercial radio stations;
- (4) telephone message hotline;
- (5) electronic mail;
- (6) facsimile transmission;
- (7) other appropriate public notification media.

5 AAC 39.197. Unlawful possession of fish. No person may possess, purchase, sell, barter or transport fish within the state or within water subject to the jurisdiction of the state if that person knows or has reason to know that fish were taken or possessed in contravention of 5 AAC 03 - 5 AAC 39.

5 AAC 39.200. Application of fishery management plans. (a) The Board of Fisheries has implemented by regulation fishery management plans that provide the Department of Fish and Game with guidelines to be followed when making management decisions regarding the state's subsistence, commercial, sport and personal use fisheries. The primary goal of these management plans is to protect the sustained yield of the state's fishery resources while at the same time providing an equitable distribution of the available harvest between various users. The regulations contained in this section are intended to aid in the achievement of that goal and therefore will apply to all fishery management plans contained in 5 AAC 03 - 5 AAC 39.

(b) In some fishery management plans, the distribution of harvestable fish between various users is determined by the harvest that occurs during a specific time period, at a specific location or by a specific group or groups of users. At times fishermen, due to circumstances that are beyond the control of the department, such as weather or price disputes, will not harvest fish. When this happens in a fishery governed by a management plan, the goals of that plan may not be achieved. Therefore, when a fishery is open to the

taking of fish and the group or groups of users whose catch determines the distribution of the harvest as set out in the applicable management plan is not taking the harvestable fish available to them, the department shall manage the fishery as if the available harvest is being taken. When determining the available harvest, the department shall consider the number of fish needed to meet spawning requirements, the number of fish present in the fishery and in spawning areas that are in excess of spawning requirements and the estimated harvesting capacity of the group or groups of users that would normally participate in the fishery.

5 AAC 39.205. Criteria for the allocation of fishery resources among personal use, sport, and commercial fisheries. Before adopting regulations that allocate fish among personal use, sport, and commercial fisheries, the board will, as appropriate to particular allocation decisions, consider factors such as those set out in AS 16.05.251(e).

5 AAC 39.212. Forage Fish Management Plan. (a) This management plan governs the commercial harvesting of forage fish species in the waters of Alaska.

(b) The board finds that forage fish perform a critical role in the complex marine ecosystem by providing the transfer of energy from the primary and secondary producers to higher trophic levels. The higher trophic levels include many commercially important fish and shellfish species. Forage fish also serve as important prey species for marine mammals and seabirds.

(c) The board finds that abundant populations of forage fish are necessary to sustain healthy populations of commercially important species of salmon, groundfish, halibut, and shellfish.

(d) Except as otherwise provided in 5 AAC 03 - 5 AAC 39, forage fish may not be commercially taken.

(e) A vessel fishing in a directed groundfish fishery may retain a maximum allowable bycatch of forage fish equal to no more than two percent of the round weight or round weight equivalent of the groundfish on board the vessel.

(f) For the purposes of this section, "forage fish" means the following species of fish:

- (1) Family Osmeridae (capelin, eulachon, and other smelts);
- (2) Family Myctophidae (lanternfishes);
- (3) Family Bathylagidae (deep-sea smelt);
- (4) Family Ammodtidea (Pacific sand lance);
- (5) Family Trichodontidae (Pacific sandfish);
- (6) Family Pholidae (gunnels);

(7) Family Stichaeidae (pricklebacks, warbonnets, eelblennys, cockscombs, and shannys);

(8) Family Gonostomatidae (bristlemouths, lightfishes, and anglemouths);

(9) species of the Order Euphausiacea (krill).

Article 7. Commercial Freshwater Fishery.

5 AAC 39.734. Identification of gear. All freshwater fishing gear, while in operation, must be plainly and legibly marked with the operator's name and permanent vessel license plate number of the vessel fishing the gear or the fishing permit number assigned by the department.

5 AAC 39.780. Permit required. (a) Whitefish, sheefish, char, trout, pike, burbot and lamprey in fresh and salt water may be taken or purchased under the authority of a permit issued by the commissioner or the commissioner's designee. Smelt may only be taken by, or purchased from, a person who meets the requirements of AS 16.05.660 and only under the authority of a permit issued by the commissioner or the commissioner's designee.

(b) The permit may be issued to either the fisherman or the buyer.

(c) These species, when taken incidentally in conjunction with commercial salmon fishing, are legally taken and possessed without a permit, unless otherwise provided in this title.

(d) The following stipulations apply to both the permit holder or buyer and to fishermen selling their catch to the buyer:

(1) the time and area of fishing and type and amount of fishing gear may be designated;

(2) the species to be harvested may be designated and the number of fish may be limited.

Article 9. Definitions; Miscellaneous.

5 AAC 39.975. Definitions

(a) In 5 AAC 01 - 5 AAC 39,

(1) "alien" means a person who is not a citizen of the United States, and who does not have a petition for naturalization pending before the district court;

(2) "bag limit" means the maximum legal take per person per day, even if part or all of the fish are preserved;

(3) "buyer" means a person who purchases fish from the fishermen who caught the fish or who, for commercial purposes, processes fish he has caught himself;

(4) "depth of net" means the perpendicular distance between cork line and lead line expressed as either linear units of measure or as a number of meshes, including all of the web of which the net is composed;

(5) repealed 2/18/73;

(6) "gear" means any type of fishing apparatus;

(7) "inclusive season dates" means whenever the doing of an act between certain dates or from one date to another is allowed or prohibited, the period of time thereby indicated includes both dates specified; the first date specified designates the first day of the period, and the second date specified designates the last day of the period;

(8) "legal limit of fishing gear" means the maximum aggregate of a single type of fishing gear permitted to be used by one individual or boat, or combination of boats in any particular regulatory area, district or section;

(9) "local representative of the department" means the nearest, most accessible professional employee of the department, a person designated by the commissioner or by a professional employee of the department to perform a specific function for the department and a law enforcement officer of the Department of Public Safety;

(10) "salmon stream" means a stream used by salmon, at any stage of life, for spawning, rearing, presence, or migration;

(11) "stretched measure" means the average length of any series of 10 consecutive meshes measured from inside the first knot and including the last knot when wet; the 10 meshes, when being measured, shall be an integral part of the net, as hung, and measured perpendicular to the selvages; measurements shall be made by means of a metal tape measure while the 10 meshes being measured are suspended vertically from a single peg or nail, under five-pound weight, except as otherwise provided in this title;

(12) repealed 6/30/79;

(13) "waters of Alaska" means the internal waters of the state including rivers, streams, lakes and ponds, the tidal zone of the state from mean higher high water to mean lower low water, and those waters extending three miles seaward of a line (the baseline) between the following points:

(A) Southeastern and Yakutat Areas:

100 southernmost tip Cape Muzon, Dall Island;

101 westernmost tip unnamed point, Dall Island (54° 39.87' N. lat., 132° 43.53' W. long.);

- 102 westernmost tip Wolk Point, Dall Island;
- 103 southernmost tip Liscome Point, Dall Island;
- 104 westernmost tip Point Cornwallis, Dall Island;
- 105 westernmost tip Security Point, Dall Island;
- 106 westernmost tip Parrot Point, Dall Island;
- 107 westernmost tip Point Bazan, Dall Island;
- 108 westernmost tip of westernmost unnamed island west of Dolgoi Island (54° 49.33' N. lat., 133° 00.40' W. long.);
- 109 westernmost tip Ritter Point, Dall Island;
- 110 westernmost tip Rockwell Point, Dall Island;
- 111 westernmost tip Cape Augustine, Dall Island;
- 112 westernmost tip Sakie Point, Dall Island;
- 113 southernmost tip Cape Felix, Suemez Island;
- 114 southernmost tip of southernmost island off Cape Bartolome, Baker Island;
- 115 westernmost tip Cape Chirikof, Baker Island;
- 116 southernmost tip Cape Addington, Noyes Island;
- 117 westernmost tip of the southernmost island of the Hazy Islands;
- 118 westernmost tip of the westernmost island of the Hazy Islands;
- 119 southernmost tip Cape Ommaney, Baranof Island;
- 120 southernmost tip Eagle Rocks, Baranof Island;
- 121 westernmost tip Puffin Point, Baranof Island;
- 122 westernmost tip Sea Lion Rocks;
- 123 56° 19.50' N. lat., 134° 54' W. long., Baranof Island;
- 124 westernmost tip First Kekur Island;
- 125 westernmost tip Second Kekur Island;

- 126 westernmost tip North Cape, Baranof Islands;
- 127 westernmost tip John Rock;
- 128 westernmost tip Jacob Rock;
- 129 westernmost tip Kaiuchali Island;
- 130 westernmost tip Cape Edgecumbe, Kruzof Island;
- 131 westernmost tip Pt. Amelia, Kruzof Island;
- 132 westernmost tip Sealion Islands;
- 133 westernmost tip Eagle Rock;
- 134 westernmost tip Klokachef Point, Klokachef Island;
- 135 westernmost tip Black Island;
- 136 westernmost tip Cape Edward;
- 137 westernmost tip Urey Rocks;
- 138 westernmost tip of westernmost rock off Cape Cross, Yakobi Island (57° 54.67' N. lat., 136° 34.33' W. long.);
- 139 westernmost tip Yakobi Rock (off Cape Bingham, Yakobi Island);
- 140 westernmost tip Zip Rock (off Cape Spencer);
- 141 westernmost tip Graves Rocks;
- 142 westernmost tip Sugarloaf Island;
- 143 westernmost tip Astrolabe Rocks;
- 144 southernmost tip Icy Point;
- 145 westernmost tip Harbor Point;
- 146 westernmost tip La Chaussee Spit;
- 147 westernmost tip Cape Fairweather;
- 148 easternmost tip of the west side of the entrance to Dry Bay;
- 149 southernmost tip at the mouth of Dangerous River;

- 150 westernmost tip Ocean Cape;
- 151 easternmost tip Point Manby;
- 152 southernmost tip Sitkagai Bluffs;
- 153 southernmost tip Point Riou;
- 154 southernmost tip Icy Cape;
- 155 southernmost tip Cape Yakataga;
- 200 southernmost tip Cape Suckling;

(B) Prince William Sound and Cook Inlet Areas:

- 200 southernmost tip Cape Suckling;
- 201 easternmost tip Pinnacle Rock (off Cape St. Elias, Kayak Island);
- 202 southernmost tip Hook Point, Hinchinbrook Island;
- 203 southernmost tip Cape Hinchinbrook, Hinchinbrook Island;
- 204 easternmost tip Montague Island;
- 205 easternmost tip Box Point, Montague Island;
- 206 easternmost tip Wooded Islands;
- 207 southernmost tip, Wooded Islands;
- 208 southernmost tip Jeanie Point, Montague Island;
- 209 southernmost tip Cape Cleare, Montague Island;
- 210 southernmost tip Point Elrington, Elrington Island;
- 211 southernmost tip Cape Puget;
- 212 southernmost tip Cape Junken;
- 213 southernmost tip Cape Fairfield;
- 214 southernmost tip Barwell Island (off Cape Resurrection);
- 215 easternmost tip Pilot Rock;
- 216 easternmost tip Chiswell Island;

217 southernmost tip Seal Rocks;

218 southernmost tip unnamed cape south of Black Mountain (Black Bay) (59° 27.20' N. lat., 150° 14' W. long.);

219 easternmost tip Hoof Point, Ragged Island;

220 easternmost tip Outer Island, Pye Islands;

221 southernmost tip of southernmost island off Outer Island;

222 southernmost tip Nuka Rock (south of Nuka Point, Nuka Island);

223 southernmost tip Gore Point;

224 southernmost tip East Chugach Island;

225 southernmost tip Perl Rock (off Perl Island, Chugach Islands);

300 easternmost tip East Amatuli Island, Barren Islands;

(C) Kodiak, Chignik, Aleutian Islands, and Alaska Peninsula Areas:

300 easternmost tip East Amatuli Island, Barren Islands;

301 easternmost tip Point Banks, Shuyak Island;

