

ALASKA DEPARTMENT OF FISH AND GAME

Staff Comments on proposals for

Board of Fisheries Statewide finfish meeting

Anchorage, Alaska

November 12 - 17, 2003



These staff comments were prepared by the Alaska Department of Fish and Game for use at the Alaska Board of Fisheries Statewide Finfish meeting, November 12 - 17, 2003, in Anchorage Alaska. The comments are designed to assist the public and board. The stated staff comments should be considered preliminary and subject to change, if or when new information becomes available.

TABLE OF CONTENTS:

Proposal Number:	Subject matter for staff comments:	Page Number:
Proposal 2	Amend the Policies for Sustainable Salmon and Escapement goals	3
Proposal 3	Amend the Policy for Sustainable Salmon	4
Proposal 4	Amend the Policy for Sustainable Salmon	6
Proposal 5	Amend the Policy for statewide escapement goals	7
Proposal 6	Amend commercial fisheries definitions	8
Proposal 7	Allow the use of single strand monofilament web	9
Proposal 8	Amend statewide definition of drift gillnet	11
Proposal 9	Amend statewide definition of drift gillnet	12
Proposal 10	Provide for requirement of roe reporting on fish tickets	13
Proposal 11	Withdrawn by department	
Proposal 12	Eliminate requirement for reporting personal use catch	18
Proposal 13	Eliminate the requirement of sport license for Personal use	19
Proposal 14	Modify emergency order authority in sport fish	20
Proposal 15	Delegate to department new emergency order authority	21
Proposal 16	Prohibit guides from fishing when clients are present-statewide	22
Proposal 17	Repeal sport fish business and guide registration regulations	23
Proposal 18	Implement a statewide policy for wild Dolly Varden	24
Proposal 19	Amend statewide wild trout policy	26
Proposal 20	Establish process for recommending river and watershed concerns	28
Proposal 21	Require anglers to present sport gear to authority when requested	29
Proposal 22	Clarify the use of live bait in salt water sport fisheries	30
Proposal 23	Amend the language regarding the use of gaffs in sport fishery	31
Proposal 24	Apply sport fishing regulations in the EEZ	32
Proposal 25	Create statewide disability regulation	34
Proposal 26	Amend regulations regarding attractors in sport fishery	35
Proposal 27	Allow children under a certain age to use bait in sport fishery	36
Proposal 28	Prohibit anchoring in offshore areas	37
Proposal B	Clarify fish taken for personal use can not be used commercially	38
ACR 3	Adjust Southeast commercial Salmon Troll Season	40
ACR 21	Amend Southeast golden king and Tanner crab regulations	42

PROPOSAL 2: 5 AAC 39.222. POLICY FOR THE MANAGEMENT OF SUSTAINABLE SALMON FISHERIES., AND 5 AAC 39.223. POLICY FOR STATEWIDE SALMON ESCAPEMENT GOALS.

WHAT WOULD THE PROPOSAL DO? This proposal adds the option of defining sustainable escapement goals (SEGs) and optimal escapement goals (OEGs) as lower thresholds to both policies; keeps the biological escapement goal (BEG) as the default goal for a stock, but only when possible and desirable to do so; clarifies several ambiguities; and adds the criterion that SEGs are to be scientifically defensible to these policies.

WHAT ARE THE CURRENT REGULATIONS? The department determines BEGs and SEGs, and the Board OEGs, as described in 5 AAC 39.222 and 5 AAC 39.223. All three types of goals are to be expressed exclusively as ranges (5 AAC 39.222(f)(3,25,36)). Given no management plan, the department is to use the BEG as the default goal whenever possible see 5 AAC 39.222(c)(2)(B) regardless of any extraordinary disruption to established fisheries. By policy the BEG is to be based on the best scientific information available and be scientifically defensible; the SEG must only meet the first criterion see 5 AAC 39.222(f)(36). Ambiguity arises from phrases such as “normal ecosystem functioning” see 5 AAC 39.222(c)(2)(G), “consistently demonstrated” as in 5 AAC 39.222(f)(39), and “yield of the fishery resource” see 5 AAC 39.222(d)(2)(E).

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? There would be better understanding of concepts in the policy, a higher standard for determining SEG’s, and added flexibility in the kind of escapement goals that could be set.

BACKGROUND: The POLICY FOR THE MANAGEMENT OF SUSTAINABLE SALMON FISHERIES and the POLICY FOR STATEWIDE SALMON ESCAPEMENT were placed in regulation in 2000 and 2001, respectively. Since then attempts to apply these regulations have revealed the need to revise parts of these policies if their intent is to be realized.

DEPARTMENT COMMENTS: The department submitted and SUPPORTS this proposal as a means of adjusting policies according to lessons learned in their application.

COST ANALYSIS: The adoption of this proposal is not expected to add any direct cost for a private person to participate in this fishery.

PROPOSAL 3: 5 AAC 39.222. POLICY FOR THE MANAGEMENT OF SUSTAINABLE SALMON FISHERIES.

WHAT WOULD THE PROPOSAL DO? This proposal would require that where practicable the management of salmon fisheries would be to achieve maximum sustained yield from all important/dominant/stronger stocks so long as yields from other stocks are sustainable. The commissioner would be given the responsibility to do so, regardless of the allocative consequences of the decisions, as long as escapement goals are met.

The proposal would delete the concept of optimal escapement goals (OEGs) from the policy and define the concepts of “conservation” and “emergency”. Concepts introduced in Proposal 3 of “important and dominant stocks” and strength of stocks are not defined.

WHAT ARE THE CURRENT REGULATIONS? Under 5 AAC 39.222(c)(2)(B), one of the principles for fisheries management is that “salmon escapement goals ...should be established in a manner consistent with sustained yield; unless otherwise directed, the department will manage ... to the extent possible for maximum sustained yield;”. Under paragraph (d) in the same policy, both the department and board are jointly authorized to apply principles of fisheries management described in paragraph (c). Several references to OEGs are to be found throughout 5 AAC 39.222, especially as the concept is defined in (f)(25) and (f)(26). The POLICY FOR MANAGEMENT OF MIXED STOCK SALMON FISHERIES 5 AAC 39.220(a) also states that “conservation of wild salmon stocks consistent with sustained yield shall be accorded the highest priority (in management of mixed-stock fisheries).”

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? Managing fisheries to obtain maximum sustained yield would become the imperative with decisions concerning the methods and means of doing so resting solely with the commissioner. As written under 5 AAC 39.222(f)(3) and (f)(36), biological escapement goals (BEGs) and sustainable escapement goals (SEGs) “ ... will be determined by the department ...”. Since proposal 3 removes the concept of optimum yield and OEGs from the policy, the board would be potentially limited in its ability to formulate management plans and thereby allocate surpluses among users, or to distribute the burden of conservation per 5 AAC 39.222(c)(4)(D) (“ ...the burden of conservation shall be shared among all fisheries in close proportion to each fisheries' respective use ... consistent ... with AS 16.05.251 and AS 16.05.258”). By default, allocations among users would be a consequence of circumstances surrounding meeting escapement goals for one or more important stocks depending on which stock(s) the commissioner selects as being “important” or “dominant”.

BACKGROUND: The board’s authority to allocate fisheries resources among users lies in statute (AS 16.05.251 and AS 16.05.258). In denying the board this mandate, proposal 3 as a regulation is in conflict with statute. Furthermore, failure to provide criteria for what constitutes “important and dominant stocks” in proposal 3 adds ambiguity as to which stocks would be the focus of fisheries management in a mixed-stock fishery.

DEPARTMENT COMMENTS: The Department is OPPOSED to this proposal because it conflicts with the board's statutory authority to allocate surplus production or the burden of conservation per AS 16.05.251(d) and (e) and AS 16.05.258.

COST ANALYSIS: The department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.

PROPOSAL 4: 5 AAC 39.222. POLICY FOR THE MANAGEMENT OF SUSTAINABLE SALMON FISHERIES.

WHAT WOULD THE PROPOSAL DO? This proposal seeks to restrict nonresidents before residents during times of conservation.

WHAT ARE THE CURRENT REGULATIONS? Subsection 5 AAC 39.222(c)(4)(D) contains guidance on how the burden of conservation is to be shared among users. Unless specified otherwise in a management plan, “the burden of conservation shall be shared among all fisheries in close proportion to each fisheries' respective use, consistent with state and federal law ... including AS 16.05.251 and AS 16.05.258”. A preference for subsistence users is established in AS 16.05.258. Participation in personal use fisheries is limited to Alaska residents.

Under AS 16.05.251(a)(15) the board is given authority to “(regulate) resident and nonresident sport fishermen as needed for conservation” as per criteria given in AS 16.05.251(e)(2) (the number(s) of residents and nonresidents who have participated in each fishery and can reasonably be expected to participate in the future) and AS 16.05.251(e)(7) (importance of each fishery in providing recreational opportunities for residents and nonresidents).

The Board of Fisheries does not have the statutory authority to restrict nonresident commercial fishermen. A statement on sharing the burden of conservation is also found in 5 AAC 39.220(b) (POLICY FOR THE MANAGEMENT OF MIXED STOCK SALMON FISHERIES) “... the burden of conservation shall be shared among all fisheries in close proportion to their respective harvest on the stock of concern.”

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? Without deleting subsection 5 AAC 39.222(c)(4)(D), adoption of Proposal 4 will put an inconsistency in the policy. With deletion of this subsection and adoption of the proposal, the burden of conservation would fall first on nonresident sport users regardless of circumstances. If the conservation burden is great enough, all nonresident sport fishers would be excluded from consumptive fishing before harvests by residents or nonresidents in any other fishery would be reduced.

BACKGROUND: The board currently has authority under AS 16.05.251(a)(15) to consider residence in Alaska as one of several factors in allocating harvests between sport fishers “as needed”. No such authority exists in statute for commercial fisheries; subsistence use has priority in statute; and personal use is restricted to residents. Given these circumstances adoption of this proposal and deletion of subsection 5 AAC 39.222(c)(4)(D), the burden of conservation would fall first and exclusively on nonresident sport users in every instance that nonresidents participate in sport fisheries. If adopted, this proposal would exclude options permitted the board in statute by restricting the board in regulation to one criterion (residence) in one fishery (sport).

DEPARTMENT COMMENTS: The Department is NEUTRAL on this allocative proposal.

COST ANALYSIS: The department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.

PROPOSAL 5: 5 AAC 39.223. POLICY FOR STATEWIDE SALMON ESCAPEMENT GOALS.

WHAT WOULD THE PROPOSAL DO? The proposal requires that to the extent practicable and with the assistance of the department, the board will estimate the economic loss to traditional user groups when adopting an OEG instead of a BEG. This proposal does not preclude reporting of differences in expected yield or economic gain when an OEG has been adopted.

WHAT ARE THE CURRENT REGULATIONS? Under 5 AAC 39.223(c)(2) the board is directed to report, when practicable and with the assistance from the department, the estimated difference in expected yield (fish harvested) from a stock when an OEG is adopted in lieu of a BEG.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? If adopted this proposal would change the common currency of fish caught from a stock to dollars lost by users when considering adoption of an OEG over adoption of a BEG.

BACKGROUND: The proposed change is consistent with criteria given to the board under statute AS 16.05.251(5,6) for allocating fisheries resources as per economic considerations. However, that consideration is not restricted in statute to “losses”, nor is it the only possible consideration. While harvested fish is the primary objective common to almost all user groups, economic gain is the objective to only a few groups, notably commercial fishers and sport fishing guides.

DEPARTMENT COMMENTS: The Department is OPPOSED to this proposal and believes the current regulatory language addresses, to the extent practical, effects of changes in escapement goals resulting from adoption of OEG’s by the board.

COST ANALYSIS: The department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.

PROPOSAL 6: 5 AAC 39.975(22). DEFINITIONS.

WHAT WOULD THE PROPOSAL DO? This proposal would clarify the definition of operations of commercial fishing gear.

WHAT ARE THE CURRENT REGULATIONS? The current definition includes the deployment of gear into the water and the removal of gear from the water.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? This proposal would add the act of having gear deployed into the water to the definition of operation of commercial fishing gear.

BACKGROUND: The current definition of operation of commercial fishing gear includes deployment and removal of gear from the water but does not specifically include gear that is already deployed and fishing. Under certain circumstances the legal interpretation by the courts could preclude enforcement action against violators when enforcement personnel did not specifically observe the violator deploy or remove the gear, i.e.; shellfish pots, set gillnets, longlines, etc. that are found fishing unattended in violation of regulations. In circumstances where enforcement personnel do not observe deployment or removal of gear, enforcement actions may be prevented under the current definition. Common sense dictates that gear in the water and fishing is operating, however, the legal description of operation does not presently include this.

