

Alaska Department of Fish and Game

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2019–2021  
Statewide Commercial  
Herring Fishing Regulations





This booklet contains regulations regarding **COMMERCIAL HERRING FISHERIES** in the State of Alaska. **This booklet covers the period January 2019 through December 2021 or until a new book is available following the Board of Fisheries meetings.**

**Note to Readers:** These statutes and administrative regulations were excerpted from the Alaska Statutes (AS), and the Alaska Administrative Code (AAC) based on the official regulations on file with the Lieutenant Governor. There may be errors or omissions that have not been identified and changes that occurred after this printing. **This booklet is intended as an informational guide only. To be certain of the current laws, refer to the official statutes and the AAC.**

**Changes to Regulations in this booklet:** The regulations appearing in this booklet may be changed by subsequent board action, emergency regulation, or emergency order at any time. Supplementary changes to the regulations in this booklet will be available on the department's website and at offices of the Department of Fish and Game.

For information or questions regarding regulations, requirements to participate in commercial fishing activities, allowable activities, other regulatory clarifications, or questions on this publication please contact the Regulations Program Coordinator at (907) 465-6124 or email [shellene.hutter@alaska.gov](mailto:shellene.hutter@alaska.gov)

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# ADF&G Mission Statement

This publication was released by the Department of Fish and Game at a cost of \$3.24 per copy, and printed in Anchorage, AK.

The Alaska Department of Fish and Game's mission is to ensure that Alaska's renewable fish and wildlife resources and their habitats are conserved and managed on the sustained yield principle, and the use and development of these resources are in the best interest of the economy and well-being of the people of the state.

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ensure that Alaska's renewable fish and wildlife resources and their habitats are conserved and managed on the sustained yield principle, and the use and development of these resources are in the best interest of the economy and well-being of the people of the state.

## Guiding Principles

- Seeking excellence in carrying out its responsibilities under state and federal law, the department will:
- Provide for the greatest long-term opportunities for people to use and enjoy Alaska's fish, wildlife and habitat resources.
- Improve public accessibility to, and encourage active involvement by the public in, the department's decision making processes.
- Build a working environment based on mutual trust and respect between the department and the public, and among department staff.
- Maintain the highest standards of scientific integrity and provide the most accurate and current information possible.
- Foster professionalism in department staff, promote innovative and creative resource management, and provide ongoing training and education for career development.

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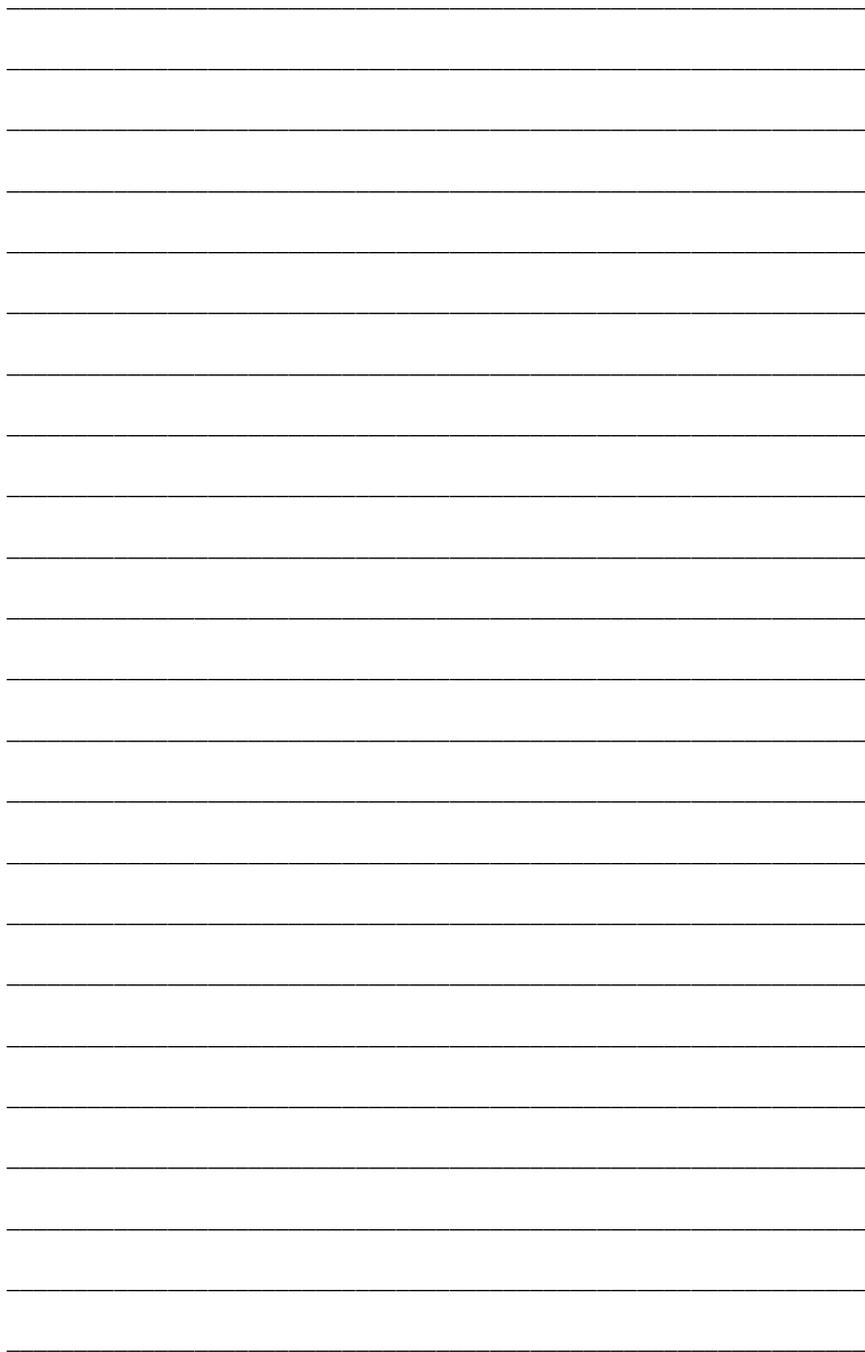
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**Chapter 27. Herring Fishery.**

**Article 1. Registration Areas.**

**5 AAC 27.001. Application of this chapter** Unless otherwise specified, the requirements set out in this chapter apply only to commercial herring fishing. Subsistence, personal use, and sport fishing regulations that affect commercial herring fishing vessels or activity are set out in the subsistence fishing regulations in 5 AAC 01 and 5 AAC 02, personal use fishing regulations in 5 AAC 77, and sport fishing regulations in 5 AAC 47 - 5 AAC 75.

**5 AAC 27.005. Registration areas established** Herring fishery registration areas and code letters are: Code Letter A - Southeastern Alaska Area (5 AAC 27.100) D - Yakutat Area (5 AAC 27.200) E - Prince William Sound Area (5 AAC 27.300) H - Cook Inlet Area (5 AAC 27.400) K - Kodiak Area (5 AAC 27.500) L - Chignik Area (5 AAC 27.550) M - Alaska Peninsula-Aleutian Islands Area (5 AAC 27.600) T - Bristol Bay Area (5 AAC 27.800) W - Kuskokwim Area (5 AAC 27.870) Q - Bering Sea-Kotzebue Area (5 AAC 27.900)

**Article 2. General Specifications.**

**5 AAC 27.010. Application of regulations.** (a) Unless otherwise specified in this chapter, the regulations in this chapter that apply to a herring registration area also apply to the waters of the exclusive economic zone that are adjacent to the herring registration area.

(b) The commissioner may suspend the application of the regulations in this chapter that apply to a herring registration area to all or a portion of the waters of the exclusive economic zone that are adjacent to a herring registration area if the commissioner finds that

(1) application of the regulation fails to facilitate enforcement of regulations that apply to the registration area;

(2) application of the regulation fails to protect or conserve herring inhabiting territorial waters of Alaska; or

(3) the state has an insufficient interest in the herring that inhabit the waters of the adjacent exclusive economic zone to warrant extending the state's jurisdiction to those waters.

(c) For the purposes of this section, "exclusive economic zone" means all the waters adjacent to a herring registration area and seaward to a boundary line drawn in such a manner that each point on the line is 200 nautical miles from the baseline from which the territorial sea is measured.

**5 AAC 27.030. Landing requirements** (a) Except as specified in (b) of this section, a herring fishing vessel must land all herring within the registration area in which the herring were taken.

(b) The vessel owner, or the owner's agent, of a herring fishing vessel that desires to land herring in a registration area other than the one from which the herring were taken shall contact in person, or by radio or telephone, a local representative of the department for authorization before leaving the registration area in which the herring were taken and shall submit to a vessel inspection at a location specified by the representative. A vessel landing herring under an authorization granted under this subsection may not, at the time of landing its catch, have more herring on board than were present at the time of the inspection. The vessel owner, or the owner's agent, making radio or telephone contact shall state to the representative the amount of herring on board at the time of contact. A vessel authorized to land herring in another registration area may not land in the other registration area an amount of herring that, by weight, exceeds by 10 percent, whether more or less, the amount stated at the time of the contact with the department's local representative.

(c) The commissioner may suspend and reinstate any requirement of

(b) of this section for a particular registration area if the commissioner finds that to do so would be in the public interest.

**5 AAC 27.035. Closure of registration areas.** (a) The commissioner shall monitor the condition of herring stocks in all registration areas by using the data and information that are practically available.

(b) When the commissioner finds that continued herring fishing would jeopardize the health of herring stock within a registration area, the commissioner, by emergency order, shall close the registration area.

(c) In determining whether to close a registration area, the commissioner shall consider all appropriate factors to the extent there is information available on such factors. Factors which may be considered include

- (1) the effect of overall fishing effort within the registration area;
- (2) catch per unit of effort and rate of harvest;
- (3) relative abundance of herring within the area in comparison with preseason expectations of the department;
- (4) guideline harvest levels which may be adopted by regulation;
- (5) the proportion of immature or spawned-out herring being handled or landed;
- (6) general information on the condition of herring within the area;
- (7) information pertaining to the maximum sustainable yield level of herring within the registration area;
- (8) timeliness and accuracy of catch reporting by buyers within the registration area to the extent that such timeliness or accuracy may reasonably be expected to affect proper management; and

(9) adequacy of subsistence harvests within the registration area.

(d) The provisions of this section also apply to closures to fishing for herring of any portion of a registration area.

(e) When more than 24 hours has elapsed after the closure of a registration area, a person may not possess herring on board a commercial fishing vessel unless the person is in compliance with 5 AAC 27.030.

**5 AAC 27.045. Discretionary openings** In any registration area or portion of a registration area, the commissioner may delay the opening beyond the earliest date specified in the regulations if the commissioner finds that the delay would effect the orderly conduct of the fishery or the conservation of the fishery resources.

**5 AAC 27.050. Lawful gear for herring.** (a) During an open herring fishing season in a registration area, herring may only be taken by seines, gillnets, trawls, or pounds as specified in 5 AAC 27.100 - 5 AAC 27.990. In areas in which legal gear is not specified in 5 AAC 27.100 - 5 AAC 27.990 for use during an open herring fishing season, herring may be taken by legal types of gear specified in 5 AAC 39.105(d).

(b) No net or other obstruction may be placed across the entrance to any lagoon or bay that may prevent the free passage of herring.

(c) Unless otherwise specified in this chapter, the mesh size of a herring gillnet may not be less than two and one-eighth inches or more than two and one-half inches.

(d) Gillnets may be fished with the float line and floats below the surface of the water.

(e) A person may not use a gillnet to take herring at the same time that the person is using a purse seine, hand purse seine, or beach seine to take herring.

(f) A purse seine and a hand purse seine have stopped fishing when both ends of the seine are attached to the fishing vessel. A beach seine has stopped fishing when both ends of the seine are on the beach above the water line or when all of the lead line is removed from the water.

**5 AAC 27.055. Permits for herring spawn** The taking of herring spawn for commercial purposes may be conducted only under the terms of a permit issued by the commissioner or the commissioner's designee, unless otherwise provided in 5 AAC 27.100 - 5 AAC 27.990.

**5 AAC 27.059. Management guidelines for commercial herring sac roe fisheries.** (a) If the department has adequate information, and if department management programs are in place, the department may manage commercial herring sac roe fisheries, to enhance the value of the landed product as follows:

(1) fishing periods may be established by emergency order in areas and during times when sampling has demonstrated, or when other factors indicate, that the herring roe content of the catch is likely to be highest;

(2) fishing periods may be established by emergency order in areas and during times when sampling has demonstrated, or when other factors indicate, that the catch is composed of the maximum average size of herring available for the stock;

(3) in a preseason management plan, the department shall specify the particular herring fisheries that are to be managed to enhance the value of the landed product.

(b) The department may modify herring sac roe fishing periods and areas to minimize the harvest of recruit-sized herring during the conduct of a sac roe fishery that targets post-recruit herring.

**5 AAC 27.060. Bering Sea Herring Fishery Management Plan.** (a) The department shall follow the directives of the Bering Sea Herring Management Plan, as well as the regulations that govern the individual herring fisheries, when managing the commercial herring fisheries that take place in the Bering Sea.

(b) Unless otherwise specified in this chapter, the department shall manage the fisheries so that the exploitation rate on eastern Bering Sea herring stocks does not exceed 20 percent of the biomass of those stocks.

(c) The following thresholds are minimum biomass levels for each herring fishing district. When the department estimates, in season, that the biomass in a district is below its threshold, the department may not allow a commercial harvest of herring in that district.

<b>District</b>	<b>Thresholds (s.t.)</b>
Port Moller .....	1,000
Togiak .....	35,000
Security Cove .....	1,200
Goodnews Bay .....	1,200
Cape Avinof .....	500
Nelson Island .....	3,000
Nunivak Island .....	1,500
Cape Romanzof .....	1,500
Norton Sound .....	7,000

(d) The department shall manage the herring food and bait fishery that takes place in the Unimak, Akutan, and Unalaska Districts and that portion of the Umnak District east of Samalga Pass (Dutch Harbor fishery) so that it is allocated seven percent of the allowable Togiak District herring fishery harvest determined under the provisions of the Bristol Bay Herring Management Plan in 5 AAC 27.865.

(e) Repealed 4/7/90.

(f) Repealed 4/7/90.

(g) When the Togiak District is below its threshold, the Dutch Harbor fishery must be closed for that season.

(h) When any of the southwest Alaska herring stocks, from Security Cove to Port Clarence, is below its threshold identified in

(c) of this section, the department shall close the Dutch Harbor food and bait herring fishery for that season. For the purpose of determining the need for this closure, the threshold level for the Nelson Island herring stock is 2,000 short tons. If the department determines it necessary to close the Dutch Harbor food and bait herring fishery under this subsection, the department shall not reallocate the herring harvest set for the Dutch Harbor food and bait herring fishery under 5 AAC 27.865(b) (4) to the Togiak District herring fishery.

### **Article 3. Prohibitions.**

**5 AAC 27.090. Unlawful possession of herring or herring gear.** (a) A person may not possess unprocessed herring aboard a vessel licensed as a commercial fishing vessel within any registration area unless the season is open or unless the person is acting under the authorization of 5 AAC 27.030

(b). This prohibition does not apply to herring possessed for subsistence or personal bait purposes under applicable regulations.

(b) A person may not possess herring or herring gear aboard a vessel licensed as a commercial fishing vessel within any registration area if the herring are taken in violation of, or the gear is prohibited by other regulations in this chapter governing the registration area, unless the vessel is acting under the authorization of 5 AAC 27.030(b).

(c) It is unlawful for any person to possess, purchase, sell, barter, or transport herring within the state or within waters subject to the jurisdiction of the state if that person knows or has reason to know that that herring was taken or possessed in contravention of the regulations of this chapter.

### **Article 4. Southeastern Alaska Area (Registration Area A).**

**5 AAC 27.100. Description of Southeastern Alaska Area** The Southeastern Alaska Area has as its southern boundary the International Boundary at Dixon Entrance, and as its northern boundary a line extending seaward from the western tip of Cape Fairweather, at 58° 47.89' N. lat., 137° 56.68' W. long., to the intersection with the seaward limit of the three-nautical-mile territorial sea at 58° 45.91' N. lat., 138° 01.53' W. long.

**5 AAC 27.105. Description of Southeastern Alaska Area districts** Districts are as described in 5 AAC 33.200.

**5 AAC 27.110. Fishing seasons for Southeastern Alaska Area.** (a) Herring may be taken from October 1 through February 28 (winter food and bait fishery), only during periods established by emergency order, in the following Districts and Sections: 1 - 10, 11-B, 11-C, 12, 13-A, 13-B south of the latitude of Aspid Cape (56° 41.75' N. lat.), 14, 15-A, and 16, except for locations within those districts set out in (b) of this section.

(b) Herring may be taken in the sac roe fishery only during seasons established by emergency order in the following districts and sections:

(1) in the purse seine fishery, herring may be taken only in the following sections:

(A) repealed 7/13/2012;

(B) repealed 7/13/2012;

(C) repealed 6/17/2018;

(D) Section 13-A, south of the latitude of Point Kakul ( $57^{\circ} 21.75'$  N. lat.);

(E) Section 13-B, north of the latitude of Aspid Cape ( $56^{\circ} 41.75'$  N. lat.), except for Whale and Necker Bays;

(F) repealed 6/17/2018;

(2) in the set gillnet fishery, herring may be taken only in the following districts and sections:

(A) Section 1-E;

(B) Section 1-F,

(i) north of the latitude of South Vallenar Point;

(ii) that portion south and east of a line from Point Sykes to Twin Island Light to Form Point and north of a line from Form Point to Foggy Point;

(C) in District 10, only in that portion east of a line from Cape Fanshaw to Five Finger Light to McDonald Rock Buoy to Point League;

(D) Section 11-D.

(c) Repealed 12/29/84.

(d) Herring may be taken for bait pound operations from October 1 through September 30, only during periods established by emergency order in the following districts and sections:

(1) Section 1-E;

(2) in District 6, only toss waters of Scow Bay north of the latitude of Mountain Point and south of the latitude of Blunt Point;

(3) in Section 11-A, in the following areas:

(A) Tee Harbor, south of the latitude of Point Stephens;

(B) Indian Cove, inside a line from Indian Point to a point at  $58^{\circ} 22.58'$  N. lat.,  $134^{\circ} 42.30'$  W. long.;

(4) in Section 13-A, only in those waters of Lisianski Inlet south of the latitude of Junction Island;

(5) in Section 13-B, north of the latitude of Dorothy Narrows (56° 49' N. lat.).

(e) Repealed 4/24/2003.

(f) Herring spawn on kelp in pounds may be taken only during periods established by emergency order. The commissioner may open or close, by emergency order, the herring spawn-on-kelp fishing period for open pound gear at the same time or at a different time than when the commissioner opens or closes the spawn-on-kelp fishing period for closed pound gear.

**5 AAC 27.130. Lawful gear for Southeastern Alaska Area.** (a) Herring may be taken during the open season by purse seines and gillnets.

(b) Herring pounds for fresh bait and tray pack operations may be used only under the terms of a permit issued by the commissioner.

(c) Herring pounds for the taking of spawn-on-kelp in pounds may be operated only under terms of a permit issued by the commissioner and as provided in 5 AAC 27.185.

(d) A herring pound for the herring spawn-on-kelp pound fishery may be a closed pound or an open pound and may be operated only as provided in 5 AAC 27.185.

(e) In the Southeastern Alaska Area,

(1) a closed pound consists of a single, floating, rectangular frame structure with suspended webbing that is used to enclose herring for a period of time in order to produce spawn on kelp suspended within the pound; a closed pound shall be operated as follows:

(A) webbing of a closed pound may not have a mesh size of more than one and one-half inches;

(B) the opening of a closed pound must be rectangular at the water surface and may not exceed 800 square feet in area;

(C) neither the sewn vertical wall nor the near-vertical wall may exceed the depth below the water surface when the pound contains herring as follows:

(i) with a surface square footage less than 400 feet, the depth of webbing may not exceed 30 feet;

(ii) with a surface square footage of at least 401 feet but not more than 500 feet, the depth of webbing may not exceed 24 feet;

(iii) with a surface square footage of at least 501 feet but not more than 600 feet, the depth of webbing may not exceed 20 feet;

(iv) with a surface square footage of at least 601 feet but not more than 700 feet, the depth of webbing may not exceed 17 feet;

(v) with a surface square footage of at least 701 feet but not more than 800 feet, the depth of webbing may not exceed 15 feet;

(D) webbing of a closed pound may not be part of the webbing of another pound structure;

(2) an open pound consists of a single, floating, rectangular frame structure with suspended kelp and no webbing or lead that is used for the production of spawn on kelp; the inside surface area may not exceed 2,400 square feet and no one side may be longer than 60 feet; for the purposes of this paragraph, "lead" means a length of net employed for guiding herring to the pound.

**5 AAC 27.131. Gillnet specifications and operations for Southeastern Alaska Area.**

(a) Except as provided in (i) of this section, a vessel fishing for herring may not have more than one herring gillnet on board or operated from any vessel taking herring. A herring gillnet may not be longer than 50 fathoms.

(b) Herring gillnets must be set with an anchor at each end.

(c) Each set gillnet in operation must be buoyed at both ends and each buoy shall be plainly and legibly marked with the permanent vessel plate number (ADF&G number) of the vessel fishing the gear.

(d) A herring gillnet may not be reset after the announced closing time. A herring gillnet may not remain in the water for more than one hour after the closing time. When the department projects that the guideline harvest level would be exceeded in an open period less than one hour in duration, the commissioner may, by emergency order, establish periods that may have an announced closing time, and a herring gillnet may not remain in the water after that closing time.

(e) A set gillnet may not exceed 120 meshes in depth.

(f) Repealed 7/13/2012.

(g) In addition to the requirements of

(c) of this section, a gillnet used to take or attempt to take herring in a sac roe fishery must have one ADF&G identification tag placed on the marked buoys at both ends of the net. The identification tag must be placed on each marked buoy so that it is above the surface of the water. The identification tags will be issued only by ADF&G personnel located on the fishing grounds. Lost identification tags may be replaced upon submission of a sworn statement describing how the tags were lost and a listing of their numbers to the department. The identification tags are in effect for a single season and new tags must be obtained before each fishing season.

(h) In the Southeastern Alaska Area, "stretched measure" of herring net means the average length of any series of 10 consecutive meshes measured from inside the first knot

and including the last knot when wet. The 10 meshes, when being measured, must be wet and be an integral part of the net, as hung. The 10 meshes shall be measured perpendicular to the selvages. Measurements shall be made by means of a metal tape measure while the 10 meshes being measured are suspended vertically from a single peg or nail, supporting a one-pound weight.

(i) Two Southeast Alaska set gillnet CFEC permit holders may concurrently fish from the same vessel and jointly operate up to 75 fathoms of set gillnet gear as follows:

(1) before operating set gillnet gear jointly both permit holders shall obtain buoy identification tags for dual operation provided by the department under

(g) of this section;

(2) when two Southeast Alaska set gillnet CFEC permit holders fish from the same vessel and jointly operate a set gillnet, the vessel must display its ADF&G permanent license plate number followed by the letter "D" to identify the vessel as a dual vessel; the letter "D" must be removed or covered when the vessel is operating with only one set gillnet CFEC permit holder on board the vessel; the identification number and letters must be displayed

(A) in letters and numerals 12 inches high with lines at least one inch wide;

(B) in a color that contrasts with the background;

(C) on both sides of the hull; and

(D) in a manner that is plainly visible at all times when the vessel is being operated;

(3) when two CFEC permit holders jointly operate gear each permit holder

(A) must be on board the fishing vessel and present at the fishing site as required by 5 AAC 39.107(d) and (e);

(B) is responsible for ensuring that the entire unit of gear is operated in a lawful manner.

**5 AAC 27.132. Seine specifications and operations for Southeastern Alaska Area.** (a) A herring purse seine may not be more than 200 fathoms in length.

(b) A herring purse seine may not be more than 1,700 meshes in depth, except that for Section 12-A, the commissioner may, by emergency order, open a purse seine herring fishery during which a herring purse seine may not be more than 2,125 meshes in depth.

(c) Repealed 4/28/84.

**5 AAC 27.150. Waters closed to herring fishing in Southeastern Alaska Area** Herring may not be taken in

(1) District 1, in the waters of Clover Pass, Tongass Narrows, Moser Bay, and Naha Bay that are south and east of a line from Indian Point located at 55° 36.85' N. lat., 131° 42.03' W. long., to the northeastern tip of Betton Island located at 55° 32.56' N. lat., 131° 47.66' W. long., to a point on the southwest tip of Betton Island located at 55° 30.22' N. lat., 131° 50.32' W. long., to Guard Island Light, to Vallenar Point located at 55° 25.58' N. lat., 131° 51.09' W. long.;

(2) District 2, in Kasaan Bay west of a line from Island Point to Grindall Point, including all waters of Skowl Arm, Polk Inlet, McKenzie Inlet, and Twelve Mile Arm;

(3) District 5;

(4) District 6,

(A) by herring purse seine in the waters of Wrangell Narrows between the latitude of Blunt Point and the longitude of Prowley Point Light;

(B) in the waters of District 6 west of the longitude of Point Colpoys;

(5) District 8, in Wrangell Harbor inside a line from the southwest point of the Alaska Wood Products, Inc. wharf to the light on Shekesti Point;

(6) District 12, in the waters of Favorite Bay; and

(7) District 13, in the waters enclosed by a line extending from a point on the Baranof Island shore at the O'Connell Bridge at 57° 02.87' N. lat., 135° 20.33' W. long., to the northernmost point of Aleutski Island at 57° 02.74' N. lat., 135° 20.46' W. long., to the westernmost point of Makhnati Island at 57° 02.40' N. lat., 135° 23.48' W. long., to Bieli Rocks at 57° 05.42' N. lat., 135° 29.98' W. long., to the northwestern point of Crow Island at 57° 06.96' N. lat., 135° 28.57' W. long., to the westernmost point of Big Gavanski Island at 57° 08.11' N. lat., 135° 26.13' W. long., to the northernmost point of Big Gavanski Island at 57° 08.49' N. lat., 135° 25.21' W. long., to the Baranof Island shore at Harbor Point at 57° 07.59' N. lat., 135° 23.37' W. long.

**5 AAC 27.160. Quotas and guideline harvest levels for Southeastern Alaska Area**

(a) Repealed 12/29/84.

(b) The herring harvest quota for bait pound operations is as follows:

(1) Scow Bay: 100 tons;

(2) Section 13-B: 100 tons;

(3) Lisianski Inlet: 25 tons;

(4) Section 1-E: 10 percent of the guideline harvest level for the West Behm Canal stock;

(5) Sections 11-A, 15-B, and 15-C: 120 tons; if there are no active herring bait

pound permits issued by April 1 of a year, the remainder of the 120-ton harvest quota will be allocated to the commercial sac roe purse seine fishery;

(6) District 7: 10 percent of the guideline harvest level for the Ernest Sound stock; the harvest quota for the winter food and bait fishery is 90 percent of that guideline harvest level; if there are no active herring bait pound permits issued by March 15 of a year, the unharvested remainder of that guideline harvest level will be allocated to the herring spawn-on-kelp fishery; after the spawn-on-kelp fishery in District 7 is closed, any remaining unharvested portion of that guideline harvest level will be allocated to the bait pound fishery;

(7) District 12: 10 percent of the guideline harvest level for the Tenakee Inlet stock; the harvest quota for the winter food and bait fishery is 90 percent of that guideline harvest level; if there are no active herring bait pound permits issued by March 15 of a year, the unharvested remainder of that guideline harvest level will be allocated to the herring spawn on kelp fishery; after the spawn-on-kelp fishery in District 12 is closed, any remaining unharvested portion of that guideline harvest level will be allocated to the bait pound fishery;

(8) Section 13-C: in the bait pound fishery, herring may be harvested only after the spawn-on-kelp fishery is closed and only if the guideline harvest level has not been taken;

(9) for districts and sections in the Southeastern Alaska Area not specified in this subsection: the department may open a bait pound fishery in a district or section that has a harvestable surplus as determined by annual department stock assessments; in a fishery opened under this paragraph, no more than 100 tons of herring may be harvested.

(c) Repealed 4/24/2003.

(d) Repealed 4/16/83.

(e) Repealed 4/16/83.

(f) The guideline harvest level for the District 10 set gillnet fishery described in 5 AAC 27.110(b)(2)(C) is the portion of the annual harvest amount established for the District 10 winter food and bait fishery under 5 AAC 27.190 that is not taken by that fishery.

(g) The guideline harvest level for the herring sac roe fishery in Sections 13-A and 13-B shall be established by the department and will be a harvest rate percentage that is not less than 12 percent, not more than 20 percent, and within that range shall be determined by the following formula:  $\text{Harvest Rate Percentage} = 2 + 8 \left[ \frac{\text{Spawning Biomass (in tons)}}{20,000} \right]$  The fishery will not be conducted if the spawning biomass is less than 25,000 tons.

(h) For purposes of this section, "active herring bait pound permit" means a permit that allows the holder of that permit to capture and retain herring in a herring bait pound.

**5 AAC 27.162. Buyer and tender reporting requirements for the sac roe herring fishery in Southeastern Alaska Area**

(a) In addition to the requirements of 5 AAC 39.130

(n), a tender operator, buyer, or buyer's agent shall report in person to and register with a local representative of the department upon arrival in the registration area before commencing operations and before changing location of the operation. The buyer or the buyer's agent shall

(1) identify all vessels to be employed in transporting or processing herring and shall register those vessels with a local representative of the department located in the registration area before transporting or processing herring;

(2) make daily reports of all herring purchased from fishermen and other processing records as specified by a local representative of the department; and

(3) submit fully completed fish tickets with accurate and final weight and roe percentages no later than 10 days after termination of buying operations in the area, or as otherwise specified by a local representative of the department.

(b) At the time herring are received from a CFEC permit holder in the Southeastern Alaska Area a buyer of herring, a fisherman selling to a buyer not licensed to process fish (catcher-seller), and a person or company that catches and processes that person's or company's own catch or has that catch processed by another person or company, shall, in addition to the requirements of 5 AAC 39.130(c), at the request of the CFEC permit holder record on a herring fish ticket, the following information:

(1) the on-the-fishing grounds weight of herring measured by the most efficient method possible, such as dump boxes, scales or totes, with weight in tons or pounds; and

(2) estimated roe percentage of the herring as determined by a regular sampling of the catch.

(c) A copy of the fish ticket required under (b) of this section must be provided at the time of delivery to the CFEC permit holder from the person, buyer, company, firm, or other organization that is the first purchaser of herring that is taken in the Southeastern Alaska Area. A separate fish ticket must be issued by the purchaser for each delivery. If the CFEC permit holder does not accompany the herring while it is transported to the point of delivery, a copy of the fish ticket must accompany each delivery to that point.

(d) For the purposes of this section,

(1) "delivery" means the transfer of herring from a fishing vessel operated by the CFEC permit holder or its net to another vessel or to a licensed processing facility;

(2) "landing" means the transfer of herring from a fishing vessel operated by the CFEC permit holder to a licensed processing facility, or the transfer of herring from a vessel used to transport herring, to a licensed processing facility.

**5 AAC 27.170. Harvest of bait by commercial permit holders in Southeastern Alaska Area** The holder of a valid CFEC interim use or limited entry permit may take but may not sell herring for use as bait in the commercial fishery for which the permit is

held as follows:

- (1) herring may be taken at any time;
- (2) herring may be taken by any gear specified in 5 AAC 39.105;

(3) in the 72 hours before and 72 hours after an open commercial herring sac roe fishing period in the Southeastern Alaska Area, a vessel, crewmember, or permit holder that participates in that commercial herring sac roe fishing period may not take herring under this section in any district in the Southeastern Alaska Area;

(4) a person or vessel may not take more than one ton of herring in a calendar year, except as provided under terms of a permit issued by the department.

**5 AAC 27.179. Permits for winter food and bait herring fishery in Southeastern Alaska Area.** (a) The owner or operator of a vessel used in the winter food and bait herring fishery must obtain a permit issued by the commissioner. In the permit, the commissioner shall set the date when the permit holder may begin fishing. The date shall occur during a 14-day period following the issuance of the permit. When setting the date under this subsection, the commissioner shall consider the following:

- (1) the anticipated harvest effort in the district;
- (2) the guideline harvest level established;
- (3) the available tender capacity; and
- (4) seasonal bait demand.

(b) The permit required under (a) of this section may

- (1) establish harvest limits;
- (2) specify open fishing areas;
- (3) establish reporting requirements; and

(4) set other conditions determined by the commissioner to be necessary for the conservation and management of the resource.

**5 AAC 27.180. Permits for herring pounds in Southeastern Alaska Area.** (a) A herring pound operator shall obtain a permit before April 1 from the commissioner for fresh bait pound operations and for tray pack pound operations 30 days before starting operations.

(b) A person operating a fresh bait or tray pack herring pound may not sell, offer to sell, or otherwise enter into or authorize a commercial transaction for the disposition of herring taken from that pound if the person knows or has reason to know that the herring will be used for other than fresh or tray pack bait purposes.

(c) A person may not transport herring taken from a fresh bait or a tray pack pound to another person if the person knows or has reason to know that the herring will be used for other than fresh or tray pack bait purposes.

(d) The commissioner may attach to a permit issued under this section for fresh bait and tray pack herring pounds any condition the commissioner considers necessary to preclude or render impractical the use of herring taken by that pound for other than fresh or tray pack bait purposes. The commissioner may revoke a permit issued under this section for failure to comply with conditions attached to it.

**5 AAC 27.185. Management plan for herring spawn on kelp in pounds fisheries in Sections 3-B, 12-A, and 13-C, and District 7.** (a) In Sections 3-B, 12-A, and 13-C, and District 7, of the Southeastern Alaska Area, the department shall set an annual guideline harvest range for herring spawn on kelp in pounds based on the forecasted return of mature spawning herring. The department shall manage the fishery to keep the harvest within the guideline harvest range each season by restricting CFEC permit holders operating a herring spawn-on-kelp pound to a specific number of kelp blades or fronds annually according to the provisions of this section.

(b) In Sections 3-B, 12-A, and 13-C, and District 7, a herring spawn-on-kelp CFEC permit holder may jointly operate an open pound with one or more other herring spawn-on-kelp CFEC permit holders and a closed pound with up to two other herring spawn-on-kelp CFEC permit holders. A permit holder operating an open pound may use fronds or individual kelp blades in the open pound, but may not use both during a fishing season. The department may close fishing with one or more pound types in (c) and (dd)(2) of this section to avoid exceeding the guideline harvest level.

(c) In Section 3-B and District 7, the kelp allocation per permit holder is as follows:  
Guideline Harvest Range

Guideline Harvest Range for Herring (tons)	Single-Permit Closed Pounds	Double-Permit Closed Pounds	Triple-Permit Closed Pounds	Quadruple-Permit or more Closed Pounds	Single-Permit Open Pounds	Double-Permit Open Pounds
50-249	None	None	None	None	750 blades	2,000 blades
250-399	100 blades	200 blades	300 blades	500 blades	1,000 blades	3,000 blades
400-599	200 blades	300 blades	600 blades	700 blades	1,000 blades	3,000 blades
600-799	300 blades	400 blades	700 blades	800 blades	1,500 blades	4,500 blades
800-999	400 blades	500 blades	800 blades	1,000 blades	2,000 blades	6,000 blades
1,000-1499	500 blades	750 blades	1,000 blades	1,000 blades	2,500 blades	7,500 blades
1,500 or more	600 blades	900 blades	1,000 blades	1,000 blades	1,000 blades	9,000 blades

**COMMERCIAL HERRING**

(d) In Section 12-A and Section 13-C, the kelp allocation per permit holder is as follows

Guideline Harvest Range for Herring (tons)	Single-Permit Closed Pounds	Double-Permit Closed Pounds	Triple-Permit Closed Pounds	Quadruple-Permit or more Closed Pounds	Single-Permit Open Pounds	Double-Permit Open Pounds
0-299	None	None	None	None	300 blades	400 blades
300-499	100 blades	200 blades	300 blades	600 blades	600 blades	700 blades
500-699	200 blades	300 blades	500 blades	800 blades	900 blades	1,000 blades
700-899	300 blades	500 blades	700 blades	900 blades	1,000 blades	1,200 blades
900-1,399	400 blades	700 blades	900 blades	1,000 blades	1,200 blades	1,500 blades
1,400 or more	700 blades	900 blades	1,000 blades	1,000 blades	1,200 blades	1,500 blades

(e) Repealed 7/1/2015.

