

ALASKA DEPARTMENT OF FISH AND GAME
STAFF COMMENTS
ON STATEWIDE FINFISH REGULATORY PROPOSALS
AND SUPPLEMENTAL ISSUES

ALASKA BOARD OF FISHERIES MEETING
ANCHORAGE, ALASKA

March 19-24, 2013



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The following staff comments were prepared by the Alaska Department of Fish and Game for use at the Alaska Board of Fisheries (board) meeting, March 19–24, 2013 in Anchorage, Alaska. The comments are forwarded to assist the public and board. The comments contained herein should be considered preliminary and subject to change, as new information becomes available. Final department positions will be formulated after review of written and oral public testimony presented to the board.

ABSTRACT

This document contains Alaska Department of Fish and Game staff comments on Statewide (General Provisions) subsistence, personal use, sport, and commercial finfish regulatory proposals. These comments were prepared by the department for use at the Alaska Board of Fisheries meeting, March 19–24, 2013 in Anchorage, Alaska. The comments are forwarded to assist the public and board. The comments contained herein should be considered preliminary and subject to change, as new information becomes available. Final department positions will be formulated after review of written and oral public testimony presented to the board.

Key words: Alaska Board of Fisheries (board), Alaska Department of Fish and Game (department) staff comments, finfish, management, management plan, regulatory proposals, subsistence, personal use, sport, guided sport, commercial fisheries, salmon.

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Summary of Department Positions, Statewide Finfish Board of Fish Meeting, 2013.

Proposal No.	Dept. Position	Issue
215	O	Address allocations by percentages.
216	N	Require statewide adherence to salmon fishery management plans.
217	O	Mandate statewide priority for management of king salmon.
218	O	Establish a sustained escapement threshold (SET) for stocks listed as yield or management concern.
219	O	Define terms, including "maximum sustained yield", "optimum sustained yield", "sustained yield", and "mixed stock fishery".
220	S	Allow groundfish registration by facsimile, telephone, or e-mail.
221	S	Remove federal regulatory reference.
222	S	Require a CFEC permit holder to provide proof of identification when attempting to sell fish or at the request of a peace officer.
223	S	Specify area registration requirements for salmon net fishing vessels.
224	S	Revise emergency order (EO) announcement process to add e-mail or facsimile as means of notification.
225	N	Develop and require use of a statewide policy during consideration of permit stacking proposals.
226	S	Update regulations to accurately reflect changes to the statewide <i>Sport Shark Fishery Management Plan</i> which allowed for an increase bag and possession limit of spiny dogfish shark and no annual limit requirement.
227	S	Provide the department with emergency order (EO) authority to restrict sport proxy fishing.
228	S	Prohibit the practice of "high grading" by anglers.
229	S	Specify harvest record reporting requirements for additional sport fishing licenses and harvest records.
230	O	If duplicate licenses are issued, ensure that the section for season or annual limits is removed from duplicate.
231	S	Define the term "compensation".
232	S	Clarify the use of sport-caught fish as bait.
233	N	Create an exemption for the use of footgear with felt soles for the disabled or handicapped fisherman.
234	O	Ban use of lead weights in fresh and salt waters of Alaska in sport fisheries.
235	O	Establish mandatory reporting system for sport fisheries statewide.
236	N	Establish allocation criteria with assigned point values to a user group as part of a weighted system when making allocation decisions among user groups in salmon fisheries.
243	N	Modify the Forage Fish Management Plan by the addition of Pacific Herring.
244	N	Change the weather delay criteria for opening the Chignik District Tanner crab fishery from small craft advisory to gale warning.
245	N	Change vessel size limit in state waters from 172° W long to 179° W long for the Aleutians Islands red king crab fishery.
246	N	Establish a pot limit of 10 pots per vessel for red king crab from 172° W. long to 179° W. long.
247	N	Modify closed waters in the Tsiu River for the Yakutat salmon fishery.
248	S	Amend closed waters definition to clarify closed waters associated with salmon streams.
249	S	Consider regulatory changes to management plans to Kenai River king salmon.

N = Neutral; S= Support; O = Oppose; NA = No Action

COMMITTEE OF THE WHOLE – GROUP 1: (1 PROPOSAL)

KENAI RIVER LATE-RUN KING SALMON MANAGEMENT PLAN: 249

PROPOSAL 249 – 5 AAC 21.359. Kenai River Late-Run King Salmon Management Plan.

PROPOSED BY: Alaska Board of Fisheries.

WHAT WOULD THE PROPOSAL DO? This proposal is a placeholder for potential regulatory actions pending the outcome of the board-appointed Upper Cook Inlet Task Force.

WHAT ARE THE CURRENT REGULATIONS? Management of Kenai River late-run king salmon is governed by the *Kenai River Late-Run King Salmon Management Plan*.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? Unknown at the time of preparation of this staff comment.

BACKGROUND: The task force is anticipated to identify a set of recommended adjustments to the *Kenai River Late-Run King Salmon Management Plan* that would result in the best mix of inriver (sport, guided sport, and personal use), marine recreational, and Upper Subdistrict set gillnet fishing opportunity, while providing the best means of attaining the escapement goal for Kenai River late-run king salmon during times of low king salmon abundance.

DEPARTMENT COMMENTS: The department supports a review of the management plan.

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

COMMITTEE OF THE WHOLE – GROUP 2: (9 PROPOSALS)

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PROPOSAL 215 – 5 AAC 39.205. Criteria for the allocation of fishery resources among personal use, sport, and commercial fisheries.

PROPOSED BY: Marguerita McManus.

WHAT WOULD THE PROPOSAL DO? The proposal has two parts. First, it would prohibit allocation of 100% of fish harvest opportunity to any one user group in a particular area. Secondly, it would prohibit an aquaculture association from obtaining its entire cost-recovery needs from one fishing area, thereby disallowing a common property commercial fishery in that area.

WHAT ARE THE CURRENT REGULATIONS? Allocation of fisheries resources is addressed in AS 16.05.251(e), *Regulations of the Board of Fisheries*, which directs the Alaska Board of Fisheries (board) to adopt criteria for allocation of fisheries and use the criteria, as appropriate, to make particular allocation decisions. The statute lists examples of potential criteria, including the history of use by each user group; participation by residents and nonresidents; importance of each fishery to provide residents with fish for family consumption; availability of alternative fisheries; economic importance to the state, region and local area; and importance to provide recreational opportunity.

Regarding particular allocation decisions, 5 AAC 39.205, 5 AAC 75.017, and 5 AAC 77.007, *Criteria for the allocation of fishery resources among personal use, sport, and commercial fisheries*, direct the board to consider factors such as those outlined in AS 16.05.251(e).

Hatchery harvest management, including cost recovery, is guided by the hatchery annual management plan (AMP) as described in 5 AAC 40.840, *Annual management plans*. Annual management plans are developed by hatchery and department staff, and may be reviewed by regional planning teams and Department of Commerce, Community, and Economic Development.

In addition, current statewide regulations do not restrict how much of an area's harvest of hatchery stocks may be allocated to personal use, sport, or commercial users in an area. Such allocations may be set out in regulation on an area-by-area basis. The same is true for the harvest of fish for cost recovery by a hatchery operator in a special harvest area (SHA) (e.g., 5 AAC 40.030–5 AAC 40.085).

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? If adopted, this proposal would potentially make it difficult for hatcheries to achieve cost-recovery goals, which would likely affect their abilities to continue future production. It should also be noted that many hatchery organizations have only one SHA.

BACKGROUND: The proposal seeks to amend 5 AAC 39.205, *Criteria for the allocation of fishery resources among personal use, sport, and commercial fisheries*, the regulation that adopts the criteria set out in AS 16.05.251(e), *Regulations of the Board of Fisheries*, for making fishery allocation decisions, in order to prohibit a 100% allocation to any one user group. It also would ban aquaculture associations from obtaining all their cost-recovery needs from one SHA when doing so would prevent common property commercial fishing within the SHA. The criteria in AS 16.05.251(e) were developed to guide board action when allocating fishery resources, and ensure fairness and consistency in board actions. Managing the harvest of fish returning to hatcheries is addressed in regulation in Chapter 40, *Private Nonprofit Salmon Hatcheries*, and imbedded in management plans in various chapters. Hatchery operators may harvest fish for cost recovery only within their designated SHAs. With regard to aquaculture association cost-recovery fishing in particular, there is a fairly complex balance of board and department considerations that take into account association needs, hatchery permit requirements, and common property fishing concerns in each area.

The proposer describes a 100 percent allocation to a single user group as unconstitutional. According to the Department of Law, the proposer's contention that such allocations are unconstitutional is incorrect.

DEPARTMENT COMMENTS: The department **OPPOSES** this proposal because it would impose statewide restrictions on fisheries, reducing the board's ability to consider each fishery on an area-by-area basis, and because it would impact established cost-recovery harvest plans around the state. Statewide implementation of this proposal may be disruptive and confusing and would likely have unpredictable effects. Such issues may be better addressed in the normal board meeting cycle for specific areas.

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

PROPOSAL 236 – 5 AAC 39.205; 5 AAC 75.017; and 5 AAC 77.007. Criteria for the allocation of fishery resources among personal use, sport, and commercial fisheries.

PROPOSED BY: Bruce Knowles.

WHAT WOULD THE PROPOSAL DO? This proposal would require the Alaska Board of Fisheries (board) to assign a point value to allocation criteria to be awarded to user groups when considering allocation.

WHAT ARE THE CURRENT REGULATIONS? AS 16.05.251(e), *Regulations of the Board of Fisheries*, directs the board to adopt criteria for the allocation of fisheries and use the criteria, as appropriate, when making particular allocation decisions. The statute lists seven examples of potential criteria, including the history of use by each user group; participation by residents and nonresidents; importance of each fishery to provide residents with fish for family consumption; availability of alternative fisheries; economic importance to the state, region and local area; and importance to provide recreational opportunity.

Regarding particular allocation decisions, 5 AAC 39.205, 5 AAC 75.017, and 5 AAC 77.007, *Criteria for the allocation of fishery resources among personal use, sport, and commercial fisheries*, directs the board to consider factors such as those outlined in AS 16.05.251(e).

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? Assigning a point value to each allocation criteria would clarify relative priority of existing criteria, but the proposal lacks sufficient detail to describe how rankings would be used in board decisions.

BACKGROUND: The board is directed to consider allocation criteria when making allocative decisions. Board members address appropriate criteria to build the record during deliberations; however, which criteria will be used and the weight given to any one criterion by individual board members are not specified in regulation. Regulation requires that allocation criteria be acknowledged and considered by board members, but leaves it to the individual member to determine how much influence each criterion has on forming his or her position.

DEPARTMENT COMMENTS: The department is **NEUTRAL** on this proposal.

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

PROPOSAL 216 – 5AAC 39.2XX. Application of fishery management plans.

PROPOSED BY: Kenai River Sportfishing Association.

WHAT WOULD THE PROPOSAL DO? This proposal would clarify achieving escapement goals is the primary management objective and takes priority over provisions in any specific management plan. Escapement goals included in this proposal are biological escapement goals (BEGS), sustainable escapement goals (SEGS), and optimal escapement goals (OEGS), but not inriver goals.