DEPARTMENT COMMENTS: The Department of Public Safety submitted and SUPPORTS this proposal as it adds clarity to the present definition. The Department of Fish and Game also SUPPORTS this proposal.

COST ANALYSIS: The Department does not believe that approval of this proposal will result in an additional direct cost for the private person to participate in this fishery.

PROPOSAL 7: 5 AAC 39.250. GILLNET SPECIFICATIONS AND OPERATIONS.

WHAT WOULD THE PROPOSAL DO? This proposal would allow the use of single strand monofilament webbing in salmon gillnets.

WHAT ARE THE CURRENT REGULATIONS? The current regulations require that salmon gillnet web must contain either 30 filaments of equal diameter, or contain at least six filaments, each of which must be a minimum of 0.20 millimeter in diameter.

(c) Gillnet web must contain at least 30 filaments, except that

(1) in the Southeast Alaska, Yakutat, PrinceWilliam Sound, and Cook Inlet Areas, gillnet must meet one of the following requirements:

(A) the web must contain at least 30 filaments and all filaments must be of equal diameter, or

(B) the web must contain at least six filaments, each of which must be at least 0.20 millimeter in diameter.

(2) the requirements contained in (1)(A) and (1)(B) of this subsection apply in the Kodiak, Chignik, Aleutian Islands, Alaska Peninsula, Bristol, Bay, Kuskokwim, Yukon-Northern, Norton Sound-Clarence Areas.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? If this proposal were adopted, monofilament gillnets could be used in the Alaska salmon fisheries, as well as the multifilament nets currently allowed.

BACKGROUND: In the process of preparing these comments, the department contacted Seattle Marine and Fishing Supply Company and Jovanovich Supply, two commercial fishing net suppliers with a long history of selling gillnets in Alaska and the Pacific Northwest. They supplied some of the background information contained in this section of the staff comments.

Monofilament gillnets are used to harvest salmon in Puget Sound, the Columbia River, and California. Neither, Alaska or British Columbia, allows them to be used to harvest salmon. Monofilament web is used in the Alaska herring gillnet fisheries.

There appear to be four questions bearing on the consideration of this proposal. The first is cost; the reason given by the author for submitting the proposal. Prices vary for Alaska gillnet web, but monofilament appears to be at least 30% cheaper than currently legal Alaska multifilament web.

The second issue is relative fish catching effectiveness. We have submitted to the board a study that sought to evaluate the effectiveness of four types of gillnets, including monofilament, in catching salmon. This study was conducted by the department in Southeast Alaska during 1987.

This study is certainly not conclusive, but it did show a general increase in catch efficiency for pink salmon associated with a decrease in the number of filaments. It also showed that six strand

and monofilament web increased the harvest of chum and coho salmon taken in clear water, but not in turbid water. Finally, no significant differences were found for sockeye salmon.

The opinions of the representatives of Seattle Marine and Jovanovich Supply were that the difference in efficiency between monofilament and the current Alaska legal multifilament were relatively insignificant.

The third issue regards drop outs. These are salmon that escape, either alive or dead, from gillnets after having been entangled. It was the personal view of both representatives of the two gear suppliers that monofilament gear can be expected to have a higher drop out rate, especially in rough weather, than multifilament gear. We were unable to find any studies comparing the rate of drop out of monofilament gillnet web compared to the current Alaska legal multifilament web.

A fourth issue is the relative biodegradability of the different types of nets. This concern is associated with abandoned or lost nets and their continued ability to kill fish. According to the representatives with whom we spoke, monofilament nets and the current multifilament nets in use in Alaska are manufactured with the same material. They would not expect to see any significant differences in rate of decay between the current legal nets in Alaska and monofilament nets.

DEPARTMENT COMMENTS: The department is NEUTRAL on this proposal. If this proposal was to pass and the department acquired evidence that monofilament gear had increased harvesting efficiency of gillnets in specific fisheries, the department would adjust time or area in those fisheries, as necessary, to maintain escapements or stay within allocations set by the board.

COST ANALYSIS: The department believes the passage of this proposal would reduce the cost to participate in Alaska's salmon gillnet fisheries by reducing the cost of gillnet web used in these fisheries.

PROPOSAL 8: 5AAC 39.105(d)(3). TYPES OF LEGAL GEAR.

WHAT WOULD THE PROPOSAL DO? This proposal would amend the statewide definition of a drift gillnet to require that it must “drift in common with all other drift nets.”

WHAT ARE THE CURRENT REGULATIONS? The current regulation 5AAC 39.105 (d)(3) states: “a drift gillnet is a drifting gillnet that has not been intentionally staked, anchored, or otherwise fixed;”

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? The proposer is seeking added clarity to the definition of a drift gillnet on a statewide basis. The proposed change would actually have the opposite effect. A new definition of “drift in common” would have to be adopted; otherwise it would be subject to the individual interpretations by law enforcement the proposer is seeking to avoid. Defining this concept may prove difficult. For instance; what if one fisherman used a heavier lead line on a net than the other fishermen in the area, would that net still “drift in common” with other nets when it came in contact with the bottom? Additionally, web size, methods of construction, and other factors affect the way a net “drifts” when it is in contact with the bottom.

BACKGROUND: This is not a statewide problem. Bristol Bay is the main fishing area where many complaints are received each season relating to this issue. In 2000, the Department of Public Safety submitted a proposal to modify the statewide definition of a drift gillnet. This proposal met with wide criticism from a number of commercial fishing groups around the state. These groups universally pointed out that this is not a statewide problem, it is a problem mainly associated with Bristol Bay and to some degree, the Copper River Flats. These areas are shallow and drift nets often come in contact with the bottom. In Bristol Bay complaints are received each season that drift net vessels go aground or position one end of the drift net above the water line on sand bars to “hold” sets to give these fishermen an advantage over others who drift freely with the currents and wind.

DEPARTMENT COMMENTS: The Department of Public Safety OPPOSES this proposal as a statewide proposal and feels that the issue will best be addressed under proposals on this topic currently pending for the Bristol Bay meeting. The Department of Fish and Game also OPPOSES this proposal and believes it would be best addressed during the Bristol Bay meeting.

COST ANALYSIS: The Department does not believe that approval of this proposal will result in an additional direct cost for the private person to participate in this fishery.

PROPOSAL 9: 5AAC 39.105(d)(3). TYPES OF LEGAL GEAR.

WHAT WOULD THE PROPOSAL DO? This proposal would modify the statewide definition of a drift gillnet.

WHAT ARE THE CURRENT REGULATIONS? The current regulation 5AAC 39.105(d)(3) states: “a drift gillnet is a drifting gillnet that has not been intentionally staked, anchored, or otherwise fixed;”

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? The proposed language states:

"(3) a drift gillnet is a [DRIFTING] gillnet that has not been **permanently** [INTENTIONALLY] staked, anchored, or otherwise fixed **at both ends to a specific location.** **A drift net which is temporarily dry on the beach or sand bar is not a set gillnet.**"

The proposed language would allow drift nets to be fixed in position as long as they were not permanently fixed at both ends (suggesting that they may be permanently fixed at one end). This would allow drift net fishermen to use temporary mooring devices and techniques such as boat anchors, tie-up lines to docks or other structures, allow the end of the net to go dry with the tide, ground the vessel, or any “temporary” way of fixing a drift net in position. This proposal would effectively convert drift nets into set nets by allowing a fisherman to anchor the net at both ends so long as the anchoring devices used are not “permanent.” This proposal would require several definitions, which may prove difficult to formulate. “Permanently staked, anchored, or otherwise fixed” would need to be defined and “dry on the beach or sand bar” would need further language to clarify.

BACKGROUND: This is not a statewide problem. Bristol Bay is the main fishing area where many complaints are received each season relating to this issue. In 2000, the Department of Public Safety submitted a proposal to modify the statewide definition of a drift gillnet. This proposal met with wide criticism from a number of commercial fishing groups around the state. These groups universally pointed out that this is not a statewide problem, it is a problem mainly associated with Bristol Bay and to some degree, the Copper River Flats. These areas are shallow and drift nets often come in contact with the bottom. In Bristol Bay complaints are received each season that drift net vessels go aground or position one end of the drift net above the water line on sand bars to “hold” sets to give these fishermen an advantage over others who drift freely with the currents and wind.

DEPARTMENT COMMENTS: The Department of Public Safety and the Department of Fish and Game OPPOSES this proposal as a statewide proposal and feels that the issue will best be addressed under proposals on this topic currently pending for the Bristol Bay meeting.

COST ANALYSIS: The Department does not believe that approval of this proposal will result in an additional direct cost for the private person to participate in this fishery.

PROPOSAL 10: 5 AAC 39.130. REPORTS REQUIRED OF PROCESSORS, BUYERS, AND OPERATORS OF CERTAIN COMMERCIAL FISHING VESSELS; TRANSPORTING REQUIREMENTS.

WHAT WOULD THE PROPOSAL DO? Provide clear regulatory language specifying the reporting requirements for processors who purchase salmon roe and salmon carcasses from which the roe has been removed.

WHAT ARE THE CURRENT REGULATIONS? 5 AAC 39.130. Reports required of processors, buyers, fishermen, and operators of certain commercial fishing vessels; transporting requirements.

...

(c) Each buyer of raw fish, each fisherman selling to a buyer not licensed to process fish (a catcher/seller), and each person or company who catches and processes his or her own catch or has that catch processed by another person or company shall record each landing on an ADF&G fish ticket. A catcher/seller must complete an ADF&G form in order to obtain fish tickets. Fish tickets must be submitted to a local representative of the department within seven days after landing, or as otherwise specified by the department for each particular area and fishery. The operator of a fishing vessel whose port of landing is outside Alaska, or who sells, transfers, or delivers fish in a Seaward Biological Influence Zone, shall submit a completed ADF&G fish ticket, or an equivalent document containing all of the information required on an ADF&G fish ticket, to the department before the fish are transported out of the jurisdiction of the state. The record must include the following:

- (1) the name of the individual or company buying the fish, the processor code assigned to each buyer by the department, and the signature of the buyer or his representative;
- (2) the full name and signature of the permit holder;
- (3) the name or the Coast Guard number of the vessel employed in taking the fish;
- (4) the date of the landing of the fish;
- (5) the permanent vessel license plate number or, for set gillnets and fish wheels, the fisherman's five-digit CFEC permit serial number;
- (6) the type of gear by which the fish were taken;
- (7) the nearest headland or bay or statistical catch area in which the fish were taken;
- (8) information applicable to the following species:
 - (A) the number and pounds of salmon by species;
 - (B) the number and pounds of king, Dungeness, and Tanner crab;
 - (C) the pounds of other fish or shellfish by species;
- (9) 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 at the time of delivery only; the imprinting requirement of this paragraph may be suspended by a local representative of the department after presentation by the fisherman of documentation from the department or CFEC that the permit card has been lost, transferred or destroyed; if the above suspension is granted, then the buyer or fisherman shall write the permit number on the fish ticket at the time of delivery only;
- (10) other information the department may require.

WHAT WOULD BE THE EFFECTS IF THE PROPOSAL IS ADOPTED? The effects of this proposal as originally submitted would be to provide additional regulatory clarity on how processors and fishermen must report salmon roe. If adopted as submitted there would be significant additional catch sorting and handling measures required of fishermen and processors. For example, the fishermen would have to sort fish by sex and have separate brailers for males and each delivery condition code as well as brailers for females and each delivery condition code. Dressed males would have to be sorted into one brailer while dressed females would have to be sorted into a second brailer, and carcasses that had been only roe stripped into a third brailer. Processors would have to weigh in the worst case at least twice as many brailers and fill out more complex fish tickets.

BACKGROUND: Salmon roe harvests in Southeast Alaska have increased dramatically since 2000 (Figure 1). Much of the salmon roe harvest takes place in near terminal mixed stock fisheries or fisheries in Terminal Harvest areas that target hatchery chum salmon. As roe harvests increased there was a great amount of confusion within industry and the department related to reporting requirements for salmon roe. The reason for this is that there are no clear guidelines for roe reporting in 5 AAC 39.130. Reports required of processors, buyers, fishermen, and operators of certain commercial fishing vessels; transporting requirements.