(f) Pounds for the taking of herring spawn on kelp and seines for the taking of herring for placement in pounds may be operated only in the following locations:

(1) in Section 3-B, in the waters of the Gulf of Esquibel, San Alberto Bay, Shinaku Inlet, and San Christoval Channel south of the latitude of the northernmost tip of St. Phillips Island at 55° 39.31' N. lat., 133° 25.12' W. long., east of a line from the northernmost tip of St. Phillips Island to the northernmost tip of Point Garcia at 55° 33.65' N. lat., 133° 26.47' W. long., and north of a line from Entrance Point to the southernmost tip of Clam Island to the southernmost tip of Fern Point and east of 133° 20' W. long.; in Section 3-B, the following waters are closed to herring spawn-on-kelp pounds and to seining for taking herring for pounds:

(A) Klawock Inlet and Big Salt Lake;

(B) the waters of San Christoval Channel in the main channel enclosed by a line from 55° 35.62' N. lat., 133° 20' W. long. to 55° 35.17' N. lat., 133° 20' W. long. to 55° 33.37' N. lat., 133° 17.52' W. long. to 55° 33.50' N. lat., 133° 17.28' W. long.;

(C) the waters of Fish Egg and Ballena Islands south of 55° 31' N. lat. and north of the southernmost tip of Cape Suspiro and east of the longitude of Ballena Island Shoal Light;

(2) in District 7, in the waters of Ernest Sound east of a line from Point Eaton to Lemesurier Point;

(3) in Section 12-A, in the waters of Chatham Strait and Tenakee Inlet south of the latitude of 57° 46' N. lat., and north of the latitude of Peninsular Point (57° 30.30' N. lat.) and west of 134° 50' W. long.;

(4) in Section 13-C, in the waters of Hoonah Sound north and west of a line from

Point Marie to a point on the northern shore of Hoonah Sound at 57° 37.38' N. lat., 135° 27' W. long.

(g) Herring for placement in a closed herring spawn-on-kelp pound may be captured only with power seines or hand purse seines and may only be transferred to a closed pounds in

(1) Section 3-B after 12:00 noon, March 17 until 12:00 noon, May 10, unless closed earlier by emergency order;

(2) District 7 after 12:00 noon, April 1 until 12:00 noon, May 10, unless closed earlier by emergency order;

(3) Section 12-A after 12:00 noon, April 6 until 12:00 noon, May 15, unless closed earlier by emergency order; and

(4) Section 13-C after 12:00 noon, April 6 until 12:00 noon, May 15, unless closed earlier by emergency order.

(h) In Section 3-B, the harvest limit for the bait fisheries is 60 percent of the guideline harvest level for the Craig/Klawock herring stock, and the harvest limit for the spawn-on-kelp pound fishery is 40 percent of that guideline harvest level. Any portion of the harvest limit not taken by the bait fishery during a calendar year may be taken by the pound fishery during that year.

(i) In District 7, the harvest limit for the spawn-on-kelp pound fishery is the amount of any annual guideline harvest level for the Ernest Sound herring stock that is not harvested by the bait fisheries. If the remaining guideline harvest level is less than 50 tons, there will be no spawn-on-kelp pound fishery.

(j) Section 12-A, the harvest limit for the spawn-on-kelp pound fishery is the amount of any annual guideline harvest level for the Tenakee Inlet herring stock that is not harvested by the bait fisheries. If the unharvested portion of the guideline harvest level is less than 50 tons, there will be no spawn-on-kelp pound fishery.

(k) Spawn-on-kelp pound structures and other equipment used in a spawn-on-kelp pound fishery must be marked as follows:

(1) before kelp or herring are added to a pound, a permit holder must plainly and legibly mark the permit holder's first and last name and five-digit CFEC permit number in a conspicuous place on the pound; the sign must be vertical, and the markings must be clearly visible and above the surface of the water at all times; the letters and numbers used to identify a pound must be at least six inches high with lines at least one-half inch wide and must contrast with the background; if a pound is being operated as a multiple-permit pound, the first and last names and five-digit CFEC permit numbers of all permit holders operating the pound must be placed on a single sign; the sign must be left on the pound structure or the webbing support system the entire time any part of the pound or pound system is in the water;

(2) all floats and floating objects used in support of the fishery must be plainly and

legibly marked with a CFEC permit number of a participating permit holder as specified in

(1) of this subsection; all floats and floating objects must be permanently marked and clearly visible above the surface of the water at all times.

(l) A permit holder using a tow pound for transporting herring to a closed pound must permanently affix a horizontal sign stating "Tow Pound" and a CFEC permit number of a participating permit holder to the top surface of the tow pound. The letters must be at least six inches high with lines at least one-half inch wide and must contrast with the background. A permit holder may introduce herring into a tow pound multiple times before transferring the herring to a spawn-on-kelp pound.

(m) A permit holder may place the permit holder's kelp in no more than one pound. Before kelp is introduced into the spawn-on-kelp pound, a permit holder must store the kelp in a manner that prevents herring from spawning on the kelp.

(n) On a line or structure used to suspend kelp, a permit holder shall affix a legible tag showing above the water surface that states the number of blades or fronds on that line or structure and that states the permit holder's first and last name. In a multiple-permit pound, each permit holder must keep that permit holder's kelp on lines or structures separate from lines or structures that support kelp belonging to other permit holders.

(o) A permit holder must be physically present at the permit holder's pound fishing site during operation of the pound. For the purpose of this subsection, "operation of the pound" means

(1) repealed 4/24/2009;

(2) when herring is being captured and transferred into a closed pound;

(3) when an open pound is being moved; and

(4) when kelp product is being collected from the pound.

(p) A permit holder must be physically present when the permit holder's herring spawn-on-kelp product produced in a pound is being sold.

(q) A permit holder may transfer additional herring into a closed pound, only until herring have been released or product has been harvested from the pound. After herring have been released or product has been harvested from a pound, a permit holder using that pound may not fish for herring or add kelp to the pound. A permit holder may not transfer herring into a pound after 11:59 p.m. on the fourth day after herring are placed into the pound, with the first day being the day that herring are first placed into the pound. If the commissioner determines it is necessary for the conservation of herring stocks, the commissioner may, by emergency order, restrict the placement of herring into pounds.

(r) Permit holders operating two separate closed pounds must register with the department before connecting the permit holder's pounds. No more than two pounds may

be connected into a combined structure. After the permit holders have connected two pounds, the permit holders may transfer additional herring into the combined pound. The four-day herring transfer period, as described in

(q) of this section, begins on the first day herring are placed into either of the connected closed pounds. After two pounds are connected under this subsection, the permit holders may drop the wall between the pounds no more than three feet from the surface of the water so that herring may swim between the connected pounds.

(s) A permit holder may not retain herring in a closed pound for more than seven days and must release the herring by 12:00 noon on the seventh day, with the first day being the day that herring are first placed into the pound. When releasing herring, a permit holder must lower at least one full side of a pound's webbing at least two feet below the surface of the water to allow herring to escape.

(t) After a permit holder releases herring and harvests product from the pound, the permit holder must maintain the pound and webbing in place for at least four weeks. To optimize hatching success the permit holder must position egg-covered webbing in the original size and configuration of the pound structure with adequate water circulation on all sides. The webbing support system must be above the surface of the water and clearly marked as specified in (k) of this section.

(u) A permit holder must release all herring from a pound operated by that permit holder. A permit holder may not retain and use herring that has been introduced into a pound as bait for commercial use, sport use, personal use, or subsistence use.

(v) After notifying the department, a permit holder may release herring from a closed pound and fish the pound as an open pound. All webbing on the closed pound must be removed. The permit holder will not be entitled to additional kelp and may operate the pound only as an open pound for the remainder of the season.

(w) A permit holder shall completely remove all pounds and associated equipment from the waters in

- (1) Section 3-B by 12:00 noon May 31 through March 1 of the following year;
- (2) District 7 by 12:00 noon May 31 through March 1 of the following year;
- (3) Section 12-A by 12:00 noon June 10 through March 1 of the following year;
- (4) Section 13-C by 12:00 noon June 10 through March 1 of the following year.

(x) A CFEC permit holder operating a multiple-permit pound is subject to liability if the pound, at any time, contains more than the legal amount of kelp.

(y) Spawn-on-kelp blades or fronds belonging to a permit holder must be kept separate from spawn-on-kelp blades or fronds belonging to another permit holder until all spawn on kelp from a pound has been weighed and graded.

(z) A closed pound is considered to be fishing once herring have been introduced into

the closed pound structure and is considered to have stopped fishing once all herring have been released and all of the spawn-on-kelp product has been removed from the closed pound structure. (aa) An open pound is considered to be fishing once kelp has been attached to the open pound structure and is considered to have stopped fishing once all of the spawn-on-kelp product has been removed from the open pound structure. (bb) Each permit holder is responsible for all operations of the pound and pound system. (cc) Two closed pounds as specified in 5 AAC 27.130(e) may be combined into one single closed pound structure and operated by multiple permit holders only when kelp is at the maximum allocation. The combined pound may have a maximum surface area of 800 square feet with a maximum depth level of 30 feet. The kelp allocations per permit holder and other provisions specified in this section also apply to the combined pound; however, permit holders may transfer additional herring into the combined single closed pound structure after the two closed pounds are connected and combined into a single structure. A CFEC permit holder who intends to operate a combined pound must register with the department before placing the pound in the water. This pound structure may not be connected to any other pound structure. (dd) In this section,

- (1) "fronds" means the kelp stipe and naturally attached blades;
- (2) "multiple-permit pound" includes,
  - (A) for a closed pound, a
    - (i) double-permit closed pound;
    - (ii) triple-permit closed pound; and
    - (iii) quadruple-permit or more closed pound; and
  - (B) for an open pound, a multiple-permit open pound.

**5 AAC 27.187. Buyer and processors reporting requirements for spawn on kelp in pounds for the Southeastern Alaska Area.** (a) In Sections 3-B, 7-B, 12-A, and 13-C

(1) the initial buyer or processor of herring spawn on kelp shall issue a fish ticket when the spawn on kelp is delivered by a CFEC permit holder and shall, within seven days of delivery, provide a copy of the fish ticket to the department;

- (2) the fish ticket shall set out
  - (A) the number of blades of spawn on kelp delivered;
  - (B) the total weight of spawn on kelp delivered;
  - (C) the type of pound (open or closed) that contained the spawn on kelp; and
  - (D) whether the spawn on kelp was salted when initially weighed;

(3) if an accurate, drained weight cannot be obtained at the time of delivery, the reported weight on the fish ticket shall be marked as "estimated weight" and the buyer or processor shall notify the department of the accurate, drained weight as soon as it is available;

(4) a processor shall notify the department of the delivered weight by grade and the final exvessel value by grade as soon as that information is available;

(5) a permit holder may place herring spawn on kelp in a tote-size or larger container with a salt brine solution, in order to transport the spawn on kelp to a processor, if the permit holder

(A) is present at the time and place when the spawn on kelp is first delivered;

(B) before leaving the fishing grounds, notifies the department of the estimated amount of spawn on kelp and the expected time and location of its delivery; and

(C) delivers the spawn on kelp to a processor registered under 5 AAC 39.130 within 72 hours after it was harvested.

(b) A permit holder that complies with the requirements of

(a)

(5) of this section does not need to comply with the permit and reporting requirements under 5 AAC 39.130.

**5 AAC 27.190. Herring Management Plan for Southeastern Alaska Area** For the management of herring fisheries in the Southeastern Alaska Area, the department

(1) shall identify stocks of herring on a spawning area basis;

(2) shall establish minimum spawning biomass thresholds below which fishing will not be allowed;

(3) shall assess the abundance of mature herring for each stock before allowing fishing to occur;

(4) except as provided elsewhere, may allow a harvest of herring at an exploitation rate between 10 percent and 20 percent of the estimated spawning biomass when that biomass is above the minimum threshold level;

(5) may identify and consider sources of mortality in setting harvest guideline;

(6) by emergency order, may modify fishing periods to minimize incidental mortalities during commercial fisheries.

**5 AAC 27.195. Sitka Sound commercial sac roe herring fishery**

(a) In managing the commercial sac roe herring fishery in Section 13-B north of the latitude of Aspid Cape (Sitka Sound), the department shall

(1) manage the fishery consistent with the applicable provisions of 5 AAC 27.160

(g) and 5 AAC 27.190;

(2) distribute the commercial harvest by fishing time and area if the department determines that it is necessary to ensure that subsistence users have a reasonable opportunity to harvest the amount of herring spawn necessary for subsistence uses specified in 5 AAC 01.716

(b).

(b) In addition to the provisions of

(a) of this section, the department shall consider the quality and quantity of herring spawn on branches, kelp, and seaweed, and herring sac roe when making management decisions regarding the subsistence herring spawn and commercial sac roe fisheries in Section 13-B north of the latitude of Aspid Cape.

**5 AAC 27.197. Sections 1-E and 1-F commercial sac roe herring fishery.** (a) In managing the commercial sac roe herring fishery in Section 1-E and the waters of Section 1-F north of the latitude of South Vallenar Point, the commissioner will open and close fishing periods and areas open for fishing using set gillnet gear by emergency order, during which the commissioner may impose conditions that are necessary for an orderly and manageable fishery.

(b) When the harvest of herring by the set gillnet fishery exceeds the guideline harvest level for a year, the excess harvest may not be factored into determining the guideline harvest level for a future year.

#### **Article 5. Yakutat Area (Registration Area D).**

**5 AAC 27.200. Description of Yakutat Area** The Yakutat Area has as its western boundary the longitude of Cape Suckling (144° W. long.), and as its southern boundary a line extending seaward from the western tip of Cape Fairweather, at 58° 47.89' N. lat., 137° 56.68' W. long., to the intersection with the seaward limit of the three-nautical-mile territorial sea at 58° 45.91' N. lat., 138° 01.53' W. long.

**5 AAC 27.205. Description of Yakutat Area districts** Districts are as described in 5 AAC 30.200.

**5 AAC 27.210. Fishing season for Yakutat Area** Herring may be taken from October 1 through February 28 (winter food and bait fishery), only during periods established by emergency order.

**5 AAC 27.230. Lawful gear for Yakutat Area** Herring may be taken by purse seines and gillnets.

**5 AAC 27.250. Closed waters in Yakutat Area** Herring may not be taken in Yakutat Bay.

**5 AAC 27.270. Harvest of bait by commercial permit holders in Yakutat Area** The holder of a valid CFEC interim use or limited entry permit may take but may not sell herring for use as bait in the commercial fishery for which the permit is held as follows:

(1) herring may be taken at any time;

(2) unless use of a gear is restricted in 5 AAC 27 - 5 AAC 39, herring may be taken by any gear specified in 5 AAC 39.105;

(3) a person or vessel may not take more than one ton of herring, except as provided under terms of a permit issued by the department.

**Article 6. Prince William Sound Area (Registration Area E)**

**5 AAC 27.300. Description of Prince William Sound Area** The Prince William Sound Area has as its western boundary a line extending south from Cape Fairfield, as its eastern boundary a line extending south from Cape Suckling and as its southern boundary 59° N. lat.

**5 AAC 27.305. Fishing districts, subdistricts and sections** Repealed.

**5 AAC 27.310. Fishing seasons and periods for Prince William Sound Area**

(a) From March 1 through June 30 (sac roe season), herring may be taken only during periods established by emergency order.

(b) Herring may be taken for food and bait from October 1 through January 31, only during periods established by emergency order.

(c) Herring spawn on kelp not in pounds (the wild herring spawn-on-kelp fishery) may be taken only during periods established by emergency order.

(d) Herring spawn on kelp in open or closed pounds (the herring spawn-on-kelp pound fishery) may be taken only during periods established by emergency order. The department may open or close the herring spawn-on-kelp open pound or closed pound fishery, jointly or separately, by emergency order.

(e) Repealed 5/11/85.

(f) Repealed 5/11/85.

**5 AAC 27.330. Lawful gear for Prince William Sound Area.** (a) From March 1 through June 30, herring may be taken only by purse seines and gillnets.

(b) For the wild herring spawn-on-kelp (not in pounds) fishery, herring spawn on kelp may be taken by hand cutting as specified in 5 AAC 27.333.

(c) Repealed 9/17/94.

(d) A pound for the herring spawn-on-kelp pound fishery may be either a closed pound

or an open pound.

(e) In 5 AAC 27.300 - 5 AAC 27.390,

(1) a closed pound consists of a single, floating, rectangular frame structure, with webbing and suspended kelp, that is used to enclose herring for a period of time in order to produce spawn on kelp; the opening of a closed pound at the water surface may not exceed 2,000 square feet in area; neither the sewn vertical wall nor the near-vertical wall of a closed pound may exceed a depth of 30 feet below the water surface when the pound contains herring; webbing of a closed pound may not be part of the webbing of another pound structure; to prevent suffocation of impounded herring, a closed pound must include a minimum of five feet of surplus webbing gathered at the surface that may be lowered into the water when submerged webbing becomes saturated with eggs;

(2) an open pound consists of a single, floating, rectangular frame structure with suspended kelp and no webbing that is used for the production of spawn on kelp, or is a closed pound as described in

(1) of this subsection with all webbing, on at least one side of the pound, not less than one fathom below the water surface.

**5 AAC 27.331. Gillnet specifications and operations for Prince William Sound Area.**

(a) During the herring food and bait season, herring gillnets operated from a herring fishing vessel may not exceed 150 fathoms in aggregate length.

(b) From March 1 through June 30, herring gillnets operated from a herring fishing vessel may not exceed 120 meshes in depth and 100 fathoms in aggregate length.

(c) Notwithstanding 5 AAC 27.050

(c), the mesh size of a herring gillnet in the Prince William Sound Area may not exceed three inches.

**5 AAC 27.332. Seine specifications and operations for Prince William Sound Area**

A person may not operate a purse seine that is more than 1,025 meshes in depth and more than 150 fathoms in length from April 15 through June 30.

**5 AAC 27.333. Wild herring spawn on kelp harvest specifications and operations for Prince William Sound Area.**

(a) A person may take wild herring spawn on kelp (not in pounds) without a permit issued by the commissioner and only under the following conditions:

(1) herring spawn may not be taken on imported or transplanted aquatic plants or on any other substrate, except for kelp in its natural occurring state;

(2) kelp plants may be taken only by a handheld, unpowered blade cutting device;

(3) except for fucus and hair kelp, kelp plant blades must be cut at least four inches above the stipe (stem);

(4) kelp plants used to take herring spawn may not be suspended from lines, frames,

or other man-made devices.

(b) Repealed 9/17/94.

(c) A person participating in the wild herring spawn-on-kelp fishery shall indicate, on a fish ticket at the time of landing, harvested spawn on kelp that is not sold, including harvested spawn on kelp that has been discarded.

(d) A buyer of wild herring spawn on kelp shall indicate, on a fish ticket at the time of delivery, wild herring spawn on kelp that was delivered to but not purchased by the buyer.

**5 AAC 27.334. Harvest specifications and operations for the herring spawn-on-kelp pound fishery in Prince William Sound Area** A permit issued by the commissioner is not required for the harvest of spawn on kelp in pounds. However, a CFEC permit holder may not participate in the spawn-on-kelp fishery in any year unless the permit holder has registered with the department's Cordova office by March 15 of that year. The permit holder may register by notifying the department's Cordova office in writing by mail that is postmarked by March 15, or in person, or by telephone, by 5:00 p.m. March 15. The following provisions apply to the herring spawn-on-kelp pound fishery:

(1) after fishing commences in a pound, no more than four persons may use that pound at any time, except that if the department determines that the maximum number of kelp blades that a person may maintain in a pound, established under

(5) of this section, will not be enough substrate for adequate spawn deposition to produce a commercially valuable spawn-on-kelp product, based on kelp blade density and the volume of the pound, the department may allow more than four persons to use a pound at any time; if the department allows more than four persons to use a pound under this paragraph, the department will provide public notice of the number of persons allowed;

(2) if more than one person uses a pound, from the time fishing commences in the pound until all herring spawn on kelp has been removed from the pound, the pound may not contain more than the amount of herring or kelp that all persons using the pound may, in the aggregate, legally maintain in it; each person using the pound has a duty to ensure that the pound does not, at any time, contain more than the legal amount of herring or kelp;

(3) for a closed pound, fishing commences when herring are introduced into the pound; once herring are introduced into a closed pound, all herring must remain in the pound until the department has authorized the release of the herring;

(4) for an open pound, fishing commences when kelp is placed into the water within the pound; before operating an open pound, a person must notify the department of that person's intent to operate an open pound for the fishing season; once a person has notified the department of that person's intent to operate an open pound under this paragraph, that person may not use a closed pound during the remainder of that season;

(5) before each fishing season the department, consistent with 5 AAC 27.365(d)(2),

shall establish the maximum amount of herring that a person may take and maintain in a pound, and the maximum number of blades of kelp that a person may maintain in a pound after fishing commences; the department shall provide public notice of that amount and number; a person who notifies the department before April 1 of that person's intent to operate an open pound shall receive an increase in the maximum amount of kelp blades established in this paragraph that is calculated on the basis of the wild spawn-on-kelp conversion factor described in 5 AAC 27.365(d)(1);

(6) a person may use a closed herring pound only north and east of a line from Porcupine Point to Point Freemantle, unless otherwise provided by emergency order; a person may use an open herring pound throughout the Prince William Sound Area in areas established by emergency order;

(7) notwithstanding 5 AAC 37.100 and 5 AAC 37.200, a person may take kelp for the herring spawn-on-kelp pound fishery anywhere in the Prince William Sound Area unless otherwise provided by emergency order;

(8) for the herring spawn-on-kelp pound fishery, a person may take kelp by hand and may take the entire plant including the stipe (stem) and holdfast;

(9) before a person places kelp in a pound, the person must plainly and legibly mark the person's name and five-digit CFEC permit number in characters that are at least two inches high and one-half inch wide in a color that contrasts with the pound background and that are mounted on the exterior of the pound and are plainly visible and not obscured in any way;

(10) after fishing commences and until the season closes, the CFEC permit number or numbers marked on a pound may not change;

(11) before the commencement of fishing, a person shall plainly and legibly mark all of that person's lines of kelp blades with the person's name and shall indicate on each line of kelp blades the number of blades attached to that line;

(12) at the time fishing commences, during the capture and transfer of herring into the pound, and during the harvest of herring spawn on kelp produced in the pound, a person using a closed pound must be present at the pound, at a support shelter near the pound, or on a fishing vessel while the vessel is being used to harvest herring or transfer herring to the pound;

(13) a person using an open pound must be present at the pound, or near the pound at a structure or on a vessel used in support of the operation, when kelp is placed in the water and during the harvest of herring spawn on kelp produced in the pound;

(14) a person using a closed pound shall notify the department before dropping the webbing; after the webbing has been dropped, the pound may only be used as an open pound during the remainder of that season;

(15) a person may not place herring in a pound after the fifth day following the day on which the person first placed herring in the pound;

(16) a person may not hold herring in a pound after the seventh day following the day on which the person first placed herring into the pound;

(17) herring that die during capture, transfer, or holding will be counted toward the legal amount of herring that may be taken by the person who captured, transferred, or held the herring;

(18) a person using a pound shall weigh the spawn on kelp when the person removes spawn on kelp from the pound;

(19) if more than one person uses a pound, a person removing spawn on kelp from the pound shall

(A) from the time spawn on kelp is removed until it is processed, segregate that spawn on kelp from spawn on kelp that is possessed by other persons using the pound;

(B) weigh the quantity of spawn on kelp that is possessed by that person and provide the weight to a buyer for recording on a fish ticket;

(20) a person may not transfer herring between pounds;

(21) after release of herring from a pound, a person using the pound shall keep the pound, including webbing, at the fishing location not less than four weeks, shall keep egg-covered webbing on the pound frame in the original configuration with adequate water circulation on all sides to optimize egg hatching, and, not later than six weeks after harvesting the spawn on kelp, shall completely remove the pound from the water.

**5 AAC 27.350. Waters closed to herring fishing in Prince William Sound Area.** (a) From July 1 through October 31, herring may not be taken in waters closed to salmon fishing by 5 AAC 24.350 and 5 AAC 39.290.

(b) Repealed 4/24/2003.

**5 AAC 27.365. Prince William Sound Herring Management Plan.** (a) The purpose of the Prince William Sound herring management plan in this section is to describe management strategies for all Prince William Sound herring fisheries and to provide for an optimum sustained yield and an equitable allocation for all user groups.

(b) The management plan for herring fisheries in Prince William Sound assumes that all of these fisheries use a single stock of herring which may be harvested at the rate of zero to 20 percent of the spawning biomass. The management year for herring is July 1 through June 30. Guideline harvest levels are established before the food and bait season in the fall and are based upon the final spawning biomass estimate from the previous year, cohort analysis, and projected recruitment. The minimum spawning biomass threshold is 22,000 tons, and no fishery may be opened if the estimated spawning biomass is below this threshold level. The department may allow, based upon age class strength, a harvest of herring at an exploitation rate between zero and 20 percent of the projected spawning biomass when that biomass is between 22,000 tons and 42,500 tons. The department may allow a harvest of herring at a maximum exploitation rate of 20 percent when the total projected spawning biomass is greater than 42,500 tons.

(c) The guideline harvest of herring is allocated by fishery as follows:

- (1) purse seine sac roe fishery: 58.1 percent;
- (2) gillnet sac roe fishery: 3.4 percent;
- (3) food and bait fishery: 16.3 percent;
- (4) spawn-on-kelp not in pounds: 8.0 percent; and
- (5) spawn-on-kelp in pounds: 14.2 percent.

(d) Harvest quotas for the spawn-on-kelp fisheries are derived as follows:

(1) spawn-on-kelp not in pounds: one ton of spawn-on-kelp may be taken for every eight tons of herring allocated to this fishery;

(2) spawn-on-kelp in pounds: the spawn-on-kelp in pounds harvest objective will be set based on the ratio of one ton of spawn on kelp for every 12.5 tons of herring allocated to this fishery; the commissioner, or an authorized designee, shall manage the fishery to achieve this harvest objective by restricting those persons holding a CFEC permit to participate in the fishery to a specified number of kelp blades annually based on the number of permit holders registered under 5 AAC 27.334(a) to fish with pounds, and to an equal portion of the guideline harvest of herring allocated in (c)(5) of this section based on the total number of permit holders.

(e) Repealed 9/17/94.

**5 AAC 27.370. General restrictions for Prince William Sound Area** A vessel used to take herring in the Prince William Sound Area during the period July 1 through February 28 may not be used to take herring in another registration area during that period and a vessel used to take herring in any other registration area during the period July 1 through February 28 may not be used to take herring in the Prince William Sound Area during that period.

**5 AAC 27.390. Buyer reporting requirements for Prince William Sound Area.** (a) In addition to the requirements of 5 AAC 39.130 (n), a buyer, buyer's agent, or fisherman who has arranged for tendering of that fisherman's own catch shall report in person, by telephone, or by radio to, and register with, a local representative of the department upon arrival on the fishing grounds and before starting operations. The buyer, buyer's agent, or fisherman who has arranged for the tendering of that fisherman's own catch shall

(1) identify and describe all vessels to be employed in transporting or processing herring or herring spawn on kelp;

(2) report daily, or as otherwise specified by a local representative of the department, all herring or herring spawn on kelp purchased from fishermen, or that has been delivered to a tender, or other processing records as specified by the department; and

(3) submit fully completed fish tickets with accurate and final weight and roe percentage and any other specified processing records no later than 10 days after termination of buying operations in the area, or as otherwise specified by a local representative of the department.

(b) At the time herring are received from a CFEC permit holder in the Prince William Sound Area, each buyer of raw fish, each fisherman selling to a buyer not licensed to process fish (catcher-seller), and each person or company who catches or processes that person's or company's own catch or has that catch processed by another person or company, shall, in addition to the reporting requirements of 5 AAC 39.130 (c), record on a herring fish ticket, the following information:

(1) the on-the-fishing ground weight of herring measured by the most efficient method possible, such as dump boxes, scales or totes, with weight in tons or pounds; and

(2) estimated roe percentage as determined by a regular sampling of the catch; the sampling shall test 10 kilograms of herring for each five to 10 tons of herring delivered.

(c) A copy of the fish ticket required under (b) of this section must, at the time of delivery of herring or herring spawn on kelp, be provided to the CFEC permit holder by the person, buyer, company, firm, or other organization that is the first purchaser of herring or herring spawn on kelp that is taken in the Prince William Sound Area.

**Article 7. Cook Inlet Area (Registration Area H).**

**5 AAC 27.400. Description of Cook Inlet Area** The Cook Inlet Area has as its eastern boundary the longitude of Cape Fairfield (148° 50.25' W. long.) and as its southern boundary the latitude of Cape Douglas (58° 51.10' N. lat.).

**5 AAC 27.405. Description of Cook Inlet districts** Districts are as described in 5 AAC 21.200.

**5 AAC 27.407. Lower Cook Inlet herring management areas** Lower Cook Inlet herring management areas are as follows:

(1) Area 1: those waters of the Eastern District west of the longitude of Cape Fairfield (148° 50.25' W. long.) and east of the longitude of Aialik Cape (149° 31.1' W. long.);

(2) Area 2: those waters of the Outer and Eastern District west of the longitude of Aialik Cape and east of the longitude of McArthur Pass at 150° 20' W. long.;

(3) Area 3: those waters of the Outer District west of the longitude of McArthur Pass at 150° 20' W. long. and east of 151° 11' W. long.;

(4) Area 4: those waters of the Outer District west of 151° 11' W. long. and east of the longitude of Point Adam (151° 58.5' W. long.);

(5) Area 5: those waters of the Kamishak Bay District south of 59° 16.68' N. lat. and west of 153° 37' W. long.;

(6) Area 6: those waters of the Kamishak Bay District north of 59° 16.68' N. lat., south of 59° 23.13' N. lat., and west of 153° 37' W. long.;

(7) Area 7: those waters of the Kamishak Bay District north of 59° 23.13' N. lat., south of 59° 26.82' N. lat., and west of 153° 37' W. long.;

(8) Area 8: those waters of the Kamishak Bay District north of 59° 26.82' N. lat., south of 59° 33.28' N. lat., and west of 153° 22.10' W. long.;

(9) Area 9: those waters of the Kamishak Bay District north of 59° 33.28' N. lat. and west of 153° 22.10' W. long.;

(10) Area 10: those waters of the Kamishak Bay District north of 59° 36' N. lat., south of 59° 46.15' N. lat., and west of 152° 50' W. long.;

(11) Area 11: those waters of the Kamishak Bay District north of 59° 16.68' N. lat., south of 59° 26.82' N. lat., west of 153° 20' W. long., and east of 153° 37' W. long.

### **5 AAC 27.409. Central District Herring Management Plan**

(a) The purpose of the management plan under this section is to allow the herring fisheries to occur in the Central District of the Cook Inlet Area while minimizing the bycatch of salmon and char.

(b) Herring fishing in the Central District will occur only in the waters of the Upper Subdistrict, Kalgin Island Subdistrict, Western Subdistrict, and Chinitna Bay Subdistrict.

(c) From April 20 through May 31, the commissioner may open and close, by emergency order, a herring fishery for one fishing period per week, to begin on or after Monday at 6:00 a.m. and closing on or before Friday at 6:00 p.m. A fishing period may not be more than 108 hours in duration. A fishing period may extend beyond May 31 if the fishing period began before May 31 and is not longer than 108 hours in duration.

(d) In order to participate, and before fishing, in the Central District herring fishery, a person must register with the department office in Soldotna. A person shall report fishing time and the amount of herring harvested, whether sold or retained for personal use, to the office in Soldotna by 12:00 noon, of the day following the harvest.

(e) In the Upper Subdistrict, a person may not fish for herring within 600 feet of the mean high tide mark on the Kenai Peninsula. The commissioner may, by emergency order, expand this closed area in order to minimize the bycatch of salmon and char.

(f) The guideline harvest range for herring is as follows:

(1) Chinitna Bay Subdistrict: 0 - 40 tons;

(2) Western Subdistrict: 0 - 50 tons;

(3) Kalgin Island Subdistrict: 0 - 20 tons;

(4) Upper Subdistrict: 0 - 40 tons.

**5 AAC 27.410. Fishing seasons for Cook Inlet Area.** (a) Herring may be taken in the Central District only during periods established by emergency order as provided in 5 AAC 27.409.

(b) Herring may be taken in the Kamishak Bay District from April 15 through June 30 only during periods established by emergency order.

(c) There is no open commercial fishing season for herring in the Eastern, Outer, and Southern Districts.

**5 AAC 27.430. Lawful gear for Cook Inlet Area.** (a) In the Kamishak Bay District, herring may be taken only by purse seines from April 15 through June 30.

(b) In the Central District, herring may be taken only by gillnets, except that in the Chinitna Bay and Kalgin Island Subdistricts herring may only be taken by set gillnets.

**5 AAC 27.431. Gillnet specifications and operations for Cook Inlet Area.** (a) A herring set gillnet may not exceed 35 fathoms in length. A person may not operate more than 105 fathoms of set gillnet in the aggregate. Notwithstanding 5 AAC 27.050(c), the mesh size of a herring set gillnet may not be less than two inches and may not exceed two and one-half inches.

(b) A person may not operate a herring drift gillnet that is more than 150 fathoms in length.

**5 AAC 27.432. Seine specifications and operations for Cook Inlet Area** From April 15 through June 30, a purse seine may not be more than 1,025 meshes in depth or more than 150 fathoms in length.

**5 AAC 27.434. Identification of set gillnet gear for Cook Inlet Area** A set gillnet used to take herring must have a keg or buoy at one end and must be plainly and legibly marked with the fisherman's five-digit CFEC permit serial number and initials.

**5 AAC 27.435. Minimum distance between units of gear in Cook Inlet Area** A set gillnet may not be set or operated within 600 feet of another set gillnet, except that this provision does not apply in the Chinitna Bay Subdistrict.

**5 AAC 27.450. Waters closed to herring fishing in Cook Inlet Area**

(a) Herring may not be taken in any waters listed in 5 AAC 21.350(a) -(c).

(b) Herring may not be taken in the Resurrection Bay small boat harbor from April 16 through September 30.

**5 AAC 27.462. Reporting requirements for Cook Inlet Area.** (a) In addition to the requirements of 5 AAC 39.130(n), a buyer, buyer's agent, or fisherman who has arranged

for the tendering of the fisherman's own catch, operating in the Southern, Kamishak Bay, Barren Island, Outer, and Eastern Districts, shall report in person to and register with a local representative of the department before commencing operations. The buyer, buyer's agent, or fisherman who has arranged for the tendering of the fisherman's own catch shall

- (1) identify and describe all vessels to be employed in transporting or processing herring;
  - (2) report daily, or as otherwise specified by a local department representative, all herring purchased from fishermen, or other processing records as specified by a department representative; and
  - (3) submit fully completed fish tickets with accurate and final weight and roe percentages no later than 10 days after termination of buying operations in the area, or as otherwise specified by a local representative of the department.
- (b) When herring is taken in the Kamishak District by a CFEC permit holder, each person, buyer, company, firm, or other organization that is the first purchaser of herring, and that is required to record and submit a fish ticket under 5 AAC 39.130

(c) shall record on the fish ticket, in addition to the other information required by the ticket, the

- (1) on-the-fishing ground weight of herring measured by the most efficient method possible, such as dump boxes, scales, or totes, with weight in tons or pounds; and
- (2) estimated roe percentage of the herring as determined by a regular sampling of the catch; the sampling shall test approximately 10 kilograms of herring for each five to 10 tons of herring delivered.

(c) A copy of the fish ticket required under

(b) of this section must be provided at the time of delivery to the CFEC permit holder by the person, buyer, company, firm, or other organization that is the first purchaser of herring that is taken in the Kamishak District.

**5 AAC 27.463. Eastern, Outer, and Southern Districts Herring Management Plan**

The Board of Fisheries (board) is concerned that the current stock abundance of herring in the Eastern, Outer, and Southern Districts is insufficient to ensure that the commercial herring fishery can be conducted in a sustainable manner. Therefore, the commercial herring fishery in the Eastern, Outer, and Southern Districts remains closed until the board approves a management plan that considers the following factors:

- (1) viability of herring stocks on a spawning area basis;
- (2) minimum spawning biomass thresholds;
- (3) abundance of mature herring for each stock;
- (4) maximum allowable exploitation rates depending on estimated stock biomass;

- (5) age class strength and sex composition;
- (6) the ecosystem function of both target and nontarget species;
- (7) maintenance of the geographic distribution of the resource.

