

ALASKA DEPARTMENT OF FISH AND GAME

STAFF COMMENTS ON AGENDA CHANGE REQUESTS

ALASKA BOARD OF FISHERIES MEETING ANCHORAGE, ALASKA

October 15-16, 2018



Regional Information Report 5J18-03

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 15–16, 2018, 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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by
Alaska Department of Fish and Game

Alaska Department of Fish and Game
Division of Commercial Fisheries
333 Raspberry Road, Anchorage, Alaska, 99518-1565
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ABSTRACT

This document contains Alaska Department of Fish and Game (department) staff comments on agenda change requests. These comments were prepared by the department for use at the Alaska Board of Fisheries (board) meeting, October 17–19, 2018, 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.

Key words: Alaska Board of Fisheries, board, Alaska Department of Fish and Game, department, staff comments, finfish, salmon, herring, shellfish, management, management plan, agenda change request, ACR, regulatory proposal, inriver, subsistence, personal use, sport, guided sport, commercial fisheries, biological escapement goal, sustainable escapement goal, SEG, optimal escapement goal

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ACR 1 – Prohibit Valdez Fisheries Development Association from incubating, rearing, and releasing pink salmon resulting from additional egg take capacity permitted in 2018 and cap egg take capacity at the level permitted in 2017 (5 AAC 24.366).

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: Reduce Valdez Fisheries Development Association’s (VFDA) permitted pink salmon egg take capacity and destroy progeny resulting from collection of 20 million additional pink salmon eggs taken in 2018 at VFDA’s Solomon Gulch Hatchery (SGH).

PRESENT SITUATION: Prince William Sound (PWS) hatchery pink salmon production began in 1975 with the establishment of the regional aquaculture association, Prince William Sound Aquaculture Association. Valdez Fisheries Development Association was subsequently established in 1978 and SGH was built in 1981 and first released pink salmon fry in 1982. VFDA is not part of the regional aquaculture association. PWS hatchery combined pink salmon production grew to reach the current permitted capacity of 775 million eggs in 2017. After 1984 the VFDA program gradually grew as production increases were approved incrementally, growing permitted pink salmon production from 50 million to 230 million eggs in 1991. It remained at that level until 2014 when VFDA submitted a permit alteration request (PAR) to increase their pink salmon egg take by 70 million eggs, from 230 million to 300 million eggs, at their SGH facility. The PAR was amended at the 2014 PWS Regional Planning Team meeting to provide an increased pink salmon egg take of 20 million in 2016 with an additional 20 million eggs in 2018, conditionally authorized pending completion of required hatchery infrastructure. Thus, VFDA permitted capacity increased from 230 million eggs to 250 million eggs in 2016 and to the current level of 270 million eggs in 2018. Further increases were not recommended until more comprehensive research directed at better understanding of total wild stock returns, stock identification, and run timing are implemented.

The 2014 increase request was delayed for two years because large increases in PWS pink salmon production may have affected study design for the Alaska Hatchery Research Program. This study was specifically designed to provide information about straying and effects of interaction between hatchery and wild fish to guide future decisions on salmon hatchery production in PWS and Southeast Alaska. It was also recommended at that time that as SGH facility capacity increases, future PARs should consider an incremental approach to increased capacity. An incremental approach will allow time for assessment of straying proportions in Eastern District streams and provide for evaluation of potential effects on fishery management prior to consideration of additional increases.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** No.
- b) **Does the agenda change request correct an error in regulation?** No.
- c) **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: From the beginning of Alaska's salmon fishery enhancement program, it was recognized that salmon stray and that hatchery stocks would stray; consequently, policies and regulations were adopted to mitigate concerns associated with straying. What is less well understood is the effect of straying on wild stocks. In 2012, the department, in collaboration with NOAA Fisheries, University of Alaska, Prince William Sound Science Center, aquaculture associations, and the fishing industry, initiated a multiyear study examining the genetic structure of pink and chum salmon in Prince William Sound and Southeast Alaska, the extent and annual variability in pink and chum salmon straying in these areas, and the impact on productivity of Prince William Sound and Southeast Alaska pink and chum salmon due to straying of hatchery-produced fish. Results of this study will improve understanding of recent results showing presence of PWS hatchery-produced pink salmon in some Lower Cook Inlet streams.

