

PROPOSAL 175

5 AAC 47.090. George Inlet superexclusive guided sport ecotourism Dungeness crab fishery.; 5 AAC 47.091. Nakwasina Sound superexclusive guided sport ecotourism Dungeness crab fishery.; 5 AAC 75.075. Sport fishing services and sport fishing guide services; salt water license and fresh water registration requirements; regulation of activities.; 5 AAC 75.076. Sport fishing guide and operator reporting requirements.; 5 AAC 75.085. Guided sport ecotourism requirements.; and 5 AAC 75.995. Definitions.

Align regulations for sport fishing services and sport fishing guide services in fresh and salt waters and update guide registration and reporting regulations, as follows:

5 AAC 47.090, 5 AAC 47.091, 5 AAC 75.075, 5 AAC 75.076, 5 AAC 75.085, and 5 AAC 75.995 are amended to read:

5 AAC 47.090. George Inlet superexclusive guided sport ecotourism Dungeness crab fishery.

(o) In this section, "sport fishing operator" means an owner of a business that conducts sport fishing services as a **registered**[LICENSED SALT WATER] sport fishing operator under 5 AAC 75.075.

5 AAC 47.091 Nakwasina Sound superexclusive guided sport ecotourism Dungeness crab fishery.

(m) In this section, "sport fishing operator" means an owner of a business that conducts sport fishing services as a **registered** [LICENSED SALT WATER] sport fishing operator under 5 AAC 75.075.

5 AAC 75.075. Sport fishing services and sport fishing guide services; [SALT WATER LICENSE AND FRESH WATER]registration requirements; regulation of activities.

(a) **repealed** / / [AN OWNER OF A BUSINESS SHALL OBTAIN A CURRENT ANNUAL SALT WATER SPORT FISHING OPERATOR LICENSE FROM THE DEPARTMENT BEFORE THE BUSINESS CONDUCTS SALTWATER SPORT FISHING SERVICES. TO MEET THE LICENSING REQUIREMENTS OF THIS SECTION, THE OWNER SHALL COMPLETE AND SUBMIT TO THE DEPARTMENT A SALT WATER SPORT FISHING OPERATOR LICENSE APPLICATION FORM PROVIDED BY THE DEPARTMENT ALONG WITH THE APPLICABLE FEE PRESCRIBED IN AS 16.05.340(A). THE FOLLOWING INFORMATION REGARDING THE BUSINESS CONDUCTING SPORT FISHING SERVICES MUST BE PROVIDED ON THE FORM:

- (1) THE NAME AND MAILING ADDRESS OF THE OWNER;
- (2) THE NAME OF THE BUSINESS;
- (3) THE ALASKA BUSINESS LICENSE NUMBER, ISSUED UNDER 12 AAC 12, AND EXPIRATION DATE OF THE BUSINESS LICENSE;
- (4) THE BUSINESS'S INSURANCE POLICY NUMBER, WITH THE INSURANCE COMPANY NAME AND EXPIRATION DATE, OF THE POLICY THAT MEETS THE INSURANCE REQUIREMENTS OF AS 16.40.261;

(5) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT ON THE LICENSE APPLICATION FORM TO VERIFY THAT THE APPLICANT MEETS THE REQUIREMENTS OF AS 16.40.261].

(b) ~~repealed~~ / / [A PERSON SHALL OBTAIN A CURRENT ANNUAL SALT WATER SPORT FISHING GUIDE LICENSE FROM THE DEPARTMENT BEFORE THE PERSON CONDUCTS SALT WATER SPORT FISHING GUIDE SERVICES. TO MEET THE LICENSING REQUIREMENTS OF THIS SECTION, A PERSON SHALL COMPLETE AND SUBMIT TO THE DEPARTMENT A SALT WATER SPORT FISHING GUIDE LICENSE APPLICATION FORM PROVIDED BY THE DEPARTMENT ALONG WITH THE APPLICABLE FEE PRESCRIBED IN AS 16.05.340(A). THE FOLLOWING INFORMATION REGARDING THE APPLICANT MUST BE PROVIDED ON THE FORM:

- (1) THE NAME AND MAILING ADDRESS OF THE APPLICANT;
- (2) THE APPLICANT'S
 - (A) DECLARATION
 - (I) OF CITIZENSHIP IN THE UNITED STATES, CANADA, OR MEXICO; OR
 - (II) THAT THE APPLICANT IS A RESIDENT ALIEN;
 - (B) CURRENT FIRST AID CERTIFICATION;
 - (C) CURRENT ALASKA SPORT FISHING LICENSE NUMBER;
- (3) IF OPERATING A VESSEL, THE APPLICANT'S CURRENT UNITED STATES COAST GUARD LICENSE INFORMATION;
- (4) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT ON THE LICENSE APPLICATION FORM TO VERIFY THAT THE APPLICANT MEETS THE REQUIREMENTS OF AS 16.40.271].