**5 AAC 27.465. Kamishak Bay District Herring Management Plan.** (a) The purpose of the Kamishak Bay District herring management plan under this section is to promote and maintain the viability of the herring stock in the Kamishak Bay District and stabilize the commercial fishery targeting the herring stock by using conservative management strategies that support a biologically sound and sustainable commercial fishery. This management plan describes the management strategies used to set and implement the guideline harvest levels for the Kamishak Bay sac roe fishery. Since herring that spawn in the Kamishak Bay District are known to be present in waters of north Shelikof Strait during part of the year, this plan also sets guidelines for the allocation of the Kamishak Bay herring stock to the Shelikof Strait food and bait herring fishery, as described in 5 AAC 27.535.

(b) The management year for the Kamishak Bay herring stock is July 1 through June 30.

(c) The allocation of the allowable harvest of the Kamishak Bay herring stock is 90 percent to the Kamishak Bay sac roe fishery, and 10 percent to the Shelikof Strait food and bait fishery.

(d) The guideline harvest level for the fall Shelikof Strait food and bait fishery and the following spring Kamishak Bay sac roe fishery will be based on the projected biomass as determined by the most recent aerial surveys, age class composition, historical mortality, recruitment trends, and other relevant data that is collected by the department.

(e) The maximum allowable exploitation rate for the Kamishak Bay herring stock is 15 percent of the spawning biomass. The department will determine the exploitation rate based on the age class structure of the forecasted biomass, the degree of biomass uncertainty as measured by the adequacy of recent years' aerial survey conditions and coverage, and the following guidelines:

- (1) if the projected spawning biomass is 24,000 short tons or more, the department will establish a guideline harvest level of herring based on an exploitation rate between zero and 15 percent;
- (2) if the projected spawning biomass is at least 14,000 short tons, but less than 24,000 short tons, the department will establish a guideline harvest level of herring based on an exploitation rate between zero and 12.5 percent;
- (3) if the projected spawning biomass is at least 6,000 short tons, but less than 14,000 short tons, the department will establish a guideline harvest level of herring based on an exploitation rate between zero and 10 percent;
- (4) if the projected spawning biomass is less than the minimum threshold of 6,000

short tons, the Kamishak Bay sac roe fishery and the Shelikof Strait food and bait fishery north of the latitude of Miners Point (57° 54.00' N. lat.) will be closed.

(f) The management strategy for the Kamishak Bay sac roe fishery is to target older age classes of herring, and to limit the exploitation rate of recruit age herring, which are fish age five and younger, to 10 percent or less. In order to provide maximum protection to recruit age herring, a further reduction of the exploitation rates set out in

(e) of this section, or a complete closure of the affected fisheries, may be implemented if the biomass projection, or inseason test fishing, indicates a higher percentage of fish are recruit age herring.

### **Article 8. Kodiak Area (Registration Area K).**

**5 AAC 27.500. Description of Kodiak Area** The Kodiak Area includes all waters of Alaska south of a line extending from Cape Douglas (58° 51.10' N. lat.), west of 150° W. long., north of 55° 30.00' N. lat., and north and east of a line extending 135° southeast for three miles from a point near Kilokak Rocks at 57° 10.34' N. lat., 156° 20.22' W. long. (the longitude of the southern entrance of Imuya Bay), then due south.

### **5 AAC 27.505. Description of Kodiak Area districts and sections**

(a) West Afognak District: all waters south of a line from Head Point (57° 59.67' N. lat., 152° 46.75' W. long.) to Dolphin Point (57° 59.17' N. lat., 152° 43.42' W. long.), and north of a line from Occident Point (57° 57.42' N. lat., 152° 51.75' W. long.) to Last Timber Point (57° 58.60' N. lat., 152° 59.05' W. long.), and north of a line extending west on the latitude of Raspberry Cape (58° 03.58' N. lat.) to midstream of Shelikof Strait, east of midstream of Shelikof Strait to Cape Newland (58° 30.40' N. lat., 152° 39.50' W. long.), and west of the longitude of Cape Current (152° 28.90' W. long.).

(1) Raspberry Strait Section: all waters of Raspberry Strait enclosed by a line extending from Raspberry Cape (58° 03.58' N. lat., 153° 25.25' W. long.) to Steep Cape (58° 12.00' N. lat., 153° 12.50' W. long.), and by lines from Head Point (57° 59.67' N. lat., 152° 46.75' W. long.) to Dolphin Point on Whale Island (57° 59.17' N. lat., 152° 43.42' W. long.), and north of a line from Occident Point (57° 57.42' N. lat., 152° 51.75' W. long.) to Last Timber Point (57° 58.60' N. lat., 152° 59.05' W. long.);

(2) Malina Bay Section: all waters of Malina Bay east of a line from Steep Cape (58° 12.00' N. lat., 153° 12.50' W. long.) to Cape Paramanof (58° 18.33' N. lat., 153° 02.80' W. long.);

(3) Paramanof Bay Section: all waters of Paramanof Bay east of a line from Cape Paramanof (58° 18.33' N. lat., 153° 02.80' W. long.) to the westernmost tip of Ban Island, and south of a line extending from the east side of Ban Island to the west side of Afognak Island at 58° 19.25' N. lat.;

(4) Foul Bay Section: all waters of Foul Bay east of a line from the westernmost tip of Ban Island to Black Cape (58° 24.50' N. lat., 152° 53.30' W. long.), excluding the Paramanof Bay Section;

(5) Bluefox Bay Section: all waters enclosed by a line from Black Cape (58° 24.50' N. lat., 152° 53.30' W. long.) to Cape Newland (58° 30.40' N. lat., 152° 39.50' W. long.), and west of a line at the longitude of Cape Current (152° 28.90' W. long.) north to Shuyak Island;

(6) Offshore West Afognak Section: all waters enclosed by lines extending west along the latitudes of Raspberry Cape (58° 03.58' N. lat.) and Cape Newland (58° 30.40' N. lat.) to midstream of Shelikof Strait, and by lines from Raspberry Cape to Steep Cape to Cape Paramanof to Cape Newland.

(b) North Afognak District: all waters north of the latitude of Cape Newland and east of midstream Shelikof Strait to the latitude of Cape Douglas, east of the longitude of Cape Current, and north of the latitude of Pillar Cape (58° 08.90' N. lat., 152° 06.90' W. long.).

(1) Shuyak Island Section: all waters north of the latitude of Cape Newland, east of the longitude of Cape Current, and north of a line from Cape Current to Tolstoi Point (58° 23.75' N. lat., 152° 07.50' W. long.), to Tonki Cape (58° 21.13' N. lat., 151° 59.20' W. long.), and north of the latitude of Pillar Cape;

(2) Delphin Bay Section: all waters of Delphin Bay south and west of a line from Delphin Point (58° 22.78' N. lat., 152° 26.30' W. long.) to Cape Current;

(3) Perenosa Bay Section: all waters of Perenosa Bay south of a line from Cape Current to Posliedni Point (58° 26.00' N. lat., 152° 19.50' W. long.), excluding the Delphin Bay Section;

(4) Seal Bay Section: all waters of Seal Bay south of a line from Posliedni Point to Tolstoi Point;

(5) Tonki Bay Section: all waters of Tonki Bay south of a line from Tolstoi Point to Tonki Cape.

(c) South Afognak District: all waters north of a line from Pillar Cape (58° 08.90' N. lat., 152° 06.80' W. long.) to Cape Izhut (58° 06.03' N. lat., 152° 20.40' W. long.) to Dolphin Point (57° 59.17' N. lat., 152° 43.42' W. long.) and to Head Point (57° 59.67' N. lat., 152° 46.75' W. long.).

(1) Izhut Bay Section: all waters of Izhut Bay north of 58° 10.60' N. lat.;

(2) Kitoi Bay Section: all waters of Kitoi Bay west of a line from 58° 10.60' N. lat., 152° 17.40' W. long. to 58° 09.53' N. lat., 152° 18.70' W. long.;

(3) MacDonald Lagoon Section: all waters of Izhut Bay south of 58° 10.60' N. lat., the eastern boundary of the Kitoi Bay Section, and a line from Cape Izhut to Pillar Cape;

(4) Danger Bay Section: all waters of Danger Bay north of a line from Cape Kazakof (58° 04.67' N. lat., 152° 37.67' W. long.) to Cape Kostromitinof (58° 05.00' N. lat., 152° 32.75' W. long.);

(5) Litnik Section: all waters of Afognak Bay enclosed by a line from Head Point to Dolphin Point and the longitude of Dolphin Point;

(6) Duck Bay Section: all waters of Marmot Bay enclosed by a line from Cape Izhut to Dolphin Point, by the longitude of Dolphin Point, and by a line from Cape Kazakof to Cape Kostromitinof.

(d) Uganik Bay District: all waters north of the latitude of Cape Kuliuk ( $57^{\circ} 48.25'$  N. lat.) to midstream Shelikof Strait, and south of the latitude of Raspberry Cape to midstream Shelikof Strait, east of midstream Shelikof Strait, and including the waters of Kupreanof Straits west of a line from Inner Point ( $57^{\circ} 54.05'$  N. lat.,  $152^{\circ} 47.75'$  W. long.) to Bird Point ( $57^{\circ} 55.33'$  N. lat.,  $152^{\circ} 47.50'$  W. long.), and south of a line from Occident Point ( $57^{\circ} 57.42'$  N. lat.,  $152^{\circ} 51.75'$  W. long.) to Last Timber Point ( $57^{\circ} 58.60'$  N. lat.,  $152^{\circ} 59.05'$  W. long.).

(1) Kupreanof Section: all waters enclosed by a line from Raspberry Cape to Outlet Cape ( $57^{\circ} 59.75'$  N. lat.,  $153^{\circ} 17.50'$  W. long.) and by lines from Inner Point to Bird Point and from Occident Point to Last Timber Point;

(2) Viekoda Bay Section: all waters of Inner Viekoda Bay east of the longitude of Naugolka Point ( $57^{\circ} 53.70'$  N. lat.,  $153^{\circ} 14.10'$  W. long.);

(3) Terror Bay Section: all waters of Terror Bay and Outer Viekoda Bay enclosed by lines from Raspberry Cape to Cape Uganik and from Raspberry Cape to Outlet Cape, and all waters of West Uganik Passage east of  $153^{\circ} 15.70'$  W. long.;

(4) Village Islands Section: all waters of Uganik Bay south of a line from Cape Ugat to Cape Uganik ( $57^{\circ} 58.00'$  N. lat.,  $153^{\circ} 30.28'$  W. long.), west of lines from Cape Uganik to East Point ( $57^{\circ} 50.50'$  N. lat.,  $153^{\circ} 28.70'$  W. long.), and west of a line at  $153^{\circ} 26.00'$  W. long. in Northeast Arm Uganik Bay, and north and west of a line that extends from Mink Point to Packer's Spit at  $57^{\circ} 43.95'$  N. lat.,  $153^{\circ} 30.00'$  W. long. in East Arm Uganik Bay, and north of the latitude of Mink Point;

(5) West Uganik Passage Section: all waters of West Uganik Passage west of  $153^{\circ} 15.70'$  W. long., and east of a line from Cape Uganik to East Point;

(6) Northeast Arm Uganik Section: all waters of the Northeast Arm of Uganik Bay east of a line at  $153^{\circ} 26.00'$  W. long.;

(7) East Arm Uganik Section: all waters of the East Arm of Uganik Bay (Mush Bay) south and east of a line that extends from Packer's Spit at  $57^{\circ} 43.95'$  N. lat.,  $153^{\circ} 30.00'$  W. long., to Mink Point ( $57^{\circ} 43.13'$  N. lat.,  $153^{\circ} 30.10'$  W. long.);

(8) South Arm Uganik Section: all waters of the South Arm of Uganik Bay south of the latitude of Mink Point;

(9) Outer Uganik Section: all waters south of the latitude of Raspberry Cape, north of the latitude of Cape Kuliuk, east of midstream of Shelikof Strait, and west of a line from Cape Uganik to Cape Ugat ( $57^{\circ} 52.33'$  N. lat.,  $153^{\circ} 50.92'$  W. long.).

(e) Uyak District: all waters south of the latitude of Cape Kuliuk to midstream of Shelikof Strait and north of the latitude of Cape Karluk to midstream of Shelikof Strait, and east of midstream of Shelikof Strait and including all of Uyak Bay.

(1) Offshore Uyak Section: all waters south of the latitude of Cape Kuliuk to midstream Shelikof Strait and north of the latitude of Cape Karluk ( $57^{\circ} 34.70'$  N. lat.) to midstream Shelikof Strait, east of midstream Shelikof Strait, and west of a line from Cape Kuliuk to Rocky Point ( $57^{\circ} 39.78'$  N. lat.,  $154^{\circ} 13.90'$  W. long.);

(2) Harvester Island Section: all waters north of the latitude of Carlsen Point ( $57^{\circ} 34.70'$  N. lat.), west of the longitude of Carlsen Point ( $153^{\circ} 50.15'$  W. long.), and south of a line from Cape Kuliuk to Rocky Point ( $57^{\circ} 39.78'$  N. lat.,  $154^{\circ} 13.90'$  W. long.);

(3) Inner Uyak Bay Section: all waters of Inner Uyak Bay south of the latitude of Carlsen Point, excluding the Larsen Bay and Browns Lagoon Sections;

(4) Larsen Bay Section: all waters of Larsen Bay west of  $153^{\circ} 58.50'$  W. long.;

(5) Browns Lagoon Section: that portion of the Inner Uyak Bay Section in Amook Pass south of a line from the northern tip of Amook Island to Carlsen Point, and north of the latitude of the southern tip of Amook Island;

(6) Zachar Bay Section: all waters of Zachar Bay east of  $153^{\circ} 50.00'$  W. long.;

(7) Spiridon Bay Section: all waters of Spiridon Bay east of  $153^{\circ} 50.00'$  W. long.

(f) Sturgeon-Halibut Bay District: all waters south of the latitude of Cape Karluk to midstream Shelikof Strait, and north of a line from Cape Ikolik ( $57^{\circ} 17.43'$  N. lat.) to midstream of Shelikof Strait ( $57^{\circ} 22.00'$  N. lat. and  $155^{\circ} 25.00'$  W. long.), and east of midstream Shelikof Strait, and including all bays from Cape Ikolik to Cape Karluk.

(g) Alitak Bay District: all waters east of the longitude of Cape Ikolik ( $154^{\circ} 47.50'$  W. long.), west of the longitude of Black Point ( $153^{\circ} 18.65'$  W. long.), and south of a line from Black Point ( $56^{\circ} 59.50'$  N. lat.,  $153^{\circ} 18.65'$  W. long.) to Cape Kiavak ( $57^{\circ}$  N. lat.,  $153^{\circ} 32.50'$  W. long.).

(1) Outer Alitak Bay Section: all waters encompassed by lines east of the longitude of Cape Ikolik, west of the longitude of Black Point, south of a line from Black Point to the northernmost tip of Twoheaded Island, from the southernmost tip of Twoheaded Island to the easternmost tip of Aiaktalik Island, from the westernmost tip of Aiaktalik Island to Cape Trinity, and northwest to Cape Alitak ( $56^{\circ} 50.58'$  N. lat.,  $154^{\circ} 18.50'$  W. long.);

(2) Inner Alitak Bay Section: all waters enclosed by a line from Cape Alitak to Cape Trinity south of a line across the Olga Narrows at  $57^{\circ} 03.38'$  N. lat., and south of  $56^{\circ} 58.02'$  N. lat., in Alitak Bay;

(3) Inner Deadman Bay Section: all waters of Deadman Bay north of  $57^{\circ} 05.00'$  N. lat.;

(4) Outer Deadman Bay Section: all waters north of a  $56^{\circ} 58.02'$  N. lat., in Alitak Bay, and south of  $57^{\circ} 05.00'$  N. lat.;

(5) repealed 4/25/2008;

(6) Sulua Bay Section: all waters of Sulua and Portage Bays east of  $153^{\circ} 57.90'$  W. long.;

(7) Lower Olga Bay Section: all waters of Lower Olga Bay south of a line across the entrance of Upper Olga Bay at  $57^{\circ} 07.30'$  N. lat., and north of a line across the Olga Narrows at  $57^{\circ} 03.38'$  N. lat.;

(8) East Upper Olga Bay Section: all waters of Olga Bay north of a line across the entrance of Upper Olga Bay at  $57^{\circ} 07.30'$  N. lat. and east of a line across Upper Olga Bay at  $154^{\circ} 16.06'$  W. long.;

(9) West Upper Olga Bay Section: all waters of Upper Olga Bay west of a line across Upper Olga Bay at  $154^{\circ} 16.06'$  W. long.;

(10) Geese-Twoheaded Section: all waters encompassed by lines from Cape Trinity to the westernmost tip of Aiaktalik Island, from the easternmost tip of Aiaktalik Island to the southernmost tip of Twoheaded Island, from the northernmost tip of Twoheaded Island to Black Point, and south of a line from Black Point ( $56^{\circ} 59.50'$  N. lat.,  $153^{\circ} 18.65'$  W. long.) to Cape Kiavak ( $57^{\circ}$  N. lat.,  $153^{\circ} 32.50'$  W. long.).

(h) Eastside District: all waters south of the latitude of Narrow Cape, extending east to  $150^{\circ}$  W. long., and north and east of a line from Black Point to Cape Kiavak.

(1) Kaiugnak Section: all waters of Kaiugnak and Kiavak Bays west of a line from Cape Kasiak to Cape Kiavak;

(2) Southwest Sitkalidak Section: all waters of West Sitkalidak Strait and associated bays enclosed by a line north of Cape Kiavak to Black Point, east of a line from Cape Kiavak to Cape Kasiak, and south of a line from Cape Kasiak to Natalia Point, including all waters of Natalia Bay;

(3) Three Saints Bay Section: all waters of Three Saints Bay west of a line from Cape Kasiak to Cape Liakik;

(4) Newman Bay Section: all waters of Newman Bay and a part of Sitkalidak Strait enclosed by a line north of Natalia Point to Cape Kasiak, east of a line from Cape Kasiak to Cape Liakik, and south of the latitude of Cape Liakik at  $57^{\circ} 06.73'$  N. lat.;

(5) West Sitkalidak Section: all waters of West Sitkalidak Strait west of  $153^{\circ} 16.55'$  W. long. and north of the latitude of Cape Liakik at  $57^{\circ} 06.73'$  N. lat., excluding the Barling Bay Section;

(6) Barling Bay Section: all waters of Barling Bay west of a line from the northern entrance at  $57^{\circ} 11.65'$  N. lat.,  $153^{\circ} 19.08'$  W. long. to Barling Spit at  $57^{\circ} 10.20'$  N. lat.,  $153^{\circ} 21.68'$  W. long.;

(7) East Sitkalidak Section: all waters of East Sitkalidak Strait and associated bays enclosed by a line from Left Cape (57° 15.40' N. lat., 152° 56.52' W. long.) to Cape Barnabas (57° 09.07' N. lat., 152° 52.20' W. long.) and east of 153° 16.55' W. long., excluding the Tanginak Anchorage Section;

(8) Tanginak Anchorage Section: all waters of MacDonald Lagoon and Tanginak Anchorage south of the latitude of Lagoon Point (57° 11.37' N. lat., 153° 03.75' W. long.);

(9) Outer Sitkalidak Section: all waters east of the longitude of Black Point, south of the latitude of Narrow Cape, and east of lines from Cape Barnabas to Dangerous Cape, and from Dangerous Cape to Narrow Cape;

(10) Boulder Bay Section: all waters of Outer Kiliuda, Santa Flavia, and Boulder Bays enclosed by a line from Dangerous Cape to Cape Barnabas to Left Cape to Shearwater Point to Pillar Point;

(11) Shearwater Section: all waters of Shearwater Bay east of a line from Shearwater Point (57° 19.80' N. lat., 152° 58.50' W. long.) to Pillar Point (57° 19.22' N. lat., 152° 54.95' W. long.);

(12) Outer Kiliuda Bay Section: all waters of Kiliuda Bay west of a line from Left Cape to Shearwater Point, and east of a line from a point at 57° 18.63' N. lat., 153° 05.95' W. long. to a point at 57° 17.82' N. lat., 153° 06.95' W. long.;

(13) Inner Kiliuda Bay Section: all waters of Kiliuda Bay west of a line from a point at 57° 18.63' N. lat., 153° 05.95' W. long. to a point at 57° 17.82' N. lat., 153° 06.95' W. long.;

(14) Inner Ugak Bay Section: all waters of Ugak Bay west of 152° 49.00' W. long.;

(15) Outer Ugak Bay Section: all waters of Ugak Bay east of 152° 49.00' W. long., and north and west of a line from Dangerous Cape to Narrow Cape, excluding the Pasagshak Section;

(16) Pasagshak Bay Section: all waters of Pasagshak Bay north and east of a line from 57° 26.00' N. lat., 152° 31.15' W. long. to 57° 25.00' N. lat., 152° 29.40' W. long.

(i) Northeast District: all waters north of the latitude of Narrow Cape, including Chiniak Bay, and east of a line from Spruce Cape to Pillar Cape, and south of the latitude of Pillar Cape.

(1) Womens Bay Section: all waters of Womens Bay south and west of a line from Cliff Point (57° 43.50' N. lat., 152° 26.52' W. long.) to the terminus of Buskin River;

(2) Kalsin Bay Section: all waters of Kalsin Bay south and west of a line from Cape Chiniak (57° 37.55' N. lat., 152° 09.28' W. long.) to Broad Point;

(3) Middle Bay Section: all waters of Middle Bay south and west of a line from

Broad Point to Cliff Point;

(4) Inshore Chiniak Section: all waters of Chiniak Bay enclosed by lines from Cape Chiniak to Broad Point to Cliff Point to the terminus of Buskin River, and from Spruce Cape to Pillar Cape to Cape Chiniak;

(5) Offshore Chiniak-Marmot Section: all waters east of a line from Pillar Cape to Cape Chiniak, south of the latitude of Pillar Cape and north of the latitude of Narrow Cape.

(j) Inner Marmot Bay District: all waters east of a line from Spruce Cape to Pillar Cape, south of a line from Pillar Cape to Cape Izhut to Dolphin Point, and east of a line from Bird Point to Inner Point.

(1) Monashka-Mill Bay Section: all waters of Monashka Bay and Mill Bay west of a line from Termination Point ( $57^{\circ} 51.37'$  N. lat.,  $152^{\circ} 24.15'$  W. long.) to Spruce Cape ( $57^{\circ} 49.57'$  N. lat.,  $152^{\circ} 19.62'$  W. long.);

(2) Anton Larsen Bay Section: all waters of Anton Larsen Bay south of a line from Kizhuyak Point ( $57^{\circ} 55.02'$  N. lat.,  $152^{\circ} 38.20'$  W. long.) to Crag Point ( $57^{\circ} 52.75'$  N. lat.,  $152^{\circ} 40.00'$  W. long.);

(3) Sharatin Bay Section: all waters of Sharatin Bay south of a line from Crag Point to Kekur Point ( $57^{\circ} 51.48'$  N. lat.,  $152^{\circ} 47.15'$  W. long.);

(4) Kizhuyak Bay Section: all waters of Kizhuyak Bay west of a line from Kekur Point to Inner Point ( $57^{\circ} 54.05'$  N. lat.,  $152^{\circ} 47.75'$  W. long.);

(5) Spruce Island Section: all waters of Marmot Bay and adjacent bays and islands enclosed by a line from Spruce Cape to Pillar Cape to Cape Izhut to Dolphin Point to Inner Point to Kekur Point to Crag Point to Kizhuyak Point.

(k) North Mainland District: all waters south of the latitude of Cape Douglas ( $58^{\circ} 51.10'$  N. lat.), west of midstream Shelikof Strait, and north of the latitude of Cape Ilktugidak ( $58^{\circ} 35.00'$  N. lat.,  $154^{\circ} 01.15'$  W. long.).

(1) Hallo Bay Section: all waters south of the latitude of Cape Douglas to midstream of Shelikof Strait, and north of the latitude of Cape Nukshak ( $58^{\circ} 23.50'$  N. lat.,  $153^{\circ} 58.95'$  W. long.), and east to midstream of Shelikof Strait;

(2) Inner Kukak Section: all waters west of a line from Cape Nukshak to Cape Gull ( $58^{\circ} 13.05'$  N. lat.,  $154^{\circ} 08.65'$  W. long.);

(3) Outer Kukak Section: all waters east of a line from Cape Nukshak to Cape Gull, and east of the latitudes of Cape Nukshak and Cape Gull to midstream of Shelikof Strait;

(4) Missak Section: all waters south of the latitude of Cape Gull east to midstream of Shelikof Strait, and north of the latitude of Cape Ilktugitak to midstream of Shelikof Strait.

(l) Mid Mainland District: all waters south of the latitude of Cape Ilktugidak, west of midstream Shelikof Strait, and north of the latitude of Cape Igvak.

(1) Inner Katmai Section: all waters north and west of a line from Cape Ilktugitak (58° 01.12' N. lat., 154° 35.05' W. long.) to Cape Kubugakli (57° 53.83' N. lat., 155° 03.70' W. long.);

(2) Outer Katmai Section: all waters encompassed by the latitude of Cape Ilktugitak east to midstream of Shelikof Strait, the latitude of Cape Kekurnoi east to midstream of Shelikof Strait, west of midstream of Shelikof Strait, east of lines from Cape Ilktugitak to Cape Kubugakli, and from Cape Kubugakli to Cape Kekurnoi (57° 43.45' N. lat., 155° 18.05' W. long.);

(3) Alinchak Section: all waters west of a line from Cape Kubugakli to Cape Kekurnoi;

(4) Puale Bay Section: all waters west of a line from Cape Kekurnoi to Cape Unalishagvak (57° 32.70' N. lat., 155° 43.83' W. long.);

(5) Portage Bay Section: all waters west of a line from Cape Unalishagvak to Cape Igvak (57° 26.05' N. lat., 156° 01.43' W. long.);

(6) Outer Portage-Puale Section: all waters east of lines from Cape Kekurnoi to Cape Unalishagvak and from Cape Unalishagvak to Cape Igvak, and north of a line that extends from Cape Igvak east to midstream of Shelikof Strait at 57° 22.00' N. lat. and 155° 25.00' W. long., and south of a line from the latitude of Cape Kekurnoi east to midstream of Shelikof Strait.

(m) South Mainland District: all waters enclosed by a line north of the latitude of 55° 30.00' N. lat., west of the longitude of Cape Ikolik, south of a line from Cape Ikolik to Cape Igvak, and east of a line extending south from the southern entrance of Imuya Bay near Kilokak Rocks at 57° 10.34' N. lat., 156° 20.22' W. long.

(1) Wide Bay Section: all waters west of a line from Cape Igvak to Cape Kayakliut (57° 17.65' N. lat., 156° 19.00' W. long.);

(2) Lower Shelikof Section: all waters enclosed east of a line from Cape Igvak to Cape Kayakliut, east of the longitude of Kilokak Rocks, west of the longitude of Cape Ikolik, and south of a line from Cape Igvak to Cape Ikolik.

**5 AAC 27.506. Use of global positioning system (GPS)** In the Kodiak Area, boundaries, lines, and coordinates are identified with the global positioning system (GPS). If the global positioning system is not operating, the boundaries, lines, and coordinates are as identified by ADF&G regulatory markers.

**5 AAC 27.510. Fishing seasons and periods for Kodiak Area.** (a) Unless otherwise provided for by emergency order, herring may be taken during the sac roe season from April 15 through June 30, as follows:

(1) from April 15 through May 7 fishing periods for purse seines are from 12:00

noon until 9:00 p.m. on odd-numbered days, and from 9:00 a.m. until 12:00 noon on even-numbered days if a harvestable surplus is available; from May 8 through June 30, fishing periods for purse seines are from 12:00 noon until 10:00 p.m. on odd-numbered days, and from 9:00 a.m. until 12:00 noon on even-numbered days if a harvestable surplus is available;

(2) from April 15 through June 30, the fishing periods for gillnets are from 12:00 noon on odd-numbered days until 12:00 noon on even-numbered days;

(3) repealed 4/9/2005;

(4) after April 30, a CFEC permit holder must register with the department before participating in the sac roe herring fishery.

(b) Herring may be taken during the food and bait season from September 1 through February 28 only during fishing periods established by emergency order. A CFEC permit holder must register with the department before participating in the food and bait fishery.

**5 AAC 27.515. Lawful gear for Kodiak Area.** (a) Herring may be taken only by seines, gillnets and trawls, except that beach seines and trawls may not be used to take herring during the sac roe season.

(b) A herring fishing vessel may operate or assist in operating, or have on board it, only one legal limit of herring fishing gear in the aggregate, except that

(1) a herring fishing vessel may tow or transport another herring fishing vessel containing those vessels' own gear; and

(2) parts of gear used in other management areas may be on board the vessel if those parts of gear are stowed below the deck of the vessel while that vessel is in the Kodiak Area.

(c) Unhung gear sufficient for mending purposes may be carried aboard fishing vessels.

(d) A purse seine, hand purse seine or beach seine may not be fished simultaneously with gillnet gear by any person or vessel.

(e) Herring fishing nets shall be measured, either wet or dry, by determining the maximum length of cork line when the net is fully extended with traction applied at one end only.

(f) The interim-use or entry permit holder is responsible for operation of the net.

(g) The use of leads with any net gear used for commercial herring fishing is prohibited during the herring sac roe season.

**5 AAC 27.520. Gillnet specifications and operations for Kodiak Area.** (a) The aggregate length of herring gillnets in use by any herring CFEC permit holder may not exceed 150 fathoms.

(b) The interim-use or entry permit holder must be physically present while the gillnet is being fished.

(c) Each drift gillnet in operation must have a buoy at one end and the opposite end must be attached to the fishing vessel. Each set gillnet in operation must be anchored and buoyed at both ends. All buoys must be at least 10 inches in diameter and all buoys used on an individual gillnet must be of the same color. Each buoy must be plainly and legibly marked with the permanent vessel license plate number (ADF&G number) of the vessel operating the gear. The buoy may bear only a single number, and this number must be that of the vessel used in operating the gear. The number must be painted on the top one-third of the buoy in numerals at least four inches in height, one-half inch in width, and in a color contrasting to that of the buoy. The buoy markings must be visible on the buoy above the water surface. Set gillnets must have a buoy spaced every 25 fathoms along the net and the buoys must be floating on the surface of the water.

(d) Herring gillnets may remain in the water for up to four hours after the announced closing time for any opening of three hours or less fishing time. No herring gillnets may be set or reset after a closure time. Herring gillnets may remain in the water for up to four hours after an emergency order closure if that closure is announced by the department less than three hours before the closure time. No herring gillnet may remain in the water past the 12:00 noon closure on even-numbered days described in 5 AAC 27.510.

(e) From April 1 through July 31, a herring gillnet may not exceed 230 meshes in depth.

**5 AAC 27.525. Seine specifications and operations for Kodiak Area.** (a) From April 1 through July 31, a purse seine may not exceed 18 fathoms stretch measure in depth or 100 fathoms in length. The depth shall be determined by using a stretch measure of the web from the cork line to the bottom of the net, including any lines that hang below the lead line.

(b) Repealed 4/14/82.

(c) From August 1 through February 28, a purse seine may not be more than 1,625 meshes in depth, including meshes used as chafing gear, or more than 150 fathoms in length.

(d) From April 1 through July 31, an Area K CFEC sac roe seine permit holder may use only one vessel to take herring - either the vessel identified on the holder's permit or a replacement vessel that the holder has registered, in person, at the department's Kodiak office. Only one seine vessel at a time may be registered as a replacement vessel.

(e) From March 1 through April 13, a person may make practice purse seine sets from a purse seine vessel in the Kodiak Area within one-half mile of the Sealand dock. All fish caught shall be immediately released back to the water unharmed.

**5 AAC 27.530. Waters closed to herring fishing in Kodiak Area.** (a) During the period July 1 through October 31, herring may not be taken in waters described in 5 AAC 18.350 and 5 AAC 39.290.

(b) During the commercial herring sac roe fishing season, herring may not be taken in the waters of Womens Bay enclosed by a line from Shannon's Point (57° 43.80' N. lat., 152° 31.60' W. long.) to Nymans Peninsula (57° 43.30' N. lat., 152° 31.40' W. long.).

(c) During the period from April 15 through June 30, or later if the season is extended by emergency order, herring may not be taken in the waters of Browns Lagoon.

(d) During the period from April 15 through June 30, herring may not be taken in the following waters of Uganik Island:

(1) south and west of a line from 57° 51.10' N. lat., 153° 13.53' W. long. to 57° 52.12' N. lat., 153° 15.00' W. long.;

(2) north of a line from 57° 49.37' N. lat., 153° 17.65' W. long. to 57° 49.47' N. lat., 153° 19.30' W. long.;

(3) east of a line from 57° 50.85' N. lat., 153° 19.18' W. long. to 57° 50.07' N. lat., 153° 19.18' W. long.

**5 AAC 27.535. Harvest strategies for Kodiak Area.** (a) The department shall manage the Shelikof Strait food and bait herring fishery in the waters set out in 5 AAC 27.505(a) (West Afognak District), 5 AAC 27.505 (b) (North Afognak District), 5 AAC 27.505(d) (Uganik District), and 5 AAC 27.505(e) (Uyak District), so that the total harvest does not exceed the combined guideline harvest level, established in (b), for these districts and the allowable harvest of the Kamishak spawning stocks that overwinter in Shelikof Strait, as determined under the Kamishak Bay District herring management plan set out in 5 AAC 27.465. The waters set out in 5 AAC 27.505(k) (North Mainland District) and 5 AAC 27.505(l) (Mid Mainland District) shall be managed based on the guideline harvest level for these districts as established in (b), however, these districts will be closed when the guideline harvest level is reached in the Shelikof Strait fishery.

(b) The department shall establish guideline harvest levels for the herring food and bait fisheries for each section of the districts specified in

(a) of this section, which may not exceed 10 percent of the guideline harvest level of that section in the previous sac roe season.

(c) The department shall manage the remaining districts of the food and bait herring fishery, so that the harvest does not exceed the combined sum of the guideline harvest levels of the individual sections of a district. The department may manage the food and bait fishery, including the Shelikof Strait fishery, by section of a district, if the harvest location, age class composition of the harvest, or biomass estimates indicate a harvest has occurred on a single herring spawning stock.

(d) When the Kamishak Bay herring spawning biomass is below 6,000 short tons, the commissioner shall close, by emergency order, the food and bait fishery in Shelikof Strait north of the latitude of Miners Point (57° 54.00' N. lat.).

(e) The department shall manage the sac roe herring fishery to provide opportunities

for gillnet permit holders to harvest approximately 25 percent and purse seine permit holders to harvest approximately 75 percent of the total preseason guideline harvest level for the management area as follows; the commissioner shall issue emergency orders as necessary:

(1) based on the department's assessment of

(A) biomass, recent spawning areas, and status of a herring stock in a bay or complex of bays, adjacent sections may be combined and managed as a single section;

(B) effort levels, harvest rates, and the department's ability to monitor the fishery, the length of the fishing periods for either or both gear types may be increased or reduced; and

(C) remaining guideline harvest levels, notwithstanding any other provision of this section, from May 1 through June 30, the commissioner may, by emergency order, open any area with a remaining herring guideline harvest level to any gear group if the department determines that the fishery is not likely to result in overharvest of the resource;

(2) except as provided in

(4) of this subsection, the department shall establish guideline harvest levels each year by section based on information such as historical data, current and past fishery performance, sampling of commercial catches, and aerial surveys as follows:

(A) except in districts where only one section is open for fishing, the department shall designate one legal gear type for each section with a guideline harvest level unless, the allocation by gear type within a district cannot be achieved;

(B) in districts where only one section is open for fishing, the department will, in its discretion, assign a portion of the guideline harvest level to each gear type;

(C) for allocative purposes only,

(i) the North Mainland, Mid Mainland, and South Mainland Districts will be considered one district; and

(ii) the North Afognak, West Afognak, and South Afognak Districts will be considered one district;

(D) each district having more than one section that is open for fishing will have approximately 20 to 30 percent of the guideline harvest level for the district allocated to the gillnet permit holders and 70 to 80 percent allocated to the purse seine permit holders;

(3) an individual section shall be closed to fishing once that section's guideline harvest level has been achieved; the guideline harvest level for an individual section may be adjusted downward inseason depending on observed stock abundance; the department may make adjustments in the management of a section based on inseason changes in fish behavior or harvest patterns; these changes may result in an adjacent section closure;

(4) a section that does not have an extensive history of sac roe production may be designated as exploratory with no specified guideline harvest level; permit holders for either gear type may fish in an exploratory section; a section listed as exploratory under this paragraph may be opened or closed, based on inseason information such as observed stock abundance, harvest levels, and changes in fish behavior or harvest patterns, including such changes in adjacent sections;

(5) a section that has been closed because its guideline harvest level has been achieved may be reopened, if the department determines that additional herring arriving on the grounds have increased the available biomass to the point that the initial exploitation rate has dropped below 10 percent for that stock; any reopening will require information indicating that juvenile herring, post spawners, or other forage fish are not present and that the department has the ability to monitor and regulate the reopening on the grounds; the department shall give at least 24 hours' advance notice before a section is reopened under this paragraph;

(6) the Kodiak herring sac roe fishery is intended to occur in an orderly fashion, with minimal waste of resource and within conservation limits as determined by the department, while striving for the highest quality product;

(7) in this subsection, "section" means a section as described in 5 AAC 27.505.

