

MEMORANDUM

State of Alaska

Department of Law

TO: Art Nelson
Executive Director
Alaska Board of Fisheries

DATE: February 13, 2023

FILE NO.: 2022200305

FROM: Aaron Peterson
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SUBJECT: Department of Law comments
on proposals for the February
20, 2023 – February 25, 2023
Board of Fisheries meeting.

The Department of Law has the following comments on the proposals to be considered by the Board of Fisheries at its February 20-25, 2023 Board of Fisheries meeting for Alaska Peninsula / Aleutian Island / Chignik finfish:

Proposals 119: This proposal seeks to add power troll and hand troll gear as an additional gear type for Chignik Area purse seine fishery. The Commercial Fisheries Entry Commission determines what CFEC fishing permits are required to participate in a commercial fishery. It appears that the intent of the proposal is to limit participation in a new troll fishery to existing CFEC purse seine permit holders.

The Board does not have authority to completely implement these measures on its own.

When adopting regulations that for which implementation would also require CFEC to take action, Law has consistently recommended that the Board notify the CFEC, so that it might modify its regulations or permits to accommodate, as it sees fit.

Proposal 138: This proposal would require observers to be on board commercial salmon fishing vessels in the South Unimak and Shumagin Islands. Before adopting such provisions, the Board would need to make the written findings listed in AS 16.05.251(a)(13), which states:

- (a) The Board of Fisheries may adopt regulations it considers advisable...

...

(13) requiring, in a fishery, observers on board fishing vessels... after making a written determination that an onboard observer program

(A) is the only practical data-gathering or enforcement mechanism for that fishery;

(B) will not unduly disrupt the fishery;

(C) can be conducted at a reasonable cost; and

(D) can be coordinated with observer programs of other agencies, including the National Marine Fisheries Service, North Pacific Fishery Management Council, and the International Pacific Halibut Commission;

Past findings for shellfish onboard observer programs are found in 5 AAC 39.645, which provides a good template for new observer findings.