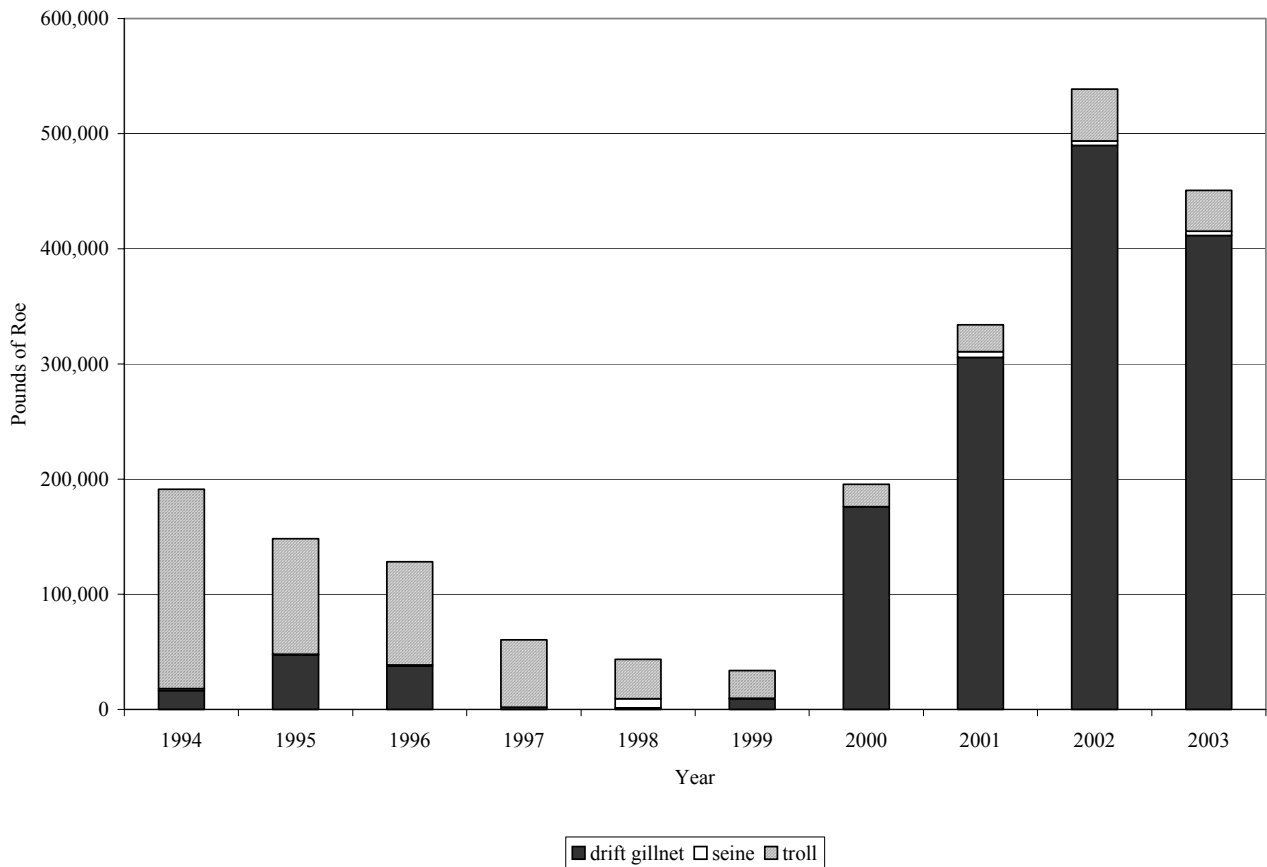


Figure 1. Salmon roe harvests in Southeast Alaska, traditional and Terminal Harvest areas. Note: 2003 data preliminary.

In the absence of clear regulatory language detailing salmon roe reporting requirements the department has worked with industry to provide additional guidance on this issue. During the last three years, the department has asked processors to comply with requests for accurate reporting of salmon roe harvests. During that timeframe the department has also taken steps to improve the fish tickets that salmon and salmon roe sales are reported on, improve the clarity of delivery codes for salmon roe and roe stripped females, and educate the processing industry on the nature of these changes. Although the quality of the 2001 and 2002 salmon roe data was very poor, significant improvements were realized in 2003. A detailed summary of the steps taken to improve salmon roe reporting is provided below.

In 2001 processors were asked (via an annual Letter to the Processors) to report roe harvests by using a combination species/roe code (401, 402, 403, 404, 405).

In 2002 processors were asked (via the annual Letter to the Processors and in-person on the fishing grounds) to code roe-stripped females with the delivery condition code 25 (this was a brand new delivery code).

In 2003 the processors were instructed (via the annual Letter to the Processors, tender packets, and in-person on the fishing grounds) to provide the following information: the species from which the roe was harvested (using standard species codes), how many pounds of roe per species, and the delivery condition of the carcasses from which the roe was removed. Delivery condition options for carcasses include (but are not limited to) “roe removed only (25);” “gutted, head on (04);” “headed and gutted, western cut (07);” etc. If roe-stripped females were delivered in the same brailers as whole dark males, the processors were asked to have the fishermen estimate the number of females and to code those carcasses as delivery condition code 25 (roe removed only). The delivery condition code for roe (14) was preprinted on the tickets.

Reporting results were mixed in 2001 and 2002, different processors reported roe purchases in different ways. At least two companies did not issue fish tickets for roe as receipts to the fishermen. One tender operator kept a tally of the fishermen and number of buckets that had been delivered. Another issued a roe delivery receipt which included a line for the fish ticket number, date, boat name, tender, fisherman’s name, area fished, type of roe, number of buckets, number of pounds, signature of person receiving the roe, and the fisherman’s signature. After the roe had been delivered, the processor graded it, discarded the inferior eggs, and paid the fisherman for pounds of acceptable roe. A fish ticket may have been cut at this point. If a ticket was not cut, the roe data was not entered into the state fish ticket database.

Overall, Southeast Alaska processors have shown a willingness to work with the department on this issue and provide information on the species from which the roe was harvested, how many pounds of roe per species, and the delivery condition of the carcasses from which the roe was removed during the 2003 season.

The quality of the 2003 data is much better than it was in prior years for three reasons. First, the processors were clearly instructed in the preseason information letter on how roe should be recorded. Second, department personnel made a concerted effort to provide training and information directly to those who write the fish tickets. Department personnel visited each

tender on the fishing grounds in those fishing areas where most of the roe harvest takes place (districts 111 and 115) during the first weeks of the season to teach the tender operators how to properly record data on the fish tickets. The tender operators were provided with large-print, laminated instruction sheets and sample tickets for reference. Third, the 2003 salmon fish tickets (Series A, J, and T) were amended to provide columns specifically for roe harvest information, including species codes; delivery condition codes for roe (14) and carcasses; pounds; and price. Some species codes and the delivery condition codes for roe (14) and carcasses (25) were pre-printed on the tickets to make it easier for the tickets to be filled out accurately.

Although this is primarily a reporting issue, the accurate reporting of roe has implications beyond managing commercial salmon fisheries. The Commercial Fisheries Entry Commission (CFEC), Fish and Wildlife Protection (Enforcement), the Department of Environmental Conservation (DEC), and ADF&G Headquarters are all stakeholders due to statutory and utilization issues.

Proposal 10 was submitted based on the poor quality of the data received during the 2001 and 2002 seasons. As a result of the efforts made by the department and by cooperation from the processors and fishermen, the quality of the data received during the 2003 season was greatly improved. Because of this, the department recommends that the Board consider substitute regulatory language that requires salmon harvest in numbers, pounds, and delivery condition code and salmon roe reporting by pounds and species; delivery condition codes.

Roe reporting by pounds: There is currently no standard unit of measure for roe delivery. The roe is delivered to the tender in a 5-gallon bucket, but the weight of the bucket can vary by how full it is, how much water has been added, and whether or not the roe has been rinsed or is still in skeins. One of the processors required fishermen to fill the buckets within 4 – 5 inches of the top so that the weight of the roe doesn't crush the eggs on the bottom of the bucket. The processor does not want the fishermen to add water to the buckets of roe and it does want the roe in the skeins. The average "full" bucket weighs \cong 35 pounds. A fisherman that targets chum salmon for roe extraction harvests and rinses the roe, packs the roe in 5-gallon buckets without adding water, and stores the buckets on ice. His average "full" bucket weighs \cong 45 pounds.

During the 2003 season processors expressed concern that recording pounds of roe instead of buckets would imply an agreement to pay for the numbers of pounds on the ticket. In reality, the roe is graded at the plant and later payment is made on the pounds of roe by grade. The department asked the processors to note "gross" or "grounds weight" next to the roe poundage to indicate that this is not a final weight. The processors agreed to do so and roe was forthwith reported in pounds.

Delivery Condition Codes: Delivery condition codes describe the condition of the fish, such as "whole fish (01)," "gutted, head on (04)," "roe removed carcass (25)," etc. The first delivery condition codes were established in 1969 and with more added during the 1980's and 1990's to keep up with the evolving fisheries. Each delivery condition code is tied to a "product recovery rate," which is a conversion factor that is applied to the weight to determine whole weight. Traditionally, salmon were delivered whole so no conversion was necessary. But now salmon fisheries are more complex and conversion factors must be applied to determine the total harvest

by weight of a fishery. Consistent reporting of delivery condition codes and poundage is the only reliable way to accurately determine the value of the fishery resource, as determined by the CFEC.

The department must be able to determine the numbers and pounds of fish harvested in order to manage the fisheries. Establishing mandatory reporting of the delivery condition code would result in accounting for each fish harvested (assuming that all harvested fish are recorded on a fish ticket) including roe-stripped females. The roe-stripped females would be accounted for under “roe removed carcass (25),” or one of the several delivery condition codes for “gutted” fish, depending on the how much work the fisherman invests in the fish.

Substitute Regulatory Language:

5 AAC 39.130. Reports required of processors, buyers, fishermen, and operators of certain commercial fishing vessels; transporting requirements.

.....

(c)(8) information applicable to the following species.

(A) the number [AND], pounds, and delivery condition code of salmon by species and pounds and delivery condition code of salmon roe by species;

DEPARTMENT COMMENTS: The department submitted and SUPPORTS this proposal.

COST ANALYSIS: The department does not believe that approval of this proposal will result in any additional direct cost for a private person to participate in the fishery.

PROPOSAL 12: 5AAC 77.015(d). PERSONAL USE FISHING PERMITS AND REPORTS AND DISPLAY OF PERSONAL USE FISH.

WHAT WOULD THIS PROPOSAL DO? This proposal seeks to eliminate the penalty of making a permittee ineligible to receive a personal use permit during the following calendar year for failing to comply with reporting requirements.

WHAT IS THE CURRENT REGULATION? Under subsection (d) of 5AAC 77.015. PERSONAL USE FISHING PERMITS AND REPORTS AND DISPLAY OF PERSONAL USE FISH, if the return of catch information necessary for management and conservation purposes is required by a personal use fishing permit, permittee who fails to comply with such reporting requirements is ineligible to receive a personal use permit for that activity during the following calendar year, unless the permit applicant demonstrates to the department that failure to report was due to unavoidable circumstances.

WHAT WOULD BE THE EFFECT IF THIS PROPOSAL WERE ADOPTED?

Eliminating this penalty would limit the department's options for encouraging compliance of the permit reporting requirement.

BACKGROUND: Participation in personal use fisheries around the state varies widely. Issuance of permits in personal use fisheries that have limited participation can be conducted solely out of department offices and noncompliant permittees can be effectively denied a permit. However, many vendors may issue permits for personal use fisheries that have large participation (e.g. Chitina, Kenai, & Kasilof dip net fisheries) and noncompliant permittees cannot be effectively denied a permit.

DEPARTMENT COMMENTS: There was a perceived problem with enforcement of personal use permit returns at the point this proposal was written. After additional research and consultation with the Department of Law, it is clear that the present language contained in 5 AAC 77.015 (d) does not conflict with enforcement of the permit return provisions in 5AAC 77.015 (c)(6). The Department of Public Safety can effectively issue citations with the present language intact. Both departments (ADF&G and DPS) desire to WITHDRAW this proposal.

COST ANALYSIS: The Department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.

PROPOSAL 13: 5AAC 77.015(b). PERSONAL USE FISHING PERMITS AND REPORTS AND DISPLAY OF PERSONAL USE FISH.

WHAT WOULD THIS PROPOSAL DO? This proposal seeks to eliminate the requirement to have a sport fish license to receive a personal use permit.

WHAT IS THE CURRENT REGULATION? Under subsection (b) of 5AAC 77.015. PERSONAL USE FISHING PERMITS AND REPORTS AND DISPLAY OF PERSONAL USE FISH, permits for the taking of finfish will be issued only to holders of a valid resident Alaska sport fishing license and Alaska residents exempt from licensing under AS 16.05.400. Personal use fishing is defined under AS 16.05.940 as 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, longline, or other means defined by the Board of Fisheries.