**5 AAC 27.536. Size limits for Kodiak Area** A CFEC herring seine permit holder may not sell or have aboard a vessel any herring that were taken during the herring sac roe season if the number of individual herring per 50 pounds of net weight exceeds 250 fish.

**5 AAC 27.540. Buyer and tender reporting requirements for Kodiak Area.** (a) In addition to the requirements of 5 AAC 39.130 (n), a tender operator, buyer, or the tender operator or buyer's agent shall report in person to and register with a local representative of the department upon arrival in the registration area before commencing operations and before changing location of the operation. The buyer or the buyer's agent shall

(1) identify all vessels to be employed in transporting or processing herring and shall register those vessels with a local representative of the department located in the registration area before transporting or processing herring;

(2) make daily reports of all herring purchased from fishermen and other processing records as specified by a local representative of the department; and

(3) submit fully completed fish tickets with accurate and final weight and roe percentages no later than 10 days after termination of buying operations in the area, or as otherwise specified by a local representative of the department.

(b) At the time herring are received from a CFEC permit holder in the Kodiak Area each buyer of herring, each fisherman selling to a buyer not licensed to process fish (catcher-seller), and each person or company that catches and processes that person's or company's own catch or has that catch processed by another person or company, shall, in addition to the requirements of 5 AAC 39.130

(c), at the request of the CFEC permit holder record on a herring fish ticket, the following information:

(1) the on-the-fishing ground weight of herring measured by the most efficient method possible, such as dump boxes, scales or totes, with weight in tons and pounds; and

(2) estimated roe percentage of the herring as determined by a regular sampling of the catch; the sampling shall test 10 kilograms of herring for each five to 10 tons of herring delivered.

(c) A copy of the fish ticket required under (b) of this section must be provided at the time of delivery to the CFEC permit holder from the person, buyer, company, firm, or other organization that is the first purchaser of herring that is taken in the Kodiak Area.

**5 AAC 27.545. Harvest of bait by commercial permit holders in Kodiak Area** The holder of a valid CFEC interim use or limited entry permit may take but may not sell herring for use as bait in the commercial fishery for which the permit is held as follows:

(1) herring may only be taken under the authority of a herring bait fishing permit issued by the commissioner or the commissioner's designee;

(2) herring may only be taken by gillnet, mechanical jigging machine, hand troll, and purse seine gear;

(3) from April 12 through July 3, a vessel, crewmember, or permit holder that participates in the Kodiak commercial herring sac roe fishery may not take herring under this section in the Kodiak Area;

(4) person may not take more than 1,000 pounds of herring in a calendar year.

**Article 9. Chignik Area (Registration Area L).**

**5 AAC 27.550. Description of Chignik Area** The Chignik Area includes all waters of Alaska on the south side of the Alaska Peninsula bounded by a line extending 135° southeast for three miles from a point near Kilokak Rocks at 57° 10.34' N. lat., 156° 20.22' W. long. (the longitude of the southern entrance to Imuya Bay), then due south, and a line extending 135° southeast from Kupreanof Point at 55° 33.98' N. lat., 159° 35.88' W. long.

**5 AAC 27.555. Description of Chignik Area districts** Districts are as described in 5 AAC 15.200.

**5 AAC 27.556. Use of global positioning systems (GPS)** In the Chignik Area, boundaries, lines, and coordinates are identified with the global positioning system (GPS). If the global positioning system is not operating, the boundaries, lines, and coordinates are as identified by ADF&G regulatory markers.

**5 AAC 27.560. Fishing seasons and weekly fishing periods for Chignik Area**

(a) Herring may be taken from April 15 through June 30 (sac roe season) and from August 15 through February 28 (food and bait season).

(b) Herring may be taken only during periods established by emergency order.

(c) A CFEC permit holder must register with the department before participating in the sac roe fishery and the food and bait fishery.

**5 AAC 27.565. Lawful gear for Chignik Area**

(a) Herring may be taken only by purse seines.

(b) A herring fishing vessel may operate or assist in operating only one legal limit of herring fishing gear in the aggregate.

(c) Unhung gear sufficient for mending purposes may be carried aboard fishing vessels.

(d) Herring fishing nets shall be measured, either wet or dry, by determining the maximum length of cork line when the net is fully extended with traction applied at one end only.

(e) The interim-use or entry permit holder is responsible for operation of the net.

(f) The use of leads with any net gear used for commercial herring fishing is prohibited during the herring sac roe season.

**5 AAC 27.575. Seine specifications and operations for Chignik Area** A purse seine may not be more than 1,000 meshes in depth or more than 100 fathoms in length.

**5 AAC 27.580. Waters closed to herring fishing in Chignik Area** During the period June 12 through October 31, herring may not be taken in waters described in 5 AAC 15.350 and 5 AAC 39.290.

**5 AAC 27.590. Buyer and tender reporting requirements for Chignik Area** In addition to the requirements of 5 AAC 39.130 (n), each tender operator and each buyer or the tender operator or buyer's agent shall report in person to and register with a local representative of the department upon arrival in the registration area before commencing operations and before changing location of the operation. The buyer or the buyer's agent shall

(1) identify all vessels to be employed in transporting or processing herring and shall register those vessels with a local representative of the department located in the registration area before transporting or processing herring;

(2) make daily reports of all herring purchased from fishermen, and other processing records as specified by a local representative of the department; and

(3) submit fish tickets before departure from the area and no later than 10 days after

termination of buying operations in the area, or as otherwise specified by a local representative of the department.

**Article 10. Alaska Peninsula-Aleutian Islands Area (Registration Area M).**

**5 AAC 27.600. Description of Alaska Peninsula-Aleutian Islands Area** The Alaska Peninsula-Aleutian Islands Area includes all waters bound on the east by a line extending southeast (135°) from the southernmost tip of Kupreanof Point, on the west by the International Date Line, and on the north by a line extending west from the westernmost tip of Cape Menshikof.

**5 AAC 27.605. Description of Alaska Peninsula-Aleutian Islands Area districts and sections.** (a) Sand Point District: all waters on the south (Pacific) side of the Alaska Peninsula west of a line extending 135° from Kupreanof Point (55° 33.98' N. lat., 159° 35.88' W. long.), and east of 160° 59.00' W. long. (longitude of McGinty Point). Sections are as follows:

(1) Stepovak Bay Section: all waters of the Sand Point District located west of a line extending 135° from Kupreanof Point (55° 33.98' N. lat., 159° 35.88' W. long.), north of a line from approximately two nautical miles south of 135° from Kupreanof Point, west to 55° 32.20' N. lat., 160° 02.60' W. long., (approximately one nautical mile north of Karpa Island), and west to 55° 26.00' N. lat., 160° 31.50' W. long., (approximately two nautical miles south of the longitude of Swedania Point (160° 31.50' W. long.);

(2) Swedania Point-Balboa Bay Section: all waters of the Sand Point District located between 160° 31.50' W. long. and 160° 49.00' W. long., and north of 55° 26.00' N. lat.;

(3) Point Aliaksin-Beaver Bay Section: all waters of the Sand Point District located between 160° 49.00' W. long. and 160° 59.00' W. long., and north of 55° 26.00' N. lat.;

(4) General Section: all other waters of the Sand Point District.

(b) Pavlof District: all waters on the south (Pacific) side of the Alaska Peninsula between 160° 59.00' W. long. and a line extending 150° from 55° 05.90' N. lat., 161° 59.00' W. long. through Inner and Outer Iliasik Islands, including Bear and Volcano Bays. Sections are as follows:

(1) Canoe Bay Section: all waters of Canoe Bay east of 161° 21.75' W. long.;

(2) Pavlof Bay Section: all waters of Pavlof Bay north of 55° 21.60' N. lat. (latitude of Cape Tolstoi), excluding the Canoe Bay and Seal Cape-Wosnesenski Sections;

(3) Seal Cape-Wosnesenski Section: all waters of the Pavlof District located between 160° 59.00' W. long. and 161° 30.00' W. long. (longitude of Cape Tolstoi);

(4) General Section: all other waters of the Pavlof District.

(c) King Cove District: all waters of the south (Pacific) side of the Alaska Peninsula

between a line extending 150° from 55° 05.90' N. lat., 161° 59.00' W. long. through Inner and Outer Iliasik Islands and 163° 30.00' W. long., including waters of Isanotski Strait south of a line from Nichols Point to the False Pass Dock. Sections are as follows:

(1) Belkofski Section: all waters of the King Cove District east of 162° 15.00' W. long. (longitude of Bold Cape);

(2) Deer Passage Section: all waters of the King Cove District between 162° 15.00' W. long. (longitude of Bold Cape) and 162° 24.80' W. long. (longitude of Vodapoini Point), and north of 54° 55.00' N. lat., excluding all waters of Lenard Harbor;

(3) Cold Bay Section: all waters of the King Cove District bounded by a line from Thin Point to Vodapoini Point;

(4) General Section: all other waters of the King Cove District.

(d) Unimak District: all waters on the southside of Unimak Island between 163° 30.00' W. long. and the longitude of Scotch Cap Light.

(e) Akutan District: all waters extending west of Unimak Island to and including Akutan Pass.

(f) Unalaska District: all waters west of Akutan Pass to and including Umnak Pass. Sections are as follows:

(1) Unalaska Bay Section: all waters of the Unalaska Bay District enclosed by a line from Priest Rock at 54° 00.48' N. lat., 166° 22.67' W. long. to Cape Cheerful at 54° 00.58' N. lat., 166° 38.30' W. long.;

(2) General Section: all waters of the Unalaska District not included in the Unalaska Bay Section.

(g) Umnak District: all waters west of Umnak Pass to and including Atka Pass.

(h) Adak District: all waters west of Atka Pass to the terminus of the Aleutian Islands.

(i) Amak District: all Bering Sea waters between the longitude of Cape Lieskof (162° 04.00' W. long.) and the longitude of Cape Sarichef Light, including all waters of Bechevin Bay and Isanotski Strait north of a line from the False Pass Cannery dock to the tip of Nichols Point.

(j) Port Moller District: all Bering Sea waters between the longitude of Cape Lieskof (162° 04.00' W. long.) and the longitude of Cape Seniavin (160° 08.80' W. long.). Sections are as follows:

(1) Western Section: all waters of the Port Moller District west of the longitude of Wolf Point on Walrus Island, excluding the waters of Herendeen Bay and Deer Island-Mud Bay Sections;

(2) Deer Island-Mud Bay Section: all waters of the Port Moller District bounded by

a line from the northernmost tip of Point Edward to the southernmost tip of Wolf Point on Walrus Island to Point Divide (55° 53.10' N. lat., 160° 47.30' W. long.) to the northernmost tip of Black Point;

(3) Herendeen Bay Section: all waters of Herendeen Bay south of a line from the northernmost tip of Black Point to Point Divide (55° 53.10' N. lat., 160° 47.30' W. long.);

(4) Inner Port Moller Bay Section: all waters of Port Moller Bay enclosed by a line from Point Divide (55° 53.10' N. lat., 160° 47.30' W. long.) to Harbor Point (55° 54.90' N. lat., 160° 34.70' W. long.);

(5) Outer Port Moller Bay Section: all waters of the Port Moller District south and east of a line from Point Divide (55° 53.10' N. lat., 160° 47.30' W. long.) to the southernmost tip of Wolf Point on Walrus Island to the southernmost tip of Entrance Point (55° 58.70' N. lat., 160° 34.80' W. long.);

(6) Bear River Section: all Bering Sea waters between the longitude of Cape Seniavin (160° 08.80' W. long.), and the longitude of Wolf Point (160° 48.47' W. long.) on Walrus Island, excluding the waters of the Herendeen Bay, Deer Island-Mud Bay, Outer Port Moller Bay, and Inner Port Moller Bay Sections.

(k) Port Heiden District: all Bering Sea waters between the longitude of Cape Seniavin (160° 08.80' W. long.) and the latitude of Cape Menshikof (57° 31.33' N. lat.).

**5 AAC 27.606. Use of global positioning system (GPS)** In the Aleutian Island-Alaska Peninsula Area herring fishery, boundaries, lines, and coordinates are identified with the global positioning system (GPS). If the global positioning system is not operating, the boundaries, lines, and coordinates are as identified by ADF&G regulatory markers.

**5 AAC 27.610. Fishing seasons and periods for Alaska Peninsula-Aleutian Islands Area.** (a) In the Sand Point, Pavlof, King Cove, Amak, Port Moller, and Port Heiden Districts, herring may be taken from April 15 through July 15 (sac roe season) only during fishing periods established by emergency order.

(b) Repealed 4/2/88.

(c) Repealed 5/2/92.

(d) Repealed 5/31/98.

(e) In the Unimak, Akutan, Unalaska, Umnak, and Adak Districts, herring may be taken only during fishing periods established by emergency order as follow:

(1) in the sac roe fishery, from April 15 through 12:00 noon, June 24;

(2) in the food and bait fishery,

(A) by gillnets, from 12:00 noon June 24 through February 28; and

(B) by purse seines, from 12:00 noon July 1 through February 28.

(f) A CFEC permit holder must register with the department before participating in the food and bait fishery.

**5 AAC 27.630. Lawful gear for Alaska Peninsula-Aleutian Islands Area** Herring may be taken only by purse seines and gillnets.

**5 AAC 27.631. Gillnet specifications and operations for Alaska Peninsula-Aleutian Islands Area**

(a) In the herring gillnet fishery, the aggregate length of gillnets operated by a CFEC permit holder may not exceed 150 fathoms.

(b) The interim-use or entry permit holder must be physically present while the gillnet is being fished.

(c) Each drift gillnet in operation must have a buoy at one end and the opposite end must be attached to the fishing vessel. Each set gillnet in operation must be anchored and buoyed at both ends. Each buoy must be plainly and legibly marked with the permanent vessel license plate number (ADF&G number) of the vessel operating the gear. The buoy may bear only a single number and this number must be that of the vessel used in operating the gear. The numbers must be painted on the top one-third of the buoy in numerals at least four inches in height, one-half inch in width and in a color contrasting to that of the buoy. The buoy markings must be visible on the buoy above the water surface.

(d) In the Akutan and Unalaska Districts, notwithstanding 5 AAC 27.050

(c), gillnet mesh sizes up to three and one-half inches may be used.

**5 AAC 27.632. Seine specifications and operations for Alaska Peninsula-Aleutian Islands Area** During the herring sac roe season, a purse seine may not be more than 1,000 meshes in depth and more than 100 fathoms in length. During the herring food and bait season, a purse seine may not be more than 250 fathoms in length.

**5 AAC 27.640. Registration** In the Alaska Peninsula-Aleutian Islands Area, at least 48 hours before fishing, a commercial herring permit holder for seine or gillnet gear must register with the department the permit and the vessel that will be used in the commercial herring fishery by contacting, by telephone, the local representative of the department at one of the following department offices and supplying all requested information:

- (1) department office in Dutch Harbor;
- (2) department office in Cold Bay;
- (3) department office in Sand Point;
- (4) department office in Port Moller.

**5 AAC 27.650. Waters closed to herring fishing in Alaska Peninsula-Aleutian Islands Area.** (a) Herring may not be taken from June 25 through September 30 in the closed waters described in 5 AAC 01.375 and 5 AAC 09.350.

(b) Repealed 4/16/83.

**5 AAC 27.655. Dutch Harbor Food and Bait Herring Fishery Allocation Plan.** (a) The herring available for harvest in the Dutch Harbor food and bait herring fishery under 5 AAC 27.865(b)(4) shall be allocated as follows:

(1) 86 percent to the herring seine fishery;

(2) 14 percent to the herring gillnet fishery.

(b) Except as otherwise provided in this subsection, the allocations of herring to the herring seine fishery and to the herring gillnet fishery under (a) of this section are independent of each other. If the harvest by a fishery in a given year is greater than the amount allocated to that fishery under (a) of this section, the excess tonnage is subtracted from the following year's allocation to that fishery. If the harvest by a fishery in a given year is less than the amount allocated to that fishery under (a) of this section, no effect on future allocations to that fishery will occur. After July 5, if the herring gillnet fishery has not harvested the herring gillnet fishery allocation, the remaining herring gillnet fishery allocation may be harvested in either the herring gillnet fishery or the herring seine fishery, except that if the harvest by the herring seine fishery exceeds the herring seine fishery allocation on or before July 5, the excess amount harvested by the herring seine fishery will be subtracted from the remaining herring gillnet fishery allocation for that year after July 5 to establish the remaining allocation that may be harvested by either of the fisheries. If the harvest by the herring seine fishery exceeds the remaining allocation established under this subsection after July 5, the excess amount harvested by the herring seine fishery will be subtracted from the following year's herring seine fishery allocation specified in (a) of this section.

(c) In the Dutch Harbor food and bait fishery, the department may reserve up to 100 tons from the herring seine fishery allocation specified in (a) of this section for the purposes of an experimental herring seine and pound fishery conducted in compliance with the terms of a permit issued by the commissioner or commissioner's designee.

(d) For purposes of this section, "Dutch Harbor food and bait fishery" is the herring food and bait fishery that occurs during the seasons described in 5 AAC 27.610(e).

**5 AAC 27.657. Alaska Peninsula-Aleutian Islands Herring Management Plan** In the Adak District, the department shall manage the commercial herring fishery to allow a harvest of up to 500 tons, using seine or gillnet gear, in the waters of the state between 175° 30' W. long. and 177° W. long., from June 24 through February 28. The fishery will be conducted in compliance with the terms of a permit issued by the commissioner or the commissioner's designee.

**5 AAC 27.662. Buyer and tender reporting requirements for Alaska Peninsula-Aleutian Islands Area** In addition to the requirements of 5 AAC 39.130 (n), each tender operator and each buyer or the tender operator or buyer's agent shall report in person to

and register with a local representative of the department upon arrival in the registration area before commencing operations and before changing location of the operation. The buyer or the buyer's agent shall

(1) identify all vessels to be employed in transporting or processing herring and shall register those vessels with a local representative of the department located in the registration area before transporting or processing of herring;

(2) make daily reports of all herring purchased from fishermen, and other processing records as specified by a local representative of the department; and

(3) submit fish tickets before departure from the area and no later than 10 days after termination of buying operations in the area, or as otherwise specified by a local representative of the department.

**5 AAC 27.692. Herring pounds and other holding devices in the Alaska Peninsula-Aleutian Islands Area** In the Alaska Peninsula-Aleutian Islands Area, a herring pound or other holding device may be used to hold live herring before processing, only under the conditions specified in a commissioner's permit.

**Article 11. Statistical Area N - North Peninsula Area**  
**Repealed 5/11/85**

**Article 12. Bristol Bay Area (Registration Area T).**

**5 AAC 27.800. Description of Bristol Bay Area** The Bristol Bay Area has as its southern boundary a line extending west from Cape Menshikof at 57° 28.34' N. lat., 157° 55.84' W. long., and as its northern boundary a line extending west from Cape Newenham at 58° 38.88' N. lat., 162° 10.51' W. long., and as its western boundary the International Date Line in the Bering Sea.

**5 AAC 27.805. Description of Bristol Bay Area districts and sections.** (a) The Togiak District consists of all waters of Alaska between the longitude of the tip of Cape Constantine at 158° 53.50' W. long. and the longitude of the tip of Cape Newenham at 162° 10.51' W. long. Sections are as follows:

(1) Kulukak Section: all waters between the longitude of the tip of Cape Constantine and the longitude of the tip of Right Hand Point;

(2) Nunavachak Section: all waters between the longitude of the tip of Right Hand Point and the longitude of the tip of Rocky Point;

(3) Togiak Section: all waters between the longitude of the tip of Rocky Point and the longitude of the terminus of the Quigmy River;

(4) Hagemeister Section: all waters between the longitude of the terminus of the Quigmy River and the longitude of the tip of Asigyukpak Spit;

(5) Pyrite Point Section: all waters between the longitude of Asigyukpak Spit and the longitude of Cape Peirce;

(6) Cape Newenham Section: all waters between the longitude of the tip of Cape Peirce and the longitude of the tip of Cape Newenham;

(7) Egg Island Gillnet Section: all waters that are between the longitude of Right Hand Point at 159° 55.00' W. long. and the latitude of Egg Island at 58° 53.70' N. lat., 159° 44.06' W. long. and between the mainland shoreline and a line from 58° 53.70' N. lat., 159° 43.18' W. long. to 58° 50.57' N. lat., 159° 43.28' W. long. to 58° 47.90' N. lat., 159° 45.16' W. long. to 58° 45.20' N. lat., 159° 55.00' W. long.

(b) The Bay District consists of all waters of the Bristol Bay Area east of the longitude of the southernmost tip of Cape Constantine at 158° 53.50' W. long.

(c) The General District consists of all waters of the Bristol Bay Area west of the longitude of the southernmost tip of Cape Newenham at 162° 10.51' W. long.

**5 AAC 27.810. Fishing seasons and periods for Bristol Bay Area**

(a) In the Togiak and Bay Districts, herring may be taken by purse seines and hand purse seines from April 15 through June 1.

(b) In the Togiak and Bay Districts, herring may be taken by gillnets from April 15 through June 1.

(c) In the Togiak and Bay Districts, herring spawn on kelp may be taken from April 15 through June 30.

(d) In the Togiak and Bay Districts, herring and herring spawn on kelp may be taken only during periods established by emergency order.

(e) The seasons in (a) - (c) of this section may be modified in accordance with 5 AAC 27.865.

**5 AAC 27.830. Lawful gear for Bristol Bay Area.** (a) In the Togiak and Bay Districts, herring may be taken only by purse seines, hand purse seines, and gillnets.

(b) Herring spawn on kelp may be taken only by hand picking and by hand-operated rakes. Herring spawn on kelp may not be taken with the assistance of underwater breathing apparatus.

(c) Herring may be taken by trawls only during seasons established by emergency order.

**5 AAC 27.831. Gillnet specifications and operations for Bristol Bay Area.** (a) No single herring gillnet may exceed 100 fathoms in length, and the aggregate length of gillnets in use by a CFEC herring interim-use or limited entry permit holder may not exceed 100 fathoms.

(b) No more than 100 fathoms of herring gillnet may be operated from any herring fishing vessel.

(c) Each gillnet in operation must be buoyed at both ends. At least one buoy at each end of the net and at least one cork every 10 fathoms along the cork line must be plainly and legibly marked with the operator's five-digit CFEC permit serial number and the permanent vessel license plate (ADF&G) number of the vessel from which the gillnet is operated.

(d) Repealed 5/31/98.

(e) Repealed 2/23/2014.

(f) During an open herring fishing period, a vessel registered for herring net fishing may not have on board it, or have on board a vessel towed by it, more than 100 fathoms of herring gillnet gear in the aggregate. Any gillnet gear in excess of the legal limit under (b) of this section must be marked as specified in (c) of this section and sacked or bagged. The sack or bag must totally contain the net and must be securely closed.

(g) Repealed 5/31/98.

(h) Repealed 5/31/98.

(i) Notwithstanding 5 AAC 27.050(c), the mesh size of a herring gillnet may not be less than two and one-half inches and may not exceed four inches.

**5 AAC 27.832. Seine specifications and operations for Bristol Bay Area.** (a) A herring purse seine or hand purse seine

(1) may not exceed 100 fathoms in length; and

(2) may not be more than 630 meshes in depth.

(b) In the Togiak District, during the open herring fishing season described in 5 AAC 27.810, a herring fishing vessel may not have on board, or have on a vessel towed by it,

(1) more than a single herring purse seine as described in (a) of this section; or

(2) any other assembled purse seine gear as described in 5 AAC 39.105(d)(4).

(c) Unless otherwise specified by the commissioner by emergency order, herring may not be retained in a purse seine for more than 36 hours after the closure of a herring fishing period.

**5 AAC 27.833. Herring spawn on kelp harvest specifications and operations for Bristol Bay Area.** (a) Herring spawn may not be taken on transplanted or imported aquatic plants or any other substrate, except for kelp in its natural occurring state. Kelp plants used to take herring spawn may not be suspended from lines, frames, or other man-made devices.

(b) Only a holder of a valid CFEC Togiak herring spawn on kelp permit may participate in the Togiak District herring spawn on kelp fishery. Participation includes

harvesting herring spawn on kelp by hand or hand-held rake, placing the herring spawn on kelp in containers at the point of harvest, and transporting the containers of herring spawn on kelp to a registered buyer or tender.

(c) All herring spawn on kelp harvested in the Togiak District herring spawn on kelp fishery must be in containers at the close of the fishing period.

(d) A person who does not hold a CFEC Togiak District herring spawn on kelp permit may, in that fishery, only assist in the transportation of containers of herring spawn on kelp, and only after the close of the fishing period.

(e) For the purpose of this section, "container" means a boat, bucket, sack, or other object used to hold spawn on kelp for the purpose of transporting it to a registered buyer or tender.

**5 AAC 27.834. Togiak District Herring Spawn on Kelp Management Plan.** (a) The Togiak District herring spawn-on-kelp harvest may not exceed 350,000 pounds. A herring spawn-on-kelp harvest of 350,000 pounds is equivalent to the production from 1,500 short tons of herring. The biomass of herring that produces the equivalent of the herring spawn-on-kelp harvest must be included in the calculation of the exploitation rate on the herring population as specified in 5 AAC 27.865(b) (4).

(b) The department shall base an emergency order opening of the Togiak District herring spawn-on-kelp fishery on the density and distribution of observed spawn on kelp.

(c) The department shall implement a two- to three-year rotation of harvest areas.

(d) The department shall time each herring spawn-on-kelp harvest in order to ensure the best quality product.

**5 AAC 27.850. Closed waters in Bristol Bay Area.** (a) Metervik Bay is closed to herring fishing north of a line from a point at 58° 49.10' N. lat., 159° 47.25' W. long. to a point at 58° 49.97' N. lat., 159° 45.75' W. long. This closure does not apply to the taking of herring spawn on kelp.

(b) Ungalikthluk Bay is closed to the taking of herring north of a line from Rocky Point at 58° 53.25' N. lat., 160° 14.25' W. long. to a point at 58° 51.90' N. lat., 160° 09.75' W. long. This closure does not apply to the taking of herring spawn on kelp.

**5 AAC 27.862. Buyer reporting requirements for Bristol Bay Area** In addition to the requirements of 5 AAC 39.130

(n), a buyer or the buyer's agent shall report in person to and register with a local representative of the department upon arrival on the fishing grounds and before commencing operations. The buyer or the buyer's agent shall

(1) identify and describe all vessels to be employed in transporting or processing herring or herring spawn on kelp;

(2) report daily all herring or herring spawn on kelp purchased from fishermen, or

other processing records as specified by a department representative; and

(3) submit fish tickets before departure from the area and no later than 10 days after termination of buying operations in the area, or as otherwise specified by a local representative of the department.

### **5 AAC 27.865. Bristol Bay Herring Management Plan**

(a) When managing the Bristol Bay commercial herring fishery, the primary objectives of the department are to prosecute an orderly and manageable fishery, while striving for the highest level of product value with a minimum of waste.

(b) To ensure that no gear group is totally disadvantaged, the Board of Fisheries directs the department to take the following actions given the specified circumstances:

(1) when circumstances preclude the department from adequately assessing the biomass, the fishery must be managed for an exploitation based on the preseason projected return;

(2) whenever possible, openings for both gear types must begin during the hours of daylight, and special consideration will be given to afford the maximum amount of daylight;

(3) the department may allow only one gear type to operate in an area during any open period;

(4) the maximum exploitation rate for the Bristol Bay herring stock is 20 percent; before opening the Togiak District herring fishery for sac roe and other herring products, the department shall set aside approximately 1,500 short tons for the Togiak District herring spawn-on-kelp fishery, and seven percent of the remaining available harvest for the Dutch Harbor food and bait fishery; if the actual harvest is less than the herring spawn-on-kelp guideline harvest level, the commissioner may reallocate 50 percent of the remainder to the Togiak District herring fishery;

(5) 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; 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;

(6) if a manageable separation of the year classes occurs, an exploitation rate of up to 20 percent may be allowed on the younger age herring (four years or less), and no fishery may be considered if this recruit population is less than 20,000 short tons;

(7) late season (post-peak) herring fishery openings must be based on one or more of the following criteria:

(A) a definable increase in the biomass of herring present on the fishing grounds;

(B) a major shift in the age composition of the herring in a definable biomass that is large enough to allow a harvest.

**Article 13. Kuskokwim Area (Registration Area W).**

**5 AAC 27.870. Description of Kuskokwim Area** The Kuskokwim Area has as its southern boundary a line extending west from Cape Newenham and as its northern boundary a line extending west from Naskonat Peninsula at 60° 58.17' N. lat., 165° 11' W. long., and as its western boundary the International Date Line in the Bering Sea.

**5 AAC 27.875. Description of Kuskokwim Area districts.** (a) The Security Cove District consists of the waters between the latitude of Cape Newenham and the latitude of the Salmon River (58° 51.83' N. lat.).

(b) The Goodnews Bay District consists of that portion of Goodnews Bay inside a line between the northernmost tip of South Spit (59° 02.92' N. lat., 161° 49.08' W. long.) and the southernmost tip of North Spit (59° 03.58' N. lat., 161° 49.17' W. long.) and a line between the mouth of Ukfigag Creek (59° 04.17' N. lat., 161° 36' W. long.) and the mouth of the Tunulik River (59° 08' N. lat., 161° 37' W. long.).

(c) The Nelson Island District consists of the waters north of the latitude of Chinigyak Cape (60° 27' N. lat.) and east of the longitude of Atrnak Point (165° 15' W. long.) (approximately two miles west of Umkumiut), and all waters north of the latitude of Talurarevuk Point (60° 35' N. lat.) and south of the latitude of the southernmost tip of Chinit Point (60° 36' N. lat.) and east of 165° 30' W. long., and all waters north of the latitude of the northernmost tip of Chinit Point (60° 37' N. lat.) and south of the latitude of the southeasternmost tip of Kigigak Island (60° 49' N. lat.) and east of 165° 30' W. long.

(d) The Nunivak Island District consists of the waters extending three miles seaward of mean low water from Kikoojit Rocks (60° 20' N. lat., 166° 40' W. long.) to Cape Mendenhall (59° 45.17' N. lat., 166° 07' W. long.).

(e) The Cape Avinof District consists of the waters extending landward of Kikegtek, Pingurbek, and Kwigluk Islands and north of the latitude of the southernmost tip of Kwigluk Island (59° 42' N. lat.), from the longitude of Ishkowik River (162° 44' W. long.) to the latitude of Tern Mountain (60° 42' N. lat.), to a point at 60° 42' N. lat., 164° 14' W. long., then to the northernmost tip of Kikegtek Island.

**5 AAC 27.880. Fishing seasons and periods for Kuskokwim Area** In the Kuskokwim Area districts, herring may be taken only from May 1 through June 30 and only during periods established by emergency order.

**5 AAC 27.885. Lawful gear for Kuskokwim Area** In the Kuskokwim Area, herring may be taken only by set and drift gillnets, except that in the Nunivak Island District herring may also be taken by purse seine.

**5 AAC 27.887. Seine specifications and operations for Kuskokwim Area.** (a) A herring purse seine may not exceed 100 fathoms in length and may not be more than 625 meshes in depth, of which no more than 600 meshes may have a mesh size larger than one and one-half inches.

(b) In the Nunivak Island District, during the open herring fishing season described in 5 AAC 27.880, a herring fishing vessel may not have on board, or have on a vessel towed by it

(1) more than a single herring purse seine as described in (a) of this section; or

(2) any other assembled purse seine as described in 5 AAC 39.105(d)(4).

(c) Herring may not be retained in a purse seine for more than 36 hours after the closure of a herring fishing period.

**5 AAC 27.888. Gillnet specifications and operations for Kuskokwim Area.** (a) No single herring gillnet may be less than 50 fathoms in length, unless the gillnet is attached to a commercial herring fishing vessel and the gillnet is personally attended by a herring interim-use or entry permit holder. The aggregate length of herring gillnet in use by a herring interim-use or entry permit holder may not exceed 100 fathoms in length. No more than 100 fathoms of herring gillnet and no more than two gillnets may be on board or operated from any commercially licensed herring fishing vessel, except that no more than 50 fathoms and one gillnet may be on board or operated from any vessel taking or attempting to take herring during periods specified by emergency order for the reduced gear length.

(b) Each gillnet in operation must be buoyed at both ends and at least one buoy must be plainly and legibly marked with the permittee's herring interim-use or entry permit number.

(c) A vessel used to take herring or a vessel towed by it may have on board no more than one legal limit of gear in the aggregate, except that it may have on board sufficient unhung gear for mending purposes.

(d) Notwithstanding 5 AAC 27.050

(c), the mesh size of a herring gillnet in the Kuskokwim Area may not exceed three and one-half inches or be less than two and one-half inches.

**5 AAC 27.890. Waters closed to herring fishing in Kuskokwim Area.** (a) Herring may not be taken for commercial purposes in any waters of the Kuskokwim Area that are not described in 5 AAC 27.875.

(b) Herring spawn on kelp and herring spawn on any other substrate may not be taken for commercial purposes in any waters of the Kuskokwim Area.

**5 AAC 27.893. Vessel specifications and operations for Kuskokwim Area.** (a) In the Goodnews Bay, Nelson Island, and Cape Avinof Districts, a vessel used to take herring may not be more than 30 feet in overall length. For the purpose of this section, "overall length" means the straight-line measurement between the extremities of the vessel.

(b) In the Nelson Island, Goodnews Bay, and Cape Avinof Districts, a vessel used to take herring may not have on board any mechanical device designed to shake or dislodge herring from a gillnet.

**5 AAC 27.895. Harvest strategy for Kuskokwim Area.** (a) In the Cape Avinof District, the department shall manage the commercial herring fishery for an exploitation rate not to exceed 15 percent of the estimated available biomass.

(b) Repealed 5/11/85.

(c) Repealed 5/11/85.

(d) In the Nelson Island District, the department shall manage the commercial herring fishery so that the combined commercial and subsistence herring harvest does not exceed a exploitation rate of 20 percent of the estimated available biomass. The subsistence portion of the combined subsistence and commercial harvest is 200 tons of herring.

**5 AAC 27.896. Buyer reporting requirements for Kuskokwim Area** In addition to the requirements in 5 AAC 39.130(n), a buyer or the buyer's agent shall report in person to a local representative of the department upon arrival on the fishing grounds and before commencing operations in any district in the Kuskokwim Area. The buyer or the buyer's agent shall

(1) identify and describe all vessels to be employed in processing or transporting herring in each district;

(2) report daily all herring purchased from fishermen or other processing records in each district as specified by a department representative; this may be a requirement for fish-tender operators if specified by a local department representative; and

(3) submit fish tickets before departure from each district and no later than 10 days after termination of buying operations in each district, or as otherwise specified by a local department representative.

**5 AAC 27.897. Possession of salmon** Salmon taken incidentally in conjunction with commercial herring fishing must be returned to the water.

**5 AAC 27.899. Superexclusive use areas in Kuskokwim Area.** (a) The Cape Avinof District is a superexclusive use area. The Nelson Island and Nunivak Island Districts are a combined superexclusive use area.

