



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Public Safety
DIVISION OF ALASKA WILDLIFE TROOPERS
Southern Detachment Headquarters

5700 East Tudor Road
Anchorage, Alaska 99507-1225
Main: 907.269.0388
Fax: 907.269.5616

January 22, 2020

Chairman Reed Morisky
Board of Fisheries

Department of Public Safety, Division of Alaska Wildlife Troopers (AWT), comments on Kodiak finfish proposals:

PROPOSAL 80 – 5 AAC 21.310. Fishing seasons.

PROPOSED BY: Alaska Sportfishing Association/Martin Meigs

WHAT WOULD THE PROPOSAL DO? This would prohibit retention of king salmon greater than 36 inches in the Upper Cook Inlet (UCI) commercial gillnet fisheries.

AWT COMMENTS: AWT is **NEUTRAL** on the allocative aspects of this proposal but **OPPOSES** using non-retention as a method of reducing king salmon take in the commercial gillnet fishery. The mortality rate of king salmon caught in commercial gillnets is unknown but likely high. King salmon that are killed could not be legally sold, possessed or wasted, which would put fishermen in an untenable position. Further, the non-retention method of reducing king salmon harvest has proven to be problematic for enforcement, fishermen and processors in other areas in the State. Enforcing this type of regulation is labor intensive, the level of investigation it takes causes conflict between enforcement and the fishing public and there is a seemingly high violation rate. Over the past two years several Southeast fishermen and processors have been cited for violating regulations related to the non-retention of king salmon. Other options should be considered as this is a burdensome and marginally effective tool from an enforcement perspective.

PROPOSAL 84 – 5 AAC 56.120. General provisions for seasons, bag, possession, annual, and size limits, and methods and means for the Kenai Peninsula Area.

PROPOSED BY: Joe Hanes

WHAT WOULD THE PROPOSAL DO? This proposal would require a king salmon over 20” that is netted from a vessel in the Kenai River be released immediately without returning to shore.

AWT COMMENTS: Current regulations state in part that, “...a king salmon caught that is 20 inches or greater in length must be released immediately; a person may not remove a king salmon from the water before releasing the fish”. The scenario given by the proposer says, “Anglers hooking king salmon from a vessel, dragging them to the beach or shallow water, then releasing causes undue harm to the fish.” In most conceivable variations of this scenario AWT would not view this as an immediate release. AWT is **NEUTRAL** on this proposal however there is concern that if accepted the proposal will add to regulatory complexity.

PROPOSAL 15 – 5 AAC 75.075. Sport fishing services and sport fishing guide services; saltwater license and freshwater registration requirements; regulation of activities. Sport fishing guide and operator reporting requirements. Sport fishing guide vessel registration requirements.

PROPOSED BY: Mel Erickson

WHAT WOULD THE PROPOSAL DO? This would prohibit reselling of guide services by anyone other than licensed guides.

WHAT ARE THE CURRENT REGULATIONS? Current regulations do not address how guide services may be sold.

DEPARTMENT COMMENTS: This proposal may best be addressed as a statewide proposal. Sport fish guides often move great distances by vessel and aircraft, often moving from one region to another during the same trip.

Based on current regulations the provision of “sport fish guide services” does not commence until a sport fish guide accompanies or physically directs a sport fishing client engaged in sport fishing. In other words, until a line goes in the water no sport fish guiding has occurred.

To enforce the sale or “re-selling” of sport fish guide services by sport fish guides the board will need to add “sale” or “contracting” for sport fish guide services to the definition of sport fish guide. For example, in Big Game Commercial Services statutes [AS 08.54.790(9)] the definition of guide “means to provide, for compensation or with the intent or with an agreement to receive compensation, services,

equipment...”. The statute goes on to say that “services” includes contracting to guide. Therefore, if a person contracts to guide they need to be licensed, this is not the case under current sport fish guide regulations.

The board would also need to provide clarity in regulation regarding the activities of tour brokers and agents of sport fish guides. Current regulation, 5AAC 75.995(a)(43)(B), says that, “sport fish services does not include booking and other ancillary services provided by a tour broker or agent to sport fish guide service operator.”