302 northernmost tip Tonki Cape, Afognak Island;

303 northernmost tip Cape St. Hermogenes, Marmot Island;

304 along the seaward coast of Marmot Island southernmost tip of Marmot Cape;

305 southernmost tip Pillar Cape, Afognak Island;

306 easternmost tip East Cape, Spruce Island;

307 northernmost tip Kodiak Rock (off Long Island);

308 easternmost tip Cape Chiniak, Kodiak Island;

309 easternmost tip Cape Greville Kodiak Island;

310 easternmost tip Ugak Island;

311 along the coast to the southernmost tip of Ugak Island;

312 southernmost tip Dangerous Cape, Kodiak Island;

- 313 easternmost tip Cape Barnabas, Sitkalidak Island;
- 314 easternmost tip Black Point, Sitkalidak Island;
- 315 easternmost tip Twoheaded Island;
- 316 easternmost tip Geese Islands;
- 317 easternmost tip Cape Sitkinak, Sitkinak Island;
- 318 along the coast to the southernmost tip of Sitkinak Island;
- 319 southernmost tip Tugidak Island;
- 320 along the west coast to the northernmost tip of Tugidak Island;
- 321 southernmost tip Cape Alitak, Kodiak Island;
- 322 westernmost tip Low Cape, Kodiak Island;
- 323 westernmost tip Cape Ikolik, Kodiak Island;
- 324 easternmost tip Kilokak Rocks (off Alaska Peninsula);
- 325 easternmost tip Ashiik Island;
- 326 easternmost tip Poltava Island;
- 327 easternmost tip Navy Island (off Cape Providence);
- 328 easternmost tip Aiugnak Columns;
- 329 easternmost tip Ugaiushak Island;
- 330 easternmost tip Hydra Island;
- 331 easternmost tip Foggy Cape, Sutwik Island;
- 332 around the south coast of Sutwik Island via the southernmost offcoast islets to the westernmost tip of Sutwik Island;
- 333 southernmost tip Cape Kumlik;
- 334 easternmost tip Unavikshak Island;
- 335 southernmost tip Atkulik Island;
- 336 easternmost tip Kak Island;

- 337 easternmost tip Castle Cape (Tuliumnit Point);
- 338 easternmost tip Chankliut Island;
- 339 along seaward coast to southernmost tip Chankliut Island;
- 340 southernmost tip Seal Cape;
- 341 easternmost tip Mitrofanina Island;
- 342 southernmost tip Spitz Island;
- 343 southernmost tip Chiachi Island;
- 344 easternmost tip Kupreanof Point;
- 345 easternmost tip Castle Rock;
- 346 easternmost tip Atkins Island;
- 347 easternmost tip Simeonof Island;
- 348 along the seaward coast of Simeonof Island to the southernmost tip;
- 349 easternmost tip of the unnamed island off the southern coast of Simeonof Island;
- 350 easternmost tip Chernabura Island;
- 351 along the coast to southernmost tip of Point Farewell, Chernabura Island;
- 352 southernmost tip Point Welcome, Bird Island;
- 353 southernmost tip Mountain Cape, Nagai Island;
- 354 westernmost tip Sealion Rocks;
- 355 southernmost tip Acheredin Point, Unga Island;
- 356 southernmost tip of Kennoys Island;
- 357 easternmost tip East Rock;
- 358 easternmost tip Olga Rock;
- 359 easternmost tip Pinnacle Rock;
- 360 easternmost tip Hay Island;

- 361 easternmost tip Hague Rock;
- 362 easternmost tip Lookout Point, Caton Island, Sanak Islands;
- 363 along the coast to southernmost tip Caton Island;
- 364 southernmost tip Umla Island;
- 365 southernmost tip Telemitz Island;
- 366 southernmost tip Dora Island;
- 367 easternmost tip Seal Rock;
- 368 southernmost tip Haystack Rock;
- 369 southernmost tip South Rock;
- 370 southernmost tip Sisters Island;
- 371 easternmost tip Clifford Island;
- 372 along the coast of Clifford Island and Long Island to the westernmost tip of the westernmost Trinity Island;
- 373 westernmost tip Point Petrof, Sanak Island;
- 374 southernmost tip Cape Lutke, Unimak Island;
- 375 along the coast to the southernmost tip of Scotch Cap, Unimak Island;
- 376 easternmost tip Ugamak Island;
- 377 easternmost tip Round Island;
- 378 easternmost tip Aiktak Island;
- 379 easternmost tip Kaligagan Island;
- 380 easternmost tip Tigalda Island;
- 381 along the coast of Tigalda Island to Derbin Island;
- 382 southernmost tip Avatanak Point, Avatanak Island;
- 383 easternmost tip Rootok Island;
- 384 along the coast to southernmost tip Rootok Island;

- 385 southernmost tip Battery Point, Akutan Island;
- 386 easternmost tip Unalga Island;
- 387 easternmost tip Egg Island off Sedanka Island;
- 388 easternmost tip Outer Signal (island);
- 389 easternmost tip Inner Signal (island);
- 390 southernmost tip Sedanka Island;
- 391 easternmost tip Kayak Cape, Unalaska Island;
- 392 easternmost tip Cape Yanaliuk, Unalaska Island;
- 393 easternmost tip Whalebone Cape, Unalaska Island;
- 394 southernmost tip Cape Prominence, Unalaska Island;
- 395 southernmost tip Reef Point, Unalaska Island;
- 396 southernmost tip Ogangen Island off Unalaska Island;
- 397 southernmost tip Eagle Point, Unalaska Island;
- 398 southernmost tip Cape Aiak, Unalaska Island;
- 399 southernmost tip South Rock off Cape Izigan, Unalaska Island;
- 400 southernmost tip Emerald Island off Konets Head, Unalaska Island;
- 401 easternmost tip Kettle Cape, Umnak Island;
- 402 easternmost tip The Pillars (off Thumb Point, Umnak Island);
- 403 easternmost tip Kigul Island;
- 404 easternmost tip Ogehul Island;
- 405 easternmost tip Vsevidof Island;
- 406 easternmost tip Black Cape, Umnak Island;
- 407 easternmost tip Cape Udak, Umnak Island;
- 408 easternmost tip Breadloaf Island;
- 409 easternmost tip Samalga Island;

- 410 along the coast to westernmost tip of Samalga Island;
- 411 southernmost tip Concord Point, Chuginadak Island;
- 412 southernmost tip unnamed point south of Mt. Cleaveland, Chuginadak Island (52° 48.75' N. lat., 169° 57.50' W. long.);
- 413 southernmost tip Herbert Island;
- 414 southernmost tip Yunaska Island;
- 415 southernmost tip Amutka Island;
- 416 along the south and west coast to northernmost tip of Amutka Island;
- 417 northernmost tip Chagulak Island;
- 418 northernmost tip of Yunaska Island;
- 419 northernmost tip Herbert Island;
- 420 westernmost tip of Carlisle Island;
- 421 along the coast to the northernmost tip of Carlisle Island;
- 422 westernmost tip Uliaga Island;
- 423 along northern coast to easternmost tip of Uliaga Island;
- 424 northernmost tip of Kagamil Island;
- 425 northernmost tip Anangula Island (off Okee Point, Umnak Island);
- 426 northernmost tip Ananiuliak Island;
- 427 northernmost tip Okee Point, Umnak Island;
- 428 westernmost tip Cape Kigushimkada, Umnak Island;
- 429 along the coast to westernmost tip of Kshaliuk Point;
- 430 northernmost tip Cape Imlianuk, Umnak Island;
- 431 westernmost tip Cape Aslik, Umnak Island;
- 432 along the coast to northernmost tip of Ashishik Point;
- 433 northernmost tip Cape Tanak, Umnak Island;

- 434 northernmost tip Cape Idak, Umnak Island;
- 435 westernmost tip Chernofski Point, Unalaska Island;
- 436 northernmost tip Cape Aspid, Unalaska Island;
- 437 westernmost tip of westernmost unnamed island off Sedanka Point, Unalaska (53° 27.05' N. lat., 167° 20' W. long.);
- 438 westernmost tip Kashega Point, Unalaska Island;
- 439 westernmost tip Spray Cape, Unalaska Island;
- 440 westernmost tip Cape Starichkof, Unalaska Island;
- 441 southernmost tip of Cape Kovrizhka, Unalaska Island;
- 442 along the coast to the northernmost tip of Cape Kovrizhka;
- 443 westernmost tip Point Kadin, Unalaska Island;
- 444 northernmost tip Koriga Point, Unalaska Island;
- 445 northernmost tip Bishop Point, Unalaska Island;
- 446 northernmost tip Point Tebenkof, Unalaska Island;
- 447 northernmost tip Cape Wislow, Unalaska Island;
- 448 northernmost tip Cape Cheerful, Unalaska Island;
- 449 northernmost tip Priest Rock (off Cape Kalekta, Unalaska Island);
- 450 westernmost tip Reef Point, Akutan Island;
- 451 westernmost tip Lava Point, Akutan Island;
- 452 northernmost tip North Head, Akutan Island;
- 453 northernmost tip Akun Head, Akun Island;
- 454 westernmost tip Cape Sarichef, Unimak Island;
- 455 northernmost tip Raven Point, Unimak Island;
- 456 northernmost tip Oksenof Point, Unimak Island;
- 457 northernmost tip Cape Mordvinof, Unimak Island;

458 northernmost tip Cape Lapin, Unimak Island;

459 northernmost tip of unnamed point, Unimak Island (55° N. lat., 163° 54' W. long.);

460 northernmost tip Otter Point, Unimak Island;

461 northernmost tip Cape Krenitzin;

462 along the north coast of the Alaska Peninsula to northernmost tip of Cape Glazenap;

463 along the coast and across the entrances between the Kudiakof Islands and the northernmost tip of Moffet Point;

464 along the north coast of the Alaska Peninsula to easternmost tip of Lagoon Point;

465 northernmost tip Cape Kutuzof;

500 along the north coast of the Alaska Peninsula including the outer coast of all barrier islands, to the westernmost tip of Cape Menshikof;

(D) Bristol Bay Area:

500 westernmost tip of Cape Menshikof;

501 southernmost tip of Pyrite Point;

502 along the coast to the westernmost tip of Cape Peirce;

600 westernmost tip of Cape Newenham;

(E) Kuskokwim, Yukon, Norton Sound-Point Clarence, and Arctic-Kotzebue Areas:

600 westernmost tip Cape Newenham;

601 southernmost tip Kwigluk Island;

602 southernmost tip Pingurbek Island;

603 westernmost tip Kikegtek Island;

604 westernmost tip Cape Vancouver;

605 southernmost tip Dall Point;

606 along the coast and across all entrances, to the westernmost tip of Cape Romanzof;

607 westernmost tip Cape Rodney;

- 608 westernmost tip of Point Spencer Spit;
- 609 southernmost tip Cape York;
- 610 westernmost tip Cape Prince of Wales;
- 611 along coast of all barrier islands to Northwest Corner light;
- 612 westernmost tip Cape Krusenstern;
- 613 along the coast to the westernmost tip of Point Hope;
- 614 westernmost tip Cape Lisburne;
- 615 along the coast of all barrier islands and across all entrances to the northernmost tip of Point Barrow;
- 616 along the coast of all barrier islands and across all entrances to the easternmost tip of Cape Simpson;
- 617 northernmost tip Pitt Point;
- 618 along the coast to easternmost tip of Cape Halkett;
- 619 easternmost tip Thetis Island, Jones Islands;
- 620 along the coast of all barrier islands and across all entrances, through the Jones Islands to the northernmost tip Long Island;
- 621 northernmost tip Reindeer Island, Midway Islands;
- 622 northernmost tip Cross Island;
- 623 westernmost tip Flaxman Island;
- 624 along the north coast of Flaxman Island and across all entrances to the northernmost tip Brownlow Point;
- 625 along the coast of all barrier islands and across all entrances to the easternmost tip Konganevik Point;
- 626 northernmost tip Anderson Point;
- 627 northernmost tip Arey Island;
- 628 northernmost tip Barter Island;
- 629 northernmost tip Bernard Spit;