(b) A person who participates in the commercial taking of herring as a CFEC permit holder in a superexclusive use area at any time from February 1 through June 30 may not participate or have participated in the commercial taking of herring, either as a CFEC permit holder or a crewmember aboard a vessel used to take herring, in another superexclusive or nonexclusive use area at any time from February 1 through June 30 of that same year.

(c) A person who participates in the commercial taking of herring as a crewmember aboard a vessel that is used to take herring in a superexclusive use area at any time from February 1 through June 30 may not participate or have participated in the commercial taking of herring as a CFEC permit holder in another superexclusive or nonexclusive use area at any time from February 1 through June 30 of that year.

(d) A vessel used in the taking of herring in a superexclusive use area at any time from February 1 through June 30 may not be used or have been used in the taking of herring in another superexclusive or nonexclusive use area at any time from February 1 through June 30 of that year.

(e) Repealed 5/19/2004.

(f) Repealed 2/23/2014.

#### **Article 14. Bering Sea-Kotzebue Area (Registration Area Q).**

**5 AAC 27.900. Description of Bering Sea-Kotzebue Area** The Bering Sea-Kotzebue Area has as its southern boundary a line extending west from Naskonat Peninsula at 60° 58.17' N. lat., 165° 11' W. long. and as its northern boundary a line extending west from Point Hope, and as its western boundary the International Date Line in the Bering Sea and Chukchi Sea.

#### **5 AAC 27.905. Description of Bering Sea-Kotzebue Area districts and subdistricts.**

(a) The Cape Romanzof District consists of all waters between the latitude of Dall Point and 62° N. lat.

(b) The Norton Sound District consists of all waters between the latitude of the westernmost tip of Cape Douglas and the latitude of Point Romanof. Subdistricts are as follows:

(1) Subdistrict 1 consists of all waters south of the latitude of Spruce Creek (63° 40' N. lat.);

(2) Subdistrict 2 consists of all waters north of the latitude of Spruce Creek (63° 40' N. lat.) and south of the latitude of Junction Creek (64° 08' N. lat.), including all waters within three miles of Besboro Island;

(3) Subdistrict 3 consists of all waters north of the latitude of Junction Creek (64° 08' N. lat.), south of the latitude of Island Point (64° 32' N. lat.), and east of the longitude of the mouth of Kwiniuk River (162° 02' W. long.), excluding all waters within three miles of Besboro Island;

(4) Subdistrict 4 consists of all waters north of the latitude of Island Point (64° 32' N. lat.) and east of the longitude of the mouth of Kwiniuk River (162° 02' W. long.);

(5) Subdistrict 5 consists of all waters between the longitudes of the mouth of Kwiniuk River (162° 02' W. long.) and Cape Darby (162° 47' W. long.) and north of the latitude of Junction Creek (64° 08' N. lat.);

(6) Subdistrict 6 consists of all waters between the longitudes of Cape Darby (162° 47' W. long.) and Rocky Point (163° 08' W. long.) and north of the latitude of Junction Creek (64° 08' N. lat.);

(7) Subdistrict 7 consists of all waters west of the longitude of Rocky Point (163°

08' W. long.) and north of the latitude of Junction Creek (64° 08' N. lat.).

(c) The Port Clarence District consists of all waters between the latitude of Cape Douglas and the latitude of Cape Prince of Wales.

(d) The Kotzebue District consists of all waters between the latitude of Cape Prince of Wales and the latitude of Point Hope.

**5 AAC 27.910. Fishing seasons and periods for Bering Sea-Kotzebue Area.** (a) In the Cape Romanzof District herring may be taken only from May 1 through June 30 and only during periods established by emergency order.

(b) In the Norton Sound District, herring may be taken only as follows:

(1) from May 15 through June 30 (sac-roe season) and only during periods established by emergency order;

(2) in Subdistricts 1 - 6, from July 1 through November 15 (food and bait season);

(3) repealed 5/11/85;

(4) in Subdistrict 7, from June 15 through November 15 (food and bait season).

(c) In the Port Clarence and Kotzebue Districts, herring may be taken from April 15 through August 15 (sac-roe season) and from August 16 through November 15 (food and bait season), except that herring may not be taken during the open commercial salmon fishing season.

**5 AAC 27.930. Lawful gear for Bering Sea-Kotzebue Area.** (a) Herring may be taken by the gear specified for the following districts:

(1) Cape Romanzof District: gillnets;

(2) Norton Sound District: gillnets and beach seines;

(3) Port Clarence and Kotzebue Districts: gillnets, beach seines, and purse seines.

(b) Herring may be taken by trawls only during seasons established by emergency order.

**5 AAC 27.931. Gillnet specifications and operations for Bering Sea-Kotzebue Area.** (a) In the Bering Sea-Kotzebue Area, no more than 100 fathoms of herring gillnet in the aggregate and no more than two gillnets may be on board or operated from any vessel, or vessel in tow, that is taking or attempting to take herring, except that no more than 50 fathoms and one gillnet may be on board or operated from any vessel, or vessel in tow, that is taking or attempting to take herring during periods specified by emergency order for the reduced gear length. Unhung gear sufficient for mending purposes may be carried on board. A herring gillnet may not be longer than 50 fathoms, or deeper than 60 meshes.

(b) Repealed 6/2/88.

(c) Each gillnet in operation must be buoyed at both ends and at least one buoy must be plainly and legibly marked with the permittee's herring interim-use or entry permit number.

(d) At least one cork every 10 fathoms along the cork line must be plainly and legibly marked with the CFEC permit holder's herring interim-use or limited entry permit number, and with the vessel license plate (ADF&G) number of the vessel from which the gillnet is operated.

(e) Notwithstanding 5 AAC 27.050

(c), the mesh size of a herring gillnet in the Bering Sea-Kotzebue Area may not exceed three and one-half inches or be less than two and one-half inches.

**5 AAC 27.932. Seine specifications and operations for Bering Sea-Kotzebue Area** A seine may not be more than 850 meshes in depth and 150 fathoms in length, except that in the Norton Sound District a seine may not be more than 75 fathoms in length and 850 meshes in depth.

**5 AAC 27.934. Wild herring spawn-on-kelp harvest specifications and operations for the Norton Sound District.** (a) A person may take wild herring spawn on kelp (not in pounds) in the Norton Sound District only from Canal Point Light to Wood Point and only as follows:

(1) wild herring spawn on kelp may be taken only during periods established by emergency order;

(2) wild herring spawn on kelp may be taken only by hand picking and by a hand-held rake;

(3) only a holder of a valid CFEC Norton Sound limited entry or interim-use herring permit may harvest wild herring spawn on kelp under this section; participation includes harvesting wild herring spawn on kelp by hand or hand-held rake, placing wild herring spawn on kelp in containers at the point of harvest, and transporting the containers of wild herring spawn on kelp to a registered buyer or tender;

(4) a person that participates in the wild herring spawn-on-kelp fishery may not also participate in the gillnet, beach seine herring sac roe fishery, or the herring pound spawn-on-kelp fishery in the Norton Sound District during the same year;

(5) all wild herring spawn on kelp harvested in the Norton Sound District must be in containers at the close of the fishing period.

(b) For the purposes of this section, "container" means a boat, bucket, sack, tarp, or other object used to hold herring spawn on kelp for the purpose of transporting it to a registered buyer or tender.

**5 AAC 27.935. Vessel specifications and operations for Bering Sea-Kotzebue Area** In the Cape Romanzof District, a vessel used to take herring may not have on board any mechanical device designed to shake or dislodge herring from a gillnet.

**5 AAC 27.950. Waters closed to herring fishing in Bering Sea-Kotzebue Area**

(a) Repealed 5/19/2004.

(b) Repealed 5/11/85.

(c) The Port Clarence District east of a line from the northernmost tip of 4 Mile Point to the southernmost tip of Sunset Point is closed to the taking of herring.

(d) Herring may not be taken in any waters of the Bering Sea-Kotzebue Area that are not described in 5 AAC 27.905.

(e) The Cape Romanzof District is closed to the taking of herring spawn on kelp or any other substrate.

(f) Repealed 5/11/85.

(g) Repealed 5/11/85.

**5 AAC 27.960. Harvest strategy for Bering Sea-Kotzebue Area.** (a) The department shall manage the Norton Sound District herring sac roe fishery so that the seine harvest does not exceed 10 percent of the total herring sac roe harvest projection as published by the department. The board realizes that herring biomass projections, inseason assessments, and harvest monitoring by gear type are not accurate; therefore, the department may not adjust the harvest projection after it has been published.

(b) The harvest limit in Subdistrict 7 of the Norton Sound District from September 1 through November 15 is 10 metric tons of herring.

(c) Repealed 5/11/85.

(d) Repealed 5/11/85.

(e) Repealed 5/11/85.

(f) Repealed 5/11/85.

(g) The department shall manage the Port Clarence District herring sac roe fishery so that 10 percent of the available harvest is reserved for the herring food and bait fishery.

(h) In the Norton Sound District, the guideline harvest level for the wild herring spawn-on-kelp fishery described in 5 AAC 27.934, is 30 metric tons.

**5 AAC 27.965. Management Plan for Herring Pound Spawn-On-Kelp Fishery in the Norton Sound District.** (a) The purpose of this management plan is to establish criteria for the herring pound spawn-on-kelp fishery in the Norton Sound District.

(b) The commissioner, or the commissioner's designee, shall issue a permit for participation in the herring pound spawn-on-kelp fishery if

(1) an applicant holds a valid Norton Sound herring gillnet or beach seine CFEC interim-use permit or limited entry permit; and

(2) an applicant applies for the herring pound spawn-on-kelp permit before April 16 of each calendar year.

(c) A permit holder that participates in the herring pound spawn-on-kelp fishery may not also participate in the wild herring spawn-on-kelp fishery or the gillnet or beach seine sac roe herring fishery in the Norton Sound District during the same year.

(d) The herring allocation for the herring pound spawn-on-kelp fishery may not be more than 320 tons of herring. The department shall deduct this allocation from the total annual herring harvest projection before determining the seine harvest allocation under 5 AAC 27.960.

(e) The herring spawn-on-kelp guideline harvest level may not be more than 90 tons. The herring spawn-on-kelp guideline harvest level includes the combined weight of herring eggs and kelp.

(f) The department shall manage the herring pound spawn-on-kelp fishery to achieve the spawn-on-kelp guideline harvest level by restricting the number of blades of kelp that may be suspended from a herring pound as follows:

(1) no more than a total of 75,000 blades of kelp are allowed in the herring pound spawn-on-kelp fishery; and

(2) the maximum number of blades of kelp any permit holder may attach to a herring pound is 3,000; if more than 25 permits are issued for the herring pound spawn-on-kelp fishery, the department shall determine the number of blades of kelp a permit holder may attach to a herring pound by dividing 75,000 by the number of permits issued.

(g) Before a permit holder attaches kelp to a herring pound, the permit holder must plainly and legibly mark the permit holder's name and five digit CFEC permit number in a conspicuous place on the herring pound. After fishing commences until the season is closed, the CFEC permit number marked on a herring pound may be changed. For purposes of this subsection, fishing commences when a permit holder first attaches kelp to the herring pound in the water.

(h) Only one permit holder may operate a herring pound at a time.

(i) The permit holder must be physically present at any time when kelp is being attached to the herring pound and when herring spawn on kelp is harvested from the herring pound. The permit holder shall weigh the spawn on kelp when it is removed from the herring pound and provide that information to a local representative of the department who is designated as a catch monitor for the fishery.

(j) Before the herring pound spawn-on-kelp permits are issued, the commissioner may specify on the permits any other criteria that the commissioner determines is necessary for the conservation and management of herring and kelp and the herring pound spawn-on-kelp fishery.

(k) After a person removes the spawn-on-kelp from the herring pound, the person shall maintain the pound structure at its present fishing location for not less than four weeks in its original configuration with adequate water circulation on all sides to optimize egg hatching. Not later than six weeks after a person removes the spawn on kelp from a structure, the person shall remove the structure and leads from the water.

(l) Repealed 5/19/99.

(m) For the purposes of this section, a "herring pound" is a structure or a means of suspending kelp in the water to provide spawning substrate for herring to be harvested as spawn on kelp. The structure may not have an enclosure, but may have two leads. A lead may not be more than 300 feet in length measured from shore to a point on the structure. The lead shall consist of a seine weight net with meshes of not more than two inches stretched measure, a cork line, a lead line, and anchors at either end.

**5 AAC 27.970. Buyer reporting requirements for Bering Sea-Kotzebue Area** In addition to the requirements of 5 AAC 39.130(n), a buyer or the buyer's agent shall report in person to a local representative of the department upon arrival on the fishing grounds and before commencing operations in the Cape Romanzof and Norton Sound Districts and in person, by radio or telephone, upon arrival on the fishing grounds and before commencing operations in the Port Clarence and Kotzebue Districts. The buyer or the buyer's agent shall

(1) identify and describe all vessels to be employed in processing or transporting herring or herring spawn on kelp in each district;

(2) report daily all herring or herring spawn on kelp purchased from fishermen or other processing records in each district as specified by a department representative; this may be a requirement for fish-tender operators if specified by a local department representative; and

(3) submit fish tickets before departure from each district and no later than 10 days after termination of buying operations in each district or as otherwise specified by a local department representative.

**5 AAC 27.971. Harvest of bait by commercial permit holders in Bering Sea-Kotzebue Area**

(a) The holder of a valid CFEC interim use or limited entry permit may take but may not sell herring for use as bait in the commercial fishery for which the permit is held as follows:

(1) except as provided in (3) of this section, herring may be taken at any time;

(2) herring may be taken only by gillnet or beach seine as described in 5 AAC

27.931 and 5 AAC 27.932;

(3) in the 72 hours before, during, and 72 hours after an open commercial herring fishing period in the Bering Sea-Kotzebue Area, a vessel or crewmember or permit holder that participates in that commercial herring fishery opening may not take or possess herring under this section in any subdistrict in the Bering Sea-Kotzebue Area;

(4) a person or vessel may not take more than one ton of herring under this section in a calendar year unless that person or vessel first applies for and receives from the department a permit authorizing the person or vessel to do so.

(b) A permit issued under (a) (4) of this section may require a permittee to report to the department the amount of herring taken under the permit.

**5 AAC 27.980. Possession of salmon** Salmon taken incidentally in conjunction with commercial herring fishing must be returned to the water.

**5 AAC 27.987. Superexclusive use areas in Bering Sea-Kotzebue Area.** (a) The Cape Romanzof and Norton Sound Districts are superexclusive use areas.

(b) A person who participates in the commercial taking of herring as a CFEC permit holder in a superexclusive use area at any time from February 1 through June 30 may not participate or have participated in the commercial taking of herring, either as a CFEC permit holder or a crewmember aboard a vessel used to take herring, in another superexclusive or nonexclusive use area at any time from February 1 through June 30 of that same year.

(c) A person who participates in the commercial taking of herring as a crewmember aboard a vessel that is used to take herring in a superexclusive use area at any time from February 1 through June 30 may not participate or have participated in the commercial taking of herring as a CFEC permit holder in another superexclusive or nonexclusive use area at any time from February 1 through June 30 of that year.

(d) A vessel used in the taking of herring in a superexclusive use area at any time from February 1 through June 30 may not be used or have been used in the taking of herring in another superexclusive or nonexclusive use area at any time from February 1 through June 30 of that year.

**NOTES:**

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**Chapter 39. General Provisions.****Article 1. General**

**5 AAC 39.001. Application of this chapter.** Unless otherwise specified in this section or 5 AAC 01 - 5 AAC 77, requirements in this chapter apply to commercial fishing only, except that 5 AAC 39.002 and 5 AAC 39.999 apply to all of 5 AAC 01 - 5 AAC 77. Subsistence, personal use, and sport fishing regulations affecting commercial fishing vessels or affecting any other commercial fishing activity are set out in the subsistence fishing regulations in 5 AAC 01 and 5 AAC 02, personal use regulations in 5 AAC 77, and sport fishing regulations in 5 AAC 47 - 5 AAC 75.

**5 AAC 39.002. Liability for violations.** Unless otherwise provided in 5 AAC 01 - 5 AAC 41 or in AS 16, a person who violates a provision of 5 AAC 01 - 5 AAC 41 is strictly liable for the offense, regardless of his intent.

**5 AAC 39.010. Retention of fish taken in a commercial fishery.** (a) A person engaged in commercial fishing may retain fish from lawfully taken commercial catch for that person's own use, including for the use as bait in a commercial fishery. Fish retained under this section may not be sold or bartered.

(b) Except as otherwise specified in 5 AAC 01 - 5 AAC 39, a commercial fisherman shall report on an ADF&G fish ticket, at the time of delivery of the commercial catch, the number of steelhead retained from the commercial catch but not sold. For the purposes of this subsection, "delivery" means the offloading of the finfish for sale or for transport to a buyer for later sale.

**5 AAC 39.110. Crewmember fishing license requirements** (a) Each commercial fisherman who does not hold a valid interim-use or entry permit card issued by the Commercial Fisheries Entry Commission shall obtain a crewmember fishing license before fishing in any waters of Alaska. A crewmember fishing license is not required for the holder of a valid interim-use or entry permit card.

(b) Repealed 8/15/2008.

(c) A crewmember licensee who does not hold a valid CFEC permit may crew in any fishery if he or she is working for the holder of a valid CFEC permit for that fishery who is operating the fishing gear in the manner described in 5 AAC 39.107.

(d) A valid interim-use or entry permit card holder may crew in any fishery.

(e) In this section, "crew" means the activities of a commercial fisherman as defined in AS 16.05.940(4), who is actively engaged in the operation of fishing gear that is being operated in the manner described in 5 AAC 39.107.

(f) Each holder of a commercial fishing license, as required in AS 16.05.480(a), who is 16 years of age or older and participating in a commercial fishery in which crewmember participation is restricted by exclusive or superexclusive area registration requirements

shall possess an identification card that has been issued to the commercial fishing license holder by a state or federal agency or other organization specified by the Department of Public Safety that bears a photograph of the commercial fishing license holder.

(g) The department will issue a duplicate crewmember license to a person whose crewmember license has been lost or destroyed and who submits a request for a duplicate crewmember license on a form prescribed by the department along with a \$5 duplicate crewmember license fee.

**5 AAC 39.111. Personal identification required** A person who is in possession of a CFEC interim-use or entry permit card shall, upon the request of a buyer of fish or a peace officer of the state, present the personal identification required under AS 16.10.267(a)(2) to establish that the permit card is in the possession of the person to whom the permit card is issued.

**5 AAC 39.112. Use of net pens and other holding devices** A net pen or other holding device may be used to hold live

**5 AAC 39.119. Vessel identification** (a) Unless otherwise specified, a commercial fishing vessel required to be licensed under AS 16.05.490 must display its permanent vessel license plate number

(1) in permanent symbols at least 12 inches high and with lines at least one inch wide that contrast with the background;

(2) on both sides of the hull, cabin, or mast;

(3) in a manner such as to be plainly visible and unobscured; and

(4) at all times when registered to fish.

(b) Repealed 10/1/98.

(c) The following vessels are exempt from the requirements of this section:

(1) those exempt from licensing under AS 16.05.495;

(2) seine skiffs operating with a seine vessel;

(3) repealed 2/10/2005.

**5 AAC 39.120. Registration of commercial fishing vessels** (a) A person who owns a commercial fishing vessel or that person's authorized agent shall register that vessel by completing a vessel license application or renewal form and submitting it to the Commercial Fisheries Entry Commission, unless the vessel is not required to be licensed under AS 16.05.495. Vessel registration is required before fishing or transporting

unprocessed fish in any waters of Alaska. A vessel, if it is in compliance with all regulations governing registration and if it displays a license issued under AS 16.05.530, unless the vessel is not required to be licensed under AS 16.05.495, is considered to be registered under the laws of the state and may take or transport unprocessed fish. It is unlawful to take, attempt to take, or possess unprocessed fish aboard a vessel in the waters of Alaska unless the vessel is registered under the laws of the state. For purposes of this subsection,

(1) "employ," as used in AS 16.05.475, means taking or attempting to take fish, or transporting fish which have been taken or any operation of a vessel aiding or assisting in the taking or transporting of unprocessed fish;

(2) "in compliance with all regulations governing registration" includes vessel registration required by 5 AAC 28.020, 5 AAC 31.020, 5 AAC 31.030, 5 AAC 32.020, 5 AAC 32.030, 5 AAC 34.020, 5 AAC 34.030, 5 AAC 35.020, 5 AAC 35.030, 5 AAC 38.020, and 5 AAC 38.030, and includes district or subdistrict registration requirements of 5 AAC 03 - 5 AAC 38, and includes the provisions of this section;

(3) "registered under the laws of the state" means that a vessel displays a license described in 20 AAC 05.1958 and issued under AS 16.05.530, unless the vessel is not required to be licensed under AS 16.05.495, and that the registration provisions of 5 AAC 03 - 5 AAC 39 have been complied with and evidence of compliance is immediately available at all times during fishing or transporting operations, and can be shown upon request to an authorized representative of the department.

(b) Area registration requirements for shellfish vessels are as specified in the registration regulations in 5 AAC 31 - 5 AAC 38.

(c) Area registration requirements for salmon net fishing vessels are as follows:

(1) a person who owns a fishing vessel to be used to take salmon with net gear, or his authorized agent, shall register for an area by designating on the vessel license application or renewal form the vessel's one area of intended salmon net gear operation for the year; it is unlawful for a vessel to engage in salmon net fishing in an area other than the single area selected;

(2) in this section the term "area" means any registration area listed in (d) of this section, except that

(A) in salmon net Registration Area T, a vessel must also be registered by the department for a fishing district as required by 5 AAC 06.370;

(B) in salmon net Registration Area Y, a vessel must also be registered by the department for a fishing district as required by 5 AAC 05.370;

(C) a purse seine vessel registered for salmon net Registration Area M is also registered to operate purse seine gear in Registration Area F during the same registration year;

(3) a vessel registered for an area of salmon net fishing in compliance with (c)(1) of this section will be issued, by the Commercial Fisheries Entry Commission, a vessel license area tab for that year; it is unlawful for a vessel to fish in the area of registration unless the vessel displays the area tab on the vessel license number plate; no vessel owner or operator may possess for each vessel, or no vessel may display, more than one vessel license area tab;

(4) a person who owns a fishing vessel registered for an area of intended operation in compliance with (c)(1) of this section or his authorized agent may register it for a different salmon net registration area under the following conditions:

(A) the reregistration of a salmon net fishing vessel shall be authorized by the

(i) commissioner upon receipt of proof in writing that the vessel has been lost through sinking, destruction, or extensive mechanical breakdown, or that the vessel operator has suffered serious injury, sickness or death during the open season; or

(ii) Commercial Fisheries Entry Commission upon receipt of a written certification or personal affidavit stating that the vessel has not been used for salmon net fishing in the original area of registration during the current registration year;

(B) a person authorized to reregister a vessel must complete a reregistration form issued by the Commercial Fisheries Entry Commission and submit it to the commissioner together with any previously issued vessel license area tab;

(C) it is unlawful for a vessel to fish in the area of reregistration unless the vessel displays the appropriate area tab on the vessel license number plate;

(D) area reregistration under this section shall supersede the original area registration as if the original area registration had never been made;

(E) once a vessel has reregistered for another net registration area to replace a lost vessel, that vessel can not transfer back to its original net registration area during that season;

(5) repealed 4/16/83.

(d) Salmon net gear registration areas are as follows:

<b>Code Letter</b>	<b>Area</b>
<b>A</b>	Southeastern Alaska Area (5 AAC 33.100)
<b>D</b>	Yakutat Area (5 AAC 30.100)
<b>E</b>	Prince William Sound Area (5 AAC 24.100) and the Yakataga District of the Yakutat Area (5 AAC 30.200(a))
<b>F</b>	Atka-Amlia Islands Area (5 AAC 11.101)
<b>H</b>	Cook Inlet Area (5 AAC 21.100)
<b>K</b>	Kodiak Area (5 AAC 18.100)
<b>L</b>	Chignik Area (5 AAC 15.100)
<b>M</b>	Aleutian Islands and Alaska Peninsula Areas (5 AAC 12.100 and 5 AAC 09.100) and, from August 1 through August 31, the Atka-Amlia Islands Area (5 AAC 11.101) for purse seine gear only
<b>T</b>	Bristol Bay Area (5 AAC 06.100) and January 1 through December 31, the Cinder River and Inner Port Heiden Sections of the Alaska Peninsula Area and August 1 through December 31, that portion of the Ilnik Section within Ilnik Lagoon and all waters inside the Seal Islands of the Alaska Peninsula Area (5 AAC 09.200(a)(1) - (3))
<b>W</b>	Kuskokwim Area (5 AAC 07.100)
<b>X</b>	Arctic-Kotzebue Area (5 AAC 03.100)
<b>Y</b>	Yukon Area (5 AAC 05.100)
<b>Z</b>	Norton Sound-Port Clarence Area (5 AAC 04.100)

(e) Evidence of proper registration or licensing must be kept immediately available at all times during fishing operations and must be shown upon request to any peace officer of the state.

(f) The provisions of this section do not apply to halibut fishing.

(g) Repealed 10/1/98.

**5 AAC 39.123. Late registration** (a) To qualify for an extension of a registration or permit deadline set out in 5 AAC 01 - 5 AAC 39, a person must show that the person had demonstrated an intent to harvest fish before the deadline. An "intent to harvest fish" may be demonstrated by

(1) renewing or applying for, before the deadline, a CFEC permit which is effective in the fishery and area for which extension is being requested;

(2) participation during the previous season in the fishery in the requested area, unless entry into the fishery is limited and the person did not own a permit for that season;

(3) purchasing or showing intent to purchase a vessel, permit, or fishing gear for the fishery before the deadline;

(4) showing intent to start, starting, or completion of vessel or gear repair or maintenance for the fishery before the deadline; or

(5) any other written documentation, such as loan applications, agreements with fish buyers, license applications, or other writings, which indicate the necessary intent to participate in the fishery before the deadline.

(b) In addition to (a) of this section, a person must demonstrate that failure to apply before the deadline was a result of excusable neglect. "Excusable neglect" may be demonstrated by

(1) loss of registration or permit form in the mail, or other documentation which may demonstrate excusable carelessness or inattention on the part of authorized agents or other third parties;

(2) receipt of incorrect information from a department official, which is substantiated by the appropriate official;

(3) illness or injury of the individual or a member of his family that was serious enough to prevent him from meeting the deadline;

(4) required government or military service; or

(5) written documentation that will substantiate other unavoidable circumstances that prevented meeting the deadline.

**5 AAC 39.124. Landing permits** Repealed.

**5 AAC 39.128. Reporting requirements for unlicensed commercial fishing vessels in the waters of Alaska** (a) Before entering the waters of Alaska,

(1) an operator of an unlicensed commercial fishing vessel shall report by telephone, and shall leave a recorded report at a telephone number designated by the department for that purpose, or shall report by other means specified by the department. A report under this section must

(A) identify the vessel and vessel operator;

(B) certify that no unprocessed fish are on board the vessel;

(C) include the destination, travel route, and dates of transit; and

(D) include the quantity, species, and the location from which the fish were taken if any processed fish are on board the vessel.

(b) The commissioner may, upon request by a local representative of the department, waive all or part of the requirements of this section if the commissioner determines that compliance with this section is not necessary for conservation, management, or enforcement in a designated geographical area.

(c) For the purposes of this section,

(1) "commercial fishing vessel" means a floating craft powered, towed, rowed, or otherwise propelled, which is used for or equipped to be used for

(A) commercial fishing;

(B) fish processing;

(C) fish transport; or

(D) fish storage, including temporary storage;

(2) "unlicensed" means not licensed under AS 16.05.490 - 16.05.530.

**5 AAC 39.130. Reports required of fishermen, processors, buyers, exporters, and operators of certain commercial fishing vessels; transporting requirements (a)**

Before operating during a calendar year, an individual, company, firm, or other organization that is a first purchaser, catcher-exporter, catcher-processor, or catcher-seller shall submit to the department a completed intent to operate application provided by the department or available online, together with a \$25 processing fee for each individual, company, firm, or other organization identified in the application; the fee is not required of an applicant that paid the annual fee required by AS 43.75.020(a). The individual, company, firm, or other organization may begin to operate only after receiving authorization from the department to begin operating, along with the individual's or organization's processor code for the current year.

(b) An individual, company, firm, or other organization described in (a) of this section that intends or is required to use the eLandings Electronic Reporting System shall access the system by completing an operator documentation and user agreement on the Interagency eLandings Electronic Reporting System's website. In addition to the other requirements of this section, an individual, company, firm, or other organization described in (a) of this section that the commissioner determines has submitted at least 2,000 salmon harvest fish tickets or bought more than 20 million pounds of salmon during any of the previous three calendar years shall thereafter use the eLandings Electronic Reporting System for all salmon delivered to a tender vessel, floating processor, or shorebased processor. In addition to the other requirements of this section, a

first purchaser shall use the eLandings application for all groundfish delivered to a tender vessel.

(c) An individual, company, firm, or other organization described in (a) of this section shall record each delivery on an ADF&G fish ticket. A fish ticket must be completed for all fish or byproducts of fish harvested in the waters of Alaska and for all fish or byproducts of fish harvested in waters outside of the waters of Alaska and offloaded or processed in the waters of Alaska. Fish tickets for each fishery must be finalized and submitted to a local representative of the department not later than seven days after a delivery or partial delivery, or as otherwise specified by the department, such as for each vessel trip. The operator of a vessel that has harvested fish in the waters of Alaska and whose port of delivery is outside this state, or who sells, transfers, receives, or delivers fish in the Exclusive Economic Zone (EEZ), shall submit a completed hailed weight fish ticket or a fish ticket to the department before the fish are transported out of the jurisdiction of this state. At the time of delivery or partial delivery, or as otherwise directed by the department, fish tickets must include the following information:

(1) the name and signature of the applicable individual, company, firm, or other organization described in (a) of this section;

(2) the name and signature of the CFEC permit holder that operated the unit of gear with which the fish were taken;

(3) the processor code imprinted on the fish ticket from the code plate issued by the department, the processor code handwritten on the fish ticket if instructed by an authorized representative of the department, or the electronically captured information from the eLandings Electronic Reporting System, except that if a catcher-seller is shipping fish to a fisheries business, the fisheries business must imprint the fish ticket, or electronically capture the information on the eLandings Electronic Reporting System, with the processor code of the fisheries business; in this paragraph, "fisheries business" has the meaning given in AS 43.75.290;

(4) the name, or the United States Coast Guard number or Department of Transportation number, of the vessel employed in taking the fish, if applicable;

(5) the date fishing gear was deployed and the date the delivery or partial delivery of the fish is completed;

(6) the permanent ADF&G vessel license plate number, if applicable;

(7) the type of gear by which the fish were taken by the gear code number specified by the department;

(8) the statistical areas, districts, and subdistricts in which the fish were taken and, if required by a local representative of the department, the nearest headland or bay in which the fish were taken;

(9) the pounds, including any applicable weight modifier such as with ice and slime, delivery condition code, and disposition code, including any applicable overage code, of fish by species, except that

(A) for salmon and crab, the number is also required;

(B) for herring, only the weight, in pounds or tons, and delivery condition are required;

(10) an indication of a partial delivery, including a partial delivery of groundfish as specified in 5 AAC 28.070(f), if applicable;

(11) the CFEC permit number of the operator of the unit of gear with which the fish were taken, imprinted on the fish ticket from the valid permit card or electronically captured from the valid permit card; the imprinting requirement under this paragraph may be suspended by a local representative of the department after presentation by the commercial fisherman of the operator's permit application validated by CFEC or documentation from the department or CFEC that the permit card has been damaged, lost, or stolen; if a suspension is granted, the buyer or commercial fisherman must handwrite the name of the permit holder, the permit holder's permit number, and, if applicable, the permanent ADF&G vessel license plate number on the fish ticket, and attach a copy of the supporting documentation;

(12) the number or pounds of fish by species retained by a commercial fisherman for that person's own use, if applicable;

(13) the number of licensed crewmembers, including the vessel operator, if applicable;

(14) the number of certified onboard observers, if applicable;

(15) the management program code, if using the eLandings Electronic Reporting System;

(16) the permanent ADF&G vessel license plate number of the tender vessel, if applicable;

(17) for a dual permit, the second CFEC permit number, if required by the department;

(18) any other information that the commissioner determines is necessary.

(d) A person may not possess a fish ticket that has been imprinted with a CFEC permit number until the time of delivery or partial delivery.

(e) A buyer of fish harvested through a CDQ program, as described in 6 AAC 93, shall electronically submit a fish ticket at least one time per week. The buyer may use the

consolidated fish ticket feature in the eLandings Electronic Reporting System, including seaLandings, to generate the fish ticket. In this subsection, "week" means a seven-day period of time that begins on Sunday and ends on Saturday.

(f) An individual, company, firm, or other organization described in (a) of this section shall furnish, verbally or in writing, purchasing, production, or other information as required by the commissioner.

(g) Not later than April 1, a first purchaser, catcher-exporter, or catcher-processor that has been assigned a processor code under (a) of this section shall submit a Commercial Operator's Annual Report (COAR), which is an operator's accurate and complete summary of activity for each intent to operate application approved by the department for the previous year, or a signed statement of nonactivity for the previous year, on a form provided by the department or available online. The department will not authorize operations for the current year to an applicant that has not submitted all COAR reports due under this section for any previous year.

(h) A commercial fisherman shall furnish to the buyer information necessary for completion of reports required by the commissioner.

(i) An individual, company, firm, or other organization described in (a) of this section using the eLandings Electronic Reporting System must electronically submit the initial landing report at the completion of a delivery or partial delivery, and submit to the department the final landing report and a copy of the fish ticket generated and printed from the eLandings Electronic Reporting System not later than seven days after the delivery or partial delivery.

(j) A commercial fisherman shall submit to the department verbally, in writing, or electronically through the eLandings Electronic Reporting System, directly or through the buyer, information necessary for reports required by the commissioner.

(k) Unless otherwise specified in this chapter, in addition to other requirements of this section, each person that is the first purchaser of or that first processes raw groundfish or halibut shall comply with the record keeping and electronic reporting requirements through the eLandings Electronic Reporting System and any other reporting requirements in 50 C.F.R. 679.5, revised as of October 1, 2013.

(l) The commissioner may, by emergency order, close a fishing season and immediately reopen a fishing season during which a different reporting requirement is in effect.

(m) In addition to the other provisions of this section, if the commissioner determines it is necessary, the following information regarding the transporting, delivery, or shipping of unprocessed fish must be transmitted to an authorized local representative of the department either in person, in writing, by radio or telephone, or by other means specified by the department:

(1) the number and species of salmon taken in a regulatory area must be reported before being transported to any other area or out of this state;

(2) the number or pounds, by species, of all other fish must be reported before being transported out of this state;

(3) the number or pounds, by species, of fish taken by a catcher-seller must be reported upon delivery or before shipping the fish within the state.

(n) A floating processor shall report in person, by radio or telephone, or by other means specified by the department, to the local representative of the department located within the management area of intended operation before the start of processing operations. The report must include the initial processing location by district or subdistrict and latitude and longitude, and the date of intended operation. Before moving the operation and upon arriving at a new location, the operator shall notify the local representative of the department in person, by radio or telephone, or by other means specified by the department, of the new location of operation by district or subdistrict and latitude and longitude. A local representative of the department may waive all or part of the requirements of this subsection upon determining that the requirements are not necessary for the conservation or management of the fishery in that area.

