

ALASKA DEPARTMENT OF FISH AND GAME

STAFF COMMENTS Agenda Change Requests

ALASKA BOARD OF FISHERIES MEETING ANCHORAGE, ALASKA

October 9-11, 2012



Regional Information Report No. 5J12-18

The following staff comments were prepared by the Alaska Department of Fish and Game for use at the Alaska Board of Fisheries (board) meeting, October 9-11, 2012 in Anchorage, Alaska. The comments are forwarded to assist the public and board. The comments contained herein should be considered preliminary and subject to change, as new information becomes available. Final department positions will be formulated after review of written and oral public testimony presented to the board.

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ACR 1 – Designate Pacific herring as a forage fish under the provisions of the *Forage Fish Management Plan*. (5 AAC 27.XXX and 5 AAC 39.212)

PRESENT SITUATION: The *Forage Fish Management Plan* was adopted by the Alaska Board of Fisheries (board) at its Statewide finfish meeting in 1998 to help sustain the food supply for commercially-important finfish species, marine mammals, and seabirds by preventing development of new commercial fisheries on forage fishes in state waters. This regulation was introduced by the Alaska Department of Fish and Game (department) as a companion measure to a similar federal regulation before the North Pacific Fishery Management Council. Regulations providing for the conservation and development of Pacific herring are found in Chapter 27 of the Alaska Administrative Code (AAC).

Commercial herring fisheries have been ongoing since before the time of statehood.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This request would add Pacific herring to the list of forage fish species included in the *Forage Fish Management Plan*. The stated purpose of this proposed change is to provide additional conservation measures for herring resources.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

1. **Is there a fishery conservation purpose or reason?** Regulations for commercial herring fisheries found in Chapter 27 of the AAC provide for beneficial use, conservation, allocation, and orderly fisheries based on the sustained yield principle.
2. **Does the agenda change request correct an error in regulation?** Herring were not included in the *Forage Fish Management Plan* since herring management plans and fisheries had already been developed at the time the forage fish plan was adopted in 1998. In the original proposal, the department stated: “For the purposes of this management plan, herring are not considered as a forage fish,” and “Because of the presence of historical commercial fisheries, herring are not considered forage fish in the federal management plan”. The purpose of the plan was not to dismantle existing fisheries; it was to prevent the development of new forage fish fisheries.
3. **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** The importance of herring to the ecosystem and the need to provide for conservation and sustainable management were understood and considered when the regulation was adopted in 1998.

ADDITIONAL INFORMATION: Regulations of Chapter 1 of the AAC provide for subsistence herring fisheries. Acceptance of this ACR and subsequent adoption of this proposal would close commercial herring fisheries statewide.

PROPOSED BY: Aaron Bean.

ACR 2 – Change the weather delay criteria for opening the Chignik District Tanner crab fishery from small craft advisory to gale force wind warning. (5 AAC 35.510(b)(2)).

PRESENT SITUATION: The Chignik District Tanner crab fishery has a weather delay regulation for opening the fishery (5 AAC 35.510(b)(2)). The fishery opens by regulation on January 15, unless the National Weather Service (NWS) marine forecast for Area 155 (Castle Cape to Cape Sarichef) contains a small craft advisory or higher, in which case the opening is delayed 24-hours. Season-opening weather delays based on marine weather forecasts may occur for up to 10 consecutive days, after which the fishing season opens regardless of marine weather forecast.

The fishery is managed for a guideline harvest level.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: Change the weather delay forecast criteria from small craft advisory to gale warning.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

1. **Is there a fishery conservation purpose or reason?** Weather delay provisions are intended to improve vessel safety at the beginning of the season when vessels are transporting pots to the fishing grounds. Delaying the start of the fishery due to poor weather may allow small vessels, which may be more susceptible to poor weather conditions compared to large vessels, an equal opportunity to start the fishery. Maximum vessel size for the Chignik District Tanner crab fishery is 58 feet.
2. **Does the agenda change request correct an error in regulation?** No. Current regulation delays the start of the Chignik District Tanner crab season if the NWS marine weather forecast contains a small craft advisory or higher.
3. **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No. The weather delay regulation was implemented for the January 2012 season. The Chignik District Tanner crab fishery was delayed for 10 consecutive days and opened by regulation on January 25.

ADDITIONAL INFORMATION: According to the NWS glossary, a small craft advisory may be determined by the NWS based on sustained winds or frequent gusts of 23 to 33 knots. A small craft advisory for rough seas may be issued for sea/wave conditions deemed locally significant. According to NWS staff in Kodiak, 25-knot winds or 8-foot seas are considered levels that trigger a small craft advisory.

According to the NWS glossary, a gale warning is issued if sustained surface winds, or frequent gusts, in the range of 34 knots (39 mph) to 47 knots (54 mph) inclusive, are either predicted or occurring. According to NWS staff in Kodiak, a 35-knot wind is considered a gale warning.

PROPOSED BY: Alfredo S. Abou Eid.

ACR 3 – Establish times when a commercial set gillnet permit holder in the Lower Yukon Area may use dip net and beach seine gear to commercially harvest chum salmon during the summer season, including specifications and operations provisions for dip net and beach seine gear. (5 AAC 05.330(a) and 5 AAC 05.362)

PRESENT SITUATION: Only gillnet gear is allowed in the Yukon Area districts 1–3 commercial fishery. Permit holders may use 50-fathom drift gillnets or 150 fathoms, in aggregate, of set gillnet gear. King and summer chum salmon runs greatly overlap in run timing. Maximum mesh size of gillnets is seven and one-half inch. To direct the commercial harvest at summer chum salmon, the department may specify six-inch or smaller mesh size by emergency order. In the last six years, the department has delayed commercial chum salmon fishing to allow passage of poor runs of king salmon, limited areas open to commercial fishing where king salmon abundance is low, and established short fishing periods to reduce incidental harvests of king salmon. Conservation measures taken to limit incidental harvests of king salmon during poor king salmon runs have greatly reduced the commercial harvests of surplus summer chum salmon.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: To allow Lower Yukon Area districts 1–3 commercial permit holders to use dip net and beach seine gear to commercially harvest surplus summer chum salmon during times of king salmon conservation. These new gear types would allow for the live release of king salmon.

The regulations this ACR seeks to address will be taken up this cycle. The board may wish to consider generating its own proposal for the AYK meeting if it wishes to take up this issue.

ADDITIONAL INFORMATION: The harvest of surplus summer chum salmon has been greatly reduced during poor king salmon runs because of the need to minimize incidental harvest of king salmon. In 2012, there was a foregone harvest of approximately one million fish. The AYK Region cycle board meeting will be in January 2013.

PROPOSED BY: Jack Schultheis.

ACR 4 – Modify the *Kenai River Late-run King Salmon Management Plan* in the Cook Inlet Area, including review and revision of current escapement goals, the time period the management plan is effective, burden of conservation between user groups, and priority of certain escapement goals. (5 AAC 21.359)

PRESENT SITUATION: The language under 5 AAC 21.359, *Kenai River Late-Run King Salmon Management Plan*, specifies the department shall manage to achieve a sustainable escapement goal of 17,800–35,700 late-run king salmon and provides specific management actions (liberalizations and restrictions) to sport and commercial fisheries in order to achieve the escapement goal. If the escapement goal is projected to be exceeded, the sport fishing season may be extended up to seven days during the first week of August. If the projected inriver return of late-run king salmon is less than 40,000 fish and the inriver sport fishery harvest is projected to result in an escapement below 17,800 king salmon, the department may restrict the inriver sport fishery (for example, prohibit bait, catch-and-release). If the projected inriver return is less than 17,800 king salmon, the department shall close through July 31: the inriver sport fishery, the marine sport fishery north of Bluff Point, the commercial set gillnet fishery in the Upper Subdistrict of the Central District, and the commercial drift gillnet fishery within one mile of the Kenai Peninsula shoreline north of the Kenai River and one and one-half miles of the Kenai Peninsula shoreline south of the Kenai River.