WHAT ARE THE CURRENT REGULATIONS? Statewide regulations directing the department’s management of complex fisheries via management plans and escapement goals are described in:

5 AAC 39.222(f), *Policy for the management of sustainable salmon fisheries:*

(3) defines “biological escapement goal (BEG)” and states “BEG will be the primary management objective unless an optimal escapement or inriver run goal has been adopted;”

(19) defines “inriver run goal” as “a specific management objective for salmon stocks that are harvested upstream of a point where escapement is estimated”, and “is comprised of the SEG, BEG, or OEG, plus specific allocations to inriver fisheries;”

(25) defines “optimal escapement goal” as “a specific management objective for salmon escapement...”

(36) defines “sustainable escapement goal (SEG)” and states “SEG is the primary management objective for the escapement unless an optimal escapement or inriver run goal has been adopted by the board;”

5 AAC 39.200(a), *Application of fishery management plans*, states fisheries management plans provide the department with “guidelines to be followed when making management decisions” regarding the state’s fisheries. The primary goal of management plans is to protect sustained yield while “providing an equitable distribution of available harvest between various users.”

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? Statewide adoption of this proposal may benefit management of some complex fisheries by clarifying the department may use its emergency order authority to override provisions of a management plan for the purpose of achieving an escapement goal. Overall, it is unlikely to change current management practices and largely restates what is already in regulation.

BACKGROUND: Several proposals were submitted to the Alaska Board of Fisheries (board) at its February 2008 Upper Cook Inlet (UCI) meeting seeking clarification of the department’s primary management objective when considering complex fisheries issues inseason. The proposals centered on 5 AAC 21.363, *Upper Cook Inlet Salmon Management Plan*, and the consideration that should be given to escapement goals versus other aspects of the management plan, such as implementation of windows, allowable fishing time, and corridors. Limitations under multiple management plans governing the management of UCI salmon stocks had conflicted with the department’s ability to manage for established escapement goals. It was unclear at times how to balance those limitations and the established escapement goals that were

often in conflict. The board created 5 AAC 21.363(e), which reiterates achieving escapement goals is the primary management objective, and that this takes priority over provisions in any specific management plan that are intended as guidelines to allocate the allowable harvest amongst the various user groups. The language in 5 AAC 21.363(e) includes inriver goals, which, by definition, are tied to SEGs, BEGs, or OEGs.

DEPARTMENT COMMENTS: The department is **NEUTRAL** on this proposal because direction relative to achieving escapement goals is already provided in regulation, but supports clarification, as needed, in complex fisheries.

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

PROPOSAL 217 – 5AAC 39.223. Policy for Statewide Salmon Escapement goals.

PROPOSED BY: Bruce Morgan.

WHAT WOULD THE PROPOSAL DO? The proposal would classify king salmon stocks as the department's management priority. In addition, the lower end of all king salmon goals statewide would be raised two percent annually for the next 15 years.

WHAT ARE THE CURRENT REGULATIONS? A variety of regulations and management plans have been created by the Alaska Board of Fisheries (board) to direct the department's management of complex king salmon fisheries. 5 AAC 39.223, *Policy for statewide salmon escapement goals*, is intended to establish the concepts, criteria, and procedures for establishing and modifying escapement goals, and to establish a process that facilitates public review of associated allocative issues. The department establishes biological escapement goals (BEGs) and sustainable escapement goals (SEGs) based on the best available science and information. It is within the board's purview to create optimal escapement goals (OEGs) to achieve specific management objectives identified by the board.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? Establishing king salmon escapement goals as the department's primary management objective statewide would not have a significant impact on management of most king salmon fisheries. It could affect management of mixed-stock fisheries or areas where multiple management plans potentially conflict. In those cases, managing strictly for king salmon escapement may result in foregoing harvest of other salmon species, possibly exceeding the upper end of escapement goals for those species. Systematically increasing king salmon escapement goals would lead to a loss of sustainable yield, as well as increasing the potential for reduced production in future years.

BACKGROUND: The department is mandated to manage fisheries to meet escapement goals under 5 AAC 39.222(f), *Policy for the management of sustainable salmon fisheries*. The department reviews escapement goals for each management area on a three-year cycle to coincide with board meetings for that area. Department staff incorporates new data since the last review, considers management implications, and determines an appropriate escapement goal range to best sustain the stock and optimize harvest.

Through its public process, the board has created management plans to address allocation and provide the department with guidelines to follow when making management decisions. The plans are created to protect sustained yield, while providing equitable distribution of available harvest between users. In complex mixed-stock fisheries, this means balancing harvest opportunity on a stock with a harvestable surplus, with conservation of a stock experiencing a weak run. Established management plans and the department's inseason management strive to achieve that balance and allow harvest when it is determined to have a minimal impact on a stock experiencing low productivity. Managing solely for one stock or species, without consideration of other fisheries, would forego opportunity by subsistence, personal use, commercial, and sport users on stocks with a harvestable surplus.

DEPARTMENT COMMENTS: Recent statewide reductions in king salmon abundance and productivity have caused economic and social hardship across many of Alaska's fisheries. However, the department is **OPPOSED** to this proposal as a means to address the reductions. Considering the current period of low king salmon production in particular, the department places a high priority on achieving king salmon escapement goals. However, classifying king salmon as the management priority in regulation may limit the department's flexibility to address inseason conditions necessary to achieve escapement goals. Raising every king salmon escapement goal statewide by 2% over the next 15 years would be counter to the department's mandate to use the best science available in managing state resources under 5 AAC 39.222, *Policy for the management of sustainable salmon fisheries*.

Recognizing that king salmon are critically important to subsistence, commercial, and sport users across diverse fisheries in Alaska, the department initiated a comprehensive planning approach to increase stock assessment capabilities for king salmon. In October 2012, the department hosted a symposium to provide information on the recent downturns, provide perspective on research and management needs, and discuss how best to address knowledge gaps important for understanding of king salmon. In January 2013, the department completed the king salmon research plan, which will serve as the foundation for work funded under the Governor's FY14 king salmon initiative.

In addition to developing the research plan to fully understand the causes of reduced abundance, the department continues to consider options for appropriate management actions for the 2013 king salmon season with the objective of preserving sustainable fishing opportunity for king salmon and, where possible, providing additional access or opportunity for other species.

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

PROPOSAL 218 – 5 AAC 39.222. Policy for the management of sustainable salmon fisheries and 5 AAC 39.223. Policy for statewide salmon escapement goals.

PROPOSED BY: Bering Sea Fisherman’s Association.

WHAT WOULD THE PROPOSAL DO? This proposal would mandate establishment of a sustained escapement threshold (SET) for all salmon stocks of yield or management concern.

WHAT ARE THE CURRENT REGULATIONS? The definition of a SET is found in 5 AAC 39.222(f)(39) and means “a threshold level of escapement, below which the ability of the salmon stock to sustain itself is jeopardized; in practice, SET can be estimated based on lower ranges of historical escapement levels, for which the salmon stock has consistently demonstrated the ability to sustain itself; the SET is lower than the lower bound of the [biological escapement goal] BEG and lower than the lower bound of the [sustainable escapement goal] SEG; the SET is established by the department in consultation with the board, as needed, for salmon stocks of management and conservation concern.”

WHAT WOULD BE THE EFFECT IF THE PROPOSALS WERE ADOPTED? This proposal would mandate establishment of an SET for every salmon stock of yield or management concern. There are currently 11 stocks of concern statewide, of which six are yield concerns and five are management concerns.

BACKGROUND: As currently defined in regulation, a SET is established by the department, in consultation with the board, as needed, for stocks of management and conservation concern. The SET also represents the lowest level of escapement thought to sustain the stock and that would also avoid jeopardizing sustainability. Escapement of stocks chronically below the SET are deemed stocks of conservation concern. Since promulgation of the *Policy for the management of sustainable salmon fisheries* (5 AAC 39.222) in 2000 and the *Policy for statewide escapement goals* (5 AAC 39.223) in 2001, no SETs have been established.

DEPARTMENT COMMENTS: The department **OPPOSES** this proposal. As currently defined, a SET is to be determined “as needed” by the department, in consultation with the board, for stocks of management and conservation concern only. To date, an SET has not been needed for any stock of concern. Of the various stocks of salmon deemed management concerns since 2000, all but the five currently-listed stocks of management concern have been removed from the list of stocks of concern or changed to a yield concern as a result of implementation of action plans, as required by policy. The currently-listed stocks of management concern have only been listed since 2010, so it is too early to tell if management actions taken in action plans for these stocks will alleviate management concerns. Success in managing fisheries via action plans to achieve escapement goals and alleviate stocks of management concern has obviated the need for establishment of an SET. Moreover, an SET is not needed for a stock of yield concern because, by definition, the SEG or BEG is already being achieved for stocks of yield concern.

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

PROPOSAL 219 – 5 AAC 39.975. Definitions.

PROPOSED BY: Bruce Knowles.

WHAT WOULD THE PROPOSAL DO? This proposal would add definitions for terms used in fishery management, including “maximum sustained yield”, “optimum sustained yield”, “sustained yield”, and “mixed stock fishery”. The proposer did not specify additional terms to be added to the regulations.

WHAT ARE THE CURRENT REGULATIONS? The terms “maximum sustained yield”, “optimum sustained yield”, “sustained yield”, and “mixed stock fishery” are defined in 5 AAC 39.222(f), *Policy for the management of sustainable salmon fisheries*.

Miscellaneous definitions are provided for in 5 AAC 39.975 and they are very general with respect to their use in chapters 5 AAC 01 through 5 AAC 39 and 5 AAC 77. For example, this section contains definitions of “gear” and “local representative of the department”, as well as “mile”. This section also specifically defines the “waters of Alaska”.

WHAT WOULD BE THE EFFECT IF THE PROPOSALS WERE ADOPTED? This proposal would add redundant and potentially confusing definitions used in fishery management.

BACKGROUND: Definitions used in fishery management are important so that the public and agency staff know how to interpret fishery management regulations and policies. Many definitions are specific to their regulation section, and are included within that section. General definitions for many fish and game regulations are found in 5 AAC 39.975, which generally does not include technical fishery management definitions, especially those that pertain to salmon management. Technical fishery management definitions that pertain to salmon sustainability and yield are included in 5 AAC 39.222, *Policy for the management of sustainable salmon fisheries*, and these definitions also pertain to 5 AAC 39.223, *Policy for statewide salmon escapement goals*.

DEPARTMENT COMMENTS: The department **OPPOSES** this proposal. Definitions for technical fishery management terms, especially those used in salmon management, are currently found in regulation at 5 AAC 39.222(f) and therefore do not need to be repeated.

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

PROPOSAL 248 – 5 AAC 39.290. Closed waters and 5 AAC 39.975. Definitions.

PROPOSED BY: Alaska Department of Fish and Game.

WHAT WOULD THE PROPOSAL DO? This proposal would provide a more thorough definition of “salmon stream,” to include spawning, rearing, migration, or presence of salmon. It will also provide guidelines for determining the closed area associated with a salmon stream by adding the defined term, “fresh waters of streams and rivers,” found in 5 AAC 39.975(26), *Definitions*, to 5 AAC 39.290(a), *Closed waters*.

WHAT ARE THE CURRENT REGULATIONS? The definition of salmon stream used for the *Anadromous Waters Catalog* (AWC) found in 5 AAC 95.011, *Waters important to anadromous fish*, and AS 16.05.871(a), *Protection of fish and game* which is “the various rivers, lakes, and streams or parts of them that are important for the spawning, rearing, or migration of anadromous fish,” does not match the definition given in 5 AAC 39.975(10), *Definitions*: “*Salmon stream* means any stream used by salmon for spawning or for travelling to a spawning area.”

