

Alaska Department of Fish and Game

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2023–2026

Bristol Bay Subsistence, Commercial  
Salmon and Herring, and Statewide  
Regulations



This booklet contains regulations regarding **COMMERCIAL SALMON, COMMERCIAL HERRING, SUBSISTENCE, AND PERSONAL USE FISHERIES** in Bristol Bay and statewide regulations. **This booklet covers the period June 2023 through May 2026 or until a new book is available following the Board of Fisheries meetings.**

**Note to Readers:** These statutes and administrative regulations were excerpted from the Alaska Statutes (AS), and the Alaska Administrative Code (AAC) based on the official regulations on file with the Lieutenant Governor. There may be errors or omissions that have not been identified and changes that occurred after this printing. **This booklet is only effective through the printing date of 8/1/23. To be certain of the current laws, refer to the official statutes and the AAC. An electronic version, that is updated often, is available on the ADF&G website located here:**

<https://adfg.alaska.gov/index.cfm?adfg=fishregulations.commercial>

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The Alaska Department of Fish and Game’s mission is to manage, protect, maintain, and improve the fish, game and aquatic plant resources of Alaska. The primary goals are to ensure that Alaska’s renewable fish and wildlife resources and their habitats are conserved and managed on the sustained yield principle, and the use and development of these resources are in the best interest of the economy and well-being of the people of the state.

**Guiding Principles**

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

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Please see website link at <https://adfg.alaska.gov/index.cfm?adfg=fishregulations.main> for summary of changes and official filings.

## 2023 Changes

<p><b>Chapter 01. Subsistence Finfish Fishery</b>  5 AAC 01.010(a)(2); (p) - (r)  5 AAC .1.320(b)  5 AAC 01.330(d) is repealed</p> <p><b>Chapter 06. Bristol Bay Area</b>  5 AAC 06.200(b)(1)  5 AAC 06.200(b)(2)  5 AAC 06.320(c)(2)(C)  5 AAC 06.320(g) is repealed  5 AAC 06.331(m)(8)  5 AAC 06.331(n)  5 AAC 06.331(n)(2) - (4)  5 AAC 06.331(v)  5 AAC 06.360(i)  5 AAC 06.361(a); (b)(4)-(6);(c);(e)(2)-(3)  5 AAC 06.365(g) is repealed  5 AAC 06.366(d)(4)  5 AAC 06.370(k)(1) - (2)  5 AAC 06.377(c)</p>	<p><b>Chapter 27 Herring Fishery</b>  5 AAC 27.865(b)(3) is repealed</p> <p><b>Chapter 39. General Provisions.</b>  5 AAC 39.105(d)(31)  5 AAC 39.107(h)-New section  5 AAC 39.250(d)</p>
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**Chapter 01. Subsistence Finfish Fishery.**

Article

[Article 1. Statewide Provisions.](#)

[Article 6. Bristol Bay Area.](#)

**Please note that in the electronic version the above Articles are linked to where they are contained within this document.**

**Article 1. Statewide Provisions.**

[5 AAC 01.001. Application of this chapter.](#)

[5 AAC 01.005. Subsistence fishing permitted.](#)

[5 AAC 01.010. Methods, means, and general provisions.](#)

[5 AAC 01.011. Subsistence fishing by proxy.](#)

[5 AAC 01.015. Subsistence fishing permits and reports.](#)

[5 AAC 01.020. Subsistence fishing by commercial fishermen.](#)

[5 AAC 01.030. Unlawful possession of subsistence finfish.](#)

[5 AAC 01.040. Policy on closures due to illegal fishing.](#)

**5 AAC 01.001. Application of this chapter.** Regulations in this chapter apply to subsistence fishing for salmon, herring, bottomfish, smelt, halibut and other types of finfish or their parts, and aquatic plants. The descriptions of legal types of gear (5 AAC 39.105), the definitions (5 AAC 39.975) and the abbreviations and symbols (5 AAC 39.997) set forth and defined in 5 AAC 39 are applicable to the regulations in this chapter.

**5 AAC 01.005. Subsistence fishing permitted.** Finfish other than salmon, rainbow trout, and steelhead trout may be taken for subsistence purposes at any time in any area of the state by any method unless restricted by the subsistence fishing regulations in this chapter. Salmon may be taken for subsistence purposes only as provided in this chapter.

**5 AAC 01.010. Methods, means, and general provisions.** (a) Unless otherwise provided in this chapter, the following are legal types of gear for subsistence fishing:

(1) gear specified in 5 AAC 39.105;

(2) jigging gear, which consists of a line or lines with lures or baited hooks that are operated during periods of ice cover from holes cut in the ice, or from shore ice referred to in 5 AAC 01.220(i), and which are drawn through the water by hand;

(3) a spear which is a shaft with a sharp point or fork-like implement attached to one end, used to thrust through the water to impale or retrieve fish and which is operated by hand;

(4) a lead which is a length of net employed for guiding fish into a seine or a length of net or fencing employed for guiding fish into a fish wheel, fyke net or dip net.

(b) Finfish may be taken for subsistence purposes only by Alaskan residents.

(c) Gillnets used for subsistence fishing for salmon may not exceed 50 fathoms in length, unless otherwise specified by the regulations in particular areas set forth in this chapter.

(d) Unless otherwise specified in this chapter, it is unlawful to buy or sell subsistence-taken fish, their parts, or their eggs, except that it is lawful to buy or sell a handicraft made out of the skin or nonedible by-products of fish taken for personal or family consumption.

(e) Fishing for, taking or molesting any fish by any means, or for any purpose, is prohibited within 300 feet of any dam, fish ladder, weir, culvert or other artificial obstruction.

(f) The use of explosives and chemicals is prohibited.

(g) Subsistence fishing by the use of a hook and line attached to a rod or pole is prohibited, unless otherwise provided in this chapter.

(h) A subsistence fisherman shall plainly and legibly inscribe that person's first initial, last name, and address on that person's fish wheel, keg or buoy attached to a gillnet, and other unattended subsistence fishing gear.

(i) All pots used for subsistence fishing must comply with the escape mechanism requirements in 5 AAC 39.145.

(j) Persons licensed under AS 43.75.011 to engage in a fisheries business may not receive for commercial purposes or barter or solicit to barter for subsistence taken salmon or their parts. Further restrictions on the bartering of subsistence taken salmon or their parts may be implemented by emergency order for a specific time or area if circumvention of management programs is occurring because of illegal bartering activities.



(k) The gillnet web in a gillnet used for subsistence fishing for salmon must contain

(1) at least 30 filaments, each of which must be of equal diameter; or

(2) at least six filaments, each of which must be at least 0.20 millimeters in diameter.

(l) Repealed 5/15/93.

(m) Salmon taken for subsistence use or under subsistence fishing regulations may not be subsequently used as bait for commercial fishing purposes.

(n) The use of live nonindigenous fish as bait is prohibited;

(o) Fish taken and retained for subsistence shall be salvaged for subsistence uses;

(1) in this section, "salvage" means to transport fish to a location where the fish will be processed or preserved for subsistence uses before the fish become spoiled or otherwise unusable for subsistence;

(2) it is a defense to a charge that the failure to salvage the fish was due to circumstances beyond the control of the person charged, including:

(A) theft of the fish;

(B) unanticipated weather conditions or other acts of God;

(C) unavoidable loss in the field to a wild animal.

(p) Subsistence fishing guide services are prohibited.

(q) For the purposes of this subsection, "subsistence fishing guide services" means to provide assistance for compensation, or with the intent to receive compensation, to a subsistence fisherman to take or to attempt to take fish by accompanying or physically directing the fisherman in subsistence fishing activities during any part of a subsistence fishing trip.

(r) In this section, "compensation"

(1) means direct or indirect payment, remuneration, or other benefits received in return for services, regardless of the source; in this paragraph, "benefits" includes

(A) wages or other employment benefits given directly or indirectly to an individual or organization; and

(B) dues, payments, fees, or other remuneration given directly or indirectly to a fishing club, business, organization, or individual who provides subsistence fishing guide services;

(2) does not include reimbursement for the actual daily expenses for fuel, food, or bait.

**5 AAC 01.011. Subsistence fishing by proxy.** (a) Finfish may be taken by subsistence fishing by proxy only as provided in AS 16.05.405 and in this section.

(b) Any species of finfish, except halibut, that may be taken by subsistence fishing under this chapter may be taken by subsistence fishing by proxy.

(c) Before a proxy may take, attempt to take, or transport finfish taken under this section, on behalf of a beneficiary, the proxy or the beneficiary shall obtain and complete a proxy fishing information form available from the department. The proxy or the beneficiary shall take or mail the completed form to any ADF&G office for validation. The department shall return the validated form and retain a copy for the department's records. In addition to the requirements of AS 16.05.405(c), the proxy must have in possession a validated proxy fishing information form when taking, attempting to take, or transporting finfish taken under this section, on behalf of a beneficiary. A subsistence fishing permit issued by the department may be substituted for the proxy fishing information form if the information requested on the subsistence fishing permit is the same as the information requested on the proxy fishing information form.

(d) As provided in AS 16.05.405, a proxy who takes or attempts to take finfish by subsistence fishing on behalf of a beneficiary may, at the same time, fish for the proxy's own use, except that the proxy

(1) may not take more than twice the bag limit, and may not possess more than twice the possession limit, of a species, as established in this chapter, for the waters in which the fishing occurs; and

(2) may not fish with more than one legal limit of gear, as established in this chapter.

(e) A beneficiary may not authorize more than one proxy to take or attempt to take finfish on the beneficiary's behalf at one time. A beneficiary may not personally take or attempt to take finfish at the same time that a proxy is taking or attempting to take finfish on the beneficiary's behalf.

(f) A person may not give or receive remuneration in order to obtain, grant, or influence the granting of an authorization to take or attempt to take finfish by proxy on behalf of a beneficiary.

(g) In this section,

(1) "beneficiary" means a resident

(A) who is blind, is a person with physical or developmental disabilities as defined in AS 16.05.940, or is 65 years of age or older;

(B) on whose behalf finfish are to be taken or attempted to be taken under AS 16.05.405;

(2) "proxy" means a resident who holds a valid resident sport fishing license and who wishes to take or attempt to take finfish on behalf of a beneficiary under AS 16.05.405;

(3) "fishing site" means the location where the finfish is removed from the water and becomes part of the beneficiary's specified limit.

(h) A proxy fishing information form is valid for the remainder of the calendar year during which it is issued, unless the beneficiary specifies an earlier ending date on the proxy fishing information form.

(i) Before concealing the finfish from plain view or transporting the finfish from the fishing site, a proxy must record on the proxy fishing information form, or a subsistence permit if allowed under (c) of this section, the date, location (body of water fished), species, approximate weight, and number of the finfish taken by the proxy on behalf of a beneficiary.

(j) Within 30 days after taking finfish for a beneficiary under this section, a proxy must personally deliver the finfish to the beneficiary.

**5 AAC 01.015. Subsistence fishing permits and reports.** (a) Salmon may be taken only under the authority of a subsistence fishing permit issued by the commissioner, unless a permit is specifically not required in a particular area by the subsistence regulations in this chapter, or unless the fisherman is retaining salmon from the fisherman's commercial catch consistent with 5 AAC 39.010.

(b) If a subsistence fishing permit is required by this chapter, the following permit conditions apply unless otherwise specified by the subsistence fishing regulations in this chapter:

(1) the numbers of fish taken for subsistence use may not exceed the limits set out in the permit;

(2) permits must be obtained from a local representative of the department prior to subsistence fishing;

(3) permits must be retained in the possession of the permittee and be readily available for inspection while taking fish; a person who transports subsistence-taken fish shall have a subsistence fishing permit in that person's possession;

(4) the permit may designate the species and numbers of fish to be harvested, time and area of fishing, the type and amount of fishing gear and other conditions necessary for management or conservation purposes;

(5) if specified on the permit, each subsistence fisherman shall keep accurate daily records of the catch involved, showing the number of fish taken by species, location and date of the catch and such other information as the department may require for management or conservation purposes;

(6) subsistence fishing reports must be completed on forms provided by the department and submitted to the department office from which the permit was issued at a time specified by the department for each particular area and fishery;

(7) if applicable, the total annual possession limit for the permittee must be entered on each permit by the local representative of the department issuing the permit; if applicable, the local representative of the department issuing the permit shall require from an applicant documented proof of residency, income or other criteria required by regulation, or in absence of such documentation, a signed affidavit setting forth duration of residency, income, or other criteria required by regulation, to determine the applicable annual possession limit and residency of the applicant;

(8) repealed 5/31/98.

(c) If the return of catch information necessary for management and conservation purposes is required by a subsistence fishing permit, a permittee who fails to comply with such reporting requirements is ineligible to receive a subsistence permit for that activity during the following calendar year, unless the permit applicant demonstrates to the department that failure to report was due to loss in the mail, accident, sickness or other unavoidable circumstances.

(d) Repealed 4/2/88.

(e) Repealed 5/31/98.

(f) Repealed 5/31/98.

**5 AAC 01.020. Subsistence fishing by commercial fishermen.** (a) Repealed 5/15/93.

(b) Outside the boundaries of any district and within the Naknek, Alagnak, and Wood River special harvest areas, salmon may only be taken by set gillnet, except that salmon may also be taken by dip nets in the waters described in 5 AAC 01.310(d) if fishing other than from a vessel, and salmon may also be taken as follows:

**5 AAC 01.030. Unlawful possession of subsistence finfish.** (a) No person may possess, transport or place into the possession of another person's subsistence-taken fish or their parts which the person has taken contrary to state law or regulation.

(b) No person may possess or transport raw or unprocessed subsistence-taken fish or their parts if the items have been received from a person who took, possessed or transported the items contrary to state law or regulation and if the person receiving the items knows, has reason to know or should have reason to know that the items were taken, possessed or transported contrary to state law or regulation.

(c) No person may possess or transport raw or unprocessed subsistence-taken fish or their parts that the person knows were taken, possessed or transported contrary to state law or regulation.

**5 AAC 01.040. Policy on closures due to illegal fishing.** (a) Some fisheries have had a documented history of illegal commercial fishing dating back to 1968. Enforcement

efforts by the Department of Public Safety have been largely ineffective in controlling this recurring problem on a long-term basis. The board recognizes the difficulty of enforcement in some areas of the state and although the current regulations are sufficient to protect fish stocks, they may be ineffective due to special enforcement problems.

(b) In the interest of the conservation of valuable renewable fish resources, the Board of Fisheries directs the commissioner, or his authorized designee, to take the following actions given the specified circumstances. If illegal fishing activities develop to the point that regulations pertaining to protection of fish stocks become ineffective, the commissioner shall consider closing the affected fishery by emergency order for a period of up to one week. When the fishery reopens and illegal fishing continues to be a problem, the appropriate fishery may be closed for an additional period of time. Continued violations may result in additional closures of the fishery.

**Article 6. Bristol Bay Area.**

**[5 AAC 01.300. Description of Bristol Bay Area](#)**

**[5 AAC 01.305. Description of districts](#)**

**[5 AAC 01.310. Fishing seasons and periods](#)**

**[5 AAC 01.320. Lawful gear and gear specifications](#)**

**[5 AAC 01.325. Waters closed to subsistence fishing](#)**

**[5 AAC 01.330. Subsistence fishing permits](#)**

**[5 AAC 01.336. Customary and traditional subsistence uses of fish stocks and amounts necessary for subsistence uses](#)**

**[5 AAC 01.340. Marking of subsistence-taken salmon](#)**

**[5 AAC 01.345. Subsistence bag and possession limits](#)**

**[5 AAC 01.349. Prohibitions](#)**

**5 AAC 01.300. Description of Bristol Bay Area.** The Bristol Bay Area consists of all waters of Bristol Bay including drainages enclosed by a line from Cape Newenham at 58° 38.88' N. lat., 162° 10.51' W. long. to Cape Menshikof at 57° 28.34' N. lat., 157° 55.84' W. long.

**5 AAC 01.305. Description of districts.** Districts and sections for salmon, halibut, bottomfish, and other finfish fisheries are described in 5 AAC 06.200. The districts and sections for herring, herring spawn on kelp, and capelin fisheries are described in 5 AAC 27.805.

**5 AAC 01.310. Fishing seasons and periods.** (a) Unless restricted in this section and 5 AAC 01.325, by emergency order, or unless restricted under the terms of a subsistence fishing permit, fish, other than rainbow trout, may be taken at any time in the Bristol Bay Area.

(b) In all commercial salmon districts, except for special harvest areas, from May 1 through May 31 and October 1 through October 31, subsistence fishing for salmon is permitted from 9:00 a.m. Monday until 9:00 a.m. Friday. From June 1 through September 30, within the waters of a commercial salmon district, except for special harvest areas, salmon may be taken only during open commercial fishing periods. In the Nushagak District, the commissioner, by emergency order, shall also provide for subsistence salmon fishing during periods of extended closures. During these emergency order openings,

- (1) set gillnets may not be more than 10 fathoms in length; and
- (2) no set gillnet may be set or operated within 450 feet of another set gillnet;
- (3) repealed 5/15/93.

(c) Repealed 5/31/98.

(d) In all waters upstream of a line from a point approximately two miles south of Bradford Point at 58° 58.63' N. lat., 158° 33.62' W. long., to Nushagak Point at 58° 56.79' N. lat., 158° 29.53' W. long., to a point at Red Bluff on the west shore of the Wood River at 59° 09.58' N. lat., 158° 32.36' W. long., and to Lewis Point on the north shore on the Nushagak River at 58° 59.46' N. lat., 158° 05.57' W. long., salmon may be taken at any time.

(e) Repealed 4/16/2016.

(f) Under conditions set out in 5 AAC 06.361(e), the commissioner may, by emergency order, reduce time or area for the Nushagak River king salmon subsistence fishery.

(g) Rainbow trout taken incidentally in other subsistence finfish net fisheries and through the ice, are lawfully taken and may be retained for subsistence purposes.

(h) On the north shore of the Naknek River, from an ADF&G regulatory marker located approximately 300 feet upstream from the north commercial fishing section boundary marker to an ADF&G regulatory marker located approximately 1,300 feet upstream from the north commercial fishing section boundary marker, salmon may be taken only by a person 60 years of age or older from June 23 through July 17, except that a person authorized to take salmon under this subsection may not authorize a proxy to take or attempt to take salmon on behalf of the person under AS 16.05.405 or 5 AAC 01.011.

**5 AAC 01.320. Lawful gear and gear specifications.** (a) Within any district, salmon, herring, and capelin may be taken only by drift and set gillnets.

(b) Outside the boundaries of any district and within the Naknek, Alagnak, and Wood River special harvest areas, salmon may only be taken by set gillnet, except that salmon may also be taken by dip nets in the waters described in 5 AAC 01.310(d) if fishing other than from a vessel, and salmon may also be taken as follows:

(1) in the Togiak River,

(A) excluding its tributaries, by spear;

(B) between the mouth of the river and upstream approximately two miles to a line across the river at 59° 05.50' N. lat., by a drift gillnet that is not more than 10 fathoms in length;

(2) from August 30 through December 31, by spear, dip net, beach seine, and gillnet

(A) along the west shore of Naknek Lake near the outlet to the Naknek River between a line from 58° 41.10' N. lat., 156° 25.84' W. long. to 58° 40.99' N. lat., 156° 25.46' W. long. upstream to a line from 58° 41.36' N. lat., 156° 25.81' W. long. to 58° 41.13' N. lat., 156° 25.85' W. long.;

(B) at Johnny's Lake on the northwestern side of Naknek Lake;

(C) at the outlet of Idavain Creek on the north side of Naknek Lake;

(3) from September 18 through December 31, by spear, dip net, beach seine, and gillnet at the mouth of Brooks River at Naknek Lake; and

(4) at locations and times specified in (2) and (3) of this subsection,

(A) a gillnet may not exceed five fathoms in length and may not be anchored or tied to a stake or peg; and

(B) the permit holder must be present at the net while the net is being fished;

(5) by spear in Lake Clark, excluding its tributaries;

(6) by gillnet and beach seine in Iliamna Lake, Six Mile Lake, and Lake Clark;

(7) by dip net in the Igushik, Weary, and Snake Rivers upstream of the commercial fishing district; a dip net may not be operated from a vessel.

(c) Except as specified in (b) of this section, the maximum lengths for gillnets and beach seines used to take salmon are as follows:

(1) set gillnets may not exceed 10 fathoms in length in

(A) the Naknek, Egegik, and Ugashik Rivers;

(B) the Nushagak District during the emergency order subsistence openings described in 5 AAC 01.310(b);

(C) all waters of Nushagak Bay upstream of a line from a point approximately two miles south of Bradford Point at 58° 58.63' N. lat., 158° 33.62' W. long. to Snag Point at 59° 03.18' N. lat., 158° 25.59' W. long.;

(D) repealed 5/31/98;

(2) in the remaining waters of the Wood River and Nushagak River not described in (c)(1)(C) of this section, set gillnets may not exceed 25 fathoms in length;

(3) beach seines may not exceed 25 fathoms in length.

(d) No part of a set gillnet may be operated within 300 feet of any part of another set gillnet, except that

(1) in the Nushagak District from a point approximately two miles south of Bradford Point at 58° 58.63' N. lat., 158° 33.62' W. long., to Snag Point at 59° 03.18' N. lat., 158° 25.59' W. long., no part of a set gillnet may be operated within 100 feet of any part of another set gillnet;

(2) on the north shore of the Naknek River, from an ADF&G regulatory marker located approximately 300 feet upstream from the north commercial fishing section boundary marker to an ADF&G regulatory marker located approximately 1,300 feet upstream from the north commercial fishing section boundary marker, no part of a set gillnet may be operated within 100 feet of any part of another set gillnet;

(3) in the Naknek River Special Harvest Area described in 5 AAC 06.360(b), when it is open to commercial set gillnet gear, no part of a set gillnet may be operated within 150 feet of any part of another set gillnet; when the Naknek-Kvichak District reopens to commercial set gillnet gear, the 300-foot restriction for subsistence set gillnets in this subsection will apply in the Naknek River Special Harvest Area.

(e) A set gillnet may not obstruct more than one-half the width of a stream and any channel or side channel of a stream.

(f) Each set gillnet must be staked and buoyed. Instead of complying with 5 AAC 01.010(h), a subsistence fisherman may plainly and legibly inscribe that person's first initial, last name, and subsistence permit number on a sign at or near the set gillnet.

(g) No person may operate or assist in operating subsistence salmon net gear while simultaneously operating or assisting in operating commercial salmon net gear.

(h) Fish, other than salmon, herring, capelin, and halibut, may be taken by gear listed in 5 AAC 01.010(a) unless restricted under the terms of a subsistence fishing permit.

(i) Herring spawn on kelp may be taken only by hand picking and hand operated rakes.

(j) During closed commercial herring fishing periods gillnets used for the subsistence taking of herring or capelin may not exceed 25 fathoms in length.



(k) Halibut may be taken only with a single hand-held line with no more than two hooks attached.

(l) Subsistence fishing by the use of a hook and line attached to a rod or pole is prohibited, except when fishing through the ice.

**5 AAC 01.325. Waters closed to subsistence fishing.** (a) Except for the western shore of the Newhalen River, waters within 300 feet of a stream mouth used by salmon are closed to the subsistence taking of fish.

(b) Unless otherwise specified in 5 AAC 01.320, gillnets are prohibited in all waters of the Naknek River drainage upstream of Savonaski, from June 1 through October 1.

(c) From September 1 through June 14, subsistence fishing with a net is prohibited in the following waters and within one-fourth mile of the terminus of those waters:

- (1) Lower Talarik Creek;
- (2) Middle Talarik Creek;
- (3) Upper Talarik Creek;
- (4) Pete Andrew Creek;
- (5) Zacker Creek;
- (6) Newhalen River;
- (7) Roadhouse Creek;
- (8) Alexi Creek;

- (9) Taziminia River;
- (10) Young's Creek;
- (11) Chekok Creek;
- (12) Tomkok Creek;
- (13) Nick G. Creek;
- (14) Copper River;
- (15) Kakhonak River;
- (16) Gibraltar River;
- (17) Dennis Creek;
- (18) Belinda Creek.

(d) Waters described in 5 AAC 27.850 are closed to the taking of herring and capelin.

**5 AAC 01.330. Subsistence fishing permits.** (a) Salmon may only be taken under authority of a subsistence fishing permit.

(b) Repealed 4/15/81.

(c) Only one subsistence fishing permit may be issued to each household per year.

(d) Repealed 4/16/2023.

(e) Repealed 4/2/88.

**5 AAC 01.336. Customary and traditional subsistence uses of fish stocks and amounts necessary for subsistence uses.** (a) The Alaska Board of Fisheries (board) finds that the following fish stocks are customarily and traditionally taken or used for subsistence in the Bristol Bay Area:

(1) all finfish;

(2) herring spawn on kelp in the waters of the Togiak District as described in 5 AAC 27.805(a).

(b) The board finds that

(1) 157,000 - 172,171 salmon are reasonably necessary for subsistence uses in the Bristol Bay Area, including 55,000 - 65,000 Kvichak River drainage sockeye salmon; this finding does not include salmon stocks in the Alagnak River;

(2) 250,000 usable pounds of finfish other than salmon are reasonably necessary for subsistence uses in the Bristol Bay Area;

(3) 4,100 - 12,700 usable pounds of herring spawn on kelp are reasonably necessary for subsistence uses in the Togiak District as described in 5 AAC 27.805(a).

**5 AAC 01.340. Marking of subsistence-taken salmon.** In the Togiak River drainage, a person may not possess

(1) coho salmon taken under the authority of a subsistence fishing permit unless both lobes of the caudal fin (tail) or the dorsal fin have been removed;

(2) salmon taken under authority of a subsistence fishing permit with a drift gillnet unless both lobes of the caudal fin (tail) or the dorsal fin have been removed.

**5 AAC 01.345. Subsistence bag and possession limits.** (a) The total annual possession limit for sockeye salmon taken after August 15 in the Naknek District is 200 sockeye salmon.

(b) The daily bag limit for halibut is two, and the possession limit is two daily bag limits. No person may possess sport-taken and subsistence-taken halibut on the same day.

**5 AAC 01.349. Prohibitions.** (a) In the Bristol Bay Area, an owner, operator, or employee of a lodge, charter vessel, or other enterprise that furnishes food, lodging, or sport fishing guide services, as defined in 5 AAC 75.995, may not furnish to a client or guest of that enterprise, finfish that has been taken under this chapter, unless the

(1) finfish has been taken with gear deployed and retrieved by the client or guest;

(2) gear has been marked with the client's or guest's name and address, as specified in 5 AAC 01.010(h) and 5 AAC 01.320(f); and

(3) finfish is consumed by the client or guest or is consumed in the presence of the client or guest.

(b) The owner, operator, or employee of a lodge, charter vessel, or other enterprise that furnishes food, lodging, or sport fishing guide services, as defined in 5 AAC 75.995, may not deploy, set, or retrieve their own gear, or take finfish, in a subsistence finfish fishery when a client or guest of that enterprise has subsistence fishing gear deployed or is in possession of subsistence-taken finfish that are stored at the lodge or enterprise.

**Chapter 02. Subsistence Shellfish Fishery.**

**Article 1. Statewide Provisions.**

**5 AAC 02.001. Application of this chapter.** Regulations in this chapter apply to subsistence fishing for Dungeness crab, king crab, Tanner crab, shrimp, clams, abalone and other types of shellfish or their parts. The descriptions of legal types of gear (5 AAC 39.105), the definitions (5 AAC 39.975) and the abbreviations and symbols (5 AAC 39.997) set forth in 5 AAC 39 are applicable to the regulations in this chapter.

**5 AAC 02.005. Subsistence fishing permitted.** Shellfish may be taken for subsistence purposes at any time in any area of the state by any method unless restricted by the subsistence fishing regulations in this chapter.

**5 AAC 02.010. Methods, means, and general restrictions.** (a) Unless otherwise provided in this title, the following are legal types of gear for subsistence fishing:

(1) gear specified in 5 AAC 39.105;

(2) jigging gear which consists of a line or lines with lures or baited hooks which are operated during periods of ice cover from holes cut in the ice and which are drawn through the water by hand;

(3) a spear which is a shaft with a sharp point or fork-like implement attached to one end, used to thrust through the water to impale or retrieve fish and which is operated by hand;

(4) a lead which is a length of net employed for guiding fish into a seine or a length of net or fencing employed for guiding fish into a fish wheel, fyke net, or dip net.

(b) Unless otherwise specified in this chapter, it is unlawful to buy or sell subsistence-taken shellfish, their parts, or their eggs, except that it is lawful to buy or sell a handcraft made out of the skin, shell, or nonedible by-products of shellfish taken for personal or family consumption.

(c) The use of explosives and chemicals is prohibited, except that chemical baits or lures may be used to attract shellfish.

(d) Subsistence fishing by the use of a line attached to a rod or pole is prohibited except when fishing through the ice in the Bering Sea Area.

(e) Marking requirements for subsistence shellfish gear are as follows:

(1) a person who is subsistence fishing shall plainly and legibly inscribe that person's first initial, last name, and address on a keg or buoy attached to unattended subsistence fishing gear, except that if a person is fishing through ice, a stake inscribed with the first initial, last name, and address inserted in the ice near the hole may be

substituted for the keg or buoy; subsistence fishing gear may not display a permanent ADF&G vessel license number;

(2) kegs or buoys attached to subsistence crab pots or ring nets also must be inscribed with the name or the division of motor vehicles boat registration number, issued under 2 AAC 70, of the vessel used to operate the pots or ring nets.

(f) Pots used for subsistence fishing must comply with the escape mechanism requirements in 5 AAC 39.145.

(g) No person may mutilate or otherwise disfigure a crab in any manner which would prevent determination of the minimum size restrictions in 5 AAC 02 until the crab has been processed or prepared for consumption.

(h) Repealed 5/15/93.

(i) Subsistence shellfish pot limits are as follows:

(1) except in the Kotzebue Sound Section and when fishing through the ice in the Norton Sound Section, no more than five pots per person and 10 pots per vessel may be used to take crab;

(2) repealed 5/9/2015.