Prior to 2002, there were stipulations in the *Kenai River Late-Run King Salmon Management Plan* that limited commercial fishing when the inriver fishery was restricted. The plan mandated that when the sport fishery was restricted and the late run of sockeye salmon was projected to exceed two million fish, the department may not open the commercial set gillnet fishery in the Kenai and East Foreland sections for a 24-hour period per week, in addition to the 24-hour period specified in the *Kenai River Late-Run Sockeye Salmon Management Plan*. The plan also specified if the projected inriver return was less than 40,000 late-run king salmon and the total return of late-run sockeye salmon was projected to exceed four million fish, the commercial set gillnet fishery in the Kenai and East Foreland sections may not be opened for 24 hours beginning on Friday at 12:00 noon. Since that time, mandatory closed fishing periods to the commercial set gillnet fishery have been adopted into the *Kenai River Late-Run Sockeye Salmon Management Plan* and are not predicated on restrictive actions to the sport fishery.

The department presently is transitioning from split-beam sonar and target strength data used, in part, to develop the early-run and corroborate the late-run escapement goals, towards DIDSON estimates. As part of the transition in 2012, five indices were used to assess late-run king salmon run strength: DIDSON estimates, net-apportioned sonar estimates, test net catch-per-unit-effort (CPUE) estimates, sport fish CPUE, and commercial eastside setnet harvest. Taken individually, each index of abundance produces a different estimate, but used in combination, they provided an overall assessment of king salmon abundance that was used for determining inseason management actions.

DIDSON is being developed to assess king salmon runs in the Kenai River. Currently, the relationships between the DIDSON passage estimate and other tools used to estimate king salmon passage are being examined as part of the transition to use the DIDSON for inseason management. Information about the relationship of DIDSON estimates to companion estimates

from other data sources is a necessary step toward developing a new king salmon escapement goal based on DIDSON.

The department plans to develop a new transitional DIDSON-based escapement goal for the 2013 fishing season and have it available in the spring of 2013.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This request seeks to amend the management plan to reference a new escapement goal, extend the time period during which the plan applies, review restrictive management stipulations, and provide for step-down measures of the commercial set net fishery.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

1. **Is there a fishery conservation purpose or reason?** The department has emergency order (EO) authority to restrict or liberalize sport fisheries depending upon run abundance. Although this year's late-run king salmon total run abundance was the lowest on record since sonar was first deployed on the Kenai River in 1984, this season the department used its EO authority to effectively restrict harvest and increase spawning escapement.
2. **Does the agenda change request correct an error in regulation?** In regards to the escapement goal, yes. The escapement goal stated in the *Kenai River Late-Run King Salmon Management Plan* regulation will likely not reflect the new transitional DIDSON-based escapement goal.

The department is unaware of an error or intent to prescribe when action should be taken with respect to king salmon entering the Kenai River in August. 5 AAC 21.359(b)(3) has remained virtually unchanged since the plan was adopted in 1989. Although a percentage of late-run king salmon enter the Kenai River in August (see additional information below), the plan only applies to the month of July. Since sport fishing for king salmon in the Kenai River closes August 1, the timeframe of the management plan was set to coincide with the open sport fishing season of July 1–31.

3. **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Since the time management plans were adopted for Kenai River king salmon in 1989, the department has transitioned to new sonar technology, combined with other sources of information, specific to gauging king salmon abundance. New goals and management objectives are needed to provide the department, board, and public with numbers specific to methodology currently being used. At the 2011 Upper Cook Inlet (UCI) Board meeting, the department stated that it intended to work toward developing a new Kenai River king salmon escapement goal for implementation at or after the 2014 UCI Board meeting. However, the capability is now available to develop a transitional goal in advance of the 2014 meeting.

ADDITIONAL INFORMATION: The preliminary DIDSON estimate of king salmon passage at the king salmon sonar site for the 2012 season was 21,817 fish. Late arriving late-run king salmon necessitated extending the 2012 sonar and netting program through August 15. Based on historical run timing since 2002, the 2012 run was about 8–9 days later than normal, as approximately 36% of the run arrived after July 31, compared to a historic average of 16%.

The preliminary creel survey estimate of king salmon sport fish harvest (including catch-and-release mortality) was approximately 200–300 fish above the sonar site and four fish below the sonar site. The inriver sport fishery for king salmon was restricted for much of 2012 and was closed from July 19 to the end of the season on July 31. Retention of king salmon in the personal use dipnet fishery was prohibited in 2012. The cumulative commercial eastside setnet harvest was 584 king salmon. The commercial eastside setnet fishery for king salmon was restricted for much of 2012 and was closed from July 19 to the end of the season on July 31.

The cumulative CPUE in the test netting program and the net-apportioned sonar indices in 2012 were the lowest on record since 2002. The preliminary 2012 DIDSON escapement estimate is 21,817 king salmon. While it is not clear how the DIDSON estimate relates to the current sustainable escapement goal of 17,800–37,500 late-run Kenai king salmon, the 2012 escapement is higher than the previous two years because of restrictive management actions taken inseason. Escapement would have been much lower had the inriver sport, personal use and the commercial eastside setnet fisheries not been restricted or closed in 2012.

PROPOSED BY: Kenai River Sportfishing Association.

ACR 5 – Allow commercial salmon seine net depth in the Alaska Peninsula Area to be measured in feet and inches, which would allow additional webbing to be attached beyond the current restriction of 350 meshes of 3.5 inch and 25 meshes of seven inches. (5 AAC 09.332)

PRESENT SITUATION: The description of legal seine gear in 5 AAC 09.322 states that seines must be between 100 and 250 fathoms in length and not exceed 350 meshes in depth. Seine mesh size may not exceed three and one-half inches, except the first 25 meshes above the leadline which may not be more than seven inches.

A few fishermen have recently purchased seine nets that meet the description of maximum allowable gear, but were put together with inferior components. These nets have subsequently shrunk and are said to fish less efficiently than other nets that have maintained their original specifications. The shrunken nets may not be modified to increase their depth, because the depth restriction is expressed in “number of meshes”, which these nets already have. Fishermen with the shrunken nets are at a disadvantage against other fishermen who have nets of higher quality components.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: The ACR seeks to modify the description of legal seine net depth, in 5 AAC 09.332, by adding a mathematical equivalent expressed in inches.

The regulations this ACR seeks to address will be taken up this cycle. The board may wish to consider generating its own proposal for the AP-AI meeting if it wishes to take up this issue.

ADDITIONAL INFORMATION: Within the Alaska Administrative Code, legal net gear is consistently defined by the allowable length (expressed in fathoms), the minimum or maximum allowable size of mesh (expressed in inches), and depth (expressed in number of meshes). Modifying the definition of legal seine gear would make the regulation inconsistent with similar regulations statewide.

PROPOSED BY: Corey Wilson, Justin Wilson, and Alvin Newman.

ACR 6 – Modify the area in the Kenai River where a person may take salmon with a personal use dip net from shore. (5 AAC 77.540(c)(1)(D))

PRESENT SITUATION: In the Kenai River, salmon may be taken by dip net from shore from department regulatory markers located on Cook Inlet beaches outside the terminus of the river upstream to the downstream side of the Warren Ames Bridge, except dipnetting is closed on the north shore from a department regulatory marker located below the end of Main Street upstream to a department regulatory marker located near the Kenai city dock (Figure 6.1). Salmon may also be taken by dip net from a boat in an approximate 3.5 river-mile area of the Kenai River, from a department regulatory marker located near the Kenai city dock upstream to the downstream side of the Warren Ames Bridge; however, salmon may not be taken from a boat powered by a two-stroke motor other than a motor manufactured as a direct fuel injection (DFI) motor.