WHAT WOULD BE THE EFFECT IF THIS PROPOSAL WERE ADOPTED? The sport fishing license requirement subjects the individual to regulations and penalties governing proof of residency. Without the sport fish license requirement, it would be more difficult to enforce and prosecute illegal participation in personal use fisheries. Without the license requirement, funds currently provided by license sales would be unavailable to manage personal use fisheries.

BACKGROUND: The first personal use regulations were created in 1982 in response to State of Alaska subsistence laws. Personal use was always intended to be for Alaska residents only, so the resident sport fishing license was adopted as a way to demonstrate eligibility. Since the gear for the personal use fishery is often different from that historically associated with sport fishing, the Board determined this fishery should not be classified as a sport fishery, to avoid confusion among the public. Funds generated from the sale of sport fishing licenses provide the Division of Sport Fish with the only source of revenue available to manage personal use fisheries.

The sport fish license requirement is a vital tool for enforcement. In 2002, the Division of Public Safety was able to issue citations for illegal participation in the Kenai and Kasilof personal use fisheries by comparing the sport fishing license database to the driver's license and Alaska Permanent Fund application databases.

DEPARTMENT COMMENTS: Both departments are OPPOSED to this proposal. The sport fish license requirement provides the state with a means of prosecuting offenders and funding for the management of personal use fisheries. The department is working closely with vendors and the Department of Public Safety to ensure personal use permits are distributed only to qualified applicants.

COST ANALYSIS: The Department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery.

PROPOSAL 14: 5 AAC 75.003. EMERGENCY ORDER AUTHORITY.

WHAT WOULD THE PROPOSAL DO? This proposal would modify the emergency order authority granted by the Alaska Board of Fisheries to the department by replacing language in current regulation with language consistent with recently adopted regulatory policies.

WHAT ARE THE CURRENT REGULATIONS? Under section (2) of 5 AAC 75.003 Emergency Order Authority, the commissioner or an authorized designee may increase sport fish bag and possession limits and liberalize methods and means of harvest by emergency order when the total escapement of a species of anadromous fish is projected to exceed the optimum escapement goal by 25 percent or the upper limit of the escapement range for that species listed in management plans that have been adopted by the Board of Fisheries or established by the department, if the total harvest under the increased bag and possession limit will not reduce the escapement below the optimum escapement goal or the upper limit of the escapement range.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? The department's authority would be consistent with the more recently adopted Policy for the Management of Sustainable Salmon Fisheries (5 AAC 39.222) and Policy for Statewide Salmon Escapement Goals (5 AAC 39.223). This would clarify that the department's authority would apply when an escapement projection exceeds an escapement goal, regardless of its type (SEG, BEG, OEG, etc.). This would potentially affect fisheries on stocks with an SEG, BEG, or OEG for which more specific management direction is not provided by a management plan adopted by the Board. For those fisheries, this would result in increased utilization of salmon, surplus to escapement goals and improve the department's ability to achieve escapement goals because harvest limits may be increased (or methods and means liberalized) at lower escapement projections under the proposed regulations. Fisheries managed under regulatory management plans and fisheries managed in the absence of escapement goals would be unaffected.

BACKGROUND: When the Board adopted the current regulations defining the department's authority in 1990, the sustainable salmon policy and the escapement goal policy had not been developed or adopted by the Board. At the time, escapement goal terminology had not been standardized and many goals were expressed as numerical points, not ranges. Under the sustainable salmon and escapement goal policies adopted in 2000, escapement goals are identified as one of three specific types and expressed as a range, not a numerical point. These new policies render the terminology used in the current regulatory authority obsolete.

DEPARTMENT COMMENTS: The department submitted and SUPPORTS this proposal.

COST ANALYSIS: The adoption of this proposal is not expected to add any direct cost for a private person to participate in this fishery.

PROPOSAL 15: 5 AAC 75.003 EMERGENCY ORDER AUTHORITY.

WHAT WOULD THE PROPOSAL DO? This proposal would delegate authority to the department to establish, by emergency order, times and areas in which anglers may not fillet, mutilate, discard the head, or otherwise disfigure specific species of fish until the fish are brought to shore and offloaded from a vessel, or transported away from a fishing site if taken from shore. Anglers would still be able to gut and gill fish at any time. This authority would not apply to fish preserved or consumed aboard a vessel.

WHAT ARE THE CURRENT REGULATIONS? Under 5 AAC 75.070 Possession of sport-caught halibut (b), until brought to shore and offloaded, no person may fillet, mutilate, or otherwise disfigure a halibut in any manner that prevents the determination of the number of fish caught or possessed. Current regulations allow anglers to fillet and dispose the carcasses of all other species at sea or on site. Through current regulations, the Board has provided the department with the authority as proposed for specific areas or fisheries, but not on a statewide basis. Regulations similar to those proposed exist in Southeast Alaska for lingcod, and king and coho salmon under provisions of 5 AAC 47.030 and 5 AAC 47.060, and in the Kasilof River for king salmon under provisions of 5 AAC 56.022.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? The department would have emergency order authority to require anglers to leave fish intact (with the exception of gutting and gilling) when and where necessary. The department would exercise the authority where fishing practices prevent fish from being sampled in adequate numbers, but only when department sampling programs are in place to collect information. Ultimately, this authority will ensure that department programs retain the ability to estimate abundance, size, sex, and age of specific species or stocks to appropriate scientific standards.

BACKGROUND: Current fishery practices in some areas prevent the department from obtaining species, size, sex, age, or tag information needed to assess sport harvest or stock status.

DEPARTMENT COMMENTS: The department submitted and SUPPORTS this proposal. Its adoption may additionally benefit enforcement of size limit or bag limit violations.

COST ANALYSIS: The adoption of this proposal is not expected to add any direct cost for a private person to participate in this fishery.

PROPOSAL 16: 5 AAC 75.XXX. SPORT FISHING GUIDES.

WHAT WOULD THE PROPOSAL DO? This proposal would prohibit guides from fishing when clients are present, except when providing assistance to a client with a disability as defined in the Americans with Disabilities Act.

WHAT ARE THE CURRENT REGULATIONS? Current statewide regulations do not prohibit guides from fishing when providing guide services to clients. Area regulations restrict guided fishing activity as follows:

In some areas, guides may not sport fish while a client is present or within the guide's control or responsibility, except when guiding a client with a disability. This rule applies to vessels registered with the Department of Natural Resources (DNR) as a guide vessel in the Kenai River, from July 31 or the end of the king salmon season, whichever is later, through September 30 (5 AAC 21.357); in the Kasilof fishery for early-run and late-run king salmon (5 AAC 21.365); in waters of the Susitna-West Cook Inlet Area open to sport fishing for king salmon 20 inches or greater in length (5 AAC 61.036), and; in the Upper Cook Inlet salt-water early-run king salmon fishery (5 AAC 58.055).

In other areas, guides may sport fish, but may not retain king salmon while a client is present or within the guide's control or responsibility. These areas include fresh waters of the Bristol Bay Area and the Upper Copper River drainage (5 AAC 67.036; 52.037). In Southeast Alaska, operators and crew members working on a charter vessel may not retain king salmon while clients are on board the vessel, and the maximum number of fishing lines that may be fished from a charter vessel is equal to the number of paying clients on board (5 AAC 47.030).

Finally, regulations implemented under the authority of DNR restrict guided fishing activity. For example, 11 AAC 18.030 authorizes DNR to establish park use permit conditions on the Kenai River, including a requirement that the permittee's agents or employees not fish in the Kenai River Special Management Area during May, June and July when clients are present.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? Guides would be prohibited from fishing when clients are present, except when providing assistance to a client with a disability as defined in the Americans with Disabilities Act, on a statewide basis. This would reduce fishing opportunity for guides to times when they are not providing guide services to clients. In areas where harvest by guides occurs, this proposal would reduce harvest. In fisheries managed under harvest guidelines or quotas in which guides currently fish, this proposal would allocate harvest opportunity from guides to guided and/or independent anglers.

DEPARTMENT COMMENTS: The department views this proposal as a social issue and is NEUTRAL. The current emergency order authority provides the department with the ability to reduce harvests when and where needed for conservation and other management objectives; this proposal is not needed for conservation purposes.

COST ANALYSIS: The adoption of this proposal is not expected to add any direct cost for a private person to participate in this fishery.

PROPOSAL 17: 5 AAC 75.075. FISHING SERVICES AND SPORT FISHING GUIDES; REGISTRATION REQUIREMENTS; REGULATIONS OF ACTIVITIES.

WHAT WOULD THE PROPOSAL DO? This proposal would repeal sport fishing business and guide registration regulations.

WHAT ARE THE CURRENT REGULATIONS? Provisions of 5 AAC 75.075 require the owner of a business intending to provide fishing services, and anyone intending to provide fishing guide services, to register with the department before providing guide services. These regulations also require that guides may only provide guide services as an employee or owner of a registered fishing business.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? Without sport fishing business and guide registration requirements, information gathered through this process would no longer be available to the department, the Board of Fisheries, the Legislature, and the public.

BACKGROUND: Statewide registration requirements for guided sport fishing activity were adopted as a first step toward regulation of the sport fishing guides. In 1995, the Board adopted statewide registration requirements for owners of businesses engaged in sport fish guiding. In 1998, the Board modified regulations to clarify registration requirements for sport fishing businesses, and to implement registration and reporting requirements for sport fishing guides. In March 2000, the Board of Fisheries adopted a resolution (2000-FB-202) urging the Alaska Legislature to place a Constitutional Amendment on the ballot to allow the State of Alaska to limit entry into the guided sport fishing industry in Alaska.

Information collected through registration requirements includes the number of registered businesses, guides, and vessels used to provide guide services in salt and freshwater by region. Since businesses and guides can register whether or not they intend to operate, this information can overstate participation. Comparisons with saltwater charter vessel logbook returns show that some businesses that register to provide business services in saltwater do not operate. However, business and guide registrations remain the only direct source of information collected by the department on freshwater guiding activity.

DEPARTMENT COMMENTS: The department OPPOSES this proposal. The Board of Fisheries adopted the business and guide registration requirements as a first step toward regulating the fishing guide industry and has continued to support Legislative action toward a guide licensing program. Information currently provided by the registration program, while limited, provides an indication – the only indication in fresh water - of trends in the guide industry. While the loss of these benefits would not significantly impact management of the sport fishery, it would disrupt the information time series available to the Legislature in enacting legislation for guide licensing. This program should continue as long as those efforts are underway.

COST ANALYSIS: The adoption of this proposal is not expected to add any direct cost for a private person to participate in this fishery.

PROPOSAL 18: 5 AAC 75.XXX. POLICY FOR THE MANAGEMENT OF SUSTAINABLE WILD DOLLY VARDEN CHAR.

WHAT WOULD THE PROPOSAL DO? This proposal would implement a statewide policy and management plan for wild Dolly Varden char.

WHAT ARE THE CURRENT REGULATIONS? Harvest limits for Dolly Varden range from catch-and-release only (i.e. Tok River drainage) to ten fish per day, with no size limit (i.e. Southeast Alaska and large portions of the AYK region). Regulatory criteria for establishing special management areas for Dolly Varden are in effect in the Kenai Peninsula, Susitna-West Cook Inlet and Kodiak areas. The criteria were adopted by the Board to use when considering proposals that designate special management areas to diversify sport fishing opportunity for populations of wild Dolly Varden, such as catch-and-release, fly fishing only, or trophy designation. The criteria are consistent across all three areas. Current regulations do not include a statewide policy or management plan for Dolly Varden char.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? The proposed policy would provide a regulatory framework to assure for the sustainability of Dolly Varden char. The principles and criteria in the policy would guide management of wild Dolly Varden char fisheries, and provide direction to the Department and Board as to how those principles and criteria shall be applied in the regulatory process. The proposed policy is nearly identical to the policy recently adopted for wild trout, which was developed through extensive public and agency review over a two-year period.

The proposed plan would guide the utilization of Alaska's wild Dolly Varden char in a manner very similar to how the newly adopted wild trout standards guide management of wild trout. It calls for managing wild Dolly Varden char conservatively and suggests that conservative management norms be established by area and need, but stops short of identifying or suggesting specific regulations to use as norms. If conservative management means limits similar to those outlined in the standards for wild trout, the effect would be large reductions in harvest opportunity and harvest of wild Dolly Varden char statewide. If conservative management allowed the harvest of ten per day, with no size limit, there may be little effect to harvest opportunity and harvest of Dolly Varden char.