(j) Effective July 1, 1986, shellfish may be taken only by residents.

(k) Repealed 5/15/93.

**5 AAC 02.011. Subsistence fishing by proxy.** (a) Shellfish may be taken by subsistence fishing by proxy only as provided in AS 16.05.405 and in this section.

(b) Any species of shellfish that may be taken by subsistence fishing under this chapter may be taken by subsistence fishing by proxy.

(c) Before a proxy may take, attempt to take, or transport shellfish taken under this section, on behalf of a beneficiary, the proxy or the beneficiary shall obtain and complete a proxy fishing information form available from the department. The proxy or the beneficiary shall take or mail the completed form to any ADF&G office for validation. The department shall return the validated form and retain a copy for the department's records. In addition to the requirements of AS 16.05.405(c), the proxy must have in possession a validated proxy fishing information form when taking, attempting to take, or transporting shellfish taken under this section, on behalf of a beneficiary. A subsistence fishing permit issued by the department may be substituted for the proxy fishing information form if the information requested on the subsistence fishing permit is the same as the information requested on the proxy fishing information form.

(d) As provided in AS 16.05.405, a proxy who takes or attempts to take shellfish by subsistence fishing on behalf of a beneficiary may, at the same time, fish for the proxy's own use, except that the proxy

(1) may not take more than twice the bag limit, and may not possess more than twice the possession limit, of a species, as established in this chapter, for the waters in which the fishing occurs; and

(2) may not fish with more than one legal limit of gear, as established in this chapter.

(e) A beneficiary may not authorize more than one proxy to take or attempt to take shellfish on the beneficiary's behalf at one time. A beneficiary may not personally take or attempt to take shellfish at the same time that a proxy is taking or attempting to take shellfish on the beneficiary's behalf.

(f) A person may not give or receive remuneration in order to obtain, grant, or influence the granting of an authorization to take or attempt to take shellfish by proxy on behalf of a beneficiary.

(g) In this section,

(1) "beneficiary" means a resident

(A) who is blind, is a person with physical or developmental disabilities as defined in AS 16.05.940, or is 65 years of age or older; and

(B) on whose behalf shellfish are to be taken or attempted to be taken under AS 16.05.405;

(2) "proxy" means a resident who holds a valid resident sport fishing license and who wishes to take or attempt to take shellfish on behalf of a beneficiary under AS 16.05.405;

(3) "fishing site" means the location where the shellfish is removed from the water and becomes part of the beneficiary's specified limit.

(h) A proxy fishing information form is valid for the remainder of the calendar year during which it is issued, unless the beneficiary specifies an earlier ending date on the proxy fishing information form.

(i) Before concealing the shellfish from plain view or transporting the shellfish from the fishing site, a proxy must record on the proxy fishing information form, or a subsistence permit if allowed under (c) of this section, the date, location (body of water fished), species, approximate weight, and number of the shellfish taken by the proxy on behalf of a beneficiary.

(j) Within 30 days after taking shellfish for a beneficiary under this section, a proxy must personally deliver the shellfish to the beneficiary.

**5 AAC 02.015. Subsistence fishing permits and reports.** (a) If a subsistence fishing permit is required by this chapter, the following conditions apply unless otherwise specified by the subsistence fishing regulations this chapter:

(1) the numbers of shellfish taken for subsistence use may not exceed the limits set out in the permit;

(2) permits must be obtained from a local representative of the department prior to subsistence fishing;

(3) permits must be retained in the possession of the permittee and be readily available for inspection while taking or transporting the species for which the permit is issued;

(4) the permit may designate the species and numbers of shellfish to be harvested, time and area of fishing, the type and amount of fishing gear and other conditions necessary for management or conservation purposes;

(5) if specified on the permit, each subsistence fisherman shall keep accurate daily records of the catch involved, showing the number of shellfish taken by species, location and date of the catch and such other information as the department may require for management or conservation purposes;

(6) subsistence fishing reports must be completed on forms provided by the department and submitted to the department office from which the permit was issued at a time specified by the department for each particular area and fishery;

(7) if applicable, the total annual possession limit for the permittee must be entered on each permit by the local representative of the department issuing the permit; if applicable, the local representative of the department issuing the permit shall require from an applicant documented proof of residency, income or other criteria required by regulation, or in the absence of such documentation, a signed affidavit setting forth duration of residency, income or other criteria required by regulation, to determine the applicable annual possession limit and residency of the applicant.

(b) If the return of catch information necessary for management and conservation purposes is required by a subsistence fishing permit, a permittee who fails to comply with such reporting requirements is ineligible to receive a subsistence permit for that activity during the following calendar year, unless the permit applicant demonstrates to the department that failure to report was due to loss in the mail, accident, sickness or other unavoidable circumstances.

**5 AAC 02.019. Prohibitions on shellfish pot gear.** A person may not disturb, tamper with, or retrieve another person's shellfish pot gear without prior permission of the owner of that pot gear.

**5 AAC 02.025. Use of commercially licensed or registered vessels.** (a) Limitations on the use of subsistence shrimp pots by vessels and participants in commercial shrimp pot fisheries and the use of subsistence trawls by vessels and participants in commercial shrimp trawl fisheries are contained in 5 AAC 31.

(b) Limitations on the use of subsistence Dungeness crab gear by vessels and participants in commercial Dungeness crab fisheries are contained in 5 AAC 32.

(c) Limitations on the use of subsistence king crab gear by vessels and participants in commercial king crab fisheries are contained in 5 AAC 34.

(d) Limitations on the use of subsistence Tanner crab gear by vessels and participants in commercial Tanner crab fisheries are contained in 5 AAC 35.

**5 AAC 02.027. Prohibitions for use of subsistence-taken shellfish.** (a) An owner, operator, or employee of a lodge, charter vessel, or other enterprise that furnishes food, lodging, or sport fishing guide services may not furnish to a client or guest of that enterprise, shellfish that has been taken under this chapter, unless the

(1) shellfish has been taken with gear deployed and retrieved by the client or guest;

(2) gear has been marked with the client's or guest's name and address, as specified in 5 AAC 02.010(e)(1); and

(3) shellfish is to be consumed by the client or guest or is consumed in the presence of the client or guest.

(b) The captain and crewmembers of a charter vessel may not deploy, set, or retrieve their own gear in a subsistence fishery when that vessel is being chartered.

**5 AAC 02.030. Unlawful possession of subsistence shellfish.** (a) No person may possess, transport or place into the possession of another person, raw or unprocessed subsistence-taken shellfish or their parts that the person has taken contrary to state law or regulation.

(b) No person may possess or transport raw or unprocessed subsistence-taken shellfish or their parts if the items have been received from a person who took, possessed or transported the items contrary to state law or regulation and if the person receiving the items knows, has reason to know or should have reason to know that the items were taken, possessed or transported contrary to state law or regulation.

(c) No person may possess or transport raw or unprocessed subsistence-taken shellfish or their parts that the person knows were taken, possessed or transported contrary to state law or regulation.

(d) No person may take or possess shellfish smaller than the minimum legal size limits.

**5 AAC 02.035. Width of shell measurement for king and Tanner crab.** In this chapter, the width of shell measurement for king and Tanner crab is the greatest straight-line distance across the carapace at a right angle to a line midway between the eyes to the midpoint of the posterior portion of the carapace, including the spines.

**5 AAC 02.040. Policy on closures due to illegal fishing.** (a) Some fisheries have had a documented history of illegal commercial fishing dating back to 1968. Enforcement efforts by the Department of Public Safety have been largely ineffective in controlling this recurring problem on a long-term basis. The board recognizes the difficulty of



enforcement in some areas of the state and although the current regulations are sufficient to protect fish stocks, they may be ineffective due to special enforcement problems.

(b) In the interest of the conservation of valuable renewable fish resources, the Board of Fisheries directs the commissioner, or his authorized designee, to take the following actions given the specified circumstances. If illegal fishing activities develop to the point that regulations pertaining to protection of fish stocks become ineffective, the commissioner shall consider closing the affected fishery by emergency order for a period of up to one week. When the fishery reopens and illegal fishing continues to be a problem, the appropriate fishery may be closed for an additional period of time. Continued violations may result in additional closures of the fishery.

**Chapter 06. Bristol Bay Area.**

[Article 1. Description of Area.](#)

[Article 2. Fishing Districts and Sections.](#)

[Article 3. Salmon Fishery.](#)

[Article 5. Smelt Fishery.](#)

**Article 1. Description of Area.**

**5 AAC 06.001. Application of this chapter.** Requirements set out in this chapter apply to commercial fishing only, unless otherwise specified. Subsistence, personal use, and sport fishing regulations affecting commercial fishing vessels or affecting any other commercial fishing activity are set out in the subsistence fishing regulations in 5 AAC 01 and 5 AAC 02, personal use fishing regulations in 5 AAC 77, and sport fishing regulations in 5 AAC 67 and 5 AAC 75.

**5 AAC 06.100. Description of area.** The Bristol Bay Area consists of all waters of Alaska in Bristol Bay including drainages enclosed by a line from Cape Newenham at 58° 38.88' N. lat., 162° 10.51' W. long., to Cape Menshikof at 57° 28.34' N. lat., 157° 55.84' W. long.

**Article 2. Fishing Districts and Sections.**

[5 AAC 06.200. Fishing districts and sections](#)

[5 AAC 06.206. Use of global positioning system \(GPS\)](#)

**5 AAC 06.200. Fishing districts and sections.** (a) Nushagak District: all waters of Nushagak Bay north of a line from a point at Nichols Hills at 58° 33.77' N. lat., 158° 46.57' W. long., to Etolin Point at 58° 39.37' N. lat., 158° 19.31' W. long., and the Wood River Special Harvest Area,

(1) Igushik Section: all waters of Nushagak Bay enclosed by a line from a point at Nichols Hills at 58° 33.77' N. lat., 158° 46.57' W. long., to a point at 58° 36.28' N. lat., 158° 34.40' W. long., to a point at 58° 44.80' N. lat., 158° 41.50' W. long., to a point at 58° 46.13' N. lat., 158° 46.65' W. long.;

(2) Snake River Section: all waters enclosed by a line from 58° 52.90' N. lat., 158° 43.30' W. long. to 58° 44.80' N. lat., 158° 41.50' W. long. to 58° 46.13' N. lat., 158° 46.65' W. long.;

(3) Nushagak Section: all waters of the Nushagak District not described in (1) and (2) of this subsection.

(b) Naknek-Kvichak District: all waters of Kvichak Bay north and east of a line from 58° 43.73' N. lat., 157° 42.71' W. long., to 58° 36.77' N. lat., 157° 15.82' W. long., and the Naknek River Special Harvest Area and the Alagnak River Special Harvest Area,

(1) Kvichak Section: all waters of Kvichak Bay enclosed by a line from 58° 43.73' N. lat., 157° 42.71' W. long., to 58° 38.455' N. lat., 157° 22.331' W. long., to the outer end of Libbyville Dock at 58° 46.76' N. lat., 157° 03.57' W. long., then along the dock to the shore at 58° 46.61' N. lat., 157° 03.25' W. long.;

(2) Naknek Section: all waters of Kvichak Bay enclosed by a line from 58° 36.77' N. lat., 157° 15.82' W. long., to 58° 38.455' N. lat., 157° 22.331' W. long., to the outer end of Libbyville Dock at 58° 46.76' N. lat., 157° 03.57' W. long., then along the dock to the shore at 58° 46.61' N. lat., 157° 03.25' W. long.

(c) Egegik District: all waters south of a line between 58° 19.10' N. lat., 157° 36.65' W. long. and 58° 17.93' N. lat., 157° 32.67' W. long., east of a line between 58° 19.10' N. lat., 157° 36.65' W. long. and 58° 11.00' N. lat., 157° 38.10' W. long., and north of a line between 58° 11.00' N. lat., 157° 38.10' W. long. and 58° 09.44' N. lat., 157° 32.97' W. long.

(d) Ugashik District: all waters south of a line from Cape Greig at 57° 43.54' N. lat., 157° 41.82' W. long., to a point approximately one mile offshore at 57° 43.54' N. lat., 157° 43.80' W. long., then east of a line from 57° 43.54' N. lat., 157° 43.80' W. long. to Cape Menshikof at 57° 28.34' N. lat., 157° 55.84' W. long.

(e) Togiak District: all waters north of a line from Cape Newenham at 58° 38.88' N. lat., 162° 10.51' W. long. to Cape Peirce at 58° 33.10' N. lat., 161° 46.25' W. long. to Right Hand Point at 58° 46.27' N. lat., 159° 55.00' W. long. to Kulukak Point at 58° 50.40' N. lat., 159° 39.00' W. long.

(1) Togiak River Section: waters of Togiak Bay within a line from near Mt. Aeolus at 58° 54.82' N. lat., 160° 44.06' W. long. to Rocky Point at 58° 53.30' N. lat., 160° 14.70' W. long.;

(2) Kulukak Section: waters of Kulukak Bay within a line from Kulukak Point at 58° 50.40' N. lat., 159° 39.00' W. long. to 58° 50.47' N. lat., 159° 45.25' W. long.;

(3) Osviak Section: waters within a line between Estus Point at 58° 46.86' N. lat., 161° 10.98' W. long. and Asigyugpak Spit at 58° 41.00' N. lat., 161° 18.20' W. long.;

(4) Matogak Section: waters of Hagemeister Strait within a line between Estus Point at 58° 46.86' N. lat., 161° 10.98' W. long. and Tongue Point at 58° 48.63' N. lat., 160° 50.31' W. long.;

(5) Cape Peirce Section: waters within a line from Cape Newenham at 58° 38.88' N. lat., 162° 10.51' W. long. to Cape Peirce at 58° 33.10' N. lat., 161° 46.25' W. long.

(f) Repealed 8/20/71.

(g) Repealed 4/9/2004.

**5 AAC 06.206. Use of global positioning system (GPS).** In the Bristol Bay Area, boundaries, lines, and coordinates are identified with the global positioning system (GPS). If the global positioning system is not operating, the boundaries, lines, and coordinates are as identified by ADF&G regulatory markers.

**Article 3. Salmon Fishery.**

**[5 AAC 06.310. Fishing seasons](#)**

**[5 AAC 06.320. Fishing periods](#)**

**[5 AAC 06.330. Gear](#)**

**[5 AAC 06.331. Gillnet specifications and operations](#)**

**[5 AAC 06.333. Requirements and specifications for use of 200 fathoms of drift gillnet in Bristol Bay](#)**

**[5 AAC 06.334. Identification of gear](#)**

**[5 AAC 06.335. Minimum distance between units of gear](#)**

**[5 AAC 06.341. Vessel specifications and operations](#)**

**[5 AAC 06.343. Vessel identification](#)**

**[5 AAC 06.350. Closed waters](#)**

**[5 AAC 06.355. Bristol Bay Commercial Set and Drift Gillnet Sockeye Salmon Fisheries Management and Allocation Plan](#)**

**[5 AAC 06.356. General District Salmon Management Plan](#)**

**[5 AAC 06.357. Ugashik River Sockeye Salmon Special Harvest Area Management Plan](#)**

**[5 AAC 06.358. Wood River Sockeye Salmon Special Harvest Area Management Plan](#)**

**[5 AAC 06.359. Egegik River Sockeye Salmon Special Harvest Area Management Plan](#)**

**[5 AAC 06.360. Naknek River Sockeye Salmon Special Harvest Area Management Plan](#)**

**[5 AAC 06.361. Nushagak-Mulchatna King Salmon Management Plan](#)**

[5 AAC 06.364. Naknek-Kvichak District Commercial Set and Drift Gillnet Sockeye Salmon Fisheries Management and Allocation Plan](#)

[5 AAC 06.365. Egegik District Commercial Set and Drift Gillnet Sockeye Salmon Fisheries Management and Allocation Plan](#)

[5 AAC 06.366. Ugashik District Set and Drift Gillnet Sockeye Salmon Fisheries Management and Allocation Plan](#)

[5 AAC 06.367. Nushagak District Commercial Set and Drift Gillnet Sockeye Salmon Fisheries Management and Allocation Plan](#)

[5 AAC 06.368. Nushagak River Coho Salmon Management Plan](#)

[5 AAC 06.369. Togiak District Salmon Management Plan](#)

[5 AAC 06.370. Registration and reregistration](#)

[5 AAC 06.373. Alagnak River Sockeye Salmon Special Harvest Area Management Plan](#)

[5 AAC 06.375. Landing requirements](#)

[5 AAC 06.377. Reporting requirements](#)

[5 AAC 06.379. Use of aircraft unlawful](#)

[5 AAC 06.380. Unlawful possession of subsistence-taken salmon](#)

**5 AAC 06.310. Fishing seasons.** Salmon may be taken only from June 1 through September 30 and only during open commercial salmon fishing periods.

**5 AAC 06.320. Fishing periods.** (a) In the Togiak District, salmon may be taken only as follows:

(1) in the Cape Peirce, Osviak, and Matogak Sections, from 9:00 a.m. Monday to 9:00 a.m. Saturday;

(2) in the Kulukak Section, from 9:00 a.m. Monday to 9:00 p.m. Wednesday;

(3) in the Togiak River Section, from 9:00 a.m. Monday to 9:00 a.m. Friday, except as provided in 5 AAC 06.369(c)(1).

(b) In the Nushagak District,

(1) from June 1 through September 30, salmon may be taken only during periods established by emergency order;

(2) repealed 4/9/95.

(c) In the Naknek-Kvichak, Egegik, and Ugashik Districts,

(1) from June 1 through 9:00 a.m. July 17, salmon may be taken only during fishing periods established by emergency order;

(2) after 9:00 a.m. July 17, salmon may be taken only from 9:00 a.m. Monday to 9:00 a.m. Sunday, or during fishing periods established by emergency order, except as specified for the

(A) Egegik District in 5 AAC 06.359;

(B) Naknek-Kvichak District in 5 AAC 06.360(g); and

(C) Ugashik District in 5 AAC 06.366(d)(4).

(d) Repealed 5/14/98.

(e) Repealed 5/14/98.

(f) Repealed 5/14/98.

(g) Repealed 4/16/2023.

**5 AAC 06.330. Gear.** (a) Salmon may be taken with set and drift gillnets only in the districts described in 5 AAC 06.200. Salmon may be taken with set gillnets on the northwest shore of Kvichak Bay from the Naknek-Kvichak District boundary south to 58° 43.80' N. lat., 157° 42.70' W. long.

(b) Repealed 3/8/74.

**5 AAC 06.331. Gillnet specifications and operations.** (a) Gillnet mesh size restrictions are as follows:

(1) gillnet mesh size may not exceed five and one-half inches during periods established by emergency order for the protection of king salmon and in the Naknek-Kvichak and Ugashik District from June 1 through July 22;

(2) gillnet mesh size may not be less than five and three-eighths inches during periods established by emergency order for the protection of pink salmon;

(3) gillnet mesh size may not exceed four and three-quarters inches during periods established by emergency order for the protection of sockeye and coho salmon;

(4) gillnet mesh size may not be less than seven and one-half inches during periods established by emergency order for the protection of sockeye salmon;

(5) from 9:00 a.m. June 15 to 9:00 a.m. July 15, mesh size restrictions for the Togiak District are as provided in 5 AAC 06.369(d);

(6) from June 1 through July 1, mesh size restrictions for the Egegik District are specified in 5 AAC 06.365(e).

(b) No gillnet may be more than 29 full meshes in depth, including the selvages.

(c) Except as provided in 5 AAC 06.333, a person may not operate or assist in the operation of a drift gillnet exceeding 150 fathoms in length or a set gillnet exceeding 50 fathoms in length.

(d) Repealed 3/26/76.

(e) Except as provided in 5 AAC 06.333, a vessel registered for salmon net fishing may not have on board it or any vessel towed by it, during an open fishing period, more than 150 fathoms of drift gillnet gear in the aggregate. Additional gear may be transported to another district under conditions specified by the department.

(f) A person may not operate more than two set gillnets, and the aggregate length of set gillnets operated by that person may not exceed 50 fathoms in length. Notwithstanding 5 AAC 39.240(a), in the Bristol Bay Area, a

(1) person may assist in the operation of additional set gillnet gear when the CFEC interim-use or entry permit card holder of the additional gear is present in compliance with 5 AAC 39.107;

(2) vessel may have more than one legal limit of set gillnet fishing gear on board the vessel.

(g) The operation of a gillnet shall be performed or assisted by the person who holds a valid interim-use or entry permit card for that gear.

(h) Set gillnets shall be operated in substantially a straight line.

(i) A set gillnet must be set on an area of a beach that, at mean low tide, is connected by exposed land to the shore or to land not covered at high tide, except that in the Togiak District between a point on the southernmost mouth of the Kulukak River at 58° 54.94' N. lat., 159° 43.81' W. long. and a point at the eastern entrance to Metervik Bay at 58° 50.47' N. lat., 159° 45.25' W. long., between Rocky Point at 58° 53.30' N. lat., 160° 14.70' W. long. and 160° 20' W. long., and between Togiak Reef at 58° 59.62' N. lat., 160° 30.10' W. long. and a point near Mt. Aeolus at 58° 54.82' N. lat., 160° 44.06' W. long., no part of a set gillnet may be more than 500 feet from the mean high tide mark and the set gillnet must be substantially perpendicular to the shoreline.

(j) Picking salmon from a gillnet is considered to be a part of the fishing operation and shall be performed only by a fisherman who holds a crewmember fishing license or a valid interim-use or entry permit card.

(k) Repealed 3/26/76.

(l) Each fisherman shall operate or assist in operating only one type of gear at any one time.

(m) In the Naknek-Kvichak, Egegik, Ugashik, and Togiak Districts, no part of a set gillnet may be more than 1,000 feet from the 18-foot high tide mark, except that

(1) repealed 3/1/92;

(2) repealed 3/1/92;

(3) in the Egegik District, from one mile south of Big Creek to Big Creek, no part of a set gillnet may be more than 1,000 feet from the 18-foot high tide mark or 450 feet from the 13-foot high tide mark;

(4) in the Naknek Section of the Naknek-Kvichak District north of the terminus of the Naknek River,

(A) no more than one set gillnet may be seaward of another set gillnet; and

(B) no part of a set gillnet may be more than 1,200 feet from the 18-foot high tide mark;

(5) in the Kvichak Section of the Naknek-Kvichak District from Libbyville Dock to a point near Graveyard Point at 58° 52.10' N. lat., 157° 00.80' W. long. and from the unnamed creek on the northwest shore of Kvichak Bay at 58° 52.25' N. lat., 157° 06.75' W. long. north to a point on the northwest shore of Kvichak Bay at 58° 53.37' N. lat., 157° 04.26' W. long., the maximum distance that a set gillnet may be operated offshore is as follows:

(A) no part of a set gillnet may be more than 1,000 feet from the 18-foot high tide mark; or

(B) the web of the shoreward end of the set gillnet must go dry at the time of the opening;

(6) deleted;

(7) repealed 6/24/93;

(8) in the Ugashik District, in that portion of the east bank of the Ugashik River from a point at 57° 30.74' N. lat., 157° 24.10' W. long. to 57° 32.27' N. lat., 157° 24.36' W. long., no part of a set gillnet may be more than 800 feet from the 18-foot high tide mark.

(n) In the Nushagak District, and subject to (v) of this section, a CFEC salmon interim-use or entry permit holder may not set or operate a set gillnet seaward of set gillnets operated by another CFEC salmon interim-use or entry permit holder. In addition, no part of a set gillnet, anchor, peg, stake, buoy, or other device used to set the gillnet may be seaward of the following offshore locations:

(1) repealed 5/11/85;

(2) from the cannery dock at Clark's Point to Range Marker at 58° 47.929' N. lat., 158° 33.539' W. long., to 58° 47.572' N. lat., 158° 32.883' W. long., to 58° 47.447' N. lat., 158° 32.510' W. long., to 58° 47.232' N. lat., 158° 31.657' W. long., to First Creek at



58° 47.057' N lat., 158° 30.743' W. long., approximately 600 feet from the mean high tide mark;

(3) from First Creek at 58° 47.057' N. lat., 158° 30.743' W. long., to 58° 46.991' N. lat., 158° 30.559' W. long., to 58° 46.866' N. lat., 158° 29.795' W. long., to Third Creek, at 58° 46.629' N. lat., 158° 28.155' W. long., approximately 800 feet from the mean high tide mark;

(4) from Third Creek at 58° 46.629' N. lat., 158° 28.155' W. long., to 58° 46.469' N. lat., 158° 27.054' W. long., to 58° 45.748' N. lat., 158° 24.570' W. long., to 58° 45.283' N. lat., 158° 23.470' W. long., to 58° 44.711' N. lat., 158° 22.545' W. long., to 58° 43.417' N. lat., 158° 21.171' W. long., to 58° 41.972' N. lat., 158° 20.579' W. long., to 58° 40.503' N. lat., 158° 20.270' W. long., to 58° 40.156' N. lat., 158° 20.444' W. long., to 58° 39.765' N. lat., 158° 20.273' W. long., to a point offshore of Etolin Point at 58° 39.299' N. lat., 158° 19.661' W. long., approximately 1,100 feet from the mean high tide mark.

(o) No salmon CFEC permit holder may set or operate a set gillnet seaward of set gillnets operated by another salmon CFEC permit holder in the following locations:

- (1) Togiak, Nushagak, Ugashik, and Egegik Districts;
- (2) the west side of the Kvichak Section;
- (3) repealed 7/14/85;
- (4) the east side of the Kvichak Section north of Happy Creek;
- (5) the Naknek Section south of the terminus of the Naknek River.

(p) Setnet anchoring devices must be within the offshore distance requirements set out in (m) and (n) of this section, except as follows:

(1) in the Naknek Section north of the Naknek River, the anchoring device may not be more than 1,300 feet from the 18-foot high tide mark;

(2) in the Nushagak District where offshore restrictions are not in effect, the anchoring device may not be more than 50 feet from the web of the net.

(q) During the hours between sunset and sunrise, each gillnet must display a light. For drift gillnets, the light must be located at the end of the net furthest from the fishing vessel. For set gillnets, the light must be a blinking white light and must be located at the end of the net furthest from the shore.

(r) Notwithstanding 5 AAC 39.105(d)(3), in the Bristol Bay Area, a person may not operate a drift gillnet when the vessel to which it is attached is grounded, or when any part of the gillnet is grounded above the waterline.

(s) In the Bristol Bay Area, a person may not use mechanical power to hold a vessel in substantially the same geographical location while attached to a drift gillnet.

(t) A permit holder fishing in the Bristol Bay Area must report the loss of a gillnet, or portion of a gillnet, to the local department office in Dillingham or King Salmon within 15 hours of the loss of the gillnet, or portion of the gillnet. For the purposes of this subsection, the report must be made directly to a local representative of the department in person or by radio or telephone.

(u) Repealed 4/4/2013.

(v) The provisions of (n) of the section do not apply after May 31, 2026.

**5 AAC 06.333. Requirements and specifications for use of 200 fathoms of drift gillnet in Bristol Bay.**

(a) Two Bristol Bay drift gillnet CFEC permit holders may concurrently fish from the same vessel and jointly operate up to 200 fathoms of drift gillnet gear under this section, except

- (1) in the Togiak District;
- (2) in a special harvest area;
- (3) repealed 6/21/2020.

(b) Before operating drift gillnet gear jointly under this section, both permit holders shall register with the department under 5 AAC 06.370 for the same district indicating the intent to jointly operate gear. The permit holders may not use a vessel for joint operations of drift gillnet gear unless that vessel is registered with the department under 5 AAC 06.370 for the same district as the permit holders. Termination of joint operation of drift gillnet gear under this section is not effective until at least one of the permit holders register the date and time of termination with the department in the manner specified for reregistration in 5 AAC 06.370(b).

(c) When two Bristol Bay drift gillnet CFEC permit holders fish from the same vessel and jointly operate a drift gillnet gear under this section, the vessel must display its ADF&G permanent license plate number followed by the letter "D" to identify the vessel as a dual permit vessel. The letter "D" must be removed or covered when the vessel is operating with only one drift gillnet CFEC permit holder on board the vessel. The identification number and letters must be displayed

- (1) in letters and numerals 12 inches high with lines at least one inch wide;
- (2) in a color that contrasts with the background;
- (3) on both sides of the hull; and
- (4) in a manner that is plainly visible at all times when the vessel is being operated.

(d) When two permit holders jointly operate gear under this section, each permit holder is responsible for ensuring that the entire unit of gear is operated in a lawful manner.

- (e) Repealed 4/4/2013.
- (f) Repealed 2/13/2005.
- (g) Repealed 4/4/2013.

**5 AAC 06.334. Identification of gear.** (a) Each drift gillnet in operation must have

(1) at each end, except an end attached to the vessel operating the gear, a red keg, buoy, or cluster of floats plainly and legibly marked with the permanent vessel license plate (ADF&G) number of the vessel operating the gear in permanent symbols at least four inches high with lines at least one-half inch wide in a color that contrasts with the background; and

(2) at least one cork every 10 fathoms along the cork line that is plainly and legibly marked with the permanent vessel license plate (ADF&G) number of the vessel operating the gear.

- (b) Repealed 4/30/91.

(c) The operator of a set gillnet that employs an anchor, peg, stake, or other device to fasten the net at its outermost extremity shall mark the location of the device with a red buoy and a white buoy at all times from June 1 through August 31. From September 1 through September 30, the marking requirements need to be complied with only while the set gillnet is in operation. The buoys must be plainly and legibly marked with the operator's five-digit CFEC permit number. From the mouth of Pile Driver Creek at approximately 58° 54.00' N. lat., 158° 29.75' W. long., south to the cannery dock at Clark's Point, set gillnet anchoring devices do not need to be marked unless the set gillnet is in operation. Each set gillnet in operation must have at least one cork every 10 fathoms along the cork line that is plainly and legibly marked with the operator's five-digit CFEC permit number.

**5 AAC 06.335. Minimum distance between units of gear.** (a) In the Naknek-Kvichak, Egegik, Ugashik, and Togiak Districts, no part of a set gillnet may be set or operated within 300 feet of any part of another set gillnet. In the Nushagak District, no part of a set gillnet may be set or operated within 450 feet of any part of another set gillnet. The provisions of this subsection do not prohibit a CFEC permit holder from operating a set gillnet seaward of another set gillnet operated under the authority of the same CFEC permit.

