

**PROPOSAL 278 – 5 AAC 28.051. Gear for halibut and 5 AAC 39.145. Escape mechanisms for shellfish and groundfish pots.**

**PROPOSED BY:** Alaska Department of Fish and Game.

**WHAT WOULD THE PROPOSAL DO?** This would amend state commercial halibut gear regulations to allow retention of halibut caught in pot gear and add escape mechanism requirements for halibut pots, consistent with federal rules and current management.

**WHAT ARE THE CURRENT REGULATIONS?** Current state regulations do not specify pot gear as a gear that can be used to commercially harvest halibut (5 AAC 28.051) and do not include escape mechanism requirements for halibut pots (5 AAC 39.145); however, halibut fisheries are managed by the International Pacific Halibut Commission (IPHC) (5 AAC 28.092) and National Marine Fisheries Service (NMFS). Federal rules allow directed fishing for halibut with pot gear in the Bering Sea/Aleutian Islands and retention of incidentally caught halibut in Gulf of Alaska sablefish pot fisheries.

5 AAC 28.051. *Gear for halibut*

- (a) Unless otherwise specified in this chapter, halibut may be taken only by hand troll gear, mechanical jigging machines, dinglebar troll gear, and longlines.
- (b) All commercial longline or skate gear buoys or kegs must be marked with the permanent vessel license plate number of the vessel operating the gear.

5 AAC 39.145. *Escape mechanism for shellfish and groundfish pots*

Pot gear must include an escape mechanism in accordance with the following provisions:

- (1) a sidewall, which may include the tunnel, of all shellfish and groundfish pots must contain an opening equal to or exceeding 18 inches in length, except that in shrimp pots the opening must be a minimum of six inches in length; the opening must be laced, sewn, or secured together by a single length of untreated, 100 percent cotton twine, no larger than 30 thread; the cotton twine may be knotted at each end only; the opening must be within six inches of the bottom of the pot and must be parallel with it; the cotton twine may not be tied or looped around the web bars;

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**WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED?** This would reduce confusion and remove inconsistencies between state and federal gear rules, aligning state regulations with the current federal and IPHC regulations used to manage the fishery. Retention of halibut with pots is already legal under federal rules, so this is not expected to have any effect on fisheries.

**BACKGROUND:** The IPHC and the NMFS manage fishing for Pacific halibut through regulations established under the congressional authority of the North Pacific Halibut Act. The Halibut Act also authorizes regional fishery management councils to develop regulations in addition to, but not in conflict with, regulations issued by the IPHC. State regulations require all possession and harvest of halibut to be consistent with IPHC regulations (5 AAC 28.092).

In 2016, the IPHC recommended regulations to authorize the retention of halibut by vessels using pot gear throughout Alaska. In 2016, the Secretary of Commerce implemented federal regulations to allow the use of pot gear in the Gulf of Alaska (GOA) sablefish individual fishing quota (IFQ) fishery and retention of incidentally caught halibut in the GOA sablefish IFQ fishery if a vessel has sufficient halibut IFQ, as recommended by the North Pacific Fishery Management Council (NPFMC) in accordance with the Halibut Act. In 2020, the Secretary of Commerce implemented federal regulations to require vessel operators in the Bering Sea/Aleutian Islands (BSAI) who use pot gear and who hold sufficient halibut IFQ or community development quota (CDQ) to retain legal-sized halibut in the IFQ or CDQ halibut or sablefish fisheries, as recommended by the NPFMC and the IPHC. Allowing halibut retention in pot gear in both the GOA and BSAI was recommended to help reduce regulatory halibut discards from sablefish pots. Additionally, allowing directed halibut fishing with pots in the BSAI was recommended to allow for more efficient harvest of halibut in areas with whale depredation on hook and line gear.

Current harvest of halibut using pot gear is minimal, comprising less than one percent of the commercial halibut harvested in 2020.

**DEPARTMENT COMMENTS:** The department submitted and **SUPPORTS** this proposal. It would align state regulations with federal regulations and reduce confusion caused by having inconsistent gear rules.

**COST ANALYSIS:** Adoption of this proposal is not expected to result in additional direct cost for a private person to participate in this fishery.

**PROPOSAL 279 – 5 AAC 01.280(2). Subsistence fishing permits.**

**PROPOSED BY:** Alaska Department of Fish and Game.

**WHAT WOULD THE PROPOSAL DO?** Extend Kuskokwim River subsistence salmon fishing permit sunset date for one year, until December 31, 2022.

**WHAT ARE THE CURRENT REGULATIONS?** Current regulation allows the department during times when it is necessary for the conservation of king salmon to implement a subsistence king salmon permit upstream of a line between regulatory markers at the Yukon Delta National Wildlife Refuge Boundary near Aniak.

**WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED?**

The department would be able to implement the subsistence permit requirement for the 2022 fishing season for the purposes of king salmon conservation and harvest reporting. There would be a household limit of 10 king salmon and permit holders could fish continuously until that limit is reached.

**BACKGROUND:** Since 2010, king salmon returns to the Kuskokwim River have been below historical averages and some of the lowest on record. These low returns have prompted severe management restrictions to the Kuskokwim River subsistence salmon fishery. At the August 2015 Kuskokwim Subsistence Salmon Panel meeting (panel) in Bethel, the panel heard testimony from panel members in support of a limited permit system that would allow for the harvest of king salmon during times of conservation.