In 5 AAC 39.290(a), *Closed waters*, “Commercial fishing for salmon is prohibited at all times within the streams and rivers of Alaska and within 500 yards of any salmon stream...” This regulatory description does not provide clear direction for determining the 500-yard closure area.

WHAT WOULD BE THE EFFECT IF THE PROPOSALS WERE ADOPTED? If adopted, this proposal would enable the department and Alaska Wildlife Troopers to more effectively protect and manage salmon spawning streams. It would also provide clarity for fishermen in defining closed waters.

BACKGROUND: Persons cited for commercial fishing in closed waters associated with a salmon stream have successfully argued that the stream in question should be designated in the AWC, and that its inclusion in the AWC should be based on salmon spawning or salmon traveling to a spawning area as defined in 5 AAC 39.975(10), *Definitions*. This situation is further complicated by the terms used to designate a salmon stream in the AWC, which are “spawning,” “migration,” “rearing,” and/or “presence” of salmon. “Presence” of salmon is not found in regulation as a criterion for inclusion of a stream in the AWC, but it is used to describe salmon streams in the AWC. The terms “rearing” and “presence” are not found in the definition of a salmon stream in 5 AAC 39.975(10), *Definitions*, and there is some question as to whether “migration” is the same as “traveling to a spawning area.” If a stream is not listed in the AWC, or is listed in the AWC for migration, rearing, or presence of salmon, then enforcement of 5 AAC 39.290(a), *Closed waters*, becomes problematic.

Persons cited for commercial fishing in closed waters associated with a salmon stream have successfully argued that the only reference point available for measurement of the 500-yard closure is found in the AWC. In the AWC, a stream mouth is given as a single, fixed point described by latitude and longitude. In the case of large streams, braided streams, or stream mouths associated with tidal flats, a 500-yard radius from a single, fixed point may not provide adequate protection.

DEPARTMENT COMMENTS: The department submitted and **SUPPORTS** this proposal.

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

PROPOSAL 243 – 5 AAC 39.212. Forage Fish Management Plan.

PROPOSED BY: Alaska Board of Fisheries.

WHAT WOULD THE PROPOSAL DO? This proposal would modify the *Forage Fish Management Plan* by adding Pacific herring to the list of forage fish species.

WHAT ARE THE CURRENT REGULATIONS?

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 (laternfishes);
- (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).

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? This proposal would clarify that Pacific herring are considered a forage fish species, but it would have no impact on existing herring fishery regulations that have been adopted under Chapter 1, *Subsistence Finfish Fishery*, or Chapter 27, *Herring Fishery*.

BACKGROUND: The department submitted a proposal to the Alaska Board of Fisheries (board) for consideration in February 1998 recommending development of a forage fish management plan. The plan was intended to prevent development of new directed fisheries on forage fish species. At the time, a similar measure was before the North Pacific Fishery

Management Council (council), with application to federal waters of the exclusive economic zone. The proposal was tabled by the board to a time-certain pending federal action at the council meeting and additional public review. The *Forage Fish Management Plan* was later adopted, and has been in effect since July 21, 1999.

Herring were not considered a forage fish in the federal management plan since herring fisheries were ongoing and acknowledged. Regulations adopted under the board's statewide *Forage Fish Management Plan* selected the alternative presented in staff comments that allowed existing commercial fisheries on forage fish species to continue. Pacific herring were intentionally omitted from the *Forage Fish Management Plan* when it was adopted because ongoing herring fisheries were already regulated to provide for sustainable and beneficial uses under the provisions of Chapter 27. The plan prohibits the commercial taking of forage fish, except as provided in regulatory chapters 5 AAC 03–5 AAC 39. The *Forage Fish Management Plan* was developed for the purpose of preventing development of new directed fisheries on the forage fishes listed.

DEPARTMENT COMMENTS: The department is **NEUTRAL** on this proposal. There would be no effect on existing herring fisheries or the herring resource as written.

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

PROPOSAL 247 – 5 AAC 30.350. Closed waters.

PROPOSED BY: Alaska Board of Fisheries.

WHAT WOULD THE PROPOSAL DO? This proposal would reduce the waters open to commercial fishing in the Tsiu River.

WHAT ARE THE CURRENT REGULATIONS? 5 AAC 30.350(a)(12), *Closed Waters*, closes the Tsiu River to commercial fisheries upstream of department regulatory markers located approximately one-half mile downstream of Duck Camp Island.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? This proposal would change the location of the commercial fisheries regulatory marker on the Tsiu River to a new location at midriver. The area available to commercial fishing would need to be determined annually by the department based on the location of the river mouth prior to the commercial fishery. Based on the location of the river mouth during the 2012 fishery (four and one-half miles below Duck Camp Island), there were approximately four miles of available area for the commercial fishery (Figure 247-1).

Adoption of this proposal would reduce the available area for commercial fishing to two and one-quarter miles, unless the river mouth moved substantially westward, reducing the river length to two and one-half miles below Duck Camp Island; then the area available for the commercial fishery would be one and one-quarter miles.

Conflicts between the two user groups would potentially be reduced. The entire river would continue to be open to sport fishing, while between one and one-quarter and two and one-quarter miles of area would be available below Duck Camp Island for the sport fishery without commercial fishing activity.

There is potential for impacts on commercial harvests in some years. Fluctuating participation levels, decreased overall fishing area, and changes in river morphology could all be factors that could contribute to increased congestion, reduced efficiency, and decreased potential to harvest surplus returns.

BACKGROUND: The Tsiu River is located approximately 120 miles west of Yakutat and is accessible by aircraft on primitive sand landing strips. The river is a major historical part of Yakutat area commercial and sport coho salmon fisheries. Commercial fishing activities began in the 1930s and guided sport angling has occurred since the 1980s. Returns have been adequate during recent years to provide for both fisheries, and there are no conservation issues.

The regulatory marker delineating waters closed upstream to commercial fishing is one-half mile below Duck Camp Island and approximately four miles upstream from the river mouth. Since 2001, the Tsiu River, from Duck Camp Island to the mouth has been two and one-half to four and one-half miles long, depending on yearly water conditions and stream channel location. The regulation that identifies closed waters has been in effect for over 30 years. During 2010 and 2012, due to low water conditions, the department issued emergency orders that temporarily

moved the marker downstream to protect holding fish needed to meet the escapement goal. During the years when the markers were moved downstream between two and three miles, annual commercial harvests were 78,000 and 46,000 coho, respectively, and the escapement goal was met.

Both sport and commercial user groups currently fish for coho salmon on the Tsiu River below the current regulatory marker. Sport anglers can legally fish above the marker, while commercial setnets are only allowed below the regulatory marker. The sport bag limit is four coho salmon per day, with a possession limit of eight coho salmon. Commercial openings are usually limited to two 24-hour openings per statistical week. Additional 24-hour openings may be added when escapement counts indicate the biological escapement goal range of 10,000–29,000 will be met. Within any given statistical week, commercial openers are provided during calm weather conditions to facilitate safe air-shipment of harvested fish.

Since 2008, on average, 14 commercial harvest permits fished the Tsiu River, harvesting 50,272 coho salmon (Table 247-1). Typically, the Tsiu River produces 35–40% of Yakutat area commercial coho salmon harvest revenue. In 2010, commercial harvests from the Tsiu River were the second largest on record. Since 2002, an average of 704 sport anglers fished the Tsiu River, expending 2,366 angler days annually (ADF&G Statewide Harvest Survey). The sport fishery is largely a catch-and-release fishery, averaging 21,183 coho salmon caught and 2,967 coho salmon harvested annually since 2002 (Table 247-1). The Tsiu River has produced the largest sport fishery catch of coho salmon for the entire Southeast Alaska region in nine of the last 10 years.

The commercial harvest technique in the Yakutat area inriver fisheries includes boat herding of fish. This technique involves rapidly circling jet boats and churning up pools in order to drive fish into nets. This technique displaces anglers from prime fishing areas. Historically, prior to the mid-1990s, when commercial nets were in the water, sport anglers had been able to access extensive fishable waters upstream of commercial nets. Conflicts between sport anglers and the commercial fisheries were limited by anglers moving up river. Several large holding pools near Duck Camp Island provided productive fishable areas during times when the commercial fishery was opened. Beginning in the mid-1990s, the geography of that area changed. Much of the upriver area has since filled in with sand and is no longer as productive for sport fishing. These changing conditions have contributed to a number of conflicts between the two user groups in waters below the regulatory markers.

During several past meetings, the Alaska Board of Fisheries (board) discussed user conflicts while considering regulatory proposals for the Tsiu River. Proposals have included restrictions, closures, and other changes to both commercial and sport fisheries. At the 2012 Southeast Finfish board meeting, a proposal seeking to modify commercial closed waters was amended by the board and adopted to create an area where sport anglers could fish separated from commercial harvesters. Commercial fishing would have only been allowed below a marker located half the distance from Duck Camp Island to the river mouth. However, this proposal was reconsidered when new information was provided that explained the value of upriver (blushed) fish to commercial harvesters and that upriver areas contained important commercial harvest sites. The proposal failed upon reconsideration.

At the October 2012 board Work Session, agenda change request (ACR) 9 was considered, seeking a reduced area for commercial fishing and an exclusive area for sport fishing. While ACR 9 failed to meet necessary criteria, in response to new information, including video footage of the fishery, the board determined that conflicts on the Tsiu River are still occurring and generated Proposal 247 for consideration at its Statewide meeting in March 2013.

DEPARTMENT COMMENTS: The department is **NEUTRAL** on this allocative proposal.