(b) No part of a drift gillnet may be operated within 300 feet of the side of a set gillnet and within 100 feet of the offshore end of a set gillnet. The 100-foot restriction does not apply seaward of the offshore setnet distance restrictions set out in 5 AAC 06.331(m) and (n).

(c) In the Nushagak District, no part of a drift gillnet may be operated within 100 feet of the inshore end of a set gillnet, except that in the locations described in 5 AAC 06.331(n), no part of a drift gillnet may be operated inshore of a set gillnet.

**5 AAC 06.341. Vessel specifications and operations.** (a) No vessel registered for salmon net fishing may be more than 32 feet in overall length. An anchor roller may not extend more than eight inches beyond the 32-foot overall length, and any portion that

extends beyond the 32-foot overall length may not be more than eight inches in width or height.

(b) For the purposes of this section,

(1) "anchor roller" means a device used solely in aid of deploying and retrieving anchor gear, and does not provide any additional flotation, planing surface, or structural support to the vessel;

(2) "fish drop-out basket" means a device used solely to prevent the loss of fish from a gillnet after the fish leaves the water and before it is brought on board the vessel; a "fish drop-out basket" does not provide any additional flotation, planing surface, or structural support to the vessel;

(3) "gillnet roller" means a device used solely in aid of deploying and retrieving drift gillnet gear; a "gillnet roller" does not provide any additional flotation or planing surface to the vessel;

(4) "outdrive" means part of the propulsion system of a vessel used for either steering or thrust; an "outdrive" does not provide any additional flotation or planing surface to the vessel;

(5) "outdrive guard" means a device of skeletal construction used solely to protect the outdrive unit of a vessel; an "outdrive guard" does not provide any additional flotation or planing surface and is not used for any other purpose such as a bench, platform, or storage area;

(6) "overall length" means the straight-line measurement between the extremities of the vessel, but does not include fish drop-out baskets, anchor rollers, gillnet rollers, trim tabs, outdrives, or outdrive guards;

(7) "trim tabs" means an extension of the bottom of a vessel, at the transom, which is no more than 18 inches long at its longest point; "trim tabs" do not provide any increased flotation, and their sole function is to provide trim to a vessel while underway.

**5 AAC 06.343. Vessel identification.** (a) In addition to the marking requirements in 5 AAC 39.119, a documented salmon gillnet fishing vessel registered for the Bristol Bay Area must display its name

(1) in permanent symbols at least six inches high and with lines at least one inch wide which contrast with the background;

(2) on the transom and both sides of the bow above the water line;

(3) in a manner that is plainly visible and unobscured; and

(4) at all times from June 1 through September 30.

(5) If the vessel is not documented, the vessel's permanent license plate ADF&G number must be displayed as described in (1) - (4) of this section.

(b) A CFEC permit holder who operates a salmon set gillnet vessel that is participating in the set gillnet fishery in salmon net gear Registration Area T, described in 5 AAC 39.120(d), and that has an overall length greater than 14 feet, must display the letters "SN" followed by the five-digit CFEC permit serial number of at least one permit holder who operates that vessel. A vessel marked under this subsection is not restricted to operation by the permit holder. The letters and numbers required under this subsection must be displayed

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

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

(3) on both sides of the hull; and

(4) in a manner that is plainly visible at all times when the vessel is being operated for set gillnet fishing.

(c) The provisions of (b) of this section do not apply to a vessel participating in the set gillnet fishery that is in compliance with the marking requirements of 5 AAC 39.119 and (a) of this section.

**5 AAC 06.350. Closed waters.** (a) The following locations in the Nushagak District are closed to the taking of salmon:

(1) those waters north of a line from 58° 58.63' N. lat., 158° 33.62' W. long., to 58° 56.79' N. lat., 158° 29.53' W. long., except that the commissioner may, by emergency order, open the Wood River Special Harvest Area as provided in 5 AAC 06.358;

(2) repealed 4/2/88;

(3) the Snake River Section;

(4) those waters of the Snake River upstream from a line across the river at 58° 52.80' N. lat.;

(5) those waters of the Igushik River upstream of a line from 58° 43.82' N. lat., 158° 52.77' W. long. to 58° 43.60' N. lat., 158° 54.06' W. long.

(b) The following locations in the Naknek-Kvichak District are closed to the taking of salmon:

(1) those waters northeast of a line from a point near Graveyard Point at 58° 52.10' N. lat., 157° 00.80' W. long., to a point on the northwest shore of Kvichak Bay at 58° 53.37' N. lat., 157° 04.26' W. long., except that the commissioner may, by emergency order, open the Alagnak River Special Harvest Area as provided in 5 AAC 06.373;

(2) those waters of the Naknek River upstream of a line from an ADF&G regulatory marker located at 58° 43.55' N. lat., 157° 03.63' W. long. to an ADF&G regulatory

marker located at 58° 42.43' N. lat., 157° 04.67' W. long.; however, the commissioner may open, by emergency order, waters of the Naknek River as provided in 5 AAC 06.360;

(3) by set gillnets along the southeast shore of the Naknek Section from the Naknek-Kvichak District boundary north to 58° 37.15' N. lat., 157° 15.30' W. long.

(c) The following locations in the Egegik District are closed to the taking of salmon:

(1) those waters of the Egegik River upstream of a line from 58° 12.80' N. lat., 157° 17.04' W. long. to 58° 12.28' N. lat., 157° 18.53' W. long.;

(2) all waters of the King Salmon River upstream of a line from 58° 13.92' N. lat., 157° 20.76' W. long. to 58° 13.49' N. lat., 157° 19.48' W. long.;

(3) all waters of Big Creek upstream of a line from 58° 17.52' N. lat., 157° 32.16' W. long. to 58° 17.28' N. lat., 157° 31.91' W. long.

(d) The following locations in the Ugashik District are closed to the taking of salmon:

(1) those waters of the Ugashik River upstream of a line from 57° 30.19' N. lat., 157° 39.37' W. long. to 57° 29.83' N. lat., 157° 35.22' W. long., except that set gillnets may be used to take salmon along that portion of the east bank of the Ugashik River from a point at 57° 30.74' N. lat., 157° 24.10' W. long. to 57° 31.27' N. lat., 157° 24.36' W. long.;

(2) all waters of Dago Creek upstream of a line from 57° 36.70' N. lat., 157° 36.75' W. long. to 57° 36.53' N. lat., 157° 36.08' W. long.

(e) The following locations in the Togiak District are closed to the taking of salmon:

(1) those waters of the Togiak River upstream of a line from 59° 03.33' N. lat., 160° 20.08' W. long. to 59° 03.58' N. lat., 160° 22.60' W. long.;

(2) those waters of the Kulukak River upstream of a line from 58° 55.84' N. lat., 159° 43.42' W. long. to 58° 54.94' N. lat., 159° 43.81' W. long.;

(3) from June 1 through July 15, those waters of the Togiak District inside a line from 59° 03.19' N. lat., 160° 20.18' W. long. to 59° 01.76' N. lat., 160° 28.17' W. long. are closed to commercial fishing for salmon with a drift gillnet.

(f) Salmon may not be taken in any locations that are not described in 5 AAC 06.200, except as allowed in 5 AAC 06.330.

**5 AAC 06.355. Bristol Bay Commercial Set and Drift Gillnet Sockeye Salmon**

**Fisheries Management and Allocation Plan.** (a) The purpose of this management and allocation plan is to ensure an adequate escapement, as determined by the department, of sockeye salmon into the river systems of the Nushagak, Naknek-Kvichak, Egegik, and Ugashik Districts and to distribute, to the extent practicable, the harvestable surplus of sockeye salmon to the set and drift gillnet fisheries for the allocation percentages

specified in (b) of this section. This plan also provides management guidelines to the department in an effort to preclude allocations conflicts between various users of this resource.

(b) It is the intent of the Board of Fisheries (board) that Bristol Bay sockeye salmon be harvested in the traditional harvest locations and that historical sockeye salmon catches be allocated between drift and set gillnet fisheries by district. To achieve this allocation, the department shall manage, to the extent practicable, the commercial sockeye salmon fisheries to achieve the allocation percentages established in 5 AAC 06.364 (Naknek-Kvichak District), 5 AAC 06.365 (Egegik District), 5 AAC 06.366 (Ugashik District), and 5 AAC 06.367 (Nushagak District).

(c) Repealed 3/30/2007.

(d) The department shall manage, subject to existing management plans, fishery openings, closures, and areas to

(1) achieve adequate escapement from all segments of the run by spacing openings throughout the run and, to the extent practicable, manage for escapements to fall within the lower or upper portions of escapement goals proportional to the run size based on the preseason forecast and inseason assessment of the run size;

(2) maintain and improve stock specific management through the use of district, subdistrict, and section openings and closures;

(3) distribute fish within individual districts and subdistricts through the spacing and duration of openings;

(4) reduce intensive boundary line fishing through the spacing and duration of openings;

(5) reduce harvest of stocks bound for other districts, subdistricts, or sections in accordance with specific regulatory management plans.

### **5 AAC 06.356. General District Salmon Management Plan**

(a) Repealed 3/30/2007.

(b) Repealed 3/30/2007.

(c) Repealed 3/30/2007.

(d) Repealed 3/30/2007.

(e) Repealed 3/30/2007.

(f) Repealed 3/30/2007.

(g) Repealed 3/30/2007.

(h) Repealed 3/30/2007.

(i) Repealed 3/30/2007.

**5 AAC 06.357. Ugashik River Sockeye Salmon Special Harvest Area Management Plan.** (a) The goal of this plan is to prevent the overescapement of sockeye salmon into the Ugashik River.

(b) The commissioner may open, by emergency order, the Ugashik River Special Harvest Area to fishing by both drift and set gillnet when the commissioner projects that the sockeye salmon escapement into the Ugashik River will exceed the minimum of the escapement goal range. Separate set gillnet and drift gillnet areas in the Ugashik River Special Harvest Area are described in (c) and (d) of this section.

(c) The Ugashik River Special Harvest Set Gillnet Area consists of all waters of the Ugashik River upstream of a line from 57° 29.62' N. lat., 157° 37.63' W. long. to 57° 29.83' N. lat., 157° 35.22' W. long., and downstream of a line from 57° 28.94' N. lat., 157° 34.56' W. long. to 57° 28.63' N. lat., 157° 35.24' W. long.

(d) The Ugashik River Special Harvest Drift Gillnet Area is all waters upstream of a line from 57° 28.63' N. lat., 157° 35.24' W. long. to 57° 28.94' N. lat., 157° 34.56' W. long., and downstream of a line from 57° 28.76' N. lat., 157° 29.65' W. long. to 57° 29.60' N. lat., 157° 29.75' W. long.

(e) When the Ugashik River Special Harvest Area is open under this section,

(1) set gillnet gear may be operated only as follows:

(A) a set gillnet may not exceed 25 fathoms in length;

(B) a set gillnet may not be set or operated within 150 feet of another set gillnet;

(C) repealed 4/4/2013;

(D) no part of a set gillnet may be more than 500 feet from the 18-foot high tide mark;

(E) the shoreward end of a set gillnet must go dry at low tide;

(2) drift gillnets may be operated only as follows:

(A) no more than 50 fathoms of drift gillnet may be used to take salmon;

(B) a vessel may not have more than 150 fathoms of drift gillnet gear on board;

(C) no part of a drift gillnet may be operated within 150 feet from the side of a set gillnet;

(3) a CFEC permit holder may not use more than one gillnet to take salmon at any one time.

**5 AAC 06.358. Wood River Sockeye Salmon Special Harvest Area Management**

**Plan.** (a) The goal of this plan is to achieve Nushagak River coho salmon spawning escapement, while providing opportunities to harvest Wood River sockeye salmon stocks that are in excess of spawning goals. It is the intent of the Board of Fisheries (board) that salmon in the Nushagak District should be harvested in the fisheries that have historically harvested them, including the methods, means, times, and locations of those fisheries, using the best biological management techniques and practices. This plan has been



adopted to provide management alternatives that may be used by the department when differences in salmon run strengths would otherwise preclude the achievement of the goal of this plan.

(b) The Wood River Special Harvest Area consists of the waters of the Wood River between a line from Hansen Point at 59° 06.05' N. lat., 158° 29.30' W. long. to a point across from Hansen Point at 59° 06.29' N. lat., 158° 28.84' W. long. and upstream to a line from a point on the west shore of the Wood River downstream of the Muklung River at 59° 09.71' N. lat., 158° 32.61' W. long. to a point on the east shore of the Wood River downstream of the Muklung River at 59° 09.78' N. lat., 158° 31.99' W. long., and the waters between a line from a point on the west shore of the Wood River upstream of the Muklung River at 59° 11.03' N. lat., 158° 32.82' W. long. to a point on the east shore of the Wood River upstream of the Muklung River at 59° 11.08' N. lat., 158° 32.48' W. long. and upstream to a line from a point on the west shore of the Wood River downstream of Silver Salmon Creek at 59° 12.26' N. lat., 158° 33.34' W. long. to a point on the east shore of the Wood River downstream of Silver Salmon Creek at 59° 12.20' N. lat., 158° 33.12' W. long.

(c) The commissioner may open, by emergency order, the Wood River Special Harvest Area

(1) when the department projects that the sockeye salmon escapement into the Wood River will exceed 700,000 fish and as follows:

(A) if the preseason forecast for the Nushagak River sockeye salmon run is at least 1,000,000 fish, the department shall manage the Nushagak District to exceed a minimum sustainable escapement goal of 370,000 sockeye salmon to the Nushagak River, and the commissioner may open the Wood River Special Harvest Area only when department projections indicate the Nushagak River sockeye salmon escapement will be less than 370,000 fish;

(B) if the preseason forecast for the Nushagak River sockeye salmon run is less than 1,000,000 fish and the ratio of Wood River to Nushagak River sockeye salmon is projected to be greater than three to one, the department shall manage the Nushagak District for an optimal escapement goal of at least 260,000 sockeye salmon to the Nushagak River, and the commissioner may open the Wood River Special Harvest Area only when department projections indicate the Nushagak River sockeye salmon escapement will be less than 260,000 fish;

(C) if the inseason forecast prepared by the department during the first week of July for the Nushagak River sockeye salmon run is at least 1,000,000 fish, the department shall manage the Nushagak District to exceed a minimum sustainable escapement goal of 370,000 sockeye salmon to the Nushagak River, and the commissioner may open the Wood River Special Harvest Area only when department projections indicate the Nushagak River sockeye salmon escapement will be less than 370,000 fish;

(D) if the inseason forecast prepared by the department during the first week of July for the Nushagak River sockeye salmon run is less than 1,000,000 fish, the department shall manage the Nushagak District for an optimal escapement goal of at least 260,000 sockeye salmon to the Nushagak River, and the commissioner may open the Wood River

Special Harvest Area only when department projections indicate the Nushagak River sockeye salmon escapement will be less than 260,000 fish;

(2) when the escapement goal for Wood River sockeye salmon has been achieved and commercial fishing in the Nushagak Section of the Nushagak District is closed to conserve coho salmon in the Nushagak River as specified in 5 AAC 06.368(d);

(3) when the escapement of sockeye salmon into the Wood River exceeds 1,100,000 fish and the escapement is projected to exceed 1,400,000 fish;

(4) when the Nushagak District is open and restricted to a maximum gillnet mesh size of four and three-quarters inches for the conservation of Nushagak River sockeye salmon under 5 AAC 06.367(e), and to control escapement of sockeye salmon into the Wood River.

(d) When the Wood River Special Harvest Area is open under this section, the following apply within the open waters:

(1) set gillnets may be operated only as follows:

(A) a set gillnet may not exceed 25 fathoms in length;

(B) a set gillnet may not be set or operated within 250 feet of another set gillnet;

(C) all gear associated with set gillnet fishing must be removed when it is not being used to fish in the Wood River Special Harvest Area;

(D) set gillnet running lines may not be in the water during a drift gillnet fishing period;

(E) 5 AAC 06.331(i), (n), (o), and (p) do not apply except that the anchoring device may not be more than 50 feet from the web of the net;

(F) a set gillnet may be set and operated seaward of another set gillnet.

(2) drift gillnets may be operated only as follows:

(A) no more than 75 fathoms of drift gillnet may be used to take salmon;

(B) a person may not have more than 200 fathoms of drift gillnet on board a vessel;

(3) notwithstanding 5 AAC 39.240, a person operating a commercial salmon fishing vessel in the Wood River Sockeye Salmon Special Harvest Area may carry additional drift or set gillnet gear on board the fishing vessel if the additional gear is stored in a net bag or in a brailer bag; for the purposes of this paragraph, "brailer bag" means a bag-shaped net on board a drift gillnet vessel used to lift fish from the hold of the vessel into a tender vessel, processing vessel, or processing facility;

(4) except as specified in (5) of this subsection, when the Wood River Special Harvest Area is open, the drift gillnet and set gillnet fisheries will open separately, with a

seasonal ratio of three drift gillnet gear fishing periods to every one set gillnet fishing period;

(5) when the Wood River Special Harvest Area is open under (c)(3) of this section, the Wood River Special Harvest Area will be only open for the gear group that is behind in the allocation specified in 5 AAC 06.367(b) for the Nushagak District.

(e) The commercial salmon fishery in the Wood River Special Harvest Area may be opened only during closures of the subsistence salmon fisheries within the Wood River Special Harvest Area.

**5 AAC 06.359. Egegik River Sockeye Salmon Special Harvest Area Management**

**Plan.** (a) The goal of this plan is to minimize the interception of sockeye salmon migrating through the Egegik District and bound for spawning systems within the Naknek-Kvichak and Ugashik Districts, while providing opportunities within the Egegik District to harvest Egegik River sockeye salmon that are in excess of the spawning escapement goal.

(b) The Egegik Special Harvest Area consists of the waters south of a line between 58° 18.05' N. lat., 157° 33.15' W. long. and 58° 17.93' N. lat., 157° 32.67' W. long., east of a line between 58° 18.05' N. lat., 157° 33.15' W. long. and 58° 09.91' N. lat., 157° 34.55' W. long., and north of a line between 58° 09.91' N. lat., 157° 34.55' W. long. and 58° 09.44' N. lat., 157° 32.97' W. long. Unless otherwise specified in this section, the applicable provisions in 5 AAC 06.001 - 5 AAC 06.380 apply to the Egegik Special Harvest Area.

(c) The commissioner may close, by emergency order, that portion of the Egegik District bounded by a line from 58° 19.10' N. lat., 157° 36.65' W. long. to 58° 18.05' N. lat., 157° 33.15' W. long. to 58° 09.91' N. lat. 157° 34.55' W. long. to 58° 11.00' N. lat., 157° 38.10' W. long. to 58° 19.10' N. lat., 157° 36.65' W. long. if

(1) the Naknek-Kvichak or Ugashik District is closed to fishing because the total season escapement is projected to be below the lower end of the escapement goal range;

(2) all conservation measures have been taken within the district where the escapement is projected to be below the lower end of the escapement goal range; and

(3) interceptions of Naknek, Kvichak, or Ugashik sockeye stocks within the Egegik District have been documented by past studies and inseason indicators.

(d) If a district closed under (c)(1) of this section is reopened to fishing, the commissioner shall reopen that portion of the Egegik District that was closed under (c) of this section.

(e) The department shall attempt to issue an emergency order under this section at least 48 hours before the effective time of the opening or closing.

(f) If the midpoint of the escapement goal range is achieved in the Egegik District and the district boundary line has been moved into the Egegik Special Harvest Area, the 48-hour transfer notification period remains in effect for the Egegik District.

**5 AAC 06.360. Naknek River Sockeye Salmon Special Harvest Area Management**

**Plan.** (a) The goal of this plan is to achieve Kvichak River sockeye salmon spawning escapement goals, while providing opportunities to harvest Naknek River salmon stocks that are in excess of spawning goals. It is the intent of the Board of Fisheries that salmon in the Naknek-Kvichak District should be harvested in the fisheries that have historically harvested them, including the methods, means, times, and locations of those fisheries, using the best biological management techniques and practices. This plan has been adopted to provide management alternatives that can be used by the department when differences in salmon run strengths would preclude the achievement of the goal of this plan using only the fisheries that have historically harvested those salmon.

(b) The Naknek River Special Harvest Area (NRSHA) consists of the waters of the Naknek River from a line between two points located at 58° 43.37' N. lat., 157° 03.17' W. long. and at 58° 42.67' N. lat., 157° 03.44' W. long. upstream to the power lines across the river.

(c) On or after June 27, when the department projects that the sockeye salmon escapement into the Naknek River will exceed 800,000 fish and the Kvichak River escapement projection is one or more days behind schedule for reaching its escapement goal, the commissioner may open, by emergency order, the NRSHA to the drift gillnet and set gillnet fisheries. The drift gillnet and set gillnet fisheries will open separately, with a seasonal ratio of three drift gillnet gear fishing periods to every one set gillnet fishing period.

(d) The following provisions apply to set gillnet fishing in the NRSHA:

- (1) no more than 37.5 fathoms of set gillnet may be used to take salmon;
- (2) a set gillnet may not be set or operated within 150 feet of another set gillnet;
- (3) beyond 500 feet from shore, all gear associated with set gillnet fishing must be removed when it is not being used to fish in the NRSHA;
- (4) repealed 4/4/2013;
- (5) set gillnet running lines may not be in the water during a drift gillnet fishing period;
- (6) repealed 8/14/2006;
- (7) 5 AAC 06.331(i), (m), (o), and (p) do not apply except that the anchoring device may not be more than 50 feet from the web of the net;
- (8) a set gillnet may be set and operated seaward of another set gillnet.

(e) The following provisions apply to drift gillnet fishing in the NRSHA:

- (1) no more than 75 fathoms of drift gillnet may be used to take salmon;

(2) a CFEC permit holder may not use more than one gillnet to take salmon at any time;

(3) a vessel may not have more than 150 fathoms of drift gillnet or 75 fathoms of set gillnet on board the vessel;

(4) a drift gillnet may not be operated shoreward of the offshore end of a set gillnet; and

(5) no part of a drift gillnet may be operated within 150 feet of the side of a set gillnet.

(f) When the NRSHA is open to commercial fishing, the department shall manage the fishery, to the extent practicable, for an optimal escapement goal of 800,000 - 2,000,000 salmon.

(g) After July 17, when the Naknek-Kvichak District is open to commercial fishing in the NRSHA, the commissioner may establish, by emergency order, new fishing periods other than the periods specified in 5 AAC 06.320(c)(2), during which the requirements for reregistration and the 48-hour transfer notification period specified in 5 AAC 06.370 will apply.

(h) If the preseason forecast for the Kvichak River sockeye salmon is less than 30 percent above the minimum biological escapement goal, the commissioner may, by emergency order, open the NRSHA to the drift gillnet and set gillnet fisheries.

(i) The commissioner may, by emergency order, open the NRSHA when the Naknek River escapement exceeds the mid-point of the escapement goal range and is projected to exceed the upper end of the escapement goal range; in the event of an emergency opening of the NRSHA

(1) fishing periods may open concurrently with fishing periods in the Naknek Section and the Naknek-Kvichak District, except that drift gillnet fishing periods may close one hour before high tide;

(2) fish harvested in the NRSHA shall be delivered before fishing the Naknek Section or the Naknek-Kvichak District; and

(3) fish harvested in the Naknek Section or the Naknek-Kvichak District shall be delivered before fishing in the NRSHA.

**5 AAC 06.361. Nushagak-Mulchatna King Salmon Management Plan.** (a) The purpose of this management plan is to ensure biological spawning escapement requirements of king salmon into the Nushagak-Mulchatna river systems. It is the intent of the Alaska Board of Fisheries (board) that Nushagak-Mulchatna king salmon be harvested in the fisheries that have historically harvested them. This management plan provides guidelines to the department to preclude allocation conflicts between the various users of this resource. The department shall manage Nushagak-Mulchatna king salmon stocks in a conservative manner consistent with sustained yield principles and the

subsistence priority. Additionally, the department shall manage the Nushagak fisheries for the following management measures:

- (1) to provide consistent sport fishing opportunity within and among seasons, including a level of inriver abundance as a given year's run timing allows, and a predictably open season;
- (2) to provide a directed commercial king salmon fishery when surplus is available;
- (3) to minimize disruptions to the commercial sockeye salmon fishery;
- (4) to provide reasonable opportunity for subsistence harvest of king salmon;
- (5) to ensure the subsistence fishery is the last fishery restricted or closed;
- (6) to achieve escapement goals for all species in the district;
- (7) to maintain a representation of age classes in the escapement similar to the run.

(b) The department shall manage the commercial and sport fisheries in the Nushagak District as follows:

(1) to achieve an inriver goal of 95,000 king salmon present in the Nushagak River upstream from the department sonar counter; the inriver goal provides for

- (A) a biological escapement goal of 55,000 - 120,000 fish;
- (B) reasonable opportunity for subsistence harvest of king salmon; and
- (C) a king salmon sport fishery guideline harvest level of 5,000 fish, 20 inches or greater in length;

(2) in order to maintain a natural representation of age classes in the escapement, the department shall attempt to schedule commercial openings to provide pulses of fish into the river that have not been subject to harvest by commercial gear;

(3) the department may close the commercial drift or set gillnet fishery if the harvest in the directed commercial king salmon fishery for either gear group is more than two sockeye salmon for every one king salmon;

(4) consistent with 5 AAC 06.367 (Nushagak District Commercial Set and Drift Gillnet Sockeye Salmon Fisheries Management and Allocation Plan), to conserve king salmon the department shall manage for sockeye escapements in the Nushagak District to fall within

(A) the lower half of each river's sockeye salmon escapement goal range when the Wood River sockeye salmon run is 5,000,000 fish or less and the Nushagak sockeye salmon run is 2,500,000 fish or less; or

(B) the upper half of each river's sockeye salmon escapement goal range when the Wood River sockeye salmon run is greater than 5,000,000 fish or the Nushagak sockeye salmon run is greater than 2,500,000 fish based on the preseason forecast and inseason assessment of run size;

(5) beginning June 25, the department shall consider when evaluating the total run of sockeye salmon to the Nushagak District all possible data sources including the preseason forecast, Port Moller test fishery indices, including stock and age composition, total catch and effort to date, age composition of catch and effort data, and district test fishing;

(6) from June 1 through June 30, the department shall, in an attempt to conserve king salmon and to the extent practicable, conduct a gillnet test fishery to assess the abundance of sockeye and king salmon before opening by emergency order a fishing period directed at sockeye salmon.

(c) If the total inriver king salmon return in the Nushagak River is projected to exceed 95,000 fish, the guideline harvest level described in (b)(1)(C) of this section does not apply and the department shall consider opening a directed commercial king salmon fishery.

(d) If the spawning escapement of king salmon in the Nushagak River is projected to be more than 55,000 fish and the projected inriver return is less than 95,000 fish, the commissioner

(1) shall close, by emergency order, the directed king salmon commercial fishery in the Nushagak District; during a closure under this paragraph, the use of a commercial gillnet with webbing larger than five and one-half inches in another commercial salmon fishery is prohibited;

(2) repealed 5/31/2019;

(3) repealed 5/31/2019.

(e) If the spawning escapement of king salmon in the Nushagak River is projected to be less than 55,000 fish, the commissioner

(1) shall close, by emergency order, the sockeye salmon commercial fishery in the Nushagak District until the projected sockeye salmon escapement into the Wood River exceeds 100,000 fish;

(2) shall restrict to catch-and-release, by emergency order, the sport fishery directed for king salmon in the Nushagak River and prohibit the use of bait for fishing for all species of fish until the end of the king salmon season specified in 5 AAC 67.020 and 5 AAC 67.022(g); and

(3) may establish, by emergency order, fishing periods during which the time or area is reduced for the inriver king salmon subsistence fishery in the Nushagak River.

(f) Notwithstanding 5 AAC 06.200, in a directed king salmon commercial fishery, the southern boundary of the Nushagak District is a line from an ADF&G regulatory marker located at Etolin Point at 58° 39.37' N. lat., 158° 19.31' W. long., to 58° 33.92' N. lat., 158° 24.94' W. long. to Protection Point at 58° 29.27' N. lat., 158° 41.78' W. long.

(g) During a directed king salmon commercial fishery in the Nushagak District, drift gillnet and set gillnet fishing periods will be of equal length, but do not have to be open concurrently.

**5 AAC 06.364. Naknek-Kvichak District Commercial Set and Drift Gillnet Sockeye Salmon Fisheries Management and Allocation Plan.**

(a) The purpose of this management plan is to establish the allocation of sockeye salmon between the commercial set and drift gillnet fisheries within the Naknek-Kvichak District and to establish management measures for the department to achieve the allocation.

(b) Consistent with 5 AAC 06.355 and other applicable provisions of this chapter, the department shall manage the Naknek-Kvichak District set and drift gillnet fisheries during the fishing periods specified in 5 AAC 06.320(c)(1) to achieve biological escapement goals into the Kvichak and Naknek River systems and to distribute the harvestable surplus of sockeye salmon to the drift and set gillnet fisheries as follows:

- (1) drift gillnet - 84 percent; and
- (2) set gillnet - 16 percent as follows:
  - (A) Kvichak Section set gillnet fishery - eight percent; and
  - (B) Naknek Section set gillnet fishery - eight percent;
- (3) repealed 3/30/2007.

(c) For the purpose of calculating the set and drift gillnet allocation percentages specified in (b) of this section, the accounting period is from June 1 through 9:00 a.m. July 17.

(d) To achieve the allocations specified in (b) of this section, consistent with the management principles of 5 AAC 06.355 and other applicable provisions of this chapter, the commissioner

(1) may establish, by emergency order, concurrent set and drift gillnet open fishing periods; set and drift gillnet fishing periods may be established at different times to obtain the set and drift gillnet sockeye salmon allocations specified in (b) of this section or at other times consistent with 5 AAC 06.355;

(2) may commence the concurrent open fishing periods at the seven foot tide level;

(3) may use short open commercial fishing periods so that all user groups have the opportunity to harvest fish;

(4) may address changing conditions using publicized short notice openings.