BACKGROUND: In October 2001, former Governor Knowles proposed a Wild Rainbow Trout Initiative aimed at assuring the sustainability of Alaska's wild rainbow trout resources. In response, the Department hosted a Wild Trout Summit in October 2001. In January 2002, the Board of Fisheries considered the recommendations of summit participants, established the Wild Rainbow Trout Task Force composed of consumptive and non-consumptive users from across the state, Board members, and department staff, and charged the Task Force to develop proposals for a statewide wild rainbow trout management plan and a statewide wild rainbow trout sustainable fisheries policy. The Task Force developed a statewide plan and policy, and submitted these to the Board as proposal 423 during the 2002/2003 cycle. The Board of Fisheries adopted a plan and policy in March 2003.

5 AAC 75.222 The policy for the management of sustainable wild trout fisheries (policy) provides principles and criteria to ensure conservation, sustainability, and optimal sustained yield and benefits for wild trout, and provides direction to the Board and the department as to how those principles and criteria are to be applied in the regulatory process. 5 AAC 75.220 The statewide management standards for wild trout (plan) ensure conservative management of wild trout fisheries. In most areas of the state, conservative management for wild rainbow trout, cutthroat trout, and steelhead trout, in combination, means a bag and possession limit of two fish, of which only one may be 20 inches or greater in length, with an annual limit of two fish 20 inches or greater in length. The plan recognizes other existing plans and policies that guide management of wild trout on an area or regional basis, and allows the Board to adopt regulations that deviate from the plan as necessary to address sustainability or optimal sustained yield issues, establish special management areas, or liberalize harvest opportunities in specific water bodies under other criteria.

DEPARTMENT COMMENTS: The department OPPOSES the adoption of a policy and plan for wild Dolly Varden at this time. The Board adopted the Policy for the management of sustainable salmon fisheries (5 AAC 39.222) in 2000, and the statewide management standards and wild trout policy in 2003. The Board is scheduled to conduct its first review of the sustainable salmon policy during the November 2003 meeting. The newly adopted statewide management standards and wild trout policy have not yet been utilized to develop regulations, and are expected to undergo a similar review after a full Board cycle. Adopting a policy and plan for Dolly Varden at this time would unnecessarily complicate regulations and management processes without the benefit of a review of other similar policies and plans.

Circumstances leading to the development of the Sustainable Salmon Policy and the wild trout policy do not apply to this proposal. The proposal states that a Dolly Varden policy and plan is needed to ensure that wild Dolly Varden receive the same level of protection, on a state wide basis, as the statewide policy on wild trout provide that species and that, without such a policy, Dolly Varden populations in some areas may no longer be sustainable. The Board and the department currently ensure for the sustainability of wild Dolly Varden through existing statutory and regulatory authorities and will continue to do so in the absence of a regulatory policy and plan.

Should the Board wish to establish a statewide policy and/or plan for Dolly Varden, the department recommends a public review process similar to that used for the development of the wild trout policy and plan.

COST ANALYSIS: The adoption of this proposal is not expected to add any direct cost for a private person to participate in this fishery.

PROPOSAL 19: 5 AAC 75.XXX. STATEWIDE SUSTAINABLE WILD TROUT POLICY.

WHAT WOULD THE PROPOSAL DO? This proposal calls for additional public review of committee documents from the March 2003 Board meeting related to the statewide wild trout management plan and policy. It also proposes specific modifications to the statewide sustainable wild trout policy.

WHAT ARE THE CURRENT REGULATIONS? The Board adopted 5 AAC 75.222 Policy for the management of sustainable wild trout fisheries (policy), and 75.220 Statewide management standards for wild trout (plan), at the March 2003 meeting. The policy provides principles and criteria to ensure conservation, sustainability, and optimal sustained yield and benefits for wild trout, and provides direction to the Board and the department as to how those principles and criteria are to be applied in the regulatory process. The plan ensures conservative management of wild trout fisheries while recognizing existing plans and policies that guide management of wild trout on a regional basis. In most areas of the state, conservative management for wild rainbow trout, cutthroat trout, and steelhead trout, in combination, means a bag and possession limit of two fish, of which only one may be 20 inches or greater in length, with an annual limit of two fish 20 inches or greater in length. The plan recognizes existing plans and policies that guide management of wild trout on a regional basis, and allows the Board to adopt regulations that deviate from the plan as necessary to address sustainability or optimal sustained yield issues, establish special management areas, or liberalize harvest opportunities in specific water bodies under other criteria.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? The first element of this proposal seeks additional public review of committee documents from the March 2003 meeting. This would not require an adoption of this proposal but would presumably require the Board or the department to establish a process to facilitate additional review.

If adopted, this proposal would replace provisions of the plan adopted by the Board at the March 2003 meeting with alternative language considered but not adopted. Effects to the process by which the Board and the department treat proposals for wild trout in the future would be negligible. This proposal would also delete specific references to food source in the trout policy. If the proposal is adopted, the policy would no longer direct the department to identify food sources important to wild trout populations in reports provided to the Board. It would also no longer require management plans to provide recommendations regarding food sources.

BACKGROUND: In October 2001, former Governor Knowles proposed a Wild Rainbow Trout Initiative aimed at assuring the sustainability of Alaska's wild rainbow trout resources. In response, the Department hosted a Wild Trout Summit in October 2001. A wide range of people participated, ranging from consumptive to non-consumptive users and including various resource agencies. Participants in the summit reviewed trout management and recommended that a statewide management plan and sustainable fishery policy be developed for wild trout, and that additional research be conducted to fill information gaps.

In November 2001, the Board of Fisheries considered the recommendations of summit participants and established the Wild Rainbow Trout Task Force. The Task Force was composed

of consumptive and non-consumptive users from across the state and included two Board members and department staff as advisors. The Board charged the Task Force to develop proposals for a statewide wild rainbow trout management plan and a statewide wild rainbow trout sustainable fisheries policy. A web site was also established where up-to-date versions of the plan and policy were posted and public comments were collected throughout this process. The Task Force met in January and reported to the BOF in March 2002. The Task Force met again in April 2002 to further refine a statewide plan to guide the utilization of Alaska's wild trout stocks, and a statewide policy to assure for the sustainability of these stocks, and submitted these to the Board as proposal 423.

The Board of Fisheries considered the Task Force proposal (423) at its October, 2002 Work Session. Board and department staff held an informal public meeting on the plan and the policy, where several issues were raised. These included: a need to base provision of food sources on scientifically defensible information; define management benefits; balloon effects on other species; recognition of subsistence and other consumptive uses; species interaction effects; recognition of existing step down plans; among others. In response to public comments, the Board tabled action on the proposal until its March 2003 meeting to enable more time for public understanding of the policy and plan, and to provide additional time for members of the public to provide input on the proposal. Several Advisory Committees provided comments during this period. The Board also established a committee where the plan and policy were discussed and modified prior to adoption.

DEPARTMENT COMMENTS: The department OPPOSES modifications to the statewide management standards and policy for wild trout at this time. The existing plan was just adopted in March 2003 and has not had the chance to be utilized in the regulatory process. The existing plan and policy underwent substantial review over a 2.5-year period by the public, department and Board. The department recommends utilization of the current wild trout plan and policy for a full 3-year Board cycle, followed by an evaluation, before modifications are considered.

COST ANALYSIS: The adoption of this proposal is not expected to add any direct cost for a private person to participate in this fishery.

PROPOSAL 20: 5 AAC 75.XXX. STATEWIDE PROCESS FOR RECOMMENDING RIVER CORRIDOR OR WATERSHED CONSERVATION MEASURES ON SIGNIFICANT TROUT STREAMS.

WHAT WOULD THE PROPOSAL DO? This proposal would establish a regulatory process for recommending river corridor or watershed conservation measures on significant trout streams.

WHAT ARE THE CURRENT REGULATIONS? Alaska Statutes 16.05.251 (a) (1) and 16.05.255 (a) (1) authorize the Alaska Board of Fisheries and Alaska Board of Game to adopt regulations for setting apart fish and game reserve areas, refuges, and sanctuaries. The statutes limit such regulations to land and waters over which the Boards have jurisdiction, and the regulations are subject to approval of the legislature. The Boards have not adopted regulations under this authority.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? By adopting this proposal, the Board would create a regulatory process to use when making recommendations to the legislature concerning setting aside certain areas. By crafting such a regulatory process, the Board would limit its discretion in exercising its legislative authority.

BACKGROUND: During the 1996/1997 cycle, the joint Boards of Fish and Game considered a proposal submitted by the Anchorage, Iliamna, Naknek, and Nushagak Advisory Committees to establish a 6-million acre reserve in Bristol Bay. The advisory committees had expressed the belief that action by the Boards would serve to mitigate state land disposals in the proposed reserve. Previously, the Commissioner requested legal advice from the Attorney General concerning the interpretation of the two existing statutes. A legal opinion, issued in August 1995, stated that, if the statutory directive is followed, any action by the Boards would essentially be a recommendation to the legislature. The Board tabled and remanded the proposal to the Advisory Committees until such time as the Joint Board receives a consensus position from the four Advisory Committees.

DEPARTMENT COMMENTS: The Department is NEUTRAL on this proposal. Since the proposed process includes lands as well as waters, action by the joint Board of Fish and Game would be required to adopt this proposal.

COST ANALYSIS: The adoption of this proposal is not expected to add any direct cost for a private person to participate in this fishery.

PROPOSAL 21: 5 AAC 75.010. POSSESSION OF SPORT-CAUGHT FISH.

WHAT WOULD THE PROPOSAL DO? This proposal would require anglers to present sport fishing gear to a Department employee or peace officer of the state when requested. It would also require anglers to present any fish taken or possessed in the sport fishery to peace officers, in addition to Department employees, when requested.

WHAT ARE THE CURRENT REGULATIONS? Under subsection (c) of 75.101, upon request by an employee of the department, a person must show to the employee fish taken and possessed by the person in a sport fishery. Current regulations do not require the same of anglers when requested by a peace officer, or require anglers to present sport fishing gear to a department employee or peace officer to allow inspection for compliance.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? Enforcement of sport fishing harvest limits, size limits, and gear restrictions would become more effective.

BACKGROUND: Hunting regulations state that, upon request by a peace officer, no person may refuse to present for inspection any license or tag, any game, or any apparatus designed to be, and capable of being, used to take game (5 AAC 92.012). Since no similar regulation applies to sport fishing, anglers can legally refuse to present gear for inspection, and violators using illegal gear or bait would go undetected.

DEPARTMENT COMMENTS: The Department of Public Safety submitted this proposal. The department SUPPORTS this proposal to assure effective enforcement of sport fishing regulations.

COST ANALYSIS: The adoption of this proposal is not expected to add any direct cost for a private person to participate in this fishery.

PROPOSAL 22: 5 AAC 75.055. POSSESSION OR MARKING OF LIVE FISH OR LIVE FISH EGGS.

WHAT WOULD THE PROPOSAL DO? Clarify the legal use of live bait in salt water sport fisheries.

WHAT ARE THE CURRENT REGULATIONS? Regulations (5 AAC 75.055) currently prohibit the possession, transport and release of live fish or live fish eggs, and the marking of any live fish before release, except in accordance with the terms of a permit issued under 5 AAC 41 or AS 16.05.930(a). Regulations (5 AAC 75.065) also state that whitefish, herring, and species for which bag limits, seasons, or other regulatory methods and means are not provided... may be used for bait..." Regulation 5 AAC 75.022(b) states "Live fish may not be used as bait when sport fishing in fresh water." Current regulations do not specify whether these species can be used as live bait in salt water or not.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? This proposal would clarify regulations by allowing the use of live bait in salt water, provided that the species used as live bait is caught in the same regulatory area in which it is being used as bait, and does not have established bag limits, seasons, or other regulatory methods and means associated with it.

BACKGROUND: The Kodiak Association of Charterboat Operators submitted a similar proposal to the Board of Fisheries at the January 2002 meeting in Kodiak. That proposal sought to allow sport-caught fish taken in saltwater of the Kodiak area to be possessed, transported, and released into the Kodiak area salt waters as live bait, provided that the species used do not have established bag limits, season, or other regulatory methods and means. The Board rejected the proposal. The department opposed the proposal because the issue applied statewide, and offered to submit a similar proposal that encompassed all marine waters at the next statewide meeting. In 2002 and 2003, the department issued Fishery Resource Permits to allow the general public to possess, transport, and release live herring and other marine species for which sport fishing bag limits, season, or other regulatory methods and means are not provided for in regulations, as long as those species are to be used as bait while sport fishing in marine waters.

DEPARTMENT COMMENTS: The department submitted and SUPPORTS this proposal, and considers it a housekeeping measure to place current practice directly into regulation.

COST ANALYSIS: The adoption of this proposal is not expected to add any direct cost for a private person to participate in this fishery.

PROPOSAL 23: 5 AAC 75.065. WASTE OF FISH.