630 along the coast of all barrier islands and across all entrances to the northernmost tip Griffen Point;

631 northernmost tip along the coast to Humphrey Point;

632 across the entrances and along coast of all barrier islands, to the northernmost tip Demarcation Point;

700 along the coast to the United States-Canada Boundary;

(F) and extending three miles seaward of all islands not enclosed by the above line;

(14) "salmon stream terminus" means a line drawn between the seaward extremities of the exposed tideland banks of any salmon stream at mean lower low water;

(15) repealed 8/14/70;

(16) "ton" means 2,000 pounds avoirdupois weight;

(17) "king crab" means any or all of the following species:

(A) *Paralithodes camtschaticus* (red king crab);

(B) *Paralithodes platypus* (blue king crab);

(C) *Lithodes couesi*;

(D) *Lithodes aequispinus* (golden king crab);

(E) *Paralithodes brevipes* (Hanasaki king crab);

(18) "Tanner crab" means any or all of the following species:

(A) *Chionoecetes opilio* (snow crab);

(B) *Chionoecetes tanneri* (grooved Tanner crab);

(C) *Chionoecetes bairdi* (Tanner crab);

(D) *Chionoecetes angulatus* (triangle Tanner crab);

(19) "Dungeness crab" means the species *Metacarcinus magister*;

(20) "household" means a person or persons having the same residence;

(21) "groundfish" or "bottomfish" means any marine finfish except halibut, osmerids, herring, and salmonids;

(22) "to operate fishing gear" means

(A) the deployment of gear or to have gear deployed in the waters of Alaska;

(B) the removal of gear from the waters of Alaska;

(C) the removal of fish or shellfish from the gear during an open season or period;

or

(D) possession of a gillnet containing fish during an open fishing period, except that a net which is completely clear of the water is not considered to be operating for the purpose of minimum distance requirements;

(23) "possession limit" means the maximum number of fish a person may have in his possession if the fish have not been canned, salted, frozen, smoked, dried or otherwise preserved so as to be fit for human consumption after a 15-day period;

(24) "hung measure" means the maximum length of the cork line when measured wet or dry with traction applied at one end only;

(25) "drainage" means all of the waters comprising a watershed, including tributary rivers, streams, sloughs, ponds and lakes which contribute to the supply of the watershed;

(26) "fresh water of streams and rivers" means fresh water separated from salt water at the mouth of streams and rivers by a line drawn between the seaward extremities of the exposed tideland banks at the present stage of the tide;

(27) "guideline harvest level" means the preseason estimated level of allowable fish harvest which will not jeopardize the sustained yield of the fish stocks; an area, district, section or portion thereof may close to fishing before or after the guideline harvest level has been reached if principles of management and conservation dictate such action;

(28) "peace officer of the state" means a person defined in AS 16.05.150;

(29) "processing" means completion of

(A) cooking;

(B) canning;

(C) smoking;

(D) salting, which means uniformly mixing with a minimum salting level of at least 20 percent of the weight of the fish resources;

(E) drying; or

(F) freezing, which means to congeal and solidify the flesh of fish by abstraction of heat;

(30) "domicile" means the same as in AS 16.05.940; evidence of a person's domicile may include, but is not limited to, the following:

(A) statements made to obtain a license to drive, hunt, fish, or engage in an activity regulated by a government entity;

(B) affidavit of the person, or of other persons who may know of that person's domicile;

(C) place of voter registration;

(D) location of residences owned, rented, or leased;

(E) location of storage of household goods;

(F) location of business owned or operated;

(G) residence of spouse and minor children or dependents;

(H) governments to which taxes are paid;

(I) whether the person has claimed residence in another location for the purpose of obtaining benefits provided by the governments in that location;

(31) "fishing site" means a structure or vessel used by a CFEC permit holder for providing shelter in support of the operation of stationary net gear;

(32) "net gear site" means the in-water location of stationary net gear;

(33) "seine vessel" means the largest vessel, as determined by keel length, used to operate a seine and the vessel from which the seine is set, and to which the seine is retrieved to;

(34) "demersal shelf rockfish" means any or all of the following *Sebastes* species:

(A) repealed 4/30/91;

(B) *S. pinniger* (Canary);

(C) *S. nebulosus* (China);

(D) *S. caurinus* (Copper);

(E) *S. maliger* (Quilback);

(F) repealed 4/30/91;

(G) *S. helvomaculatus* (Rosethorn);

(H) repealed 4/30/91;

(I) *S. nigrocinctus* (Tiger);

(J) *S. ruberrimus* (Yelloweye);

(K) repealed 4/4/97;

(35) "onboard observer" means a representative of the Departments of Fish and Game or Public Safety who

(A) is certified by the Department of Fish and Game as having completed minimum training requirements;

(B) is living on board a fishing or processing vessel for all or part of the period the vessel is at sea; and

(C) is monitoring fishing or processing activities and collecting harvest data essential to management and enforcement;

(36) "rockfish" means all species of the genus *Sebastes*;

(37) "pelagic shelf rockfish" means any or all of the following *Sebastes* species:

(A) *S. ciliatus* (Dark);

(B) *S. entomelas* (Widow);

(C) *S. flavidus* (Yellowtail);

(D) *S. melanops* (Black);

(E) *S. diaconus* (Deacon);

(F) *S. variabilis* (Dusky);

(38) "slope rockfish" means any species of the genus *Sebastes* not specified as either demersal shelf rockfish or pelagic shelf rockfish;

(39) "thornyhead rockfish" or "idiot rockfish" means all species of the genus *Sebastolobus*;

(40) "weathervane scallop" means the species *Patinopecten caurinus*;

(41) "mile" means

(A) a nautical mile when used in reference to marine waters; or

(B) a statute mile when used in reference to fresh water;

(42) "miscellaneous shellfish" means all shellfish and marine invertebrates, except shrimp, and king, Tanner, and Dungeness crab;

(43) "total allowable catch" or "TAC" means the annual harvest quota or the retainable catch allowed for a species or species group;

(44) "individual fishing quota" or "IFQ" means the annual allocation of pounds for harvest that represents a quota share holder's percentage of the total allowable catch;

(45) "handicraft" means a finished product in which the shape or appearance of the natural material has been substantially changed by skillful use of the hands, such as by sewing, carving, etching, scrimshawing, painting, or other means, and which has substantially greater monetary and aesthetic value than the unaltered natural material alone.

(b) Beginning April 15, 2017, in AS 16.05.835, "anchor roller" means a device used solely in aid of deploying and retrieving anchor gear and does not provide any additional flotation, planing surface, sea keeping ability, buoyancy, deck space, or structural support to the vessel.

5 AAC 39.995. Water depth

Unless otherwise specified, water depths in 5 AAC 01 - 5 AAC 39 are to be measured from mean lower low water.

5 AAC 39.997. Abbreviations and symbols

(a) The abbreviations a.m. and p.m. indicate antemeridian and postmeridian respectively for either Standard Time or Daylight Saving Time in conformance with the official time in use for Alaska.

(b) The symbols °E>, ', ", indicate degrees, minutes, and seconds, respectively, of longitude or latitude, based upon the North American datum of 1983.

(c) Lat. and long. indicate latitude and longitude, respectively.

(d) E. indicates east, N. indicates north, W. indicates west, and S. indicates south. All bearings and directions shall be construed to be true bearings and true directions.

(e) ADF&G is the abbreviation for Alaska Department of Fish and Game.

(f) CFEC is the abbreviation for the Commercial Fisheries Entry Commission.

5 AAC 39.998. Petition policy for Category 2 management measures in a Bering Sea/Aleutian Islands king or Tanner crab fishery

The Board of Fisheries recognizes that in rare instances, circumstances may require regulatory changes outside the process described in 5 AAC 96.625(b) - (d). Notwithstanding 5 AAC 96.625(f), a petition for a regulatory change may be submitted under this section and 5 AAC 96.625(a) for a Category 2 management measure in a Bering Sea/Aleutian Islands king or Tanner crab fishery described in the federal Fishery Management Plan (FMP) for the Commercial King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands dated January 24, 1989. It is the policy of the Board of Fisheries that a petition submitted under this section will be denied and not scheduled for hearing unless the petition

(1) addresses a Category 2 management measure and is filed within 30 days from the date that the board adopted that Category 2 management measure;

(2) presents an issue that is not solely allocative; and

(3) presents new legal, biological, or management information that indicates the regulation may not be consistent with the federal FMP.

5 AAC 39.999. Policy for changing board agenda

(a) The Board of Fisheries (board) will, in its discretion, change its schedule for consideration of a proposed regulatory change in response to an agenda change request, submitted on a form provided by the board, in accordance with the following guidelines:

(1) the board will accept an agenda change request only

(A) for a fishery conservation purpose or reason;

(B) to correct an error in a regulation; or

(C) to correct an effect on a fishery that was unforeseen when a regulation was adopted;

(2) the board will not accept an agenda change request that is predominantly allocative in nature in the absence of new information that is found by the board to be compelling;

(3) the board will consider an agenda change request only at its first meeting in the fall; a request must be received by the executive director of the board at least 60 days before the first meeting in the fall.

(b) The board will, in its discretion, change its schedule for consideration of proposed regulatory changes as reasonably necessary for coordination of state regulatory actions with federal fishery agencies, programs, or laws.

(c) If the board accepts an agenda change request under this section, the executive director shall notify the public and the department of the change in the board's schedule and when the board will consider the proposed regulatory change requested.

Title 16. Fish and Game.

Chapter 05. Fish and Game Code Definitions.

Sec. 16.05.055. On-board observer program. (a) The commissioner may enter into appropriate contracts and agreements with agencies, such as the National Marine Fisheries Service, the North Pacific Fishery Management Council, and the International Pacific Halibut Commission, designed to ensure that on-board observer programs conducted in the fisheries of the state are coordinated and consistent with each other for vessels operating in state and federal water.

(b) The master of a vessel, as a condition of participating in a fishery for which an on-board observer program is authorized by the Board of Fisheries under AS 16.05.251, shall consent in writing to the placement of an observer aboard the vessel.

Sec. 16.05.060. Emergency orders. (a) This chapter does not limit the power of the commissioner or an authorized designee, when circumstances require, to summarily open or close seasons or areas or to change weekly closed periods on fish or game by means of emergency orders.

(b) The commissioner or an authorized designee may, under criteria adopted by the Board of Fisheries, summarily increase or decrease sport fish bag limits or modify methods of harvest for sport fish by means of emergency orders.

(c) An emergency order has the force and effect of law after field announcement by the commissioner or an authorized designee. An emergency order adopted under this section is not subject to AS 44.62 (Administrative Procedure Act).

Sec. 16.05.065. Application extension. (a) The commissioner shall extend the time and dates during which application may be made for fish or game registration if the commissioner finds that

(1) the conservation and management of the fish or game resource will not be affected adversely; and

(2) the failure to timely apply is the result of excusable neglect.

(b) The fee for an extension granted under this section is \$45.

(c) As used in this section, “excusable neglect” does not include unfamiliarity with or ignorance of applicable laws and regulations. In order to show excusable neglect, a person must have demonstrated, before the registration deadline, an intent to harvest fish or game.

Sec. 16.05.070. Regulations as evidence. Regulations of a board and of the commissioner, including emergency openings and closures, are admissible as evidence in the courts of the state in accordance with AS 44.62 (Administrative Procedure Act).

Sec. 16.05.080. Limitation of power. Nothing in this chapter authorizes the department or a board to change the amount of fees or licenses.

Sec. 16.05.150. Enforcement authority. The following persons are peace officers of the state and they shall enforce this title except AS 16.51 and AS 16.52:

- (1) an employee of the department authorized by the commissioner;
- (2) a police officer in the state;
- (3) any other person authorized by the commissioner.