(o) In this section,

(1) "buyer-exporter" means the first purchaser of unprocessed fish that exports or attempts to export out of this state the fish either unprocessed or custom processed;

(2) "catcher-exporter" means a commercial fisherman who exports or attempts to export out of this state unprocessed or custom processed fish that were legally taken by the catcher-exporter;

(3) "catcher-processor" means a commercial fisherman who sells or attempts to sell processed or unprocessed fish that were legally taken by the catcher-processor in or out of this state;

(4) "catcher-seller" means a commercial fisherman who sells or attempts to sell unprocessed fish that were legally taken by the catcher-seller

(A) to the general public for use for noncommercial purposes;

(B) for use as bait for commercial or noncommercial purposes;

(C) to restaurants, grocery stores, and established fish markets;

(D) by shipping the fish to a licensed buyer, processor, or exporter within this state;

(5) "commercial fish transporter" means those individuals whose activities require a permit under AS 16.05.671;

(6) "custom processed" means that the fish is processed by a person that does not own the fish;

(7) "delivery" means offloading fish for sale or for transport to a buyer for later sale;

(8) "dual permit" means the use of additional fishing gear on board a vessel or at a set gillnet site under a second CFEC permit as allowed under the applicable provisions in this title;

(9) "eLandings Electronic Reporting System"

(A) means the electronic and Internet based reporting system maintained by the department, the National Marine Fisheries Service, Alaska Region, and the International Pacific Halibut Commission to provide an alternative to paper fish tickets;

(B) includes the following:

(i) eLandings, which is a web application for shore side and Internet capable vessels;

(ii) seaLandings, which is a desktop application for sea vessels without Internet capability;

(iii) tLandings, which is a portable data storage application for tender and other operations;

(10) "first purchaser:

(A) means the person that first purchases unprocessed fish directly from the commercial fisherman for the purchaser's own business and does not act as a buying agent for another business;

(B) includes a

(i) buyer-exporter;

(ii) floating processor;

(iii) independent buyer;

(iv) shorebased processor;

(11) "fish ticket" includes

(A) a department issued paper copy form for recording harvest; and

(B) an electronically generated record of harvest from the eLandings Electronic Reporting System;

(12) "floating processor" includes the operator of a vessel who

(A) operates as a catcher-processor;

(B) is the first purchaser of unprocessed fish and sells or attempts to sell processed or unprocessed fish in or out of this state;

(13) "independent buyer" means the first purchaser of unprocessed fish for sale unprocessed within this state to a shorebased processor, floating processor, or buyer-exporter;

(14) "partial delivery" means the offloading of fish for sale or for transport to a buyer of only a portion of the total harvest from one vessel's trip, excluding catch retained for

(A) personal use under 5 AAC 39.010;

(B) bait under applicable provisions of this title;

(15) "shorebased processor" means a land-based first purchaser that purchases unprocessed fish and sells or attempts to sell that fish, processed or unprocessed, in or out of this state;

(16) "trip" means

(A) for a vessel on which fish are harvested but not processed, the period of time from when the vessel commences fishing until completion of the final delivery; a trip may include one or more partial deliveries; or

(B) a period of time designated by the department, such as every seven days.

(17) "tender vessel" means a vessel whose operator acts as an agent for a processor and accepts delivery of fish from a commercial fisherman or another tender vessel for transport to a shore-based or floating processor.

**5 AAC 39.132. Annual statistical survey of processor capacity** (a) For fishery management or conservation purposes, or to assist the governor's determination on the issuance of foreign fish processing permits under 5 AAC 39.198, the commissioner or the commissioner's designee may conduct annual statistical surveys of fish buyers and processors intending to purchase and process fish for an upcoming fishing season.

(b) The commissioner, or the commissioner's designee, will determine annually the specific fisheries that require a statistical survey as specified in (a) of this section.

(c) The commissioner, or the commissioner's designee, will select survey participants based on the amount of fish the participants purchased and processed in the subject fishery in prior years. The participant's previous purchasing and processing activity will be assessed from fish ticket records, annual statistical reports required under 5 AAC 39.130, and any other pertinent information collected by the department.

(d) The department will provide to selected survey participants written notification of the department's intent to conduct a statistical survey regarding the participant's intent and capacity to purchase and process fish in a fishery during the upcoming fishing season. Within 72 hours of receipt of the written notification of participation, a selected survey participant shall furnish to the department the name, mailing address, facsimile number, and telephone contact number for the person able to accurately provide the information requested on the participant's behalf.

(e) A statistical survey under this section will address the following data:

(1) the maximum amount of fish in pounds or numbers of fish that the participant intends to purchase and process during the upcoming fishing season;

(2) the approximate maximum daily amount of fish in pounds or numbers of fish that the participant intends to purchase and process in the upcoming fishing season;

(3) the approximate number of vessels or fishermen from which the participant intends to purchase and process fish;

(4) the number of tenders and remote fish buying stations that the participant intends to operate during the upcoming fishing season;

(5) the approximate beginning and ending dates for the time period the participant intends to purchase and process fish in the subject fishery;

(6) any anticipated changes in facilities, processes, or operations that would substantially change the intended purchasing and processing capacity in the subject fishery from the participant's operation the previous year; and

(7) any other information the commissioner or commissioner's designee determines to be important for fishery management or conservation purposes or for the governor's determinations regarding foreign fish processing permits.

(f) A buyer or processor selected to participate in the survey shall

(1) submit a complete and accurate response to the department by the return date specified on the survey; and

(2) immediately notify the department of any changes in purchasing and processing capacity plans compared to those previously reported in the survey.

(g) Annual survey responses that identify intended fish purchasing and processing activities are confidential as annual statistical reports under AS 16.05.815(a).

**5 AAC 39.135. Requirements for releasing confidential information to third persons**

(a) A person requesting the release of confidential information to a third person regarding the requesting person's fishery landings shall make the request in the form of a limited power of attorney on a request form provided by the department. The department will make the request form available at its local and regional offices and its website.

(b) The person requesting the release of information under this section shall indicate on the request form the time period that the person authorizes the department to release the information that is not less than 30 days and not more than one year from the date that the person signs the form.

(c) The person requesting the release of information under this section shall complete the request form as prescribed by the department. When submitting the form in person, the person shall produce a government-issued photo identification for inspection by a department employee. If the form is being submitted by mail, the person shall first have the form notarized. If the form is being sent by facsimile, the person shall first have the form notarized, and after facsimile transmission, shall mail the original form to the department office that the facsimile was sent. The department will not release information requested under this section until it receives the original, completed request form.

**5 AAC 39.140. Inspection of fishing establishments and vessels** (a) Representatives of the Department of Fish and Game or the Department of Public Safety shall have free and unobstructed access to all fishing vessels, canneries, salteries, and other land-based or floating processing establishments to inspect catch, equipment, gear, and operational compliance with AS 16 and regulations promulgated thereunder.

(b) Upon being approached by a vessel or aircraft under the control of a representative of the Departments of Fish and Game or Public Safety, the operator of a fishing vessel, catcher-processor, or floating processor shall be alert for, and immediately comply with, signals conveying enforcement intent. A vessel operator signaled to stop or heave to for boarding shall

(1) stop immediately and lay to or maneuver in such a way as to permit the representative and his party to come aboard;

(2) if requested, provide a safe ladder for the representative and his party;

(3) when necessary to facilitate the boarding, provide a man rope, safety line and illumination of the ladder;

(4) take such other actions as necessary to ensure the safety of the representative and party and to facilitate the boarding; and

(5) make every effort to comply with all lawful orders given by the representative, except that the owner or operator of the vessel is solely responsible for navigation, supervision, and control of the vessel and his decisions shall be final in all matters pertaining to proper navigation and safety of the vessel crew, and fishing gear.

(c) On a vessel which catches and processes crab and is required to carry an observer under 5 AAC 39.645, the vessel operator must separate crab to be retained and, before butchering, must make those crab available to the observer for inspection.

(d) Notwithstanding the requirements of 5 AAC 30.392(a), 5 AAC 30.393, 5 AAC 33.392(d), and 5 AAC 33.393, upon request by a local representative of the department or a peace officer of the state, a fisherman or processor shall relinquish the tag and head of adipose-fin-clipped salmon, and shall inform the representative or peace officer of the date and location of the catch, if known.

**5 AAC 39.150. Explosives, chemicals and poisons unlawful** The use of an explosive, chemical or poison in the taking or killing of fish or shellfish is prohibited, except that chemical baits or lures may be used to attract shellfish.

**5 AAC 39.155. Seine drums unlawful** It shall be unlawful to have mounted aboard any seine vessel a seine drum or reel around which a seine can be coiled or rolled.

**5 AAC 39.170. Monofilament purse seine web unlawful** It is unlawful to use single- or multiple-strand monofilament purse seine web. For the purpose of this regulation, "monofilament" means any single filament having more than 50 denier, that is, weighing more than 50 grams per 9,000 meters of filament.

**5 AAC 39.175. Use of lights prohibited** It is unlawful to use artificial lights to attract salmon out of closed waters for the purpose of a commercial taking.

**5 AAC 39.185. Policy on closures due to illegal fishing** (a) Some fisheries have had a documented history of illegal commercial fishing dating back to 1968. Enforcement efforts by the Department of Public Safety have been largely ineffective in controlling this recurring problem on a long-term basis. The Board recognizes the difficulty of enforcement in some areas of the state and although the current regulations are sufficient to protect fish stocks, they may be ineffective due to special enforcement problems.

(b) In the interest of the conservation of valuable renewable fish resources, the Board of Fisheries directs the commissioner, or his authorized designee, to take the following actions given the specified circumstances. If illegal fishing activities develop to the point that regulations pertaining to protection of fish stocks become ineffective, the commissioner shall consider closing the affected fishery by emergency order for a period of up to one week. When the fishery reopens and illegal fishing continues to be a problem, the appropriate fishery may be closed for an additional period of time. Continued violations may result in additional closures of the fishery.

**5 AAC 39.195. Announcement of emergency orders** Announcement of emergency orders will be publicized and made known to interested persons, fishermen, buyers, packers, and canneries by one or more of the following means, if possible:

- (1) radio transmission by department stations;
- (2) notices posted at canneries and public places;
- (3) press releases and announcements in
  - (A) the department's website;
  - (B) local newspapers; and
  - (C) commercial radio stations;
- (4) telephone message hotline;
- (5) electronic mail;
- (6) facsimile transmission;
- (7) other appropriate public notification media.

**5 AAC 39.197. Unlawful possession of fish** No person may possess, purchase, sell, barter or transport fish within the state or within water subject to the jurisdiction of the state if that person knows or has reason to know that fish were taken or possessed in contravention of 5 AAC 03 - 5 AAC 39.

**5 AAC 39.198. Foreign fish processing permits** (a) Except as provided in this chapter, a foreign fishing vessel is prohibited from engaging in fish processing in the internal waters of Alaska.

(b) A foreign fishing vessel may engage in fish processing in the internal waters of Alaska if

(1) the foreign nation under which it is flagged will be a party to an agreement or a treaty, as required by 16 U.S.C. 1856(c), and during the time the vessel will engage in the fish processing;

(2) the owner or operator of the foreign fishing vessel, or a person representing the owner or operator, applies to the governor for, and is granted, a foreign processing permit for the vessel to engage in fish processing in the internal waters of Alaska.

(c) The governor will not grant a permit under (b)(2) of this section if he determines that fish processors in Alaska have adequate capacity, and will use that capacity, to

process all of the United States harvested fish from the fishery concerned that are landed in Alaska.

(d) In determining whether or not fish processors in Alaska have adequate capacity, and will use that capacity, to process all of the United States harvested fish from the fishery, the governor will, in his discretion, consider the following factors:

(1) the total allowable catch expected in the fishery;

(2) availability and capability of harvesting vessels in Alaska, seasonal fishing and processing schedules, and marketing and other similar conditions in the fishery concerned and in alternative fisheries;

(3) availability of labor, adequacy and condition of processing machinery, freezers, and cold storage facilities of fish processors in Alaska, and the ability, intent and plans of those processors to process particular species;

(4) economic considerations, including contracts, agreements, and negotiations for the purchase of United States harvested fish by processors in Alaska;

(5) geographical considerations including proximity of harvest areas to the facilities of fish processors in Alaska; and

(6) the extent to which fish processors in Alaska have processed particular species.

(e) An owner or operator of a foreign fishing vessel who submits an application for a permit to engage in fish processing in the internal waters of Alaska must

(1) state the reasons why fish processors in Alaska do not have adequate capacity, or will not use their capacity, to process all of the United States harvested fish from the fishery concerned that are landed;

(2) provide the following information:

(A) vessel description and identification;

(B) names and descriptions of the vessels, if known, from which the applicant will purchase fish;

(C) the species and quantity proposed to be processed and processing methods to be used;

(D) a description of the fishery from which the species will be harvested;

(E) the stage of development of the fishery as established, developing or undeveloped, and a statement of how the proposed operation in the fishery will help to

achieve the full potential of the resources and provide benefits including employment, food supply, and revenue;

(F) the dates for which permission is sought;

(G) the specific locations in internal waters proposed for foreign processing;

(H) the qualifying governing international fisheries agreement or treaty, as required by 16 U.S.C. 1856(c);

(I) evidence of compliance with applicable federal and state regulations including state laws and regulations that apply to processing vessels;

(J) proof of financial ability to purchase the expected quantity of fish to be processed, at reasonable market conditions;

(K) the ultimate sales market for the product, and marketing information showing how the operation will benefit development of the United States fishing industry;

(L) other information on the applicant's vessels, equipment, operations, and experience, reliance on local fishing vessel operations, and ability to benefit the United States fishing industry and residents of Alaska.

(f) In evaluating an application for a foreign processing permit, the governor will consider whether and to what extent the applicant and the applicant's nation have been, are, or will be contributing to the conservation, use, management, development, and enforcement of domestic fisheries programs.

(g) If a permit is granted, the governor will, in his discretion, designate times and areas of operations, species and quantities to be processed and other conditions of operation in order to attain desired benefits to the United States fishing industry.

(h) The governor will, in his discretion, suspend or terminate a permit granted under this section when he determines that processors in Alaska have adequate capacity, and will use that capacity, to process all United States harvested fish from the fishery and that the suspension or termination is necessary to achieve desired benefits to the United States fishing industry.

(i) The governor will, in his discretion, appoint a foreign processing advisory committee to obtain and review information regarding fish processing operations, including capacity determinations, in Alaska.

(j) In this section,

(1) "developed fishery" means a fishery in which United States processing capacity is available and has been used by United States fishermen and processors but not to the full extent of the total allowable catch in the fishery;

(2) "established fishery" means a fishery in which United States processing capacity has been available and has been used by United States fishermen and processors to the full extent of the total allowable catch in the fishery and in which full utilization by United States fishermen and processors is likely to continue;

(3) "fishery" means

(A) a stock or stocks of fish which may be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; or

(B) the commercial taking of these stocks;

(4) "foreign fishing vessel" means a vessel that is documented under the flag of a foreign nation and engages in fish processing;

(5) "internal waters of Alaska" means all waters within the boundaries of the state except those seaward of the baseline from which the territorial sea is measured;

(6) "processing" means the application of preservative methods to the flesh of fish to maintain quality and prevent deterioration, including

(A) storage and transportation of unprocessed fish;

(B) preparation for preservation;

(C) cooking, canning, smoking, salting, drying, freezing, icing, refrigeration, vacuum packing, gas, microwave preservation, and other preservation means;

(7) "total allowable catch" means the quantity of fish in a fishery that may be harvested without detriment to sustained yield;

(8) "undeveloped fishery" means a fishery in which there has been no United States commercial fishing nor processing of the total allowable catch in the fishery.

**5 AAC 39.200. Application of fishery management plans** (a) The Board of Fisheries has implemented by regulation fishery management plans that provide the Department of Fish and Game with guidelines to be followed when making management decisions regarding the state's subsistence, commercial, sport and personal use fisheries. The primary goal of these management plans is to protect the sustained yield of the state's fishery resources while at the same time providing an equitable distribution of the available harvest between various users. The regulations contained in this section are

intended to aid in the achievement of that goal and therefore will apply to all fishery management plans contained in 5 AAC 03 - 5 AAC 39.

(b) In some fishery management plans, the distribution of harvestable fish between various users is determined by the harvest that occurs during a specific time period, at a specific location or by a specific group or groups of users. At times fishermen, due to circumstances that are beyond the control of the department, such as weather or price disputes, will not harvest fish. When this happens in a fishery governed by a management plan, the goals of that plan may not be achieved. Therefore, when a fishery is open to the taking of fish and the group or groups of users whose catch determines the distribution of the harvest as set out in the applicable management plan is not taking the harvestable fish available to them, the department shall manage the fishery as if the available harvest is being taken. When determining the available harvest, the department shall consider the number of fish needed to meet spawning requirements, the number of fish present in the fishery and in spawning areas that are in excess of spawning requirements and the estimated harvesting capacity of the group or groups of users that would normally participate in the fishery.

**5 AAC 39.205. Criteria for the allocation of fishery resources among personal use, sport, and commercial fisheries** Before adopting regulations that allocate fish among personal use, sport, and commercial fisheries, the board will, as appropriate to particular allocation decisions, consider factors such as those set out in AS 16.05.251(e).

**5 AAC 39.210. Management plan for high impact emerging fisheries** (a) To guide management of high impact emerging commercial fisheries, a plan is needed that ensures resource conservation, minimizes impacts on existing users, and provides orderly development of new fishery resources.

(b) The department may regulate a commercial fishery as a high impact emerging commercial fishery if the commissioner determines that any of the following conditions apply to a species or species group in an area or region:

(1) harvesting effort has recently increased beyond a low sporadic level;

(2) interest has been expressed in harvesting the resource by more than a single user group;

(3) the level of harvest might be approaching a level that might not be sustainable on a local or regional level;

(4) the board has not developed comprehensive regulations to address issues of conservation, allocation, and conduct of an orderly fishery.

(c) The commissioner shall notify the board if a determination is made to manage a fishery as a high impact emerging fishery.

(d) The department shall close a high impact emerging commercial fishery once it has been designated as such by the commissioner, and may not reopen the fishery until an interim management plan and associated regulations have been adopted by the commissioner. If an interim management plan and regulations have been adopted, the commissioner may allow the fishery to continue.

(e) The department shall develop an interim management plan for each high impact emerging commercial fishery. An interim management plan shall contain at least the following information:

- (1) a review of the history of commercial exploitation of the species in Alaska and other relevant jurisdictions;
- (2) a review of the life history of the organism;
- (3) identification of specific management goals and objectives;
- (4) an evaluation of potential impacts on existing users;
- (5) designation and justification of the preferred management measures;
- (6) an evaluation of the conservation impacts of the preferred management approach on nontarget species and on nontarget individuals of the same species;
- (7) a plan for determining the productivity of the species and impact of the fishery;
- (8) a list of proposed interim regulations;
- (9) a cost estimate for plan implementation;
- (10) an analysis of customary and traditional subsistence use patterns.

(f) The commissioner may adopt regulations and open the fishery consistent with measures identified in the interim management plan. The regulations will remain in effect until the board adopts regulations under (g) of this section.

(g) Upon completion of an interim plan, the department shall petition the board under 5 AAC 96.625 to consider adoption of the management plan and associated regulations at its next regularly scheduled meeting.

(h) The department may require onboard observers as specified in 5 AAC 39.141 and 5 AAC 39.645 on fishing vessels, catcher-processors, and floating processors that participate in high impact emerging commercial fisheries.

**5 AAC 39.212. Forage Fish Management Plan** (a) This management plan governs the commercial harvesting of forage fish species in the waters of Alaska.

(b) The board finds that forage fish perform a critical role in the complex marine ecosystem by providing the transfer of energy from the primary and secondary producers to higher trophic levels. The higher trophic levels include many commercially important fish and shellfish species. Forage fish also serve as important prey species for marine mammals and seabirds.

(c) The board finds that abundant populations of forage fish are necessary to sustain healthy populations of commercially important species of salmon, groundfish, halibut, and shellfish.

(d) Except as otherwise provided in 5 AAC 03 - 5 AAC 39, forage fish may not be commercially taken.

(e) A vessel fishing in a directed groundfish fishery may retain a maximum allowable bycatch of forage fish equal to no more than two percent of the round weight or round weight equivalent of the groundfish on board the vessel.

(f) For the purposes of this section, "forage fish" means the following species of fish:

(1) Family Osmeridae (capelin, eulachon, and other smelts);

(2) Family Myctophidae (lanternfishes);

(3) Family Bathylagidae (deep-sea smelt);

(4) Family Ammodtidea (Pacific sand lance);

(5) Family Trichodontidae (Pacific sandfish);

(6) Family Pholidae (gunnels);

(7) Family Stichaeidae (pricklebacks, warbonnets, eelblennys, cockscombs, and shannys);

(8) Family Gonostomatidae (bristlemouths, lightfishes, and anglemouths);

(9) species of the Order Euphausiacea (krill).

**5 AAC 39.250. Gillnet specifications and operations** (a) The trailing of gillnet web is prohibited at any time or place where fishing is not permitted.

(b) Set gillnets shall be removed from the water during any closed period.

(c) The gillnet web in a gillnet must contain

(1) at least 30 filaments, each of which must be of equal diameter; or

(2) at least six filaments, each of which must be at least 0.20 millimeters in diameter.

(d) The float line and floats of gillnets must be floating on the surface of the water while the net is fishing, unless natural conditions cause the net to temporarily sink. The restriction of this subsection does not apply in the Arctic-Kotzebue Area (5 AAC 03.100), the Norton Sound-Port Clarence Area (5 AAC 04.100), the Yukon Area (5 AAC 05.100), the Kuskokwim Area (5 AAC 07.100), and the Kodiak Area (5 AAC 18.100).

**5 AAC 39.260. Seine specifications and operations** (a) In the use of purse seines and hand purse seines, not more than one anchor may be used to hold the seine, lead and seine boat during a set.

(b) Repealed 3/26/76.

(c) Unless otherwise provided in 5 AAC 03 - 5 AAC 38, a purse seine is considered to have ceased fishing when all the rings are out of the water.

(d) A hand purse seine is considered to have ceased fishing when both ends of the seine are fast to the vessel.

(e) A beach seine is considered to have ceased fishing when all of the lead line is above the water on the beach.

(f) Where the use of leads is permitted, a purse seine vessel may not have or use more than one lead of legal length and depth, without purse rings attached, and with a minimum mesh size of seven inches, except that a lead may have a cork line border strip not to exceed five meshes of less than seven-inch meshes stretch measure and a lead line chafing strip not to exceed 25 meshes less than seven-inch stretch measure.

(g) If a purse seine and a lead are operated together

(1) the lead must be attached to the purse seine;

(2) the lead may be attached to only one end of the purse seine;

(3) the lead may not be attached at any other part of the purse seine;

(4) the web of the purse seine must overlap the web of the lead by at least one fathom, or the web of the purse seine must be sewn to the end of the lead for the entire depth of the shallowest net;

(5) repealed 6/2/88;

(6) repealed 6/2/88;

(7) repealed 6/2/88;

(8) repealed 6/2/88.

(h) One end, and only one end, of a seine lead may be attached to land above the waterline. If the lead is attached to land above the waterline, no other anchor may be used on the lead, purse seine, seine vessel, or skiff. "Anchor" is defined in 5 AAC 39.105(d)(19).

(i) During the operation of a purse seine, the propulsion engines of the seine vessel, or the skiff assisting the operation, must be running and the vessel must be controlling the configuration of the purse seine.

(j) A seine vessel must be attached to one end, and only one end, of a purse seine or lead when it is in operation. Any line used to make the attachment may not be more than 10 fathoms in length.

**5 AAC 39.291. Boundary markers** The department may post a boundary described in regulation by an appropriate marker. The marker must be placed as close as possible to the location specified in the applicable regulation. Where markers have been lost or destroyed, the boundary is as specified in the applicable regulation.

**Article 9. Definitions; Miscellaneous**

**5 AAC 39.975. Definitions** (a) In 5 AAC 01 - 5 AAC 39,

(1) "alien" means a person who is not a citizen of the United States, and who does not have a petition for naturalization pending before the district court;

(2) "bag limit" means the maximum legal take per person per day, even if part or all of the fish are preserved;

(3) "buyer" means a person who purchases fish from the fishermen who caught the fish or who, for commercial purposes, processes fish he has caught himself;

(4) "depth of net" means the perpendicular distance between cork line and lead line expressed as either linear units of measure or as a number of meshes, including all of the web of which the net is composed;

(5) repealed 2/18/73;

(6) "gear" means any type of fishing apparatus;

(7) "inclusive season dates" means whenever the doing of an act between certain dates or from one date to another is allowed or prohibited, the period of time thereby indicated includes both dates specified; the first date specified designates the first day of the period, and the second date specified designates the last day of the period;

(8) "legal limit of fishing gear" means the maximum aggregate of a single type of fishing gear permitted to be used by one individual or boat, or combination of boats in any particular regulatory area, district or section;

(9) "local representative of the department" means the nearest, most accessible professional employee of the department, a person designated by the commissioner or by a professional employee of the department to perform a specific function for the department and a law enforcement officer of the Department of Public Safety;

(10) "salmon stream" means a stream used by salmon, at any stage of life, for spawning, rearing, presence, or migration;

(11) "stretched measure" means the average length of any series of 10 consecutive meshes measured from inside the first knot and including the last knot when wet; the 10 meshes, when being measured, shall be an integral part of the net, as hung, and measured perpendicular to the selvages; measurements shall be made by means of a metal tape measure while the 10 meshes being measured are suspended vertically from a single peg or nail, under five-pound weight, except as otherwise provided in this title;

(12) repealed 6/30/79;

(13) "waters of Alaska" means the internal waters of the state including rivers, streams, lakes and ponds, the tidal zone of the state from mean higher high water to mean lower low water, and those waters extending three miles seaward of a line (the baseline) between the following points:

(A) Southeastern and Yakutat Areas: 100 southernmost tip Cape Muzon, Dall Island; 101 westernmost tip unnamed point, Dall Island (54° 39.87' N. lat., 132° 43.53' W. long.); 102 westernmost tip Wolk Point, Dall Island; 103 southernmost tip Liscome Point, Dall Island; 104 westernmost tip Point Cornwallis, Dall Island; 105 westernmost tip Security Point, Dall Island; 106 westernmost tip Parrot Point, Dall Island; 107 westernmost tip Point Bazan, Dall Island; 108 westernmost tip of westernmost unnamed island west of Dolgoi Island (54° 49.33' N. lat., 133° 00.40' W. long.); 109 westernmost tip Ritter Point, Dall Island; 110 westernmost tip Rockwell Point, Dall Island; 111 westernmost tip Cape Augustine, Dall Island; 112 westernmost tip Sakie Point, Dall Island; 113 southernmost tip Cape Felix, Suemez Island; 114 southernmost tip of southernmost island off Cape Bartolome, Baker Island; 115 westernmost tip Cape Chirikof, Baker Island; 116 southernmost tip Cape Addington, Noyes Island; 117 westernmost tip of the southernmost island of the Hazy Islands; 118 westernmost tip of the westernmost island of the Hazy Islands; 119 southernmost tip Cape Ommaney, Baranof Island; 120 southernmost tip Eagle Rocks, Baranof Island; 121 westernmost tip Puffin Point, Baranof Island; 122 westernmost tip Sea Lion Rocks; 123 56° 19.50' N. lat., 134° 54' W. long., Baranof Island; 124 westernmost tip First Kekur Island; 125

westernmost tip Second Kekur Island; 126 westernmost tip North Cape, Baranof Islands; 127 westernmost tip John Rock; 128 westernmost tip Jacob Rock; 129 westernmost tip Kaiuchali Island; 130 westernmost tip Cape Edgecumbe, Kruzof Island; 131 westernmost tip Pt. Amelia, Kruzof Island; 132 westernmost tip Sealion Islands; 133 westernmost tip Eagle Rock; 134 westernmost tip Klokachef Point, Klokachef Island; 135 westernmost tip Black Island; 136 westernmost tip Cape Edward; 137 westernmost tip Urey Rocks; 138 westernmost tip of westernmost rock off Cape Cross, Yakobi Island (57° 54.67' N. lat., 136° 34.33' W. long.); 139 westernmost tip Yakobi Rock (off Cape Bingham, Yakobi Island); 140 westernmost tip Zip Rock (off Cape Spencer); 141 westernmost tip Graves Rocks; 142 westernmost tip Sugarloaf Island; 143 westernmost tip Astrolabe Rocks; 144 southernmost tip Icy Point; 145 westernmost tip Harbor Point; 146 westernmost tip La Chaussee Spit; 147 westernmost tip Cape Fairweather; 148 easternmost tip of the west side of the entrance to Dry Bay; 149 southernmost tip at the mouth of Dangerous River; 150 westernmost tip Ocean Cape; 151 easternmost tip Point Manby; 152 southernmost tip Sitkagai Bluffs; 153 southernmost tip Point Riou; 154 southernmost tip Icy Cape; 155 southernmost tip Cape Yakataga; 200 southernmost tip Cape Suckling;

(B) Prince William Sound and Cook Inlet Areas: 200 southernmost tip Cape Suckling; 201 easternmost tip Pinnacle Rock (off Cape St. Elias, Kayak Island); 202 southernmost tip Hook Point, Hinchinbrook Island; 203 southernmost tip Cape Hinchinbrook, Hinchinbrook Island; 204 easternmost tip Montague Island; 205 easternmost tip Box Point, Montague Island; 206 easternmost tip Wooded Islands; 207 southernmost tip, Wooded Islands; 208 southernmost tip Jeanie Point, Montague Island; 209 southernmost tip Cape Cleare, Montague Island; 210 southernmost tip Point Elrington, Elrington Island; 211 southernmost tip Cape Puget; 212 southernmost tip Cape Junken; 213 southernmost tip Cape Fairfield; 214 southernmost tip Barwell Island (off Cape Resurrection); 215 easternmost tip Pilot Rock; 216 easternmost tip Chiswell Island; 217 southernmost tip Seal Rocks; 218 southernmost tip unnamed cape south of Black Mountain (Black Bay) (59° 27.20' N. lat., 150° 14' W. long.); 219 easternmost tip Hoof Point, Ragged Island; 220 easternmost tip Outer Island, Pye Islands; 221 southernmost tip of southernmost island off Outer Island; 222 southernmost tip Nuka Rock (south of Nuka Point, Nuka Island); 223 southernmost tip Gore Point; 224 southernmost tip East Chugach Island; 225 southernmost tip Perl Rock (off Perl Island, Chugach Islands); 300 easternmost tip East Amatuli Island, Barren Islands;

(C) Kodiak, Chignik, Aleutian Islands, and Alaska Peninsula Areas: 300 easternmost tip East Amatuli Island, Barren Islands; 301 easternmost tip Point Banks, Shuyak Island; 302 northernmost tip Tonki Cape, Afognak Island; 303 northernmost tip Cape St. Hermogenes, Marmot Island; 304 along the seaward coast of Marmot Island southernmost tip of Marmot Cape; 305 southernmost tip Pillar Cape, Afognak Island; 306 easternmost tip East Cape, Spruce Island; 307 northernmost tip Kodiak Rock (off Long Island); 308 easternmost tip Cape Chiniak, Kodiak Island; 309 easternmost tip Cape Greville Kodiak Island; 310 easternmost tip Ugak Island; 311 along the coast to the southernmost tip of Ugak Island; 312 southernmost tip Dangerous Cape, Kodiak Island; 313 easternmost tip Cape Barnabas, Sitkalidak Island; 314 easternmost tip Black Point, Sitkalidak Island; 315 easternmost tip Twoheaded Island; 316 easternmost tip Geese Islands; 317 easternmost tip Cape Sitkinak, Sitkinak Island; 318 along the coast to the southernmost tip of Sitkinak Island; 319 southernmost tip Tugidak Island; 320 along the west coast to the northernmost tip of Tugidak Island; 321 southernmost tip Cape Alitak, Kodiak Island; 322 westernmost tip Low Cape, Kodiak Island; 323 westernmost tip Cape

Ikolik, Kodiak Island; 324 easternmost tip Kilokak Rocks (off Alaska Peninsula); 325 easternmost tip Ashiak Island; 326 easternmost tip Poltava Island; 327 easternmost tip Navy Island (off Cape Providence); 328 easternmost tip Aiugnak Columns; 329 easternmost tip Ugaiushak Island; 330 easternmost tip Hydra Island; 331 easternmost tip Foggy Cape, Sutwik Island; 332 around the south coast of Sutwik Island via the southernmost offcoast islets to the westernmost tip of Sutwik Island; 333 southernmost tip Cape Kumlik; 334 easternmost tip Unavikshak Island; 335 southernmost tip Atkulik Island; 336 easternmost tip Kak Island; 337 easternmost tip Castle Cape (Tuliumnit Point); 338 easternmost tip Chankliut Island; 339 along seaward coast to southernmost tip Chankliut Island; 340 southernmost tip Seal Cape; 341 easternmost tip Mitrofanina Island; 342 southernmost tip Spitz Island; 343 southernmost tip Chiachi Island; 344 easternmost tip Kupreanof Point; 345 easternmost tip Castle Rock; 346 easternmost tip Atkins Island; 347 easternmost tip Simeonof Island; 348 along the seaward coast of Simeonof Island to the southernmost tip; 349 easternmost tip of the unnamed island off the southern coast of Simeonof Island; 350 easternmost tip Chernabura Island; 351 along the coast to southernmost tip of Point Farewell, Chernabura Island; 352 southernmost tip Point Welcome, Bird Island; 353 southernmost tip Mountain Cape, Nagai Island; 354 westernmost tip Sealion Rocks; 355 southernmost tip Acheredin Point, Unga Island; 356 southernmost tip of Kennoys Island; 357 easternmost tip East Rock; 358 easternmost tip Olga Rock; 359 easternmost tip Pinnacle Rock; 360 easternmost tip Hay Island; 361 easternmost tip Hague Rock; 362 easternmost tip Lookout Point, Caton Island, Sanak Islands; 363 along the coast to southernmost tip Caton Island; 364 southernmost tip Umla Island; 365 southernmost tip Telemitz Island; 366 southernmost tip Dora Island; 367 easternmost tip Seal Rock; 368 southernmost tip Haystack Rock; 369 southernmost tip South Rock; 370 southernmost tip Sisters Island; 371 easternmost tip Clifford Island; 372 along the coast of Clifford Island and Long Island to the westernmost tip of the westernmost Trinity Island; 373 westernmost tip Point Petrof, Sanak Island; 374 southernmost tip Cape Lutke, Unimak Island; 375 along the coast to the southernmost tip of Scotch Cap, Unimak Island; 376 easternmost tip Ugamak Island; 377 easternmost tip Round Island; 378 easternmost tip Aiktak Island; 379 easternmost tip Kaligagan Island; 380 easternmost tip Tigalda Island; 381 along the coast of Tigalda Island to Derbin Island; 382 southernmost tip Avatanak Point, Avatanak Island; 383 easternmost tip Rootok Island; 384 along the coast to southernmost tip Rootok Island; 385 southernmost tip Battery Point, Akutan Island; 386 easternmost tip Unalga Island; 387 easternmost tip Egg Island off Sedanka Island; 388 easternmost tip Outer Signal (island); 389 easternmost tip Inner Signal (island); 390 southernmost tip Sedanka Island; 391 easternmost tip Kayak Cape, Unalaska Island; 392 easternmost tip Cape Yanaliuk, Unalaska Island; 393 easternmost tip Whalebone Cape, Unalaska Island; 394 southernmost tip Cape Prominence, Unalaska Island; 395 southernmost tip Reef Point, Unalaska Island; 396 southernmost tip Ogangen Island off Unalaska Island; 397 southernmost tip Eagle Point, Unalaska Island; 398 southernmost tip Cape Aiak, Unalaska Island; 399 southernmost tip South Rock off Cape Izigan, Unalaska Island; 400 southernmost tip Emerald Island off Konets Head, Unalaska Island; 401 easternmost tip Kettle Cape, Umnak Island; 402 easternmost tip The Pillars (off Thumb Point, Umnak Island); 403 easternmost tip Kigul Island; 404 easternmost tip Ogechul Island; 405 easternmost tip Vsevidof Island; 406 easternmost tip Black Cape, Umnak Island; 407 easternmost tip Cape Udak, Umnak Island; 408 easternmost tip Breadloaf Island; 409 easternmost tip Samalga Island; 410 along the coast to westernmost tip of Samalga Island; 411 southernmost tip Concord Point, Chuginadak Island; 412 southernmost tip unnamed point south of Mt. Cleaveland, Chuginadak Island (52° 48.75' N. lat., 169°