WHAT WOULD THE PROPOSAL DO? The intent of this proposal is to prevent injury to released fish caused by the use of gaffs. As worded, the proposal would prohibit the use of a gaff, knife, or other sharp object to puncture the flesh of any part of a fish during a closed season for that species, any fish that is not of legal size, or any fish that is subsequently released. This action would inadvertently affect the use of spears and arrows, which was not intended when this proposal was submitted. If the Board adopts this proposal, the department suggests that it do so such that a gaff may not be used to take any fish that is subsequently released. For the purposes of this proposal, a gaff is any hook not attached to an angler's fishing line.

WHAT ARE THE CURRENT REGULATIONS? The Board has adopted regulations that specify lingcod may be landed only by hand or with a landing net, or grant the department authority to specify, by emergency order, that lingcod may be landed only by hand or with a landing net. These regulations apply in the Kenai Peninsula, Prince William Sound, Cook Inlet-Resurrection Bay Saltwater, and Southeast Alaska Areas only.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? This proposal would explicitly prohibit an angler from using a gaff to take any fish subsequently released, and provides a definition for the term 'gaff.' This would reduce injury to released fish currently caused by the use of gaffs in landing or bringing fish on board a vessel before release. This would also provide a consistent regulation statewide, and clarify existing regulations in the four areas above.

BACKGROUND: Gaffs are commonly used to land, release, or otherwise handle halibut, lingcod, rockfish, salmon and other species once they are caught. The Board adopted the existing regulations in the Kenai Peninsula, Prince William Sound, Cook Inlet-Resurrection Bay Saltwater, and Southeast Alaska areas to reduce the potential mortality of lingcod gaffed and then released in areas where concerns were expressed for that species. However, enforceability concerns have surfaced since the adoption of these proposals because the term 'land' is not defined in regulation.

DEPARTMENT COMMENTS: The department submitted and SUPPORTS this proposal.

COST ANALYSIS: The adoption of this proposal is not expected to add any direct cost for a private person to participate in this fishery.

PROPOSAL 24: 5 AAC 75.001. APPLICATION OF REGULATIONS.

WHAT WOULD THE PROPOSAL DO? This proposal would apply state sport fishing regulations in adjoining waters of the Exclusive Economic Zone (EEZ).

WHAT ARE THE CURRENT REGULATIONS? The Board has applied area-specific sport fishing regulations (5 AAC 47.095, 55.095, 58.095, 64.095, 65.095, and 67.095) to federal waters of the EEZ. However, no regulation explicitly applies statewide sport fishing regulations, such as emergency order authority, possession of fishing licenses and harvest stamps, business and guide requirements, etc. to the EEZ.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? The adoption of this proposal would clarify that state wide sport fishing regulations do apply in waters of the EEZ, thereby improving the state's ability to enforce sport fishing regulations and provide for sustained yield of state-managed stocks that move between state and federally managed waters.

BACKGROUND: The legislature has authorized the Board to regulate sport fishing for the conservation, development and utilization of fisheries (AS 16.05.251 (a)(12)). Section 306 of the Magnuson-Stevens Fishery Conservation and Management Act allows for state management of fisheries in federal waters for which there is no fishery management plan or other applicable federal fishing regulations in place. No recreational fisheries are included in the current federal fishery management plans.

DEPARTMENT COMMENTS: The department submitted and SUPPORTS this proposal as a means to clarify that state wide sport fishing regulations apply in the waters of EEZ and improve the state's ability to enforce regulations. It is in the state's best interest to regulate recreational fisheries in the EEZ. The continued lack of clear regulatory authority in federal waters could compromise the state's ability to enforce sport fishing regulations or provide for sustained yield of state-managed stocks that move between state and federal waters.

COST ANALYSIS: The adoption of this proposal is not expected to add any direct cost for a private person to participate in this fishery.

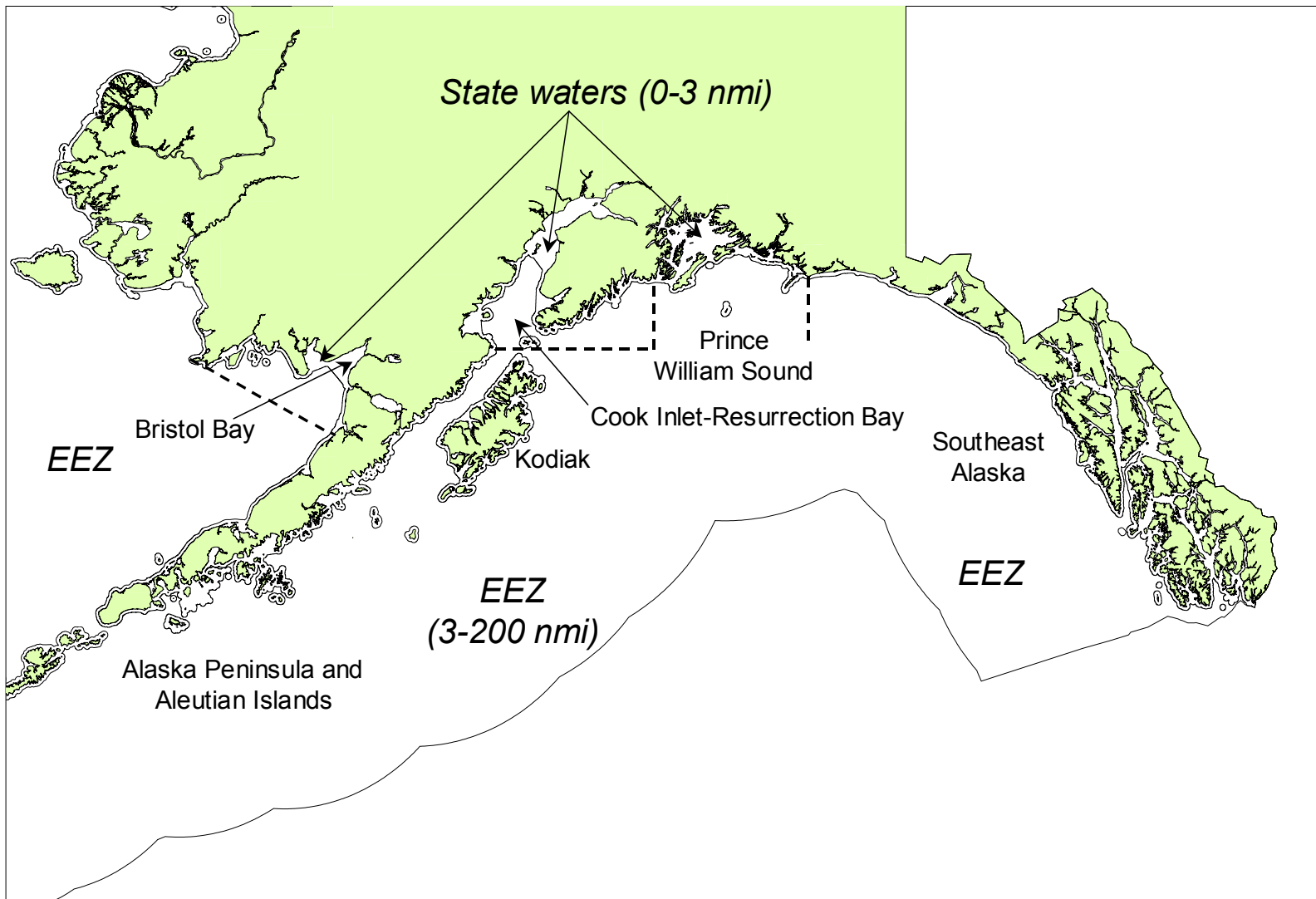


Figure 24-1. Map of state waters (0-3 nmi), including sport fishing regulatory areas defined in 5 AAC Chapters 47-67, and the EEZ.

PROPOSAL 25: 5 AAC 75.006. AUTHORIZATION FOR METHODS AND MEANS DISABILITY EXEMPTIONS.

WHAT WOULD THE PROPOSAL DO? This proposal is submitted at the request of the Board to create a statewide regulation to set criteria for disability exemptions in the sport fishery.

WHAT ARE THE CURRENT REGULATIONS? Current statewide regulations provide accommodations for disabled hunters. Regulations (5 AAC 56.038) adopted in 2002 provide similar accommodations for sport fishermen in the Kenai Peninsula Area, but no such provisions exist for disabled sport fishermen statewide.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? This proposal would provide a set of consistent criteria by which individuals may qualify for accommodations to disabled sport fishermen statewide, and thereby standardize set criteria by which disabled individuals may qualify for additional fishing accommodations. If the proposal is adopted, the department would issue a written authorization exempting a person with a disability from a methods and means requirement if it determines that the exemption would provide that person with meaningful access to the program, service, or benefit in question, and meets the proposed standards. The department would not provide exemptions to seasons or bag limits. Additionally, the department would not authorize methods and means exemptions: if the existing regulation does not prohibit the person from meaningful access to the program, service, or benefit; if it determines that the exemption would not meet the proposed standards, or if the Board has previously responded to the same request.

BACKGROUND: In February 2002, the Board addressed a similar proposal to allow disabled anglers to fish from a guided boat on the Kenai River after 6pm and on Sundays, when guides may not otherwise legally operate. The Board modified the proposal at the suggestion of the Department of Law, and approved the regulation in its current form. Subsequently, the Board requested the department to submit a proposal to expand the current regulations from the Kenai Peninsula Area statewide.

DEPARTMENT COMMENTS: The department SUPPORTS this proposal. The department submitted this proposal at the request of the Board, to apply the regulations currently in place for the Kenai Peninsula Area statewide.

COST ANALYSIS: The adoption of this proposal is not expected to add any direct cost for a private person to participate in this fishery.

PROPOSAL 26: 5 AAC 75.022. FRESHWATER SPORT FISHING.

WHAT WOULD THE PROPOSAL DO? This proposal would require that attractors (or beads), when used with a fly, lure, or bare hook, be either fixed within two inches of the fly, lure or bare hook, or be free sliding on the line.

WHAT ARE THE CURRENT REGULATIONS? Regulations concerning attractors are in place only in Southcentral Alaska, and are standardized among areas where they apply. In all flowing waters of the Kenai Peninsula, Susitna-West Cook Inlet, and Bristol Bay Areas, attractors (beads) fished up the line of flies or lures must be either fixed within two inches of the fly or lure, or be free sliding on the line or leader. Current regulations do not reference the use of beads when bare hooks are used as terminal tackle.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? Regulations regarding attractors in Southcentral Alaska would be expanded statewide and would clearly be applied to anglers fishing with bare hooks, in addition to anglers fishing with lures or flies.

BACKGROUND: Beads fished at a distance from the hook are purported to increase the incidence of “foul-hooking.” Regulations concerning attractors, or beads, were first adopted for the Bristol Bay and Kenai River freshwater areas in 1997 and 1998. The purpose of these regulations was to prevent fixing beads more than two inches from the hook so that the incidence of ‘foul-hooking’ fish would be minimized. However, the original regulations did not state that beads had to be free-sliding along the entire line, which prompted some anglers to tie a knot or place a stopping device at a distance from the hook and place the bead above the knot. In 2002, the Board modified the original regulations to their current form to address this problem. At that time, the regulations were standardized across areas and expanded to all fresh waters of the Kenai Peninsula, Susitna-West Cook Inlet, and Bristol Bay Areas.

DEPARTMENT COMMENTS: The department SUPPORTS this proposal as a means to clarify and standardize regulations regarding attractors (beads) statewide.

COST ANALYSIS: The adoption of this proposal is not expected to add any direct cost for a private person to participate in this fishery.

PROPOSAL 27: 5 AAC 75.022. FRESHWATER SPORT FISHING.

WHAT WOULD THE PROPOSAL DO? This proposal would allow children under a certain age to use bait in all freshwater systems, except systems that support stocks at risk to extinction.

WHAT ARE THE CURRENT REGULATIONS? The use of bait is allowed (by all anglers) unless specifically prohibited. Regulations for Southeast Alaska generally prohibit the use of bait from November 16 through September 15, with stream-specific exceptions. Regulations for other areas prohibit the use of the bait in a number of specific locations.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? Department of Law has advised that the Board does not have the authority to adopt regulations for children. If children younger than a specified age would be allowed to use bait in fresh waters where the use of bait is generally prohibited, harvests may increase because the use of bait generally results in higher catch rates. Effects would also include some increase in incidental mortality in areas with size limits, seasons, or other restrictions that require fish to be released. For some species, i.e. cutthroat trout, allowing the use of bait as proposed could pose a conservation risk to some populations. Such risks would be addressed with specific area exemptions or by using emergency order authority to reduce bag limits or methods and means.