Sec. 16.05.160. Duty to arrest. Each peace officer designated in AS 16.05.150 shall arrest a person violating a provision of this title except AS 16.51 and AS 16.52, or any regulation adopted under this title except AS 16.51 and AS 16.52, in the peace officer's presence or view, and shall take the person for examination or trial before an officer or court of competent jurisdiction unless in the judgment of the peace officer it would be in the state's best interest to issue a warning or a citation under AS 16.05.165.

Sec. 16.05.165. Form and issuance of citation. (a) When a peace officer stops or contacts a person concerning a violation of this title except AS 16.51 and AS 16.52 or of a regulation adopted under this title except AS 16.51 and AS 16.52 that is a misdemeanor, the peace officer may, in the officer's discretion, issue a citation to the person as provided in AS 12.25.175 — 12.25.230.

(b) The supreme court shall specify by rule or order those misdemeanors that are appropriate for disposition without court appearance, and shall establish a schedule of bail amounts. Before establishing or amending the schedule of bail amounts required by this subsection, the supreme court shall appoint and consult with an advisory committee consisting of two law enforcement officers of the Department of Public Safety engaged in fish and wildlife protection, two representatives of the Department of Fish and Game, two district court judges, and the chairpersons of the House and Senate Judiciary Committees of the legislature. The maximum bail amount for an offense may not exceed the maximum fine specified by law for that offense. If the misdemeanor for which the citation is issued may be disposed of without court appearance, the issuing peace officer shall write on the citation the amount of bail applicable to the violation.

(c) If a person cited for a misdemeanor for which a bail amount has been established under (b) of this section does not contest the citation, the person may, on or before the 30th day after the date of the citation, mail or personally deliver to the clerk of the court in which the citation is filed by the peace officer

- (1) the amount of bail indicated on the citation for that offense; and
- (2) a copy of the citation indicating that the right to an appearance is waived, a plea of no contest is entered, and the bail is forfeited.

(d) When bail has been forfeited under (c) of this section, a judgment of conviction shall be entered. Forfeiture of bail and all seized items is a complete satisfaction for the misdemeanor. The clerk of the court accepting the bail shall provide the offender with a receipt stating that fact if requested.

(e) A person cited under this section is guilty of failure to obey a citation under AS 12.25.230 if the person fails to pay the bail amount established under (b) of this section or fails to appear in court as required.

(f) Notwithstanding other provisions of law, if a person cited for a misdemeanor for which a bail amount has been established under (b) of this section appears in court and is found guilty, the penalty that is imposed for the offense may not exceed the bail amount for that offense established under (b) of this section.

Sec. 16.05.170. Power to execute warrant. Each peace officer designated in AS 16.05.150 may execute a warrant or other process issued by an officer or court of competent jurisdiction for the enforcement of this title except AS 16.51 and AS 16.52, and may, with a search warrant, search any place at any time. The judge of a court having jurisdiction may, upon proper oath or affirmation showing probable cause, issue a warrant in all cases.

Sec. 16.05.180. Power to search without warrant. Each peace officer designated in AS 16.05.150 may without a warrant search any thing or place if the search is reasonable or is not protected from searches and seizures without warrant within the meaning of art. I, § 14, Alaska State Constitution, which specifically enumerates “persons, houses and other property, papers and effects.” However, before a search without warrant is made a signed written statement by the person making the search shall be submitted to the person in control of the property or object to be searched, stating the reason the search is being conducted. A written receipt shall be given by the person conducting the search for property which is taken as a result of the search. The enumeration of specific things does not limit the meaning of words of a general nature.

Sec. 16.05.190. Seizure and disposition of equipment. Guns, traps, nets, fishing tackle, boats, aircraft, automobiles or other vehicles, sleds, and other paraphernalia used in or in aid of a violation of this chapter or a regulation of the department may be seized under a valid search, and all fish and game, or parts of fish and game, or nests or eggs of birds, taken, transported, or possessed contrary to the provisions of this chapter or a regulation of the department shall be seized by any peace officer designated in AS 16.05.150. Upon conviction of the offender or upon judgment of the court having jurisdiction that the item was taken, transported, or possessed in violation of this chapter or a regulation of the department, all fish and game, or parts of them are forfeited to the state and shall be disposed of as directed by the court. If sold, the proceeds of the sale shall be transmitted to the proper state officer for deposit in the general fund. Guns, traps, nets, fishing tackle, boats, aircraft, or other vehicles, sleds, and other paraphernalia seized under the provisions of this chapter or a regulation of the department, unless forfeited by order of the court, shall be returned, after completion of the case and payment of the fine, if any.

Sec. 16.05.195. Forfeiture of equipment. (a) Guns, traps, nets, fishing gear, vessels, aircraft, other motor vehicles, sleds, and other paraphernalia or gear used in or in aid of a violation of this title or AS 08.54, or regulation adopted under this title or AS 08.54, and all fish and game or parts of fish and game or nests or eggs of birds taken, transported, or possessed contrary to the provisions of this title or AS 08.54, or regulation adopted under this title or AS 08.54, may be forfeited to the state

(1) upon conviction of the offender in a criminal proceeding of a violation of this title or AS 08.54 in a court of competent jurisdiction; or

(2) upon judgment of a court of competent jurisdiction in a proceeding in rem that an item specified above was used in or in aid of a violation of this title or AS 08.54 or a regulation adopted under this title or AS 08.54.

(b) Items specified in (a) of this section may be forfeited under this section regardless of whether they were seized before instituting the forfeiture action.

(c) An action for forfeiture under this section may be joined with an alternative action for damages brought by the state to recover damages for the value of fish and game or parts of them or nests or eggs of birds taken, transported, or possessed contrary to the provisions of this title or a regulation adopted under it.

(d) It is no defense that the person who had the item specified in (a) of this section in possession at the time of its use and seizure has not been convicted or acquitted in a criminal proceeding resulting from or arising out of its use.

(e) Forfeiture may not be made of an item subsequently sold to an innocent purchaser in good faith. The burden of proof as to whether the purchaser purchased the item innocently and in good faith shall be on the purchaser.

(f) An item forfeited under this section shall be disposed of at the discretion of the department. Before the department disposes of an aircraft it shall consider transfer of ownership of the aircraft to the Alaska Wing, Civil Air Patrol.

Sec. 16.05.200. Power to administer oaths. Each peace officer designated in AS 16.05.150 may administer to or take from any person, an oath, affirmation, or affidavit when it is for use in a prosecution or proceeding under or in the enforcement of this chapter.

Article 2. Boards of Fisheries and Game.

Sec. 16.05.241. Powers excluded. The boards have regulation-making powers as set out in this chapter, but do not have administrative, budgeting, or fiscal powers.

Sec. 16.05.251. Regulations of the Board of Fisheries. (a) The Board of Fisheries may adopt regulations it considers advisable in accordance with AS 44.62 (Administrative Procedure Act) for

(1) setting apart fish reserve areas, refuges, and sanctuaries in the waters of the state over which it has jurisdiction, subject to the approval of the legislature;

(2) establishing open and closed seasons and areas for the taking of fish; if consistent with resource conservation and development goals, the board may adopt regulations establishing restricted seasons and areas necessary for

(A) persons 60 years of age and older to participate in sport, personal use, or

subsistence fishing; or

(B) residents under 18 years of age and nonresidents under 16 years of age to participate in sport fishing;

(3) setting quotas, bag limits, harvest levels, and sex and size limitations on the taking of fish;

(4) establishing the means and methods employed in the pursuit, capture, and transport of fish;

(5) establishing marking and identification requirements for means used in pursuit, capture, and transport of fish;

(6) classifying as commercial fish, sport fish, guided sport fish, personal use fish, subsistence fish, or predators or other categories essential for regulatory purposes;

(7) watershed and habitat improvement, and management, conservation, protection, use, disposal, propagation, and stocking of fish;

(8) investigating and determining the extent and effect of disease, predation, and competition among fish in the state, exercising control measures considered necessary to the resources of the state;

(9) prohibiting and regulating the live capture, possession, transport, or release of native or exotic fish or their eggs;

(10) establishing seasons, areas, quotas, and methods of harvest for aquatic plants;

(11) establishing the times and dates during which the issuance of fishing licenses, permits, and registrations and the transfer of permits and registrations between registration areas is allowed; however, this paragraph does not apply to permits issued or transferred under AS 16.43;

(12) regulating commercial, sport, guided sport, subsistence, and personal use fishing as needed for the conservation, development, and utilization of fisheries;

(13) requiring, in a fishery, observers on board fishing vessels, as defined in AS 16.05.475(d), that are registered under the laws of the state, as defined in AS 16.05.475(c), after making a written determination that an onboard observer program

(A) is the only practical data-gathering or enforcement mechanism for that fishery;

(B) will not unduly disrupt the fishery;

(C) can be conducted at a reasonable cost; and

(D) can be coordinated with observer programs of other agencies, including the

National Marine Fisheries Service, North Pacific Fishery Management Council, and the International Pacific Halibut Commission;

(14) establishing nonexclusive, exclusive, and superexclusive registration and use areas for regulating commercial fishing;

(15) regulating resident or nonresident sport fishermen as needed for the conservation, development, and utilization of fishery resources;

(16) requiring unlicensed fishing vessels present in or transiting the waters of the state to report to the department the quantity, species, and origin of fish on board; in this paragraph, “unlicensed fishing vessel” means a fishing vessel that is not licensed under AS 16.05.490 — 16.05.530;

(17) promoting fishing and preserving the heritage of fishing in the state.

(b) [Repealed, § 12 ch 52 SLA 1986.]

(c) If the Board of Fisheries denies a petition or proposal to amend, adopt, or repeal a regulation, the board, upon receiving a written request from the sponsor of the petition or proposal, shall in addition to the requirements of AS 44.62.230 provide a written explanation for the denial to the sponsor not later than 30 days after the board has officially met and denied the sponsor’s petition or proposal, or 30 days after receiving the request for an explanation, whichever is later.

(d) Regulations adopted under (a) of this section must, consistent with sustained yield and the provisions of AS 16.05.258, provide a fair and reasonable opportunity for the taking of fishery resources by personal use, sport, and commercial fishermen.

(e) The Board of Fisheries may allocate fishery resources among personal use, sport, guided sport, and commercial fisheries. The board shall adopt criteria for the allocation of fishery resources and shall use the criteria as appropriate to particular allocation decisions. The criteria may include factors such as

(1) the history of each personal use, sport, guided sport, and commercial fishery;

(2) the number of residents and nonresidents who have participated in each fishery in the past and the number of residents and nonresidents who can reasonably be expected to participate in the future;

(3) the importance of each fishery for providing residents the opportunity to obtain fish for personal and family consumption;

(4) the availability of alternative fisheries resources;

(5) the importance of each fishery to the economy of the state;

(6) the importance of each fishery to the economy of the region and local area in which the fishery is located;

(7) the importance of each fishery in providing recreational opportunities for residents and nonresidents.

(f) Except as expressly provided in AS 16.40.120(e) and 16.40.130, the Board of Fisheries may not adopt regulations or take action regarding the issuance, denial, or conditioning of a permit under AS 16.40.100 or 16.40.120, the construction or operation of a farm or hatchery required to have a permit under AS 16.40.100, or a harvest with a permit issued under AS 16.40.120.

(g) The Board of Fisheries shall consider a request of the commissioner for approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery under AS 16.43.225 at the board's next regular or special meeting that follows the receipt by the board of the request for approval of the petition and that allows time for the notice required under this subsection. The board may consider the request of the commissioner for approval of the petition only after 15 days' public notice of the board's intention to consider approval of the petition. The board shall consider whether the commissioner, in support of the request for approval of the petition, has adequately shown that the fishery meets requirements for a moratorium on new entrants under AS 16.05.050. The board by a majority vote of its members at the meeting when the petition must be considered shall approve or disapprove the petition.

(h) The Board of Fisheries shall adopt by regulation a policy for the management of mixed stock fisheries. The policy shall provide for the management of mixed stock fisheries in a manner that is consistent with sustained yield of wild fish stocks.