57.50' W. long.); 413 southernmost tip Herbert Island; 414 southernmost tip Yunaska Island; 415 southernmost tip Amutka Island; 416 along the south and west coast to northernmost tip of Amutka Island; 417 northernmost tip Chagulak Island; 418 northernmost tip of Yunaska Island; 419 northernmost tip Herbert Island; 420 westernmost tip of Carlisle Island; 421 along the coast to the northernmost tip of Carlisle Island; 422 westernmost tip Uliaga Island; 423 along northern coast to easternmost tip of Uliaga Island; 424 northernmost tip of Kagamil Island; 425 northernmost tip Anangula Island (off Okee Point, Umnak Island); 426 northernmost tip Ananiuliak Island; 427 northernmost tip Okee Point, Umnak Island; 428 westernmost tip Cape Kigushimkada, Umnak Island; 429 along the coast to westernmost tip of Kshaliuk Point; 430 northernmost tip Cape Ilmalianuk, Umnak Island; 431 westernmost tip Cape Aslik, Umnak Island; 432 along the coast to northernmost tip of Ashishik Point; 433 northernmost tip Cape Tanak, Umnak Island; 434 northernmost tip Cape Idak, Umnak Island; 435 westernmost tip Chernofski Point, Unalaska Island; 436 northernmost tip Cape Aspid, Unalaska Island; 437 westernmost tip of westernmost unnamed island off Sedanka Point, Unalaska (53° 27.05' N. lat., 167° 20' W. long.); 438 westernmost tip Kashega Point, Unalaska Island; 439 westernmost tip Spray Cape, Unalaska Island; 440 westernmost tip Cape Starichkof, Unalaska Island; 441 southernmost tip of Cape Kovrizhka, Unalaska Island; 442 along the coast to the northernmost tip of Cape Kovrizhka; 443 westernmost tip Point Kadin, Unalaska Island; 444 northernmost tip Koriga Point, Unalaska Island; 445 northernmost tip Bishop Point, Unalaska Island; 446 northernmost tip Point Tebenkof, Unalaska Island; 447 northernmost tip Cape Wislow, Unalaska Island; 448 northernmost tip Cape Cheerful, Unalaska Island; 449 northernmost tip Priest Rock (off Cape Kalekta, Unalaska Island); 450 westernmost tip Reef Point, Akutan Island; 451 westernmost tip Lava Point, Akutan Island; 452 northernmost tip North Head, Akutan Island; 453 northernmost tip Akun Head, Akun Island; 454 westernmost tip Cape Sarichef, Unimak Island; 455 northernmost tip Raven Point, Unimak Island; 456 northernmost tip Oksenof Point, Unimak Island; 457 northernmost tip Cape Mordvinof, Unimak Island; 458 northernmost tip Cape Lapin, Unimak Island; 459 northernmost tip of unnamed point, Unimak Island (55° N. lat., 163° 54' W. long.); 460 northernmost tip Otter Point, Unimak Island; 461 northernmost tip Cape Krenitzin; 462 along the north coast of the Alaska Peninsula to northernmost tip of Cape Glazenap; 463 along the coast and across the entrances between the Kudiakof Islands and the northernmost tip of Moffet Point; 464 along the north coast of the Alaska Peninsula to easternmost tip of Lagoon Point; 465 northernmost tip Cape Kutuzof; 500 along the north coast of the Alaska Peninsula including the outer coast of all barrier islands, to the westernmost tip of Cape Menshikof;

(D) Bristol Bay Area: 500 westernmost tip of Cape Menshikof; 501 southernmost tip of Pyrite Point; 502 along the coast to the westernmost tip of Cape Peirce; 600 westernmost tip of Cape Newenham;

(E) Kuskokwim, Yukon, Norton Sound-Point Clarence, and Arctic-Kotzebue Areas: 600 westernmost tip Cape Newenham; 601 southernmost tip Kwigluk Island; 602 southernmost tip Pingurbek Island; 603 westernmost tip Kikegtek Island; 604 westernmost tip Cape Vancouver; 605 southernmost tip Dall Point; 606 along the coast and across all entrances, to the westernmost tip of Cape Romanzof; 607 westernmost tip Cape Rodney; 608 westernmost tip of Point Spencer Spit; 609 southernmost tip Cape York; 610 westernmost tip Cape Prince of Wales; 611 along coast of all barrier islands to Northwest Corner light; 612 westernmost tip Cape Krusenstern; 613 along the coast to

the westernmost tip of Point Hope; 614 westernmost tip Cape Lisburne; 615 along the coast of all barrier islands and across all entrances to the northernmost tip of Point Barrow; 616 along the coast of all barrier islands and across all entrances to the easternmost tip of Cape Simpson; 617 northernmost tip Pitt Point; 618 along the coast to easternmost tip of Cape Halkett; 619 easternmost tip Thetis Island, Jones Islands; 620 along the coast of all barrier islands and across all entrances, through the Jones Islands to the northernmost tip Long Island; 621 northernmost tip Reindeer Island, Midway Islands; 622 northernmost tip Cross Island; 623 westernmost tip Flaxman Island; 624 along the north coast of Flaxman Island and across all entrances to the northernmost tip Brownlow Point; 625 along the coast of all barrier islands and across all entrances to the easternmost tip Konganevik Point; 626 northernmost tip Anderson Point; 627 northernmost tip Arey Island; 628 northernmost tip Barter Island; 629 northernmost tip Bernard Spit; 630 along the coast of all barrier islands and across all entrances to the northernmost tip Griffen Point; 631 northernmost tip along the coast to Humphrey Point; 632 across the entrances and along coast of all barrier islands, to the northernmost tip Demarcation Point; 700 along the coast to the United States-Canada Boundary;

(F) and extending three miles seaward of all islands not enclosed by the above line;

(14) "salmon stream terminus" means a line drawn between the seaward extremities of the exposed tideland banks of any salmon stream at mean lower low water;

(15) repealed 8/14/70;

(16) "ton" means 2,000 pounds avoirdupois weight;

(17) "king crab" means any or all of the following species:

- (A) *Paralithodes camtschaticus* (red king crab);
- (B) *Paralithodes platypus* (blue king crab);
- (C) *Lithodes couesi*;
- (D) *Lithodes aequispinus* (golden king crab);
- (E) *Paralithodes brevipes* (Hanasaki king crab);

(18) "Tanner crab" means any or all of the following species:

- (A) *Chionoecetes opilio* (snow crab);
- (B) *Chionoecetes tanneri* (grooved Tanner crab);
- (C) *Chionoecetes bairdi* (Tanner crab);
- (D) *Chionoecetes angulatus* (triangle Tanner crab);

(19) "Dungeness crab" means the species *Metacarcinus magister*;

(20) "household" means a person or persons having the same residence;

(21) "groundfish" or "bottomfish" means any marine finfish except halibut, osmerids, herring, and salmonids;

(22) "to operate fishing gear" means

(A) the deployment of gear or to have gear deployed in the waters of Alaska;

(B) the removal of gear from the waters of Alaska;

(C) the removal of fish or shellfish from the gear during an open season or period; or

(D) possession of a gillnet containing fish during an open fishing period, except that a net which is completely clear of the water is not considered to be operating for the purpose of minimum distance requirements;

(23) "possession limit" means the maximum number of fish a person may have in his possession if the fish have not been canned, salted, frozen, smoked, dried or otherwise preserved so as to be fit for human consumption after a 15-day period;

(24) "hung measure" means the maximum length of the cork line when measured wet or dry with traction applied at one end only;

(25) "drainage" means all of the waters comprising a watershed, including tributary rivers, streams, sloughs, ponds and lakes which contribute to the supply of the watershed;

(26) "fresh water of streams and rivers" means fresh water separated from salt water at the mouth of streams and rivers by a line drawn between the seaward extremities of the exposed tideland banks at the present stage of the tide;

(27) "guideline harvest level" means the preseason estimated level of allowable fish harvest which will not jeopardize the sustained yield of the fish stocks; an area, district, section or portion thereof may close to fishing before or after the guideline harvest level has been reached if principles of management and conservation dictate such action;

(28) "peace officer of the state" means a person defined in AS 16.05.150;

(29) "processing" means completion of

(A) cooking;

(B) canning;

(C) smoking;

(D) salting, which means uniformly mixing with a minimum salting level of at least 20 percent of the weight of the fish resources;

(E) drying; or

(F) freezing, which means to congeal and solidify the flesh of fish by abstraction of heat;

(30) "domicile" means the same as in AS 16.05.940; evidence of a person's domicile may include, but is not limited to, the following:

(A) statements made to obtain a license to drive, hunt, fish, or engage in an activity regulated by a government entity;

(B) affidavit of the person, or of other persons who may know of that person's domicile;

(C) place of voter registration;

(D) location of residences owned, rented, or leased;

(E) location of storage of household goods;

(F) location of business owned or operated;

(G) residence of spouse and minor children or dependents;

(H) governments to which taxes are paid;

(I) whether the person has claimed residence in another location for the purpose of obtaining benefits provided by the governments in that location;

(31) "fishing site" means a structure or vessel used by a CFEC permit holder for providing shelter in support of the operation of stationary net gear;

(32) "net gear site" means the in-water location of stationary net gear;

(33) "seine vessel" means the largest vessel, as determined by keel length, used to operate a seine and the vessel from which the seine is set, and to which the seine is retrieved to;

(34) "demersal shelf rockfish" means any or all of the following Sebastes species:

(A) repealed 4/30/91;

- (B) *S. pinniger* (Canary);
- (C) *S. nebulosus* (China);
- (D) *S. caurinus* (Copper);
- (E) *S. maliger* (Quilback);
- (F) repealed 4/30/91;
- (G) *S. helvomaculatus* (Rosethorn);
- (H) repealed 4/30/91;
- (I) *S. nigrocinctus* (Tiger);
- (J) *S. ruberrimus* (Yelloweye);
- (K) repealed 4/4/97;

(35) "onboard observer" means a representative of the Departments of Fish and Game or Public Safety who

(A) is certified by the Department of Fish and Game as having completed minimum training requirements;

(B) is living on board a fishing or processing vessel for all or part of the period the vessel is at sea; and

(C) is monitoring fishing or processing activities and collecting harvest data essential to management and enforcement;

(36) "rockfish" means all species of the genus *Sebastes*;

(37) "pelagic shelf rockfish" means any or all of the following *Sebastes* species:

- (A) *S. ciliatus* (Dark);
- (B) *S. entomelas* (Widow);
- (C) *S. flavidus* (Yellowtail);
- (D) *S. melanops* (Black);
- (E) *S. diaconus* (Deacon);
- (F) *S. variabilis* (Dusky);

(38) "slope rockfish" means any species of the genus *Sebastes* not specified as either demersal shelf rockfish or pelagic shelf rockfish;

(39) "thornyhead rockfish" or "idiot rockfish" means all species of the genus *Sebastes*;

(40) "weathervane scallop" means the species *Patinopecten caurinus*;

(41) "mile" means

(A) a nautical mile when used in reference to marine waters; or

(B) a statute mile when used in reference to fresh water;

(42) "miscellaneous shellfish" means all shellfish and marine invertebrates, except shrimp, and king, Tanner, and Dungeness crab;

(43) "total allowable catch" or "TAC" means the annual harvest quota or the retainable catch allowed for a species or species group;

(44) "individual fishing quota" or "IFQ" means the annual allocation of pounds for harvest that represents a quota share holder's percentage of the total allowable catch;

(45) "handicraft" means a finished product in which the shape or appearance of the natural material has been substantially changed by skillful use of the hands, such as by sewing, carving, etching, scrimshawing, painting, or other means, and which has substantially greater monetary and aesthetic value than the unaltered natural material alone.

(b) Beginning April 15, 2017, in AS 16.05.835, "anchor roller" means a device used solely in aid of deploying and retrieving anchor gear and does not provide any additional flotation, planing surface, sea keeping ability, buoyancy, deck space, or structural support to the vessel.

**5 AAC 39.995. Water depth** Unless otherwise specified, water depths in 5 AAC 01 - 5 AAC 39 are to be measured from mean lower low water.

**5 AAC 39.997. Abbreviations and symbols** (a) The abbreviations a.m. and p.m. indicate antemeridian and postmeridian respectively for either Standard Time or Daylight Saving Time in conformance with the official time in use for Alaska.

(b) The symbols<sup>o</sup>, ', ", indicate degrees, minutes, and seconds, respectively, of longitude or latitude, based upon the North American datum of 1983.

(c) Lat. and long. indicate latitude and longitude, respectively.

(d) E. indicates east, N. indicates north, W. indicates west, and S. indicates south. All bearings and directions shall be construed to be true bearings and true directions.

(e) ADF&G is the abbreviation for Alaska Department of Fish and Game.

(f) CFEC is the abbreviation for the Commercial Fisheries Entry Commission.

**5 AAC 39.999. Policy for changing board agenda** (a) The Board of Fisheries (board) will, in its discretion, change its schedule for consideration of a proposed regulatory change in response to an agenda change request, submitted on a form provided by the board, in accordance with the following guidelines:

(1) the board will accept an agenda change request only

(A) for a fishery conservation purpose or reason;

(B) to correct an error in a regulation; or

(C) to correct an effect on a fishery that was unforeseen when a regulation was adopted;

(2) the board will not accept an agenda change request that is predominantly allocative in nature in the absence of new information that is found by the board to be compelling;

(3) the board will consider an agenda change request only at its first meeting in the fall; a request must be received by the executive director of the board at least 60 days before the first meeting in the fall.

(b) The board will, in its discretion, change its schedule for consideration of proposed regulatory changes as reasonably necessary for coordination of state regulatory actions with federal fishery agencies, programs, or laws.

(c) If the board accepts an agenda change request under this section, the executive director shall notify the public and the department of the change in the board's schedule and when the board will consider the proposed regulatory change requested.

**Title 16. Fish and Game. Chapter 05.Fiah and Game Code Definitions.****Article 1. The Department of Fish and Game.**

**Sec. 16.05.060. Emergency orders.** (a) This chapter does not limit the power of the commissioner or an authorized designee, when circumstances require, to summarily open or close seasons or areas or to change weekly closed periods on fish or game by means of emergency orders.

(b) The commissioner or an authorized designee may, under criteria adopted by the Board of Fisheries, summarily increase or decrease sport fish bag limits or modify methods of harvest for sport fish by means of emergency orders.

(c) An emergency order has the force and effect of law after field announcement by the commissioner or an authorized designee. An emergency order adopted under this section is not subject to AS 44.62 (Administrative Procedure Act).

**Sec. 16.05.070. Regulations as evidence.** Regulations of a board and of the commissioner, including emergency openings and closures, are admissible as evidence in the courts of the state in accordance with AS 44.62 (Administrative Procedure Act).

**Sec. 16.05.080. Limitation of power.** Nothing in this chapter authorizes the department or a board to change the amount of fees or licenses.

**Sec. 16.05.150. Enforcement authority.**

The following persons are peace officers of the state and they shall enforce this title except AS 16.51 and AS 16.52:

- (1) an employee of the department authorized by the commissioner;
- (2) a police officer in the state;
- (3) any other person authorized by the commissioner.

**Sec. 16.05.170. Power to execute warrant.** Each peace officer designated in AS 16.05.150 may execute a warrant or other process issued by an officer or court of competent jurisdiction for the enforcement of this title except AS 16.51 and AS 16.52, and may, with a search warrant, search any place at any time. The judge of a court having jurisdiction may, upon proper oath or affirmation showing probable cause, issue a warrant in all cases.

**Sec. 16.05.180. Power to search without warrant.** Each peace officer designated in AS 16.05.150 may without a warrant search any thing or place if the search is reasonable or is not protected from searches and seizures without warrant within the meaning of art. I, § 14, Alaska State Constitution, which specifically enumerates “persons, houses and other property, papers and effects.” However, before a search without warrant is made a signed written statement by the person making the search shall be submitted to the person in control of the property or object to be searched, stating the reason the search is being conducted. A written receipt shall be given by the person conducting the search for property which is taken as a result of the search. The enumeration of specific things does not limit the meaning of words of a general nature.

**Sec. 16.05.190. Seizure and disposition of equipment.** Guns, traps, nets, fishing tackle, boats, aircraft, automobiles or other vehicles, sleds, and other paraphernalia used in or in aid of a violation of this chapter or a regulation of the department may be seized under a valid search, and all fish and game, or parts of fish and game, or nests or eggs of birds, taken, transported, or possessed contrary to the provisions of this chapter or a regulation of the department shall be seized by any peace officer designated in AS 16.05.150. Upon conviction of the offender or upon judgment of the court having jurisdiction that the item was taken, transported, or possessed in violation of this chapter or a regulation of the department, all fish and game, or parts of them are forfeited to the state and shall be disposed of as directed by the court. If sold, the proceeds of the sale shall be transmitted to the proper state officer for deposit in the general fund. Guns, traps, nets, fishing tackle, boats, aircraft, or other vehicles, sleds, and other paraphernalia seized under the provisions of this chapter or a regulation of the department, unless forfeited by order of the court, shall be returned, after completion of the case and payment of the fine, if any.

**Sec. 16.05.195. Forfeiture of equipment.** (a) Guns, traps, nets, fishing gear, vessels, aircraft, other motor vehicles, sleds, and other paraphernalia or gear used in or in aid of a violation of this title or AS 08.54, or regulation adopted under this title or AS 08.54, and all fish and game or parts of fish and game or nests or eggs of birds taken, transported, or possessed contrary to the provisions of this title or AS 08.54, or regulation adopted under this title or AS 08.54, may be forfeited to the state

(1) upon conviction of the offender in a criminal proceeding of a violation of this title or AS 08.54 in a court of competent jurisdiction; or

(2) upon judgment of a court of competent jurisdiction in a proceeding in rem that an item specified above was used in or in aid of a violation of this title or AS 08.54 or a regulation adopted under this title or AS 08.54.

(b) Items specified in (a) of this section may be forfeited under this section regardless of whether they were seized before instituting the forfeiture action.

(c) An action for forfeiture under this section may be joined with an alternative action for damages brought by the state to recover damages for the value of fish and game or parts of them or nests or eggs of birds taken, transported, or possessed contrary to the provisions of this title or a regulation adopted under it.

(d) It is no defense that the person who had the item specified in (a) of this section in possession at the time of its use and seizure has not been convicted or acquitted in a criminal proceeding resulting from or arising out of its use.

(e) Forfeiture may not be made of an item subsequently sold to an innocent purchaser in good faith. The burden of proof as to whether the purchaser purchased the item innocently and in good faith shall be on the purchaser.

(f) An item forfeited under this section shall be disposed of at the discretion of the department. Before the department disposes of an aircraft it shall consider transfer of ownership of the aircraft to the Alaska Wing, Civil Air Patrol.

**Sec. 16.05.200. Power to administer oaths.** Each peace officer designated in AS 16.05.150 may administer to or take from any person, an oath, affirmation, or affidavit when it is for use in a prosecution or proceeding under or in the enforcement of this chapter.

**Sec. 16.05.241. Powers excluded.** The boards have regulation-making powers as set out in this chapter, but do not have administrative, budgeting, or fiscal powers.

**Sec. 16.05.251. Regulations of the Board of Fisheries.** (a) The Board of Fisheries may adopt regulations it considers advisable in accordance with AS 44.62 (Administrative Procedure Act) for

(1) setting apart fish reserve areas, refuges, and sanctuaries in the waters of the state over which it has jurisdiction, subject to the approval of the legislature;

(2) establishing open and closed seasons and areas for the taking of fish; if consistent with resource conservation and development goals, the board may adopt regulations establishing restricted seasons and areas necessary for

(A) persons 60 years of age and older to participate in sport, personal use, or subsistence fishing; or

(B) residents under 18 years of age and nonresidents under 16 years of age to participate in sport fishing;

(3) setting quotas, bag limits, harvest levels, and sex and size limitations on the taking of fish;

(4) establishing the means and methods employed in the pursuit, capture, and transport of fish;

(5) establishing marking and identification requirements for means used in pursuit, capture, and transport of fish;

(6) classifying as commercial fish, sport fish, guided sport fish, personal use fish, subsistence fish, or predators or other categories essential for regulatory purposes;

(7) watershed and habitat improvement, and management, conservation, protection, use, disposal, propagation, and stocking of fish;

(8) investigating and determining the extent and effect of disease, predation, and competition among fish in the state, exercising control measures considered necessary to the resources of the state;

(9) prohibiting and regulating the live capture, possession, transport, or release of native or exotic fish or their eggs;

(10) establishing seasons, areas, quotas, and methods of harvest for aquatic plants;

(11) establishing the times and dates during which the issuance of fishing licenses,

permits, and registrations and the transfer of permits and registrations between registration areas is allowed; however, this paragraph does not apply to permits issued or transferred under AS 16.43;

(12) regulating commercial, sport, guided sport, subsistence, and personal use fishing as needed for the conservation, development, and utilization of fisheries;

(13) requiring, in a fishery, observers on board fishing vessels, as defined in AS 16.05.475(d), that are registered under the laws of the state, as defined in AS 16.05.475(c), after making a written determination that an onboard observer program

(A) is the only practical data-gathering or enforcement mechanism for that fishery;

(B) will not unduly disrupt the fishery;

(C) can be conducted at a reasonable cost; and

(D) can be coordinated with observer programs of other agencies, including the National Marine Fisheries Service, North Pacific Fishery Management Council, and the International Pacific Halibut Commission;

(14) establishing nonexclusive, exclusive, and superexclusive registration and use areas for regulating commercial fishing;

(15) regulating resident or nonresident sport fishermen as needed for the conservation, development, and utilization of fishery resources;

(16) requiring unlicensed fishing vessels present in or transiting the waters of the state to report to the department the quantity, species, and origin of fish on board; in this paragraph, “unlicensed fishing vessel” means a fishing vessel that is not licensed under AS 16.05.490 — 16.05.530;

(17) promoting fishing and preserving the heritage of fishing in the state.

(b) [Repealed, § 12 ch 52 SLA 1986.]

(c) If the Board of Fisheries denies a petition or proposal to amend, adopt, or repeal a regulation, the board, upon receiving a written request from the sponsor of the petition or proposal, shall in addition to the requirements of AS 44.62.230 provide a written explanation for the denial to the sponsor not later than 30 days after the board has officially met and denied the sponsor’s petition or proposal, or 30 days after receiving the request for an explanation, whichever is later.

(d) Regulations adopted under (a) of this section must, consistent with sustained yield and the provisions of AS 16.05.258, provide a fair and reasonable opportunity for the taking of fishery resources by personal use, sport, and commercial fishermen.

(e) The Board of Fisheries may allocate fishery resources among personal use, sport, guided sport, and commercial fisheries. The board shall adopt criteria for the allocation of

fishery resources and shall use the criteria as appropriate to particular allocation decisions. The criteria may include factors such as

- (1) the history of each personal use, sport, guided sport, and commercial fishery;
- (2) the number of residents and nonresidents who have participated in each fishery in the past and the number of residents and nonresidents who can reasonably be expected to participate in the future;
- (3) the importance of each fishery for providing residents the opportunity to obtain fish for personal and family consumption;
- (4) the availability of alternative fisheries resources;
- (5) the importance of each fishery to the economy of the state;
- (6) the importance of each fishery to the economy of the region and local area in which the fishery is located;
- (7) the importance of each fishery in providing recreational opportunities for residents and nonresidents.

(f) Except as expressly provided in AS 16.40.120(e) and 16.40.130, the Board of Fisheries may not adopt regulations or take action regarding the issuance, denial, or conditioning of a permit under AS 16.40.100 or 16.40.120, the construction or operation of a farm or hatchery required to have a permit under AS 16.40.100, or a harvest with a permit issued under AS 16.40.120.

(g) The Board of Fisheries shall consider a request of the commissioner for approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery under AS 16.43.225 at the board's next regular or special meeting that follows the receipt by the board of the request for approval of the petition and that allows time for the notice required under this subsection. The board may consider the request of the commissioner for approval of the petition only after 15 days' public notice of the board's intention to consider approval of the petition. The board shall consider whether the commissioner, in support of the request for approval of the petition, has adequately shown that the fishery meets requirements for a moratorium on new entrants under AS 16.05.050. The board by a majority vote of its members at the meeting when the petition must be considered shall approve or disapprove the petition.

(h) The Board of Fisheries shall adopt by regulation a policy for the management of mixed stock fisheries. The policy shall provide for the management of mixed stock fisheries in a manner that is consistent with sustained yield of wild fish stocks.

(i) Notwithstanding AS 16.43.140(c)(5), the board may adopt, at a regularly scheduled meeting at which the board considers regulatory proposals for management of a specific salmon fishery, a regulation to allow a person who holds two entry permits for that salmon fishery an additional fishing opportunity appropriate for that particular fishery.

**Sec. 16.05.259. No subsistence defense.** In a prosecution for the taking of fish or game in violation of a statute or regulation, it is not a defense that the taking was done for subsistence uses.

**Sec. 16.05.260. Advisory committees.** The Board of Fisheries and the Board of Game may adopt regulations they consider advisable in accordance with AS 44.62 (Administrative Procedure Act) establishing, at places in the state designated by the individual boards, advisory committees to be composed of persons well informed on the fish or game resources of the locality. The boards shall set the number and terms of each of the members of the advisory committees, shall delegate one member of each committee as chairman, and shall give the chairman authority to hold public hearings on fish or game matters. Recommendations from the advisory committees shall be forwarded to the appropriate board for their consideration but if the Board of Fisheries or the Board of Game chooses not to follow the recommendations of the local advisory committee the appropriate board shall inform the appropriate advisory committee of this action and state the reasons for not following the recommendations. The commissioner shall delegate authority to advisory committees for emergency closures during established seasons. The commissioner is empowered to set aside and make null and void only opening of seasons set by the advisory committees under this section. The appropriate board shall adopt the necessary regulations governing these closures.

**Sec. 16.05.270. Delegation of authority to commissioner.** For the purpose of administering AS 16.05.251 and 16.05.255, each board may delegate authority to the commissioner to act in its behalf. If there is a conflict between the board and the commissioner on proposed regulations, public hearings shall be held concerning the issues in question. If, after the public hearings, the board and the commissioner continue to disagree, the issue shall be certified in writing by the board and the commissioner to the governor who shall make a decision. The decision of the governor is final.

#### **Article 4. Licensing of Commercial Fishing Crewmembers and Vessels.**

**Sec. 16.05.440. Expiration date for licenses.** Licenses issued under AS 16.05.440 — 16.05.723 expire at the close of December 31 following their issuance or, for licenses that are valid for two years, after December 31 of the year after the year of issuance, and shall be renewed upon application and payment of the license fees required by AS 16.05.440 — 16.05.723.

**Sec. 16.05.450. Issuance of licenses; disclosure for child support purposes.** (a) The commissioner or an authorized agent shall issue a crewmember fishing license under AS 16.05.480 to each qualified person who files a written application at a place in the state designated by the commissioner, containing the reasonable information required by the commissioner together with the required fee. The commissioner shall require the reporting of the applicant's social security number on the application. The application shall be simple in form and shall be executed by the applicant under the penalty of unsworn falsification in the second degree.

(b) The Alaska Commercial Fisheries Entry Commission shall issue a vessel license under AS 16.05.490 to each qualified vessel for which a written application has been filed, at a place in the state designated by the commission, containing the reasonable information required by the commission together with the required fee. The application

shall be simple in form and shall be executed by the applicant under the penalty of unsworn falsification in the second degree.

(c) [Repealed, § 19 ch 105 SLA 1977.]

(d) Upon request, the commissioner shall provide a social security number provided under (a) of this section to the child support services agency created in AS 25.27.010, or the child support enforcement agency of another state, for child support purposes authorized under law.

**Sec. 16.05.475. Registration of fishing vessels.** (a) A person may not employ a fishing vessel in the water of this state unless it is registered under the laws of the state. Vessels registered under the laws of another state, and persons residing in another state, are not excused from this provision.

(b) The term “employ”, as used in this section, shall be defined by the Board of Fisheries through the adoption of regulations under AS 44.62 (Administrative Procedure Act). The definition may include any activities involving the use or navigation of fishing vessels.

(c) The term “registered under the laws of the state”, as used in this section, shall be defined by the Board of Fisheries through the adoption of regulations under AS 44.62 (Administrative Procedure Act). The definition may include any existing requirements regarding registration, licenses, permits, and similar matters imposed by law or regulation together with modifications of them and with any additional requirements the board finds necessary to maximize the authority of the state to apply and enforce fisheries regulations under 16 U.S.C. 1801-1882 (Magnuson-Stevens Fishery Conservation and Management Act of 1976 (P.L. 94-265, 90 Stat. 331)).

(d) In this section “fishing vessel” means any vessel, boat, ship, or other craft that is used for, equipped to be used for, or of a type which is normally used for

(1) fishing, or

(2) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

**Sec. 16.05.480. Commercial fishing license; disclosure for child support purposes.** (a) A person engaged in commercial fishing shall obtain a commercial fishing license and shall retain the license in possession and readily available for inspection during fishing operations. An entry permit or interim-use permit entitles the holder to participate as a gear operator in the fishery for which the permit is issued and to participate as a crewmember in any fishery. A crewmember fishing license is not transferable and entitles the holder to participate as a crewmember in any fishery.

(b) A person applying for a commercial fishing license under this section shall provide the person’s social security number. A person applying for a resident commercial fishing license under this section shall also provide proof of residence that the department requires by regulation.

(c) [Repealed, § 12 ch 123 SLA 1978.]

(d) Upon request, the department or the Alaska Commercial Fisheries Entry Commission shall provide a social security number provided by an applicant for a license under this section to the child support services agency created in AS 25.27.010, or the child support agency of another state, for child support purposes authorized under law.

(e) Except as provided under AS 16.05.470 and AS 23.35.060, fees collected from the sale of crewmember fishing licenses under this section may be appropriated into the fish and game fund.

(f) [Repealed, § 7 ch 27 SLA 2001.]

(g) A resident engaged in commercial fishing who is 11 years of age or older and who does not hold an entry permit or an interim-use permit shall, except as provided in (i) of this section, pay a fee of \$60 for an annual crewmember fishing license. A resident engaged in commercial fishing who is less than 11 years of age and who does not hold an entry permit or an interim-use permit shall pay an annual fee of \$5.

(h) A nonresident engaged in commercial fishing who is 11 years of age or older and who does not hold an entry permit or an interim-use permit shall, except as provided in (i) of this section, pay a base fee of \$60 for an annual crewmember fishing license, plus an amount, established by the department by regulation, that is as close as is practicable to the maximum allowed by law. A nonresident engaged in commercial fishing who is less than 11 years of age and who does not hold an entry permit or an interim-use permit shall pay an annual base fee of \$5 plus an amount, established by the department by regulation, that is as close as is practicable to the maximum allowed by law.

(i) Notwithstanding (g) and (h) of this section, a resident or nonresident engaged in commercial fishing who does not hold an entry permit or an interim-use permit may obtain one seven-day crewmember fishing license under this subsection annually. A person who obtains a seven-day license is not eligible for another seven-day license in the same license year; however, if a person who obtains a seven-day license pays the full fee for an annual crewmember fishing license under (g) or (h) of this section during the same license year, the person is entitled to receive a refund of the fee for the seven-day license. The department shall adopt regulations establishing a refund procedure. During the period for which the seven-day license is valid, a person who holds a seven-day license may not engage in fishing with a rod and reel while present on a commercial fishing vessel. The fee for a seven-day license is \$30.

(j) In this section, “commercial fishing license” includes an entry permit and an interim-use permit issued under AS 16.43 and a crewmember fishing license.

**Sec. 16.05.490. Vessel license.** (a) As a condition to delivery or landing of fish or engaging in commercial fishing in the state, a license is required for a commercial vessel.

**Sec. 16.05.495. Vessel license exemption.** A vessel used exclusively for the commercial capture of salmon in commercial salmon administrative management areas that include state water between the latitude of Point Romanof and the latitude of Cape Newenham,

and state water surrounding Nunivak Island, or at a set net site, is exempt from the licensing requirements of AS 16.05.490.

**Sec. 16.05.510. Unlicensed vessel unlawful.** A person may not operate a vessel to which AS 16.05.490 — 16.05.530 apply without a vessel license, whether the absence of a vessel license results from initial failure to purchase or from another reason.

**Sec. 16.05.520. Number plate.** (a) The vessel license includes a permanent number plate. The number plate shall be accompanied by a tab affixed to the number plate designating the year to be fished. A number plate is not transferable, and the number plate shall be considered a permanent fixture upon the vessel upon which the number plate is originally placed. The number plate shall be securely fastened well forward on the port side in plain sight. On a vessel with a superstructure, the number plate shall be fastened on the port side of the superstructure. A number plate remains the property of the state. The Alaska Commercial Fisheries Entry Commission may establish by regulation a reasonable fee for the initial issuance of a permanent number plate. If a permanent number plate is accidentally defaced, mutilated, destroyed, or lost, the person owning or operating the vessel shall immediately apply for and may obtain a duplicate upon furnishing the Alaska Commercial Fisheries Entry Commission with the pertinent facts and a payment of a reasonable fee established by the commission by regulation that is not less than \$2.

(b) If a vessel carrying a number plate is lost, destroyed, or sold, the owner shall immediately report the loss, destruction, or sale to the Alaska Commercial Fisheries Entry Commission.

**Sec. 16.05.671. Transportation and sale of certain fish by an agent of the fisherman who caught the fish.** (a) A person may transport and sell commercially taken fish as the agent of the commercial fisherman who caught the fish if the person holds a fish transporter permit issued by the commissioner under this section.

(b) The commissioner may issue a fish transporter permit to a natural person. A fish transporter permit authorizes the permittee to transport and sell commercially taken fish as the agent of the commercial fisherman who caught the fish. A fish transporter may not buy or process fish received for transport unless the fish transporter also holds the appropriate licenses, permits, and other authorizations required to buy or process fish.

(c) A person who applies for a fish transporter permit under this section shall provide the person's social security number to the department. Upon request of the child support services agency created in AS 25.27.010, or a child support agency of another state, the department shall provide a social security number provided by an applicant for a fish transporter permit under this section to that agency for child support purposes authorized under law.

(d) A commercial fisherman may authorize a fish transporter to transport and sell fish on behalf of the fisherman as the agent of the fisherman. The fish transporter shall complete a fish ticket in accordance with procedures prescribed by the department for each fisherman who transfers fish to the fish transporter. The fish ticket must accompany the fish transferred to the fish transporter while the fish are in possession of the fish transporter. The fish transporter shall present the fish ticket for inspection upon request by a peace officer or representative of the commissioner. The fish transporter shall

present the fish ticket to the buyer of the fish at the time of sale. The buyer of the fish shall complete the fish ticket by inserting the buyer's information as required by the department, including the weight or count of fish purchased. The buyer shall return a copy of the fish ticket to the commercial fisherman on whose behalf the fish are sold.

(e) A commercial fisherman who transfers fish to a fish transporter to transport and sell fish on behalf of the fisherman shall provide the fish transporter with all required information that the fisherman would have to provide to the buyer of the fish if the fisherman were to personally sell the fish to the buyer. The fish transporter who sells fish as the agent of a commercial fisherman shall provide all information to the buyer of the fish that the commercial fisherman would have to provide to the buyer if the fisherman were to personally sell the fish.

(f) A commercial fisherman may also hold a fish transporter permit. A commercial fisherman who holds a fish transporter permit may simultaneously transport or sell fish that the fisherman caught as well as fish caught by other commercial fishermen. A commercial fisherman who is simultaneously operating as a fish transporter shall physically possess

(1) the fish ticket completed under (d) of this section for the fish being transported or sold on behalf of another fisherman; and

(2) other documentation that may be prescribed by the commissioner by regulation.

(g) The commissioner may adopt regulations the commissioner considers necessary to implement this section. The regulations may not conflict with regulations or management plans adopted by the Board of Fisheries. The regulations may include

(1) criteria for determining areas or fisheries for which transporter permits may not be issued because

(A) fish transporter operations may alter harvest rates for the area or fishery to the extent that conservation of the resource is jeopardized, may significantly impair the ability of the department to accurately determine catch or effort levels, or may interfere with fishery management, allocation, or enforcement matters;

(B) a fishery is managed through allocations of the harvest to individuals, such as trip limits or quota shares; or

(C) combining of catches by multiple fishermen on a vessel may impair the ability of the department to accurately determine the incidental catch by each fisherman;

(2) requirements for timely and accurate reporting and record keeping; or

(3) procedures to maintain quality of harvested resources.

(h) Fish transferred to the possession of a fish transporter under the authority of this section are property of the fisherman who caught the fish until the fish are sold to a buyer by the fish transporter on behalf of the fisherman.

(i) In this section, “fish” means fish legally harvested and retained in salmon, herring, or Pacific cod fisheries.