There is no horsepower restriction downstream of river mile 4.0, but upstream of river mile 4.0, horsepower is limited to a maximum 50 HP under Alaska State Parks boating regulations on the Kenai River.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This request seeks to expand the area open to dipnetting from shore in the Kenai River.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

1. **Is there a fishery conservation purpose or reason?** The department has emergency order authority to restrict or liberalize personal use fisheries depending upon run abundance.
2. **Does the agenda change request correct an error in regulation?** No. The area open to dipnetting from shore has remained unchanged since 1999.
3. **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

ADDITIONAL INFORMATION: The *Cook Inlet Personal Use Salmon Dip Net Fishery Management Plan* (5 AAC 77.540) was adopted at the 1981 Alaska Board of Fisheries meeting. Regulations restricted the fishery in the Kenai River to the lower section of the river downstream of the Warren Ames Bridge. For the 1997 season, the area open to dipnetting from a boat was reduced to waters from the Warren Ames Bridge downstream to a department regulatory marker located near the Kenai City dock. The area open to dipnetting from shore was modified in 1999 by closure of a section of the lower Kenai River along the bluff on the north side of the river in response to increased erosion of lands owned by the City of Kenai.

PROPOSED BY: Thomas G. Strother.

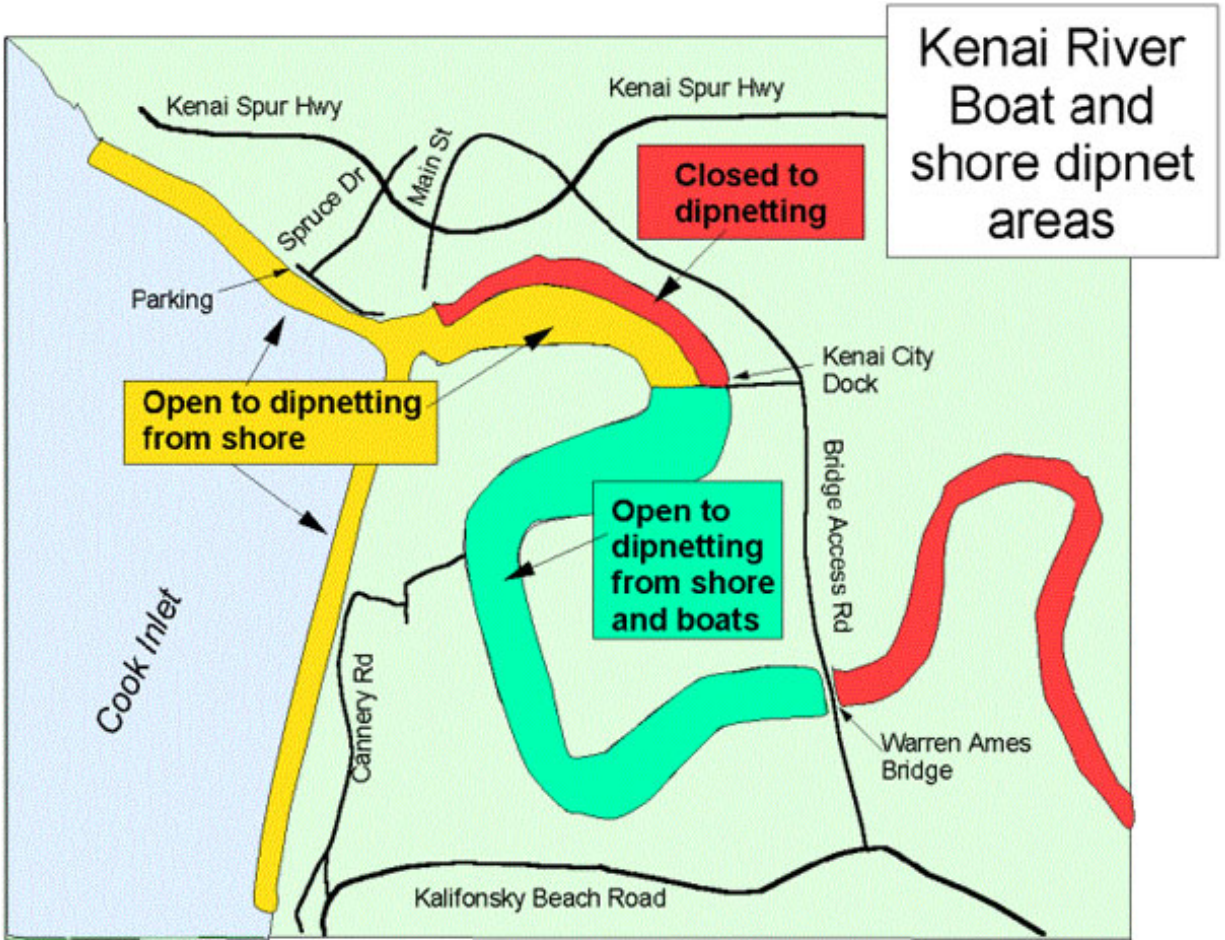


Figure 6.1.—Kenai River area open to dipnetting from boat and shore.

ACR 7 – Change the vessel size limit for Registration Area O (Aleutian Islands Area) red king crab (RKC) fishery, in state waters from 172° W long to 179° W long, from 90 feet or less in overall length to less than 60 feet in overall length. (5 AAC 34.610(d))

PRESENT SITUATION: A vessel fishing for RKC in state waters of the central Aleutian Islands (172° W long to 179° W long) may be no more than 90 feet in length (5 AAC 34.610 (d)). There is no corresponding vessel size limit in adjacent federal waters for an RKC vessel.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: Decrease the vessel size limit to less than 60 feet in length in state waters from 172° W long to 179° W long.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

1. **Is there a fishery conservation purpose or reason?** The RKC fishery in the Aleutian Islands, from 172° W long to 179° W long, has been closed since the 1998/99 season due to low stock size.

The 2012–13 federal acceptable biological catch for the RKC stock west of 171° W long was set based on conducting a test fishery survey and for projected bycatch mortality in other crab and groundfish fisheries; however, there was no allowance for a directed RKC fishery opening. Therefore, the department would need to conduct a stock assessment survey to determine if conditions warrant a commercial fishery opening.

2. **Does the agenda change request correct an error in regulation?** The vessel size limit has been in place since 2005; however, the fishery has not opened since the regulation was adopted.
3. **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No. The fishery in this area has not opened under the 90-foot vessel size limit.

ADDITIONAL INFORMATION: RKC are managed as a stock unit in state and federal waters of the Aleutian Islands. The Aleutian Islands RKC stock west of 171° W long is included in the federal *Fishery Management Plan for the Bering Sea/Aleutian Islands King and Tanner Crabs* (FMP). The Aleutian Islands RKC stock is rationalized west of 179° W long. However, the fishery is not rationalized east of 179° W long; east of 179° W long state waters are open by commissioner’s permit. This ACR requests to modify vessel size limits for state waters only; therefore, there are no FMP implications. However, harvest occurring in state waters would be considered for catch accounting for federal overfishing and acceptable biological catch determinations.

PROPOSED BY: Aleut Enterprise Corporation/Clem Tillion.