(i) Notwithstanding AS 16.43.140(c)(5), the board may adopt, at a regularly scheduled meeting at which the board considers regulatory proposals for management of a specific salmon fishery, a regulation to allow a person who holds two entry permits for that salmon fishery an additional fishing opportunity appropriate for that particular fishery.

Sec. 16.05.259. No subsistence defense. In a prosecution for the taking of fish or game in violation of a statute or regulation, it is not a defense that the taking was done for subsistence uses.

Sec. 16.05.260. Advisory committees. The Board of Fisheries and the Board of Game may adopt regulations they consider advisable in accordance with AS 44.62

(Administrative Procedure Act) establishing, at places in the state designated by the individual boards, advisory committees to be composed of persons well informed on the fish or game resources of the locality. The boards shall set the number and terms of each of the members of the advisory committees, shall delegate one member of each committee as chairman, and shall give the chairman authority to hold public hearings on fish or game matters. Recommendations from the advisory committees shall be forwarded to the appropriate board for their consideration but if the Board of Fisheries or the Board of Game chooses not to follow the recommendations of the local advisory committee the appropriate board shall inform the appropriate advisory committee of this action and state the reasons for not following the recommendations. The commissioner shall delegate authority to advisory committees for emergency closures during

established seasons. The commissioner is empowered to set aside and make null and void only opening of seasons set by the advisory committees under this section. The appropriate board shall adopt the necessary regulations governing these closures.

Sec. 16.05.270. Delegation of authority to commissioner. For the purpose of administering AS 16.05.251 and 16.05.255, each board may delegate authority to the commissioner to act in its behalf. If there is a conflict between the board and the commissioner on proposed regulations, public hearings shall be held concerning the issues in question. If, after the public hearings, the board and the commissioner continue to disagree, the issue shall be certified in writing by the board and the commissioner to the governor who shall make a decision. The decision of the governor is final.

Article 4. Licensing of Commercial Fishing Crewmembers and Vessels.

Sec. 16.05.440. Expiration date for licenses. Licenses issued under AS 16.05.440 — 16.05.723 expire at the close of December 31 following their issuance or, for licenses that are valid for two years, after December 31 of the year after the year of issuance, and shall be renewed upon application and payment of the license fees required by AS 16.05.440 — 16.05.723.

Sec. 16.05.450. Issuance of licenses; disclosure for child support purposes. (a) The commissioner or an authorized agent shall issue a crewmember fishing license under AS 16.05.480 to each qualified person who files a written application at a place in the state designated by the commissioner, containing the reasonable information required by the commissioner together with the required fee. The commissioner shall require the reporting of the applicant's social security number on the application. The application shall be simple in form and shall be executed by the applicant under the penalty of unsworn falsification in the second degree.

(b) The Alaska Commercial Fisheries Entry Commission shall issue a vessel license under AS 16.05.490 to each qualified vessel for which a written application has been filed, at a place in the state designated by the commission, containing the reasonable information required by the commission together with the required fee. The application shall be simple in form and shall be executed by the applicant under the penalty of unsworn falsification in the second degree.

(c) [Repealed, § 19 ch 105 SLA 1977.]

(d) Upon request, the commissioner shall provide a social security number provided under (a) of this section 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.

Sec. 16.05.475. Registration of fishing vessels. (a) A person may not employ a fishing vessel in the water of this state unless it is registered under the laws of the state. Vessels registered under the laws of another state, and persons residing in another state, are not excused from this provision.

(b) The term "employ", as used in this section, shall be defined by the Board of

Fisheries through the adoption of regulations under AS 44.62 (Administrative Procedure Act). The definition may include any activities involving the use or navigation of fishing vessels.

(c) The term “registered under the laws of the state”, as used in this section, shall be defined by the Board of Fisheries through the adoption of regulations under AS 44.62

(Administrative Procedure Act). The definition may include any existing requirements regarding registration, licenses, permits, and similar matters imposed by law or regulation together with modifications of them and with any additional requirements the board finds necessary to maximize the authority of the state to apply and enforce fisheries regulations under 16 U.S.C. 1801-1882 (Magnuson-Stevens Fishery Conservation and Management Act of 1976 (P.L. 94-265, 90 Stat. 331)).

(d) In this section “fishing vessel” means any vessel, boat, ship, or other craft that is used for, equipped to be used for, or of a type which is normally used for

(1) fishing, or

(2) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Sec. 16.05.480. Commercial fishing license; disclosure for child support purposes. (a)

A person engaged in commercial fishing shall obtain a commercial fishing license and shall retain the license in possession and readily available for inspection during fishing operations. An entry permit or interim-use permit entitles the holder to participate as a gear operator in the fishery for which the permit is issued and to participate as a crewmember in any fishery. A crewmember fishing license is not transferable and entitles the holder to participate as a crewmember in any fishery.

(b) A person applying for a commercial fishing license under this section shall provide the person’s social security number. A person applying for a resident commercial fishing license under this section shall also provide proof of residence that the department requires by regulation.

(c) [Repealed, § 12 ch 123 SLA 1978.]

(d) Upon request, the department or the Alaska Commercial Fisheries Entry Commission shall provide a social security number provided by an applicant for a license under this section to the child support services agency created in AS 25.27.010, or the child support agency of another state, for child support purposes authorized under law.

(e) Except as provided under AS 16.05.470 and AS 23.35.060, fees collected from the sale of crewmember fishing licenses under this section may be appropriated into the fish and game fund.

(f) [Repealed, § 7 ch 27 SLA 2001.]

(g) A resident engaged in commercial fishing who is 11 years of age or older and who

does not hold an entry permit or an interim-use permit shall, except as provided in (i) of this section, pay a fee of \$60 for an annual crewmember fishing license. A resident engaged in commercial fishing who is less than 11 years of age and who does not hold an entry permit or an interim-use permit shall pay an annual fee of \$5.

(h) A nonresident engaged in commercial fishing who is 11 years of age or older and who does not hold an entry permit or an interim-use permit shall, except as provided in

(i) of this section, pay a base fee of \$60 for an annual crewmember fishing license, plus an amount, established by the department by regulation, that is as close as is practicable to the maximum allowed by law. A nonresident engaged in commercial fishing who is less than 11 years of age and who does not hold an entry permit or an interim-use permit shall pay an annual base fee of \$5 plus an amount, established by the department by regulation, that is as close as is practicable to the maximum allowed by law.

(i) Notwithstanding (g) and (h) of this section, a resident or nonresident engaged in commercial fishing who does not hold an entry permit or an interim-use permit may obtain one seven-day crewmember fishing license under this subsection annually. A person who obtains a seven-day license is not eligible for another seven-day license in the same license year; however, if a person who obtains a seven-day license pays the full fee for an annual crewmember fishing license under (g) or (h) of this section during the same license year, the person is entitled to receive a refund of the fee for the seven-day license. The department shall adopt regulations establishing a refund procedure. During the period for which the seven-day license is valid, a person who holds a seven-day license may not engage in fishing with a rod and reel while present on a commercial fishing vessel. The fee for a seven-day license is \$30.

(j) In this section, “commercial fishing license” includes an entry permit and an interim-use permit issued under AS 16.43 and a crewmember fishing license.

Sec. 16.05.490. Vessel license. (a) As a condition to delivery or landing of fish or engaging in commercial fishing in the state, a license is required for a commercial vessel.

Sec. 16.05.495. Vessel license exemption. A vessel used exclusively for the commercial capture of salmon in commercial salmon administrative management areas that include state water between the latitude of Point Romanof and the latitude of Cape Newenham, and state water surrounding Nunivak Island, or at a set net site, is exempt from the licensing requirements of AS 16.05.490.

Sec. 16.05.510. Unlicensed vessel unlawful. A person may not operate a vessel to which AS 16.05.490 — 16.05.530 apply without a vessel license, whether the absence of a vessel license results from initial failure to purchase or from another reason.

Sec. 16.05.520. Number plate. (a) The vessel license includes a permanent number plate. The number plate shall be accompanied by a tab affixed to the number plate designating the year to be fished. A number plate is not transferable, and the number plate shall be considered a permanent fixture upon the vessel upon which the number plate is originally placed. The number plate shall be securely fastened well forward on the port side in plain

sight. On a vessel with a superstructure, the number plate shall be fastened on the port side of the superstructure. A number plate remains the property of the state. The Alaska Commercial Fisheries Entry Commission may establish by regulation a reasonable fee for the initial issuance of a permanent number plate. If a permanent number plate is accidentally defaced, mutilated, destroyed, or lost, the person owning or operating the vessel shall immediately apply for and may obtain a duplicate upon furnishing the Alaska Commercial Fisheries Entry Commission with the pertinent facts and a payment of a reasonable fee established by the commission by regulation that is not less than \$2.

(b) If a vessel carrying a number plate is lost, destroyed, or sold, the owner shall immediately report the loss, destruction, or sale to the Alaska Commercial Fisheries Entry Commission.

Sec. 16.05.530. Renewal of vessel license. (a) Upon payment of the vessel license fee and filing of the name and address of the owner of the vessel or the owner’s authorized agent, the name and number of the vessel, a description of the vessel, the vessel license number, if any, the area to be fished, and other reasonable information required by the Alaska Commercial Fisheries Entry Commission, the commission shall issue a permanent number plate and a vessel license. If the vessel has a permanent number plate, the commission shall issue a vessel license and tab designating the year the license is valid. The tab shall be placed in the space provided on the permanent number plate.

(b) For calendar year 2006 and following years, the annual fee for a vessel license issued or renewed under this section is set according to the overall length, as defined by the United States Coast Guard, of the vessel under the following schedule:

(1) 0 — 25 feet	\$24
(2) over 25 feet — 50 feet	60
(3) over 50 feet — 75 feet	120
(4) over 75 feet — 100 feet	225
(5) over 100 feet — 125 feet	300
(6) over 125 feet — 150 feet	375
(7) over 150 feet — 175 feet	450
(8) over 175 feet — 200 feet	525
(9) over 200 feet — 225 feet	600
(10) over 225 feet — 250 feet	675
(11) over 250 feet — 275 feet	750
(12) over 275 feet — 300 feet	825
(13) over 300 feet	900.

Sec. 16.05.665. Falsification of application for license. (a) A person who knowingly makes a false statement as to a material fact on an application for a license under AS 16.05.440 — 16.05.660 is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000, or by imprisonment for not more than six months, or by both.

(b) A license issued under AS 16.05.440 — 16.05.660 to a person convicted under (a) of this section is void.

(c) A person whose license is void under (a) and (b) of this section may not obtain another license of the same type for a period of not less than two nor more than three years from the date of conviction by the court.

Sec. 16.05.671. Transportation and sale of certain fish by an agent of the fisherman who caught the fish. (a) A person may transport and sell commercially taken fish as the agent of the commercial fisherman who caught the fish if the person holds a fish transporter permit issued by the commissioner under this section.

(b) The commissioner may issue a fish transporter permit to a natural person. A fish transporter permit authorizes the permittee to transport and sell commercially taken fish as the agent of the commercial fisherman who caught the fish. A fish transporter may not buy or process fish received for transport unless the fish transporter also holds the appropriate licenses, permits, and other authorizations required to buy or process fish.

(c) A person who applies for a fish transporter permit under this section shall provide the person's social security number to the department. Upon request of the child support services agency created in AS 25.27.010, or a child support agency of another state, the department shall provide a social security number provided by an applicant for a fish transporter permit under this section to that agency for child support purposes authorized under law.

(d) A commercial fisherman may authorize a fish transporter to transport and sell fish on behalf of the fisherman as the agent of the fisherman. The fish transporter shall complete a fish ticket in accordance with procedures prescribed by the department for each fisherman who transfers fish to the fish transporter. The fish ticket must accompany the fish transferred to the fish transporter while the fish are in possession of the fish transporter. The fish transporter shall present the fish ticket for inspection upon request by a peace officer or representative of the commissioner. The fish transporter shall present the fish ticket to the buyer of the fish at the time of sale. The buyer of the fish shall complete the fish ticket by inserting the buyer's information as required by the department, including the weight or count of fish purchased. The buyer shall return a copy of the fish ticket to the commercial fisherman on whose behalf the fish are sold.