BACKGROUND: The Board may adopt regulations for persons 60 years or older but does not currently have the authority to adopt regulations for children. House Bill 98, introduced to the Legislature in February 2003, would grant the Board the authority to: “adopt regulations establishing restricted seasons and areas necessary for... persons under 16 years of age to participate in sport fishing.” The department supports HB 98.

DEPARTMENT COMMENTS: Currently the **Board does not have the authority** to adopt regulations exclusively for children.

COST ANALYSIS: The adoption of this proposal is not expected to add any direct cost for a private person to participate in this fishery.

PROPOSAL 28: 5 AAC 75.XXX. METHODS AND MEANS.

WHAT WOULD THE PROPOSAL DO? This proposal would prohibit vessels engaged in sport fishing for halibut in offshore areas from anchoring when it interferes with other previously existing fisheries.

WHAT ARE THE CURRENT REGULATIONS? Statewide regulations do not prohibit vessels engaged in sport fishing from anchoring in salt water.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL IS ADOPTED? Department of Law has advised that the Board does not have the authority to prohibit a vessel from anchoring. However, it does have the authority to prohibit sport fishing from an anchored vessel. The effect of implementing such an action statewide is difficult to discern and impossible to enforce without more specific information, such as exactly where and when fishing would be prohibited from an anchored vessel.

BACKGROUND: Safety concerns between anchored vessels engaged in sport fishing for halibut and other vessels have been an issue in Cook Inlet. A proposal prohibiting recreational halibut anglers from anchoring vessels in times or areas open to salmon drift fishing or when drift vessels are present was considered by the Board during their meeting on Upper Cook Inlet issues during February, 1999. The Board tabled the proposal for consideration during the joint NPFMC/Board of Fisheries Local Area Management Plan (LAMP) process. Two proposals prohibiting anchoring in portions of Cook Inlet during times or areas open to commercial drift net fishing were addressed by the Board at the November, 2001 meeting. Neither of these proposals was adopted.

DEPARTMENT COMMENTS: The department OPPOSES this proposal as written. The department and the Board do not have the authority to regulate the anchoring of vessels. Department of Law may have additional comments.

COST ANALYSIS: The adoption of this proposal is not expected to add any direct cost for a private person to participate in this fishery.

PROPOSAL B: 5 AAC 39.XXX. RETENTION OF FISH TAKEN IN A COMMERCIAL FISHERY.

WHAT WOULD THE PROPOSAL DO? The proposal seeks to clarify that fish retained for a person's own use from a lawfully taken commercial catch is for non-commercial use only.

WHAT ARE THE CURRENT REGULATIONS? 5 AAC 01.021. RETENTION OF FISH TAKEN IN COMMERCIAL FISHERIES. People who commercially fish may retain fish for their own use from their lawfully taken commercial catch.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? If adopted, the proposal would still allow commercially harvested fish to be retained for a fishermen's own use (e.g., home-pack) but would clarify that it is subsequently illegal to sell these fish, and specifically designates those salmon as being for non-commercial use only. The regulation would also be removed from the body of subsistence fishing regulations and placed into general provisions for commercial fisheries.

BACKGROUND: Although this is a statewide regulation, the most notable increase in the retention of fish from commercial harvests has been observed in the Kodiak management area (KMA). Based on the five-year period of 1997 to 2001, an average of 5 permit holders in the KMA reported retaining approximately 550 total salmon annually (averaging 6 landings per year, or a little over 1 per permit holder participating, retaining just over 100 salmon each). In 2002, 33 permit holders reported 56 landings "for their own use", with the harvest including 5,447 sockeye salmon (29,111 pounds) and 7,542 coho salmon (55,297 pounds). The estimated value of the salmon retained for the permittees' own use in 2002 was approximately \$27,500 (based on inseason estimated average weights and exvessel value). In 2003, 36 permit holders reported 87 landings "for their own use", with the harvest including 11,025 sockeye salmon (56,416 pounds) and 12,310 coho salmon (103,551 pounds). The estimated value of the salmon retained for the permittees' own use in 2003 was approximately \$47,300.

By regulation (5 AAC 18.355 (b)) Kodiak Area fishermen are required to report the number of salmon taken but not sold to registered processors. Several of these processors have reported the increase in the number of fish being "custom processed" for a fee, or put up as a bonus for top fishermen. These fish are generally filleted, vacuum packed, and frozen. There has been confusion about who must fill out the fishticket, the fishermen's main processor (where the majority of the catch was delivered), the custom processor, or the fishermen themselves.

It appears that this confusion in reporting is not currently a problem for fisheries conservation or management, as the numbers of fish are low relative to the total harvest. However, recent catches have become significant in some of the Terminal Harvest Area fisheries, such as salmon returning to the Spiridon Lake sockeye salmon enhancement project.

It is understood that the existing regulation was intended to allow all commercial fishermen, residents and nonresidents alike, an avenue to retain fish for their own consumption. Some fishermen however have interpreted the language of the current regulation ("for their own use") as allowing them to do what they will with their legally taken catch, including subsequent sale of all or part of this retained catch to unregistered buyers.

A reading of 5 AAC 39.130 (Reports required of processors, buyers, fishermen, and operators of certain commercial fishing vessels; transporting requirements) indicates that a fisherman who wishes to subsequently sell his catch must register as a catcher/seller or as a catcher/processor. A catcher/seller is a person who catches and sells or attempts to sell raw, unprocessed fish that were legally taken by the catcher/seller to unlicensed buyers. This may include sale to the general public for use for noncommercial purposes; for use as bait for commercial or noncommercial purposes; or to restaurants, grocery stores and established fish markets (which have a processing waiver from the Alaska Department of Environmental Conservation). No exporting or transporting of the fish from the fishing vessel, dock, or set net site is permitted. A person who catches and has fish processed by another person or company for later resale to the public must be registered as a catcher/processor, which also requires the filing of an Alaska Seafood Processor and Exporter License and Permit Application and Intent to Operate, and they must have a fisheries business license, processor code plates and fish tickets. They are responsible for reporting the catch inseason as required by the area staff, and must complete and submit accurate fish tickets, and pay all the necessary taxes to the Department of Revenue, and city, borough, and/or aquaculture association taxes.

Thus, while there is no prohibition against fishermen selling their own catch, they must abide by a number of regulatory requirements associated with being a processor; they cannot simply rely upon the retention of catch “for their own use” from their lawfully taken commercial harvest under existing regulation 5 AAC 01.021. If such fish are custom processed and sold, without satisfaction of requirements of the above permitting, the lines of responsibility for product quality, data integrity, and taxation, will be blurred.

DEPARTMENT COMMENTS: The department asked the Alaska Board of Fisheries to develop this proposal and the department SUPPORTS adoption of this proposal. The regulation will not affect the way the department manages the commercial salmon fisheries. In the Kodiak Management Area, regulation 5 AAC 18.355(b) requires the fish be reported for accountability issues. Many other areas of the state have similar regulations. The department is requesting that the Board clarify the statewide regulations concerning fish retained from commercial catches and the department recommends that these regulations be placed in general provisions for commercial salmon fishing.

The past several years have seen an increase in the number of Alaska fishermen attempting to catch, process, and sell their own catch. It is not the department’s objective to limit or eliminate these “ambassadors” of Alaska wild salmon products, but to clarify that minimum standards must be maintained through established permitting, licensing, and inspections requirements.

COST ANALYSIS: The department does not believe that approval of this proposal will result in an additional direct cost for a private person to participate in this fishery. No additional costs to the department are expected if the proposal is adopted.

AGENDA CHANGE REQUEST 3: 5 AAC 29.070. GENERAL FISHING SEASONS AND PERIODS.

WHAT WOULD THE PROPOSAL DO? If adopted this proposal would create a “floating” spring troll fishery opening date between April 15 and April 30 any year the winter fishery closes prior to April 30 because the winter king salmon allocation specified in 5 AAC 29.080 (a) is harvested.

WHAT ARE THE CURRENT REGULATIONS?

5AAC 29.070. GENERAL FISHING SEASONS AND PERIODS. (a) The fishing seasons for the salmon troll fishery are as follows:

- (1) Winter season from October 1 through April 30;
- (2) Summer season from May 1 through September 30.

(b) The department shall manage the king salmon troll fishery to provide for:

- (1) a winter fishery during the period beginning October 11 through April 30 as specified in 5 AAC 29.080;
- (2) spring fisheries during the period May 1 through June 30, as specified in 5 AAC 29.090.
- (3) a summer fishery during the period beginning July 1 through September 30, as specified in 5 AAC 29.100.

(c) The department shall manage the coho salmon troll fishery as specified in 5 AAC 29.100.

5 AAC 29.080. MANAGEMENT OF THE WINTER SALMON TROLL FISHERY. (a) The department shall manage the winter salmon troll fishery so that the harvest of king salmon does not exceed a guideline harvest level of 45,000 fish, with a guideline harvest range of 43,000 to 47,000 fish.

WHAT WOULD BE THE EFFECTS IF THE PROPOSAL IS ADOPTED? This proposal would allow the department to open the spring troll fishery at any time between April 15 and April 30 if the winter fishery closes prior to April 30 due to the winter GHL having been caught. Under existing regulations, the winter troll fishery opens October 11 and continues until April 30 or until the GHL is reached. Passage of this proposal would essentially move the opening of the spring fishery back to dates that the fishery had been open prior to 2003 should the winter GHL be harvested early. The spring fisheries that would likely be open prior to April 30 would be areas with a history of consistently having Alaska hatchery contributions greater than 20% and that were open continuously for the duration of the 2003 spring fishery. These include Gravina Island, Mountain Point, Kingsmill Point, Frederick Sound, Chatham Strait, Eastern Channel, Inner Silver Bay, Middle Island, Homeshore and Point Sophia. Other areas that meet the provisions specified in the spring troll management plan [5 AAC 29.090] could also be open during this period in future spring fisheries.

BACKGROUND: In 1981, the winter troll season was established as October 1-April 14. The winter troll fishery has generally been confined to internal waters of Southeast Alaska and Yakutat Bay. In 1992, the Board of Fisheries (board) delayed the starting date of the winter troll

fishery to October 11. This was done to reduce the winter troll harvest, which had been increasing, with the intent of reducing incidental mortality by increasing the length of the summer season. In 1994, the board adopted a management plan developed by the board-appointed Chinook Troll Task Force (CTTF). The CTTF also recommended, and the board adopted, a cap of 45,000 fish for the winter troll fishery at that time.

During its February 2003 meeting, the board deliberated and adopted proposal 278 that changed the winter troll season and fishery closure date from April 14 to April 30. The incentive for the change was to provide more opportunity to harvest the winter king salmon guideline harvest level (GHL) of 42,000 to 47,000 fish. Until the 2003 season, the winter GHL adopted in 1994 had never been harvested prior to the winter fishery closure date of April 14 (Table 1). The 2003 winter fishery closed on April 12 because the winter GHL had been harvested. At the time of that closure, the new regulation implementing the April 30 closure date had not yet been codified so the department opened the spring fisheries under the spring fishery management plan in effect at the time.

The early closure of the 2003 winter fishery, prior to April 30, was unforeseen. The extension of the winter fishery closure date to April 30 was done to increase winter troll harvest opportunities. Based on extensive discussions and board actions during the February 2003 meeting, the board supported increasing access to Alaska hatchery king salmon during the spring fisheries. It was not the intent of the board to delay the opening of the spring fisheries by up to two weeks should the winter fishery GHL be harvested prior to April 30.

Table 1. Southeast Alaska winter troll fishery king catches, vessel landings, and catch per landing, by troll accounting year (Oct. – Sept.), 1995–2003.^a

Year	Harvest	Landings	Catch/Landing
1995	17,868	1,513	12
1996	9,401	877	11
1997	20,957	1,151	18
1998	32,804	2,001	16
1999	30,977	2,026	15
2000	36,055	2,299	16
2001	22,582	2,298	10
2002	29,415	2,116	14
2003	50,854	3,089	39

^a Includes Annette Island troll catch.

DEPARTMENT COMMENTS: The department SUPPORTS efforts that have the potential of increasing the catch of Alaskan hatchery fish. This proposal would have no negative effects on the department’s ability to effectively manage the winter or spring troll fisheries.

COST STATEMENT: The department does not believe that approval of this proposal will result in any additional direct cost for a private person to participate in this fishery.

Agenda Change Request 21: 5 AAC 34.109 and 5 AAC 35.106.

WHAT WOULD THIS PROPOSAL DO? This proposal would allow golden king crab fishers to continue fishing for golden king crab without being affected by closures of Tanner crab core fishing areas.

WHAT ARE THE CURRENT REGULATIONS? 5 AAC 34.109. Area A Registration. (a) Registration Area A is an exclusive registration area.