ACR 8 – Establish a pot limit of 10 pots per vessel fishing for red king crab (RKC) near Adak Island in Registration Area O, Aleutian Islands Area. (5 AAC 34.625(x))

PRESENT SITUATION: The Aleutian Islands RKC fishery east of 179° W long does not have a pot limit.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: Implement a 10 pot per vessel limit in waters near Adak Island.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

1. **Is there a fishery conservation purpose or reason?** Information available suggests that the Adak RKC stock continues to be at a very low stock size. The last ADF&G/industry survey was in 2002 and provided no evidence of populations of sufficient size to support a directed fishery.

The 2012–13 federal acceptable biological catch for the RKC stock west of 171° W long was set based on conducting a test fishery survey and for projected bycatch mortality in other crab and groundfish fisheries; however, there was no allowance for a directed RKC fishery opening. Therefore, the department would need to conduct a stock assessment survey to determine if conditions warrant a commercial fishery opening.

2. **Does the agenda change request correct an error in regulation?** No. The waters near Adak Island currently do not have a pot limit.
3. **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No. This ACR would implement a pot limit.

ADDITIONAL INFORMATION: The Aleutian Islands RKC stock west of 171° W long is included in the federal *Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs*. Pot limits are a category two management measure in the FMP.

RKC are managed as one stock unit in state and federal waters.

PROPOSED BY: Aleut Enterprise Corporation/Clem Tillion.

ACR 9 – Modify the waters in the Tsiu River in the Yakutat Area that are closed to commercial salmon fishing to facilitate an orderly fishery for the commercial and sport fisheries. (5 AAC 30.350(a)(12))

PRESENT SITUATION: Commercial fishing is closed by regulation above a regulatory marker located approximately one-half mile downstream from Duck Camp Island, approximately five miles above salt waters. Typically, the first commercial opening is provided after 2,500 fish are estimated above the marker after conducting aerial surveys. Commercial openings are limited, by regulation, to Sunday 9 a.m.–Monday 9 a.m. and Tuesday 9 a.m.–Wednesday 9 a.m. Weather conditions are often a factor used to determine commercial openings by emergency order. Department managers work closely with processing company representatives to ensure that weather conditions will allow safe and economic shipping from the Tsiu River to the processing plant. Commercial openings on the Tsiu River are managed on a weekly basis during the run to ensure that the biological escapement goal (BEG) of 10,000–29,000 coho salmon is met. Escapement goals have been achieved on a consistent basis. In recent years, regulatory markers have been moved downriver when low river flows prevented fish from ascending the river.

Sport fishing is allowed year-round for salmon on the entire drainage, but most angling occurs below the current commercial fishery regulatory markers below Duck Camp Island due to adverse river morphology above that point. The main fishery on the Tsiu River is mid-August to the end of September for coho salmon. Limits are four per day and eight in possession for coho salmon.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: The ACR is attempting to allow either the Alaska Board of Fisheries (board) to determine closed waters, or for ADF&G to annually determine closed waters, and thereby reduce the area available for commercial fishing area on the lower Tsiu River, as delineated by marker placement. The purpose of this regulation change would be to reduce potential conflicts between user groups by closing an area in the lower Tsiu River to commercial fishing and continuing to allow sport fishing to occur.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

1. **Is there a fishery conservation purpose or reason?** The Tsiu River has achieved its BEG every year since it was adopted. Both commercial and sport fisheries have been highly productive in the past, as well as in the recent decade.
2. **Does the agenda change request correct an error in regulation?** The regulation stating closed waters for the Tsiu River in the Yakutat Area (5 AAC 30.350(a)(12)) was not specifically designed to address potential conflicts between user groups.

The current regulation for determining commercial closed waters was designed to allow for escapement above the marker, and to allow for management of the commercial fishery below that marker. In subsequent years, a sport fishery developed on the Tsiu River based out of sport lodges. Sport fisheries were open throughout the

river. During initial development of the sport fishery, user group conflicts were indirectly avoided during commercial openers since there was a holding pool above the markers in the commercial closed area. In recent years, the river morphology has changed and the holding pool has filled in with sand and vegetation. This area is no longer productive for sport users. The current regulatory marker placement does not allow for separation of sport and commercial fisheries in the river below the markers.

- 3. Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** This is a board determination since the issue was thoroughly discussed during the February 2012 board meeting.

ADDITIONAL INFORMATION: Management issues in regards to user conflict have existed since the year 2000. User groups have attempted to manage disagreements with community meetings in Yakutat run by hired facilitators. These various meetings have not resulted in any lasting agreements.

PROPOSED BY: Tsiu River Coalition.

ACR 10 – Direct the Department of Fish and Game provide a status of king salmon stocks and recommend that early-run Kenai River king salmon be declared a stock of concern at an unspecified level. (5 AAC 39.222 and 5 AAC 57.160)

PRESENT SITUATION: The department uses emergency order (EO) authority to restrict or liberalize the early-run Kenai River sport fishery depending upon run strength to ensure adequate spawning escapement.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This request does not seek to change a regulation; it seeks to direct the department to provide a status of king salmon stocks and make a stock of concern recommendation on Kenai River early-run king salmon.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

1. **Is there a fishery conservation purpose or reason?** The department has EO authority to restrict or liberalize sport fisheries depending upon run abundance.
2. **Does the agenda change request correct an error in regulation?** This request is not seeking a change in regulation.
3. **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** This request is not seeking a change in regulation.

ADDITIONAL INFORMATION: The *Policy for Changing Board Agenda* (5 AAC 39.999) does not apply to a stock of concern designation because such a designation is not a regulatory change. Also, the *Policy for Management of Sustainable Salmon Fisheries* (5 AAC 39.222(d)) provides for the department to identify salmon stocks of concern at regular meetings of the Alaska Board of Fisheries. Department of Law has also advised that the board does not have the authority to mandate a particular research, analysis, or assessment by the department.

PROPOSED BY: Kenai Area Fisherman’s Coalition.

ACR 11 – Modify the *Central District Drift Gillnet Fishery Management Plan*, including adding restrictions to the drift gillnet fleet and conditions for additional fishing time from July 16–31, addressing the 4.6 million fish trigger, and establishing that meeting minimum escapement goals takes priority over exceeding the upper end of other salmon species’ escapement goals. (5 AAC 21.353)

PRESENT SITUATION: The purpose of 5 AAC 21.353, *Central District Drift Gillnet Fishery Management Plan*, is to primarily harvest sockeye salmon bound for the Kenai and Kasilof rivers, while ensuring adequate escapement of salmon into drainages in the Northern District. There are specific time and area restrictions to the drift fleet intended to provide conservation of sockeye and coho salmon bound for the Northern District of Cook Inlet.

From July 9 through July 15:

- fishing during the first regular fishing period is restricted to the Expanded Kenai and Expanded Kasilof sections of the Upper Subdistrict;
- fishing during the second regular fishing period is restricted to Drift Gillnet Area 1 and the Kenai and Kasilof sections of the Upper Subdistrict (narrow corridor); and
- at run strengths greater than 2.3 million sockeye salmon to the Kenai River, one additional fishing period during this time may be opened in Drift Gillnet Area 1 and the Kenai and Kasilof sections of the Upper Subdistrict (narrow corridor).

From July 16 through July 31:

- at run strengths of less than 2.3 million sockeye salmon to the Kenai River, fishing during one regular 12-hour fishing period will be restricted to the Expanded Kenai and Expanded Kasilof sections of the Upper Subdistrict;
- at run strengths of 2.3–4.6 million sockeye salmon to the Kenai River, fishing during one regular 12-hour period per week will be restricted to either (a) Drift Gillnet Area 1, or to (b) the Expanded Kenai and Expanded Kasilof sections of the Upper Subdistrict, but not both (a) and (b) concurrently; and
- at run strengths greater than 4.6 million sockeye salmon to the Kenai River, there are no mandatory restrictions during regular fishing periods.