Private nonprofit salmon hatcheries are regulated through statute, administrative code, and permit terms. Changes in permitted egg take levels are reviewed by area, regional, and statewide department staff and the appropriate Regional Planning Team before being approved or denied by the commissioner of the department or his designee.

Though no statute expressly grants the board regulatory authority over hatchery production *per se*, it may exercise considerable influence over hatchery production through its authority to directly amend hatchery permit terms relating to fish and egg harvesting (AS 16.10.440(b)). This influence is tempered by previous guidance to the board that it may not adopt regulations that effectively veto or override a fundamental department policy decision regarding whether to authorize the operation of a hatchery, or adopt regulations preventing the department from exercising its authority to permit a hatchery operation. Although the board does have authority to amend permit terms related to fish and egg harvest by hatcheries, it is unclear whether the Alaska Legislature intended that authority to be used in regulating the take of hatchery-produced fish in a special harvest area where the common use clause no longer applies (*O'Callahan v. Rue*, 996 P.2d 88). At the time AS 16.10.440(b) was amended (1979) there were very few hatchery broodstock sources and it was necessary for hatchery operators to obtain broodstock from wild sources. The take of wild salmon for hatchery broodstock has allocative implications the board may wish to consider. Additionally, the board authority over possession, transport, and release of live fish had not yet been delegated to the department when AS 16.10.440(b) was amended.

PROPOSED BY: Kenai River Sportfishing Association.

ACR 2 – Cap statewide private nonprofit salmon hatchery egg take capacity at 75% of the level permitted in 2000 (5 AAC 40.XXX).

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This would cap statewide private nonprofit salmon hatchery egg take capacity at 75% of the level permitted in 2000 (1,577,230,725 eggs).

PRESENT SITUATION: Currently 25 salmon hatchery facilities are operated by private nonprofit corporations in Southeast and Southcentral Alaska. These hatcheries are funded primarily from the sale of a portion of hatchery returns. Total permitted egg take capacity for these facilities was 2,504,840,000 eggs in 2017.

In 2017, commercial fishermen caught approximately 47 million hatchery-produced salmon worth an estimated \$331 million in first wholesale value. Hatchery fish contributed 21% of the statewide commercial salmon harvest; this is the lowest percentage of hatchery fish in the harvest since 1995. This is due largely to an extraordinary wild stock harvest in 2017 that was the third highest in Alaska history. An additional 194,000 Alaska hatchery salmon were estimated to have been caught in the sport, personal use, and subsistence fisheries.

Hatchery production in Alaska is designed to supplement—not replace—wild stock production. Alaska’s salmon harvests in 2013, 2015, and 2017 were a result of three of the four highest wild stock returns in history dating back to the late 1800s. Abundance-based wild stock management priority, habitat protection, and record wild-stock harvests reflect the state’s commitment to conservation of wild stocks and provide the foundation of its salmon fisheries enhancement program.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** No.
- b) **Does the agenda change request correct an error in regulation?** No.
- c) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** No.

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authorize the operation of a hatchery or adopt regulations preventing the department from exercising its authority to permit a hatchery operation. Although the board does have authority to amend permit terms related to fish and egg harvest by hatcheries, it is unclear whether the Alaska Legislature intended that authority to be used in regulating the take of hatchery-produced fish in a special harvest area where the common use clause no longer applies (*O’Callahan v. Rue*, 996 P.2d 88). At the time AS 16.10.440(b) was amended (1979) there were very few hatchery broodstock sources and it was necessary for hatchery operators to obtain broodstock from wild sources. The take of wild salmon for hatchery broodstock has allocative implications the board may wish to consider. Additionally, the board authority over possession, transport, and release of live fish had not yet been delegated to the department when AS 16.10.440(b) was amended.

Alaska’s salmon hatcheries were permitted to take 2,102,974,030 eggs in 2000 and took 1,765,600,000 eggs.

PROPOSED BY: Virgil Umphenour.

ACR 3 – Adopt a new harvest strategy for Aleutian Islands golden king crab that relies on annual stock assessment model outputs to set total allowable catch and stock status determination criteria (5 AAC 34.612).

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: Repeal the current regulatory harvest limits fixed in regulation and adopt a new harvest strategy that establishes annual harvest limits for Aleutian Islands gold king crab (AIG) based on stock assessment model results. No specific harvest strategy provisions are provided in the agenda change request.