(e) A commercial fisherman who transfers fish to a fish transporter to transport and sell fish on behalf of the fisherman shall provide the fish transporter with all required information that the fisherman would have to provide to the buyer of the fish if the fisherman were to personally sell the fish to the buyer. The fish transporter who sells fish as the agent of a commercial fisherman shall provide all information to the buyer of the fish that the commercial fisherman would have to provide to the buyer if the fisherman were to personally sell the fish.

(f) A commercial fisherman may also hold a fish transporter permit. A commercial fisherman who holds a fish transporter permit may simultaneously transport or sell fish that the fisherman caught as well as fish caught by other commercial fishermen. A commercial fisherman who is simultaneously operating as a fish transporter shall physically possess

(1) the fish ticket completed under (d) of this section for the fish being transported or sold on behalf of another fisherman; and

(2) other documentation that may be prescribed by the commissioner by regulation.

(g) The commissioner may adopt regulations the commissioner considers necessary to implement this section. The regulations may not conflict with regulations or management plans adopted by the Board of Fisheries. The regulations may include

(1) criteria for determining areas or fisheries for which transporter permits may not be issued because

(A) fish transporter operations may alter harvest rates for the area or fishery to the extent that conservation of the resource is jeopardized, may significantly impair the ability of the department to accurately determine catch or effort levels, or may interfere with fishery management, allocation, or enforcement matters;

(B) a fishery is managed through allocations of the harvest to individuals, such as trip limits or quota shares; or

(C) combining of catches by multiple fishermen on a vessel may impair the ability of the department to accurately determine the incidental catch by each fisherman;

(2) requirements for timely and accurate reporting and record keeping; or

(3) procedures to maintain quality of harvested resources.

(h) Fish transferred to the possession of a fish transporter under the authority of this section are property of the fisherman who caught the fish until the fish are sold to a buyer by the fish transporter on behalf of the fisherman.

(i) In this section, “fish” means fish legally harvested and retained in salmon, herring, or Pacific cod fisheries.

Sec. 16.05.675. Landing permits. (a) A person who does not hold a limited entry permit or interim-use permit issued under AS 16.43 or a fish transporter permit issued under AS 16.05.671 may not deliver or land fish in the state unless the person

(1) holds a valid federal permit to operate commercial fishing gear in the fishery conservation zone; and

(2) has been issued a landing permit by the Alaska Commercial Fisheries Entry Commission.

(b) The commissioner may by regulation establish eligibility requirements for the issuance of a landing permit.

(c) The commissioner may authorize the Alaska Commercial Fisheries Entry Commission to issue landing permits for a fishery if the commissioner has made a written finding that the issuance of landing permits for that fishery is consistent with state resource conservation and management goals.

Sec. 16.05.680. Unlawful practices. (a) It is unlawful for a person, or an agent or representative of the person,

(1) to employ, in the harvesting, transporting, or purchasing of fish, a fisherman who neither is licensed under AS 16.05.480 nor is the holder of a permit issued under AS 16.43;

(2) to purchase fish from a person who is not

(A) the holder of a limited entry, interim-use, or landing permit issued under AS 16.43;

(B) a fish transporter who is selling the fish as the agent of the holder of a limited entry, interim-use, or landing permit issued under AS 16.43; or

(C) exempt under AS 16.05.660; or

(3) to purchase fish from an association other than one to which a permit has been issued under AS 16.05.662.

(b) A person may not sell salmon that was not harvested under the authority of the entry permit, interim-use permit, or landing permit under which the salmon is sold. For purposes of this subsection, salmon sold by a fish transporter on behalf of the commercial fisherman who harvested the salmon is salmon harvested under the authority of the limited entry, interim-use, or landing permit under which the salmon is sold.

Sec. 16.05.690. Record of purchases. (a) Each buyer of fish shall keep a record of each purchase showing the name or number of the vessel from which the catch involved is taken, the date of landing, vessel license number, pounds purchased of each species, number of each species, and the Department of Fish and Game statistical area in which the fish were taken, and other information the department requires. Records may be kept on forms provided by the department. Each person charged with keeping the records shall report them to the department in accordance with regulations adopted by the department.

(b) A person may not knowingly enter false information on a fish ticket or supply false information to a person who is recording information on a fish ticket.

Sec. 16.05.710. Suspension of commercial license and entry permit. (a) Upon the conviction of a person for a misdemeanor or felony violation of a commercial fishing law of this state, in a fishery other than a commercial salmon fishery, the court, in addition to other penalties imposed by law,

(1) may suspend one or more of the person's commercial fishing privileges and licenses for a period of not more than one year if the conviction is the person's first or second misdemeanor or felony conviction within a 10-year period for violating a commercial fishing law of this state, in a fishery other than a commercial salmon fishery, or another jurisdiction; or

(2) shall suspend one or more of the person's commercial fishing privileges and licenses for a period of not more than three years if the conviction is the person's third or

subsequent misdemeanor or felony conviction within a 10-year period for violating a commercial fishing law of this state, in a fishery other than a commercial salmon fishery, or another jurisdiction.

(b) Upon a first conviction of a person for a violation of AS 11.46.120 — 11.46.130 in which the property is commercial fishing gear as defined in AS 16.43.990, the court shall, in addition to the penalty imposed by law, suspend one or more of the person’s commercial fishing privileges and licenses for one year. Upon a second or subsequent conviction for a violation of AS 11.46.120 — 11.46.130 or a similar law of another jurisdiction in which the property is commercial fishing gear as defined in AS 16.43.990, the court shall, in addition to the penalty imposed by law, suspend one or more of the person’s commercial fishing privileges and licenses for two years.

(c) If proceedings in which commercial fishing privileges or licenses may be suspended under this section are pending against a limited entry permit holder, the permit holder’s limited entry permit may not be permanently transferred, unless allowed by order of the court in which the proceedings are pending, and a permanent transfer of the permit, unless allowed by order of the court, is void. During the period for which a limited entry permit or the permit holder’s right to obtain a limited entry permit or to engage in an activity for which a limited entry permit is required is suspended under this section, a permit card may not be issued to the permit holder and the permit holder’s permit may not be transferred or sold.

(d) In this section,

(1) “commercial fishing law” means a statute or regulation that regulates the conduct of a person engaged in commercial fishing activities by establishing requirements relating to fishing licenses and permits; catch records and reports; size, nature, or use of fishing vessels, sites, and gear; time, place, or manner of taking fishery resources; possession, transportation, sale, barter, or waste of fishery resources; or other aspects of commercial fishing;

(2) “commercial fishing license” means a limited entry permit or a crew member license;

(3) “commercial fishing privilege” means the privilege of participating in an activity for which a commercial fishing license is required and the privilege of obtaining a commercial fishing license;

(4) “limited entry permit” means an entry permit or an interim-use permit issued under AS 16.43.

Sec. 16.05.722. Strict liability commercial fishing penalties. (a) A person who without any culpable mental state violates AS 16.05.440 — 16.05.690, or a regulation of the Board of Fisheries or the department governing commercial fishing, is guilty of a violation and upon conviction is punishable by a fine of not more than

(1) \$3,000 for a first conviction;

(2) \$6,000 for a second conviction or for a subsequent conviction not described in (3) of this subsection; and

(3) \$9,000 for a third or subsequent conviction within a 10-year period.

(b) In addition, the court shall order forfeiture of any fish, or its fair market value, taken or retained as a result of the commission of the violation. For purposes of this subsection, it is a rebuttable presumption that all fish found on board a fishing vessel used in or in aid of a violation, or found at the fishing site, were taken or retained in violation of AS 16.05.440 — 16.05.690 or a commercial fisheries regulation of the Board of Fisheries or the department. It is the defendant's burden to show by a preponderance of the evidence that fish on board or at the site were lawfully taken and retained.

(c) A person charged with a violation under this section is entitled to a trial by court but not by jury, and is not entitled to representation at public expense.

Sec. 16.05.723. Misdemeanor commercial fishing penalties. (a) A person who negligently violates AS 16.05.440 — 16.05.690, or a regulation of the Board of Fisheries or the department governing commercial fishing, is guilty of a misdemeanor and in addition to punishment under other provisions in this title, including AS 16.05.195 and 16.05.710, is punishable upon conviction by a fine of not more than \$15,000 or by imprisonment for not more than one year, or by both. In addition, the court shall order forfeiture of any fish, or its fair market value, taken or retained as a result of the commission of the violation, and the court may forfeit any vessel and any fishing gear, including any net, pot, tackle, or other device designed or employed to take fish commercially, that was used in or in aid of the violation. Any fish, or its fair market value, forfeited under this subsection may not also be forfeited under AS 16.05.195. For purposes of this subsection, it is a rebuttable presumption that all fish found on board a fishing vessel used in or in aid of a violation, or found at the fishing site, were taken or retained in violation of AS 16.05.440 — 16.05.690 or a commercial fisheries regulation of the Board of Fisheries or the department, and it is the defendant's burden to show by a preponderance of the evidence that fish on board or at the site were lawfully taken and retained.

(b) If a person is convicted under this section of one of the following offenses, then, in addition to the penalties imposed under (a) of this section, the court may impose a fine equal to the gross value of the fish found on board or at the fishing site at the time of the violation:

(1) commercial fishing in closed waters;

(2) commercial fishing during a closed period or season;

(3) commercial fishing with unlawful gear, including a net, pot, tackle, or other device designed or employed to take fish commercially; or

(4) commercial fishing without a limited entry permit holder on board if the holder is required by law or regulation to be present.

(c) Upon a third misdemeanor conviction within a period of 10 years for an offense listed in (b) of this section or any combination of offenses listed in (b) of this section, the court shall impose, in addition to any penalties imposed under (a) of this section, a fine equal to three times the gross value of the fish found on board or at the fishing site at the time of the offense, or a fine equal to \$10,000, whichever is greater.

Article 5. Management of Fish and Fisheries.

Sec. 16.05.735. Management of offshore fisheries. The state may assume management of a fishery in offshore water adjacent to the state in the absence of a federal fishery management plan for the fishery or in the event that a federal fishery management plan for the fishery delegates authority to the state to manage the fishery in the United States exclusive economic zone.

Article 6. Miscellaneous Provisions.

Sec. 16.05.800. Public nuisances. A net, seine, lantern, snare, device, contrivance, and material while in use, had and maintained for the purpose of catching, taking, killing, attracting, or decoying fish or game, contrary to law or regulation of a board or the commissioner, is a public nuisance and is subject to abatement.

Sec. 16.05.810. Burden of proof. The possession of fish or game or a part of fish or game, or a nest or egg of a bird during the time the taking of it is prohibited is prima facie evidence that it was taken, possessed, bought, or sold or transported in violation of this chapter. The burden of proof is upon the possessor or claimant of it to overcome the presumption of illegal possession and to establish the fact that it was obtained and is possessed lawfully. This section does not apply

(1) during the first full 10 days after the time when a taking is prohibited, except as provided in (3) of this section;

(2) if the fish or game or part of fish or game is in a preserved condition whether frozen, smoked, canned, salted, pickled, or otherwise preserved; or

(3) with respect to crab aboard a commercial crab fishing vessel, during the first full three days after the time when a taking is prohibited.

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.

SELECTED ALASKA STATUTES

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 requester is a state or federal agency, if the requester is under contract with the state or federal agency to conduct research on a fish or wildlife population, or if the requester 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.

Article 9. General Provisions.

Sec. 16.05.905. Activities by aliens prohibited. (a) Alien persons not lawfully admitted to the United States are prohibited from engaging in commercial fishing activities or taking marine mammals in the territorial waters of the state as they presently exist or may be extended in the future.

(b) An alien person who violates (a) of this section is guilty of a misdemeanor, and upon conviction is punishable by a confiscation and forfeiture of the fishing vessel used in the violation, or by imprisonment for not more than one year, or by fine of not more than \$10,000, or by all or any two of the foregoing punishments.