Restrictions to the drift gillnet fleet from July 9–15 are primarily to conserve Susitna River sockeye salmon; restrictions from July 16–31 are primarily for conservation of northern-bound sockeye and coho salmon. These restrictions were modified at the 2011 Alaska Board of Fisheries (board) meeting, which incorporated the restrictions in the *Susitna Sockeye Salmon Action Plan* (2008); and fisheries were further restricted in 2011 to allow additional protection for salmon migrating to Northern Cook Inlet.

Regarding escapement goals, the Alaska Department of Fish and Game (department) manages salmon fisheries in Alaska following the *Policy for the Management of Sustainable Salmon Fisheries* (5 AAC 39.222) and the *Policy for Statewide Salmon Escapement Goals* (5 AAC 39.223). The board adopted these policies into regulation during the winter of 2000–2001 to ensure that the state’s salmon stocks are conserved, managed, and developed consistent with the sustained yield principle. The board also adopted 5 AAC 21.363, *Upper Cook Inlet Management Plan*, to provide the department long-term direction in management of salmon in

Upper Cook Inlet (UCI). Achieving established escapement goals is one the primary management objectives of this plan (5 AAC 21.363(e)). It should be noted that the management plans and policies do not indicate a priority of meeting the lower end of escapement goals over exceeding the upper end of an escapement goal. However, even though it is not stated in the plans and policies, the department puts a priority of meeting the lower end of escapement goals over exceeding the upper end of escapement goals.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This request asks for multiple issues to be addressed:

- 1) Unspecified restrictions to fishing time and/or area in *Central District Drift Gillnet Fishery Management Plan*;
- 2) Reconsideration of the 4.6 million sockeye salmon drift fishery trigger; and
- 3) Establish that achieving minimum escapement goals takes priority over exceeding the upper end of other salmon species' escapement goals.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

1. **Is there a fishery conservation purpose or reason?** There are seven sockeye and two coho salmon escapement goals that are monitored inseason in UCI. In 2011, six of the seven sockeye salmon goals were met or exceeded; in 2012, five of the seven sockeye salmon escapement goals were met or exceeded.

The Little Susitna River coho salmon escapement goal has not been achieved from 2009–2012. The Fish Creek coho salmon goal has been achieved in both years since the goal was reinstated (2011–2012).

2. **Does the agenda change request correct an error in regulation?** No.
3. **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

ADDITIONAL INFORMATION: The board adopted numerous changes to 5 AAC 21.353, *Central District Drift Gillnet Fishery Management Plan*, at the 2011 UCI finfish meeting. The changes were intended to provide conservation of northern-bound sockeye and coho salmon, while maintaining opportunities to harvest sockeye salmon stocks bound for the Kenai and Kasilof rivers.

At its 2011 meeting, the board adopted a preamble to the drift gillnet management plan (5 AAC 21.353(a)) stating, “The purpose of the management plan is to ensure adequate escapement of salmon into the Northern District drainages and to provide management guidelines to the department. The department shall manage the commercial drift gillnet fishery to minimize the harvest of Northern District and Kenai River coho salmon in order to provide sport and guided sport fishermen a reasonable opportunity to harvest these salmon stocks over the entire run, as measured by the frequency of inriver restrictions.”

To meet the provisions of the preamble, the board linked specific time and area restrictions to the drift fleet to address conservation of northern-bound sockeye and coho salmon (see “Present Situation” section, above).

Restrictions required in the drift gillnet management plan were met in both 2011 and 2012. That said, restrictions and closures to the Upper Subdistrict set gillnet fishery were implemented as a result of low numbers of Kasilof River sockeye salmon early in the season and below-average king salmon runs to the Kenai and Kasilof rivers in 2011 and 2012, which was not unforeseen in 2012. This required a departure in the traditional fishing pattern in order to reduce sockeye salmon escapement levels to the Kenai and Kasilof rivers. In prior years, drift fishing occurred simultaneously with the set gillnet fishery. However, the drift fleet was used extensively when the Upper Subdistrict set gillnet fleet was not in the water. The drift fleet was used often in the Expanded Kenai and Expanded Kasilof sections developed in 2011. Moreover, two additional Area 1 openings (on days other than regularly-scheduled periods) were granted in July in both 2011 and 2012 to harvest surplus Kenai and Kasilof river sockeye salmon, while protecting salmon stocks bound for the Northern District of Cook Inlet.. Also, three regularly scheduled districtwide drift gillnet fishing periods were restricted to just Area 1 (one period), or Area 1 and 2, (two periods) to reduce harvest rates on northern-bound coho salmon in August 2012.

PROPOSED BY: Matanuska-Susitna Borough Fish and Wildlife Commission.

ACR 12 – Change the weather delay criteria for opening the Chignik District Tanner crab fishery from small craft advisory to gale force wind warning. (5 AAC 35.510(b)(2))

PRESENT SITUATION: The Chignik District Tanner crab fishery has a weather delay regulation for opening the fishery (5 AAC 35.510(b)(2)). The fishery opens by regulation on January 15, unless the National Weather Service (NWS) marine forecast for Area 155 (Castle Cape to Cape Sarichef) contains a small craft advisory or higher, in which case the opening is delayed 24 hours. Season-opening weather delays based on marine weather forecasts may occur for up to 10 consecutive days, after which the fishing season opens regardless of marine weather forecast.

The fishery is managed for a guideline harvest level.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: Change the weather delay forecast criteria from small craft advisory to gale warning.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

1. **Is there a fishery conservation purpose or reason?** Weather-delay provisions are intended to improve vessel safety at the beginning of the season when vessels are transporting pots to the fishing grounds. Delaying the start of the fishery due to poor weather may allow small vessels, which may be more susceptible to poor weather conditions compared to large vessels, an equal opportunity to start the fishery. Maximum vessel size for the Chignik District Tanner crab fishery is 58 feet.
2. **Does the agenda change request correct an error in regulation?** No. Current regulation delays start of the Chignik District Tanner crab season if the NWS marine weather forecast contains a small craft advisory or higher.
3. **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** The weather-delay regulation was implemented for the January 2012 season. The Chignik District Tanner crab fishery was delayed for 10 consecutive days and opened by regulation on January 25.

ADDITIONAL INFORMATION: According to the NWS glossary, a small craft advisory may be determined by the NWS based on sustained winds or frequent gusts of 23 to 33 knots. A small craft advisory for rough seas may be issued for sea/wave conditions deemed locally significant. According to NWS staff in Kodiak, 25-knot winds or 8-foot seas are considered a small craft advisory.

According to the NWS glossary, a gale warning is when sustained surface winds, or frequent gusts, in the range of 34 knots (39 mph) to 47 knots (54 mph) inclusive, are either predicted or occurring. According to NWS staff in Kodiak, a 35-knot wind is considered a gale warning.

PROPOSED BY: Don Bumpus.

ACR 13 – Remove superexclusive and exclusive vessel registration for state-waters Pacific cod fisheries in the Prince William Sound, Cook Inlet, Kodiak, Chignik, and South Alaska Peninsula management areas. (5 AAC 28.267; 5 AAC 28.367; 5 AAC 28.467; 5 AAC 28.537; and 5 AAC 28.577)

PRESENT SITUATION: During a state-waters Pacific cod fishery, vessel registration in each registration area is designated as superexclusive, exclusive, or nonexclusive. A vessel operator may register only a single gear type on the vessel registration; however, a vessel operator may change allowable gear types within the management area during the same year.

Each management area has a late-season provision to rollover uncaught Pacific cod to other allowable gear types.

Each of the state-waters Pacific cod management areas, except Chignik, has a provision to designate the area as nonexclusive registration on or after October 30 in an attempt to increase effort to achieve the guideline harvest level (GHL) if the commissioner determines the GHL may not be achieved by the end of the regulatory Pacific cod season (December 31).