The AWT is **OPPOSED** to this proposal because of added regulatory complexity and the burden that it would put on all involved. If the board determines that there is a need for this type of control it may be advisable to work through the legislative process and adopt a statutory structure like Big Game Commercial Services statutes.

PROPOSAL 140 – 5 AAC 21.333. Requirements and specifications for use of 200 fathoms of drift gillnet in the Cook Inlet Area.

PROPOSED BY: Dan Anderson

WHAT WOULD THE PROPOSAL DO? This would allow a dual-permit drift gillnet vessel to have 200 fathoms of gear on board when in the Chinitna Bay Subdistrict (CBS) while fishing but would not change the requirement that only 150 fathoms of gear can be used in the CBS at any time.

AWT COMMENTS: 5 AAC 39.240 is a state-wide regulation that prohibits having more than one legal limit of salmon fishing gear aboard, mending supplies are excluded. This regulation helps deter illegal commercial fishing, it is relatively easy to enforce, and it helps provide an even playing field for all permit holders. AWT is **NEUTRAL** on the allocative aspects of this proposal but **OPPOSED** to the proposal as written because it would allow extra gear on board in CBS and could encourage or simplify illegal fishing.

A potential solution would be to expand dual-permit use to CBS, this would reduce regulatory complexity, it would eliminate the need for dual permit vessels to off load gear before fishing in CBS and it would eliminate violations from dual permit vessels with extra gear on board. It could even promote safety as permit holders would not be motivated to travel in bad weather just to off load gear. Should the board desire to adopt this option, 5 AAC 21.333 (e) and (f) could simply be repealed, no other changes would need to be made. Gear limitations for the Kasilof River Special Harvest Area are addressed in regulations for that specific area.

PROPOSAL 141 – 5 AAC 21.331. Gillnet specifications and operations; and 5 AAC 21.333. Requirements and specifications for use of 200 fathoms of drift gillnet in the Cook Inlet Area

PROPOSED BY: Central Peninsula Fish and Game Advisory Committee

WHAT WOULD THE PROPOSAL DO? This would allow a vessel to carry more than a legal complement of fishing gear, while not increasing the legal amount of gear that may be fished.

WHAT ARE THE CURRENT REGULATIONS? 5 AAC 39.240. *General gear specifications and operations*, a statewide provision, says a fishing vessel shall operate, assist in operating, or have aboard it or any boat towed by it, only one legal limit of salmon fishing gear in the aggregate. A vessel may also have unhung gear aboard an amount sufficient for mending purposes.

DEPARTMENT COMMENTS: Limiting the legal amount of gear allowed on board a commercial fishing vessel to the amount that can be legally fished greatly reduces the likelihood of illegal fishing. This regulation is a very basic means of promoting an orderly fishery. Allowing extra gear on board would increase illegal fishing, it would take away an important tool from enforcement. Repealing this provision could affect allocations and could hinder management if violations became commonplace. AWT is **OPPOSED** to this proposal.

The proposer provided scenarios, such as emergencies, when extra gear may have to be taken on board; accommodations can be made through the local Fish and Game office or AWT office as has been done around the state for many years.

PROPOSALS 152 – Prohibit barbed hooks when fishing in the Kenai River drainage.

5 AAC 57.120. General provisions for seasons, bag, possession, annual, and size limits, and methods and means for the Kenai River Drainage Area.

PROPOSED BY: Jordan Perrego

WHAT WOULD THE PROPOSAL DO? This would prohibit barbed hooks when fishing in the Kenai River drainage.

DEPARTMENT COMMENTS: AWT is **NEUTRAL** on the allocative aspects of this proposal. Should the board adopt the proposal, the term “barb” or “barbed” will need to be defined in sport fish regulations. The word “barbed” is defined in game regulation in 5 AAC 92.990(a)(8) but is in reference to a barbed arrow head.

PROPOSAL 14 – 5 AAC 75.995. Definitions.

PROPOSED BY: Mel Erickson

WHAT WOULD THE PROPOSAL DO? This would modify the definition of bag limit to include fish landed but not originally hooked by an angler.