The Alaska Board of Fisheries (board) met in Anchorage from March 20–24, 2017 to discuss proposals relating to subsistence fishing permits within the Kuskokwim River. The board adopted Proposal 276, establishing a limited permit system in Kuskokwim River waters from the Yukon Delta National Wildlife Refuge boundary at Aniak upstream to the headwaters of the Kuskokwim River. The proposal included a sunset date of December 31, 2021, to be revisited at the January 2022 board meeting. However, the COVID-19 global pandemic shifted the scheduled Arctic–Yukon–Kuskokwim Alaska Board of Fisheries finfish meeting from January 2022 to January 2023.

The subsistence permit has been implemented twice since its inception: in 2018 and 2021. In 2018 there were 188 permits issued with an estimated 524 king salmon. Permits were not implemented in 2019 because early run strength indicators suggested that the king salmon run was returning near the upper end of the forecast and additional conservation measures were unwarranted because the total run was estimated to be 233,000 fish. In 2020 the projected outlook was much like the 2019 season total run: 193,000–261,000 king salmon. However, since this was the first encouraging king salmon forecast in over a decade the department’s intent was to take a precautionary management approach during the early part of the 2020 season. Once it was determined that the subsistence harvest above Aniak would not impact achieving escapement goals, the upper Kuskokwim River was opened continuously beginning June 12. In 2021, there were 128 permits issued during the season and data collection is still ongoing since permits do not

have to be returned to the department until October 31. During all years, fishing was restricted to gillnets with 6-inch or less mesh and 25 fathoms in length.

**DEPARTMENT COMMENTS:** The department submitted and **SUPPORTS** this proposal. During times of king salmon conservation, the department may issue an emergency order implementing the subsistence permit to limit king salmon subsistence harvest. The subsistence permit holder may fish continuously until the household limit of 10 king salmon is reached. The permit holder may also retain all other salmon and nonsalmon species captured which contributes to meeting their subsistence needs. This permit does represent a reduction in subsistence opportunity. However, if the subsistence permit is not available as a management tool, management actions may need to be more conservative, further reducing subsistence fishing opportunity to ensure king salmon escapement goals are achieved. This proposal is much like other COVID-19-related sunset date extensions recently considered by the board.

**COST ANALYSIS:** Adoption of this proposal is not expected to result in additional direct cost for a private person to participate in this fishery.

**SUBSISTENCE REGULATION REVIEW:**

1. Is this stock in a nonsubsistence area? No.
2. Is the stock customarily and traditionally taken or used for subsistence? Yes, the board made positive customary and traditional use findings for all salmon species in the Kuskokwim River drainage (5 AAC 01.286(a)(3)).
3. Can a portion of the stock be harvested consistent with sustained yield? Yes.
4. What amount is reasonably necessary for subsistence use (ANS)? In January 2013 the board revised the ANS findings for the five species of salmon found in the Kuskokwim River drainage to be 67,200—109,800 king salmon.
5. Do the regulations provide a reasonable opportunity for subsistence uses? This is a board determination.
6. Is it necessary to reduce or eliminate other uses to provide a reasonable opportunity for subsistence uses? This is a board determination.

**PROPOSAL 280 – 5 AAC 27.865. Bristol Bay Herring Management Plan.**

**PROPOSED BY:** Alaska Department of Fish and Game.

**WHAT WOULD THE PROPOSAL DO?** Change the sunset date for allocation regulations in the Togiak District herring fishery from December 31, 2021 to December 31, 2022.

**WHAT ARE THE CURRENT REGULATIONS?** Currently, subsection (b)(5) states that after the herring spawn-on-kelp harvest and the Dutch Harbor food and bait fishery have been subtracted, the remaining harvestable surplus is allocated to the Togiak District herring fishery; additionally, the department shall manage for a removal of 30 percent of that surplus by the gillnet fleet and 70 percent by the purse seine fleet, except that the allocations in this subsection shall be 20 percent by the gillnet fleet and 80 percent by the purse seine fleet through December 31, 2021.

Also, subsection (b)(8) states that, through December 31, 2021, if the department's inseason projection of the Togiak District gillnet harvest is less than the guideline harvest level, the commissioner may reallocate 50 percent of the remaining gillnet guideline harvest level to the Togiak District purse seine fleet.

**WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED?** This proposal would extend the status quo for one additional year allowing for these regulations to be addressed at the next in-cycle Bristol Bay Alaska Board of Fisheries (board) meeting.

**BACKGROUND:** The COVID-19 pandemic delayed the board cycle for Bristol Bay from 2021 to 2022, so the sunset clause associated with board action in 2018 will now expire before the next scheduled Bristol Bay board meeting. The intent of the sunset clause was to test the new language of the plan and to evaluate the impacts it had on the fishery. This information would then be presented at the next regular board meeting for Bristol Bay and be used to inform further decisions regarding allocation in this fishery. Due to the disruption to the board cycle, current regulations are scheduled to sunset before the next Bristol Bay board meeting.

**DEPARTMENT COMMENTS:** The department submitted and **SUPPORTS** this proposal. This proposal would extend the sunset date of these allocative regulations so they may be evaluated by the board at the next in-cycle Bristol Bay board meeting, as originally intended. It also maintains regulatory consistency prior to the 2022 meeting, instead of reverting back to the previous regulations for (potentially) just one season.

**COST ANALYSIS:** Approval of this proposal is not expected to result in an additional direct cost for a private person to participate in this fishery. Approval of this proposal is not expected to result in an additional direct cost for the department.