A vessel registered for a superexclusive registration area may not be registered to take Pacific cod in any other registration area during the same registration year. A vessel registered for an exclusive registration area may not be registered to take Pacific cod in any other exclusive registration area during the same registration year. A vessel registered for a nonexclusive registration area may be registered to take Pacific cod in one or more nonexclusive registration areas and one exclusive registration area during the same registration year.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: Remove the superexclusive and exclusive registration area designations for jig gear from Prince William Sound, Cook Inlet, Kodiak, Chignik, and Alaska Peninsula state-waters Pacific cod management plans.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

1. **Is there a fishery conservation purpose or reason?** No.
2. **Does the agenda change request correct an error in regulation?** No. Removing the superexclusive or exclusive jig gear registration designations would default each area to nonexclusive jig registration and could affect vessels that also pot fish during the year.
3. **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** The fisheries were originally designated as superexclusive, exclusive, or nonexclusive knowing that the designations would control movement between management areas. Designating each Pacific cod management area as nonexclusive jig registration would allow jig vessels to move between management areas within a registration year.

ADDITIONAL INFORMATION: Gulf of Alaska state-waters Pacific cod fishery management plans were revised beginning with the 2012 fishing season to coordinate the state-waters Pacific cod seasons with new federal Pacific cod gear sectors. To date for 2012, the Prince William Sound (PWS) state-waters Pacific cod GHL has not been achieved. However, the PWS season closed to longline and pot gear when 85 percent (longline) and 90 percent (pot) of the GHL was achieved. The PWS season remains open to jig gear and will likely achieve the GHL. The Cook Inlet (CI) state-waters Pacific cod GHL has not been achieved. However, the CI season closed to pot gear when its harvest allocation was achieved. The CI season remains open to jig gear, although the jig allocation will likely not be achieved, which may be rolled over to pot gear and will likely result in attainment of the GHL. The Kodiak state-waters Pacific cod pot and jig GHGs have been achieved. The Chignik pot GHG has been achieved; however, the Chignik jig GHG is not likely to be achieved and the jig GHG may be rolled over to both pot and jig at the conclusion of the federal pot gear B season. The South Alaska Peninsula state-waters Pacific cod pot GHG has been achieved and the South Peninsula jig GHG has not been achieved; however, the remaining jig GHG is small and may be achieved by the end of the season.

PROPOSED BY: Gregory R. Gabriel Jr.

ACR 14 – Allow selective gear comprised of a seine lead that directs salmon into a live box to be used by a set gillnet permit holder in the waters along the east coast of the Central District in the Cook Inlet Area; includes gear specifications and operations standards. (5 AAC 21.330(b)(3)(C)).

PRESENT SITUATION: Currently, set gillnets are the only allowable stationary gear that can be used to commercially harvest salmon in the Upper Subdistrict of Central District of Cook Inlet (5 AAC 21.330(b)(3)(C)).

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This request seeks to amend gear specifications and operations standards to allow a selective gear to be used in the waters along the east coast of the Central District in the Cook Inlet Area.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

1. **Is there a fishery conservation purpose or reason?** Not applicable.
2. **Does the agenda change request correct an error in regulation?** Not applicable.
3. **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Not applicable.

ADDITIONAL INFORMATION: Based on discussions with the Department of Law, as written, this ACR proposes to use a form of a fish trap. Operation or erection of fish traps is prohibited under AS 16.10.070 and AS 16.10.100. Department of Law will address this in its comments to the Alaska Board of Fisheries.

PROPOSED BY: Brent Johnson.

ACR 15 – Change the Alaska Board of Fisheries’ meeting schedule for Alaska Peninsula/Aleutian Islands finfish to December. (5 AAC 96.600)

PRESENT SITUATION: The Alaska Peninsula/Aleutian Islands finfish board meeting is already scheduled to occur February 26–March 3, 2013. This meeting will cover salmon, herring, and groundfish proposals for subsistence, sport, guided sport, personal use, and commercial uses. The next Alaska Peninsula/Aleutian Islands finfish board meeting is scheduled for the 2015/16 cycle. Special petition and agenda change request procedures are available for the board to consider out-of-cycle requests.

The majority of annual harvest in federal Pacific cod and state-waters Pacific cod fisheries typically occurs from January through May. Historically, Alaska Peninsula/Aleutian Islands finfish board meetings have occurred during open seasons for Pacific cod.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: Move the Alaska Peninsula/Aleutian Islands finfish board meeting to December.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

1. **Is there a fishery conservation purpose or reason?** The intent of this agenda change is to move the Alaska Peninsula/Aleutian Islands finfish board meeting to alleviate conflict with Pacific cod fisheries.
2. **Does the agenda change request correct an error in regulation?** The meeting cycle is determined by the board and is not in regulation. Therefore, this request is not seeking a change in regulation.
3. **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** This request is not seeking a change in regulation.

ADDITIONAL INFORMATION: During 2012, 53 pot vessels and 47 jig vessels registered for the South Alaska state-waters Pacific cod fishery. The fishery was valued at approximately \$4.6 million.

Some salmon districts within Area M open to fishing beginning on May 1 and ending on October 31. Harvest numbers are typically not finalized until mid-November.

PROPOSED BY: Ernie Weiss.

ACR 16 – Change the opening date of the commercial Tanner crab season in the South Peninsula District of Registration Area J (Westward) from January 15 to January 3. (5 AAC 35.510(c)(1))

PRESENT SITUATION: The South Peninsula District Tanner crab fishery may open from noon January 15 through March 31, unless delayed by weather (5 AAC 35.510(c)(1) and (2)). Federal/parallel Pacific cod seasons begin January 1.

Fishermen in the South Peninsula Area participate in Tanner crab and Pacific cod fisheries. However, there is a 14-day stand-down provision for vessels that use pot gear prior to the Tanner crab fishery to discourage preseason crab prospecting. A vessel participating in the pot cod fishery in the first two weeks of January is prohibited from participating in the Tanner crab fishery. A vessel participating in the Tanner crab fishery may not participate in the pot cod fishery until the vessel has completed participation in the Tanner crab fishery.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: Open the South Peninsula Tanner crab fishery on January 3.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

1. **Is there a fishery conservation purpose or reason?** An earlier Tanner crab fishery opening would change the dynamic between the pot cod and Tanner crab fisheries. There would still be a 14-day stand-down provision for pot gear prior to participating in the Tanner crab fishery; however, if the season opening was moved to January 3, little, if any, Pacific cod fishing occurs in the 14 days prior because the federal/parallel Pacific cod seasons begin January 1. A vessel that participated in a Tanner crab fishery that opened on January 3 may be available to enter the Pacific cod fishery at an earlier date.
2. **Does the agenda change request correct an error in regulation?** The South Peninsula Tanner crab season opening date has been January 15 since 1985.
3. **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Possibly. In 1985, there were no state-waters Pacific cod fisheries. The federal Pacific cod fisheries were relatively new. Federal Pacific cod gear sector allocations in the Gulf of Alaska were implemented in 2012.

ADDITIONAL INFORMATION: During recent seasons, 30–60 vessels have participated in the Tanner crab fishery and seasons generally lasted two weeks or less.

PROPOSED BY: King Cove Advisory Committee.