(c) ~~repealed~~ / / [WHILE PROVIDING SALT WATER SPORT FISHING GUIDE SERVICES, A PERSON SHALL HAVE READILY AVAILABLE FOR INSPECTION AND SHALL DISPLAY UPON REQUEST OF A REPRESENTATIVE OF THE DEPARTMENT OR A PEACE OFFICER OF THE STATE, AND WHILE PROVIDING SALT WATER SPORT FISHING GUIDE SERVICES OR WHILE ON NAVIGABLE FRESH WATER WITHIN SIX HOURS AFTER PROVIDING SUCH SERVICES ON SALT WATER, A PERSON SHALL HAVE READILY AVAILABLE FOR INSPECTION AND SHALL DISPLAY UPON REQUEST OF A LAW ENFORCEMENT REPRESENTATIVE OF THE NATIONAL MARINE FISHERIES SERVICE OR A REPRESENTATIVE OF THE UNITED STATES COAST GUARD, THE FOLLOWING:

- (1) THE PERSON'S CURRENT
 - (A) SALT WATER SPORT FISHING GUIDE LICENSE; AND
 - (B) APPLICABLE LOGBOOKS AS REQUIRED IN 5 AAC 75.076;
- (2) A COPY OF THE CURRENT SALT WATER SPORT FISHING OPERATOR LICENSE OF THE PERSON'S EMPLOYER OR THE PERSON;
- (3) THE PERSON'S CURRENT SPORT FISHING LICENSE, HARVEST RECORDS, TAGS, STAMPS, OR PERMITS THAT ARE REQUIRED TO ENGAGE IN THE SPORT FISHERY FOR WHICH THE SALT WATER SPORT FISHING GUIDE SERVICES ARE PROVIDED;
- (4) AN IDENTIFICATION CARD ISSUED TO THE PERSON BY A STATE OR FEDERAL AGENCY THAT BEARS A PHOTOGRAPH OF THE PERSON;

(5) IF ON A VESSEL, THE SPORT FISHING LICENSE, HARVEST RECORDS, TAGS, STAMPS, OR PERMITS OF EACH CLIENT ON BOARD THE VESSEL].

(d) repealed / / [NOTWITHSTANDING SUBSECTIONS (E) AND (F) OF THIS SECTION, A HOLDER OF A CURRENT SALT WATER SPORT FISHING OPERATOR LICENSE MAY CONDUCT SPORT FISHING SERVICES IN FRESH WATER, AND A HOLDER OF A CURRENT SALT WATER SPORT FISHING GUIDE LICENSE MAY PROVIDE SPORT FISHING GUIDE SERVICES IN FRESH WATER, PROVIDED THE OPERATOR AND GUIDE COMPLY WITH THE REPORTING REQUIREMENTS IN 5 AAC 75.076 FOR OPERATING IN FRESH WATER];

(e) An owner of a business shall register with the department before the business conducts sport fishing services[IN FRESH WATER]. To meet the registration requirements of this section, the owner shall complete and submit to the department a current annual [FRESH WATER]sport fishing operator registration form provided by the department. The following information regarding the business conducting sport fishing services must be provided on the form:

- (1) the name and permanent mailing address of the owner;
- (2) the name of the business.

(f) A person shall register with the department before the person conducts sport fishing guide services[IN FRESH WATER]. To meet the registration requirements of this section, a person shall complete and submit to the department a current annual [FRESH WATER]sport fishing guide registration form provided by the department. The following information regarding the applicant must be provided on the form:

- (1) the applicant's name and permanent mailing address;
- (2) the applicant's current Alaska sport fishing license number.

(g) While providing sport fishing guide services[IN FRESH WATER], a person shall have readily available for inspection and shall display upon request of a representative of the department or a peace officer of the state, **and while on salt water or navigable fresh water within six hours after being on salt water a law enforcement representative of the National Marine Fisheries Service or a representative of the United States Coast Guard,** the following:

- (1) the person's current
 - (A) [FRESH WATER]sport fishing guide registration form validated by the department[OR SALT WATER SPORT FISHING GUIDE LICENSE]; and
 - (B) applicable logbooks as required in 5 AAC 75.076;
- (2) a copy of the current [FRESH WATER]sport fishing operator registration form validated by the department of the person's employer or the person, or **if the sport fishing guide is also a sport fishing operator, the guide's current sport fishing operator registration form** [A COPY OF THE CURRENT SALT WATER SPORT FISHING OPERATOR LICENSE OF THE PERSON'S EMPLOYER OR THE PERSON];
- (3) the person's current sport fishing license, harvest records, tags, stamps, or permits that are required to engage in the sport fishery for which the sport fishing guide services are provided;
- (4) an identification card issued to the person by a state or federal agency that bears a photograph of the person.

(5) if on a vessel that provides sport fishing guide services in salt water, the sport fishing license and harvest record of each client on board the vessel.

(h) A person who provides sport fishing guide services or a licensed or registered sport fishing operator may not

(1) aid in the commission of a violation of AS 16.05 — AS 16.40 or a regulation adopted under AS 16.05 — AS 16.40 by an angler who is a client of the person or operator; or

(2) permit the commission by an angler who is a client of the person or operator of a violation of AS 16.05 — 16.40 or a regulation adopted under AS 16.05 — 16.40 that the sport fishing guide knows or reasonably believes is being or will be committed without

(A) attempting to prevent it, short of using force; and

(B) reporting the violation.