Sec. 16.05.920. Prohibited conduct generally. (a) Unless permitted by AS 16.05 — AS 16.40 or by regulation adopted under AS 16.05 — AS 16.40, a person may not take, possess, transport, sell, offer to sell, purchase, or offer to purchase fish, game, or marine aquatic plants, or any part of fish, game, or aquatic plants, or a nest or egg of fish or game.

(b) A person may not knowingly disturb, injure, or destroy a notice, signboard, seal, tag, aircraft, boat, vessel, automobile, paraphernalia, equipment, building, or other improvement or property of the department used in the administration or enforcement of this title except AS 16.51 and AS 16.52, or a poster or notice to the public concerning the provisions of this title except AS 16.51 and AS 16.52, or a regulation adopted under this title except AS 16.51 and AS 16.52, or a marker indicating the boundary of an area closed to hunting, trapping, fishing, or other special use under this title except AS 16.51 and AS 16.52. A person may not knowingly destroy, remove, tamper with, or imitate a seal or tag issued or used by the department or attached under its authority to a skin, portion, or specimen of fish or game, or other article for the purpose of identification or authentication in accordance with this title except AS 16.51 and AS 16.52 or a regulation adopted under this title except AS 16.51 and AS 16.52.

Sec. 16.05.930. Exempted activities. (a) This chapter does not prevent the collection or exportation of fish and game, a part of fish or game or a nest or egg of a bird for scientific or educational purposes, or for propagation or exhibition purposes under a permit that the department may issue and prescribe the terms thereof.

(b) This chapter does not prohibit a person from taking fish or game during the closed season, in case of dire emergency, as defined by regulation adopted by the appropriate board.

(c) AS 16.05.920 and 16.05.921 do not prohibit rearing and sale of fish from private ponds, the raising of wild animals in captivity for food, or the raising of game birds for the purpose of recreational hunting on game hunting preserves, under regulations adopted by the appropriate board. In this subsection, “animals” includes all animal life, including insects and bugs.

(d) Nondomestic animals of any species may not be transferred or transported from the state under (a) of this section unless approved by the Board of Game in regular or special meeting. Animals transferred or transported under (a) of this section shall be animals that are certified by the department to be surplus and unnecessary to the sustained yield management of the resource. Each application for a permit under (a) of this section shall

be accompanied by a statement prepared by the department examining the probable environmental impact of the action.

(e) This chapter does not prevent the traditional barter of fish and game taken by subsistence hunting or fishing, except that the commissioner may prohibit the barter of subsistence-taken fish and game by regulation, emergency or otherwise, if a determination on the record is made that the barter is resulting in a waste of the resource, damage to fish stocks or game populations, or circumvention of fish or game management programs.

(f) A permit may not be required for possessing, importing, or exporting mink and fox for fur farming purposes.

(g) AS 16.05.330 — 16.05.723 do not apply to an activity authorized by a permit issued under AS 16.40.100 or 16.40.120, or to a person or vessel employed in an activity authorized by a permit issued under AS 16.40.100 or 16.40.120.

Sec. 16.05.940. Definitions.

In AS 16.05 — AS 16.40,

(1) “aquatic plant” means any species of plant, excluding the rushes, sedges, and true grasses, growing in a marine aquatic or intertidal habitat;

(2) “barter” means the exchange or trade of fish or game, or their parts, taken for subsistence uses

(A) for other fish or game or their parts; or

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

(3) “a board” means either the Board of Fisheries or the Board of Game;

(4) “commercial fisherman” means an individual who fishes commercially for, takes, or attempts to take fish, shellfish, or other fishery resources of the state by any means, and includes every individual aboard a boat operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, whether participation is on shares or as an employee or otherwise; however, this definition does not apply to anyone aboard a licensed vessel as a visitor or guest who does not directly or indirectly participate in the taking; “commercial fisherman” includes the crews of tenders or other floating craft used in transporting fish, but does not include processing workers on floating fish processing vessels who do not operate fishing gear or engage in activities related to navigation or operation of the vessel; in this paragraph “operate fishing gear” means to deploy or remove gear from state water, remove fish from gear during an open fishing season or period, or possess a gill net containing fish during an open fishing period;

(5) “commercial fishing” means the taking, fishing for, or possession of fish, shellfish, or other fishery resources with the intent of disposing of them for profit, or by sale, barter, trade, or in commercial channels; the failure to have a valid subsistence

permit in possession, if required by statute or regulation, is considered prima facie evidence of commercial fishing if commercial fishing gear as specified by regulation is involved in the taking, fishing for, or possession of fish, shellfish, or other fish resources;

(6) “commissioner” means the commissioner of fish and game unless specifically provided otherwise;

(7) “customary and traditional” means the noncommercial, long-term, and consistent taking of, use of, and reliance upon fish or game in a specific area and the use patterns of that fish or game that have been established over a reasonable period of time taking into consideration the availability of the fish or game;

(8) “customary trade” means the limited noncommercial exchange, for minimal amounts of cash, as restricted by the appropriate board, of fish or game resources; the terms of this paragraph do not restrict money sales of furs and furbearers;

(9) “department” means the Department of Fish and Game unless specifically provided otherwise;

(10) “domestic mammals” include musk oxen, bison, and reindeer, if they are lawfully owned;

(11) “domicile” means the true and permanent home of a person from which the person has no present intention of moving and to which the person intends to return whenever the person is away; domicile may be proved by presenting evidence acceptable to the boards of fisheries and game;

(12) “fish” means any species of aquatic finfish, invertebrate, or amphibian, in any stage of its life cycle, found in or introduced into the state, and includes any part of such aquatic finfish, invertebrate, or amphibian;

(13) “fish derby” means a contest in which prizes are awarded for catching fish;

(14) “fish or game farming” means the business of propagating, breeding, raising, or producing fish or game in captivity for the purpose of marketing the fish or game or their products, and “captivity” means having the fish or game under positive control, as in a pen, pond, or an area of land or water that is completely enclosed by a generally escape-proof barrier; in this paragraph, “fish” does not include shellfish, as defined in AS 16.40.199;

(15) “fish stock” means a species, subspecies, geographic grouping, or other category of fish manageable as a unit;

(16) “fish transporter” means a natural person who holds a fish transporter permit issued under AS 16.05.671;

(17) “fishery” means a specific administrative area in which a specific fishery resource is taken with a specific type of gear; however, the Board of Fisheries may designate a fishery to include more than one specific administrative area, type of gear, or

fishery resource; in this paragraph

(A) “gear” means the specific apparatus used in the harvest of a fishery resource; and

(B) “type of gear” means an identifiable classification of gear and may include

(i) classifications for which separate regulations are adopted by the Board of Fisheries or for which separate gear licenses were required by former AS 16.05.550 — 16.05.630; and

(ii) distinct subclassifications of gear such as “power” troll gear and “hand” troll gear or sport gear and guided sport gear;

(18) “fur dealing” means engaging in the business of buying, selling, or trading in animal skins, but does not include the sale of animal skins by a trapper or hunter who has legally taken the animal, or the purchase of animal skins by a person, other than a fur dealer, for the person’s own use;

(19) “game” means any species of bird, reptile, and mammal, including a feral domestic animal, found or introduced in the state, except domestic birds and mammals; and game may be classified by regulation as big game, small game, fur bearers or other categories considered essential for carrying out the intention and purposes of AS 16.05 — AS 16.40;

(20) “game population” means a group of game animals of a single species or subgroup manageable as a unit;

(21) “hunting” means the taking of game under AS 16.05 — AS 16.40 and the regulations adopted under those chapters;

(22) “nonresident” means a person who is not a resident of the state;

(23) “nonresident alien” means a person who is not a citizen of the United States and whose permanent place of abode is not in the United States;

(24) “operator” means the individual by law made responsible for the operation of the vessel;

(25) “person with developmental disabilities” means a person who presents to the department an affidavit signed by a physician licensed to practice medicine in the state stating that the person is experiencing a severe, chronic disability

(A) attributable to a mental or physical impairment or a combination of mental and physical impairments;

(B) that is manifested before the person reaches 18 years of age;

(C) that is likely to continue indefinitely;

(D) that results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language,

learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency;

(E) that reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated;

(F) and that the person is not a danger to themselves or others; and

(G) and that the person does not suffer from a mental illness; in this subparagraph, "mental illness" means an organic, mental, or emotional impairment that has substantial adverse effects on a person's ability to exercise conscious control of the person's actions or ability to perceive reality or to reason or understand.

(26) "person with physical disabilities" means a person who presents to the department either written proof that the person receives at least 70 percent disability compensation from a government agency for a physical disability or an affidavit signed by a physician licensed to practice medicine in the state stating that the person is at least 70 percent physically disabled;

(27) "personal use fishing" means the taking, fishing for, or possession of finfish, shellfish, or other fishery resources, by Alaska residents for personal use and not for sale or barter, with gill or dip net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(28) "resident" means

(A) a person who for the 12 consecutive months immediately preceding the time when the assertion of residence is made has maintained the person's domicile in the state and who is neither claiming residency in another state, territory, or country nor obtaining benefits under a claim of residency in another state, territory, or country;

(B) a partnership, association, joint stock company, trust, or corporation that has its main office or headquarters in the state; a natural person who does not otherwise qualify as a resident under this paragraph may not qualify as a resident by virtue of an interest in a partnership, association, joint stock company, trust, or corporation;

(C) a member of the military service, or United States Coast Guard, who has been stationed in the state for the 12 consecutive months immediately preceding the time when the assertion of residence is made;

(D) a person who is the dependent of a resident member of the military service, or the United States Coast Guard, and who has lived in the state for the 12 consecutive months immediately preceding the time when the assertion of residence is made; or

(E) an alien who for the 12 consecutive months immediately preceding the time when the assertion of residence is made has maintained the person's domicile in the state and who is neither claiming residency in another state, territory, or country nor obtaining benefits under a claim of residency in another state, territory, or country;

(29) “rural area” means a community or area of the state in which the noncommercial, customary, and traditional use of fish or game for personal or family consumption is a principal characteristic of the economy of the community or area;

(30) “seizure” means the actual or constructive taking or possession of real or personal property subject to seizure under AS 16.05 — AS 16.40 by an enforcement or investigative officer charged with enforcement of the fish and game laws of the state;

(31) “sport fishing” means the taking of or attempting to take for personal use, and not for sale or barter, any fresh water, marine, or anadromous fish by hook and line held in the hand, or by hook and line with the line attached to a pole or rod which is held in the hand or closely attended, or by other means defined by the Board of Fisheries;

(32) “subsistence fishing” means the taking of, fishing for, or possession of fish, shellfish, or other fisheries resources by a resident domiciled in a rural area of the state for subsistence uses with gill net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(33) “subsistence hunting” means the taking of, hunting for, or possession of game by a resident domiciled in a rural area of the state for subsistence uses by means defined by the Board of Game;

(34) “subsistence uses” means the noncommercial, customary and traditional uses of wild, renewable resources by a resident domiciled in a rural area of the state for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption; in this paragraph, “family” means persons related by blood, marriage, or adoption, and a person living in the household on a permanent basis;

(35) “take” means taking, pursuing, hunting, fishing, trapping, or in any manner disturbing, capturing, or killing or attempting to take, pursue, hunt, fish, trap, or in any manner capture or kill fish or game;

(36) “taxidermy” means tanning, mounting, processing, or other treatment or preparation of fish or game, or any part of fish or game, as a trophy, for monetary gain, including the receiving of the fish or game or parts of fish or game for such purposes;

(37) “trapping” means the taking of mammals declared by regulation to be fur bearers;

(38) “vessel” means a floating craft powered, towed, rowed, or otherwise propelled, which is used for delivering, landing, or taking fish within the jurisdiction of the state, but does not include aircraft.

Chapter 10. Fisheries and Fishing Regulations.

Article 2. Interference with Commercial Fishing Gear.