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

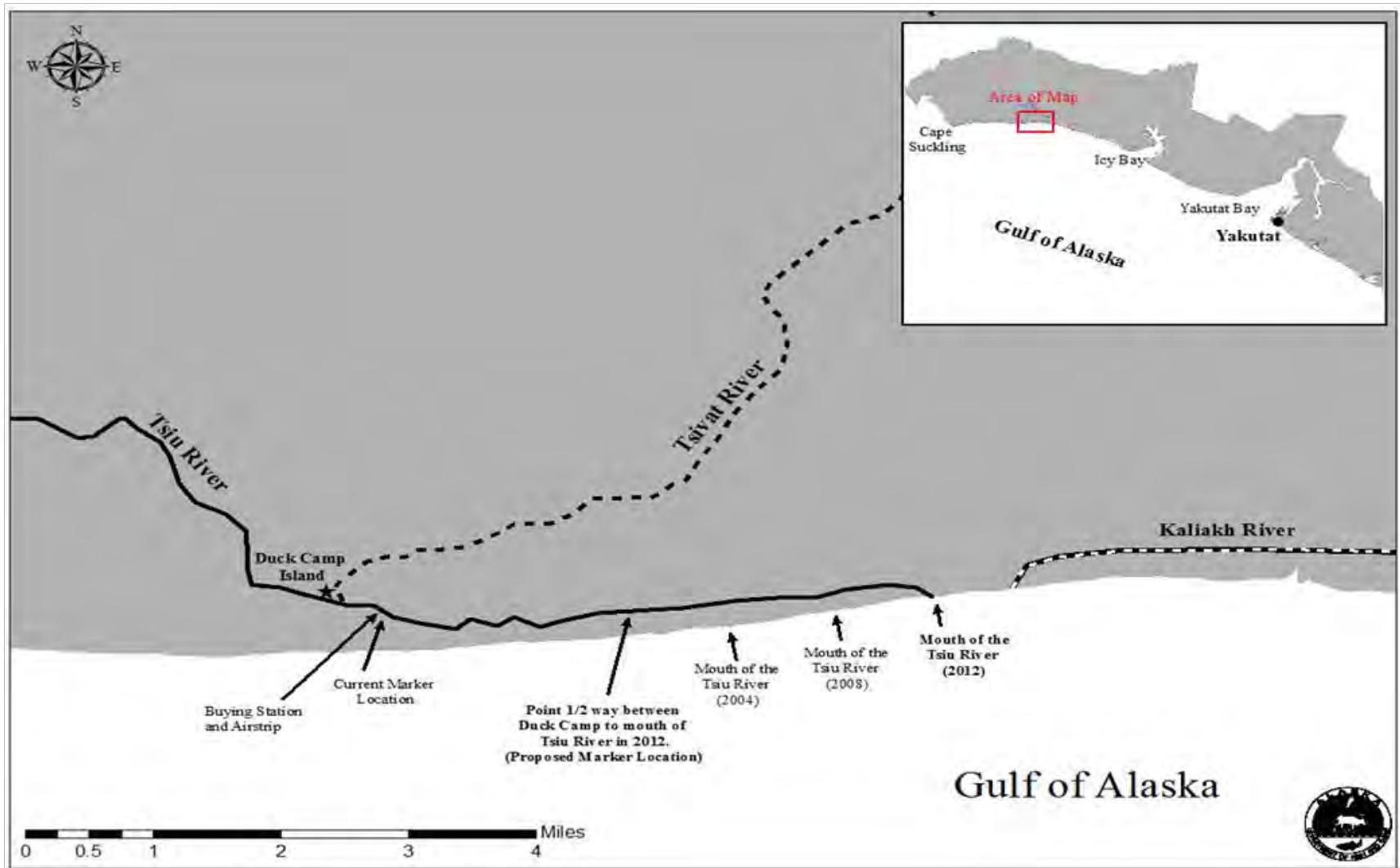


Figure 247-1.-Tsiu River and vicinity showing current regulatory marker location, proposed marker location, and variations of the river mouth location.

Table 247-1.-Tsiu River commercial and sport coho salmon fishery statistics, and escapement, 2002–2012.

Year	Commercial		Sport				Aerial escapement count
	Permits	Harvest # of coho	# of anglers	# of angler-days	Coho catch	Coho harvest	
2002	0	a	519	1,883	13,934	2,713	31,000
2003	0	a	910	2,891	34,080	4,286	35,000
2004 ^b	0	a	683	2,060	40,452	2,372	9,800
2005	8	25,429	610	1,771	17,037	2,325	16,000
2006	12	26,438	514	1,904	11,929	2,158	17,500
2007 ^b	12	22,318	877	3,090	12,001	2,752	14,000
2008	10	49,292	698	2,176	18,518	3,316	25,200
2009	10	43,723	542	1,938	15,705	3,399	28,000
2010	17	77,780	1,110	3,855	28,237	3,861	25,000
2011	21	34,745	579	2,092	19,932	2,490	21,000
2012 ^b	13	45,821	na	na	na	na	11,000
Average	14	50,272	704	2,366	21,183	2,967	20,250
se	na	na	63	222	3,177	238	na

^a Not fished.

^b No late surveys due to weather; escapement not considered peak count.

na = not applicable

COMMITTEE A: COMMERCIAL FISHERIES (9 PROPOSALS)

STATEWIDE GROUND FISH: 220, 221
GENERAL PROVISIONS: 223, 224, 222, 225
CHIGNIK DISTRICT TANNER CRAB: 244
ALEUTIAN ISLANDS RED KING CRAB: 245, 246

PROPOSAL 220 – 5 AAC 28.020. Groundfish area registration.

PROPOSED BY: Alaska Department of Fish and Game.

WHAT WOULD THE PROPOSAL DO? This proposal would allow groundfish registration by facsimile machine (fax). In addition, the proposal would allow a vessel operator to check out of the current registration area by telephone, fax, or e-mail before registering for another area.

WHAT ARE THE CURRENT REGULATIONS? Statewide regulations currently allow groundfish registration by mail or in person as follows:

5 AAC 28.020(c). Before operating groundfish gear within a registration area, the vessel owner, or the owner's authorized agent, shall complete the registration requirements by mail or in person at a department office located within the registration area. A completed form validated by the department satisfies the registration requirements. In the form, the department may require check-in and check-out procedures for fishing specified subsections within the registration area. A copy of the completed form must be retained on board a vessel operating groundfish gear in the registration area.

In addition, regulations currently allow a vessel operator to check out of the current registration area by radio, as follows:

5 AAC 28.020(d). Before registering for another registration area, the vessel operator shall check out of the current registration area by contacting, in person or by radio, a department representative at an office located within that registration area. Delay in validation of subsequent registration forms in other areas might result if check out has not been accomplished.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? Statewide adoption of this proposal would allow groundfish registration by fax. In addition, this proposal would allow a vessel operator to check out of the current registration area by telephone, fax, or e-mail. It would benefit fishermen who are required to register, particularly those who fish in more than one registration area in a calendar year, as well as department staff who assist with registration and check-out procedures.

BACKGROUND: Registration is routinely completed by fax or e-mail, both of which are not specified in 5 AAC 28.020(c). Signature by department personnel is required to validate a registration; with the advent of facsimile machines and e-mail in every port, registration by mail is no longer a current or practical method for registration. When the department allows, registration may be completed in person in department offices outside of the registration area (for example, registering in Kodiak for Cook Inlet). Additionally, check-out procedures may not be required in some areas if a

fishery might be reopened later in the calendar year, or in a subsequent “fishing period”, such as, for example, in the parallel Pacific cod B-season. Check out may also be completed by telephone, fax, or e-mail, in addition to in person and by radio; these modes are not currently specified under (d) of the regulation.

DEPARTMENT COMMENTS: The department submitted and **SUPPORTS** this proposal with one recommended addition. During the staff comment review process, it was pointed out that groundfish registration by e-mail was inadvertently omitted from the original proposal. Registration is currently done in some areas by e-mail: registration forms are completed, scanned, and e-mailed to the department. This registration method is currently not specified in 5 AAC 28.020(c). The department recommends that registration by e-mail be added to the original proposal.

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

PROPOSAL 221 – 5 AAC 28.070. Groundfish possession and landing requirements.

PROPOSED BY: Alaska Department of Fish and Game.

WHAT WOULD THE PROPOSAL DO? The proposal would remove the federal regulatory reference in 5 AAC 28.070(e) regarding maximum retainable bycatch of pollock and Pacific cod.

WHAT ARE THE CURRENT REGULATIONS? 5 AAC 28.070(e)(2) states that a Commercial Fisheries Entry Commission permit holder operating a vessel fishing for groundfish shall retain the maximum retainable bycatch of pollock and Pacific cod taken, specified in 50 C.F.R. 679.20, revised as of October 1, 1996 and amended through May 7, 1997, when a directed fishery for pollock or Pacific cod is closed.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? The proposal would correct an error in regulation. It would provide clarity to both the public and department staff attempting to reference the federal regulation listed and understand the requirement.

BACKGROUND: The federal regulation 50 C.F.R. 679.20 was changed, but this change was not reflected in state regulation. The intent of 5 AAC 28.070(e)(2) is clear without the federal regulatory reference.

DEPARTMENT COMMENTS: The department submitted and **SUPPORTS** this proposal. State regulation incorrectly references the federal regulation and the reference is unnecessary. The maximum retainable bycatch for pollock and Pacific cod is defined in 5 AAC 28.070(b) and therefore inclusion of the federal regulatory reference is confusing and unnecessary, in addition to being incorrect.

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

PROPOSAL 223 – 5 AAC 39.120. Registration of commercial fishing vessels.

PROPOSED BY: Alaska Department of Fish and Game.

WHAT WOULD THE PROPOSAL DO? The proposal would specify that a salmon net fishing vessel may not have fished “during the current registration year” in a salmon net fishing area prior to reregistration in another area.

WHAT ARE THE CURRENT REGULATIONS? Currently, a salmon net fishing vessel can be reregistered under 5 AAC 39.120. However, the regulation lacks clarity regarding the period of time within which a vessel may not have been used within “the original area of registration” prior to reregistration for another area.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? This proposal would clarify the period of time during which a vessel may not have fished in a salmon net fishing area prior to changing areas. Commercial fishermen and department staff will benefit from increased clarity in the regulation.

BACKGROUND: Currently, a salmon net fishing vessel can only be registered in one registration area at a time. Regulations allow for a salmon net fishing vessel to be reregistered in another registration area. However, there is confusion on when a vessel can be reregistered in another area. Permit holders claim that the time period is not specified in regulation and that underlying Alaska Board of Fisheries’ intent regarding this matter is unclear. This proposal will not affect anyone currently participating in the fisheries that require registration in more than one area.

DEPARTMENT COMMENTS: The department submitted and **SUPPORTS** this proposal.

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

PROPOSAL 224 – 5 AAC 39.195. Announcement of Emergency Orders.

PROPOSED BY: Alaska Department of Fish and Game.

WHAT WOULD THE PROPOSAL DO? This proposal would allow emergency orders (EOs) and related announcements to be publicized on the department’s website, add telephone message hotline, e-mail, and facsimile machine (fax) as a means of notification, and remove the obsolete reference to use of telegrams and commercial radio facilities.

WHAT ARE THE CURRENT REGULATIONS? Current regulations (5 AAC 39.195, *Announcement of emergency orders*) allow for announcement of EOs to be publicized 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 local newspapers, and commercial radio stations; and
- (4) telegrams and commercial radio facilities.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? Statewide adoption of this proposal would improve distribution of announcements and EOs by allowing the use of current communications technology. It would benefit fishermen, processors, and department staff dependent on the information contained in announcements and EOs.

BACKGROUND: Technology has changed; telegrams are no longer used to transmit emergency orders (EOs). Recorded telephone messages, e-mail, and fax have been added as modes of distribution. Additionally, the department has implemented an online news release system through which EOs, in addition to news releases, may be distributed via e-mail.

DEPARTMENT COMMENTS: The department submitted and **SUPPORTS** this proposal with one recommended addition. During the staff comment review process, it was pointed out that technology will continue to change into the future. Therefore, it is likely we will identify new ways to publicize EOs and related announcements. With this in mind, the department recommends adding the following means to publicize EOs and related announcements: (5) and other appropriate public notifications. This addition would allow the department to publicize EOs and related announcements using means not yet identified.

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

PROPOSAL 222 – 5 AAC 39.XXX. Personal Identification Required.

PROPOSED BY: Alaska Department of Public Safety.

WHAT WOULD THE PROPOSAL DO? The proposal would align the regulation requiring a Commercial Fisheries Entry Commission (CFEC) permit holder to provide identification, upon request, with similar regulations, with regard to penalties for an offense. Specifically, failure of a CFEC permit holder to provide personal identification, upon request, could be prosecuted as a strict liability offense rather than a misdemeanor, as is currently the only option.