PRESENT SITUATION: The AIG fisheries were rationalized by the North Pacific Fishery Management Council (NPFMC) prior to the 2005/06 season and the stock is managed as two separate fisheries, east and west of 174° W long, with a total allowable catch (TAC) harvest limit set for each fishery. The TAC is further allocated by National Marine Fisheries Service as 90% to Individual Fishery Quota and 10% to Community Development Quota.

Until an AIG crab stock assessment model is established by the department and a harvest strategy is adopted by the board, TACs are fixed in regulation at 3.31 million pounds for the eastern Aleutian Islands (EAG) and 2.98 million pounds for the western Aleutian Islands (WAG). The AIG fisheries open by regulation on August 1 and close by regulation on April 30.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** Yes. From 2016/17 to 2018/19, the department decreased the 2.98-million-pound regulatory TAC in the WAG in response to declining fishery performance, high proportions of recruits in the retained catch, and decreases in average weight. Although the department has authority to reduce TACs based on conservation concerns, the amount of data available to inform TAC reductions is limited and challenging to interpret. This confounds staff's ability to specify what level of TAC reduction provides adequate conservation benefit to the stock and thus increases uncertainty in management. Conversely, fishery performance and preliminary survey data suggest the regulatory TAC in the EAG (3.31 million pounds) may be conservative relative to stock condition, potentially resulting in foregone harvest for the fleet. A regulatory harvest strategy based on annual biomass estimates will allow the department to set TACs in accordance with sustained yield principles and respond to changes in golden king crab biomass.
- b) **Does the agenda change request correct an error in regulation?** No.
- c) **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: Starting in 1996, the AIG fishery has been managed under a constant-catch harvest strategy. Under this approach, the TACs are fixed in regulation but the department may reduce regulatory harvest levels based on the best scientific information available, fishery performance measures, reliability of available estimates, uncertainty, and other

factors necessary to avoid overfishing and to maintain consistency with sustained yield principles.

The Aleutian Islands golden king crab stock assessment model has been in development since the mid-2000s. After substantial review, the NPFMC Crab Plan Team and Scientific and Statistical Committee formally recommended and adopted for the first time an AIG stock assessment model in spring of 2017. This action occurred shortly after the board concluded the regular cycle meeting addressing king and Tanner crab in March 2017. Following model adoption, department staff began preliminary investigation of a new harvest strategy that uses outputs from the stock assessment model. The initial framework includes using model-derived estimates to set minimum biomass levels necessary for a fishery to occur, establishing a range of annual exploitation rates that are responsive to stock condition and consistent with harvest strategies for other regional crab stocks, and setting a limit on the proportion of legal crab that could be harvested in any given year. During this early development, department staff and federal scientists have worked collaboratively with industry to ensure a comprehensive management approach is advanced.

The Aleutian King Crab Research Foundation and the department are additionally engaged in a cooperative project to conduct stock assessment surveys during the open fishing season using commercial vessels with department staff on board. The EAG has been surveyed annually since 2015. A survey in the WAG will be conducted for the first time in 2018. Survey data will be incorporated into the stock assessment model as they become available.

The board accepted this same request as ACR 02 in 2017. During the subsequent board meeting in March 2018, the department and industry notified the board that while underway, final analysis for the new harvest strategy was not yet complete. At that time, the board took interim action that provided some flexibility to the existing regulation but did not take specific action to adopt a new harvest strategy consistent with the ACR. Department staff notified the board that final analysis would be available for final action during the 2018/19 board cycle. Should the board accept this ACR, final deliberation during March 2019 will provide adequate time for staff to fully develop the analysis and allow for implementation prior to the next fishing season.

Harvest levels are a Category 2 management measure under the *Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs* (FMP; FMP Section 8.2.5 Fishing Seasons). Category 2 management measures should be consistent with the criteria set out in the FMP and the Magnuson–Stevens Fishery Conservation and Management Act National Standards.

PROPOSED BY: Alaska Department of Fish and Game.

ACR 4 – Change requirement to operate commercial Dungeness crab pot gear from once every 14 days to once every 30 days in Registration Area J (5 AAC 32.415).