(e) To ensure adequate Kvichak River sockeye salmon spawning escapement goals, the department shall manage, to the extent practicable, a fishery in the Naknek Section to minimize fishing with set and drift gillnet gear during the ebb tide.

(f) For the conservation of king salmon, the department shall, to the extent practicable, open and close commercial fishing periods for drift gillnet gear in the Naknek-Kvichak District to occur only between the seven-foot flood and seven-foot ebb tide stages, as measured at the mouth of the Naknek River.

**5 AAC 06.365. Egegik District Commercial Set and Drift Gillnet Sockeye Salmon Fisheries Management and Allocation Plan.** (a) The purpose of this management plan is to establish the allocation of sockeye salmon between the commercial set and drift gillnet fisheries within the Egegik District and to establish management measures for the department to achieve the allocation.

(b) Consistent with 5 AAC 06.355 and other applicable provisions of this chapter, the department shall manage the Egegik District set and drift gillnet fisheries during the fishing periods specified in 5 AAC 06.320(c)(1) to achieve biological escapement goals into the Egegik River and to distribute the harvestable surplus of sockeye salmon to the drift and set gillnet fisheries as follows:

(1) drift gillnet - 86 percent; and

(2) set gillnet - 14 percent.

(c) For the purpose of calculating the set and drift gillnet allocation percentages specified in (b) of this section, the accounting period is from June 1 through 9:00 a.m. July 17.

(d) To achieve the allocations specified in (b) of this section, consistent with the management principles of 5 AAC 06.355 and other applicable provisions of this chapter, the commissioner

(1) may establish, by emergency order, set and drift gillnet open fishing periods; set and drift gillnet fishing periods may be established at different times to obtain the set and drift gillnet sockeye salmon allocations specified in (b) of this section or at other times consistent with 5 AAC 06.355;

(2) may use short open commercial fishing periods so that all user groups have the opportunity to harvest fish;

(3) may adjust fishing periods in order to rotate the fishery between tides;

(4) address changing conditions using publicized short notice openings.

(e) From June 1 through July 1, only gillnets with a mesh size five and one-half inches or less may be used in the Egegik District.

(f) In the drift gillnet fishery, the department shall manage, to the extent practicable, the Egegik District to minimize fishing with drift gillnet gear during the ebb tide.

(g) Repealed 4/16/2023.

**5 AAC 06.366. Ugashik District Set and Drift Gillnet Sockeye Salmon Fisheries**

**Management and Allocation Plan.** (a) The purpose of this management plan is to establish the allocation of sockeye salmon between the commercial set and drift gillnet fisheries within the Ugashik District and to establish management measures for the department to achieve the allocation.

(b) Consistent with 5 AAC 06.355 and other applicable provisions of this chapter, the department shall manage the Ugashik District set and drift gillnet fisheries during the fishing periods specified in 5 AAC 06.320(c)(1) to achieve biological escapement goals into the Ugashik River and to distribute the harvestable surplus of sockeye salmon to the drift and set gillnet fisheries as follows:

(1) drift gillnet - 90 percent; and

(2) set gillnet - 10 percent.

(c) For the purpose of calculating the set and drift gillnet allocation percentages specified in (b) of this section, the accounting period is from June 1 through 9:00 a.m. July 17, or at the end of any emergency order period specified in (d)(4) of this section.

(d) To achieve the allocations specified in (b) of this section, consistent with the management principles of 5 AAC 06.355 and other applicable provisions of this chapter, the commissioner

(1) may establish, by emergency order, concurrent set and drift gillnet open fishing periods; set and drift gillnet fishing periods may be established at different times to obtain the set and drift gillnet sockeye salmon allocations specified in (b) of this section or at other times consistent with 5 AAC 06.355;

(2) may use short open commercial fishing periods so that all user groups have the opportunity to harvest fish;

(3) address changing conditions using publicized short notice openings;

(4) after July 17, may establish, by emergency order, fishing periods other than the fishing periods specified in 5 AAC 06.320(c)(2) during which the registration, reregistration, and the 48-hour notification period specified in 5 AAC 06.370 will apply.

(e) If escapement in the Ugashik District is projected to exceed the minimum of the escapement goal range, the fishery may be allowed into the Ugashik River Special Harvest Area described in 5 AAC 06.357.

(f) When the preseason forecast for the Kvichak River sockeye salmon run does not provide for an exploitation rate of greater than 40 percent it is the intent of the Board of Fisheries that

(1) from June 16 through June 23, the department may not allow more than 48 hours of fishing in the Ugashik District; and

(2) when the Naknek River Special Harvest Plan under 5 AAC 06.360 is also in effect, the Ugashik District boundary will consist of all waters south of a line between 57° 43.54' N. lat., 157° 43.25' W. long. and 57° 43.54' N. lat., 157° 41.82' W. long., and east of a line between 57° 43.54' N. lat., 157° 43.25' W. long. and 57° 29.10' N. lat., 157° 53.20' W. long. until June 29; on June 29 the Ugashik boundary will be restored to its original boundary specified in 5 AAC 06.200(d).

**5 AAC 06.367. Nushagak District Commercial Set and Drift Gillnet Sockeye Salmon Fisheries Management and Allocation Plan.**

(a) The purpose of this management plan is to establish the allocation of sockeye salmon between the commercial set and drift gillnet fisheries within the Nushagak District and to establish management measures for the department to achieve the allocation.

(b) Consistent with 5 AAC 06.355 and other applicable provisions of this chapter, the department shall manage the Nushagak District set and drift gillnet fisheries during the fishing periods specified in 5 AAC 06.320(b)(1) to achieve biological escapement goals into river systems of the Nushagak District and to distribute the harvestable surplus of sockeye salmon to the drift and set gillnet fisheries as follows:

(1) drift gillnet - 74 percent; and

(2) set gillnet - 26 percent as follows:

(A) Igushik Section set gillnet fishery - six percent; and

(B) Nushagak Section set gillnet fishery - 20 percent;

(3) repealed 4/4/2013.

(c) For the purpose of calculating the set and drift gillnet allocation percentages specified in (b) of this section, the accounting period is from June 1 through July 17.

(d) To achieve the allocations specified in (b) of this section, consistent with the management principles of 5 AAC 06.355 and other applicable provisions of this chapter, the commissioner

(1) may open, by emergency order, concurrent fishing periods and set gillnet only fishing periods at approximately two and one-half to three hours before high water, except that when a tide is greater than 18 feet, openings will begin at least three hours before high water; set and drift gillnet fishing periods may be established at different times to obtain the set and drift gillnet sockeye salmon allocations specified in (b) of this section or at other times consistent with 5 AAC 06.355;

(2) may use short open commercial fishing periods so that all user groups have the opportunity to harvest fish;

(3) may address changing conditions using publicized short notice openings.

(e) If the commissioner determines it necessary for the protection of sockeye salmon, the commissioner may open, by emergency order, fishing periods in the Nushagak District during which gillnet mesh size may not exceed four and three-quarters inches.

**5 AAC 06.368. Nushagak River Coho Salmon Management Plan.** (a) The purpose of this management plan is to provide guidelines to ensure an adequate spawning escapement of coho salmon into the Nushagak River system. It is the intent of the Board of Fisheries (board) that Nushagak coho salmon be harvested by the fisheries that have historically harvested them. The plan in this section provides management guidelines to the department in an effort to preclude allocation conflicts between various users of this resource. The department shall manage coho salmon stocks in a conservative manner consistent with sustained yield principles and the subsistence priority.

(b) The department shall manage the commercial fishery in the Nushagak District to achieve an inriver run goal of 70,000 - 130,000 coho salmon present in the Nushagak River upstream from the department sonar counter located near the village of Portage Creek by August 25. The inriver goal provides for

(1) the department's sustainable escapement goal of 60,000 - 120,000 coho salmon upstream from the sonar counter by August 25;

(2) a reasonable opportunity for subsistence harvest of coho salmon; and

(3) a daily bag and possession limit of five coho salmon, and a guideline harvest level of 2,000 fish in the sport fishery; the sport fishery guideline harvest level of 2,000 fish does not apply if the total inriver coho salmon return is projected to be greater than 120,000 fish by August 25; the department shall manage the sport fishery to ensure that the sustainable escapement goal of 60,000 - 120,000 coho salmon is achieved.

(c) If the total inriver coho salmon return in the Nushagak River is projected by the department to be less than 120,000 but at least 70,000 fish by August 25, the commissioner shall close, by emergency order, the directed coho salmon commercial fishery in the Nushagak District by August 1; and

(1) repealed 4/16/2016;

(2) the commissioner may restrict, by emergency order, the coho salmon sport fishery in the Nushagak River drainage upstream from the department sonar counter located near the village of Portage Creek so that the harvest does not exceed 2,000 coho salmon by one or more of the following:

(A) reduce the bag and possession limit;

(B) prohibit the use of bait;

(C) restrict fishing times and areas;

(D) restrict terminal tackle to single-hook artificial lures; and

(E) allow catch-and-release fishing only;

(3) it is the intent of the board that the lower the projected inriver coho salmon return is, the more restrictive that management measures will be in the sport and commercial fisheries under this section.

(d) If the total inriver coho salmon return in the Nushagak River is projected by the department to be less than 70,000 fish and the number of spawners is projected to be more than 60,000 fish on August 25, the commissioner shall

(1) close, by emergency order, the directed commercial fishery no later than August 1;

(2) close, by emergency order, the coho salmon sport fishery in the Nushagak River drainage; and

(3) restrict the coho salmon subsistence fishery in the Nushagak River drainage by establishing periods by emergency order, during which

(A) coho salmon may be taken only from

(i) 9:00 a.m. Monday to 9:00 a.m. Tuesday;

(ii) 9:00 a.m. Wednesday to 9:00 a.m. Thursday; and

(iii) 9:00 a.m. Friday to 9:00 a.m. Saturday; and

(B) set gillnets may not be more than 10 fathoms in length.

(e) If the number of coho salmon spawners in the Nushagak River is projected by the department to be less than 60,000 fish by August 25, the department shall close the subsistence, commercial, and sport fisheries.

**5 AAC 06.369. Togiak District Salmon Management Plan.** (a) The department shall manage the commercial salmon fishery in the Togiak District in accordance with the guidelines set out in this management plan. The goal of this plan is to ensure adequate spawning and harvest objectives for sockeye, coho, and king salmon stocks returning to the Togiak District. It is the intent of the Board of Fisheries (board) that Togiak District salmon stocks be harvested in the fisheries that have historically harvested them. The department shall manage the Togiak District salmon stocks in a conservative manner consistent with sustained yield principles and the subsistence priority.

(b) The department shall manage the commercial fishery in the Togiak River Section of the Togiak District to achieve adequate escapement from all segments of the run by spacing openings throughout the run and, to the extent practicable, manage for escapements within the lower or upper portions of escapement goals proportional to the run size based on the preseason forecast and inseason assessment of the run size.

(c) Fishing periods in the Togiak District under this section are as follows:

(1) from 9:00 a.m. June 1 to 9:00 a.m. September 30, salmon may be taken in the Togiak District during fishing periods established under 5 AAC 06.320, except that in the Togiak River Section of the Togiak District, from July 1 through July 16, the weekly fishing periods shall be 9:00 a.m. Monday to 9:00 p.m. Saturday;

(2) the commissioner may reduce, by emergency order, fishing periods if information sources indicate a lack of spawning escapement; information sources may include such factors as observations by local elders, fish caught and observed in subsistence nets, sonar counts, counting tower counts, creel counts, test fisheries, daily monitoring, and aerial surveys;

(3) the commissioner may increase, by emergency order, the fishing periods in the Togiak River Section of the Togiak District by a maximum of 48 hours each week, in addition to the normal weekly schedule, if the commissioner determines that sockeye salmon run strength warrants additional fishing time.

(d) From 9:00 a.m. June 15 to 9:00 a.m. July 15, only gillnets with a mesh size of five and one-half inches or less will be allowed in the Togiak District under this section. If the commissioner determines that the king salmon run strength is adequate to sustain a directed king salmon fishery, the commissioner may close, by emergency order, the commercial salmon fishing season and immediately reopen that season during which there is no mesh size restriction for set gillnets.

**5 AAC 06.370. Registration and reregistration.** (a) Before taking salmon in the Bristol Bay Area, a CFEC salmon drift gillnet permit holder shall register for a district described in 5 AAC 06.200. Before taking salmon in the Nushagak District, a CFEC salmon set gillnet permit holder shall register for a statistical area described in (l) of this section. A CFEC salmon drift gillnet permit holder also shall register for the same district the drift gillnet vessel that the permit holder will be operating. For the purposes of this section, a CFEC salmon drift gillnet permit holder and a drift gillnet vessel may be registered in only one district at a time and a CFEC salmon set gillnet permit holder in the Nushagak District may be registered in only one statistical area at a time. Initial district registration and statistical area registration is accomplished by completing a registration form provided by the department and returning the completed form to the department office in Dillingham or King Salmon or electronically on the department's website.

(b) Except when fishing as a crewmember, a CFEC salmon drift gillnet permit holder intending to transfer to and fish in a new district for which the permit holder is not registered shall register the permit holder and the vessel that the permit holder will use to take salmon for the new district at least 48 hours before fishing in the new district. Reregistration is accomplished by the permit holder or the permit holder's authorized agent completing a form provided by the department and submitting the completed form, in person, to a local representative of the department or electronically on the department's website. The 48-hour district transfer notification period starts when the reregistration form is signed by the local representative of the department or when the permit holder receives the computerized acceptance notification. The drift gillnet permit holder and the drift gillnet vessel may not fish in the original district during the 48-hour notification period. The notification period may be reduced by commissioner's announcement.

District reregistration is not required after 9:00 a.m. July 17, except in the Ugashik District, as specified in 5 AAC 06.366(d)(4), the Naknek-Kvichak District, as specified in 5 AAC 06.360(g), and the Egegik District, as specified in 5 AAC 06.359(f).

(c) After use of either drift gillnet or set gillnet gear, use of the other type of gear is not permitted until 24 hours, or a reduced period specified by commissioner's announcement, have elapsed following notification to the department of the type of gear intended to be used. After 9:00 a.m. July 17, changing to either drift gillnet or set gillnet gear may be done without notification to the department of the type of gear intended to be used.

(d) Notification of a change in gear types may be made with the local representative of the department, and may be accomplished in person or by radio or through a designated representative of the fisherman. However, the 24-hour notification period, or a reduced period specified by commissioner's announcement, does not begin before the time that notification is received and noted by the department.

(e) Repealed 5/14/98.

(f) Except in the Ugashik District, as specified in 5 AAC 06.366(d)(4), the Naknek-Kvichak District, as specified in 5 AAC 06.360(g), and the Egegik District, as specified in 5 AAC 06.359(f), the commissioner shall waive, by announcement, the 48-hour district transfer notification period required by this section when the midpoint of the escapement goal range for sockeye salmon has been achieved for that district.

(g) Repealed 1/29/72.

(h) From June 1 through September 30, an Area T CFEC salmon permit holder may use, to take salmon, only the vessel identified on the permit, unless the permit holder has registered, in person, at the department's King Salmon or Dillingham offices, to use another vessel. An Area T CFEC salmon permit holder on board an unregistered vessel is presumed to have been responsible for the salmon fishing operations of that vessel for that year.

(i) An agent representing a CFEC permit holder on matters of district registration and reregistration must be annually authorized to do so on a form provided by the department. The form must state that registration or reregistration accomplished by a CFEC permit holder's authorization agent does not waive the strict liability standard in 5 AAC 39.002 as it applies to the CFEC permit holder.

(j) A person who receives an emergency transfer (transferee) of a CFEC permit under 20 AAC 05.1740 may not register in a district other than the district in which the CFEC permit holder is registered when the emergency transfer occurs, unless the transferee has complied with the 48-hour district transfer notification period required by this section.

(k) Notwithstanding (b) of this section, a CFEC permit holder and fishing vessel registered before 9:00 a.m. July 17 to fish in the

(1) Togiak District may not take salmon or be used to take salmon in the Nushagak, Naknek-Kvichak, Egegik, or Ugashik district from 9:00 a.m. June 1 until the midpoint of

the escapement goal range is achieved in the Togiak District as specified by commissioner's announcement; if the midpoint of the escapement goal is achieved before 9:00 a.m. July 17, the provisions set out in (b) of this section are in effect;

(2) Nushagak, Naknek-Kvichak, Egegik, or Ugashik District may not take salmon or be used to take salmon in the Togiak District from 9:00 a.m. June 1 until the midpoint of the escapement goal range is achieved in the Togiak District as specified by commissioner's announcement; if the midpoint of the escapement goal is achieved before 9:00 a.m. July 17, the provisions set out in (b) of this section are in effect.

(l) In the Nushagak District, a CFEC salmon set gillnet permit holder intending to transfer to and fish in a new statistical area for which the permit holder is not registered shall register for the new statistical area at least 48 hours before fishing in the new statistical area. Reregistration is accomplished by the permit holder, or the permit holder's authorized agent, completing a form provided by the department and submitting the completed form, in person, to an authorized representative of the department. The 48-hour statistical area transfer notification period begins when the reregistration form is signed by the authorized representative of the department. The set gillnet permit holder may not fish in the original statistical area during the 48-hour notification period. The notification period may be reduced by commissioner's announcement. Reregistration is not required after 9:00 a.m. July 17. For the purpose of this section, statistical areas in the Nushagak District are defined as follows:

(1) Igushik Statistical Area: all waters of the Igushik Section, as described in 5 AAC 06.200(1);

(2) Snake River Statistical Area: all waters of the Snake River Section, as described in 5 AAC 06.200(2);

(3) Coffee Point Statistical Area: all waters of the Nushagak Section, as described in 5 AAC 06.200(3), between a point two miles below Bradford Point at 58° 58.63' N. lat., 158° 33.62' W. long. and a point four miles below Coffee Point at 58° 52.90' N. lat., 158° 43.30' W. long.;

(4) Ekuk Statistical Area: all waters of the Nushagak Section, as described in 5 AAC 06.200(3), between Ekuk at 58° 49.15' N. lat., 158° 33.30' W. long. and Etohin Point at 58° 39.37' N. lat., 158° 19.31' W. long.;

(5) Clark's Point Statistical Area: all waters of the Nushagak Section, as described in 5 AAC 06.200(3), between Clark's Point at 58° 50.71' N. lat., 158° 32.49' W. long. and Ekuk at 58° 49.15' N. lat., 158° 33.30' W. long.;

(6) Queen's Statistical Area: all waters of the Nushagak Section, as described in 5 AAC 06.200(3), enclosed by a line from a point at 58° 51.27' N. lat., 158° 30.34' W. long. to the outlet of Queen's Slough at 58° 51.41' N. lat., 158° 30.38' W. long.;

(7) Combine Statistical Area: all waters of the Nushagak Section, as described in 5 AAC 06.200(3), between Nushagak Point at 58° 56.79' N. lat., 158° 29.53' W. long. and Clark's Point at 58° 50.71' N. lat., 158° 32.49' W. long., except those waters described in (6) of this subsection.



(m) A CFEC salmon drift gillnet permit holder who is registered for a district and intends to operate a different vessel in that same district must first reregister with the department identifying the substitute vessel the permit holder will be operating. If the substitute vessel has already been registered in that same district for at least 48 hours, the permit holder may begin fishing as soon as reregistration is completed. If the substitute vessel has not been registered in that same district for at least 48 hours, the permit holder may not begin fishing until the completion of the 48-hour notification requirement.

**5 AAC 06.373. Alagnak River Sockeye Salmon Special Harvest Area Management Plan.** (a) The goal of this management plan is to allow the harvest of surplus Alagnak River sockeye salmon stocks in the Alagnak River Special Harvest Area while conserving Kvichak River sockeye salmon.

(b) The Alagnak River Special Harvest Area (ARSHA) consists of the waters of the Alagnak River between a line from 59° 00.33' N. lat., 156° 49.43' W. long. to 59° 00.00' N. lat., 156° 49.00' W. long. upstream to a line from 59° 01.17' N. lat., 156° 45.68' W. long. to 59° 00.90' N. lat., 156° 45.31' W. long.

(c) Salmon may be taken in the ARSHA under this section only during fishing periods established by emergency order. The commissioner may open, by emergency order, the ARSHA only after the Alagnak River sockeye salmon sustainable escapement goal has been met. To ensure adequate Alagnak River king salmon escapement, the department shall, to the extent practicable, manage the ARSHA to minimize the harvest of king salmon.

(d) Salmon may be taken in the ARSHA with set gillnet and drift gillnet gear. Salmon harvested in the ARSHA will not count against the allocations of sockeye salmon to the gillnet fisheries specified in 5 AAC 06.364(b). To the extent practicable, drift gillnet and set gillnet fishing will open separately, with openings alternating between the two gear groups. If, after a total of four openings, the harvest from either gear group is less than 50 percent of the other gear group's harvest, alternating openings will not be required, and the department may increase the number of openings for the gear group with the greater harvest.

(e) When the ARSHA is open under this section, a gillnet may only be operated as follows:

(1) a set gillnet may not exceed 25 fathoms in length;

(2) a set gillnet may not be set or operated within 150 feet of another set gillnet;

(3) repealed 5/26/2006;

(4) a set gillnet must be operated in a substantially straight line perpendicular to the nearest bank of the Alagnak River;

(5) repealed 4/4/2013;

(6) all gear and equipment associated with set gillnet fishing in the ARSHA must be removed from the water when it is not being used to fish in the ARSHA;

(7) no more than 50 fathoms of drift gillnet may be used to take salmon;

(8) a CFEC permit holder may not use more than one gillnet to take salmon at any time;

(9) a drift gillnet vessel may not have more than 150 fathoms of drift gillnet on board the vessel;

(10) 5 AAC 06.331(i), (m), (o), and (p) do not apply except that the anchoring device may not be more than 50 feet from the web of the net;

(11) a set gillnet may be set or operated seaward of another set gillnet.

(f) Repealed 5/26/2006.

(g) Repealed 5/26/2006.

**5 AAC 06.375. Landing requirements.** (a) All salmon must be landed in the district in which the salmon were taken, except that

(1) a vessel used to take salmon may have salmon on board when the vessel is no more than one mile outside the district from which the salmon were taken;

(2) a vessel that is more than one-half mile inside the boundary of the Snake River Section of the Nushagak District may not have salmon on board the vessel, except that a set gillnet fishing vessel may have salmon on board in the entire Snake River Section;

(3) when outside a district, a vessel used to take salmon may have on board up to 50 salmon for personal use, if the salmon are headed and gutted;

(4) the commissioner may waive the requirements of this subsection if the commissioner determines it is necessary in order to conduct an orderly fishery.

(b) From January 1 through June 30 and from August 1 through December 31, salmon caught in the Cinder River and Port Heiden Sections of the Alaska Peninsula Area can be legally transferred and sold in the Ugashik District. At the time of sale, the salmon permit holder must state the section in which the fish were caught.

**5 AAC 06.377. Reporting requirements.** (a) The operator of a floating salmon processing vessel or tender, or a shorebased processing operation, and a company employing aircraft used for transporting salmon, shall report in person or through an authorized agent to the local representative of the department of the initial district of intended operations before the start of processing or buying operations. The report must include the location and the date of intended operations, and identify and describe each vessel or method of transport employed in hauling or processing salmon. Before moving a processing or buying operation to a new district, the operator shall notify the local representative of the department by radio, telephone, or in person. If requested by the

department, the operator or authorized agent of the operator must provide information to the department regarding the operator's processing or buying activities, including processing or buying capacity.

(b) Each commercial fisherman shall report, on an ADF&G fish ticket, at the time of landing, the number of king and coho salmon taken but not sold.

(c) if the department adopts a reporting requirement, an S03T or S04T CFEC permit holder shall report, on a form provided by the department, the total number of king salmon that were harvested in a commercial fishery and retained for personal use annually as follows:

- (1) CFEC permit number;
- (2) statistical area of harvest;
- (3) the permanent ADF&G vessel license plate number; if applicable
- (4) date of harvest;
- (5) number of king salmon greater than 28 inches in length;
- (6) number of king salmon between 20 and 28 inches in length;

(d) A report described in (c) of this section must be submitted to the department not later than November 30, by means specified by the department.

**5 AAC 06.379. Use of aircraft unlawful.** A person may not use or employ an aircraft to locate salmon for the commercial taking of salmon or to direct commercial fishing operations in the Bristol Bay Area one hour before, during, and one hour after a commercial salmon fishing period.

**5 AAC 06.380. Unlawful possession of subsistence-taken salmon.** It is unlawful to purchase or sell salmon from which both lobes of the caudal fin (tail) or the dorsal fin have been removed.

**5 AAC 06.390. Special drift gillnet commercial fishing periods in the Nushagak District.** (a) It is the intent of the Alaska Board of Fisheries (board) that special drift gillnet fishing periods within the Bristol Bay commercial drift gillnet fishery in the Nushagak District be available to promote the local economy by allowing drift gillnet permit holders to diversify operations and realize benefits from the short-term commercial fishing licenses provided for in AS 16.05.480(i).

(b) From June 1 through September 30, the commissioner may, by emergency order, open and close special drift gillnet fishing periods in the waters of the Nushagak River downstream of a line from 58° 59.39' N. lat., 158° 32.08' W. long. to 58° 59.20' N. lat., 158° 28.54' W. long., and upstream of a line from 59° 02.18' N. lat., 158° 27.20' W. long. to 59° 02.00' N. lat., 158° 22.17' W. long.

(c) In order to participate in a special drift gillnet fishing period

(1) the drift gillnet vessel and permit holder must be registered for the Nushagak District under 5 AAC 06.370;

(2) the permit holder must register in person with the department at the department office in Dillingham; and

(3) there must be at least one paying client on board the vessel and all crewmembers on board the vessel must possess a commercial crewmember license issued under AS 16.05.480.

(d) While participating in a special drift gillnet fishing period

(1) only permit holders and crewmembers may be on board the vessel;

(2) only a single gillnet may be used; the gillnet may not

(A) be greater than five and one-half inches mesh size;

(B) exceed 25 fathoms in length; and

(C) be greater than 29 meshes in depth;

(3) the vessel and drift gillnet must maintain a distance of at least 100 feet from the end of a set gillnet and at least 500 feet from either side of a set gillnet;

(4) a vessel may not take more than 90 fish daily, of which no more than 15 may be king salmon; all fish harvested must be retained; fish harvested in excess of the limit of a daily limit shall be sold and the proceeds forfeited to the state; if no processor is available for the sale, the fish will be forfeited to the department and disposed of at the department's discretion;

(5) the permit holder must keep a logbook, on a form provided or approved by the department, for each commercial fishing trip; the logbook shall be completed before the offloading of any crewmembers or any fish taken, and the logbook must include

(A) the total harvest by species of fish retained for home use and sold commercially;

(B) the name, address, license number, and number of fish retained by each crewmember or permit holder for home use; and

(C) any other information the commissioner determines is necessary for conservation and management purposes;

(6) a fish ticket must be generated for each trip in which the catch is sold commercially or when a king salmon or coho salmon is harvested.

(e) During or after a special drift gillnet fishing period a permit holder must remove all fish harvested in the special drift gillnet fishing period from the vessel before participating in the regular commercial drift gillnet fishery.

(f) Repealed 4/9/2010.

**5 AAC 06.391. Nushagak District King Salmon Stock of Concern Management**

**Plan.** (a) The purpose of this management plan is to provide management tools and guidelines to the department for the management of Nushagak District salmon fisheries, while Nushagak River king salmon are listed as a stock of management concern, which will result in the sustained yield of king salmon stocks large enough to meet sustainable escapement goals, while allowing for harvest opportunity in the subsistence, sport, and commercial fisheries.

(b) While the Nushagak River king salmon are listed as a stock of management concern, it is the intent of the board that all Nushagak District salmon stocks are managed conservatively through June 28 to protect Nushagak River king salmon, consistent with 5 AAC 39.222 (policy for the management of sustainable salmon fisheries).

(c) The department shall manage commercial fisheries in the Nushagak District as follows:

(1) to achieve an inriver run goal of 95,000 king salmon in the Nushagak River consistent with the Nushagak-Mulchatna King Salmon Management Plan as described in 5 AAC 06.361(b)(1);

(2) when the Wood River sockeye salmon forecast or in season projection is less than 5,000,000 fish the department shall manage for the current sustainable escapement goal (SEG) of 700,000 to 1,800,000 fish;

(3) when the Wood River sockeye salmon forecast or inseason assessment of run size is greater than five million fish the department shall manage to achieve a Wood River sockeye salmon optimal escapement goal (OEG) of 700,000 fish to an upper bound that is up to 15 percent of the Wood River run size above the 1,800,000 fish upper bound of the SEG, based on the preseason forecast and in season assessment of run size;

(4) when the Nushagak River sockeye salmon forecast or inseason projection is less than 2,500,000 fish, the department shall manage for the current SEG of 370,000 to 900,000 fish;

(5) when the Nushagak River sockeye salmon forecast or inseason assessment of run size is greater than 2,500,000 fish the department shall manage to achieve a Nushagak River sockeye salmon OEG of 370,000 fish to an upper bound that is up to 15 percent of the Nushagak run size above the 900,000 fish upper bound of the SEG, based on the preseason forecast and in season assessment of run size.

(d) Before 9:00 a.m. June 28, if the Nushagak king salmon inriver run size is projected to be less than 95,000 fish, the commissioner shall close, by emergency order, the sockeye salmon commercial drift gillnet fishery in the Nushagak District, and the sockeye salmon commercial set net fishery in the Nushagak Section of the Nushagak District until

(1) the sockeye salmon sonar estimate in the Nushagak River is projected to exceed six percent of the Nushagak River sockeye salmon run based on the Nushagak River sockeye salmon preseason forecast and inseason assessment of run size; or

(2) the sockeye salmon count past the Wood River counting tower is projected to exceed 10 percent of the Wood River sockeye salmon run size based on the Wood River sockeye salmon preseason forecast and inseason assessment of run size.