WHAT ARE THE CURRENT REGULATIONS? Currently, the requirement for the permit holder to possess and present identification is found only in 20 AAC 05.115, *Personal identification required*. All offenses of Title 20 must be prosecuted as misdemeanor offenses since Title 20 does not allow for a strict liability provision. Misdemeanor offenses are criminal in nature and penalty options include jail time, loss of fishing privileges, and forfeiture of evidence.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? This proposal would allow the court and the state prosecutor the option to reduce penalties to a level more appropriate for less serious offenses. In addition, a prosecution at the violation level allows for a bench trial in lieu of a jury trial. It is far more likely that a state prosecutor will accept a violation for prosecution, rather than a misdemeanor, for failing to show identification when the person failing to show identification turns out to be the permit holder.

BACKGROUND: There is a long history of fish and game regulations being enforced as strict liability offenses. This would continue that practice.

DEPARTMENT COMMENTS: The department **SUPPORTS** this proposal because it provides more reasonable options for enforcement and prosecution of violations of commercial fishery regulations.

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

PROPOSAL 225 – 5 AAC 39.2XX. Policy for implementation of permit stacking.

PROPOSED BY: Kenai River Sportfishing Association.

WHAT WOULD THE PROPOSAL DO? This proposal asks the board to develop a set of goals and objectives, and a framework for examining future proposals related to permit stacking.

WHAT ARE THE CURRENT REGULATIONS? Currently, the board relies upon 5 AAC 39.222, *Policy for management of sustainable salmon fisheries*, allocation, and cost criteria, as well as information from the department, Commercial Fisheries Entry Commission, Department of Law, and public input to guide its consideration of permit stacking issues.

WHAT WOULD BE THE EFFECT IF THE PROPOSALS WERE ADOPTED? If adopted, this proposal would require the board to develop and adhere to a specific set of policies and procedures when considering permit stacking proposals.

BACKGROUND: House Bill 286 was passed into law in 2002 and allows an individual to own two commercial salmon permits in the same fishery. In 2006, House Bill 251 was passed, allowing the board to authorize additional gear with ownership of a second permit.

Permit stacking can be separated into two categories: dual permits and stacked permits.

Dual permits are defined as two permit holders working together, with an associated increase in allowable gear over and above that allowed for a single permit holder. Examples of dual permit fisheries are found in the Bristol Bay salmon drift gillnet, Cook Inlet salmon drift gillnet, and Southeast herring gillnet fisheries (Table 225-1).

Stacked permits are defined as an individual owning and fishing more than one permit, with an associated increase in allowable gear over that allowed for a single permit holder. Examples of stacked permit fisheries are found in the Kodiak salmon set gillnet (sunsetting in December, 2010), Bristol Bay salmon set gillnet (sunsetting in December, 2012), Cook Inlet salmon set gillnet, and Yakutat salmon set gillnet (sunsets December, 2015) (Table 225-1).

Permit stacking may provide some benefits to the management of commercial fisheries and may, in some circumstances, assist in achieving management goals.

DEPARTMENT COMMENTS: The department is **NEUTRAL** on this proposal.

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

Table 225-1.--Synopsis of dual and stacked permit fisheries (CFEC, 2012).

Dual Permits:					
Fishery	First Season In Effect	Basic Regulation	Identification	Special Considerations	Regulations
Bristol Bay Salmon Drift Gillnet S03T	2004	Two permit holders may fish from a single vessel; the vessel's total allowable gear increases from 150 to 200 fathoms.	Vessels display a 'D' adjacent to the license plate when fishing 2 permits. Otherwise, the 'D' is to be covered.	Dual-permit operations are not allowed in certain restricted fishing areas.	5 AAC 06.333; 5 AAC 06.370
Cook Inlet Salmon Drift Gillnet S03H	2008	Two permit holders may fish from a single vessel; the vessel's total allowable gear increases from 150 to 200 fathoms.	Vessels display a 'D' adjacent to the license plate when fishing 2 permits. Otherwise, the 'D' is to be covered.	Dual-permit operations are not allowed in certain restricted fishing areas.	5 AAC 21.333
Southeast Herring Gillnet G34A	2006	Two permit holders may fish from a single vessel; the vessel's allowable gear increases from a single 50-fathom net to a 75-fathom net.	Vessels display the letter 'D' adjacent to the license plate when fishing 2 permits. Otherwise, the 'D' is to be covered.		5 AAC 27.131(i)

Stacked Permits:

Fishery	First Season In Effect	Basic Regulation	Identification	Special Considerations	Regulations
Kodiak Salmon Set Gillnet S04K	2 regulations: (a) 2008 and (b) 1985, then 2010:	(a) Permit holders may own and fish 2 permits simultaneously. Their allowable gear doubles from 2 nets and 150 fathoms to 4 nets and 300 fathoms. (b) Two permit holders may fish in a joint-venture; the operation's total allowable gear increases from 2 nets and 150 fathoms to 3 nets and to 300 fathoms. Board of Fisheries allowed stacked permit regulation to sunset.	In 2008, persons who fished 2 permits were issued 2 permit cards: a standard card and a white-colored (nonfunctioning) card. In 2009, the nonfunctioning card was yellow-colored. In 2010, persons were issued 2 standard cards, and either could be used to record a landing. Gillnet buoys must be marked with a 'D' and with both permit numbers when the operation fishes 2 permits.	(a) Unless reauthorized, this regulation expires December, 2010. (did expire in 2010)	5 AAC 18.331
Bristol Bay Salmon Set Gillnet S04T	2010	Permit holders may own and fish 2 permits simultaneously. Their allowable gear doubles from 2 nets and 50 fathoms to 4 nets and 100 fathoms.	Persons who fish 2 permits are issued 2 permit cards. Each is a standard card and either can be used to record a landing. Gillnet buoys must be marked with a 'D' and with both permit numbers when the operation fishes 2 permits.	(u) "...the provisions of this subsection do not apply after December 31, 2012."	5 AAC 06.331(u)

Stacked Permits:

<p style="text-align: center;">Cook Inlet Salmon Set Gillnet S04H</p>	<p style="text-align: center;">2011</p>	<p>Permit holders may own and fish 2 permits simultaneously. Their allowable gear doubles from 4 nets and 105 fathoms to 210 fathoms in aggregate, with no single net longer than 35 fathoms.</p>	<p>Persons who fish 2 permits are issued 2 permit cards. Each is a standard card and either can be used to record a landing. Gillnet buoys must be marked with a 'D' and with both permit numbers when the operation fishes 2 permits.</p>		<p style="text-align: center;">5 AAC 21.331</p>
<p style="text-align: center;">Yakutat Salmon Set Gillnet S04D</p>	<p style="text-align: center;">2012</p>	<p>Permit holders may own and fish 2 permits simultaneously. Their allowable gear doubles from 4 nets and 105 fathoms to 210 fathoms in aggregate, with no single net longer than 35 fathoms.</p>	<p>Persons who fish 2 permits are issued 2 permit cards. Each is a standard card and either can be used to record a landing. Gillnet buoys must be marked with a 'D' and with both permit numbers when the operation fishes 2 permits. Valid only for Situk, Yakutat Bay, and Kaliakh, and only if Situk king salmon escapement exceeds 750 fish.</p>	<p style="text-align: center;">(f) Unless reauthorized, this regulation expires December, 2015.</p>	<p style="text-align: center;">5 AAC 30.345</p>

PROPOSAL 244 – 5 AAC 35.510(b)(2). Fishing Seasons for Registration Area J.

PROPOSED BY: Alfredo S. Abou Eid.

WHAT WOULD THE PROPOSAL DO? Change weather-delay criteria from small craft advisory to gale warning for opening the Chignik District Tanner crab fishery.

WHAT ARE THE CURRENT REGULATIONS? The Chignik District Tanner crab fishery opens by regulation on January 15, unless National Weather Service’s (NWS) two-day marine forecast for Area 155 (Castle Cape to Cape Sarichef) contains a small craft advisory or higher, in which case the opening is delayed 24 hours. Season-opening weather delays based on marine weather forecasts may occur for up to 10 consecutive days, after which the fishing season opens regardless of marine weather forecast.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? The Chignik District Tanner crab fishery would open January 15, unless the NWS two-day marine forecast for Area 155 contains a gale warning or higher.

BACKGROUND: Season-opening weather delay provisions are intended to improve vessel safety when vessels are transporting and setting pots on the fishing grounds. Delaying fishery start due to poor weather may allow small vessels, which may be more susceptible to poor weather conditions compared to large vessels, an equal opportunity to start the fishery. Maximum vessel size for Chignik District Tanner crab fishery is 58 feet.

The current weather delay regulation was implemented for January 2012 season. The Chignik District Tanner crab fishery was delayed 10 consecutive days and opened by regulation on January 25.

According to the NWS glossary, a small craft advisory may be determined by NWS based on sustained winds or frequent gusts of 23 to 33 knots. A small craft advisory for rough seas may be issued for sea/wave conditions deemed locally significant. According to Kodiak NWS staff, 25-knot winds or eight-foot seas are considered levels that trigger a small craft advisory.

According to the NWS glossary, a gale warning is issued if sustained surface winds, or frequent gusts, in the range of 34 knots (39 mph) to 47 knots (54 mph) inclusive, are either predicted or occurring. According to Kodiak NWS staff, a 35-knot wind is considered gale warning.

DEPARTMENT COMMENTS: The department is **NEUTRAL** on this proposal.

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

PROPOSAL 245 – 5 AAC 34.610(d). Fishing Seasons for Registration Area O.

PROPOSED BY: Aleut Enterprise Corporation.

WHAT WOULD THE PROPOSAL DO? Change the red king crab (RKC) fishery vessel size limit from 90 feet or less in overall length to less than 60 feet in overall length in state waters (0–3 nm) between 172° W long and 179° W long of Registration Area O (Aleutian Islands Area).

WHAT ARE THE CURRENT REGULATIONS? A vessel fishing for RKC in state waters of the Aleutian Islands, from 172° W. long. to 179° W. long., may be no more than 90 feet in length (5 AAC 34.610(d)). There is no corresponding RKC vessel size limit in adjacent federal waters. In the Aleutian Islands RKC fishery east of 179° W. long., observer coverage is required for the number of vessels the department determines adequate (5 AAC 39.645(d)(5)(A)). Vessel operators must register for the Aleutian Islands RKC fishery at least 21 days before the vessel begins fishing operations (5 AAC 34.606(b)).

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? Vessels fishing for RKC in state waters of the Aleutian Islands between 172° W. long. to 179° W. long. could be no longer than 59.9 feet in overall length. Vessels fishing in the exclusive economic zone adjacent to state waters, from to 172° W. long. to 179° W. long., would not be limited by state regulation.

BACKGROUND: RKC are managed in state and federal waters of the Aleutian Islands as a stock unit. The RKC fishery from 171° W. long. to 179° W. long. has been closed since the 1998–99 season due to low stock size. In 2002, a pot survey was conducted from 172° W. long. to 179° W. long. The survey was developed in consultation with industry and focused on historically important areas of RKC abundance near Adak, Atka, and Amlia islands. Ten commercial vessels conducted a total of 1,085 pot lifts in 61 stations. Only four legal males were captured during the 2002 survey. Because of low survey catches, only 34 percent of the survey was completed.

The Aleutian Islands RKC stock west of 171° W. long. is included in the federal *Fishery Management Plan for the Bering Sea/Aleutian Islands King and Tanner Crabs* (FMP). The Aleutian Islands RKC stock is rationalized west of 179° W. long.; the RKC fishery east of 179° W. and west of 171° W. long. is not. This proposal requests to modify vessel size limits for state waters only; therefore, there are no FMP implications. However, harvest occurring in state waters would be considered for federal overfishing and acceptable biological catch (ABC) determinations.