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: Change the maximum number of days that commercial Dungeness crab pots in Registration Area J may be left unattended and in fishing condition from 14 days to 30 days.

PRESENT SITUATION: In response to an increase in volume of abandoned commercial Dungeness crab pots, and concerns about associated ghost fishing mortality on commercially important crab species, the department submitted Proposal 209 for the March 2018 Statewide Miscellaneous Shellfish and Supplemental Issues meeting. The proposal was adopted and requires commercial Dungeness crab pots in the Kodiak, Chignik, Alaska Peninsula, and Aleutian Islands districts (Registration Area J) be removed from the water at least once every 14 days or have all bait and bait containers removed and have all doors secured fully open (5 AAC 32.415. *Operation of pot gear in Registration Area J*). The department proposed a 14-day time period because it mirrored a similar crab gear tending provision already in regulation for Registration Area J (5 AAC 02.420(a)(2)).

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** No.
- b) **Does the agenda change request correct an error in regulation?** No.
- c) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Possibly. During the 2018 commercial Dungeness crab fishing season, several Kodiak District fishery participants expressed concern that 14 days was an insufficient amount of time to lift all gear and suggested 30 days would better serve the fleet and still allow for a meaningful gear tending regulation.

ADDITIONAL INFORMATION: The commercial Dungeness crab fishery in Registration Area J is generally characterized by low vessel effort, high volumes of gear, and long soak times. From 2008 to 2017, participation in the Kodiak District fishery ranged from three to 19 vessels with an average of 10 vessels annually. Vessel operators frequently register large compliments of gear. From 2008 through 2017, the total number of registered crab pots averaged 6,828 pots per year or 697 pots per vessel per year. Catch per unit effort (CPUE; legal crab retained per pot lift) has ranged from two to six and has averaged four. Most fishery participants also participate in other commercial salmon or groundfish/halibut fisheries while Dungeness crab pot gear is deployed and fishing. It is unknown to department staff if, or to what extent, involvement in other fisheries affects a Dungeness crab fishery participant’s ability to comply with this gear tending regulation. Fishery participants indicate that weather, tides, and catch rates also influence how often gear can be turned over or retrieved. To date, no citations have been issued for violating this regulation.

From 2008 through 2017, commercial Kodiak District Dungeness crab vessels made a landing, on average, every 19 days. As of September 7, the 2018 Dungeness crab fishery performance has been above average resulting in the highest harvest in the last eight years (433,000 pounds). On average, vessels have made landings every 12 days during the 2018 season.

Lost or irretrievable pots increase Dungeness, Tanner, and king crab mortality through ghost fishing. Pots that are not regularly lifted, inspected, and maintained are more likely to be lost due to environmental factors or gear conflicts. Although all pot gear must be equipped with biodegradable escape mechanisms, these mechanisms often only perform as intended when pots are well maintained and have lids that spring open when the escape mechanism (generally cotton twine) releases. Escape mechanisms are generally designed to release after being submerged in salt water for 30 days; this coincides with the time period proposed in this request.

PROPOSED BY: Randy Blondin.

ACR 5 – Prohibit sport fishing in the waters of the Homer Spit Marine Terminal barge basin.

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request would close the Homer Spit Marine Terminal barge basin to all sport fishing.

PRESENT SITUATION: The marine waters of Kachemak Bay are open to sport fishing. The Marine Terminal barge basin is located approximately ½ mile north of the Nick Dudiak Fishing Lagoon (NDFL), on the east side of the Homer Spit. Adult salmon returning to the NDFL and to streams at the head of Kachemak Bay mill along the east side of the Homer Spit, including the barge basin.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** No.
- b) **Does the agenda change request correct an error in regulation?** No.
- c) **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: Stocked and wild salmon mill around Homer Spit, and anglers target these fish from shore and boat along the east side of the Spit. The department began releasing king and coho salmon smolt into the NDFL in 1984 to provide angler opportunity on returning adult salmon. Since 2013, an estimated 120,000 coho salmon smolt have been released annually in the lagoon—providing an annual harvest of approximately 3,000 adult coho salmon. Bag limits for salmon, other than king salmon, in the marine waters from the Homer City Dock to department markers approximately 200 yards northwest of the NDFL, are six per day, six in possession, of which all six may be coho salmon. Snagging in these waters is closed but opens for the remainder of Kachemak Bay on June 24. The east side of the Homer Spit also supports a personal use gillnet fishery for coho salmon.