ACR 17 – Amend Kenai River late-run and Kenai River and Kasilof River early-run management plans to reflect new escapement goals to be adopted prior to the 2013 fishing season. (5 AAC 21.359; 5 AAC 57.160)

PRESENT SITUATION: The language under 5 AAC 21.359, *Kenai River Late-Run King Salmon Management Plan*, specifies the department shall manage to achieve a sustainable escapement goal of 17,800–35,700 late-run king salmon and provides specific management actions (liberalizations and restrictions) to sport and commercial fisheries in order to achieve the escapement goal. If the escapement goal is projected to be exceeded, the sport fishing season may be extended up to seven days during the first week of August. If the projected inriver return of late-run king salmon is less than 40,000 fish and the inriver sport fishery harvest is projected to result in an escapement below 17,800 king salmon, the department may restrict the inriver sport fishery (for example, prohibit bait, catch-and-release). If the projected inriver return is less than 17,800 king salmon, the department shall close through July 31: the inriver sport fishery, the marine sport fishery north of Bluff Point, the commercial set gillnet fishery in the Upper Subdistrict of the Central District, and the commercial drift gillnet fishery within one mile of the Kenai Peninsula shoreline north of the Kenai River and one and one-half miles of the Kenai Peninsula shoreline south of the Kenai River.

The department presently is transitioning from split-beam sonar and target strength data used, in part, to develop the early-run and corroborate the late-run escapement goals, towards DIDSON. As part of the transition in 2012, five indices were used to assess late-run king salmon run strength: DIDSON estimates, net-apportioned sonar estimates, test net catch-per-unit-effort (CPUE) estimates, sport fish CPUE, and commercial eastside setnet harvest. Taken individually, each index of abundance produces a different estimate, but used in combination they provided an overall assessment of king salmon abundance that was used for determining inseason management actions.

DIDSON is being developed to assess king salmon runs in the Kenai River. Currently, the relationships between the DIDSON passage estimate and other tools used to estimate king salmon passage are being examined as part of the transition to use the DIDSON estimates for inseason management. Information about the relationship of DIDSON estimates to companion estimates from other data sources is a necessary step toward developing a new king salmon escapement goal based on DIDSON.

The department plans to develop a new transitional DIDSON-based escapement goal for the 2013 fishing season and have it available in the spring of 2013.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This request seeks to amend these plans to reference new escapement goal(s).

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

1. **Is there a fishery conservation purpose or reason?** The department has emergency order (EO) authority to restrict or liberalize sport fisheries depending upon run abundance. Although this year's late-run king salmon total run abundance is the lowest

on record since sonar was first deployed on the Kenai River in 1984, this season the department used its EO authority to effectively restrict harvest and increase spawning escapement.

2. **Does the agenda change request correct an error in regulation?** Yes. The escapement goal stated in the *Kenai River Late-Run King Salmon Management Plan* regulations will likely not reflect the new transitional DIDSON-based escapement goal.
 - a. The *Policy for the Management of Sustainable Salmon Fisheries* (5 AAC 39.222(f)(25)) states that an OEG will be adopted as a regulation by the board. The *Kenai River and Kasilof River Early-run King Salmon Management Plan* references, but does not state, the OEG in regulation.
3. **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Yes. Since the time management plans were adopted for Kenai River king salmon, the department has transitioned to new sonar technology, combined with other sources of information, specific to gauging king salmon abundance. New goals and management objectives are needed to provide the department, board, and public with numbers specific to methodology currently being used. At the 2011 Upper Cook Inlet (UCI) Board meeting, the department stated that it intended to work toward developing a new Kenai River king salmon escapement goal for implementation at or after the 2014 UCI Board meeting. However, the capability is now available to develop a transitional goal in advance of the 2014 meeting.

ADDITIONAL INFORMATION: Target strength-based (TS-based) estimates were used to manage the fishery for decades, but had very serious shortcomings, the most important being that they were subject to contamination by misclassified sockeye salmon. The potential for contamination increased in recent years. In 2010, the TS-based estimate was anomalously high compared to other abundance measures. It is for these reasons that TS-based estimates were discontinued in 2011 and the split-beam sonar not deployed on the river in favor of using the multiple abundance indices and inseason management objectives in 2012.

PROPOSED BY: Alaska Department of Fish and Game.

ACR 18 – Require the Department of Fish and Game forward identifying and permit information to the Department of Public Safety (DPS) regarding an individual who fails to return a personal use salmon fishing permit after the season in the Upper Cook Inlet (UCI) personal use salmon fishery and not issue a personal use salmon fishing permit to that individual during the next calendar year. (5 AAC 77.015(d); 5 AAC 77.540(a)(3))

PRESENT SITUATION: In UCI, salmon may be taken for personal use only under a personal use permit issued to a household. A person participating in the UCI personal use fishery shall return the permit to the department by the date specified on the permit, August 15 of each year. Failure to return the permit is a violation which is subject to a \$200 fine and/or loss of future personal use fishing privileges.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This request seeks to require the department to provide the name, address, and other UCI personal use permit information to DPS of permit holders who fail to return their permit by the date specified on the permit.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

1. **Is there a fishery conservation purpose or reason?** Participation and harvest by nonrespondent permit holders are estimated each year.
2. **Does the agenda change request correct an error in regulation?** Regulations already provide penalties for nonrespondents.
3. **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** The department already provides DPS with permit information on the UCI personal use fishery.

ADDITIONAL INFORMATION: None.

PROPOSED BY: Brandie Ware.

ACR 19 – Clarify closed waters regulation. (5 AAC 39.290(a); 5AAC 39.975(14); and 5 AAC 95.011)

PRESENT SITUATION: Regulations regarding waters closed to commercial salmon fishing and associated with salmon streams lack clarity for enforcement because terms and criteria in the AWC are being incorrectly applied to enforcement of commercial fishing violations. A clear separation between habitat regulations and commercial fishing closed waters regulations has not been established. Additionally, salmon stream mouths are not clearly defined in regulation.

There is confusion among stakeholders regarding use of the *Anadromous Waters Catalog* (AWC) for enforcement of 5 AAC 39.290(a), *Closed waters*. The AWC is incorrectly being used to inform court proceedings involving commercial salmon fishing closed waters violations. The definition of a salmon stream used for the AWC (AS 16.05.871(a)) does not match the definition given in 5 AAC 39.975(10), *Definitions*.

Furthermore, there is a lack of clarity concerning application of the 500-yard commercial fishery closure associated with salmon streams. Currently, in 5 AAC 39.290(a), *Closed waters*, “Commercial fishing for salmon is prohibited at all times within the streams and rivers of Alaska and within 500 yards of any salmon stream...” This regulatory description does not provide clear direction of how to measure the 500-yard closure.

The incorrect application of AWC terms and criteria to commercial fishing violations associated with salmon stream closed waters has affected the department’s ability to protect salmon streams.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: Sever all regulatory terms and legal descriptions associated with the AWC from enforcement of closed waters for commercial salmon fishing.

Include “salmon stream terminus” in the closed waters regulation as the reference point from which to measure the 500-yard salmon stream closure (5 AAC 39.290; 5 AAC 39.975; and 5 AAC 95.011).

The regulations this ACR seeks to address will be taken up this cycle. The board may wish to consider generating its own proposal for the Statewide meeting if it wishes to take up this issue.

ADDITIONAL INFORMATION: *Alaska Fish and Game Regulations, Chapter 95, Fish and Game Habitat*, is not intended for application to commercial fishing violations. In 5 AAC 95.011(a), *Waters important to anadromous fish*, the AWC identifies the water bodies that require a person or agency to notify the department prior to undertaking any activity that would disturb the flow or the beds of those water bodies. Section (b) of the regulation describes permit application procedures. The AWC is mistakenly being used to inform proceedings for enforcement of commercial fishing violations.