The 2012–13 federal ABC for the RKC stock west of 171° W. long. was set based on a test-fishery survey and accounting for projected bycatch mortality in other crab and groundfish fisheries; however, there was no allowance for a directed RKC fishery opening. The department would conduct a stock assessment survey to determine if stock conditions warrant a commercial fishery opening. The 90-foot vessel size limit has been in place since 2005; however, the fishery has not opened since the regulation was adopted.

DEPARTMENT COMMENTS: The department is **NEUTRAL** on this proposal.

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

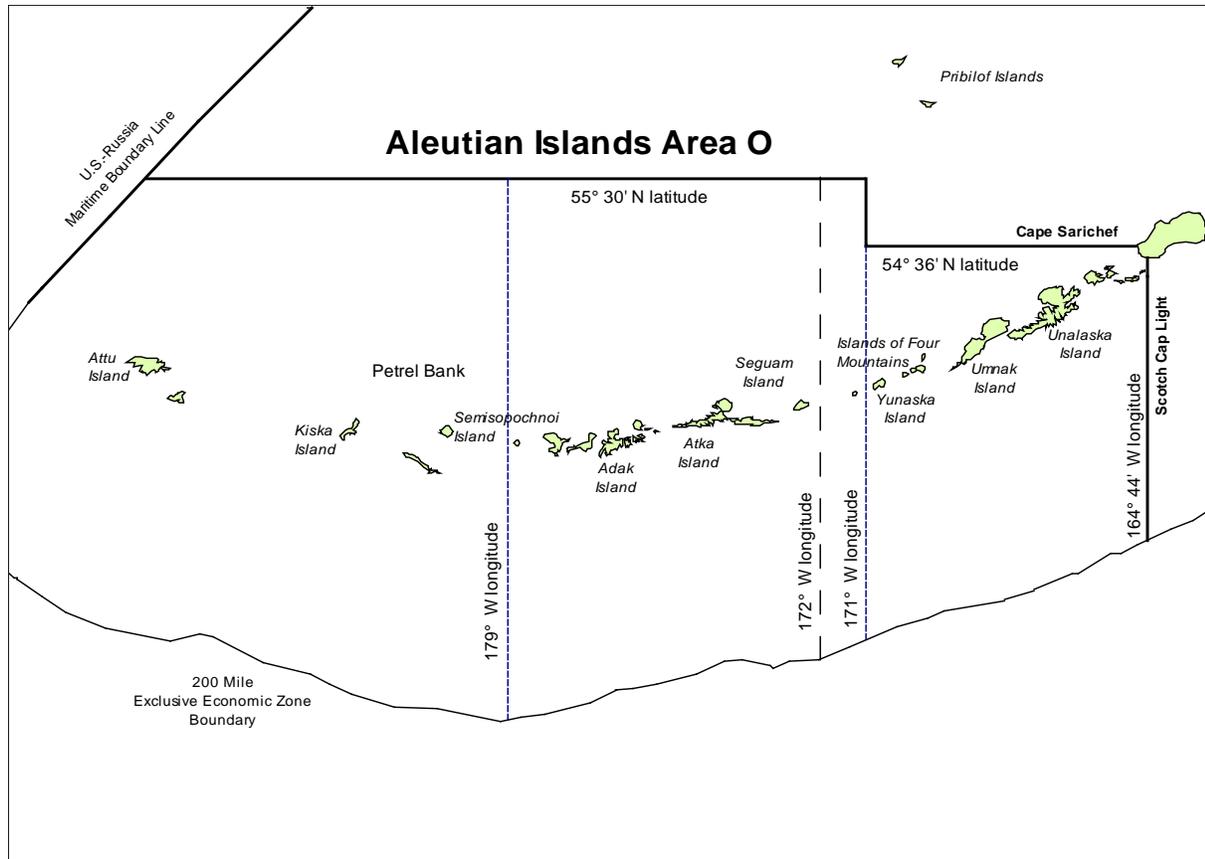


Figure 245-1.—Aleutian Islands red king crab management area (Area O) with area proposed for modified vessel size limit in state waters from 172° W. long. to 179° W. long.

PROPOSAL 246 – 5 AAC 34.625(x). Lawful gear for Registration Area O.

PROPOSED BY: Aleut Enterprise Corporation.

WHAT WOULD THE PROPOSAL DO? Establish a 10-pot limit per vessel fishing for red king crab (RKC) near Adak Island in Registration Area O, Aleutian Islands Area.

WHAT ARE THE CURRENT REGULATIONS? The Aleutian Islands RKC fishery east of 179° W. long. does not have a pot limit; the Aleutian Islands RKC fishery west of 179° W. long. has a 250-pot limit (5 AAC 34.625(d)). In areas with a king crab pot limit, each king crab pot buoy must have an identification tag issued by the department (5 AAC 34.051(b) and (c)). In the Aleutian Islands RKC fishery, observer coverage is required for the number of vessels the department determines adequate (5 AAC 39.645(d)(5)(A)). Vessel operators must register for the Aleutian Islands RKC fishery at least 21 days before the vessel begins fishing operations (5 AAC 34.606(b)).

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? Vessels fishing for RKC near Adak Island would be limited to 10 pots per vessel. The proposal is not clear if the pot limit applies only to state waters. Note that, if the pot limit should apply in the exclusive economic zone adjacent to state waters, pot limits are a category two management measure under the *Fishery Management Plan for the Bering Sea/Aleutian Islands King and Tanner Crabs* (FMP). In the FMP, category two management measures are framework-type measures that the state can change following criteria set out in the FMP.

BACKGROUND: RKC are managed in state and federal waters of the Aleutian Islands as a stock unit. The RKC fishery, from 171° W. long. to 179° W. long., (Figure 245-1), has been closed since the 1998/99 season due to low stock size. A pot survey was conducted from 172° W. long. to 179° W. long. in 2002. The survey was developed in consultation with industry and focused on historically important areas of RKC abundance near Adak, Atka, and Amlia islands. Ten commercial vessels conducted a total of 1,085 pot lifts in 61 stations. Only four legal males were captured during the 2002 survey. Because of low survey catches, only 34 percent of the survey was completed.

The Aleutian Islands RKC stock west of 171° W. long. is included in the federal FMP. The Aleutian Islands RKC stock is rationalized west of 179° W. long.; the RKC fishery east of 179° W. and west of 171° W. long is not.

The 2012–13 federal acceptable biological catch for the RKC stock west of 171° W. long. was set based on a test-fishery survey and accounting for projected bycatch mortality in other crab and groundfish fisheries; however, there was no allowance for a directed RKC fishery opening. The department would conduct a stock assessment survey to determine if stock conditions warrant a commercial fishery opening.

DEPARTMENT COMMENTS: The department is **NEUTRAL** on this proposal.

COST ANALYSIS: Approval of this proposal may result in an additional direct cost for a private person to participate in this fishery; the additional cost is for buoy tags.

COMMITTEE B: SPORT FISHERIES (10 PROPOSALS)

STATEWIDE SPORT FISHERIES: 226, 227, 228, 229, 230, 231, 232, 233, 234, 235

PROPOSAL 226 – 5 AAC 47.020. General provisions for seasons and bag, possession, annual, and size limits for the salt waters of the Southeast Alaska Area; 5 AAC 55.022. General provisions for seasons, bag, possession, and size limits, and methods and means for the Prince William Sound Area; 5 AAC 58.022. Waters; seasons; bag, possession, and size limits; and special provisions for Cook Inlet-Resurrection Bay Saltwater Area; 5 AAC 64.022. Waters; seasons; bag, possession, and size limits; and special provisions for the Kodiak Area; 5 AAC 65.020. Bag limits, possession limits, and size limits for Alaska Peninsula and Aleutian Islands Area; and 5 AAC 75.012. Sport Shark Fishery Management Plan.

PROPOSED BY: Alaska Department of Fish and Game.

WHAT WOULD THE PROPOSAL DO? This proposal would update area regulations to reflect changes to the statewide *Sport Shark Fishery Management Plan* that allow for an increased bag and possession limit of spiny dogfish shark and no annual limit.

WHAT ARE THE CURRENT REGULATIONS? The bag and possession limit for sharks is one fish, except for spiny dogfish, which have a bag and possession limit of five fish. The annual harvest limit is two sharks, except spiny dogfish, and these harvested fish must be recorded immediately on the back of a sport fishing license or on a harvest record card. There is no annual limit on the harvest of spiny dogfish sharks.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? Area sport fishing regulations for spiny dogfish would be simplified and made consistent. This would clarify regulations and prevent confusion between area and statewide regulations. There would be no effect on sport anglers because the statewide regulation allowing a bag and possession limit of five spiny dogfish sharks, with no annual limit, has been used in the department's regulation summary booklets since the Alaska Board of Fisheries (board) adopted the regulation in 2010.

BACKGROUND: At the 2010 Statewide Finfish board meeting, a bag and possession limit of five fish was established for spiny dogfish shark statewide. In addition, spiny dogfish sharks were removed from the annual limit and harvest recording requirement for sharks. Although the statewide regulation under 5 AAC 75.012, *Sport Shark Fishery Management Plan*, and the department's annual regulation summary booklets were modified to reflect the board-adopted changes, area regulations remained unchanged and in conflict with the statewide regulation.

DEPARTMENT COMMENTS: The department submitted and **SUPPORTS** this proposal.

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

PROPOSAL 227 – 5 AAC 75.003. Emergency order authority.

PROPOSED BY: Alaska Department of Fish and Game.

WHAT WOULD THE PROPOSAL DO? This proposal would provide the department with emergency order (EO) authority to restrict sport fishing proxy bag, possession, and annual limits for the purpose of achieving an escapement goal.

WHAT ARE THE CURRENT REGULATIONS? Regulations providing the department EO authority to modify sport fishing proxy limits have not been established. Restrictions to sport proxy limits currently occur when limits are decreased for all sport anglers.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? Adoption of this proposal may reduce the frequency of complete closures to sport fisheries in areas where there is a large occurrence of sport proxy participation. If the department restricted proxy fishing under the proposed authority, beneficiaries would not be able to receive a particular species from a proxy, but proxy fishing for other species may still be allowed. For example, sport proxy fishing for king salmon may be prohibited by EO, but a proxy may still proxy sport fish for sockeye salmon.

BACKGROUND: In 2011, approximately 4,100 proxy fishing information forms were issued statewide (Table 277-1). Of those, 3,554 (86.7%) were issued in the Southcentral region.

DEPARTMENT COMMENTS: The department submitted and **SUPPORTS** this proposal. Decreasing sport proxy bag, possession, and annual limits or prohibiting sport fishing proxy for a particular species could be a valuable tool for fisheries managers to use when decreasing the sport harvest of salmon for conservation reasons.

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

Table 227-1.– ADF&G office location where proxy fishing information forms were issued from by year, 2006–2011.