(e) The department shall manage the sport fishery in the Nushagak River drainage, excluding the Wood River drainage, as follows:

(1) the annual limit for king salmon 20 inches or greater in length is four fish, of which only one fish may be 28 inches or greater in length;

(2) if the total inriver king salmon run return in the Nushagak River is projected to exceed 95,000 fish, the commissioner may, by emergency order, increase the annual limit for king salmon to four king salmon, 20 inches or greater in length, with no restrictions for fish over 28 inches in length.

(f) Subsistence fisheries will be managed in accordance with the rest of this title.

### **Article 5. Smelt Fishery.**

**5 AAC 06.570. Bristol Bay Capelin Management Plan.** (a) Capelin (*Mallotus villosus*) may be taken only in the Togiak District described in 5 AAC 06.200(e), and only under the conditions of a permit issued by the commissioner or the commissioner's designee.

(b) The permit required in (a) of this section shall include reporting requirements and any other conditions determined necessary by the commissioner for conservation and management purposes.

(c) Capelin may be taken only from April 15 through May 30.

(d) Capelin may be taken only with purse seines.

(e) No more than 200 tons of capelin may be taken annually.

**Chapter 27. Herring Fishery.**

**Article 1. Registration Areas.**

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

**5 AAC 27.005. Registration areas established**

Herring fishery registration areas and code letters are:

Code

Letter

**A** - Southeastern Alaska Area (5 AAC 27.100)

**D** - Yakutat Area (5 AAC 27.200)

**E** - Prince William Sound Area (5 AAC 27.300)

**H** - Cook Inlet Area (5 AAC 27.400)

**K** - Kodiak Area (5 AAC 27.500)

**L** - Chignik Area (5 AAC 27.550)

**M** - Alaska Peninsula-Aleutian Islands Area (5 AAC 27.600)

**T** - Bristol Bay Area (5 AAC 27.800)

**W** - Kuskokwim Area (5 AAC 27.870)

**Q** - Bering Sea-Kotzebue Area (5 AAC 27.900)

**Article 2. General Specifications.**

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

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

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

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

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

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

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

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

(c) The commissioner may suspend and reinstate any requirement of (b) of this section for a particular registration area if the commissioner finds that to do so would be in the public interest.

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



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

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

(1) the effect of overall fishing effort within the registration area;

(2) catch per unit of effort and rate of harvest;

(3) relative abundance of herring within the area in comparison with preseason expectations of the department;

(4) guideline harvest levels which may be adopted by regulation;

(5) the proportion of immature or spawned-out herring being handled or landed;

(6) general information on the condition of herring within the area;

(7) information pertaining to the maximum sustainable yield level of herring within the registration area;

(8) timeliness and accuracy of catch reporting by buyers within the registration area to the extent that such timeliness or accuracy may reasonably be expected to affect proper management; and

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

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

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

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

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

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

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

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

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

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

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

**5 AAC 27.059. Management guidelines for commercial herring sac roe fisheries**

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

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

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

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

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

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

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

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

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

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

(e) Repealed 4/7/90.

(f) Repealed 4/7/90.

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

(h) When any of the southwest Alaska herring stocks, from Security Cove to Port Clarence, is below its threshold identified in (c) of this section, the department shall close the Dutch Harbor food and bait herring fishery for that season. For the purpose of determining the need for this closure, the threshold level for the Nelson Island herring stock is 2,000 short tons. If the department determines it necessary to close the Dutch Harbor food and bait herring fishery under this subsection, the department shall not reallocate the herring harvest set for the Dutch Harbor food and bait herring fishery under 5 AAC 27.865(b)(4) to the Togiak District herring fishery.

**Article 3. Prohibitions.**

**5 AAC 27.090. Unlawful possession of herring or herring gear.** (a) A person may not possess unprocessed herring aboard a vessel licensed as a commercial fishing vessel within any registration area unless the season is open or unless the person is acting under the authorization of 5 AAC 27.030(b). This prohibition does not apply to herring possessed for subsistence or personal bait purposes under applicable regulations.

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

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

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

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

### **5 AAC 27.805. Description of Bristol Bay Area districts and sections**

(a) The Togiak District consists of all waters of Alaska between the longitude of the tip of Cape Constantine at 158° 53.50' W. long. and the longitude of the tip of Cape Newenham at 162° 10.51' W. long. Sections are as follows:

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

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

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

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

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

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

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

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

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

**5 AAC 27.810. Fishing seasons and periods for Bristol Bay Area.** (a) In the Togiak and Bay Districts, herring may be taken by purse seines and hand purse seines from April 15 through June 1.

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

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

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

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

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

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

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

**5 AAC 27.831. Gillnet specifications and operations for Bristol Bay Area**

(a) No single herring gillnet may exceed 100 fathoms in length, and the aggregate length of gillnets in use by a CFEC herring interim-use or limited entry permit holder may not exceed 100 fathoms.

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

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

(d) Repealed 5/31/98.

(e) Repealed 2/23/2014.

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

(g) Repealed 5/31/98.

(h) Repealed 5/31/98.

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

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

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

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

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

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

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

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

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

(b) Only a holder of a valid CFEC Togiak herring spawn on kelp permit may participate in the Togiak District herring spawn on kelp fishery. Participation includes harvesting herring spawn on kelp by hand or hand-held rake, placing the herring spawn on kelp in containers at the point of harvest, and transporting the containers of herring spawn on kelp to a registered buyer or tender.

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

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

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

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

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

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

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

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

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

**5 AAC 27.862. Buyer reporting requirements for Bristol Bay Area.** In addition to the requirements of 5 AAC 39.130(n), a buyer or the buyer's agent shall report in person to and register with a local representative of the department upon arrival on the fishing grounds and before commencing operations. The buyer or the buyer's agent shall

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

(2) report daily all herring or herring spawn on kelp purchased from fishermen, or other processing records as specified by a department representative; and

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

**5 AAC 27.865. Bristol Bay Herring Management Plan.** (a) When managing the Bristol Bay commercial herring fishery, the primary objectives of the department are to prosecute an orderly and manageable fishery, while striving for the highest level of product value with a minimum of waste.

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

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

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

(3) repealed 4/16/2023;

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

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

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

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

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

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

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



Chapter 39. General Provisions.

Article 1. General.

Please note that in the electronic version the individual Sections are linked to where they are contained within this document.

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

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

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

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

**5 AAC 39.105. Types of legal gear.** (a) All gear shall be operated in a manner conforming to its basic design.

(b) The size of meshes of a gillnet shall be substantially consistent.

(c) All references to mesh size in the regulations are considered to be "stretched measure."

(d) Unless otherwise provided in this title, the following are legal types of gear:

(1) a **gillnet** is a net primarily designed to catch fish by entanglement in the mesh and consisting of a single sheet of webbing hung between cork line and lead line, and fished from the surface of the water;

(2) a **set gillnet** is a gillnet that has been intentionally set, staked, anchored, or otherwise fixed;

(3) a **drift gillnet** is a drifting gillnet that has not been intentionally staked, anchored, or otherwise fixed;

(4) a **purse seine** is a floating net designed to surround fish and which can be closed at the bottom by means of a free-running line through one or more rings attached to the lead line;

(5) a **hand purse seine** is a floating net designed to surround fish and which can be closed at the bottom by pursing the lead line; pursing may only be done by hand power, and a free-running line through one or more rings attached to the lead line is not allowed;

(6) a **beach seine** is a floating net designed to surround fish which is set from and hauled to the beach;

(7) **power troll** gear consists of a line or lines with lures or baited hooks which are deployed, drawn through the water, and retrieved by means of a power troll gurdy, for which the power source may be hydraulic, electrical or mechanical; power troll gear does not include hand troll gear;

(8) **hand troll** gear consists of a line or lines with lures or baited hooks which are drawn through the water from a vessel by hand trolling, strip fishing or other types of trolling, and which are retrieved by hand power or hand-powered crank and not by any type of electrical, hydraulic, mechanical or other assisting device or attachment;

(9) a **fish wheel** is a fixed, rotating device, with no more than four baskets on a single axle, for catching fish which is driven by river current or other means;

(10) a **trawl** is a bag-shaped net towed through the water to capture fish or shellfish;

(A) a **beam trawl** is a trawl with a fixed net opening utilizing a wood or metal beam;

(B) an **otter trawl** is a trawl with a net opening controlled by devices commonly called otter doors;

(C) a **pelagic trawl** is a trawl where the net, or the trawl doors or other trawl-spreading device, do not operate in contact with the seabed, and which does not have attached to it any protective device, such as chafing gear, rollers, or bobbins, that would make it suitable for fishing in contact with the seabed;

(11) a **pot** is a portable structure designed and constructed to capture and retain fish and shellfish alive in the water;

(12) a **ring net** is a bag-shaped net suspended between no more than two frames; the bottom frame may not be larger in perimeter than the top frame; the gear must be nonrigid and collapsible so that when fishing it does not prohibit free movement of fish or shellfish across the top of the net;

(13) a **longline** is a stationary buoyed or anchored line or a floating, free drifting line with lures or baited hooks attached;

(14) a **shovel** is a hand-operated implement for digging clams or cockles;

(15) a **mechanical clam digger** is a mechanical device used or capable of being used for the taking of clams;

(16) a **scallop dredge** is a dredge-like device designed specifically for and capable of taking scallops by being towed along the ocean floor;

(17) a **fyke net** is a fixed, funneling (fyke) device used to entrap fish;

(18) a **lead** is a length of net employed for guiding fish into a seine or set gillnet;

(19) an **anchor** is a device used to hold a salmon fishing vessel or net in a fixed position relative to the beach; this includes using part of the seine or lead, a ship's anchor or being secured to another vessel or net that is anchored;

(20) a **herring pound** is an enclosure used primarily to retain herring alive over extended periods of time;

(21) **diving gear** is any type of hard hat or skin diving equipment including scuba, a tethered, umbilical, surface-supplied system, and a snorkel;

(22) a **hydraulic clam digger** is a device using water or a combination of air and water to remove clams from their environment;

(23) a **grappling hook** is a hooked device with flukes or claws and attached to a line and operated by hand;

(24) a **dip net** is a bag-shaped net supported on all sides by a rigid frame; the maximum straight-line distance between any two points on the net frame, as measured through the net opening, may not exceed five feet; the depth of the bag must be at least one-half of the greatest straight-line distance, as measured through the net opening; no portion of the bag may be constructed of webbing that exceeds a stretched measurement of 4.5 inches; the frame must be attached to a single rigid handle and be operated by hand;

(25) a **mechanical jigging machine** is a device that deploys a line with lures or baited hooks and retrieves that line with electrical, hydraulic, or mechanically powered assistance; a mechanical jigging machine allows the line to be fished only in the water column; a mechanical jigging machine must be attached to a vessel registered to fish with a mechanical jigging machine; the mechanical jigging machine may not be anchored or operated unattached from the vessel;

(26) an **abalone iron** is a flat device used for taking abalone and which is more than one inch (24 mm) in width and less than 24 inches (61 cm) in length and with all prying edges rounded and smooth;

(27) a **handline** is a hand-held line, with one or more hooks attached, which may only be operated manually; a handline is legal gear only for smelt in the Bristol Bay Area, described in 5 AAC 06.100;

(28) **dinglebar troll** gear consists of one or more lines, retrieved and set with a troll gurdy or hand troll gurdy, with a terminally attached weight from which one or more leaders with one or more lures or baited hooks are pulled through the water while a vessel is making way;

(29) a **sea urchin rake** is a hand-held implement, no longer than four feet, equipped with projecting prongs used to gather sea urchins;

(30) a **cast net** is a circular net with a mesh size of no more than one and one-half inches and weights attached to the perimeter which, when thrown, surrounds the fish and closes at the bottom when retrieved;

(31) an **eel stick** consists of a single straight or bent pole, equipped with notches or projecting tines, used to take lamprey through the ice.

**5 AAC 39.107. Operation of gear.** (a) Each fisherman shall operate or assist in operating only one type of net gear at any one time.

(b) Throughout the period of operation of mobile net gear, a person who holds a valid CFEC permit for that gear must be physically present on board the vessel from which the net gear is operated.

(c) A CFEC permit holder shall personally operate or assist in the operation of mobile net gear. "Personally operate or assist in operation" means assisting or supervising some portion of the immediate operation.

(d) A person who holds a limited entry permit or an interim-use permit for stationary fishing gear must be physically present at a beach or riparian fishing site during the operation of net gear or other stationary fishing gear at the site, except when the permit holder is at or traveling to or from the location of

(1) a sale of fish caught in the gear; or

(2) other stationary gear of the permit holder. For purposes of this subsection "fishing site" includes any structure used for providing shelter in support of the operation of net gear or other stationary gear.

(e) A person who holds a CFEC permit for the operation of stationary net gear or fish wheels shall be within a reasonable distance of the gear when at a point of sale or at the location of other stationary gear of that permit holder. A "reasonable distance" means a distance that ensures that the CFEC permit holder retains competent supervision of the gear.

(f) In the Yukon Area, as described in 5 AAC 05.100, a person who holds a CFEC permit for stationary fishing gear must be physically present for the initial deployment of

the gear at the beginning of the commercial fishing period and at the end of the commercial fishing period to terminate operation of the gear.

(g) In the Yakutat District south of 59° 40' N. lat. in Yakutat Bay, a fishing site under AS 16.05.253(b) includes the CFEC permit holder's permanent place of residence in Yakutat.

(h) In the Kotzebue District, as described in 5 AAC 03.200(b), a person who holds a CFEC permit for stationary fishing gear must be physically present for the initial deployment of the gear at the beginning of the commercial fishing period and at the end of the commercial fishing period to terminate operation of the gear. A fishing site under AS 16.05.253(b) includes the district and the CFEC permit holder's place of residence in Kotzebue.

**5 AAC 39.109. Nonresident crewmember fishing license fees.** The amount to be added, in accordance with AS 16.05.480(h), to the annual base fee for a nonresident crewmember fishing license is the additional amount calculated every three years by the Commercial Fisheries Entry Commission under 20 AAC 05.245(a)(7).

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

(b) Repealed 8/15/2008.

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

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

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

(f) Each holder of a commercial fishing license, as required in AS 16.05.480(a), who is 16 years of age or older and participating in a commercial fishery in which crewmember participation is restricted by exclusive or superexclusive area registration requirements shall possess an identification card that has been issued to the commercial fishing license holder by a state or federal agency or other organization specified by the Department of Public Safety that bears a photograph of the commercial fishing license holder.

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

**5 AAC 39.111. Personal identification required.** A person who is in possession of a CFEC interim-use or entry permit card shall, upon the request of a buyer of fish or a peace officer of the state, present the personal identification required under AS 16.10.267(a)(2) to establish that the permit card is in the possession of the person to whom the permit card is issued.

**5 AAC 39.112. Use of net pens and other holding devices.** A net pen or other holding device may be used to hold live salmon or herring before processing only under the conditions specified in a commissioner's permit.

**5 AAC 39.115. Designation of salmon net registration area.** A person who holds salmon net gear permits for more than one registration area listed in 5 AAC 39.120(d) shall designate upon a form provided by the Commercial Fisheries Entry Commission the single area in which he desires to salmon net fish in that year. The area so designated must be an area for which the person holds a valid salmon net permit.

**5 AAC 39.117. Vessel length; bulbous bow.** (a) Notwithstanding any other provision in 5 AAC 01 - 5 AAC 39, the addition of a bulbous bow may cause a vessel, other than a vessel engaged in the Bering Sea hair crab fishery, to exceed an established vessel overall length limitation. Only that portion of the vessel comprising the bulbous bow may cause the vessel to exceed a vessel overall length limitation.

(b) For the purposes of this section, "bulbous bow" means a bulbous extension of the bow, below or predominately below the water line of a vessel, that is designed to increase stability or fuel efficiency and does not contain storage space or equipment that can be accessed from within the vessel.

**5 AAC 39.119. Vessel identification.** (a) Unless otherwise specified, a commercial fishing vessel required to be licensed under AS 16.05.490 must display its permanent vessel license plate number

(1) in permanent symbols at least 12 inches high and with lines at least one inch wide that contrast with the background;

(2) on both sides of the hull, cabin, or mast;

(3) in a manner such as to be plainly visible and unobscured; and

(4) at all times when registered to fish.

(b) Repealed 10/1/98.

(c) The following vessels are exempt from the requirements of this section:

(1) those exempt from licensing under AS 16.05.495;

(2) seine skiffs operating with a seine vessel;

(3) repealed 2/10/2005.

**5 AAC 39.120. Registration of commercial fishing vessels.** (a) A person who owns a commercial fishing vessel or that person's authorized agent shall register that vessel by completing a vessel license application or renewal form and submitting it to the Commercial Fisheries Entry Commission, unless the vessel is not required to be licensed under AS 16.05.495. Vessel registration is required before fishing or transporting unprocessed fish in any waters of Alaska. A vessel, if it is in compliance with all regulations governing registration and if it displays a license issued under AS 16.05.530, unless the vessel is not required to be licensed under AS 16.05.495, is considered to be registered under the laws of the state and may take or transport unprocessed fish. It is unlawful to take, attempt to take, or possess unprocessed fish aboard a vessel in the waters of Alaska unless the vessel is registered under the laws of the state. For purposes of this subsection,

(1) "employ," as used in AS 16.05.475, means taking or attempting to take fish, or transporting fish which have been taken or any operation of a vessel aiding or assisting in the taking or transporting of unprocessed fish;

(2) "in compliance with all regulations governing registration" includes vessel registration required by 5 AAC 28.020, 5 AAC 31.020, 5 AAC 31.030, 5 AAC 32.020, 5 AAC 32.030, 5 AAC 34.020, 5 AAC 34.030, 5 AAC 35.020, 5 AAC 35.030, 5 AAC 38.020, and 5 AAC 38.030, and includes district or subdistrict registration requirements of 5 AAC 03 - 5 AAC 38, and includes the provisions of this section;

(3) "registered under the laws of the state" means that a vessel displays a license described in 20 AAC 05.1958 and issued under AS 16.05.530, unless the vessel is not required to be licensed under AS 16.05.495, and that the registration provisions of 5 AAC 03 - 5 AAC 39 have been complied with and evidence of compliance is immediately available at all times during fishing or transporting operations, and can be shown upon request to an authorized representative of the department.

(b) Area registration requirements for shellfish vessels are as specified in the registration regulations in 5 AAC 31 - 5 AAC 38.

(c) Area registration requirements for salmon net fishing vessels are as follows:

(1) a person who owns a fishing vessel to be used to take salmon with net gear, or his authorized agent, shall register for an area by designating on the vessel license application or renewal form the vessel's one area of intended salmon net gear operation for the year; it is unlawful for a vessel to engage in salmon net fishing in an area other than the single area selected;

(2) in this section the term "area" means any registration area listed in (d) of this section, except that

(A) in salmon net Registration Area T, a vessel must also be registered by the department for a fishing district as required by 5 AAC 06.370;

(B) in salmon net Registration Area Y, a vessel must also be registered by the department for a fishing district as required by 5 AAC 05.370;



(C) a purse seine vessel registered for salmon net Registration Area M is also registered to operate purse seine gear in Registration Area F during the same registration year;

(3) a vessel registered for an area of salmon net fishing in compliance with (c)(1) of this section will be issued, by the Commercial Fisheries Entry Commission, a vessel license area tab for that year; it is unlawful for a vessel to fish in the area of registration unless the vessel displays the area tab on the vessel license number plate; no vessel owner or operator may possess for each vessel, or no vessel may display, more than one vessel license area tab;

(4) a person who owns a fishing vessel registered for an area of intended operation in compliance with (c)(1) of this section or his authorized agent may register it for a different salmon net registration area under the following conditions:

(A) the reregistration of a salmon net fishing vessel shall be authorized by the

(i) commissioner upon receipt of proof in writing that the vessel has been lost through sinking, destruction, or extensive mechanical breakdown, or that the vessel operator has suffered serious injury, sickness or death during the open season; or

(ii) Commercial Fisheries Entry Commission upon receipt of a written certification or personal affidavit stating that the vessel has not been used for salmon net fishing in the original area of registration during the current registration year;

(B) a person authorized to reregister a vessel must complete a reregistration form issued by the Commercial Fisheries Entry Commission and submit it to the commissioner together with any previously issued vessel license area tab;

(C) it is unlawful for a vessel to fish in the area of reregistration unless the vessel displays the appropriate area tab on the vessel license number plate;

(D) area reregistration under this section shall supersede the original area registration as if the original area registration had never been made;

(E) once a vessel has reregistered for another net registration area to replace a lost vessel, that vessel can not transfer back to its original net registration area during that season;

(5) repealed 4/16/83.

(d) Salmon net gear registration areas are as follows:

Code

<b>Letter</b>	<b>Area</b>
<b>A</b>	Southeastern Alaska Area (5 AAC 33.100)
<b>D</b>	Yakutat Area (5 AAC 30.100)

**E** - Prince William Sound Area (5 AAC 24.100) and the Yakataga District of the Yakutat Area (5 AAC 30.200(a))

**F** - Atka-Amlia Islands Area (5 AAC 11.101)

**H** - Cook Inlet Area (5 AAC 21.100)

**K** - Kodiak Area (5 AAC 18.100)

**L** - Chignik Area (5 AAC 15.100)

**M** - Aleutian Islands and Alaska Peninsula Areas (5 AAC 12.100 and 5 AAC 09.100) and, from August 1 through August 31, the Atka-Amlia Islands Area (5 AAC 11.101) for purse seine gear only

**T** - Bristol Bay Area (5 AAC 06.100) and January 1 through December 31, the Cinder River and Inner Port Heiden Sections of the Alaska Peninsula Area and August 1 through December 31, that portion of the Ilnik Section within Ilnik Lagoon and all waters inside the Seal Islands of the Alaska Peninsula Area (5 AAC 09.200(a)(1) - (3))

**W** - Kuskokwim Area (5 AAC 07.100)

**X** - Arctic-Kotzebue Area (5 AAC 03.100)

**Y** - Yukon Area (5 AAC 05.100)

**Z** - Norton Sound-Port Clarence Area (5 AAC 04.100)

(e) Evidence of proper registration or licensing must be kept immediately available at all times during fishing operations and must be shown upon request to any peace officer of the state.

(f) The provisions of this section do not apply to halibut fishing.

(g) Repealed 10/1/98.

**5 AAC 39.123. Late registration.** (a) To qualify for an extension of a registration or permit deadline set out in 5 AAC 01 - 5 AAC 39, a person must show that the person had

demonstrated an intent to harvest fish before the deadline. An "intent to harvest fish" may be demonstrated by

(1) renewing or applying for, before the deadline, a CFEC permit which is effective in the fishery and area for which extension is being requested;

(2) participation during the previous season in the fishery in the requested area, unless entry into the fishery is limited and the person did not own a permit for that season;

(3) purchasing or showing intent to purchase a vessel, permit, or fishing gear for the fishery before the deadline;

(4) showing intent to start, starting, or completion of vessel or gear repair or maintenance for the fishery before the deadline; or

(5) any other written documentation, such as loan applications, agreements with fish buyers, license applications, or other writings, which indicate the necessary intent to participate in the fishery before the deadline.

(b) In addition to (a) of this section, a person must demonstrate that failure to apply before the deadline was a result of excusable neglect. "Excusable neglect" may be demonstrated by

(1) loss of registration or permit form in the mail, or other documentation which may demonstrate excusable carelessness or inattention on the part of authorized agents or other third parties;

(2) receipt of incorrect information from a department official, which is substantiated by the appropriate official;

(3) illness or injury of the individual or a member of his family that was serious enough to prevent him from meeting the deadline;

(4) required government or military service; or

(5) written documentation that will substantiate other unavoidable circumstances that prevented meeting the deadline.

**5 AAC 39.128. Reporting requirements for unlicensed commercial fishing vessels in the waters of Alaska.** (a) Before entering the waters of Alaska,

(1) an operator of an unlicensed commercial fishing vessel shall report by telephone, and shall leave a recorded report at a telephone number designated by the department for that purpose, or shall report by other means specified by the department. A report under this section must

(A) identify the vessel and vessel operator;

(B) certify that no unprocessed fish are on board the vessel;

(C) include the destination, travel route, and dates of transit; and

(D) include the quantity, species, and the location from which the fish were taken if any processed fish are on board the vessel.

(b) The commissioner may, upon request by a local representative of the department, waive all or part of the requirements of this section if the commissioner determines that compliance with this section is not necessary for conservation, management, or enforcement in a designated geographical area.

(c) For the purposes of this section,

(1) "commercial fishing vessel" means a floating craft powered, towed, rowed, or otherwise propelled, which is used for or equipped to be used for

(A) commercial fishing;

(B) fish processing;

(C) fish transport; or

(D) fish storage, including temporary storage;

(2) "unlicensed" means not licensed under AS 16.05.490 - 16.05.530.

**5 AAC 39.130. Reports required of fishermen, processors, buyers, exporters, and operators of certain commercial fishing vessels; transporting requirements.** (a)

Before operating during a calendar year, an individual, company, firm, or other organization that is a first purchaser, catcher-exporter, catcher-processor, or catcher-seller shall submit to the department a completed intent to operate application provided by the department or available online, together with a \$25 processing fee for each individual, company, firm, or other organization identified in the application; the fee is not required of an applicant that paid the annual fee required by AS 43.75.020(a). The individual, company, firm, or other organization may begin to operate only after receiving authorization from the department to begin operating, along with the individual's or organization's processor code for the current year.

(b) An individual, company, firm, or other organization described in (a) of this section that intends or is required to use the eLandings Electronic Reporting System shall access the system by completing an operator documentation and user agreement on the Interagency eLandings Electronic Reporting System's website. In addition to the other requirements of this section, an individual, company, firm, or other organization described in (a) of this section that the commissioner determines has submitted at least 2,000 salmon harvest fish tickets or bought more than 20 million pounds of salmon during any of the previous three calendar years shall thereafter use the eLandings Electronic Reporting System for all salmon delivered to a tender vessel, floating processor, or shorebased processor. In addition to the other requirements of this section, a first purchaser shall use the tLandings application for all groundfish delivered to a tender vessel.

(c) An individual, company, firm, or other organization described in (a) of this section shall record each delivery on an ADF&G fish ticket. A fish ticket must be completed for all fish or byproducts of fish harvested in the waters of Alaska and for all fish or byproducts of fish harvested in waters outside of the waters of Alaska and offloaded or processed in the waters of Alaska. Fish tickets for each fishery must be finalized and submitted to a local representative of the department not later than seven days after a delivery or partial delivery, or as otherwise specified by the department, such as for each vessel trip. The operator of a vessel that has harvested fish in the waters of Alaska and whose port of delivery is outside this state, or who sells, transfers, receives, or delivers fish in the Exclusive Economic Zone (EEZ), shall submit a completed hailed weight fish ticket or a fish ticket to the department before the fish are transported out of the jurisdiction of this state. At the time of delivery or partial delivery, or as otherwise directed by the department, fish tickets must include the following information:

- (1) the name and signature of the applicable individual, company, firm, or other organization described in (a) of this section;
- (2) the name and signature of the CFEC permit holder that operated the unit of gear with which the fish were taken;
- (3) the processor code imprinted on the fish ticket from the code plate issued by the department, the processor code handwritten on the fish ticket if instructed by an authorized representative of the department, or the electronically captured information from the eLandings Electronic Reporting System, except that if a catcher-seller is shipping fish to a fisheries business, the fisheries business must imprint the fish ticket, or electronically capture the information on the eLandings Electronic Reporting System, with the processor code of the fisheries business; in this paragraph, "fisheries business" has the meaning given in AS 43.75.290;
- (4) the name, or the United States Coast Guard number or Department of Transportation number, of the vessel employed in taking the fish, if applicable;
- (5) the date fishing gear was deployed and the date the delivery or partial delivery of the fish is completed;
- (6) the permanent ADF&G vessel license plate number, if applicable;
- (7) the type of gear by which the fish were taken by the gear code number specified by the department;
- (8) the statistical areas, districts, and subdistricts in which the fish were taken and, if required by a local representative of the department, the nearest headland or bay in which the fish were taken;
- (9) the pounds, including any applicable weight modifier such as with ice and slime, delivery condition code, and disposition code, including any applicable overage code, of fish by species, except that
  - (A) for salmon and crab, the number is also required;

(B) for herring, only the weight, in pounds or tons, and delivery condition are required;

(10) an indication of a partial delivery, including a partial delivery of groundfish as specified in 5 AAC 28.070(f), if applicable;

(11) the CFEC permit number of the operator of the unit of gear with which the fish were taken, imprinted on the fish ticket from the valid permit card or electronically captured from the valid permit card; the imprinting requirement under this paragraph may be suspended by a local representative of the department after presentation by the commercial fisherman of the operator's permit application validated by CFEC or documentation from the department or CFEC that the permit card has been damaged, lost, or stolen; if a suspension is granted, the buyer or commercial fisherman must handwrite the name of the permit holder, the permit holder's permit number, and, if applicable, the permanent ADF&G vessel license plate number on the fish ticket, and attach a copy of the supporting documentation;

(12) the number or pounds of fish by species retained by a commercial fisherman for that person's own use, if applicable;

(13) the number of licensed crewmembers, including the vessel operator, if applicable;

(14) the number of certified onboard observers, if applicable;

(15) the management program code, if using the eLandings Electronic Reporting System;

(16) the permanent ADF&G vessel license plate number of the tender vessel, if applicable;

(17) for a dual permit, the second CFEC permit number, if required by the department;

(18) any other information that the commissioner determines is necessary.

(d) A person may not possess a fish ticket that has been imprinted with a CFEC permit number until the time of delivery or partial delivery.

(e) A buyer of fish harvested through a CDQ program, as described in 6 AAC 93, shall electronically submit a fish ticket at least one time per week. The buyer may use the consolidated fish ticket feature in the eLandings Electronic Reporting System, including seaLandings, to generate the fish ticket. In this subsection, "week" means a seven-day period of time that begins on Sunday and ends on Saturday.

(f) An individual, company, firm, or other organization described in (a) of this section shall furnish, verbally or in writing, purchasing, production, or other information as required by the commissioner.