Language from the permits issued for the Homer Spit Marine Terminal barge basin by the Army Corp of Engineers in 1970 and 1976 states “That this instrument does not convey any property rights, either in real estate or material, or any exclusive privileges; and does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations, nor did it obviate the requirement to obtain State or local assent required by law for the activity authorized herein.” Additionally, the permit stipulates “That no attempt shall be made by the permittee to forbid the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.”

PROPOSED BY: Homer Spit Properties LLC.

ACR 6 – Provide the department emergency order authority to utilize time, area, methods and means, or possession limits to restrict Kenai and Kasilof river personal use fisheries and require daily reporting of harvest in these fisheries (5 AAC 77.540, 5 AAC 21.360).

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request is a place holder for the board to consider providing the department with emergency order authority to restrict Kenai and Kasilof river personal use fisheries with step-down measures in years of low sockeye abundance.

PRESENT SITUATION: The department manages the Kenai and Kasilof personal use fisheries in accordance with management plans and under emergency order authority described in 16.05.060, which provides the commissioner time and area authority.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** No.
- b) **Does the agenda change request correct an error in regulation?** No.
- c) **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 manages Kenai River personal use fisheries in accordance with 5 AAC 21.360 *Kenai River Late-Run Sockeye Salmon Management Plan* which states that subject to achieving the lower end of the sustainable escapement goal of 700,000–1,200,000 late-run sockeye salmon, the department will provide for a personal use dip net fishery in the lower Kenai River as specified in 5 AAC 77.540. *Upper Cook Inlet Personal Use Salmon Fishery Management Plan*. The plan provides additional permitting and reporting requirements for Cook Inlet personal use fisheries, and season and area regulations specific to the Kenai and Kasilof rivers. Additionally, 5 AAC 21.359. *Kenai River Late-Run King Salmon Management Plan* identifies triggers that prohibit the retention of king salmon in the personal use fishery.

On July 26, 2018, the department issued an emergency order to close the Kenai River personal use dip net fishery effective July 30. Based on the passage estimate of sockeye salmon in the Kenai River of 367,895 fish through July 25, it was determined the sustainable escapement goal would not be met without a reduction in harvest of this stock.

PROPOSED BY: Paul Shadura.

ACR 7 – Open and close the commercial set gillnet fishery within 600 feet of the North Kalifornsky Beach area independent of fishing time restrictions described in various management plans (5 AAC 21.310).

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request seeks to exempt hours fished with the set gillnet fishery in the North Kalifornsky Beach (NKB) statistical area (244-32), within 600 feet of the mean high tide mark, from weekly restrictions on the amount of fishing time allowed by emergency order described in the *Kenai River Late-Run King Salmon Management Plan* (5 AAC 21.359) or in the *Kenai River Late-Run Sockeye Salmon Management Plan* (5 AAC 21.360).

PRESENT SITUATION: Anytime the NKB 600-foot fishery is open, these hours count toward the maximum number of weekly emergency order hours that are provided in either 5 AAC 21.359(e)(3), or 5 AAC 21.360(c)(1)(B), (c)(2)(B), or (c)(3)(B).

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** No.
- b) **Does the agenda change request correct an error in regulation?** No.
- c) **Does the agenda change request address an effect of a regulation on a fishery that was unforeseen when that regulation was adopted?** Possibly. The board adopted the NKB 600-foot set gillnet fishery in 2017, prior to modifying the *Kasilof River Salmon Management Plan*, 5 AAC 21.365(c)(3), that exempted the Kasilof Section 600-foot set gillnet fishery from weekly emergency order hour restrictions. Although it is clear the board did not exempt the NKB fishery from the time limitations as it did the Kasilof Section 600-foot fishery, it is not clear whether the board’s failure to exempt the NKB fishery was intentional or an oversight.

ADDITIONAL INFORMATION: The provision allowing the option to open the set gillnet fishery in the NKB statistical area within 600 feet of the mean high tide mark when the Kasilof Section is open to commercial fishing with set gillnets and the Kenai and East Foreland sections are closed (5 AAC 21.310(b)(2)(C)(ii)) was first adopted at the 2017 Upper Cook Inlet board meeting after deliberation on Proposal 136, as amended with substitute regulatory language in RC 96. The intent of this provision was to harvest Kasilof River sockeye salmon and minimize the use of the Kasilof River Special Harvest Area (KRSHA).