WHAT ARE THE CURRENT REGULATIONS? Bag limit is defined in 5 AAC 75.995(a)(4): “...the maximum legal take of fish per person per day, in the area in which the person is fishing, even if part or all of the fish are immediately preserved; a fish when landed and not immediately released becomes a part of the bag limit of the person originally hooking it.”

AWT COMMENTS: AWT is **NEUTRAL** on this proposal, there are pros and cons from an enforcement perspective. In some cases, it would be easier to determine who is operating the fishing rod when a fish is landed, as opposed to when a fish is initially hooked. As it is now, any fish not immediately released becomes part of the bag limit of the person who originally hooked it. If this proposal is accepted an angler who is adept at fishing could hook and fight fish and just before the fish is landed and retained, hand the rod to someone else for landing, then the fish would be added to that person’s bag limit. It is likely that overall take of fish would increase. Should the board decide to change the definition, it would be a state-wide change.

PROPOSAL 157 – 5 AAC 56.140. Kasilof River guiding and guided fishing requirements.

PROPOSED BY: Mike Adams

WHAT WOULD THE PROPOSAL DO? This proposal would limit the number of client groups per guide or guide vessel on the Kasilof River during the month of July.

AWT COMMENTS: AWT is **NEUTRAL** on the allocative aspects of this proposal. If adopted some sort of mandatory recording requirement, such as the now obsolete freshwater sport fish guide logbooks, will need to be implemented in order to enforce the regulation. The mandatory document will need, in part, to be State of Alaska issued, uniquely numbered, and would need mandatory fields adequate to record the date, identity of the guide, identity of the vessel and include a signature block with language attesting to the accuracy of the information provided. Regulatory language should clearly identify who is responsible for completing the document and when the document must be completed.

Adoption of this proposal would increase regulatory complexity; however, the recording requirement would likely be less of a burden than sport fish guide logbooks as less information would be needed.

PROPOSAL 158 – 5 AAC 57.140. Kenai River guiding and guided fishing requirements in the Kenai River Drainage Area.

PROPOSED BY: Paul Boyden

WHAT WOULD THE PROPOSAL DO? This proposal would prohibit sport fishing guides from sport fishing from shore while a client is present on the Kenai River.

AWT COMMENT: AWT is **NEUTRAL** on the allocative aspects of this proposal but **SUPPORTS** other aspects. On the Kenai River a sport fishing guide may not sport fish from a vessel while clients are present or in the guides control, but they can fish with clients from the shore. Accepting the proposal would align regulations between shore and vessel operations, it would also align sport fish guide regulations with the Kasilof River. From a public safety perspective, the proposal could ensure sport fish guides are paying attention to clients rather than fishing, this may reduce violations and increase safety. Additionally, prohibiting sport fish guides from fishing may reduce “party fishing.”

PROPOSAL 199 - 5AAC 21.366 Northern District king salmon management plan

PROPOSED BY: Mat-Su Borough Fish and Wildlife Commission/Mike Wood

WHAT WOULD THE PROPOSAL DO? This would modify the *Northern District King Salmon Management Plan (NDKSMP)* by adding three new provisions (a)(12)–(a)(14) and amending provision (a)(10).

AWT COMMENTS: AWT is **NEUTRAL** on this allocative proposal. Two sections of the proposed language use numeric names of Fish and Game statistical areas to describe boundaries. The language of note is below:

(12) If the sport fishery on the Little Susitna River

(A) is closed or if retention of king salmon is prohibited, the commissioner shall, by emergency order, close the commercial king salmon fishery in the General Sub-district of the Northern District including areas 247-41, 247-42, and 247-43, for the remainder of the fishing periods provided for under this section; or

(B) is restricted to retention of king salmon under 28 inches or less in length as measured from the tip of snout to tip of tail, the commissioner shall, by emergency order, reduce the time allowed per fishing period provided for in this section to no more than six hour provision in the General Sub-district of the Northern District including areas 247-41, 247-42, and 247-43.

Statistical area boundaries are not defined in regulation and are not enforceable as boundaries. If the board adopts this proposal the areas will need to be defined in regulation using GPS coordinates.

PROPOSAL 222 – Allow fishing for rainbow trout on days closed to king salmon fishing.