(g) Not later than April 1, a first purchaser, catcher-exporter, or catcher-processor that has been assigned a processor code under (a) of this section shall submit a Commercial Operator's Annual Report (COAR), which is an operator's accurate and complete summary of activity for each intent to operate application approved by the department for the previous year, or a signed statement of nonactivity for the previous year, on a form provided by the department or available online. The department will not authorize operations for the current year to an applicant that has not submitted all COAR reports due under this section for any previous year.

(h) A commercial fisherman shall furnish to the buyer information necessary for completion of reports required by the commissioner.

(i) An individual, company, firm, or other organization described in (a) of this section using the eLandings Electronic Reporting System must electronically submit the initial landing report at the completion of a delivery or partial delivery, and submit to the department the final landing report and a copy of the fish ticket generated and printed from the eLandings Electronic Reporting System not later than seven days after the delivery or partial delivery.

(j) A commercial fisherman shall submit to the department verbally, in writing, or electronically through the eLandings Electronic Reporting System, directly or through the buyer, information necessary for reports required by the commissioner.

(k) Unless otherwise specified in this chapter, in addition to other requirements of this section, each person that is the first purchaser of or that first processes raw groundfish or halibut shall comply with the record keeping and electronic reporting requirements through the eLandings Electronic Reporting System and any other reporting requirements in 50 C.F.R. 679.5, revised as of October 1, 2013.

(l) The commissioner may, by emergency order, close a fishing season and immediately reopen a fishing season during which a different reporting requirement is in effect.

(m) In addition to the other provisions of this section, if the commissioner determines it is necessary, the following information regarding the transporting, delivery, or shipping of unprocessed fish must be transmitted to an authorized local representative of the department either in person, in writing, by radio or telephone, or by other means specified by the department:

(1) the number and species of salmon taken in a regulatory area must be reported before being transported to any other area or out of this state;

(2) the number or pounds, by species, of all other fish must be reported before being transported out of this state;

(3) the number or pounds, by species, of fish taken by a catcher-seller must be reported upon delivery or before shipping the fish within the state.

(n) A floating processor shall report in person, by radio or telephone, or by other means specified by the department, to the local representative of the department located

within the management area of intended operation before the start of processing operations. The report must include the initial processing location by district or subdistrict and latitude and longitude, and the date of intended operation. Before moving the operation and upon arriving at a new location, the operator shall notify the local representative of the department in person, by radio or telephone, or by other means specified by the department, of the new location of operation by district or subdistrict and latitude and longitude. A local representative of the department may waive all or part of the requirements of this subsection upon determining that the requirements are not necessary for the conservation or management of the fishery in that area.

(o) In this section,

(1) "buyer-exporter" means the first purchaser of unprocessed fish that exports or attempts to export out of this state the fish either unprocessed or custom processed;

(2) "catcher-exporter" means a commercial fisherman who exports or attempts to export out of this state unprocessed or custom processed fish that were legally taken by the catcher-exporter;

(3) "catcher-processor" means a commercial fisherman who sells or attempts to sell processed or unprocessed fish that were legally taken by the catcher-processor in or out of this state;

(4) "catcher-seller" means a commercial fisherman who sells or attempts to sell unprocessed fish that were legally taken by the catcher-seller

(A) to the general public for use for noncommercial purposes;

(B) for use as bait for commercial or noncommercial purposes;

(C) to restaurants, grocery stores, and established fish markets;

(D) by shipping the fish to a licensed buyer, processor, or exporter within this state;

(5) "commercial fish transporter" means those individuals whose activities require a permit under AS 16.05.671;

(6) "custom processed" means that the fish is processed by a person that does not own the fish;

(7) "delivery" means offloading fish for sale or for transport to a buyer for later sale;

(8) "dual permit" means the use of additional fishing gear on board a vessel or at a set gillnet site under a second CFEC permit as allowed under the applicable provisions in this title;

(9) "eLandings Electronic Reporting System"



(A) means the electronic and Internet based reporting system maintained by the department, the National Marine Fisheries Service, Alaska Region, and the International Pacific Halibut Commission to provide an alternative to paper fish tickets;

(B) includes the following:

(i) eLandings, which is a web application for shore side and Internet capable vessels;

(ii) seaLandings, which is a desktop application for sea vessels without Internet capability;

(iii) tLandings, which is a portable data storage application for tender and other operations;

(10) "first purchaser:

(A) means the person that first purchases unprocessed fish directly from the commercial fisherman for the purchaser's own business and does not act as a buying agent for another business;

(B) includes a

(i) buyer-exporter;

(ii) floating processor;

(iii) independent buyer;

(iv) shorebased processor;

(11) "fish ticket" includes

(A) a department issued paper copy form for recording harvest; and

(B) an electronically generated record of harvest from the eLandings Electronic Reporting System;

(12) "floating processor" includes the operator of a vessel who

(A) operates as a catcher-processor;

(B) is the first purchaser of unprocessed fish and sells or attempts to sell processed or unprocessed fish in or out of this state;

(13) "independent buyer" means the first purchaser of unprocessed fish for sale unprocessed within this state to a shorebased processor, floating processor, or buyer-exporter;

(14) "partial delivery" means the offloading of fish for sale or for transport to a buyer of only a portion of the total harvest from one vessel's trip, excluding catch retained for

(A) personal use under 5 AAC 39.010;

(B) bait under applicable provisions of this title;

(15) "shorebased processor" means a land-based first purchaser that purchases unprocessed fish and sells or attempts to sell that fish, processed or unprocessed, in or out of this state;

(16) "trip" means

(A) for a vessel on which fish are harvested but not processed, the period of time from when the vessel commences fishing until completion of the final delivery; a trip may include one or more partial deliveries; or

(B) a period of time designated by the department, such as every seven days.

(17) "tender vessel" means a vessel whose operator acts as an agent for a processor and accepts delivery of fish from a commercial fisherman or another tender vessel for transport to a shore-based or floating processor.

**5 AAC 39.135. Requirements for releasing confidential information to third persons.** (a) A person requesting the release of confidential information to a third person regarding the requesting person's fishery landings shall make the request in the form of a limited power of attorney on a request form provided by the department. The department will make the request form available at its local and regional offices and its website.

(b) The person requesting the release of information under this section shall indicate on the request form the time period that the person authorizes the department to release the information that is not less than 30 days and not more than one year from the date that the person signs the form.

(c) The person requesting the release of information under this section shall complete the request form as prescribed by the department. When submitting the form in person, the person shall produce a government-issued photo identification for inspection by a department employee. If the form is being submitted by mail, the person shall first have the form notarized. If the form is being sent by facsimile, the person shall first have the form notarized, and after facsimile transmission, shall mail the original form to the department office that the facsimile was sent. The department will not release information requested under this section until it receives the original, completed request form.

**5 AAC 39.140. Inspection of fishing establishments and vessels.** (a) Representatives of the Department of Fish and Game or the Department of Public Safety shall have free and unobstructed access to all fishing vessels, canneries, salteries, and other land-based or floating processing establishments to inspect catch, equipment, gear, and operational compliance with AS 16 and regulations promulgated thereunder.

(b) Upon being approached by a vessel or aircraft under the control of a representative of the Departments of Fish and Game or Public Safety, the operator of a fishing vessel, catcher-processor, or floating processor shall be alert for, and immediately comply with, signals conveying enforcement intent. A vessel operator signaled to stop or heave to for boarding shall

(1) stop immediately and lay to or maneuver in such a way as to permit the representative and his party to come aboard;

(2) if requested, provide a safe ladder for the representative and his party;

(3) when necessary to facilitate the boarding, provide a man rope, safety line and illumination of the ladder;

(4) take such other actions as necessary to ensure the safety of the representative and party and to facilitate the boarding; and

(5) make every effort to comply with all lawful orders given by the representative, except that the owner or operator of the vessel is solely responsible for navigation, supervision, and control of the vessel and his decisions shall be final in all matters pertaining to proper navigation and safety of the vessel crew, and fishing gear.

(c) On a vessel which catches and processes crab and is required to carry an observer under 5 AAC 39.645, the vessel operator must separate crab to be retained and, before butchering, must make those crab available to the observer for inspection.

(d) Notwithstanding the requirements of 5 AAC 30.392(a), 5 AAC 30.393, 5 AAC 33.392(d), and 5 AAC 33.393, upon request by a local representative of the department or a peace officer of the state, a fisherman or processor shall relinquish the tag and head of adipose-fin-clipped salmon, and shall inform the representative or peace officer of the date and location of the catch, if known.

**5 AAC 39.150. Explosives, chemicals and poisons unlawful.** The use of an explosive, chemical or poison in the taking or killing of fish or shellfish is prohibited, except that chemical baits or lures may be used to attract shellfish.

**5 AAC 39.155. Seine drums unlawful.** It shall be unlawful to have mounted aboard any seine vessel a seine drum or reel around which a seine can be coiled or rolled.

**5 AAC 39.166. Mandatory retention of prohibited salmon species by commercial trawl vessels for counting and sampling.** (a) The operator of a vessel taking groundfish with trawl gear in the waters of Alaska in the Bering Sea-Aleutian Islands Area described in 5 AAC 28.600 shall retain, on board the vessel or at the shoreside processing plant, salmon taken as bycatch with the trawl gear. After the salmon bycatch has been counted and sampled by a groundfish observer certified by the National Marine Fisheries Service (NMFS), the vessel operator shall provide for the disposal of the salmon in marine waters in a manner not inconsistent with applicable state or federal statutes and regulations.

(b) The operator of a vessel taking groundfish with trawl gear in federal waters adjacent to the area described in (a) of this section shall comply with (a) of this section if salmon taken as bycatch with the trawl gear are brought into the waters of Alaska.

(c) For the purposes of this section "sample" means to examine a portion of the bycatch, and may include

(1) noting sex, species, length, and weight;

(2) taking scale or tissue specimens; and

(3) taking other measurements or specimens considered necessary by either the groundfish observer or a representative of the department.

(d) Repealed 6/2/95.

**5 AAC 39.170. Monofilament purse seine web unlawful.** It is unlawful to use single- or multiple-strand monofilament purse seine web. For the purpose of this regulation, "monofilament" means any single filament having more than 50 denier, that is, weighing more than 50 grams per 9,000 meters of filament.

**5 AAC 39.175. Use of lights prohibited.** It is unlawful to use artificial lights to attract salmon out of closed waters for the purpose of a commercial taking.

**5 AAC 39.180. Time limit for preservation of salmon.** It is unlawful to preserve for sale as food any salmon, unless it has been canned, salted, iced, frozen, brine chilled, smoked, or dried within 48 hours after being killed.

**5 AAC 39.185. Policy on closures due to illegal fishing.** (a) Some fisheries have had a documented history of illegal commercial fishing dating back to 1968. Enforcement efforts by the Department of Public Safety have been largely ineffective in controlling this recurring problem on a long-term basis. The Board recognizes the difficulty of enforcement in some areas of the state and although the current regulations are sufficient to protect fish stocks, they may be ineffective due to special enforcement problems.

(b) In the interest of the conservation of valuable renewable fish resources, the Board of Fisheries directs the commissioner, or his authorized designee, to take the following actions given the specified circumstances. If illegal fishing activities develop to the point that regulations pertaining to protection of fish stocks become ineffective, the commissioner shall consider closing the affected fishery by emergency order for a period of up to one week. When the fishery reopens and illegal fishing continues to be a problem, the appropriate fishery may be closed for an additional period of time. Continued violations may result in additional closures of the fishery.

**5 AAC 39.190. Driving salmon prohibited.** It is unlawful to drive or attempt to drive salmon from waters closed to salmon fishing.

**5 AAC 39.195. Announcement of emergency orders.** Announcement of emergency orders will be publicized and made known to interested persons, fishermen, buyers, packers, and canneries by one or more of the following means, if possible:

- (1) radio transmission by department stations;
- (2) notices posted at canneries and public places;
- (3) press releases and announcements in
  - (A) the department's website;
  - (B) local newspapers; and
  - (C) commercial radio stations;
- (4) telephone message hotline;
- (5) electronic mail;
- (6) facsimile transmission;
- (7) other appropriate public notification media.

**5 AAC 39.197. Unlawful possession of fish.** No person may possess, purchase, sell, barter or transport fish within the state or within water subject to the jurisdiction of the state if that person knows or has reason to know that fish were taken or possessed in contravention of 5 AAC 03 - 5 AAC 39.

**5 AAC 39.198. Foreign fish processing permits.** (a) Except as provided in this chapter, a foreign fishing vessel is prohibited from engaging in fish processing in the internal waters of Alaska.

(b) A foreign fishing vessel may engage in fish processing in the internal waters of Alaska if

(1) the foreign nation under which it is flagged will be a party to an agreement or a treaty, as required by 16 U.S.C. 1856(c), and during the time the vessel will engage in the fish processing;

(2) the owner or operator of the foreign fishing vessel, or a person representing the owner or operator, applies to the governor for, and is granted, a foreign processing permit for the vessel to engage in fish processing in the internal waters of Alaska.

(c) The governor will not grant a permit under (b)(2) of this section if he determines that fish processors in Alaska have adequate capacity, and will use that capacity, to process all of the United States harvested fish from the fishery concerned that are landed in Alaska.

(d) In determining whether or not fish processors in Alaska have adequate capacity, and will use that capacity, to process all of the United States harvested fish from the fishery, the governor will, in his discretion, consider the following factors:

- (1) the total allowable catch expected in the fishery;
  - (2) availability and capability of harvesting vessels in Alaska, seasonal fishing and processing schedules, and marketing and other similar conditions in the fishery concerned and in alternative fisheries;
  - (3) availability of labor, adequacy and condition of processing machinery, freezers, and cold storage facilities of fish processors in Alaska, and the ability, intent and plans of those processors to process particular species;
  - (4) economic considerations, including contracts, agreements, and negotiations for the purchase of United States harvested fish by processors in Alaska;
  - (5) geographical considerations including proximity of harvest areas to the facilities of fish processors in Alaska; and
  - (6) the extent to which fish processors in Alaska have processed particular species.
- (e) An owner or operator of a foreign fishing vessel who submits an application for a permit to engage in fish processing in the internal waters of Alaska must
- (1) state the reasons why fish processors in Alaska do not have adequate capacity, or will not use their capacity, to process all of the United States harvested fish from the fishery concerned that are landed;
  - (2) provide the following information:
    - (A) vessel description and identification;
    - (B) names and descriptions of the vessels, if known, from which the applicant will purchase fish;
    - (C) the species and quantity proposed to be processed and processing methods to be used;
    - (D) a description of the fishery from which the species will be harvested;
    - (E) the stage of development of the fishery as established, developing or undeveloped, and a statement of how the proposed operation in the fishery will help to achieve the full potential of the resources and provide benefits including employment, food supply, and revenue;
    - (F) the dates for which permission is sought;
    - (G) the specific locations in internal waters proposed for foreign processing;
    - (H) the qualifying governing international fisheries agreement or treaty, as required by 16 U.S.C. 1856(c);

(I) evidence of compliance with applicable federal and state regulations including state laws and regulations that apply to processing vessels;

(J) proof of financial ability to purchase the expected quantity of fish to be processed, at reasonable market conditions;

(K) the ultimate sales market for the product, and marketing information showing how the operation will benefit development of the United States fishing industry;

(L) other information on the applicant's vessels, equipment, operations, and experience, reliance on local fishing vessel operations, and ability to benefit the United States fishing industry and residents of Alaska.

(f) In evaluating an application for a foreign processing permit, the governor will consider whether and to what extent the applicant and the applicant's nation have been, are, or will be contributing to the conservation, use, management, development, and enforcement of domestic fisheries programs.

(g) If a permit is granted, the governor will, in his discretion, designate times and areas of operations, species and quantities to be processed and other conditions of operation in order to attain desired benefits to the United States fishing industry.

(h) The governor will, in his discretion, suspend or terminate a permit granted under this section when he determines that processors in Alaska have adequate capacity, and will use that capacity, to process all United States harvested fish from the fishery and that the suspension or termination is necessary to achieve desired benefits to the United States fishing industry.

(i) The governor will, in his discretion, appoint a foreign processing advisory committee to obtain and review information regarding fish processing operations, including capacity determinations, in Alaska.

(j) In this section,

(1) "developed fishery" means a fishery in which United States processing capacity is available and has been used by United States fishermen and processors but not to the full extent of the total allowable catch in the fishery;

(2) "established fishery" means a fishery in which United States processing capacity has been available and has been used by United States fishermen and processors to the full extent of the total allowable catch in the fishery and in which full utilization by United States fishermen and processors is likely to continue;

(3) "fishery" means

(A) a stock or stocks of fish which may be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; or

(B) the commercial taking of these stocks;

(4) "foreign fishing vessel" means a vessel that is documented under the flag of a foreign nation and engages in fish processing;

(5) "internal waters of Alaska" means all waters within the boundaries of the state except those seaward of the baseline from which the territorial sea is measured;

(6) "processing" means the application of preservative methods to the flesh of fish to maintain quality and prevent deterioration, including

(A) storage and transportation of unprocessed fish;

(B) preparation for preservation;

(C) cooking, canning, smoking, salting, drying, freezing, icing, refrigeration, vacuum packing, gas, microwave preservation, and other preservation means;

(7) "total allowable catch" means the quantity of fish in a fishery that may be harvested without detriment to sustained yield;

(8) "undeveloped fishery" means a fishery in which there has been no United States commercial fishing nor processing of the total allowable catch in the fishery.

**5 AAC 39.200. Application of fishery management plans.** (a) The Board of Fisheries has implemented by regulation fishery management plans that provide the Department of Fish and Game with guidelines to be followed when making management decisions regarding the state's subsistence, commercial, sport and personal use fisheries. The primary goal of these management plans is to protect the sustained yield of the state's fishery resources while at the same time providing an equitable distribution of the available harvest between various users. The regulations contained in this section are intended to aid in the achievement of that goal and therefore will apply to all fishery management plans contained in 5 AAC 03 - 5 AAC 39.

(b) In some fishery management plans, the distribution of harvestable fish between various users is determined by the harvest that occurs during a specific time period, at a specific location or by a specific group or groups of users. At times fishermen, due to circumstances that are beyond the control of the department, such as weather or price disputes, will not harvest fish. When this happens in a fishery governed by a management plan, the goals of that plan may not be achieved. Therefore, when a fishery is open to the taking of fish and the group or groups of users whose catch determines the distribution of the harvest as set out in the applicable management plan is not taking the harvestable fish available to them, the department shall manage the fishery as if the available harvest is being taken. When determining the available harvest, the department shall consider the number of fish needed to meet spawning requirements, the number of fish present in the fishery and in spawning areas that are in excess of spawning requirements and the estimated harvesting capacity of the group or groups of users that would normally participate in the fishery.

**5 AAC 39.205. Criteria for the allocation of fishery resources among personal use, sport, and commercial fisheries.** Before adopting regulations that allocate fish among



personal use, sport, and commercial fisheries, the board will, as appropriate to particular allocation decisions, consider factors such as those set out in AS 16.05.251(e).

**Article 2. Salmon Fishery.**

**All Sections**

**5 AAC 39.220. Policy for the management of mixed stock salmon fisheries**

(a) In applying this statewide mixed stock salmon policy for all users, conservation of wild salmon stocks consistent with sustained yield shall be accorded the highest priority. Allocation of salmon resources under this policy will be consistent with the subsistence preference in AS 16.05.258, and the allocation criteria set out in 5 AAC 39.205, 5 AAC 75.017, and 5 AAC 77.007.

(b) In the absence of a regulatory management plan that otherwise allocates or restricts harvest, and when it is necessary to restrict fisheries on stocks where there are known conservation problems, the burden of conservation shall be shared among all fisheries in close proportion to their respective harvest on the stock of concern. The board recognized that precise sharing of conservation among fisheries is dependent on the amount of stock-specific information available.

(c) The board's preference in assigning conservation burdens in mixed stock fisheries is through the application of specific fishery management plans set out in the regulations. A management plan incorporates conservation burden and allocation of harvest opportunity.

(d) Most wild Alaska salmon stocks are fully allocated to fisheries capable of harvesting available surpluses. Consequently, the board will restrict new or expanding mixed stock fisheries unless otherwise provided for by management plans or by application of the board's allocation criteria. Natural fluctuations in the abundance of stocks harvested in a fishery will not be the single factor that identifies a fishery as expanding or new.

(e) This policy will be implemented only by the board through regulations adopted (1) during its regular meeting cycle; or (2) through procedures established in the Joint Board's Petition Policy (5 AAC 96.625), Subsistence Petition Policy (5 AAC 96.625(f)), Policy for Changing Board Agenda (5 AAC 39.999), or Subsistence Proposal Policy (5 AAC 96.615).

**5 AAC 39.222. Policy for the management of sustainable salmon fisheries**

(a) The Board of Fisheries (board) and Department of Fish and Game (department) recognize that

(1) while, in the aggregate, Alaska's salmon fisheries are healthy and sustainable largely because of abundant pristine habitat and the application of sound, precautionary, conservation management practices, there is a need for a comprehensive policy for the regulation and management of sustainable salmon fisheries;

(2) in formulating fishery management plans designed to achieve maximum or optimum salmon production, the board and department must consider factors including environmental change, habitat loss or degradation, data uncertainty, limited funding for research and management programs, existing harvest patterns, and new fisheries or expanding fisheries;

(3) to effectively assure sustained yield and habitat protection for wild salmon stocks, fishery management plans and programs require specific guiding principles and criteria, and the framework for their application contained in this policy.

(b) The goal of the policy under this section is to ensure conservation of salmon and salmon's required marine and aquatic habitats, protection of customary and traditional subsistence uses and other uses, and the sustained economic health of Alaska's fishing communities.

(c) Management of salmon fisheries by the state should be based on the following principles and criteria:

(1) wild salmon stocks and the salmon's habitats should be maintained at levels of resource productivity that assure sustained yields as follows:

(A) salmon spawning, rearing, and migratory habitats should be protected as follows:

(i) salmon habitats should not be perturbed beyond natural boundaries of variation;

(ii) scientific assessments of possible adverse ecological effects of proposed habitat alterations and the impacts of the alterations on salmon populations should be conducted before approval of a proposal;

(iii) adverse environmental impacts on wild salmon stocks and the salmon's habitats should be assessed;

(iv) all essential salmon habitat in marine, estuarine, and freshwater ecosystems and access of salmon to these habitats should be protected; essential habitats include spawning and incubation areas, freshwater rearing areas, estuarine and nearshore rearing areas, offshore rearing areas, and migratory pathways;

(v) salmon habitat in fresh water should be protected on a watershed basis, including appropriate management of riparian zones, water quality, and water quantity;

(B) salmon stocks should be protected within spawning, incubating, rearing, and migratory habitats;

(C) degraded salmon productivity resulting from habitat loss should be assessed, considered, and controlled by affected user groups, regulatory agencies, and boards when making conservation and allocation decisions;

(D) effects and interactions of introduced or enhanced salmon stocks on wild salmon stocks should be assessed; wild salmon stocks and fisheries on those stocks should be protected from adverse impacts from artificial propagation and enhancement efforts;

(E) degraded salmon spawning, incubating, rearing, and migratory habitats should be restored to natural levels of productivity where known and desirable;

(F) ongoing monitoring should be conducted to determine the current status of habitat and the effectiveness of restoration activities;

(G) depleted salmon stocks should be allowed to recover or, where appropriate, should be actively restored; diversity should be maintained to the maximum extent possible, at the genetic, population, species, and ecosystem levels;

(2) salmon fisheries shall be managed to allow escapements within ranges necessary to conserve and sustain potential salmon production and maintain normal ecosystem functioning as follows:

(A) salmon spawning escapements should be assessed both temporally and geographically; escapement monitoring programs should be appropriate to the scale, intensity, and importance of each salmon stock's use;

(B) salmon escapement goals, whether sustainable escapement goals, biological escapement goals, optimal escapement goals, or inriver run goals, should be established in a manner consistent with sustained yield; unless otherwise directed, the department will manage Alaska's salmon fisheries, to the extent possible, for maximum sustained yield;

(C) salmon escapement goal ranges should allow for uncertainty associated with measurement techniques, observed variability in the salmon stock measured, changes in climatic and oceanographic conditions, and varying abundance within related populations of the salmon stock measured;

(D) salmon escapement should be managed in a manner to maintain genetic and phenotypic characteristics of the stock by assuring appropriate geographic and temporal distribution of spawners as well as consideration of size range, sex ratio, and other population attributes;

(E) impacts of fishing, including incidental mortality and other human-induced mortality, should be assessed and considered in harvest management decisions;

(F) salmon escapement and harvest management decisions should be made in a manner that protects nontarget salmon stocks or species;

(G) the role of salmon in ecosystem functioning should be evaluated and considered in harvest management decisions and setting of salmon escapement goals;

(H) salmon abundance trends should be monitored and considered in harvest management decisions;

(3) effective management systems should be established and applied to regulate human activities that affect salmon as follows:

(A) salmon management objectives should be appropriate to the scale and intensity of various uses and the biological capacities of target salmon stocks;

(B) management objectives should be established in harvest management plans, strategies, guiding principles, and policies, such as for mixed stock fishery harvests, fish disease, genetics, and hatchery production, that are subject to periodic review;

(C) when wild salmon stocks are fully allocated, new fisheries or expanding fisheries should be restricted, unless provided for by management plans or by application of the board's allocation criteria;

(D) management agencies should have clear authority in statute and regulation to

(i) control all sources of fishing mortality on salmon;

(ii) protect salmon habitats and control nonfishing sources of mortality;

(E) management programs should be effective in

(i) controlling human-induced sources of fishing mortality and should incorporate procedures to assure effective monitoring, compliance, control, and enforcement;

(ii) protecting salmon habitats and controlling collateral mortality and should incorporate procedures to assure effective monitoring, compliance, control, and enforcement;

(F) fisheries management implementation and outcomes should be consistent with regulations, regulations should be consistent with statutes, and effectively carry out the purpose of this section;

(G) the board will recommend to the commissioner the development of effective joint research, assessment, and management arrangements with appropriate management agencies and bodies for salmon stocks that cross state, federal, or international jurisdictional boundaries; the board will recommend the coordination of appropriate procedures for effective monitoring, compliance, control, and enforcement with those of other agencies, states, or nations;

(H) the board will work, within the limits of its authority, to assure that

(i) management activities are accomplished in a timely and responsive manner to implement objectives, based on the best available scientific information;

(ii) effective mechanisms for the collection and dissemination of information and data necessary to carry out management activities are developed, maintained, and utilized;

(iii) management programs and decision-making procedures are able to clearly distinguish, and effectively deal with, biological and allocation issues;

(I) the board will recommend to the commissioner and legislature that adequate staff and budget for research, management, and enforcement activities be available to fully implement sustainable salmon fisheries principles;

(J) proposals for salmon fisheries development or expansion and artificial propagation and enhancement should include assessments required for sustainable management of existing salmon fisheries and wild salmon stocks;

(K) plans and proposals for development or expansion of salmon fisheries and enhancement programs should effectively document resource assessments, potential impacts, and other information needed to assure sustainable management of wild salmon stocks;

(L) the board will work with the commissioner and other agencies to develop effective processes for controlling excess fishing capacity;

(M) procedures should be implemented to regularly evaluate the effectiveness of fishery management and habitat protection actions in sustaining salmon populations, fisheries, and habitat, and to resolve associated problems or deficiencies;

(N) conservation and management decisions for salmon fisheries should take into account the best available information on biological, environmental, economic, social, and resource use factors;

(O) research and data collection should be undertaken to improve scientific and technical knowledge of salmon fisheries, including ecosystem interactions, status of salmon populations, and the condition of salmon habitats;

(P) the best available scientific information on the status of salmon populations and the condition of the salmon's habitats should be routinely updated and subject to peer review;

(4) public support and involvement for sustained use and protection of salmon resources should be sought and encouraged as follows:

(A) effective mechanisms for dispute resolution should be developed and used;

(B) pertinent information and decisions should be effectively disseminated to all interested parties in a timely manner;

(C) the board's regulatory management and allocation decisions will be made in an open process with public involvement;

(D) an understanding of the proportion of mortality inflicted on each salmon stock by each user group, should be promoted, and the burden of conservation should be allocated across user groups in a manner consistent with applicable state and federal statutes, including AS 16.05.251(e) and AS 16.05.258; in the absence of a regulatory

management plan that otherwise allocates or restricts harvests, and when it is necessary to restrict fisheries on salmon stocks where there are known conservation problems, the burden of conservation shall be shared among all fisheries in close proportion to each fisheries' respective use, consistent with state and federal law;

(E) the board will work with the commissioner and other agencies as necessary to assure that adequately funded public information and education programs provide timely materials on salmon conservation, including habitat requirements, threats to salmon habitat, the value of salmon and habitat to the public and ecosystem (fish and wildlife), natural variability and population dynamics, the status of salmon stocks and fisheries, and the regulatory process;

(5) in the face of uncertainty, salmon stocks, fisheries, artificial propagation, and essential habitats shall be managed conservatively as follows:

(A) a precautionary approach, involving the application of prudent foresight that takes into account the uncertainties in salmon fisheries and habitat management, the biological, social, cultural, and economic risks, and the need to take action with incomplete knowledge, should be applied to the regulation and control of harvest and other human-induced sources of salmon mortality; a precautionary approach requires

(i) consideration of the needs of future generations and avoidance of potentially irreversible changes;

(ii) prior identification of undesirable outcomes and of measures that will avoid undesirable outcomes or correct them promptly;

(iii) initiation of any necessary corrective measure without delay and prompt achievement of the measure's purpose, on a time scale not exceeding five years, which is approximately the generation time of most salmon species;

(iv) that where the impact of resource use is uncertain, but likely presents a measurable risk to sustained yield, priority should be given to conserving the productive capacity of the resource;

(v) appropriate placement of the burden of proof, of adherence to the requirements of this subparagraph, on those plans or ongoing activities that pose a risk or hazard to salmon habitat or production;

(B) a precautionary approach should be applied to the regulation of activities that affect essential salmon habitat.