At this same meeting, the board modified the *Kasilof River Salmon Management Plan*, 5 AAC 21.365(c)(3), after deliberating Proposal 101, by stating if the Kasilof Section set gillnet fishery was restricted to fishing within 600 feet of the mean high tide mark, the hours used in this fishery were not subject to the time limitations in 5 AAC 21.359(e)(3) and 5 AAC 21.360. This is the same exemption that is applied to hours fished in the KRSHA. However, during committee discussions, board deliberations, and in submitted RCs, there was no mention of including the recently adopted NKB 600-foot fishery in any hourly exemptions. Therefore, it is unclear whether this was board intent or if it was an oversight.

PROPOSED BY: Gary Hollier.

ACR 8 – Prohibit using a dip net from a boat to harvest salmon in the Glennallen Subdistrict (5 AAC 01.620).

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: Prohibit the use of dip nets when subsistence fishing from a boat in the Glennallen Subdistrict.

PRESENT SITUATION: Legal gear in the Glennallen Subdistrict subsistence fishery (GSSF) is limited to either fish wheels or dip nets. Access to shore-based fishing sites is very limited, and dip nets are primarily fished from boats. Harvest by dip net gear in the GSSF has accounted for an average of 26% of the total subsistence harvest (federal and state permits combined) from 2009 to 2017. The Copper River sockeye salmon sustainable escapement goal has been achieved in all years except 2000, and preliminary information indicates it was achieved in 2018.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** No.
- b) **Does the agenda change request correct an error in regulation?** No.
- c) **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: With the exception of 1979–1983, dip nets have been a legal gear type in the Upper Copper River District subsistence fisheries since statehood, and in the Glennallen Subdistrict portion of the District since it was established in 1977. Dip nets have never been limited to use from shore only, nor excluded for use from boats. From 2013 to 2017 an average of 1,130 subsistence dip net permits were issued for the GSSF with 63% of those actually fished, and an average harvest of 34 sockeye per permit fished. The use of a dip net from shore versus a boat is not a permit reporting requirement. However, annual observations of this fishery over the past decade show the majority of subsistence dip net use is from a boat. For comparison, during 2013–2017 an average of 476 subsistence fish wheel permits were issued for the GSSF with 78% of those actually fished and an average harvest of 94 sockeye per permit fished.

The GSSF receives priority use inseason and subsistence harvests have been sustainable regardless of gear type used. During the 2017 Prince William Sound Finfish board meeting in Valdez, the board failed to adopt (vote of 1-5 with one member recused) Proposal 13, that also sought to prohibit subsistence fishing with a dip net from a boat in the Glennallen Subdistrict.

PROPOSED BY: Ahtna Tene Nené.

ACR 9 – Align regulations within the *Southeast Alaska King Salmon Management Plan* with the provisions of the Pacific Salmon Treaty annex (5 AAC 47.055).

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: Management prescriptions within the current plan would be aligned with the seven harvest limit tiers established under the renewed 2019–2028 Pacific Salmon Treaty.

PRESENT SITUATION: The *Southeast Alaska King Salmon Management Plan* (SEAKKSMP; 5 AAC 47.055) triggers sport fishery management actions to maintain harvest within the sport fishery harvest limit allocation. In September 2018, the Pacific Salmon Commission reached agreement to renew various fishery arrangements under the Pacific Salmon Treaty (PST) for the next 10 years (2019–2028). One significant change is the creation of seven harvest limit tiers that replace the existing harvest limit ranges and result in a one to seven percent reduction in the existing harvest limit of king salmon in the Southeast Alaska fisheries. Since the renewed 2019–2028 PST agreement reduces the harvest limit at specified abundance indices, managing the sport fishery under the current plan would likely cause the sport fishery to exceed its allocation more often and by a greater amount.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- d) **Is there a fishery conservation purpose or reason?** No.
- e) **Does the agenda change request correct an error in regulation?** Yes. The management prescriptions under the current management plan are based on harvest limit ranges established under the 2009–2018 PST and not the seven harvest limit tiers set under the renewed 2019–2028 PST. This creation of seven harvest limit tiers that replace the existing harvest limit ranges are not in alignment with the existing regulatory management plan actions. Managing the sport fishery under the current plan would likely cause the sport fishery to exceed its allocation more often and by a greater amount. In addition to authority under 5 AAC 39.999(a)(1)(B), the board also has discretion under 5 AAC 39.999(b) to change its schedule as reasonably necessary for coordination of state regulatory actions with federal fishery agencies, programs, or laws.
- f) **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: Since the ratification of the PST in 1985, Southeast Alaska (SEAK) has been allowed a specific number of “treaty” king salmon for harvest (“treaty” king salmon are those king salmon produced in northwest United States and Canadian systems that are harvested in Alaska fisheries; king salmon from Alaska hatchery facilities are not counted as treaty fish). The harvest quota allocated to SEAK varies annually, and is solely dependent upon the preseason abundance index (AI) generated by a complex statistical model based on biological information collected on numerous Pacific Coast king salmon stocks.

