PROPOSAL 40

5 AAC 24.335. Minimum distance between units of gear.

Establish minimum operation depth for drift gillnet gear fished within 90 fathoms of a set gillnet in the Crafton Island Subdistrict, as follows:

(a) No part of a set gillnet may be set or operated within 100 fathoms of any part of another set gillnet, except in the Main Bay Subdistrict as provided in 5 AAC 24.367(c)(4).

(b) In the Crafton Island Subdistrict,

(1) no part of a drift gillnet may be operated within 60 fathoms of a set gillnet, except in the zone outside of the offshore end of the set gillnet

(2) the shoreward end of a drift gillnet may not be operated in water less than four fathoms at any tide within 90 fathoms of the shoreward end of a set gillnet.

What is the issue you would like the board to address and why? Certain drifters are going in front of a setnet site the legal distance a driftnet must be from a setnet, 60 fathoms, and intentionally putting out a sufficient amount of gillnet in the shallow water to act as an anchor then extending the rest of their drift gillnet out from the shore. They will proceed to fish the driftnet for extended periods of time, even for the entire opener, in that fixed location. The issue is that when the net is placed that close to a setnet, the tide pushing the driftnet will cause the driftnet to be operated within 60 fathoms of the setnet resulting in conflicts between setnetters and drifters. It is difficult to prevent these conflicts because illegally operating drift gillnet fisherman have too much opportunity to pull their net away from the setnet before enforcement personnel can arrive, and photos taken from the air or enforcement vessels can be inconclusive. An updated regulation is needed in the Crafton Island Subdistrict to establish a setback from setnets that allows the natural movement of a driftnet by the tide to not result in the driftnet being pushed closer than 60 fathoms to the setnet.

The conflict that arises from drifters fishing in the manner describe above is that a setnetter's productivity is adversely impacted by a driftnet fished that close to a setnet as the setnetter is trying to fish a state-issued commercial setnet permit in a legal manner. Past attempts to stop drifters fixing nets in shallow water have failed. For example state regulation 5 AAC 39.105, (3) states a drift gillnet is a drifting gillnet that has not been **intentionally** staked, anchored, or otherwise fixed. The word “intentionally” left a loop-hole for drifters to say, “I didn't intend to fix my net”. At a past Board of Fish meeting, 5 AAC 24.331. (c) for the Prince William Sound area was modified to remove the ambiguous word **intentionally.** 5 AAC 24.331. (c) now states: Notwithstanding 5 AAC 39.105(d)(3), for the purpose of this section, a gillnet shall be considered to be a drift gillnet unless the gillnet has been set, staked, anchored or otherwise fixed. Yet the drifter's practice of fixing driftnets near setnets and the conflict it causes remains. Myself and many other setnetters have had gear cut. In 2016 a setnetter lost an entire set resulting in a large financial lost. The natural conflict between different gears types will continue to intensify if the current situation is not changed.

Here is the logic behind the proposed regulation change.

State regulation *5 ACC 24.331(b)(G)* states*: in the Crafton Island Subdistrict, the the shoreward end of a set gillnet or set gillnet lead may not be operated in water deeper than four fathoms at low tide.*

This regulation was enacted in response to setnetters making deep water sets in the 1980's. Therefore, there is a precedence for setnetters "owning" the water up to 4 fathoms deep, and drifters should be required to honor that precedence when close to setnets. The distance of 90 fathoms is used because it allows the natural movement of a driftnet by the tide to not result in the driftnet being closer than 60 fathoms to the setnet. This change in **5 ACC 24.335** would not hinder drifters who are actually drifting from being able to fish within 60 fathoms of a setnet since they need to be in deeper water. Neither would it effect those who are fixing their nets 91 fathoms or more from a setnet. Only those drifters currently fixing their nets so close to a setnet that the tide is pushing their net closer then 60 fathoms to a setnet would be required to move their net further away from the setnet.

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