(d) The principles and criteria for sustainable salmon fisheries shall be applied, by the department and the board using the best available information, as follows:

(1) at regular meetings of the board, the department will, to the extent practicable, provide the board with reports on the status of salmon stocks and salmon fisheries under consideration for regulatory changes, which should include

(A) a stock-by-stock assessment of the extent to which the management of salmon stocks and fisheries is consistent with the principles and criteria contained in the policy under this section;

(B) descriptions of habitat status and any habitat concerns;

(C) identification of healthy salmon stocks and sustainable salmon fisheries;

(D) identification of any existing salmon escapement goals, or management actions needed to achieve these goals, that may have allocative consequences such as the

(i) identification of a new fishery or expanding fishery;

(ii) identification of any salmon stocks, or populations within stocks, that present a concern related to yield, management, or conservation; and

(iii) description of management and research options to address salmon stock or habitat concerns;

(2) in response to the department's salmon stock status reports, reports from other resource agencies, and public input, the board will review the management plan, or consider developing a management plan, for each affected salmon fishery or stock; management plans will be based on the principles and criteria contained in this policy and will

(A) contain goals and measurable and implementable objectives that are reviewed on a regular basis and utilize the best available scientific information;

(B) minimize the adverse effects on salmon habitat caused by fishing;

(C) protect, restore, and promote the long-term health and sustainability of the salmon fishery and habitat;

(D) prevent overfishing; and

(E) provide conservation and management measures that are necessary and appropriate to promote maximum or optimum sustained yield of the fishery resource;

(3) in the course of review of the salmon stock status reports and management plans described in (1) and (2) of this subsection, the board, in consultation with the department, will determine if any new fisheries or expanding fisheries, stock yield concerns, stock management concerns, or stock conservation concerns exist; if so, the board will, as appropriate, amend or develop salmon fishery management plans to address these concerns; the extent of regulatory action, if any, should be commensurate with the level of concerns and range from milder to stronger as concerns range from new and expanding salmon fisheries through yield concerns, management concerns, and conservation concerns;

(4) in association with the appropriate management plan, the department and the board will, as appropriate, collaborate in the development and periodic review of an

action plan for any new or expanding salmon fisheries, or stocks of concern; action plans should contain goals, measurable and implementable objectives, and provisions, including

(A) measures required to restore and protect salmon habitat, including necessary coordination with other agencies and organizations;

(B) identification of salmon stock or population rebuilding goals and objectives;

(C) fishery management actions needed to achieve rebuilding goals and objectives, in proportion to each fishery's use of, and hazards posed to, a salmon stock;

(D) descriptions of new or expanding salmon fisheries, management concern, yield concern, or conservation concern; and

(E) performance measures appropriate for monitoring and gauging the effectiveness of the action plan that are derived from the principles and criteria contained in this policy;

(5) each action plan will include a research plan as necessary to provide information to address concerns; research needs and priorities will be evaluated periodically, based on the effectiveness of the monitoring described in (4) of this subsection;

(6) where actions needed to regulate human activities that affect salmon and salmon's habitat that are outside the authority of the department or the board, the department or board shall correspond with the relevant authority, including the governor, relevant boards and commissions, commissioners, and chairs of appropriate legislative committees, to describe the issue and recommend appropriate action.

(e) Nothing in the policy under this section is intended to expand, reduce, or be inconsistent with, the statutory regulatory authority of the board, the department, or other state agencies with regulatory authority that impacts the fishery resources of the state.

(f) In this section, and in implementing this policy,

(1) "allocation" means the granting of specific harvest privileges, usually by regulation, among or between various user groups; "allocation" includes quotas, time periods, area restrictions, percentage sharing of stocks, and other management measures providing or limiting harvest opportunity;

(2) "allocation criteria" means the factors set out in AS 16.05.251(e) considered by the board as appropriate to particular allocation decisions under 5 AAC 39.205, 5 AAC 75.017, and 5 AAC 77.007;

(3) "biological escapement goal" or "(BEG)" means the escapement that provides the greatest potential for maximum sustained yield; BEG will be the primary management objective for the escapement unless an optimal escapement or inriver run goal has been adopted; BEG will be developed from the best available biological information, and should be scientifically defensible on the basis of available biological information; BEG will be determined by the department and will be expressed as a range



based on factors such as salmon stock productivity and data uncertainty; the department will seek to maintain evenly distributed salmon escapements within the bounds of a BEG;

(4) "burden of conservation" means the restrictions imposed by the board or department upon various users in order to achieve escapement, rebuild, or in some other way conserve a specific salmon stock or group of stocks; this burden, in the absence of a salmon fishery management plan, will be generally applied to users in close proportion to the users' respective harvest of the salmon stock;

(5) "chronic inability" means the continuing or anticipated inability to meet escapement thresholds over a four to five year period, which is approximately the generation time of most salmon species;

(6) "conservation concern" means concern arising from a chronic inability, despite the use of specific management measures, to maintain escapements for a stock above a sustained escapement threshold (SET); a conservation concern is more severe than a management concern;

(7) "depleted salmon stock" means a salmon stock for which there is a conservation concern;

(8) "diversity", in a biological context, means the range of variation exhibited within any level of organization, such as among genotypes within a salmon population, among populations within a salmon stock, among salmon stocks within a species, among salmon species within a community, or among communities within an ecosystem;

(9) "enhanced salmon stock" means a stock of salmon that is undergoing specific manipulation, such as hatchery augmentation or lake fertilization, to enhance its productivity above the level that would naturally occur; "enhanced salmon stock" includes an introduced stock, where no wild salmon stock had occurred before, or a wild salmon stock undergoing manipulation, but does not include a salmon stock undergoing rehabilitation, which is intended to restore a salmon stock's productivity to a higher natural level;

(10) "escapement" means the annual estimated size of the spawning salmon stock; quality of the escapement may be determined not only by numbers of spawners, but also by factors such as sex ratio, age composition, temporal entry into the system, and spatial distribution within the salmon spawning habitat;

(11) "expanding fishery" means a salmon fishery in which effective harvesting effort has recently increased significantly beyond historical levels and where the increase has not resulted from natural fluctuations in salmon abundance;

(12) "expected yields" mean levels at or near the lower range of recent historic harvests if they are deemed sustainable;

(13) "genetic" means those characteristics (genotypic) of an individual or group of salmon that are expressed genetically, such as allele frequencies or other genetic markers;

(14) "habitat concern" means the degradation of salmon habitat that results in, or can be anticipated to result in, impacts leading to yield, management, or conservation concerns;

(15) "harvestable surplus" means the number of salmon from a stock's annual run that is surplus to escapement needs and can reasonably be made available for harvest;

(16) "healthy salmon stock" means a stock of salmon that has annual runs typically of a size to meet escapement goals and a potential harvestable surplus to support optimum or maximum sustained yield;

(17) "incidental harvest" means the harvest of fish, or other species, that is captured in addition to the target species of a fishery;

(18) "incidental mortality" means the mortality imposed on a salmon stock outside of directed fishing, and mortality caused by incidental harvests, interaction with fishing gear, habitat degradation, and other human-related activities;

(19) "inriver run goal" means a specific management objective for salmon stocks that are subject to harvest upstream of the point where escapement is estimated; the inriver run goal will be set in regulation by the board and is comprised of the SEG, BEG, or OEG, plus specific allocations to inriver fisheries;

(20) "introduced stock" means a stock of salmon that has been introduced to an area, or portion of an area, where that stock had not previously occurred; an "introduced salmon stock" includes a salmon stock undergoing continued enhancement, or a salmon stock that is left to sustain itself with no additional manipulation;

(21) "management concern" means a concern arising from a chronic inability, despite use of specific management measures, to maintain escapements for a salmon stock within the bounds of the SEG, BEG, OEG, or other specified management objectives for the fishery; a management concern is not as severe as a conservation concern;

(22) "maximum sustained yield" or "(MSY)" means the greatest average annual yield from a salmon stock; in practice, MSY is achieved when a level of escapement is maintained within a specific range on an annual basis, regardless of annual run strength; the achievement of MSY requires a high degree of management precision and scientific information regarding the relationship between salmon escapement and subsequent return; the concept of MSY should be interpreted in a broad ecosystem context to take into account species interactions, environmental changes, an array of ecosystem goods and services, and scientific uncertainty;

(23) "mixed stock fishery" means a fishery that harvests fish from a mixture of stocks;

(24) "new fishery" means a fishery that new units of effort or expansion of existing effort toward new species, areas, or time periods, results in harvest patterns substantially different from those in previous years, and the difference is not exclusively the result of natural fluctuations in fish abundance;

(25) "optimal escapement goal" or "(OEG)" means a specific management objective for salmon escapement that considers biological and allocative factors and may differ from the SEG or BEG; an OEG will be sustainable and may be expressed as a range with the lower bound above the level of SET, and will be adopted as a regulation by the board; the department will seek to maintain evenly distributed escapements within the bounds of the OEG;

(26) "optimum sustained yield" or "(OSY)" means an average annual yield from a salmon stock considered to be optimal in achieving a specific management objective other than maximum yield, such as achievement of a consistent level of sustained yield, protection of a less abundant or less productive salmon stock or species, enhancement of catch per unit effort in sport fishery, facilitation of a nonconsumptive use, facilitation of a subsistence use, or achievement of a specific allocation;

(27) "overfishing" means a level of fishing on a salmon stock that results in a conservation or management concern;

(28) "phenotypic characteristics" means those characteristics of an individual or group of salmon that are expressed physically, such as body size and length at age;

(29) "rehabilitation" means efforts applied to a salmon stock to restore it to an otherwise natural level of productivity; "rehabilitation" does not include an enhancement, which is intended to augment production above otherwise natural levels;

(30) "return" means the total number of salmon in a stock from a single brood (spawning) year surviving to adulthood; because the ages of adult salmon (except pink salmon) returning to spawn varies, the total return from a brood year will occur over several calendar years; the total return generally includes those mature salmon from a single brood year that are harvested in fisheries plus those that compose the salmon stock's spawning escapement; "return" does not include a run, which is the number of mature salmon in a stock during a single calendar year;

(31) "run" means the total number of salmon in a stock surviving to adulthood and returning to the vicinity of the natal stream in any calendar year, composed of both the harvest of adult salmon plus the escapement; the annual run in any calendar year, except for pink salmon, is composed of several age classes of mature fish from the stock, derived from the spawning of a number of previous brood years;

(32) "salmon" means the five wild anadromous semelparous Pacific salmon species *Oncorhynchus* sp., except steelhead and cutthroat trout, native to Alaska as follows:

- (A) Chinook or king salmon (*O. tshawytscha*);
- (B) sockeye or red salmon (*O. nerka*);
- (C) coho or silver salmon (*O. kisutch*);
- (D) pink or humpback salmon (*O. gorbuscha*); and

(E) chum or dog salmon (O. keta);

(33) "salmon population" means a locally interbreeding group of salmon that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics, comprised of an entire stock or a component portion of a stock; the smallest uniquely identifiable spawning aggregation of genetically similar salmon used for monitoring purposes;

(34) "salmon stock" means a locally interbreeding group of salmon that is distinguished by a distinct combination of genetic, phenotypic, life history, and habitat characteristics or an aggregation of two or more interbreeding groups which occur within the same geographic area and is managed as a unit;

(35) "stock of concern" means a stock of salmon for which there is a yield, management, or conservation concern;

(36) "sustainable escapement goal" or "(SEG)" means a level of escapement, indicated by an index or an escapement estimate, that is known to provide for sustained yield over a 5 to 10 year period, used in situations where a BEG cannot be estimated or managed for; the SEG is the primary management objective for the escapement, unless an optimal escapement or inriver run goal has been adopted by the board; the SEG will be developed from the best available biological information; and should be scientifically defensible on the basis of that information; the SEG will be determined by the department and will take into account data uncertainty and be stated as either a "SEG range" or "lower bound SEG"; the department will seek to maintain escapements within the bounds of the SEG range or above the level of a lower bound SEG;

(37) "sustainable salmon fishery" means a salmon fishery that persists and obtains yields on a continuing basis; characterized by fishing activities and habitat alteration, if any, that do not cause or lead to undesirable changes in biological productivity, biological diversity, or ecosystem structure and function, from one human generation to the next;

(38) "sustained yield" means an average annual yield that results from a level of salmon escapement that can be maintained on a continuing basis; a wide range of average annual yield levels is sustainable; a wide range of annual escapement levels can produce sustained yields;

(39) "sustained escapement threshold" or "(SET)" 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 BEG and lower than the lower bound of the SEG; the SET is established by the department in consultation with the board, as needed, for salmon stocks of management or conservation concern;

(40) "target species" or "target salmon stocks" means the main, or several major, salmon species of interest toward which a fishery directs its harvest;

(41) "yield" means the number or weight of salmon harvested in a particular year or season from a stock;

(42) "yield concern" means a concern arising from a chronic inability, despite the use of specific management measures, to maintain expected yields, or harvestable surpluses, above a stock's escapement needs; a yield concern is less severe than a management concern, which is less severe than a conservation concern;

(43) "wild salmon stock" means a stock of salmon that originates in a specific location under natural conditions; "wild salmon stock" may include an enhanced or rehabilitated stock if its productivity is augmented by supplemental means, such as lake fertilization or rehabilitative stocking; "wild salmon stock" does not include an introduced stock, except that some introduced salmon stocks may come to be considered "wild" if the stock is self-sustaining for a long period of time;

(44) "action point" means a threshold value for some quantitative indicator of stock run strength at which an explicit management action will be taken to achieve an optimal escapement goal.

### **5 AAC 39.223. Policy for statewide salmon escapement goals**

(a) The Department of Fish and Game (department) and the Board of Fisheries (board) are charged with the duty to conserve and develop Alaska's salmon fisheries on the sustained yield principle. Therefore, the establishment of salmon escapement goals is the responsibility of both the board and the department working collaboratively. The purpose of this policy is to establish the concepts, criteria, and procedures for establishing and modifying salmon escapement goals and to establish a process that facilitates public review of allocative issues associated with escapement goals.

(b) The board recognizes the department's responsibility to

(1) document existing salmon escapement goals for all salmon stocks that are currently managed for an escapement goal;

(2) establish biological escapement goals (BEG) for salmon stocks for which the department can reliably enumerate salmon escapement levels, as well as total annual returns;

(3) establish sustainable escapement goals (SEG) for salmon stocks for which the department can reliably estimate escapement levels when there is not sufficient information to enumerate total annual returns and the range of escapements that are used to develop a BEG;

(4) establish sustained escapement thresholds (SET) as provided in 5 AAC 39.222 (Policy for the Management of Sustainable Salmon Fisheries);

(5) establish escapement goals for aggregates of individual spawning populations with similar productivity and vulnerability to fisheries and for salmon stocks managed as units;

(6) review an existing, or propose a new, BEG, SEG and SET on a schedule that conforms, to the extent practicable, to the board's regular cycle of consideration of area regulatory proposals;

(7) prepare a scientific analysis with supporting data whenever a new BEG, SEG, or SET, or a modification to an existing BEG, SEG, or SET is proposed and, in its discretion, to conduct independent peer reviews of its BEG, SEG, and SET analyses;

(8) notify the public whenever a new BEG, SEG, or SET is established or an existing BEG, SEG, or SET is modified;

(9) whenever allocative impacts arise from any management actions necessary to achieve a new or modified BEG, SEG or SET, report to the board on a schedule that conforms, to the extent practicable, to the board's regular cycle of consideration of area regulatory proposals so that it can address allocation issues.

(c) In recognition of its joint responsibilities, and in consultation with the department, the board will

(1) take regulatory actions as may be necessary to address allocation issues arising from implementation of a new or modified BEG, SEG, and SET;

(2) during its regulatory process, review a BEG, SEG, or SET determined by the department and, with the assistance of the department, determine the appropriateness of establishing an optimal escapement goal (OEG); the board will provide an explanation of the reasons for establishing an OEG and provide, to the extent practicable, and with the assistance of the department, an estimate of expected differences in yield of any salmon stock, relative to maximum sustained yield, resulting from implementation of an OEG.

(d) Unless the context requires otherwise, the terms used in this section have the same meaning given those terms in 5 AAC 39.222(f).

### **5 AAC 39.230. Gear**

Only those gillnets, seines, troll lines, fish wheels, spears or other appliances as provided for in 5 AAC 03 - 5 AAC 39 may be used to take salmon.

### **5 AAC 39.240. General gear specifications and operations**

(a) A salmon 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 except as otherwise provided in this title.

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

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

(d) Salmon fishing nets must be measured, either wet or dry, by determining the maximum or minimum distance between the first and last hanging of the net when the net is fully extended with traction applied at one end only.

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

**5 AAC 39.250. Gillnet specifications and operations**

(a) The trailing of gillnet web is prohibited at any time or place where fishing is not permitted.

(b) Set gillnets shall be removed from the water during any closed period.

(c) The gillnet web in a gillnet must contain

(1) at least 30 filaments, each of which must be of equal diameter; or

(2) at least six filaments, each of which must be at least 0.20 millimeters in diameter.

(d) The float line and floats of gillnets must be floating on the surface of the water while the net is fishing, unless natural conditions cause the net to temporarily sink. The restriction of this subsection does not apply in the Arctic-Kotzebue Area (5 AAC 03.100), the Norton Sound-Port Clarence Area (5 AAC 04.100), Districts 1 and 2 of the Yukon Area (5 AAC 05.100) when fishing under the ice, Districts 3 - 6 of the Yukon Area (5 AAC 05.100) all year, the Kuskokwim Area (5 AAC 07.100), and the Kodiak Area (5 AAC 18.100).

**5 AAC 39.260. Seine specifications and operations**

(a) In the use of purse seines and hand purse seines, not more than one anchor may be used to hold the seine, lead and seine boat during a set.

(b) Repealed 3/26/76.

(c) A purse seine has ceased fishing when both ends of the seine, excluding skiff tow lines and straps, are attached to the seine vessel.

(d) A hand purse seine is considered to have ceased fishing when both ends of the seine are fast to the vessel.

(e) A beach seine is considered to have ceased fishing when all of the lead line is above the water on the beach.

(f) Where the use of leads is permitted, a purse seine vessel may not have or use more than one lead of legal length and depth, without purse rings attached, and with a minimum mesh size of seven inches, except that a lead may have a cork line border strip not to exceed five meshes of less than seven-inch meshes stretch measure and a lead line chafing strip not to exceed 25 meshes less than seven-inch stretch measure.

(g) If a purse seine and a lead are operated together

(1) the lead must be attached to the purse seine;

(2) the lead may be attached to only one end of the purse seine;

(3) the lead may not be attached at any other part of the purse seine;

(4) the web of the purse seine must overlap the web of the lead by at least one fathom, or the web of the purse seine must be sewn to the end of the lead for the entire depth of the shallowest net;

(5) repealed 6/2/88;

(6) repealed 6/2/88;

(7) repealed 6/2/88;

(8) repealed 6/2/88.

(h) One end, and only one end, of a seine lead may be attached to land above the waterline. If the lead is attached to land above the waterline, no other anchor may be used on the lead, purse seine, seine vessel, or skiff. "Anchor" is defined in 5 AAC 39.105(d)(19).

(i) During the operation of a purse seine, the propulsion engines of the seine vessel, or the skiff assisting the operation, must be running and the vessel must be controlling the configuration of the purse seine.

(j) A seine vessel must be attached to one end, and only one end, of a purse seine or lead when it is in operation. Any line used to make the attachment may not be more than 13 fathoms in length.

(k) A purse seine may not be used as a lead for another purse seine.

**5 AAC 39.265. Retention of salmon taken in a commercial net fishery**

(a) The Board of Fisheries recognizes that at times during a commercial salmon season it may be necessary to require retention of all salmon species taken in a commercial net fishery for the purpose of conservation or development of the salmon resource.

(b) In a commercial salmon net fishery, if the commissioner determines that retention of all salmon species is necessary under this section, the commissioner may, by emergency order, close a commercial salmon net fishery and immediately reopen the fishery, during which all salmon species caught must be retained, unless otherwise specified in 5 AAC 01 - 77.

**5 AAC 39.280. Identification of stationary fishing gear**



(a) The owner or operator of a set gillnet or fish wheel in operation shall place in a conspicuous place on or near the set gillnet or fish wheel the name of the fisherman operating it, together with the fisherman's five-digit CFEC permit serial number. Numbers must be at least six inches in height with lines at least one inch wide and of a color contrasting with the background. The identification name and numbers for fish wheels must be placed on the side of the fish wheel facing midstream of the river.

(b) In addition to the requirements of (a) of this section, the owner or operator of a set gillnet in operation shall have at each end of the set gillnet a red keg, buoy, or cluster of floats, or, in the case of set gillnets anchored to land, shall have a red keg, buoy, or cluster of floats at the outer end of the net. The kegs, buoys, or clusters of floats must be plainly and legibly marked with the fisherman's five-digit CFEC permit serial number. The kegs, buoys, or clusters of floats may bear only a single number - that of the permit holder operating the gear. In the Upper Subdistrict of the Central District of the Cook Inlet Area, the operator of a set gillnet shall attach to the net a 'trailer' buoy that floats at all times.

#### **5 AAC 39.281. Vessel identification**

Repealed 4/18/86.

#### **5 AAC 39.290. Closed waters**

(a) Except as otherwise specified in this title, commercial fishing for salmon is prohibited at all times in the waters of Alaska that are

(1) within the fresh water of streams and rivers of this state;

(2) within 500 yards of the fresh water of a stream that is a salmon stream; or

(3) over the beds or channels of fresh water of streams and rivers of this state during all stages of the tide.

(b) The department may post any closed area designated in (a) of this section by appropriate markers. The department shall place such markers as close as practically possible to the distance or location specified by the applicable regulation or emergency order. However, where markers have been deployed, it is unlawful to take salmon for commercial purposes on the streamward side of the area indicated by the markers and as described in (a) of this section.

(c) Where markers as described above have been lost or destroyed or are not in place, the area closed to commercial salmon fishing is as specified by the applicable regulation or emergency order.

(d) The Ugashik, Yukon and Kuskokwim Rivers, the Yakutat Area and any other river where a legal commercial fishery now exists are the only exceptions to this closure.

(e) The points established for stream mouths listed in the Catalog of Waters Important for Spawning, Rearing, or Migration of Anadromous Fishes under 5 AAC 95.011 do not

apply to enforcement of this section or other regulations limiting the distance that commercial fishing may occur from the fresh water of a stream that is a salmon stream.

### **5 AAC 39.291. Boundary markers**

The department may post a boundary described in regulation by an appropriate marker. The marker must be placed as close as possible to the location specified in the applicable regulation. Where markers have been lost or destroyed, the boundary is as specified in the applicable regulation.

## **Article 9. Definitions; Miscellaneous.**

### **5 AAC 39.975. Definitions**

(a) In 5 AAC 01 - 5 AAC 39,

(1) "alien" means a person who is not a citizen of the United States, and who does not have a petition for naturalization pending before the district court;

(2) "bag limit" means the maximum legal take per person per day, even if part or all of the fish are preserved;

(3) "buyer" means a person who purchases fish from the fishermen who caught the fish or who, for commercial purposes, processes fish he has caught himself;

(4) "depth of net" means the perpendicular distance between cork line and lead line expressed as either linear units of measure or as a number of meshes, including all of the web of which the net is composed;

(5) repealed 2/18/73;

(6) "gear" means any type of fishing apparatus;

(7) "inclusive season dates" means whenever the doing of an act between certain dates or from one date to another is allowed or prohibited, the period of time thereby indicated includes both dates specified; the first date specified designates the first day of the period, and the second date specified designates the last day of the period;

(8) "legal limit of fishing gear" means the maximum aggregate of a single type of fishing gear permitted to be used by one individual or boat, or combination of boats in any particular regulatory area, district or section;

(9) "local representative of the department" means the nearest, most accessible professional employee of the department, a person designated by the commissioner or by a professional employee of the department to perform a specific function for the department and a law enforcement officer of the Department of Public Safety;

(10) "salmon stream" means a stream used by salmon, at any stage of life, for spawning, rearing, presence, or migration;

(11) "stretched measure" means the average length of any series of 10 consecutive meshes measured from inside the first knot and including the last knot when wet; the 10 meshes, when being measured, shall be an integral part of the net, as hung, and measured perpendicular to the selvages; measurements shall be made by means of a metal tape measure while the 10 meshes being measured are suspended vertically from a single peg or nail, under five-pound weight, except as otherwise provided in this title;

(12) repealed 6/30/79;

(13) "waters of Alaska" means the internal waters of the state including rivers, streams, lakes and ponds, the tidal zone of the state from mean higher high water to mean lower low water, and those waters extending three miles seaward of a line (the baseline) between the following points:

(A) Southeastern and Yakutat Areas:

100 southernmost tip Cape Muzon, Dall Island;

101 westernmost tip unnamed point, Dall Island (54° 39.87' N. lat., 132° 43.53' W. long.);

102 westernmost tip Wolk Point, Dall Island;

103 southernmost tip Liscome Point, Dall Island;

104 westernmost tip Point Cornwallis, Dall Island;

105 westernmost tip Security Point, Dall Island;

106 westernmost tip Parrot Point, Dall Island;

107 westernmost tip Point Bazan, Dall Island;

108 westernmost tip of westernmost unnamed island west of Dolgoi Island (54° 49.33' N. lat., 133° 00.40' W. long.);

109 westernmost tip Ritter Point, Dall Island;

110 westernmost tip Rockwell Point, Dall Island;

111 westernmost tip Cape Augustine, Dall Island;

112 westernmost tip Sakie Point, Dall Island;

113 southernmost tip Cape Felix, Suemez Island;

114 southernmost tip of southernmost island off Cape Bartolome, Baker Island;

115 westernmost tip Cape Chirikof, Baker Island;

- 116 southernmost tip Cape Addington, Noyes Island;
- 117 westernmost tip of the southernmost island of the Hazy Islands;
- 118 westernmost tip of the westernmost island of the Hazy Islands;
- 119 southernmost tip Cape Ommaney, Baranof Island;
- 120 southernmost tip Eagle Rocks, Baranof Island;
- 121 westernmost tip Puffin Point, Baranof Island;
- 122 westernmost tip Sea Lion Rocks;
- 123 56° 19.50' N. lat., 134° 54' W. long., Baranof Island;
- 124 westernmost tip First Kekur Island;
- 125 westernmost tip Second Kekur Island;
- 126 westernmost tip North Cape, Baranof Islands;
- 127 westernmost tip John Rock;
- 128 westernmost tip Jacob Rock;
- 129 westernmost tip Kaiuchali Island;
- 130 westernmost tip Cape Edgecumbe, Kruzof Island;
- 131 westernmost tip Pt. Amelia, Kruzof Island;
- 132 westernmost tip Sealion Islands;
- 133 westernmost tip Eagle Rock;
- 134 westernmost tip Klokachef Point, Klokachef Island;
- 135 westernmost tip Black Island;
- 136 westernmost tip Cape Edward;
- 137 westernmost tip Urey Rocks;
- 138 westernmost tip of westernmost rock off Cape Cross, Yakobi Island (57° 54.67' N. lat., 136° 34.33' W. long.);
- 139 westernmost tip Yakobi Rock (off Cape Bingham, Yakobi Island);
- 140 westernmost tip Zip Rock (off Cape Spencer);

- 141 westernmost tip Graves Rocks;
- 142 westernmost tip Sugarloaf Island;
- 143 westernmost tip Astrolabe Rocks;
- 144 southernmost tip Icy Point;
- 145 westernmost tip Harbor Point;
- 146 westernmost tip La Chaussee Spit;
- 147 westernmost tip Cape Fairweather;
- 148 easternmost tip of the west side of the entrance to Dry Bay;
- 149 southernmost tip at the mouth of Dangerous River;
- 150 westernmost tip Ocean Cape;
- 151 easternmost tip Point Manby;
- 152 southernmost tip Sitkagai Bluffs;
- 153 southernmost tip Point Riou;
- 154 southernmost tip Icy Cape;
- 155 southernmost tip Cape Yakataga;
- 200 southernmost tip Cape Suckling;

(B) Prince William Sound and Cook Inlet Areas:

- 200 southernmost tip Cape Suckling;
- 201 easternmost tip Pinnacle Rock (off Cape St. Elias, Kayak Island);
- 202 southernmost tip Hook Point, Hinchinbrook Island;
- 203 southernmost tip Cape Hinchinbrook, Hinchinbrook Island;
- 204 easternmost tip Montague Island;
- 205 easternmost tip Box Point, Montague Island;
- 206 easternmost tip Wooded Islands;
- 207 southernmost tip, Wooded Islands;

- 208 southernmost tip Jeanie Point, Montague Island;
- 209 southernmost tip Cape Cleare, Montague Island;
- 210 southernmost tip Point Elrington, Elrington Island;
- 211 southernmost tip Cape Puget;
- 212 southernmost tip Cape Junken;
- 213 southernmost tip Cape Fairfield;
- 214 southernmost tip Barwell Island (off Cape Resurrection);
- 215 easternmost tip Pilot Rock;
- 216 easternmost tip Chiswell Island;
- 217 southernmost tip Seal Rocks;
- 218 southernmost tip unnamed cape south of Black Mountain (Black Bay) (59° 27.20' N. lat., 150° 14' W. long.);
- 219 easternmost tip Hoof Point, Ragged Island;
- 220 easternmost tip Outer Island, Pye Islands;
- 221 southernmost tip of southernmost island off Outer Island;
- 222 southernmost tip Nuka Rock (south of Nuka Point, Nuka Island);
- 223 southernmost tip Gore Point;
- 224 southernmost tip East Chugach Island;
- 225 southernmost tip Perl Rock (off Perl Island, Chugach Islands);
- 300 easternmost tip East Amatuli Island, Barren Islands;
- (C) Kodiak, Chignik, Aleutian Islands, and Alaska Peninsula Areas:
- 300 easternmost tip East Amatuli Island, Barren Islands;
- 301 easternmost tip Point Banks, Shuyak Island;
- 302 northernmost tip Tonki Cape, Afognak Island;
- 303 northernmost tip Cape St. Hermogenes, Marmot Island;

