

RC 228

PROPOSALS 117, 118, and 324 - 5 AAC 21.331. Gillnet specifications and operations.
Modify the amount of gear used by CFEC set gillnet permit holders.

COMMITTEE 'A'
REPORT REGARDING
PERMIT STACKING
2011

Narrative of Support and Opposition:

Department:

- None.

Department of Law:

- The board has no authority to restrict ownership of permits, but can restrict when/where those permits are used.

Support:

- It keeps permits in the family.
- Many setnet permits are operated as family operations.
- Allowing permit holders to fish multiple permits would encourage the retention of permits in the family by allowing other family permit holder to fish them in the permit holder's absence.
- Would likely not result in additional gear in water, or increase harvests very much.

Opposition:

- Could put more gear in the water harvesting more fish.

General:

- If this passes, stacked permits should be registered and operated in the same area.
- The board allowed this to sunset in Kodiak. Intent was that permits would be somehow tied together.

POSITIONS AND RECOMMENDATIONS

Public Panel Recommendation: No consensus.

Board Committee Recommendation: Consensus to support with substitute language.

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DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MINING, LAND & WATER
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MEMORANDUM

RECEIVED

FEB 10 2011

BOARDS

TO: Through the Chairman, to the Alaska Board of Fisheries, ADF&G,
Jim Marcotte, Director, Boards Support Section, ADF&G

FROM: Raymond Keough (Natural Resource Manager I) Shore Fishery Leasing Unit

THRU: Richard Thompson (Natural Resource Manager III) Southcentral Regional Manager
Adam Smith (Natural Resource Manager II) Southcentral Leasing Unit

DATE: February 4, 2011

SUBJECT: Upper Cook Inlet Finfish Proposals (Proposed changes in regulations)

This memo provides the Alaska Board of Fisheries (BOF) with agency comments for **Proposals 117, 118 and 324** regarding the proposed changes to the Upper Cook Inlet Finfish Regulations, (5 AAC 21.331.) gillnet specifications and operations. *These proposals seek to allow an individual who owns two setnet Limited Entry Permits (LEP) to operate two legal units of set gillnet gear simultaneously.*

Background: As manager of the state-owned tide and submerged lands, the Department of Natural Resources (DNR), issues Shore Fishery Leases for commercial setnet fishing development. Obtaining a Shore Fishery Lease from DNR is not required, although with a lease the leaseholder has "first priority right" to use the site, and may exclude others from fishing their leased site, when they are physically present and fishing. The establishment and present existence of DNR setnet leases is an excellent land management tool that in large part creates a sense of order/management to the fishery, and significantly minimizes additional need for enforcement. Shore Fishery Leasing Regulations (11 AAC 64) direct the administration of the setnet leasing program, and to manage and our program using the distances, gear and open fishing areas as established for each Limited Entry Permit (LEP) holder, per the Commercial Finfish Regulations (5 AAC 03 - 5 AAC 39). Therefore proposals to the Board that result in changes to the Alaska Department of Fish and Game (ADF&G) Finfish Regulations do have pronounced affects on the administration of our DNR setnet leasing program.

Of the 2200 plus, commercial setnet fishing permits (Limited Entry) that have been issued statewide, there are around 1045 setnet leases authorized by DNR, and specifically administered by the Shore Fishery Leasing Unit. In Cook Inlet there are approximately 735 setnet LEP's, of that about 17 are latent. Of these 735 LEP's, DNR manages 233 setnet leases in the waters of Upper Cook Inlet.

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Proposals 116, 117 and 324: These proposals seek to allow an individual who owns two setnet LEP's to operate two legal units of set gillnet gear simultaneously. Described below are the benefits and challenges of these proposals from a DNR land management perspective

As explained, many sections within Shore Fishery Leasing regulations (11 AAC 64) are directed by the requirements set forth in ADF&G regulations (5 AAC 03 – 5 AAC 39). This is a relationship that has worked reasonably well since the 1960's and creates consistency in both land and fisheries management, as long as "the left hand speaks to the right". By allowing the simultaneous use of dual LEP's by an individual within a fishery (as we have seen in Bristol Bay) has had many benefits to our program including increases in new applications, assignments and amendments. If a person meets the criteria, our Unit allows for an individual with dual LEP's to obtain additional DNR leases, as long as an ADF&G regulation is in place to allow for dual LEP usage. All DNR leases are issued consistent with ADF&G commercial fishing regulations, meaning no DNR lease exceeds the maximum amount of gear that is fishable per LEP. If any of these proposals are passed, then this practice would also work for us and our lessee's in the Upper Cook Inlet, and we could issue additional leases by request.

Along with the benefits, (as with most management decisions) there are also some challenges for us when administrating and granting these additional leases. The adoption of sunset clauses such as those used in Kodiak and Bristol Bay creates management problems for us and the fisherman. The recent decision by the Board in Kodiak, not continue the ability to fish both LEP's has now created a situation in which we now have to either close leases; have the fisherman assign their second lease or do an amendment. When granting these additional leases the fishermen are made aware that if a "sunset clause" is included, that the use of the second LEP and any additional leases may only be temporary in nature. With that said this temporary and revocable privilege does create a sense of entitlement for the fisherman, then, and when and it is taken away this creates potential conflicts between the fisherman and the state agencies. The decisions (based upon proposals) to create and then eliminate of the usage of dual LEP's related to "sunset clauses" is troublesome for many involved. It causes displacement in a somewhat organized setnet fishery and in-directly guides DNR to "bounce back and forth" when administrating our important setnet leases.

Summary: We support the concept of proposals 116, 117 and 324, and believe these proposals have many benefits to the fishery and our land management agency. We do however oppose the introduction of the "sunset clauses" that have been previously added by the Board in the past. We respectfully ask the Board to consider these issues and the above comments during the decision making process.

✓ To the Board, thank you for the opportunity to comment on these proposals. Your important decisions not only impact the actual fisheries, but also the surrounding state land and waters that are managed by the DNR. For more information, please visit our website at: <http://www.dnr.alaska.gov/mlw/shore/index.htm>.

2011
DNR
summary
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