Persons cited for fishing in closed waters associated with a salmon stream have successfully argued that the stream should be designated in the AWC and that its inclusion in the AWC should be based on salmon spawning or salmon traveling to a spawning area as defined in 5 AAC 39.975(10) *Definitions*. This situation is further complicated by the terms used to designate a salmon stream in the AWC, which are “spawning,” “migration,” “rearing,” and/or “presence” of salmon. The terms “rearing” and “presence” are not found in the definition of a salmon stream in 5 AAC 39.975, *Definitions*, and there is some question as to whether “migration” can be equated to “traveling to a spawning area.” If a stream is not listed in the AWC or it is listed for migration, rearing, or presence of salmon, then enforcement of 5 AAC 39.290(a), *Closed waters*, becomes problematic.

Persons cited for fishing in closed waters associated with a salmon stream have successfully argued that the only reference point available for measurement of the 500-yard closure is found in the AWC. In the AWC, a stream mouth is given as a single point described by latitude and longitude. In the case of large streams or braided streams, a 500-yard radius from a single point may not provide adequate protection.

PROPOSED BY: Alaska Department of Fish and Game.

ACR 20 – Establish a specific date in the *Kenai River Late-Run King Salmon Management Plan* in the Cook Inlet Area, when the projected inriver run is less than 17,800 king salmon, during which certain established conservation measures are taken. (5 AAC 21.359(b)(3))

PRESENT SITUATION: The language under 5 AAC 21.359, *Kenai River Late-Run King Salmon Management Plan*, states that the purposes of this management plan are to ensure an adequate escapement of late-run king salmon into the Kenai River and to provide management guidelines to the department. The department manages late-run Kenai River king salmon stocks primarily for sport and guided sport uses to provide a reasonable harvest opportunity over the entire run, as measured by the frequency of inriver restrictions.

The management plan specifies the department shall manage to achieve a sustainable escapement goal of 17,800–35,700 late-run king salmon and provides specific management actions (liberalizations and restrictions) to sport and commercial fisheries in order to achieve the escapement goal. If the escapement goal is projected to be exceeded, the sport fishing season may be extended up to seven days during the first week of August. If the projected inriver return of late-run king salmon is less than 40,000 fish and the inriver sport fishery harvest is projected to result in an escapement below 17,800 king salmon, the department may restrict the inriver sport fishery (for example, prohibit bait, catch-and-release). If the projected inriver return is less than 17,800 king salmon, the department shall close through July 31: the inriver sport fishery, the marine sport fishery north of Bluff Point, the commercial set gillnet fishery in the Upper Subdistrict of the Central District, and the commercial drift gillnet fishery within one mile of the Kenai Peninsula shoreline north of the Kenai River and one and one-half miles of the Kenai Peninsula shoreline south of the Kenai River.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This request seeks to place in regulation a specific date (July 24) in the *Kenai River Late-Run King Salmon Management Plan* after which closure to sport and commercial fisheries shall occur if the inriver run is projected to be less than 17,800 king salmon.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

1. **Is there a fishery conservation purpose or reason?** This ACR would appear to effectively delay the date at which the department would be able to take action and would thereby reduce the department’s flexibility in providing for conservation. The department has emergency order (EO) authority to restrict or liberalize sport fisheries depending upon run abundance.
2. **Does the agenda change request correct an error in regulation?** The department is unaware of an error or an intent to prescribe when action should be taken with respect to dates. 5 AAC 21.359(b)(3) has remained virtually unchanged since the plan was adopted in 1989.
3. **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

ADDITIONAL INFORMATION: The department not only uses run abundance information gathered inseason from assessment projects to manage fisheries, it also uses recent trends in production and escapement in determining when to use EO authority to modify fisheries in order to achieve escapement goals. When escapement goals have been missed for two or three continuous years, it is more likely that management actions will occur earlier in the run, or even preseason, in an effort to reduce harvest and decrease the risk of missing escapement goals for an additional consecutive year.

Typically, approximately 25% of the Kenai River late-run king salmon run is completed by July 9 and approximately 50% of the run is completed on July 19. This year was atypical in that the midpoint of the run was July 28. In 2012, king salmon runs to Cook Inlet, and throughout Alaska, were experiencing a period of low productivity and low run strength. Therefore, the department restricted the inriver late-run king salmon sport fishery before it began on July 1 by prohibiting the use of bait. Because of these factors, prescribed date-specific action points within the management plan may, in some years, occur later than necessary to ensure adequate king salmon escapement.

PROPOSED BY: Christina Shadura.

ACR 21 – Clarify the commissioner of the Department of Fish and Game’s (department) inseason management authority to preclude and to mitigate an economic disaster, and allow alternative means to harvest surplus salmon stocks. (5 AAC 39.2XX)

PRESENT SITUATION: Alaska statute 16.05.060 provides the commissioner the authority to, when circumstances require, summarily open or close seasons or areas or to change weekly closed periods on fish or game, increase or decrease sport fish bag limits, or modify methods of harvest for sport fishing by means of emergency orders (EO). Through delegated authority from the commissioner, the department manages fisheries as directed by provisions in regulations, management plans, and policies. Emergency orders may not contradict Alaska Board of Fisheries (board) regulations unless based upon significant new information unavailable to the board at the time it adopted the regulations. Currently, it is the intent of the Alaska Board of Fisheries (board) under 5 AAC 21.363(e) that, in most circumstances, the department will adhere to the management plans in 5 AAC 21. No provision within a specific management plan is intended to limit the commissioner's use of EO authority to achieve established escapement goals for the management plans as the primary management objectives. That said, except for conservation reasons, the commissioner and department are reluctant to use EO authority in situations inconsistent with board direction and/or where the fisheries are fully allocated and there may be unintended consequences to fishing with methods or means, or in areas not already in regulation. In these situations, the department works with the board (which considers and adopts regulations) through regulatory processes.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request seeks to clarify the authority of the commissioner to alter time, area, methods, and means to allow alternate means to harvest surplus fish stocks.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

1. **Is there a fishery conservation purpose or reason?** If there is a conservation concern, the commissioner has the authority to ensure that established escapement goals are achieved and the state’s salmon stocks are conserved, managed, and developed consistent with the sustained yield principle (*Policy for the Management of Sustainable Salmon Fisheries* (5 AAC 39.222) and *Policy for Statewide Salmon Escapement Goals* (5 AAC 39.223)).
2. **Does the agenda change request correct an error in regulation?** No.
3. **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** The commercial set gillnet fishery in the Upper Subdistrict of the Central District of Cook Inlet (ESSN fishery) was closed for the majority the 2012 season due to low numbers of late-run king salmon returning to the Kenai River. This placed a great hardship on the ESSN fishermen. However, this was not unforeseen when the regulation was developed because provision 5 ACC 21.359(b)(3)(C), which closes the ESSN fishery, was placed in 5 AAC 21.359, *Kenai River Late-Run King Salmon Management Plan*, when the plan was developed.

ADDITIONAL INFORMATION: A below-average Kenai River king salmon run was projected for 2012. The department issued a preseason announcement stating if actions were necessary to conserve king salmon, EO authority could be used to close or restrict the ESSN fishery. The ESSN fishery was closed for the majority of the 2012 season. The department and board received a number of emergency petitions during the 2012 season regarding the regulations and management plans in Upper Cook Inlet. One of the emergency petitions asked the board to supersede department EO No. 2S-14-12 to re-open a portion of the ESSN fishery. The board met on multiple occasions during 2012 to hear the emergency petitions and did not take up any of the emergency petitions. The department was also asked to look at fishing with alternate means, and in areas that are not already in regulation, so as to allow the harvest of surplus late-run Kenai River sockeye salmon while reducing the harvest of late-run Kenai River king salmon. However, some of the changes requested were allocative. Therefore, these requests were better directed to the board because it the board's responsibility to allocate fishery resources among user groups (AS 16.05.251(e)).

PROPOSED BY: Paul Shadura.