Issuing ADF&G Office	2006		2007		2008		2009		2010		2011	
	Proxies	%										
DELTA JUNCTION	1	0.0%	1	0.0%	1	0.0%	1	0.0%	1	0.0%	1	0.0%
FAIRBANKS	307	8.5%	303	8.8%	298	8.4%	314	8.5%	391	10.3%	380	9.3%
GLENNALLEN	16	0.4%	12	0.3%	12	0.3%	24	0.6%	17	0.4%	28	0.7%
NOME	2	0.1%	1	0.0%							2	0.0%
TOK					2	0.1%	3	0.1%	2	0.1%	2	0.0%
TOTAL REGION III	326	9.1%	317	8.8%	313	8.7%	342	9.5%	411	11.4%	413	11.5%
ANCHOR POINT											1	0.0%
ANCHORAGE	1,776	49.4%	1,718	49.8%	1,705	48.3%	1,829	49.5%	1,811	47.6%	1,922	46.9%
BIG LAKE	14	0.4%										
COLD BAY									1	0.0%		
CORDOVA	14	0.4%	24	0.7%	28	0.8%	12	0.3%	19	0.5%	12	0.3%
DUTCH HARBOR	3	0.1%										
FORT RICHARDSON	1	0.0%	1	0.0%	1	0.0%			1	0.0%	1	0.0%
HOMER	235	6.5%	223	6.5%	225	6.4%	223	6.0%	214	5.6%	270	6.6%
KODIAK	13	0.4%	5	0.1%	14	0.4%	28	0.8%	33	0.9%	38	0.9%
PALMER	604	16.8%	582	16.9%	589	16.7%	571	15.5%	631	16.6%	677	16.5%
SEWARD	11	0.3%	10	0.3%	4	0.1%					3	0.1%
SOLDOTNA	467	13.0%	430	12.5%	490	13.9%	558	15.1%	539	14.2%	620	15.1%
TALKEETNA	2	0.1%	2	0.1%	2	0.1%	2	0.1%	6	0.2%	3	0.1%
VALDEZ	4	0.1%	3	0.1%	1	0.0%			2	0.1%		
WASILLA					7	0.2%	6	0.2%	4	0.1%	7	0.2%
TOTAL REGION II	3,144	87.4%	2,998	86.9%	3,066	86.9%	3,229	87.4%	3,261	85.8%	3,554	86.7%
CRAIG	2	0.1%	2	0.1%			5	0.1%	3	0.1%	4	0.1%
DOUGLAS	37	1.0%	37	1.1%	37	1.0%	25	0.7%	34	0.9%	39	1.0%
HAINES			2	0.1%							1	0.0%
HOONAH									1	0.0%		
JUNEAU	20	0.6%	14	0.4%	36	1.0%	37	1.0%	38	1.0%	33	0.8%
KETCHIKAN	26	0.7%	33	1.0%	13	0.4%	11	0.3%	13	0.3%	10	0.2%
PETERSBURG			3	0.1%	8	0.2%	3	0.1%	5	0.1%	3	0.1%
SITKA	25	0.7%	27	0.8%	30	0.8%	25	0.7%	23	0.6%	28	0.7%
WRANGELL	2	0.1%	3	0.1%	2	0.1%			2	0.1%	5	0.1%
TOTAL REGION I	112	3.1%	121	3.4%	126	3.5%	106	2.9%	119	3.3%	123	3.4%
UNKNOWN	14	0.4%	13	0.4%	25	0.7%	16	0.4%	10	0.3%	11	0.3%
TOTAL STATEWIDE	3,596	100%	3,449	100%	3,530	100%	3,693	100%	3,801	100%	4,101	100%

PROPOSAL 228 – 5 AAC 75.995. Definitions.

PROPOSED BY: Alaska Department of Fish and Game.

WHAT WOULD THE PROPOSAL DO? This proposal would enable enforcement and prohibit the practice of “high grading” by anglers who keep fish alive on stringers or in live-wells, holding boxes, etc., and then release them (high grading) when a bigger fish, or a fish in better condition, is caught. Specifically, the proposal would modify the definition of bag limit by replacing the word “killed” with the words “not immediately released”.

WHAT ARE THE CURRENT REGULATIONS? “Bag limit” means the maximum legal take per person per day, in the area in which the person is fishing, even though part or all of the fish are immediately preserved; a fish when landed and killed becomes part of the bag limit of the person originally hooking it.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? Unnecessary mortality will be reduced for fish not immediately released by anglers who are seeking to harvest a bigger fish or a fish in better condition. Enforcement of the bag limit regulation will be strengthened and the public’s understanding of the definition will be facilitated.

BACKGROUND: The current regulation specifically states “a fish when landed and **killed** becomes part of the bag limit”. The current definition potentially allows a fish to be landed and then held until a larger or higher-quality fish is caught. The new language will clearly define any fish not “immediately released” as part of the angler’s bag limit.

DEPARTMENT COMMENTS: The department submitted and **SUPPORTS** this proposal.

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

PROPOSAL 229 – 5 AAC 75.006. Harvest record for finfish with an annual limit.

PROPOSED BY: Alaska Department of Fish and Game and Department of Public Safety.

WHAT WOULD THE PROPOSAL DO? This would require anglers, both resident and nonresident, who purchase multiple sport fishing licenses during a single year or who obtain an additional harvest record card, to transfer harvest information from the previous license or harvest record card to their current license or harvest record card.

WHAT ARE THE CURRENT REGULATIONS? Anglers are required to transfer harvest information to a duplicate sport fishing license or harvest record card, but there is no specific regulation requiring the transfer of harvest information from an expired nonresident license to a new license.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? This proposal would standardize harvest recording requirements for anglers obtaining a duplicate license, an additional license, and/or an additional harvest record card. It would also improve compliance of annual limit provisions by requiring anglers who purchase multiple sport fishing licenses during a year or who obtain additional harvest record cards to maintain an accurate harvest record.

BACKGROUND: Nonresident anglers can purchase multiple one- or multi-day licenses, or obtain additional harvest records in a calendar year, and are not required to transfer harvest information from the back of their previous license(s) or harvest record card(s) to their current license or harvest record card. This is inconsistent with harvest recording requirements that apply to duplicate licenses and harvest record cards. It also allows for potential abuse of the annual limit provision set for king salmon, sharks (except spiny dogfish), sablefish, and rainbow trout/steelhead in various sport fish management areas throughout the state. There are no regulations that prohibit residents from purchasing more than one sport fishing license in a year.

In 2011, there were 237,739 nonresident one- or multi-day licenses sold. It is not known how many of these multiple purchases were by the same individual.

DEPARTMENT COMMENTS: The department submitted and **SUPPORTS** this proposal.

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

PROPOSAL 230 – 5 AAC 75.005. Possession of licenses, stamps and harvest record.

PROPOSED BY: Bruce Knowles.

WHAT WOULD THE PROPOSAL DO? This proposal would eliminate the harvest record section on duplicate licenses. Anglers who obtain a duplicate license would be prevented from harvesting fish species with annual limits.

WHAT ARE THE CURRENT REGULATIONS? Anglers are required to transfer harvest record information to a duplicate sport fishing license or harvest record.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? This proposal would reduce harvest opportunity for fish species with an annual limit for anglers who obtain a duplicate license. Anglers who obtain a duplicate license would not be able to harvest fish species with annual limits. This may reduce the harvest of species with an annual limit by some amount. It would also penalize anglers who purchased and legitimately lost their license and would no longer be able to harvest species with annual limits.

BACKGROUND: Anglers are required to transfer harvest record information from the back of their license(s) or harvest record card(s) to their duplicate license or harvest record card. Annual limit provisions have been established for king salmon, sharks (except spiny dogfish), sablefish, and rainbow trout/steelhead in various areas throughout the state. Potential abuse can occur since transfer of this information to the duplicate license or harvest record is not easily verifiable. There is no specific information on how frequently this abuse of the duplicate license process occurs, but department staff and Alaska Wildlife Trooper (AWT) officers have received complaints regarding abuse of the system.

In 2011, there were a total of 442,875 licenses (resident/nonresident combination hunting and fishing and sport fishing) sold and 8,833 duplicate licenses (resident/nonresident hunting and fishing, resident low income) issued.

DEPARTMENT COMMENTS: The department **OPPOSES** this proposal because it would unnecessarily limit harvest opportunity. Current hunting and fishing licenses available at license vendors and Alaska Department of Fish and Game (department) offices have a duplicate license and harvest record incorporated into the standard license format. If adopted, this would require a separate duplicate license without a harvest record to be made available at license vendors or department offices, increasing administrative cost to the license program.

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

PROPOSAL 231 – 5 AAC 75.995. Definitions.

PROPOSED BY: Alaska Department of Fish and Game and Department of Public Safety.

WHAT WOULD THE PROPOSAL DO? Establish a definition for the term “compensation” in relation to sport fishing guide services and sport fishing services.

WHAT ARE THE CURRENT REGULATIONS? There is no definition for “compensation” in Alaska statute or regulations specific to sport fishing guide services or sport fishing services.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? This proposal would provide clarity in the regulations for sport fishing guide services and sport fishing services. Defining “compensation” would provide enforcement officers the tools they need to help prevent abuse of the current regulations by individuals or organizations that have not obtained a guide license or guide business license.

BACKGROUND: “Compensation” is referenced in AS 16.40.299, in the definitions of “sport fishing guide services” and “sport fishing services”, but no definition of compensation is provided in AS 16.40.299 or 5 AAC 75.995. A definition is needed, for clarity, when payment scenarios other than clients paying the guide directly take place. Scenarios have occurred in which corporations, nonprofit organizations, clubs, and governmental agencies hire individuals to provide sport fishing guide services to members, employees, or clients of these groups, but do not compensate the sport fishing guide.

DEPARTMENT COMMENTS: The department submitted and **SUPPORTS** this proposal.

COST ANALYSIS: Approval of this proposal may result in an additional direct cost for a private person to participate in this fishery. Those sport fishing guides or sport fishing guide businesses that have previously not obtained a license due to the ambiguity in the regulations will now have to pay the guide license or guide business fee.

PROPOSAL 232 – 5 AAC 75.026. Use of sport-caught fish as bait.

PROPOSED BY: Alaska Department of Fish and Game.

WHAT WOULD THE PROPOSAL DO? This proposal would clarify that sport-caught whitefish may be used as bait even if there is a bag limit for them and would clarify which parts of sport-caught fish can be used as bait.

WHAT ARE THE CURRENT REGULATIONS? Whitefish, herring, and other species of fish for which no seasonal or harvest limits are specified in 5 AAC 47–5 AAC 75, as well as the head, tail, fins, and viscera of legally taken sport-caught fish taken under 5 AAC 47–5 AAC 75, may be used for bait or other purposes.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? This proposal would add clarity to the regulation governing the use of sport-caught fish as bait. It is not expected to increase the sport harvest of whitefish, or lead to any increases in wastage of sport-caught fish.

BACKGROUND: The current regulatory language defining which sport-caught fish species may be used for bait is unclear due to the sentence structure of the regulation. Of the two species specified in 5 AAC 75.026(b), only whitefish have a bag limit in any sport fish management area (15 fish bag limit in the Tanana River Area). The ambiguity of the current regulation has led to confusion whether sport-caught whitefish in the Tanana River Area can be used for bait.

Remains of sport-caught fish including the head, tail, fins, skeletal remains, and viscera are often used for bait in crab and shrimp pots. This addition would clarify that closely trimmed skeletal remains from sport-caught fish may be used as bait.

DEPARTMENT COMMENTS: The department submitted and **SUPPORTS** this proposal.