5 AAC 75.076. Sport fishing guide and operator reporting requirements. (a) A sport fishing guide shall obtain and complete a

(1) State of Alaska, Department of Fish and Game, Division of Sport Fish, **2019**[2017] *Saltwater Charter Logbook and Vessel Registration*, adopted by reference, if operating in salt water;

(2) State of Alaska, Department of Fish and Game, Division of Sport Fish, **2019**[2017] *Freshwater Sport Fish Guide Logbook and Vessel Registration*, adopted by reference, if operating in fresh water.

(b) A logbook requires information necessary for the management and conservation of fishery resources and regulation of the guided sport fishing industry, including

(1) the division of motor vehicles boat registration number, issued under 2 AAC 70, or United States Coast Guard documentation number, of the vessels that are used to provide sport fishing guide services in fresh or salt water;

(2) the locations where the sport fishing guide services were provided;

(3) the effort, catch, and harvest of sport fish by persons who are clients, owners, or employees of a business that conducts sport fishing services or by a person who provides sport fishing guide services; and

(4) any other information the department determines is necessary for the management and conservation of the fishery resource or the regulation of the guided sport fishing industry.

(c) A sport fishing guide shall complete a logbook in the manner and at the location specified in the logbook and present the guide's logbook for inspection as required in 5 AAC 75.075.

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

(e) The holder of a [SALT WATER]sport fishing operator [LICENSE OR FRESH WATER SPORT FISHING OPERATOR]registration issued under 5 AAC 75.075 shall return the completed logbook of each sport fishing guide employed by the business to the department in the manner and time frame specified in the logbook.

(f) In this section, "logbook" includes

(1) a department issued paper copy booklet for recording guided sport fishing trip information;
or

(2) a department issued eLogBook software program for electronic recording of guided sport fishing trip information.

(g) a sport fishing guide may comply with subsection (a) of this section by obtaining and completing an eLogbook.

5 AAC 75.085. Guided sport ecotourism requirements. Except as otherwise provided, guided sport ecotourism fishing may occur only as follows:

(1) a person conducting guided sport ecotourism fishing shall obtain an annual [SALT WATER]sport fishing operator **registration**[LICENSE] as specified in 5 AAC 75.075;

(2) a person holding a valid [SALT WATER]sport fishing guide **registration**[LICENSE] must be present at all times when gear or fish are being handled;

(3) a person on board a vessel engaged in ecotourism fishing may handle gear or fish only if the person is a holder of a sport fishing license;

(4) all requirements of the applicable sport fishery apply except that all participants must comply with rules relating to nonresidents regardless of residency;

(5) unless otherwise permitted, all fish taken must be immediately released unharmed;

(6) a [SALT WATER]sport fishing operator or [SALT WATER]sport fishing guide must comply with applicable requirements for their industry.

5 AAC 75.995. Definitions. (a) In addition to the definitions set out in AS 16.05.940, in 5 AAC 47 — 5 AAC 75,

(43) “sport fishing services”

(A) means the indirect provision of assistance, for compensation or with the intent to receive compensation, to a person engaged in sport fishing in taking or attempting to take fish or shellfish by a business that employs a sport fishing guide to provide sport fishing guide services to the person during any portion of a sport fishing trip;

(B) does not include

(i) an activity for which a [SALT WATER SPORT FISHING GUIDE LICENSE OR FRESH WATER]sport fishing guide registration is required; or

(ii) booking and other ancillary services provided by a tour broker or agent to a sport fishing services operator;

(52) **repealed** / / [“SALT WATER SPORT FISHING GUIDE” HAS THE MEANING GIVEN IN AS 16.40.300];

(53) **repealed** / / [“SALT WATER SPORT FISHING GUIDE SERVICES” HAS THE MEANING GIVEN IN AS 16.40.300];

(54) **repealed** / / [“SALT WATER SPORT FISHING SERVICES” HAS THE MEANING GIVEN IN AS 16.40.261(F)].

What is the issue you would like the board to address and why? During the 2016 session the Alaska Legislature passed HB 41, which reestablished sport fishing business and guide license

requirements for salt water guides and operators (only). These statutes (AS 16.40.261 – 16.40.300) are set to repeal January 1, 2019 and there was no legislation during the last session to extend the saltwater guide license requirements. As a result, effective January 1, 2019, the current saltwater sport fishing business and guide regulations will conflict with statute. After the statute’s sunset, the board will no longer have the authority to require licensing of salt water sport fish guides and operators, or other requirements including insurance, business license, or first aid certification.

The department has operated a program to register (1998 – 2004, 2015 – 2016) and/or license (2005 – 2014) both sport fishing guides and operators, administer sport fishing salt (since 1998) and fresh (since 2005) water guide logbooks, and register sport fishing guide vessels (since 2005). With the expiration of statutes specific to salt water sport fishing services and salt water sport fishing operator and guide licenses, amendments to the existing regulations are necessary.

PROPOSED BY: Alaska Department of Fish and Game (Formerly ACR #11)