The king salmon harvest quota for SEAK fisheries under terms of the PST is allocated domestically by the board under 5 AAC 29.060 as follows:

Purse seine fishery: 4.3 % of the annual harvest ceiling (quota);

Drift gillnet fishery: 2.9% of the annual harvest ceiling (quota);

Set gillnet fishery: 1,000 fish.

The remainder are allocated to the commercial troll and sport fisheries under 5 ACC 29.069 as follows:

Troll: 80%;

Sport: 20%.

The SEAK sport fishery is further managed by the SEAKKSMP established in 1992. The SEAKKSMP has been modified by the board on a number of occasions since inception, and the most current version was adopted in 2018. The SEAKKSMP specifically directs the department to

- (1) manage the sport fishery to attain an average harvest of 20% of the annual harvest ceiling specified by the PSC, after subtraction of the allocation specified in 5 AAC 29.060;
- (2) allow uninterrupted sport fishing in salt water for king salmon while not exceeding the sport harvest ceiling;
- (3) minimize regulatory restrictions on resident anglers; and
- (4) provide stability to the sport fishery by eliminating inseason regulatory changes, except those necessary for conservation purposes.

In order to meet these objectives, the SEAKKSMP lists specific management measures that may be applied to the sport fishery at specified ranges of abundance and directs the department to establish specific regionwide regulations that will either liberalize or restrict harvest. The plan triggers management action based on the AI, a value generated by the Chinook Technical Committee under the PST, from which a specific harvest level for the SEAK commercial and sport fisheries is derived. Depending on the level of the preseason AI, regulations could include implementing measures such as bag limits for resident and nonresident anglers, annual limits for nonresident anglers, minimum size limits, and periods of nonretention. A current objective of the SEAKKSMP is to ensure regulatory stability of the sport fishery once the season has commenced.

There are seven AI ranges in the current SEAKKSMP that have specific, corresponding management “actions” for use in keeping the sport fishery within the directed allocation. Those seven AI ranges equate to harvest ranges in numbers of king salmon allowed to be taken by the sport fishery. The seven “new” tiers do not directly equate to the existing tiers in the SEAKKSMP, and management actions for the new tiers will need to be developed to implement regulations that will effectively liberalize or restrict harvest when necessary to maintain sport harvest within the allocation.

PROPOSED BY: Alaska Department of Fish and Game.

ACR 10 – Close Sitka Sound commercial sac roe herring fishery until regional herring stock status improves, additional research on herring is conducted, and the amount necessary for subsistence is met in at least three consecutive years (5 AAC 27.110 and 5 AAC 27.160).

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This would close the Sitka Sound sac roe commercial herring fishery until the following conditions are met: (1) regional herring stocks have shown signs of rebound; (2) herring genetic structure, seasonal movements, and potential impacts of disturbing herring spawning areas are better understood; and (3) the amount necessary for subsistence has been achieved for three consecutive years.

PRESENT SITUATION: The Sitka Sound sac roe commercial herring fishery is conducted if the spawning biomass is greater than 25,000 tons. The guideline harvest level for this fishery is not less than 12%, nor more than 20% of the forecast mature biomass. 5 AAC 27.195 *Sitka Sound commercial sac roe herring fishery* directs the department to distribute commercial herring harvest using time and area if the department determines that it is necessary to ensure subsistence users have a reasonable opportunity for success in taking herring and herring spawn for customary and traditional uses. The board has found that 136,000–227,000 pounds of herring spawn are reasonably necessary for subsistence uses in Section 13A and Section 13B north of the latitude of Aspid Cape (5 AAC 01.716(b)).