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

PROPOSAL 233 – 5 AAC 75.038. Authorization for methods and means disability exemptions.

PROPOSED BY: Bruce Knowles.

WHAT WOULD THE PROPOSAL DO? Disabled anglers would be exempt from the statewide ban on use of footgear with absorbent felt or other fiber material in fresh water sport fisheries, as long as the footgear has not been used outside of Alaska.

WHAT ARE THE CURRENT REGULATIONS? The use of footgear with absorbent felt or other fiber material on the soles is prohibited while sport fishing in fresh water.

AS 16.05.341 allows resident veterans with a disability who meet certain criteria to receive a resident hunting and sport fishing license free of charge. AS 16.05.340 provides annual resident sport fishing licenses for residents who are blind for a fee of 25 cents.

By regulation (5 AAC 75.038), a person with a disability, or the personal representative of a person with a disability, may submit an application on a form available from the department for an exemption from a methods and means requirement specified in 5 AAC 47–5 AAC 75, including the prohibition on felt soles. The regulation authorizes the department to issue an exemption, under certain circumstances, and provides criteria for the department to consider in its decision. The department would not authorize methods and means exemptions if existing regulations do not prohibit the person from meaningful access to the program, service, or benefit. A person with physical disabilities is defined by state law, AS 16.05.940(25), as a person who is at least 70% physically disabled.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? Disabled anglers could participate in freshwater sport fisheries using footgear with absorbent felt or other fiber material without having to apply individually for an exemption.

BACKGROUND: The spread of invasive aquatic species to Alaska’s freshwater systems can occur from any fishing, boating, and/or recreational equipment used in infested waters unless it properly cleaned, dried, and/or disinfected after use. To reduce the potential for the introduction and spread of invasive organisms into Alaska waters, the Alaska Board of Fisheries (board) adopted the regulation prohibiting footgear with absorbent felt or other absorbent fiber material on the soles while sport fishing in all fresh waters of Alaska, effective January 1, 2012. The Alaska Board of Game subsequently adopted a regulation prohibiting footgear with absorbent felt or other absorbent fiber material on the soles while taking game while wading in freshwater streams, effective January 1, 2013.

A person with physical disabilities may request, from the department, an exemption from this prohibition under existing regulation. To date, two people with qualifying physical disabilities have applied for and received an exemption allowing them to wear felt-soled wading boots.

The author of the proposal suggested that licensing requirements for disabled fishing licenses could be used as eligibility for the criteria to wear felt-soled boots. Since the establishment of the

military disabled hunting/sport fishing license in 1996, an average of 495 (range 232 to 1,529) of these licenses have been issued annually, for a total of 7,920 to date. The number of these licenses utilized in the sport fishery is unknown because these licenses do not expire annually and are valid for the lifetime of the resident veteran. Resident blind fishing licenses are issued annually for a fee of 25 cents. Since 2001, an average of 55 (range 39 to 78) of these licenses have been issued annually.

DEPARTMENT COMMENTS: The department is **NEUTRAL** on this proposal. The protection of Alaska's aquatic environments from invasive species cannot be accomplished solely by prohibiting the use of felt-soled footwear by anglers. Recognizing that footwear is not the only vector for the transmission of invasive species, the department continues to support protection of Alaska's aquatic environments from invasive species through a collaborative approach with all anglers, hunters, and anyone who spends time in aquatic environments by educating them about the risk of spreading invasive organisms and effective disinfection procedures. Existing regulations provide an avenue for persons with a physical disability to seek exemptions to regulations that prohibit them from meaningful access to the program, service, or benefit. The department encourages anglers to use gear that has been properly cleaned and disinfected.

Should the board adopt this proposal, the department recommends that specific criteria be used to determine eligibility. The department agrees that using gear that has been used outside of the state increases the risk of introducing invasive species. However, we oppose this element of the proposal because it is not enforceable.

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

PROPOSAL 234 – 5 AAC 75.020. Sport fishing gear.

PROPOSED BY: Robin Collman.

WHAT WOULD THE PROPOSAL DO? This proposal would prohibit the use of lead weights weighing one ounce or less and jigs less than one inch in length along their longest axis in all state waters.

WHAT ARE THE CURRENT REGULATIONS? The size or weight of a lead jig or weight is not regulated in the sport fishery.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? Anglers who use lead weights weighing one ounce or less would need to replace them with weights made of other material or use lead weights weighing more than one ounce. Anglers could only use jigs one inch or longer.

BACKGROUND: Lead has been widely used in the manufacture of ammunition and fishing tackle for many years because it is readily available, malleable, dense, and inexpensive. Lead is a toxic metal that, in sufficient quantities, has adverse effects on the nervous and reproductive systems of mammals and birds. Lead poisoning is well documented in waterfowl and birds that use wetland habitats, especially where frequent and long-term shooting activities have resulted in high levels of spent lead shot in the area. When lead fishing weights are lost, birds can inadvertently swallow them. Waterfowl can swallow lead weights when they scoop up pebbles from the bottom of a lake or river to help grind their food or when they mistake lead lures as prey.

In 2010 and 2011, the Environmental Protection Agency (EPA) received petitions requesting the agency to nationally ban fishing tackle containing lead by taking action under the Toxic Substances Control Act. These petitions were denied by the EPA, which cited that the petitions did not demonstrate why federal action was necessary given the mix of regulatory and educational actions state and federal agencies were taking to address the impact of lead fishing tackle on local environments. The EPA did note that the risk of lead fishing tackle appeared to be more prevalent in some geographic areas than others.

The use of lead fishing tackle has been addressed in nine states, five national wildlife refuges, and one national park. Actions have included banning the use and/or sale of all lead tackle, banning specific weights and sizes of lead tackle, area-specific prohibitions for lead tackle use, implementing educational programs, discouraging the use of lead in sport fisheries, or a combination of these strategies (Table 243-1). A majority of these actions were based on specific studies that documented mortality to individual waterfowl, primarily of loons, due to ingestion of lead fishing tackle. This said, population-level impacts to waterfowl are not well-documented and have not been documented in Alaska.

The effects from ingestion of lead fishing tackle by waterfowl are well studied and understood. However, the impacts of lead fishing tackle used in Alaska sport fisheries has not been studied, and the amount of lead tackle used and lost in the sport fishery in Alaskan waters is unknown.

The Alaska Department of Environmental Conservation's comprehensive statewide fish monitoring program has analyzed tissue samples for heavy metals from over 7,000 fish representing 59 species of fish, since 2001. This sampling did not identify any chronic lead poisoning of fish populations in Alaska. Currently, the department has not identified any populations of waterfowl that are jeopardized by ingestion of lead tackle used in Alaska.

DEPARTMENT COMMENTS: The department **OPPOSES** this proposal given that no information exists at present to suggest population-level impacts to waterfowl anywhere in Alaska. This said, if the use and/or loss of lead-based tackle is found to jeopardize a specific wildlife population, the department would consider an approach to mitigate that impact at a local level. If this proposal were to pass, a definition of jig would need to be established in regulation.

COST ANALYSIS: Approval of this proposal may result in an additional direct cost for a private person to participate in this fishery. Anglers will need purchase nonlead weights and jigs, and dispose of their current tackle.

Table 234-1.—Actions currently implemented in states, national parks, and national wildlife refuges that address the use of lead tackle by sport anglers.

State	Action
Illinois	Established an educational program to discourage the use of lead sinkers and lead jigs
Maine	Prohibited the sale of lead sinkers 1/2 ounce or less and established a statute to raise revenue for education on lead sinkers and lures
Massachusetts	Prohibited the use of lead, sinker, lead weight, or lead jig with a mass of less than one ounce
Minnesota	Established a program to educate anglers about the alternatives to lead tackle
New Hampshire	Prohibited the sale and use of lead sinkers weighing 1 ounce or less and lead jigs less than 1 inch long along their longest axis
New York	Prohibited the sale of lead fishing sinkers 1/2 ounce or less in weight
Vermont	Prohibited the sale or use of a lead sinker weighing 1/2 ounce or less and implemented an educational program to alert the public to the effects that lead fishing tackle can have on wildlife
Washington	Prohibited the use of lead weights and jigs that measure 1 1/2 inches or less along the longest axis at 12 lakes, and prohibited the use of flies containing lead at one lake
Wisconsin	Educational program established to discourage the use of lead sinkers and lead jigs
National Park	
Yellowstone - Montana	Prohibited the use of lead tackle, except downrigger weights greater than 4 pounds may be used
National Wildlife Refuge	
Patuxent National - Maryland	Prohibited the possession and use of lead sinkers
Rachel Carson - Maine	Prohibited the use of lead sinkers
Rappahannock - Virginia	Prohibited the use of lead fishing tackle in one pond
Red Rock Lakes - Montana	Prohibited the use of lead sinkers or any lead product used while fishing
Seney - Michigan	Prohibited the use of lead tackle
Union Slough - Iowa	Prohibited the possession of or use of lead sinkers

PROPOSAL 235 – 5 AAC 75.1XX. New regulation and 5 AAC 75.005. Possession of licenses, stamps and harvest record.

PROPOSED BY: Native Village of Eyak.

WHAT WOULD THE PROPOSAL DO? This proposal would require sport anglers to record their sport harvest by date, location, quantity, and species on a department-supplied form and report this information within 15 days of the expiration date of their license or by January 15 for anglers with permanent licenses. This proposal includes a provision requiring anglers transporting fish to show their sport fishing licenses, harvest records, and special permits or stamps to any department representative or any peace officer of the state upon request. Failure to comply with these proposed requirements would make a sport angler ineligible for a sport fishing license the following year.

WHAT ARE THE CURRENT REGULATIONS? There are no reporting requirements for sport anglers, except that participants in Prince William Sound sport shrimp fisheries are required to obtain a shrimp permit and report their effort and harvest information for each set on the permit.

Anglers taking and retaining finfish with an annual limit are required to possess a harvest record. Immediately upon landing a fish with an annual limit, anglers are required to complete the harvest record by entering the date, location, and species, in ink, on the harvest record.

All persons engaged in sport fishing or in possession of fish must show their sport fishing licenses, harvest records, and special permits or stamps to any local representative of the department or to any peace officer of the state upon request.

A sport fishing guide is required to report by trip the location, effort, catch, and harvest of sport finfish for each client in a freshwater or saltwater logbook.

WHAT WOULD BE THE EFFECT IF THE PROPOSAL WERE ADOPTED? Requiring an additional harvest report for sport anglers would provide an additional method of tracking, and in some cases, more detailed harvest information than is currently available. This proposal would affect a large number of anglers: 442,875 sport fishing licenses were sold in 2011. This proposal would have a prohibitive budgetary impact on the department due to the cost of developing and administering such a catch-reporting program.

BACKGROUND: Currently, the department collects sport angler catch and harvest information via creel survey interviews, mandatory saltwater charter or freshwater sport fishing guide logbooks, and postal surveys of anglers through the annual Statewide Harvest Survey program.

DEPARTMENT COMMENTS: The department **OPPOSES** this proposal. A new reporting program of this magnitude would be prohibitively expensive, and, in some cases, would duplicate current data collection programs. Existing harvest monitoring programs provide sufficient levels and accuracy of information for management. When more detailed harvest information is needed for

sustainable management of fishery resources, the department may modify existing sampling programs to meet those objectives pending available funding.

The board has no “administrative, budgeting, or fiscal powers” to require the department to administer the proposed program (AS 16.05.241).

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