5 AAC 61.114. Special provisions for the seasons, bag, possession, and size limits, and methods and means for Unit 2 of the Susitna River Drainage Area.

PROPOSED BY: Alaska Department of Fish and Game.

WHAT WOULD THE PROPOSAL DO? Allow anglers to fish for rainbow trout and other resident species on days closed to king salmon fishing within Unit 2 of the Susitna River drainage. Current regulations close waters down stream of the Parks Highway during limited periods of time during king season.

AWT COMMENTS: The Parks Highway provides ready access to the mouths of several streams within Unit 2 of the Susitna River drainage. King salmon tend to stage near the stream mouths and that is where sport fish effort is concentrated. For the past several decades Parks Highway streams have been closed down-stream of the Parks Highway on certain days of the week during king salmon season, for the protection of king salmon. These closures have been a very effective tool in reducing unlawful take of king salmon and unintended mortality due to incidental take. AWT is **NEUTRAL** on the allocative aspects of this proposal. The board should be aware that without complete closures there will almost certainly be an increase in the illegal take of king salmon and increased mortality from incidental take. It only makes sense that closures are the most effective and enforceable measure in protecting king salmon around stream mouths.

During times when waters are open to fishing for species other than king salmon, there is nothing that would prohibit anglers from fishing with typical king salmon fishing gear while fishing for other species. The burden would be on enforcement to somehow determine whether the angler is truly targeting king salmon, a difficult task.

Over the last several decades AWT has invested a great deal of effort in patrolling the Parks Highway streams in Unit 2, particularly during king salmon season. It is an area with thick cover and lots of trail systems making it an area particularly susceptible to illegal fishing.

Adoption of this proposal would be a significant shift in the priority of protecting this stock, a shift that AWT will have to assess when considering priorities and available personnel in this area. AWT is **OPPOSED** to this proposal.

PROPOSAL 226 – 5 AAC 60.122 Special provisions for the seasons, bag, possession, annual, and size limits, and methods and means for the Knik Arm Drainages Area.

PROPOSED BY: Central Peninsula Fish and Game Advisory Committee

WHAT WOULD THE PROPOSAL DO? This would require retention of all coho salmon caught by anglers on the Little Susitna River regardless of where a fish is hooked.

AWT COMMENTS: AWT is **OPPOSED** to this proposal as written. Current statewide regulations say in essence that a person may not intentionally snag fish in fresh water, and, fish unintentionally snagged must be immediately released. Snag means to hook a fish elsewhere than in the mouth. In other words, no matter the person’s intent, a fish snagged in fresh water must be immediately released.

The proposal says, “Coho salmon shall not be released no matter where they are hooked.” And then goes on to say, “No snagging is allowed.” The proposer would like to prohibit intentional snagging but require coho unintentionally snagged to be retained, this is in contradiction to current regulations. Further, intent can be a very difficult mental state to prove unless an act is particularly aggressive. If a person repeatedly rips a large treble hook through the water in a snagging motion the intent is clear, if any subtlety is used intent becomes difficult to document.

If this proposal is accepted the board will need to make clear whether snagging, regardless of intent, is allowed in the fresh waters of the Little Susitna River.

PROPOSAL 228 – Prohibit fishing while wading in Fish Creek.

5 AAC 60.122. Special provisions for the seasons, bag, possession, annual, and size limits, and methods and means for the Knik Arm Drainages Area.

PROPOSED BY: Gene Sandone

WHAT WOULD THE PROPOSAL DO? This proposal would prohibit fishing while wading in Fish Creek downstream from a marker located 0.1 miles downstream of Knik Goose Bay Road (KGB) from 2.5 hours before high tide through the time of high tide.

AWT COMMENTS: To be enforceable, the board would need to define “wading” in regulation. The definition of wading would need to clearly define what actions constitute wading. For example, would stepping from the bank into the water but not moving constitute wading? Further, as written, the regulation would only apply to a person who had a fishing line in the water, it would not pertain to a person walking through the water from one bank to the other with no line in the water. Because of regulatory complexity and likely enforcement issues AWT is **OPPOSED** to this proposal.