Herring abundance in Sitka Sound is currently at a moderate level, relative to abundance over about the past four decades. After a period of high abundance observed between 2004 and 2011, the stock has declined to a level observed prior to the increase. The stock level is currently about twice that of the 25,000-ton threshold.

During the 2018 spawning season, the location of spawning shifted away from typical areas near the city of Sitka to across Sitka Sound on shores of Kruzof and Krestof islands. Although the low level of spawning near town was not anticipated, it has occurred before (in 1967) and it is also not unusual for major spawning to occur in areas where it was observed in 2018.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** No.
- b) **Does the agenda change request correct an error in regulation?** No.
- c) **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 2018 commercial harvest of herring in the Sitka Sound sac roe fishery was approximately 2,926 tons of the 11,128 guideline harvest level. Harvest fell short of the guideline harvest level primarily because the fishery was closed due to herring not meeting minimum size and roe quality requirements for the market. The total estimated spawn mileage was 33.1 nautical miles. Nearly all spawning activity took place outside of waters closed to commercial fishing, which is considered the core area for subsistence roe on branch harvest.

As a result, the amount necessary for subsistence was not met in 2018 despite preliminary results indicating herring population size did not change appreciably between 2017 and 2018.

PROPOSED BY: Louise Brady and Peter Bradley.

ACR 11 – Align regulations for sport fishing services and sport fishing guide services in fresh and salt waters and update guide registration and reporting regulations (5 AAC 75.075, 5 AAC 75.076, 5 AAC 75.077, and 5 AAC 75.085).

WHAT THE AGENDA CHANGE REQUEST SEEKS TO CHANGE: This agenda change request seeks to amend the existing sport fishing business and guide regulations to require sport fishing business and guide registration for both fresh and salt water sport fishing guiding activities.

PRESENT SITUATION: Current regulations require sport fishing businesses and guides operating in fresh water to be registered with the department, while sport fishing businesses and guides operating in salt water are required to obtain a saltwater sport fishing operator license or a saltwater sport fishing guide license. During the 2016 session, the Alaska Legislature adopted HB 41, reestablishing sport fishing business and guide license requirements for saltwater guides and operators (only) effective January 1, 2017. The statute created by this legislation will sunset January 1, 2019 and the existing regulations requiring licensing of saltwater sport fish guides and operators will conflict with statute.

STAFF ASSESSMENT OF THE AGENDA CHANGE REQUEST:

- a) **Is there a fishery conservation purpose or reason?** No.
- b) **Does the agenda change request correct an error in regulation?** Yes. Current regulations for saltwater sport fishing guides and operators will conflict with the statute that sunsets January 1, 2019.
- c) **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: In February 1998, the board established statewide registration requirements for sport fishing businesses and guides, and required sport fishing business owners to complete logbooks for saltwater charter vessels. In May 2004, the Alaska Legislature adopted HB 452 that established statewide licensing requirements for sport fishing guide business owners and sport fishing guides. The bill also established reporting requirements for all guided fishing trips, in both salt and fresh waters, and required that all vessels used in these guided fishing trips be registered with the department. In November 2004, the board amended the state regulations for sport fishing guide businesses and guides to implement the new statutes created by the Alaska Legislature. The statutes (AS 16.05.260–16.05.299) established by adoption of HB 452 sunsetted effective January 1, 2015. During the 2016 legislative session, HB 41 was amended before adoption by the Alaska Legislature to only require licensing of sport fishing guides and businesses operating in salt water. The original version of HB 41 was similar to AS 16.40.260–16.40.299 prior to being amended. This most recent legislation will sunset January 1, 2019.

The department has operated a program to register [1998–2004, 2015–2016, 2017–2018 (for fresh water)] and/or license [2005–2014, 2017–2018 (for salt water)] both sport fishing guides

and businesses, administer sport fishing salt (since 1998) and fresh (since 2005) water guide logbooks, and register sport fishing guide vessels (since 2005).

PROPOSED BY: Alaska Department of Fish and Game.