**Sec. 16.05.680. Unlawful practices.** (a) It is unlawful for a person, or an agent or representative of the person,

(1) to employ, in the harvesting, transporting, or purchasing of fish, a fisherman who neither is licensed under AS 16.05.480 nor is the holder of a permit issued under AS 16.43;

(2) to purchase fish from a person who is not

(A) the holder of a limited entry, interim-use, or landing permit issued under AS 16.43;

(B) a fish transporter who is selling the fish as the agent of the holder of a limited entry, interim-use, or landing permit issued under AS 16.43; or

(C) exempt under AS 16.05.660; or

(3) to purchase fish from an association other than one to which a permit has been issued under AS 16.05.662.

(b) A person may not sell salmon that was not harvested under the authority of the entry permit, interim-use permit, or landing permit under which the salmon is sold. For purposes of this subsection, salmon sold by a fish transporter on behalf of the commercial fisherman who harvested the salmon is salmon harvested under the authority of the limited entry, interim-use, or landing permit under which the salmon is sold.

**Sec. 16.05.690. Record of purchases.** (a) Each buyer of fish shall keep a record of each purchase showing the name or number of the vessel from which the catch involved is taken, the date of landing, vessel license number, pounds purchased of each species, number of each species, and the Department of Fish and Game statistical area in which the fish were taken, and other information the department requires. Records may be kept on forms provided by the department. Each person charged with keeping the records shall report them to the department in accordance with regulations adopted by the department.

(b) A person may not knowingly enter false information on a fish ticket or supply false information to a person who is recording information on a fish ticket.

**Sec. 16.05.710. Suspension of commercial license and entry permit.** (a) Upon the conviction of a person for a misdemeanor or felony violation of a commercial fishing law of this state, in a fishery other than a commercial salmon fishery, the court, in addition to other penalties imposed by law,

(1) may suspend one or more of the person’s commercial fishing privileges and licenses for a period of not more than one year if the conviction is the person’s first or second misdemeanor or felony conviction within a 10-year period for violating a commercial fishing law of this state, in a fishery other than a commercial salmon fishery, or another jurisdiction; or

(2) shall suspend one or more of the person's commercial fishing privileges and licenses for a period of not more than three years if the conviction is the person's third or subsequent misdemeanor or felony conviction within a 10-year period for violating a commercial fishing law of this state, in a fishery other than a commercial salmon fishery, or another jurisdiction.

(b) Upon a first conviction of a person for a violation of AS 11.46.120 — 11.46.130 in which the property is commercial fishing gear as defined in AS 16.43.990, the court shall, in addition to the penalty imposed by law, suspend one or more of the person's commercial fishing privileges and licenses for one year. Upon a second or subsequent conviction for a violation of AS 11.46.120 — 11.46.130 or a similar law of another jurisdiction in which the property is commercial fishing gear as defined in AS 16.43.990, the court shall, in addition to the penalty imposed by law, suspend one or more of the person's commercial fishing privileges and licenses for two years.

(c) If proceedings in which commercial fishing privileges or licenses may be suspended under this section are pending against a limited entry permit holder, the permit holder's limited entry permit may not be permanently transferred, unless allowed by order of the court in which the proceedings are pending, and a permanent transfer of the permit, unless allowed by order of the court, is void. During the period for which a limited entry permit or the permit holder's right to obtain a limited entry permit or to engage in an activity for which a limited entry permit is required is suspended under this section, a permit card may not be issued to the permit holder and the permit holder's permit may not be transferred or sold.

(d) In this section,

(1) "commercial fishing law" means a statute or regulation that regulates the conduct of a person engaged in commercial fishing activities by establishing requirements relating to fishing licenses and permits; catch records and reports; size, nature, or use of fishing vessels, sites, and gear; time, place, or manner of taking fishery resources; possession, transportation, sale, barter, or waste of fishery resources; or other aspects of commercial fishing;

(2) "commercial fishing license" means a limited entry permit or a crew member license;

(3) "commercial fishing privilege" means the privilege of participating in an activity for which a commercial fishing license is required and the privilege of obtaining a commercial fishing license;

(4) "limited entry permit" means an entry permit or an interim-use permit issued under AS 16.43.

**Sec. 16.05.722. Strict liability commercial fishing penalties.** (a) A person who without any culpable mental state violates AS 16.05.440 — 16.05.690, or a regulation of the Board of Fisheries or the department governing commercial fishing, is guilty of a violation and upon conviction is punishable by a fine of not more than

(1) \$3,000 for a first conviction;

(2) \$6,000 for a second conviction or for a subsequent conviction not described in (3) of this subsection; and

(3) \$9,000 for a third or subsequent conviction within a 10-year period.

(b) In addition, the court shall order forfeiture of any fish, or its fair market value, taken or retained as a result of the commission of the violation. For purposes of this subsection, it is a rebuttable presumption that all fish found on board a fishing vessel used in or in aid of a violation, or found at the fishing site, were taken or retained in violation of AS 16.05.440 — 16.05.690 or a commercial fisheries regulation of the Board of Fisheries or the department. It is the defendant’s burden to show by a preponderance of the evidence that fish on board or at the site were lawfully taken and retained.

(c) A person charged with a violation under this section is entitled to a trial by court but not by jury, and is not entitled to representation at public expense.

**Sec. 16.05.723. Misdemeanor commercial fishing penalties.** (a) A person who negligently violates AS 16.05.440 — 16.05.690, or a regulation of the Board of Fisheries or the department governing commercial fishing, is guilty of a misdemeanor and in addition to punishment under other provisions in this title, including AS 16.05.195 and 16.05.710, is punishable upon conviction by a fine of not more than \$15,000 or by imprisonment for not more than one year, or by both. In addition, the court shall order forfeiture of any fish, or its fair market value, taken or retained as a result of the commission of the violation, and the court may forfeit any vessel and any fishing gear, including any net, pot, tackle, or other device designed or employed to take fish commercially, that was used in or in aid of the violation. Any fish, or its fair market value, forfeited under this subsection may not also be forfeited under AS 16.05.195. For purposes of this subsection, it is a rebuttable presumption that all fish found on board a fishing vessel used in or in aid of a violation, or found at the fishing site, were taken or retained in violation of AS 16.05.440 — 16.05.690 or a commercial fisheries regulation of the Board of Fisheries or the department, and it is the defendant’s burden to show by a preponderance of the evidence that fish on board or at the site were lawfully taken and retained.

(b) If a person is convicted under this section of one of the following offenses, then, in addition to the penalties imposed under (a) of this section, the court may impose a fine equal to the gross value of the fish found on board or at the fishing site at the time of the violation:

(1) commercial fishing in closed waters;

(2) commercial fishing during a closed period or season;

(3) commercial fishing with unlawful gear, including a net, pot, tackle, or other device designed or employed to take fish commercially; or

(4) commercial fishing without a limited entry permit holder on board if the holder is required by law or regulation to be present.

(c) Upon a third misdemeanor conviction within a period of 10 years for an offense listed in (b) of this section or any combination of offenses listed in (b) of this section, the court shall impose, in addition to any penalties imposed under (a) of this section, a fine equal to three times the gross value of the fish found on board or at the fishing site at the time of the offense, or a fine equal to \$10,000, whichever is greater.

**Sec. 16.05.735. Management of offshore fisheries.** The state may assume management of a fishery in offshore water adjacent to the state in the absence of a federal fishery management plan for the fishery or in the event that a federal fishery management plan for the fishery delegates authority to the state to manage the fishery in the United States exclusive economic zone.

## **Article 6. Miscellaneous Provisions.**

**Sec. 16.05.800. Public nuisances.** A net, seine, lantern, snare, device, contrivance, and material while in use, had and maintained for the purpose of catching, taking, killing, attracting, or decoying fish or game, contrary to law or regulation of a board or the commissioner, is a public nuisance and is subject to abatement.

**Sec. 16.05.810. Burden of proof.** The possession of fish or game or a part of fish or game, or a nest or egg of a bird during the time the taking of it is prohibited is prima facie evidence that it was taken, possessed, bought, or sold or transported in violation of this chapter. The burden of proof is upon the possessor or claimant of it to overcome the presumption of illegal possession and to establish the fact that it was obtained and is possessed lawfully. This section does not apply

(1) during the first full 10 days after the time when a taking is prohibited, except as provided in (3) of this section;

(2) if the fish or game or part of fish or game is in a preserved condition whether frozen, smoked, canned, salted, pickled, or otherwise preserved; or

(3) with respect to crab aboard a commercial crab fishing vessel, during the first full three days after the time when a taking is prohibited.

**Sec. 16.05.815. Confidential nature of certain reports and records.** (a) Except as provided in (b) and (c) of this section, records required by regulations of the department concerning the landings of fish, shellfish, or fishery products, and annual statistical reports of fishermen, buyers, and processors required by regulation of the department are confidential and may not be released by the department or by the Alaska Commercial Fisheries Entry Commission except as set out in this subsection. The department may release the records and reports set out in this subsection to the Alaska Commercial Fisheries Entry Commission. The department and the Alaska Commercial Fisheries Entry Commission may release the records and reports set out in this subsection to the recipients identified in this subsection if the recipient, other than a recipient under (5) — (9) of this subsection, agrees to maintain the confidentiality of the records and reports. The department and the Alaska Commercial Fisheries Entry Commission may release

(1) any of the records and reports to the National Marine Fisheries Service and the professional staff of the North Pacific Fishery Management Council as required for preparation and implementation of the fishery management plans of the North Pacific Fishery Management Council within the exclusive economic zone;

(2) any of the records and reports to the professional staff of the Pacific States Marine Fisheries Commission who are employed in the Alaska Fisheries Information Network project for the purpose of exchanging information with users authorized by the department;

(3) any of the records and reports to the Department of Revenue to assist the department in carrying out its statutory responsibilities;

(4) records or reports of the total value purchased by each buyer to a municipality that levies and collects a tax on fish, shellfish, or fishery products if the municipality requires records of the landings of fish, shellfish, or fishery products to be submitted to it for purposes of verification of taxes payable;

(5) such records and reports as necessary to be in conformity with a court order;

(6) on request, the report of a person to the person whose fishing activity is the subject of the report, or to a designee of the person whose fishing activity is the subject of the report;

(7) on request, annual statistical reports of a fisherman, buyer, or processor to the fisherman, buyer, or processor whose activity is the subject of the report, or to a designee of the fisherman, buyer, or processor whose activity is the subject of the report;

(8) any of the records and reports to the Department of Public Safety for law enforcement purposes;

(9) fish tickets, fish ticket information, records required of sport fishing guides, and annual statistical reports of fishermen, buyers, and processors and information in those reports to the law enforcement personnel of the National Marine Fisheries Service and the National Oceanic and Atmospheric Administration for the purpose of enforcing fishery laws in waters of this state and in waters of the exclusive economic zone adjacent to this state;

(10) fish tickets, fish ticket information, and records required of sport fishing guides regarding halibut to the International Pacific Halibut Commission;

(11) any of the records and reports to the child support services agency created in AS 25.27.010, or the child support enforcement agency of another state, for child support purposes authorized under law;

(12) any of the records and reports to the Department of Natural Resources to assist the department in carrying out its statutory responsibilities in regard to sport fishing operations and sport fishing guides within the Kenai River Special Management Area under AS 41.21.500 — 41.21.514; and

(13) fish ticket information and records or reports of the total value purchased by each fisherman, buyer, or processor to the National Marine Fisheries Service for the purpose of enforcing the industry fee system of a fishing capacity reduction program under 16 U.S.C. 1861a (Magnuson-Stevens Fishery Conservation and Management Act).

(b) Except as provided in (c) of this section, records or reports received by the department which do not identify individual fishermen, buyers, or processors or the specific locations where fish have been taken are public information.

(c) Crab stock abundance survey information that reveals crab catch by sampling location is confidential and is not subject to inspection or copying under AS 40.25.110 — 40.25.120 until the close of the fishing season for which the survey was conducted.

(d) Except as otherwise provided in this section, the department shall keep confidential (1) personal information contained in fish and wildlife harvest and usage data; and (2) the records of the department that concern (A) telemetry radio frequencies of monitored species; (B) denning sites; (C) nest locations of raptors that require special attention; (D) the specific location of animal capture sites used for wildlife research or management; and (E) the specific location of fish and wildlife species. The department may release records and information that are kept confidential under this subsection if the release is necessary to comply with a court order, if the requester is a state or federal agency, if the requester is under contract with the state or federal agency to conduct research on a fish or wildlife population, or if the requester has been authorized by the department to perform specific activities and agrees to use the records and information only for purposes as provided under a contract or agreement with the department. After 25 years, the records and information that are kept confidential under this subsection become public records subject to inspection and copying under AS 40.25.110 — 40.25.140 unless the department determines that the release of the records or information may be detrimental to the fish or wildlife population. In this subsection, “personal information” has the meaning given in AS 40.25.350.

**Sec. 16.05.920. Prohibited conduct generally.** (a) Unless permitted by AS 16.05 — AS 16.40 or by regulation adopted under AS 16.05 — AS 16.40, a person may not take, possess, transport, sell, offer to sell, purchase, or offer to purchase fish, game, or marine aquatic plants, or any part of fish, game, or aquatic plants, or a nest or egg of fish or game.

(b) A person may not knowingly disturb, injure, or destroy a notice, signboard, seal, tag, aircraft, boat, vessel, automobile, paraphernalia, equipment, building, or other improvement or property of the department used in the administration or enforcement of this title except AS 16.51 and AS 16.52, or a poster or notice to the public concerning the provisions of this title except AS 16.51 and AS 16.52, or a regulation adopted under this title except AS 16.51 and AS 16.52, or a marker indicating the boundary of an area closed to hunting, trapping, fishing, or other special use under this title except AS 16.51 and AS 16.52. A person may not knowingly destroy, remove, tamper with, or imitate a seal or tag issued or used by the department or attached under its authority to a skin, portion, or specimen of fish or game, or other article for the purpose of identification or authentication in accordance with this title except AS 16.51 and AS 16.52 or a regulation adopted under this title except AS 16.51 and AS 16.52.

**Sec. 16.05.930. Exempted activities.** (a) This chapter does not prevent the collection or exportation of fish and game, a part of fish or game or a nest or egg of a bird for scientific or educational purposes, or for propagation or exhibition purposes under a permit that the department may issue and prescribe the terms thereof.

(b) This chapter does not prohibit a person from taking fish or game during the closed season, in case of dire emergency, as defined by regulation adopted by the appropriate board.

(c) AS 16.05.920 and 16.05.921 do not prohibit rearing and sale of fish from private ponds, the raising of wild animals in captivity for food, or the raising of game birds for the purpose of recreational hunting on game hunting preserves, under regulations adopted by the appropriate board. In this subsection, “animals” includes all animal life, including insects and bugs.

(d) Nondomestic animals of any species may not be transferred or transported from the state under (a) of this section unless approved by the Board of Game in regular or special meeting. Animals transferred or transported under (a) of this section shall be animals that are certified by the department to be surplus and unnecessary to the sustained yield management of the resource. Each application for a permit under (a) of this section shall be accompanied by a statement prepared by the department examining the probable environmental impact of the action.

(e) This chapter does not prevent the traditional barter of fish and game taken by subsistence hunting or fishing, except that the commissioner may prohibit the barter of subsistence-taken fish and game by regulation, emergency or otherwise, if a determination on the record is made that the barter is resulting in a waste of the resource, damage to fish stocks or game populations, or circumvention of fish or game management programs.

(f) A permit may not be required for possessing, importing, or exporting mink and fox for fur farming purposes.

(g) AS 16.05.330 — 16.05.723 do not apply to an activity authorized by a permit issued under AS 16.40.100 or 16.40.120, or to a person or vessel employed in an activity authorized by a permit issued under AS 16.40.100 or 16.40.120.

**Sec. 16.05.940. Definitions.** In AS 16.05 — AS 16.40,

(1) “**aquatic plant**” means any species of plant, excluding the rushes, sedges, and true grasses, growing in a marine aquatic or intertidal habitat;

(2) “**barter**” means the exchange or trade of fish or game, or their parts, taken for subsistence uses

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature;

(3) **“a board”** means either the Board of Fisheries or the Board of Game;

(4) **“commercial fisherman”** means an individual who fishes commercially for, takes, or attempts to take fish, shellfish, or other fishery resources of the state by any means, and includes every individual aboard a boat operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, whether participation is on shares or as an employee or otherwise; however, this definition does not apply to anyone aboard a licensed vessel as a visitor or guest who does not directly or indirectly participate in the taking; “commercial fisherman” includes the crews of tenders or other floating craft used in transporting fish, but does not include processing workers on floating fish processing vessels who do not operate fishing gear or engage in activities related to navigation or operation of the vessel; in this paragraph “operate fishing gear” means to deploy or remove gear from state water, remove fish from gear during an open fishing season or period, or possess a gill net containing fish during an open fishing period;

(5) **“commercial fishing”** means the taking, fishing for, or possession of fish, shellfish, or other fishery resources with the intent of disposing of them for profit, or by sale, barter, trade, or in commercial channels; the failure to have a valid subsistence permit in possession, if required by statute or regulation, is considered prima facie evidence of commercial fishing if commercial fishing gear as specified by regulation is involved in the taking, fishing for, or possession of fish, shellfish, or other fish resources;

(6) **“commissioner”** means the commissioner of fish and game unless specifically provided otherwise;

(7) **“customary and traditional”** means the noncommercial, long-term, and consistent taking of, use of, and reliance upon fish or game in a specific area and the use patterns of that fish or game that have been established over a reasonable period of time taking into consideration the availability of the fish or game;

(8) **“customary trade”** means the limited noncommercial exchange, for minimal amounts of cash, as restricted by the appropriate board, of fish or game resources; the terms of this paragraph do not restrict money sales of furs and furbearers;

(9) **“department”** means the Department of Fish and Game unless specifically provided otherwise;

(10) **“domestic mammals”** include musk oxen, bison, and reindeer, if they are lawfully owned;

(11) **“domicile”** means the true and permanent home of a person from which the person has no present intention of moving and to which the person intends to return whenever the person is away; domicile may be proved by presenting evidence acceptable to the boards of fisheries and game;

(12) **“fish”** means any species of aquatic finfish, invertebrate, or amphibian, in any stage of its life cycle, found in or introduced into the state, and includes any part of such aquatic finfish, invertebrate, or amphibian;

(13) “**fish derby**” means a contest in which prizes are awarded for catching fish;

(14) “**fish or game farming**” means the business of propagating, breeding, raising, or producing fish or game in captivity for the purpose of marketing the fish or game or their products, and “**captivity**” means having the fish or game under positive control, as in a pen, pond, or an area of land or water that is completely enclosed by a generally escape-proof barrier; in this paragraph, “**fish**” does not include shellfish, as defined in AS 16.40.199;

(15) “**fish stock**” means a species, subspecies, geographic grouping, or other category of fish manageable as a unit;

(16) “**fish transporter**” means a natural person who holds a fish transporter permit issued under AS 16.05.671;

(17) “**fishery**” means a specific administrative area in which a specific fishery resource is taken with a specific type of gear; however, the Board of Fisheries may designate a fishery to include more than one specific administrative area, type of gear, or fishery resource; in this paragraph

(A) “**gear**” means the specific apparatus used in the harvest of a fishery resource; and

(B) “**type of gear**” means an identifiable classification of gear and may include

(i) classifications for which separate regulations are adopted by the Board of Fisheries or for which separate gear licenses were required by former AS 16.05.550 — 16.05.630; and

(ii) distinct subclassifications of gear such as “**power**” troll gear and “**hand**” troll gear or sport gear and guided sport gear;

(18) “**fur dealing**” means engaging in the business of buying, selling, or trading in animal skins, but does not include the sale of animal skins by a trapper or hunter who has legally taken the animal, or the purchase of animal skins by a person, other than a fur dealer, for the person’s own use;

(19) “**game**” means any species of bird, reptile, and mammal, including a feral domestic animal, found or introduced in the state, except domestic birds and mammals; and game may be classified by regulation as big game, small game, fur bearers or other categories considered essential for carrying out the intention and purposes of AS 16.05 — AS 16.40;

(20) “**game population**” means a group of game animals of a single species or subgroup manageable as a unit;

(21) “**hunting**” means the taking of game under AS 16.05 — AS 16.40 and the regulations adopted under those chapters;

(22) “**nonresident**” means a person who is not a resident of the state;

(23) “**nonresident alien**” means a person who is not a citizen of the United States and whose permanent place of abode is not in the United States;

(24) “**operator**” means the individual by law made responsible for the operation of the vessel;

(25) “**person with developmental disabilities**” means a person who presents to the department an affidavit signed by a physician licensed to practice medicine in the state stating that the person is experiencing a severe, chronic disability

(A) attributable to a mental or physical impairment or a combination of mental and physical impairments;

(B) that is manifested before the person reaches 18 years of age;

(C) that is likely to continue indefinitely;

(D) that results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency;

(E) that reflects the person’s need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated;

(F) and that the person is not a danger to themselves or others; and

(G) and that the person does not suffer from a mental illness; in this subparagraph, “mental illness” means an organic, mental, or emotional impairment that has substantial adverse effects on a person’s ability to exercise conscious control of the person’s actions or ability to perceive reality or to reason or understand.

(26) “**person with physical disabilities**” means a person who presents to the department either written proof that the person receives at least 70 percent disability compensation from a government agency for a physical disability or an affidavit signed by a physician licensed to practice medicine in the state stating that the person is at least 70 percent physically disabled;

(27) “**personal use fishing**” means the taking, fishing for, or possession of finfish, shellfish, or other fishery resources, by Alaska residents for personal use and not for sale or barter, with gill or dip net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(28) “**resident**” means

(A) a person who for the 12 consecutive months immediately preceding the time when the assertion of residence is made has maintained the person’s domicile in the state and who is neither claiming residency in another state, territory, or country nor obtaining

benefits under a claim of residency in another state, territory, or country;

(B) a partnership, association, joint stock company, trust, or corporation that has its main office or headquarters in the state; a natural person who does not otherwise qualify as a resident under this paragraph may not qualify as a resident by virtue of an interest in a partnership, association, joint stock company, trust, or corporation;

(C) a member of the military service, or United States Coast Guard, who has been stationed in the state for the 12 consecutive months immediately preceding the time when the assertion of residence is made;

(D) a person who is the dependent of a resident member of the military service, or the United States Coast Guard, and who has lived in the state for the 12 consecutive months immediately preceding the time when the assertion of residence is made; or

(E) an alien who for the 12 consecutive months immediately preceding the time when the assertion of residence is made has maintained the person’s domicile in the state and who is neither claiming residency in another state, territory, or country nor obtaining benefits under a claim of residency in another state, territory, or country;

(29) “**rural area**” means a community or area of the state in which the noncommercial, customary, and traditional use of fish or game for personal or family consumption is a principal characteristic of the economy of the community or area;

(30) “**seizure**” means the actual or constructive taking or possession of real or personal property subject to seizure under AS 16.05 — AS 16.40 by an enforcement or investigative officer charged with enforcement of the fish and game laws of the state;

(31) “**sport fishing**” means the taking of or attempting to take for personal use, and not for sale or barter, any fresh water, marine, or anadromous fish by hook and line held in the hand, or by hook and line with the line attached to a pole or rod which is held in the hand or closely attended, or by other means defined by the Board of Fisheries;

(32) “**subsistence fishing**” means the taking of, fishing for, or possession of fish, shellfish, or other fisheries resources by a resident domiciled in a rural area of the state for subsistence uses with gill net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(33) “**subsistence hunting**” means the taking of, hunting for, or possession of game by a resident domiciled in a rural area of the state for subsistence uses by means defined by the Board of Game;

(34) “**subsistence uses**” means the noncommercial, customary and traditional uses of wild, renewable resources by a resident domiciled in a rural area of the state for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption; in this paragraph, “family” means persons related by blood, marriage, or adoption, and a person living in the household on a permanent basis;

(35) “**take**” means taking, pursuing, hunting, fishing, trapping, or in any manner disturbing, capturing, or killing or attempting to take, pursue, hunt, fish, trap, or in any manner capture or kill fish or game;

(36) “**taxidermy**” means tanning, mounting, processing, or other treatment or preparation of fish or game, or any part of fish or game, as a trophy, for monetary gain, including the receiving of the fish or game or parts of fish or game for such purposes;

(37) “**trapping**” means the taking of mammals declared by regulation to be fur bearers;

(38) “**vessel**” means a floating craft powered, towed, rowed, or otherwise propelled, which is used for delivering, landing, or taking fish within the jurisdiction of the state, but does not include aircraft.

## **Chapter 10. Fisheries and Fishing Regulations.**

### **Article 2. Interference with Commercial Fishing Gear.**

**Sec. 16.10.055. Interference with commercial fishing gear.** A person who willfully or with reckless disregard of the consequences, interferes with or damages the commercial fishing gear of another person is guilty of a misdemeanor. For the purposes of this section “interference” means the physical disturbance of gear which results in economic loss or loss of fishing time, and “reckless disregard of the consequences” means a lack of consideration for the consequences of one’s acts in a manner that is reasonably likely to damage the property of another.

### **Article 7. Purchase of Fish.**

**Sec. 16.10.265. Purchase of fish from permit holders.** (a) An individual may not, while acting as a fish processor or primary fish buyer, or as an agent, director, officer, member, or employee of a fish processor, of a primary fish buyer, or of a cooperative corporation organized under AS 10.15, intentionally or knowingly make an original purchase of fish from a seller who does not hold

(1) a landing permit, an entry permit, or an interim-use permit; or

(2) a fish transporter permit under AS 16.05.671.

(b) An individual who violates (a) of this section is

(1) upon a first conviction, guilty of a class B misdemeanor and shall be sentenced to a fine of not less than \$1,000 nor more than \$5,000, and may be sentenced to a definite term of imprisonment of not more than 90 days;

(2) upon a second conviction, guilty of a class A misdemeanor and shall be sentenced to a fine of not less than \$5,000 nor more than \$10,000, and may be sentenced to a definite term of imprisonment of not more than one year;

(3) upon a third or subsequent conviction, guilty of a class A misdemeanor and

shall be sentenced to a fine of not less than \$10,000 nor more than \$25,000, and may be sentenced to a definite term of imprisonment of not more than one year.

(c) The commissioner of revenue shall impose upon a fish processor, primary fish buyer, or cooperative corporation organized under AS 10.15, a civil fine equal to the value of fish purchased in violation of this section by (1) the fish processor or primary fish buyer if the fish processor or primary fish buyer is not a corporation; or (2) a director, officer, or employee in a policy-making position of the fish processor, of the primary fish buyer, or of the cooperative corporation. Value is based on the average price paid to fishermen at the time of the violation.

(d) The commissioner of commerce, community, and economic development may suspend or revoke a business license issued under AS 43.70.020 and the commissioner of revenue may suspend or revoke a license to engage in the business of processing or buying raw fish if the licensee or an officer, director, or employee in a policy-making position of the licensee has been convicted of three offenses under this section. Proceedings to suspend or revoke a license are governed by AS 44.62 (Administrative Procedure Act).

(e) An organization may not be criminally prosecuted under (a) of this section.

(f) In this section, "individual" means a natural person.

**Sec. 16.10.267. Possession of permit and identification by seller.** (a) When a fisherman sells fish, the fisherman shall possess

(1) a landing permit, entry permit, or interim-use permit issued or transferred to the fisherman under AS 16.43, or other document authorized by regulation to be used in place of an entry permit or interim-use permit; and

(2) an identification card that has been issued to the fisherman by a state or federal agency or other organization designated by the Department of Public Safety and that bears a photograph of the fisherman.

(b) If requested by the purchaser of the fish or by a peace officer, the fisherman or fish transporter shall present for inspection the identification card, entry permit, interim-use permit, fish transporter permit, or other document required to be in the fisherman's or the fish transporter's possession under (a) or (d) of this section.

(c) Examples of a suitable identification card required under (a)(2) and (d)(2) of this section are a motor vehicle operator's license issued under AS 28.15.111 and an identification card issued under AS 18.65.310.

(d) When a fish transporter sells fish as the agent of the commercial fisherman who caught the fish, the fish transporter shall possess

(1) a fish transporter permit and the fish ticket completed by the fish transporter under AS 16.05.671(d); and

(2) an identification card that has been issued to the fish transporter by a state or

federal agency or other organization designated by the Department of Public Safety and that bears a photograph of the fish transporter.

(e) A person who violates this section is, upon conviction, guilty of a class B misdemeanor and may be sentenced to a definite term of imprisonment of not more than 90 days. In addition

(1) upon a first conviction for a violation of this section, the court may sentence the convicted person to pay a fine of not more than \$5,000 and may order the loss of commercial fishing privileges for a period of not more than three years from the date of conviction;

(2) upon a second conviction for a violation of this section, the court may sentence the convicted person to pay a fine of not more than \$10,000 and may order the loss of commercial fishing privileges for a period of not more than three years from the date of conviction;

(3) upon a third or subsequent conviction for a violation of this section, the court

(A) may sentence the convicted person to pay a fine of not more than \$10,000; and

(B) shall order that the convicted person lose commercial fishing privileges for a period of three years from the date of conviction.

**Sec. 16.10.270. Purchase of fish by the pound.** (a) A fish processor or primary fish buyer shall purchase raw fish by the pound. The poundage of the fish to be purchased shall be determined by weighing the fish unless both the buyer and seller agree in writing upon a sample weighing technique that will fairly determine the average weight of the fish purchased.

(b) A person who violates this section is guilty of a misdemeanor and upon conviction is punishable by imprisonment for not more than one year, or by a fine of not more than \$5,000, or by both.

**Sec. 16.10.296. Definitions.** In AS 16.10.265 — 16.10.296, unless the context otherwise requires,

(1) “**commissioner**” means the commissioner of labor and workforce development;

(2) “**fish**” means any species of aquatic finfish, invertebrates and amphibians, shellfish, or any other raw fishery resource, in any stage of its life cycle, found in or introduced into the state, and includes fish eggs except fish eggs sold for stock enhancement purposes;

(3) “**fish processor**” means a person engaging or attempting to engage in a business for which a license is required under AS 43.75;

(4) “**primary fish buyer**” means a person, other than a cooperative corporation

organized under AS 10.15, engaging or attempting to engage in the business of originally purchasing or buying any fishery resource in intrastate, interstate, or foreign commerce.

**Chapter 43. Regulation of Entry into Alaska Commercial Fisheries.**

**Article 1. Alaska Commercial Fisheries Entry Commission.**

**Sec. 16.43.100. Duties and general powers.** (a) To accomplish the purposes set out in AS 16.43.010, the commission shall

- (1) regulate entry into the commercial fisheries for all fishery resources in the state;
- (2) establish priorities for the application of the provisions of this chapter to the various commercial fisheries of the state;
- (3) establish administrative areas suitable for regulating and controlling entry into the commercial fisheries;
- (4) establish, for all types of gear, the maximum number of entry permits for each administrative area;
- (5) designate, when necessary to accomplish the purposes of this chapter, particular species for which separate interim-use permits or entry permits will be issued;
- (6) establish qualifications for the issuance of entry permits;
- (7) issue entry permits to qualified applicants;
- (8) issue interim-use permits as provided in AS 16.43.210, 16.43.220, and 16.43.225;
- (9) establish, for all types of gear, the optimum number of entry permits for each administrative area;
- (10) administer the buy-back program provided for in AS 16.43.310 and 16.43.320 to reduce the number of outstanding entry permits to the optimum number of entry permits;
- (11) provide for the transfer and reissuance of entry permits to qualified transferees;
- (12) provide for the transfer and reissuance of entry permits for alternative types of legal gear, in a manner consistent with the purposes of this chapter;
- (13) establish and administer the collection of the annual fees provided for in AS 16.43.160;
- (14) administer the issuance of commercial fishing vessel licenses under AS 16.05.490;
- (15) issue educational entry permits to applicants who qualify under the provisions of AS 16.43.340 — 16.43.390;

(16) establish reasonable user fees for services;

(17) issue landing permits under AS 16.05.675 and regulations adopted under that section;

(18) establish and collect annual fees for the issuance of landing permits that reasonably reflect the costs incurred in the administration and enforcement of provisions of law related to landing permits;

(19) establish a moratorium on entry into commercial fisheries as provided in AS 16.43.225;

(20) when requested by a regional development organization formed under former AS 44.33.895, provide to the organization, without charge, public information contained in the commission's data with respect to relevant fisheries, including limited fisheries, fishery participants, and limited entry permit holders' harvests and earnings; and

(21) administer, when necessary to accomplish the purposes of this chapter, a Bering Sea hair crab fishery vessel permit system under AS 16.43.451 — 16.43.521.

(b) The commission may do all things necessary to the exercise of its powers under this chapter, whether or not specifically designated in this chapter.

## **Article 2. Entry Permit System.**

### **Sec. 16.43.140. Permit required.**

(a) A person may not operate gear in the commercial taking of fishery resources without a valid entry permit or a valid interim-use permit issued by the commission.

(b) A permit is not required of a crewmember or other person assisting in the operation of a unit of gear engaged in the commercial taking of fishery resources as long as the holder of the entry permit or the interim-use permit for that particular unit of gear is at all times present and actively engaged in the operation of the gear.

(c) A person may hold more than one interim-use or entry permit issued or transferred under this chapter only for the following purposes:

(1) fishing more than one type of gear;

(2) fishing in more than one administrative area;

(3) harvesting particular species for which separate interim-use or entry permits are issued;

(4) if authorized by regulations of the commission, fishing an entire unit of gear in a fishery in which the commission has issued entry permits for less than a unit of gear under AS 16.43.270(d); under this paragraph, a person may not hold more than two entry permits for a fishery; however, the person may not

(A) fish more than one unit of gear in the fishery; or

(B) acquire a second entry permit for the fishery after the person has acquired an entry permit that authorizes the use of an entire unit of gear in the fishery;

(5) consolidation of the fishing fleet for a salmon fishery; however, a person may hold not more than two entry permits for a salmon fishery under this paragraph, but the person who holds two entry permits for a salmon fishery may not engage in fishing under the second entry permit.

**Sec. 16.43.150. Terms and conditions of entry permit; annual renewal.** (a) Except as may be otherwise provided under AS 16.43.270(d), an entry permit authorizes the permittee to operate a unit of gear within a specified fishery.

(b) The holder of an entry permit shall have the permit in possession at all times when engaged in the operation of gear for which it was issued.

(c) Each entry permit is issued for a term of one year and is renewable annually.

(d) Failure to renew an entry permit for a period of two years from the year of last renewal results in a forfeiture of the entry permit to the commission, except as waived by the commission for good cause. An entry permit may not be renewed until the fees for each preceding year during which the entry permit was not renewed are paid. However, failure to renew an entry permit in a year in which there is an administrative closure for the entire season for a specific fishery is good cause not to renew the entry permit. The commission shall waive the payment of fees for that year.

(e) An entry permit constitutes a use privilege that may be modified or revoked by the legislature without compensation.

(f) Except for permits that are not transferable under AS 16.43.170(e), an entry permit survives the death of the holder.

(g) Except as provided in AS 16.10.333 — 16.10.338, AS 44.81.215, 44.81.225, and 44.81.231 — 44.81.250, an entry permit may not be

(1) pledged, mortgaged, leased, or encumbered in any way;

(2) transferred with any retained right of repossession or foreclosure, or on any condition requiring a subsequent transfer; or

(3) attached, distrained, or sold on execution of judgment or under any other process or order of any court, except as provided in AS 16.43.170(g) and (h).

(h) Unless an entry permit holder has expressed a contrary intent in a will that is probated, the commission shall, upon the death of the permit holder, transfer the permanent permit by right of survivorship directly to the surviving spouse or, if no spouse survives, to a natural person designated by the permit holder on a form provided by the commission. If no spouse survives and if the person designated on the form, if any, does not survive, the permit passes as part of the permit holder's estate. A designation

under this subsection must be acknowledged before a person authorized to administer an oath under AS 09.63.010 or must be witnessed by two persons who are qualified under AS 13.12.505 to witness the will of the permit holder. Except as provided in AS 16.10.333 — 16.10.337, AS 44.81.215, and 44.81.231 — 44.81.250, the permit is exempt from the claims of creditors of the estate.

(i) The holder of a transferable or nontransferable entry permit or of an interim-use permit may voluntarily relinquish the permit to the commission.

**Article 9. General Provisions.**

**Sec. 16.43.950. Applications of regulations of Board of Fisheries.** Nothing in this chapter limits the powers of the Board of Fisheries, including the power to determine legal types of gear and the power to establish size limitations or other uniform restrictions applying to a certain type of gear. Holders of interim-use permits or entry permits issued under this chapter are subject to all regulations adopted by the Board of Fisheries.