(b) Notwithstanding 5 AAC 34.005(b) and 5 AAC 34.020(e), a vessel registered for Registration Area A may also be used to take king crab in Registration Area D if the vessel owner, or the owners agent, has had the registration for Registration Area A invalidated and has registered the vessel in Registration Area D. A vessel registered for Registration Area D may also be used to take king crab in Registration Area A if the vessel owner, or the owners agent has had the registration for Registration area D invalidated and has registered the vessel in Registration area A.

(c) In Registration Area A, the king crab registration remains valid throughout the registration year unless it is invalidated under (b) of this section or another provision of this chapter.

(d) In Registration Area A, the vessel registration under 5 AAC 34.020 must be completed no later than 30 days before the scheduled opening date of the commercial king crab season.

5 AAC 35.106. Area A Registration. (a) Registration area A is a superexclusive registration area.

(b) A Tanner crab vessel may not be registered in Registration Area A simultaneously as both a pot and ring net vessel. A vessels registration may be changed during the open Tanner crab season if the owner or the owner's agent submits a written request for a change in registration to the department for validation.

(c) In Registration Area A, the vessel registration under 5 AAC 35.020 must be completed no later than 30 days before the scheduled opening date of the commercial Tanner crab season.

WHAT WOULD BE THE EFFECT OF THE PROPOSAL IF ADOPTED? This would remove the Department's need to close core Tanner crab areas to both Tanner and golden king crab fishing. It would require fishers with a combination permit for harvesting both golden king and Tanner crab to either unregister for Tanner crab or not register at all for the Tanner crab fishery if they wished to continue to fish for golden king crab in areas closing early to Tanner crab.

BACKGROUND: During the March, 2002 Board of Fisheries meeting, the Board charged the department and the Southeast Alaska King and Tanner Task Force (KTTF) to work together to develop a draft Tanner crab management plan for consideration by the Board during the next Statewide King and Tanner Crab Board meeting. One element of the Board's directive was to reduce fishing pressure in the most productive traditional 'core' Tanner crab fishing areas. To provide information on management options and to distribute effort in the commercial Tanner crab fishery, during the 2003 Tanner crab fishery the department closed core areas after 5 days

and allowed an additional 5 days of fishing time in ‘non-core’ areas that have received little effort in recent years. It was necessary to close core Tanner crab fishing areas to both Tanner and golden king crab fishers to do this because golden king and Tanner crab fishers could have had both species aboard and have gear for golden king crab in core areas. Thus, it would have been impossible for Fish and Wildlife Protection to assure that they were not retaining Tanner crab in the core fishing areas. While most golden king crab fishing grounds are not located in the core Tanner crab grounds, there are some. The closure of core Tanner crab areas during the 2003 fishery had the unforeseen effect of forcing a small number of golden king crab fishers to move gear out of their traditional golden king crab fishing grounds and then later compete to re-occupy these grounds. Thus, these individuals incurred a significant economic hardship.

DEPARTMENT COMMENTS: The department SUPPORTS this proposal.

The department would like to pursue another season of experimenting with the new core/non-core area management regime to better understand its effects before the next statewide king and Tanner Crab meeting. Members of both fleets wish to move forward with Tanner crab management plan development and the core/non-core approach, but retaining status quo would create economic hardship for some crab fishers.

One solution would be additional regulatory language, perhaps with a sunset stipulation, requiring that dually registered golden king and Tanner crab permit holders are subject to the most restrictive time and area limits for the current season. This would require permit holders with golden king and Tanner crab dual fishing permits (K69) to un-register for Tanner crab if they wished to keep fishing golden king crab in areas closed to Tanner crab fishing. This would create an enforceable regulation since golden king crab fishers would not be able to retain any Tanner crab in areas closed to Tanner crab fishing.

Substitute regulatory language:

5 AAC 34.109. Area A Registration.

.....

(e) Before a vessel registered for both the golden king crab and Tanner crab fisheries may fish for golden king crab in areas closed to Tanner crab

(1) the vessel must have all Tanner crab removed from the vessel;

(2) must un-register to fish for Tanner crab by signature of the vessel owner, agent or permit holder;

(3) may store gear as specified in 5 AAC 34.127;

(4) Once a permit has been un-registered for Tanner crab, Tanner crab may not be retained or sold.

(f) A vessel registered to fish for only golden king crab must remove all gear from the closed Tanner crab area before registering to fish for Tanner crab.

5 AAC 35.106. Area A Registration.

.....

(d) Before a vessel registered for both the golden king crab and Tanner crab fisheries may fish for golden king crab in areas closed to Tanner crab

- (1) the vessel must have all Tanner crab removed from the vessel;
- (2) must un-register to fish for Tanner crab by signature of the vessel owner, agent or permit holder;
- (3) may store gear as specified in 5 AAC 35.127;
- (4) Once a permit has been un-registered for Tanner crab, Tanner crab may not be retained or sold.

(e) A vessel registered to fish for only golden king crab must remove all gear from the closed Tanner crab area before registering to fish for Tanner crab.

COST ANALYSIS: The department does not believe the approval of this agenda change request will result in additional costs to the private person to participate in the fishery.

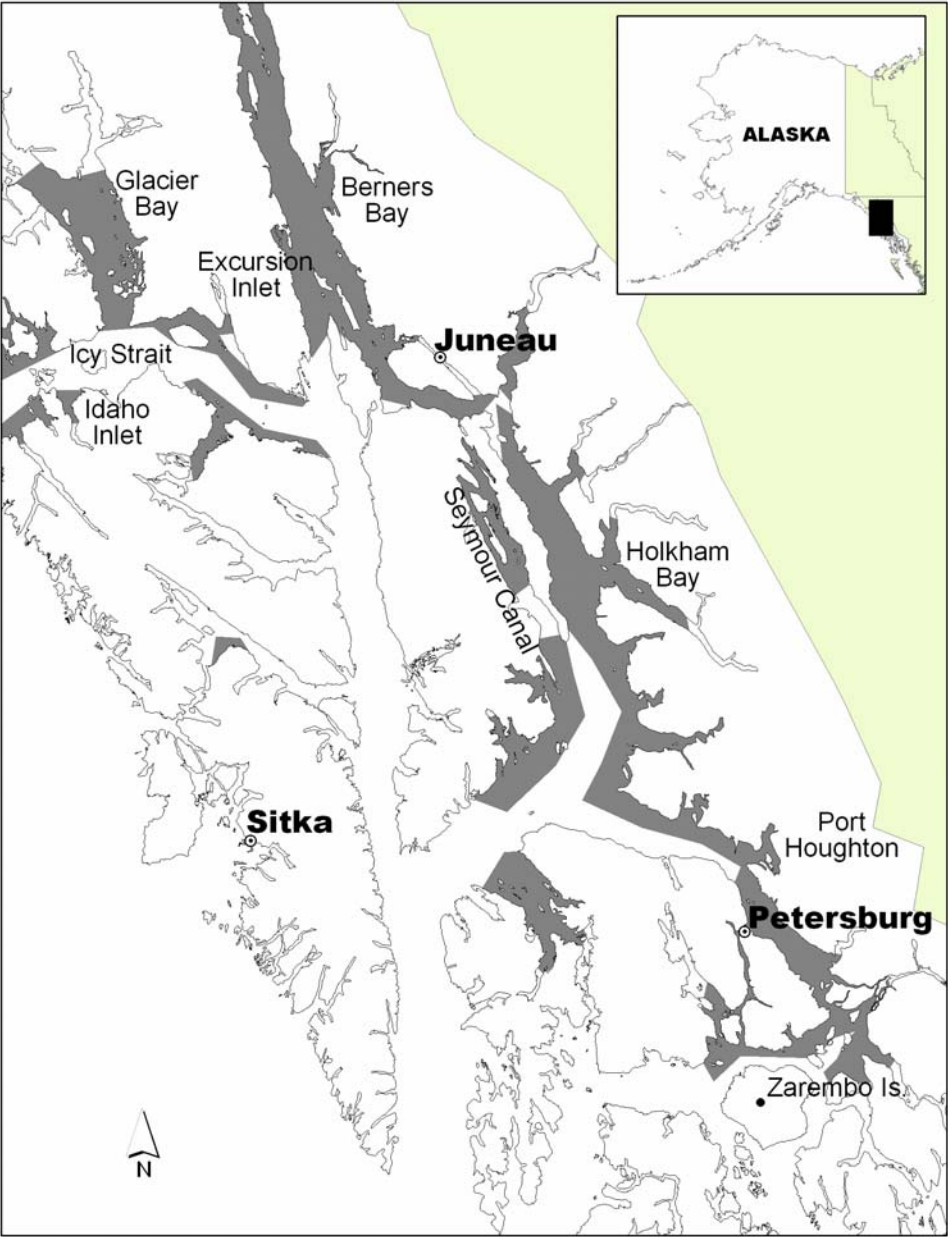


Figure 1. Major Tanner Crab Commercial Fishing Grounds in Southeast Alaska.

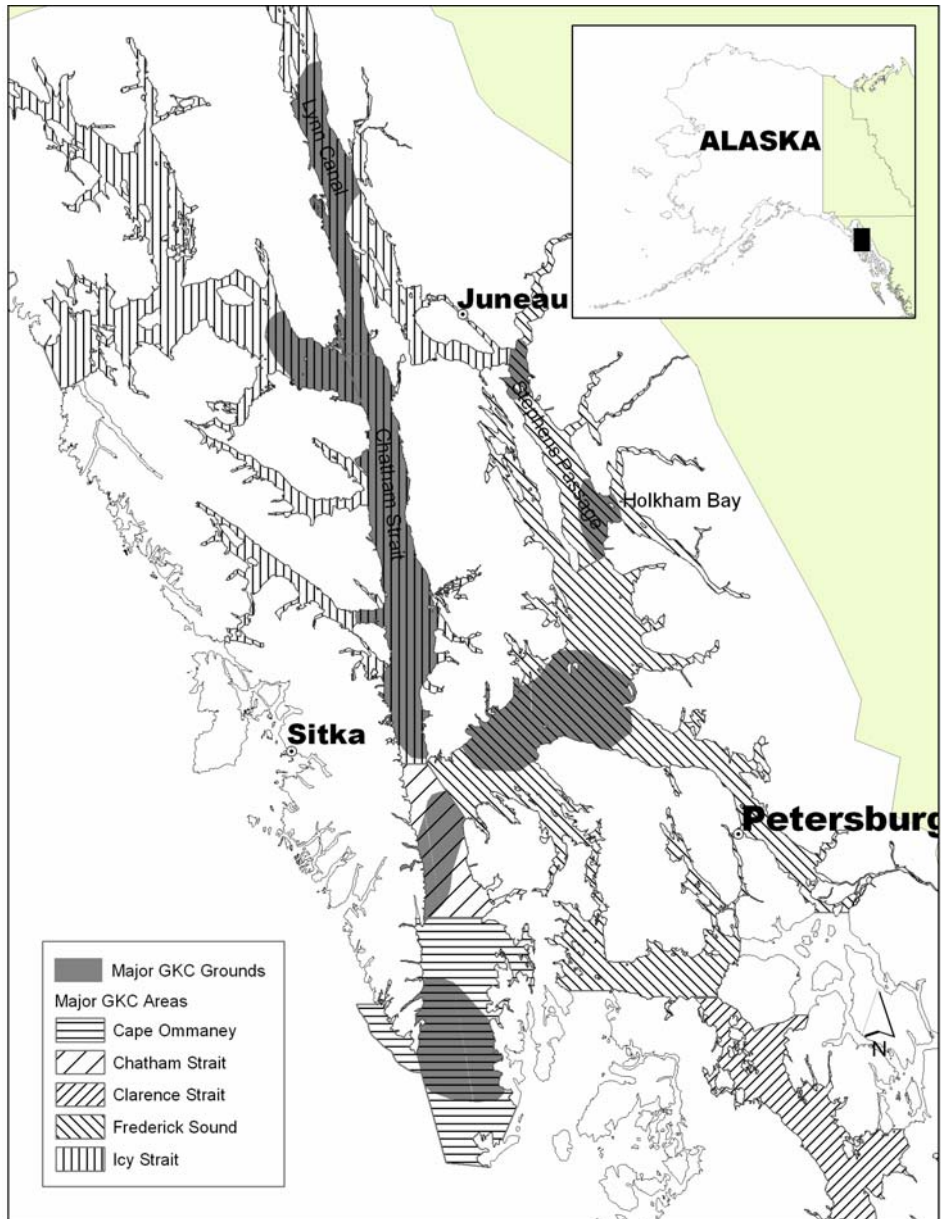


Figure 2. Major Golden King Crab Commercial Fishing Grounds in Southeast Alaska.