Sec. 16.10.055. Interference with commercial fishing gear. A person who wilfully or with reckless disregard of the consequences, interferes with or damages the commercial fishing gear of another person is guilty of a misdemeanor. For the purposes of this section “interference” means the physical disturbance of gear which results in economic loss or loss of fishing time, and “reckless disregard of the consequences” means a lack of consideration for the consequences of one’s acts in a manner that is reasonably likely to damage the property of another.

Article 7. Purchase of Fish.

Sec. 16.10.265. Purchase of fish from permit holders. (a) An individual may not, while acting as a fish processor or primary fish buyer, or as an agent, director, officer, member, or employee of a fish processor, of a primary fish buyer, or of a cooperative corporation organized under AS 10.15, intentionally or knowingly make an original purchase of fish from a seller who does not hold

(1) a landing permit, an entry permit, or an interim-use permit; or

(2) a fish transporter permit under AS 16.05.671.

(b) An individual who violates (a) of this section is

(1) upon a first conviction, guilty of a class B misdemeanor and shall be sentenced to a fine of not less than \$1,000 nor more than \$5,000, and may be sentenced to a definite term of imprisonment of not more than 90 days;

(2) upon a second conviction, guilty of a class A misdemeanor and shall be sentenced to a fine of not less than \$5,000 nor more than \$10,000, and may be sentenced to a definite term of imprisonment of not more than one year;

(3) upon a third or subsequent conviction, guilty of a class A misdemeanor and shall be sentenced to a fine of not less than \$10,000 nor more than \$25,000, and may be sentenced to a definite term of imprisonment of not more than one year.

(c) The commissioner of revenue shall impose upon a fish processor, primary fish buyer, or cooperative corporation organized under AS 10.15, a civil fine equal to the value of fish purchased in violation of this section by (1) the fish processor or primary fish buyer if the fish processor or primary fish buyer is not a corporation; or (2) a director, officer, or employee in a policy-making position of the fish processor, of the primary fish buyer, or of the cooperative corporation. Value is based on the average price paid to fishermen at the time of the violation.

(d) The commissioner of commerce, community, and economic development may suspend or revoke a business license issued under AS 43.70.020 and the commissioner of revenue may suspend or revoke a license to engage in the business of processing or buying raw fish if the licensee or an officer, director, or employee in a policy-making

position of the licensee has been convicted of three offenses under this section. Proceedings to suspend or revoke a license are governed by AS 44.62 (Administrative Procedure Act).

- (e) An organization may not be criminally prosecuted under (a) of this section.
- (f) In this section, “individual” means a natural person.

Sec. 16.10.267. Possession of permit and identification by seller. (a) When a fisherman sells fish, the fisherman shall possess

(1) a landing permit, entry permit, or interim-use permit issued or transferred to the fisherman under AS 16.43, or other document authorized by regulation to be used in place of an entry permit or interim-use permit; and

(2) an identification card that has been issued to the fisherman by a state or federal agency or other organization designated by the Department of Public Safety and that bears a photograph of the fisherman.

(b) If requested by the purchaser of the fish or by a peace officer, the fisherman or fish transporter shall present for inspection the identification card, entry permit, interim-use permit, fish transporter permit, or other document required to be in the fisherman’s or the fish transporter’s possession under (a) or (d) of this section.

(c) Examples of a suitable identification card required under (a)(2) and (d)(2) of this section are a motor vehicle operator’s license issued under AS 28.15.111 and an identification card issued under AS 18.65.310.

(d) When a fish transporter sells fish as the agent of the commercial fisherman who caught the fish, the fish transporter shall possess

(1) a fish transporter permit and the fish ticket completed by the fish transporter under AS 16.05.671(d); and

(2) an identification card that has been issued to the fish transporter by a state or federal agency or other organization designated by the Department of Public Safety and that bears a photograph of the fish transporter.

(e) A person who violates this section is, upon conviction, guilty of a class B misdemeanor and may be sentenced to a definite term of imprisonment of not more than 90 days. In addition

(1) upon a first conviction for a violation of this section, the court may sentence the convicted person to pay a fine of not more than \$5,000 and may order the loss of commercial fishing privileges for a period of not more than three years from the date of conviction;

(2) upon a second conviction for a violation of this section, the court may sentence the convicted person to pay a fine of not more than \$10,000 and may order the loss of commercial fishing privileges for a period of not more than three years from the date of

conviction;

- (3) upon a third or subsequent conviction for a violation of this section, the court
(A) may sentence the convicted person to pay a fine of not more than \$10,000;

and

(B) shall order that the convicted person lose commercial fishing privileges for a period of three years from the date of conviction.

Sec. 16.10.270. Purchase of fish by the pound. (a) A fish processor or primary fish buyer shall purchase raw fish by the pound. The poundage of the fish to be purchased shall be determined by weighing the fish unless both the buyer and seller agree in writing upon a sample weighing technique that will fairly determine the average weight of the fish purchased.

(b) A person who violates this section is guilty of a misdemeanor and upon conviction is punishable by imprisonment for not more than one year, or by a fine of not more than \$5,000, or by both.

Sec. 16.10.296. Definitions. In AS 16.10.265 — 16.10.296, unless the context otherwise requires,

(1) “commissioner” means the commissioner of labor and workforce development;

(2) “fish” means any species of aquatic finfish, invertebrates and amphibians, shellfish, or any other raw fishery resource, in any stage of its life cycle, found in or introduced into the state, and includes fish eggs except fish eggs sold for stock enhancement purposes;

(3) “fish processor” means a person engaging or attempting to engage in a business for which a license is required under AS 43.75;

(4) “primary fish buyer” means a person, other than a cooperative corporation organized under AS 10.15, engaging or attempting to engage in the business of originally purchasing or buying any fishery resource in intrastate, interstate, or foreign commerce.

Chapter 43. Regulation of Entry into Alaska Commercial Fisheries.

Article 1. Alaska Commercial Fisheries Entry Commission.

Sec. 16.43.100. Duties and general powers. (a) To accomplish the purposes set out in AS 16.43.010, the commission shall

(1) regulate entry into the commercial fisheries for all fishery resources in the state;

(2) establish priorities for the application of the provisions of this chapter to the various commercial fisheries of the state;

(3) establish administrative areas suitable for regulating and controlling entry into

the commercial fisheries;

(4) establish, for all types of gear, the maximum number of entry permits for each administrative area;

(5) designate, when necessary to accomplish the purposes of this chapter, particular species for which separate interim-use permits or entry permits will be issued;

(6) establish qualifications for the issuance of entry permits;

(7) issue entry permits to qualified applicants;

(8) issue interim-use permits as provided in AS 16.43.210, 16.43.220, and 16.43.225;

(9) establish, for all types of gear, the optimum number of entry permits for each administrative area;

(10) administer the buy-back program provided for in AS 16.43.310 and 16.43.320 to reduce the number of outstanding entry permits to the optimum number of entry permits;

(11) provide for the transfer and reissuance of entry permits to qualified transferees;

(12) provide for the transfer and reissuance of entry permits for alternative types of legal gear, in a manner consistent with the purposes of this chapter;

(13) establish and administer the collection of the annual fees provided for in AS 16.43.160;

(14) administer the issuance of commercial fishing vessel licenses under AS 16.05.490;

(15) issue educational entry permits to applicants who qualify under the provisions of AS 16.43.340 — 16.43.390;

(16) establish reasonable user fees for services;

(17) issue landing permits under AS 16.05.675 and regulations adopted under that section;

(18) establish and collect annual fees for the issuance of landing permits that reasonably reflect the costs incurred in the administration and enforcement of provisions of law related to landing permits;

(19) establish a moratorium on entry into commercial fisheries as provided in AS 16.43.225;

(20) when requested by a regional development organization formed under former

AS 44.33.895, provide to the organization, without charge, public information contained in the commission's data with respect to relevant fisheries, including limited fisheries, fishery participants, and limited entry permit holders' harvests and earnings; and

(21) administer, when necessary to accomplish the purposes of this chapter, a Bering Sea hair crab fishery vessel permit system under AS 16.43.451 — 16.43.521.

(b) The commission may do all things necessary to the exercise of its powers under this chapter, whether or not specifically designated in this chapter.

Article 2. Entry Permit System.

Sec. 16.43.140. Permit required. (a) A person may not operate gear in the commercial taking of fishery resources without a valid entry permit or a valid interim-use permit issued by the commission.

(b) A permit is not required of a crewmember or other person assisting in the operation of a unit of gear engaged in the commercial taking of fishery resources as long as the holder of the entry permit or the interim-use permit for that particular unit of gear is at all times present and actively engaged in the operation of the gear.

(c) A person may hold more than one interim-use or entry permit issued or transferred under this chapter only for the following purposes:

(1) fishing more than one type of gear;

(2) fishing in more than one administrative area;

(3) harvesting particular species for which separate interim-use or entry permits are issued;

(4) if authorized by regulations of the commission, fishing an entire unit of gear in a fishery in which the commission has issued entry permits for less than a unit of gear under AS 16.43.270(d); under this paragraph, a person may not hold more than two entry permits for a fishery; however, the person may not

(A) fish more than one unit of gear in the fishery; or

(B) acquire a second entry permit for the fishery after the person has acquired an entry permit that authorizes the use of an entire unit of gear in the fishery;

(5) consolidation of the fishing fleet for a salmon fishery; however, a person may hold not more than two entry permits for a salmon fishery under this paragraph, but the person who holds two entry permits for a salmon fishery may not engage in fishing under the second entry permit.

Sec. 16.43.150. Terms and conditions of entry permit; annual renewal. (a) Except as may be otherwise provided under AS 16.43.270(d), an entry permit authorizes the permittee to operate a unit of gear within a specified fishery.

(b) The holder of an entry permit shall have the permit in possession at all times when

engaged in the operation of gear for which it was issued.

(c) Each entry permit is issued for a term of one year and is renewable annually.

(d) Failure to renew an entry permit for a period of two years from the year of last renewal results in a forfeiture of the entry permit to the commission, except as waived by the commission for good cause. An entry permit may not be renewed until the fees for each preceding year during which the entry permit was not renewed are paid. However, failure to renew an entry permit in a year in which there is an administrative closure for the entire season for a specific fishery is good cause not to renew the entry permit. The commission shall waive the payment of fees for that year.

(e) An entry permit constitutes a use privilege that may be modified or revoked by the legislature without compensation.

(f) Except for permits that are not transferable under AS 16.43.170(e), an entry permit survives the death of the holder.

(g) Except as provided in AS 16.10.333 — 16.10.338, AS 44.81.215, 44.81.225, and 44.81.231 — 44.81.250, an entry permit may not be

(1) pledged, mortgaged, leased, or encumbered in any way;

(2) transferred with any retained right of repossession or foreclosure, or on any condition requiring a subsequent transfer; or

(3) attached, distrained, or sold on execution of judgment or under any other process or order of any court, except as provided in AS 16.43.170(g) and (h).

(h) Unless an entry permit holder has expressed a contrary intent in a will that is probated, the commission shall, upon the death of the permit holder, transfer the permanent permit by right of survivorship directly to the surviving spouse or, if no spouse survives, to a natural person designated by the permit holder on a form provided by the commission. If no spouse survives and if the person designated on the form, if any, does not survive, the permit passes as part of the permit holder's estate. A designation under this subsection must be acknowledged before a person authorized to administer an oath under AS 09.63.010 or must be witnessed by two persons who are qualified under AS 13.12.505 to witness the will of the permit holder. Except as provided in AS 16.10.333 — 16.10.337, AS 44.81.215, and 44.81.231 — 44.81.250, the permit is exempt from the claims of creditors of the estate.

(i) The holder of a transferable or nontransferable entry permit or of an interim-use permit may voluntarily relinquish the permit to the commission.

Article 9. General Provisions.

Sec. 16.43.950. Applications of regulations of Board of Fisheries. Nothing in this chapter limits the powers of the Board of Fisheries, including the power to determine legal types of gear and the power to establish size limitations or other uniform restrictions

applying to a certain type of gear. Holders of interim-use permits or entry permits issued under this chapter are subject to all regulations adopted by the Board of Fisheries.