- 304 along the seaward coast of Marmot Island southernmost tip of Marmot Cape;
- 305 southernmost tip Pillar Cape, Afognak Island;
- 306 easternmost tip East Cape, Spruce Island;
- 307 northernmost tip Kodiak Rock (off Long Island);
- 308 easternmost tip Cape Chiniak, Kodiak Island;
- 309 easternmost tip Cape Greville Kodiak Island;
- 310 easternmost tip Ugak Island;
- 311 along the coast to the southernmost tip of Ugak Island;
- 312 southernmost tip Dangerous Cape, Kodiak Island;
- 313 easternmost tip Cape Barnabas, Sitkalidak Island;
- 314 easternmost tip Black Point, Sitkalidak Island;
- 315 easternmost tip Twoheaded Island;
- 316 easternmost tip Geese Islands;
- 317 easternmost tip Cape Sitkinak, Sitkinak Island;
- 318 along the coast to the southernmost tip of Sitkinak Island;
- 319 southernmost tip Tugidak Island;
- 320 along the west coast to the northernmost tip of Tugidak Island;
- 321 southernmost tip Cape Alitak, Kodiak Island;
- 322 westernmost tip Low Cape, Kodiak Island;
- 323 westernmost tip Cape Ikolik, Kodiak Island;
- 324 easternmost tip Kilokak Rocks (off Alaska Peninsula);
- 325 easternmost tip Ashiik Island;
- 326 easternmost tip Poltava Island;
- 327 easternmost tip Navy Island (off Cape Providence);
- 328 easternmost tip Aiugnak Columns;

- 329 easternmost tip Ugaiushak Island;
- 330 easternmost tip Hydra Island;
- 331 easternmost tip Foggy Cape, Sutwik Island;
- 332 around the south coast of Sutwik Island via the southernmost offcoast islets to the westernmost tip of Sutwik Island;
- 333 southernmost tip Cape Kumlik;
- 334 easternmost tip Unavikshak Island;
- 335 southernmost tip Atkulik Island;
- 336 easternmost tip Kak Island;
- 337 easternmost tip Castle Cape (Tuliumnit Point);
- 338 easternmost tip Chankliut Island;
- 339 along seaward coast to southernmost tip Chankliut Island;
- 340 southernmost tip Seal Cape;
- 341 easternmost tip Mitrofanina Island;
- 342 southernmost tip Spitz Island;
- 343 southernmost tip Chiachi Island;
- 344 easternmost tip Kupreanof Point;
- 345 easternmost tip Castle Rock;
- 346 easternmost tip Atkins Island;
- 347 easternmost tip Simeonof Island;
- 348 along the seaward coast of Simeonof Island to the southernmost tip;
- 349 easternmost tip of the unnamed island off the southern coast of Simeonof Island;
- 350 easternmost tip Chernabura Island;
- 351 along the coast to southernmost tip of Point Farewell, Chernabura Island;
- 352 southernmost tip Point Welcome, Bird Island;
- 353 southernmost tip Mountain Cape, Nagai Island;



- 354 westernmost tip Sealion Rocks;
- 355 southernmost tip Acheredin Point, Unga Island;
- 356 southernmost tip of Kennoys Island;
- 357 easternmost tip East Rock;
- 358 easternmost tip Olga Rock;
- 359 easternmost tip Pinnacle Rock;
- 360 easternmost tip Hay Island;
- 361 easternmost tip Hague Rock;
- 362 easternmost tip Lookout Point, Caton Island, Sanak Islands;
- 363 along the coast to southernmost tip Caton Island;
- 364 southernmost tip Umla Island;
- 365 southernmost tip Telemitz Island;
- 366 southernmost tip Dora Island;
- 367 easternmost tip Seal Rock;
- 368 southernmost tip Haystack Rock;
- 369 southernmost tip South Rock;
- 370 southernmost tip Sisters Island;
- 371 easternmost tip Clifford Island;
- 372 along the coast of Clifford Island and Long Island to the westernmost tip of the westernmost Trinity Island;
- 373 westernmost tip Point Petrof, Sanak Island;
- 374 southernmost tip Cape Lutke, Unimak Island;
- 375 along the coast to the southernmost tip of Scotch Cap, Unimak Island;
- 376 easternmost tip Ugamak Island;
- 377 easternmost tip Round Island;

- 378 easternmost tip Aiktak Island;
- 379 easternmost tip Kaligagan Island;
- 380 easternmost tip Tigalda Island;
- 381 along the coast of Tigalda Island to Derbin Island;
- 382 southernmost tip Avatanak Point, Avatanak Island;
- 383 easternmost tip Rootok Island;
- 384 along the coast to southernmost tip Rootok Island;
- 385 southernmost tip Battery Point, Akutan Island;
- 386 easternmost tip Unalga Island;
- 387 easternmost tip Egg Island off Sedanka Island;
- 388 easternmost tip Outer Signal (island);
- 389 easternmost tip Inner Signal (island);
- 390 southernmost tip Sedanka Island;
- 391 easternmost tip Kayak Cape, Unalaska Island;
- 392 easternmost tip Cape Yanaliuk, Unalaska Island;
- 393 easternmost tip Whalebone Cape, Unalaska Island;
- 394 southernmost tip Cape Prominence, Unalaska Island;
- 395 southernmost tip Reef Point, Unalaska Island;
- 396 southernmost tip Ogangen Island off Unalaska Island;
- 397 southernmost tip Eagle Point, Unalaska Island;
- 398 southernmost tip Cape Aiak, Unalaska Island;
- 399 southernmost tip South Rock off Cape Izigan, Unalaska Island;
- 400 southernmost tip Emerald Island off Konets Head, Unalaska Island;
- 401 easternmost tip Kettle Cape, Umnak Island;
- 402 easternmost tip The Pillars (off Thumb Point, Umnak Island);

- 403 easternmost tip Kigul Island;
- 404 easternmost tip Ogchul Island;
- 405 easternmost tip Vsevidof Island;
- 406 easternmost tip Black Cape, Umnak Island;
- 407 easternmost tip Cape Udak, Umnak Island;
- 408 easternmost tip Breadloaf Island;
- 409 easternmost tip Samalga Island;
- 410 along the coast to westernmost tip of Samalga Island;
- 411 southernmost tip Concord Point, Chuginadak Island;
- 412 southernmost tip unnamed point south of Mt. Cleaveland, Chuginadak Island (52° 48.75' N. lat., 169° 57.50' W. long.);
- 413 southernmost tip Herbert Island;
- 414 southernmost tip Yunaska Island;
- 415 southernmost tip Amutka Island;
- 416 along the south and west coast to northernmost tip of Amutka Island;
- 417 northernmost tip Chagulak Island;
- 418 northernmost tip of Yunaska Island;
- 419 northernmost tip Herbert Island;
- 420 westernmost tip of Carlisle Island;
- 421 along the coast to the northernmost tip of Carlisle Island;
- 422 westernmost tip Uliaga Island;
- 423 along northern coast to easternmost tip of Uliaga Island;
- 424 northernmost tip of Kagamil Island;
- 425 northernmost tip Anangula Island (off Okee Point, Umnak Island);
- 426 northernmost tip Ananiuliak Island;
- 427 northernmost tip Okee Point, Umnak Island;

- 428 westernmost tip Cape Kigushimkada, Umnak Island;
- 429 along the coast to westernmost tip of Kshaliuk Point;
- 430 northernmost tip Cape Imlianuk, Umnak Island;
- 431 westernmost tip Cape Aslik, Umnak Island;
- 432 along the coast to northernmost tip of Ashishik Point;
- 433 northernmost tip Cape Tanak, Umnak Island;
- 434 northernmost tip Cape Idak, Umnak Island;
- 435 westernmost tip Chernofski Point, Unalaska Island;
- 436 northernmost tip Cape Aspid, Unalaska Island;
- 437 westernmost tip of westernmost unnamed island off Sedanka Point, Unalaska ( $53^{\circ} 27.05'$  N. lat.,  $167^{\circ} 20'$  W. long.);
- 438 westernmost tip Kashega Point, Unalaska Island;
- 439 westernmost tip Spray Cape, Unalaska Island;
- 440 westernmost tip Cape Starichkof, Unalaska Island;
- 441 southernmost tip of Cape Kovrizhka, Unalaska Island;
- 442 along the coast to the northernmost tip of Cape Kovrizhka;
- 443 westernmost tip Point Kadin, Unalaska Island;
- 444 northernmost tip Koriga Point, Unalaska Island;
- 445 northernmost tip Bishop Point, Unalaska Island;
- 446 northernmost tip Point Tebenkof, Unalaska Island;
- 447 northernmost tip Cape Wislow, Unalaska Island;
- 448 northernmost tip Cape Cheerful, Unalaska Island;
- 449 northernmost tip Priest Rock (off Cape Kalekta, Unalaska Island);
- 450 westernmost tip Reef Point, Akutan Island;
- 451 westernmost tip Lava Point, Akutan Island;

- 452 northernmost tip North Head, Akutan Island;
- 453 northernmost tip Akun Head, Akun Island;
- 454 westernmost tip Cape Sarichef, Unimak Island;
- 455 northernmost tip Raven Point, Unimak Island;
- 456 northernmost tip Oksenof Point, Unimak Island;
- 457 northernmost tip Cape Mordvinof, Unimak Island;
- 458 northernmost tip Cape Lapin, Unimak Island;
- 459 northernmost tip of unnamed point, Unimak Island (55° N. lat., 163° 54' W. long.);
- 460 northernmost tip Otter Point, Unimak Island;
- 461 northernmost tip Cape Krenitzin;
- 462 along the north coast of the Alaska Peninsula to northernmost tip of Cape Glazenap;
- 463 along the coast and across the entrances between the Kudiakof Islands and the northernmost tip of Moffet Point;
- 464 along the north coast of the Alaska Peninsula to easternmost tip of Lagoon Point;
- 465 northernmost tip Cape Kutuzof;
- 500 along the north coast of the Alaska Peninsula including the outer coast of all barrier islands, to the westernmost tip of Cape Menshikof;

(D) Bristol Bay Area:

- 500 westernmost tip of Cape Menshikof;
- 501 southernmost tip of Pyrite Point;
- 502 along the coast to the westernmost tip of Cape Peirce;
- 600 westernmost tip of Cape Newenham;

(E) Kuskokwim, Yukon, Norton Sound-Point Clarence, and Arctic-Kotzebue Areas:

- 600 westernmost tip Cape Newenham;
- 601 southernmost tip Kwigluk Island;
- 602 southernmost tip Pingurbek Island;

603 westernmost tip Kikegtek Island;

604 westernmost tip Cape Vancouver;

605 southernmost tip Dall Point;

606 along the coast and across all entrances, to the westernmost tip of Cape Romanzof;

607 westernmost tip Cape Rodney;

608 westernmost tip of Point Spencer Spit;

609 southernmost tip Cape York;

610 westernmost tip Cape Prince of Wales;

611 along coast of all barrier islands to Northwest Corner light;

612 westernmost tip Cape Krusenstern;

613 along the coast to the westernmost tip of Point Hope;

614 westernmost tip Cape Lisburne;

615 along the coast of all barrier islands and across all entrances to the northernmost tip of Point Barrow;

616 along the coast of all barrier islands and across all entrances to the easternmost tip of Cape Simpson;

617 northernmost tip Pitt Point;

618 along the coast to easternmost tip of Cape Halkett;

619 easternmost tip Thetis Island, Jones Islands;

620 along the coast of all barrier islands and across all entrances, through the Jones Islands to the northernmost tip Long Island;

621 northernmost tip Reindeer Island, Midway Islands;

622 northernmost tip Cross Island;

623 westernmost tip Flaxman Island;

624 along the north coast of Flaxman Island and across all entrances to the northernmost tip Brownlow Point;

625 along the coast of all barrier islands and across all entrances to the easternmost tip Konganevik Point;

626 northernmost tip Anderson Point;

627 northernmost tip Arey Island;

628 northernmost tip Barter Island;

629 northernmost tip Bernard Spit;

630 along the coast of all barrier islands and across all entrances to the northernmost tip Griffen Point;

631 northernmost tip along the coast to Humphrey Point;

632 across the entrances and along coast of all barrier islands, to the northernmost tip Demarcation Point;

700 along the coast to the United States-Canada Boundary;

(F) and extending three miles seaward of all islands not enclosed by the above line;

(14) "salmon stream terminus" means a line drawn between the seaward extremities of the exposed tideland banks of any salmon stream at mean lower low water;

(15) repealed 8/14/70;

(16) "ton" means 2,000 pounds avoirdupois weight;

(17) "king crab" means any or all of the following species:

(A) *Paralithodes camtschaticus* (red king crab);

(B) *Paralithodes platypus* (blue king crab);

(C) *Lithodes couesi*;

(D) *Lithodes aequispinus* (golden king crab);

(E) *Paralithodes brevipes* (Hanasaki king crab);

(18) "Tanner crab" means any or all of the following species:

(A) *Chionoecetes opilio* (snow crab);

(B) *Chionoecetes tanneri* (grooved Tanner crab);

(C) *Chionoecetes bairdi* (Tanner crab);

(D) *Chionoecetes angulatus* (triangle Tanner crab);

(19) "Dungeness crab" means the species *Metacarcinus magister*;

(20) "household" means a person or persons having the same residence;

(21) "groundfish" or "bottomfish" means any marine finfish except halibut, osmerids, herring, and salmonids;

(22) "to operate fishing gear" means

(A) the deployment of gear or to have gear deployed in the waters of Alaska;

(B) the removal of gear from the waters of Alaska;

(C) the removal of fish or shellfish from the gear during an open season or period;

or

(D) possession of a gillnet containing fish during an open fishing period, except that a net which is completely clear of the water is not considered to be operating for the purpose of minimum distance requirements;

(23) "possession limit" means the maximum number of fish a person may have in his possession if the fish have not been canned, salted, frozen, smoked, dried or otherwise preserved so as to be fit for human consumption after a 15-day period;

(24) "hung measure" means the maximum length of the cork line when measured wet or dry with traction applied at one end only;

(25) "drainage" means all of the waters comprising a watershed, including tributary rivers, streams, sloughs, ponds and lakes which contribute to the supply of the watershed;

(26) "fresh water of streams and rivers" means fresh water separated from salt water at the mouth of streams and rivers by a line drawn between the seaward extremities of the exposed tideland banks at the present stage of the tide;

(27) "guideline harvest level" means the pre-season estimated level of allowable fish harvest which will not jeopardize the sustained yield of the fish stocks; an area, district, section or portion thereof may close to fishing before or after the guideline harvest level has been reached if principles of management and conservation dictate such action;

(28) "peace officer of the state" means a person defined in AS 16.05.150;

(29) "processing" means completion of

(A) cooking;

(B) canning;

(C) smoking;



(D) salting, which means uniformly mixing with a minimum salting level of at least 20 percent of the weight of the fish resources;

(E) drying; or

(F) freezing, which means to congeal and solidify the flesh of fish by abstraction of heat;

(30) "domicile" means the same as in AS 16.05.940; evidence of a person's domicile may include, but is not limited to, the following:

(A) statements made to obtain a license to drive, hunt, fish, or engage in an activity regulated by a government entity;

(B) affidavit of the person, or of other persons who may know of that person's domicile;

(C) place of voter registration;

(D) location of residences owned, rented, or leased;

(E) location of storage of household goods;

(F) location of business owned or operated;

(G) residence of spouse and minor children or dependents;

(H) governments to which taxes are paid;

(I) whether the person has claimed residence in another location for the purpose of obtaining benefits provided by the governments in that location;

(31) "fishing site" means a structure or vessel used by a CFEC permit holder for providing shelter in support of the operation of stationary net gear;

(32) "net gear site" means the in-water location of stationary net gear;

(33) "seine vessel" means the largest vessel, as determined by keel length, used to operate a seine and the vessel from which the seine is set, and to which the seine is retrieved to;

(34) "demersal shelf rockfish" means any or all of the following *Sebastes* species:

(A) repealed 4/30/91;

(B) *S. pinniger* (Canary);

(C) *S. nebulosus* (China);

- (D) *S. caurinus* (Copper);
- (E) *S. maliger* (Quilback);
- (F) repealed 4/30/91;
- (G) *S. helvomaculatus* (Rosethorn);
- (H) repealed 4/30/91;
- (I) *S. nigrocinctus* (Tiger);
- (J) *S. ruberrimus* (Yelloweye);
- (K) repealed 4/4/97;

(35) "onboard observer" means a representative of the Departments of Fish and Game or Public Safety who

(A) is certified by the Department of Fish and Game as having completed minimum training requirements;

(B) is living on board a fishing or processing vessel for all or part of the period the vessel is at sea; and

(C) is monitoring fishing or processing activities and collecting harvest data essential to management and enforcement;

(36) "rockfish" means all species of the genus *Sebastes*;

(37) "pelagic shelf rockfish" means any or all of the following *Sebastes* species:

- (A) *S. ciliatus* (Dark);
- (B) *S. entomelas* (Widow);
- (C) *S. flavidus* (Yellowtail);
- (D) *S. melanops* (Black);
- (E) *S. diaconus* (Deacon);
- (F) *S. variabilis* (Dusky);

(38) "slope rockfish" means any species of the genus *Sebastes* not specified as either demersal shelf rockfish or pelagic shelf rockfish;

(39) "thornyhead rockfish" or "idiot rockfish" means all species of the genus *Sebastes*;

(40) "weathervane scallop" means the species *Patinopecten caurinus*;

(41) "mile" means

(A) a nautical mile when used in reference to marine waters; or

(B) a statute mile when used in reference to fresh water;

(42) "miscellaneous shellfish" means all shellfish and marine invertebrates, except shrimp, and king, Tanner, and Dungeness crab;

(43) "total allowable catch" or "TAC" means the annual harvest quota or the retainable catch allowed for a species or species group;

(44) "individual fishing quota" or "IFQ" means the annual allocation of pounds for harvest that represents a quota share holder's percentage of the total allowable catch;

(45) "handicraft" means a finished product in which the shape or appearance of the natural material has been substantially changed by skillful use of the hands, such as by sewing, carving, etching, scrimshawing, painting, or other means, and which has substantially greater monetary and aesthetic value than the unaltered natural material alone.

(b) Beginning April 15, 2017, in AS 16.05.835, "anchor roller" means a device used solely in aid of deploying and retrieving anchor gear and does not provide any additional flotation, planing surface, sea keeping ability, buoyancy, deck space, or structural support to the vessel.

### **5 AAC 39.995. Water depth**

Unless otherwise specified, water depths in 5 AAC 01 - 5 AAC 39 are to be measured from mean lower low water.

### **5 AAC 39.997. Abbreviations and symbols**

(a) The abbreviations a.m. and p.m. indicate antemeridian and postmeridian respectively for either Standard Time or Daylight Saving Time in conformance with the official time in use for Alaska.

(b) The symbols °E>, ', ", indicate degrees, minutes, and seconds, respectively, of longitude or latitude, based upon the North American datum of 1983.

(c) Lat. and long. indicate latitude and longitude, respectively.

(d) E. indicates east, N. indicates north, W. indicates west, and S. indicates south. All bearings and directions shall be construed to be true bearings and true directions.

(e) ADF&G is the abbreviation for Alaska Department of Fish and Game.

(f) CFEC is the abbreviation for the Commercial Fisheries Entry Commission.

**5 AAC 39.998. Petition policy for Category 2 management measures in a Bering Sea/Aleutian Islands king or Tanner crab fishery**

The Board of Fisheries recognizes that in rare instances, circumstances may require regulatory changes outside the process described in 5 AAC 96.625(b) - (d). Notwithstanding 5 AAC 96.625(f), a petition for a regulatory change may be submitted under this section and 5 AAC 96.625(a) for a Category 2 management measure in a Bering Sea/Aleutian Islands king or Tanner crab fishery described in the federal Fishery Management Plan (FMP) for the Commercial King and Tanner Crab Fisheries in the Bering Sea/Aleutian Islands dated January 24, 1989. It is the policy of the Board of Fisheries that a petition submitted under this section will be denied and not scheduled for hearing unless the petition

- (1) addresses a Category 2 management measure and is filed within 30 days from the date that the board adopted that Category 2 management measure;
- (2) presents an issue that is not solely allocative; and
- (3) presents new legal, biological, or management information that indicates the regulation may not be consistent with the federal FMP.

**5 AAC 39.999. Policy for changing board agenda**

(a) The Board of Fisheries (board) will, in its discretion, change its schedule for consideration of a proposed regulatory change in response to an agenda change request, submitted on a form provided by the board, in accordance with the following guidelines:

- (1) the board will accept an agenda change request only
  - (A) for a fishery conservation purpose or reason;
  - (B) to correct an error in a regulation; or
  - (C) to correct an effect on a fishery that was unforeseen when a regulation was adopted;
- (2) the board will not accept an agenda change request that is predominantly allocative in nature in the absence of new information that is found by the board to be compelling;
- (3) the board will consider an agenda change request only at its first meeting in the fall; a request must be received by the executive director of the board at least 60 days before the first meeting in the fall.

(b) The board will, in its discretion, change its schedule for consideration of proposed regulatory changes as reasonably necessary for coordination of state regulatory actions with federal fishery agencies, programs, or laws.

(c) If the board accepts an agenda change request under this section, the executive director shall notify the public and the department of the change in the board's schedule and when the board will consider the proposed regulatory change requested.

**Title 16. Fish and Game.**

**Chapter 05. Fish and Game Code Definitions.**

**Article 1. The Department of Fish and Game.**

**Sec. 16.05.055. On-board observer program.** (a) The commissioner may enter into appropriate contracts and agreements with agencies, such as the National Marine Fisheries Service, the North Pacific Fishery Management Council, and the International Pacific Halibut Commission, designed to ensure that on-board observer programs conducted in the fisheries of the state are coordinated and consistent with each other for vessels operating in state and federal water.

(b) The master of a vessel, as a condition of participating in a fishery for which an on-board observer program is authorized by the Board of Fisheries under AS 16.05.251, shall consent in writing to the placement of an observer aboard the vessel.

**Sec. 16.05.060. Emergency orders.** (a) This chapter does not limit the power of the commissioner or an authorized designee, when circumstances require, to summarily open or close seasons or areas or to change weekly closed periods on fish or game by means of emergency orders.

(b) The commissioner or an authorized designee may, under criteria adopted by the Board of Fisheries, summarily increase or decrease sport fish bag limits or modify methods of harvest for sport fish by means of emergency orders.

(c) An emergency order has the force and effect of law after field announcement by the commissioner or an authorized designee. An emergency order adopted under this section is not subject to AS 44.62 (Administrative Procedure Act).

**Sec. 16.05.065. Application extension.** (a) The commissioner shall extend the time and dates during which application may be made for fish or game registration if the commissioner finds that

(1) the conservation and management of the fish or game resource will not be affected adversely; and

(2) the failure to timely apply is the result of excusable neglect.

(b) The fee for an extension granted under this section is \$45.

(c) As used in this section, “excusable neglect” does not include unfamiliarity with or ignorance of applicable laws and regulations. In order to show excusable neglect, a person must have demonstrated, before the registration deadline, an intent to harvest fish or game.

**Sec. 16.05.070. Regulations as evidence.** Regulations of a board and of the commissioner, including emergency openings and closures, are admissible as evidence in the courts of the state in accordance with AS 44.62 (Administrative Procedure Act).

**Sec. 16.05.080. Limitation of power.** Nothing in this chapter authorizes the department or a board to change the amount of fees or licenses.

**Sec. 16.05.160. Duty to arrest.** Each peace officer designated in AS 16.05.150 shall arrest a person violating a provision of this title except AS 16.51 and AS 16.52, or any regulation adopted under this title except AS 16.51 and AS 16.52, in the peace officer's presence or view, and shall take the person for examination or trial before an officer or court of competent jurisdiction unless in the judgment of the peace officer it would be in the state's best interest to issue a warning or a citation under AS 16.05.165.

**Sec. 16.05.165. Form and issuance of citation.** (a) When a peace officer stops or contacts a person concerning a violation of this title except AS 16.51 and AS 16.52 or of a regulation adopted under this title except AS 16.51 and AS 16.52 that is a misdemeanor, the peace officer may, in the officer's discretion, issue a citation to the person as provided in AS 12.25.175 — 12.25.230.

(b) The supreme court shall specify by rule or order those misdemeanors that are appropriate for disposition without court appearance, and shall establish a schedule of bail amounts. Before establishing or amending the schedule of bail amounts required by this subsection, the supreme court shall appoint and consult with an advisory committee consisting of two law enforcement officers of the Department of Public Safety engaged in fish and wildlife protection, two representatives of the Department of Fish and Game, two district court judges, and the chairpersons of the House and Senate Judiciary Committees of the legislature. The maximum bail amount for an offense may not exceed the maximum fine specified by law for that offense. If the misdemeanor for which the citation is issued may be disposed of without court appearance, the issuing peace officer shall write on the citation the amount of bail applicable to the violation.

(c) If a person cited for a misdemeanor for which a bail amount has been established under (b) of this section does not contest the citation, the person may, on or before the 30th day after the date of the citation, mail or personally deliver to the clerk of the court in which the citation is filed by the peace officer

(1) the amount of bail indicated on the citation for that offense; and

(2) a copy of the citation indicating that the right to an appearance is waived, a plea of no contest is entered, and the bail is forfeited.

(d) When bail has been forfeited under (c) of this section, a judgment of conviction shall be entered. Forfeiture of bail and all seized items is a complete satisfaction for the misdemeanor. The clerk of the court accepting the bail shall provide the offender with a receipt stating that fact if requested.

(e) A person cited under this section is guilty of failure to obey a citation under AS 12.25.230 if the person fails to pay the bail amount established under (b) of this section or fails to appear in court as required.

(f) Notwithstanding other provisions of law, if a person cited for a misdemeanor for which a bail amount has been established under (b) of this section appears in court and is found guilty, the penalty that is imposed for the offense may not exceed the bail amount for that offense established under (b) of this section.

**Sec. 16.05.170. Power to execute warrant.** Each peace officer designated in AS 16.05.150 may execute a warrant or other process issued by an officer or court of competent jurisdiction for the enforcement of this title except AS 16.51 and AS 16.52, and may, with a search warrant, search any place at any time. The judge of a court having jurisdiction may, upon proper oath or affirmation showing probable cause, issue a warrant in all cases.

**Sec. 16.05.180. Power to search without warrant.** Each peace officer designated in AS 16.05.150 may without a warrant search any thing or place if the search is reasonable or is not protected from searches and seizures without warrant within the meaning of art. I, § 14, Alaska State Constitution, which specifically enumerates “persons, houses and other property, papers and effects.” However, before a search without warrant is made a signed written statement by the person making the search shall be submitted to the person in control of the property or object to be searched, stating the reason the search is being conducted. A written receipt shall be given by the person conducting the search for property which is taken as a result of the search. The enumeration of specific things does not limit the meaning of words of a general nature.

**Sec. 16.05.190. Seizure and disposition of equipment.** Guns, traps, nets, fishing tackle, boats, aircraft, automobiles or other vehicles, sleds, and other paraphernalia used in or in aid of a violation of this chapter or a regulation of the department may be seized under a valid search, and all fish and game, or parts of fish and game, or nests or eggs of birds, taken, transported, or possessed contrary to the provisions of this chapter or a regulation of the department shall be seized by any peace officer designated in AS 16.05.150. Upon conviction of the offender or upon judgment of the court having jurisdiction that the item was taken, transported, or possessed in violation of this chapter or a regulation of the department, all fish and game, or parts of them are forfeited to the state and shall be disposed of as directed by the court. If sold, the proceeds of the sale shall be transmitted to the proper state officer for deposit in the general fund. Guns, traps, nets, fishing tackle, boats, aircraft, or other vehicles, sleds, and other paraphernalia seized under the provisions of this chapter or a regulation of the department, unless forfeited by order of the court, shall be returned, after completion of the case and payment of the fine, if any.

**Sec. 16.05.195. Forfeiture of equipment.** (a) Guns, traps, nets, fishing gear, vessels, aircraft, other motor vehicles, sleds, and other paraphernalia or gear used in or in aid of a violation of this title or AS 08.54, or regulation adopted under this title or AS 08.54, and all fish and game or parts of fish and game or nests or eggs of birds taken, transported, or possessed contrary to the provisions of this title or AS 08.54, or regulation adopted under this title or AS 08.54, may be forfeited to the state

(1) upon conviction of the offender in a criminal proceeding of a violation of this title or AS 08.54 in a court of competent jurisdiction; or

(2) upon judgment of a court of competent jurisdiction in a proceeding in rem that



an item specified above was used in or in aid of a violation of this title or AS 08.54 or a regulation adopted under this title or AS 08.54.

(b) Items specified in (a) of this section may be forfeited under this section regardless of whether they were seized before instituting the forfeiture action.

(c) An action for forfeiture under this section may be joined with an alternative action for damages brought by the state to recover damages for the value of fish and game or parts of them or nests or eggs of birds taken, transported, or possessed contrary to the provisions of this title or a regulation adopted under it.

(d) It is no defense that the person who had the item specified in (a) of this section in possession at the time of its use and seizure has not been convicted or acquitted in a criminal proceeding resulting from or arising out of its use.

(e) Forfeiture may not be made of an item subsequently sold to an innocent purchaser in good faith. The burden of proof as to whether the purchaser purchased the item innocently and in good faith shall be on the purchaser.

(f) An item forfeited under this section shall be disposed of at the discretion of the department. Before the department disposes of an aircraft it shall consider transfer of ownership of the aircraft to the Alaska Wing, Civil Air Patrol.

**Sec. 16.05.200. Power to administer oaths.** Each peace officer designated in AS 16.05.150 may administer to or take from any person, an oath, affirmation, or affidavit when it is for use in a prosecution or proceeding under or in the enforcement of this chapter.

**Sec. 16.05.241. Powers excluded.** The boards have regulation-making powers as set out in this chapter, but do not have administrative, budgeting, or fiscal powers.

**Sec. 16.05.251. Regulations of the Board of Fisheries.** (a) The Board of Fisheries may adopt regulations it considers advisable in accordance with AS 44.62 (Administrative Procedure Act) for

(1) setting apart fish reserve areas, refuges, and sanctuaries in the waters of the state over which it has jurisdiction, subject to the approval of the legislature;

(2) establishing open and closed seasons and areas for the taking of fish; if consistent with resource conservation and development goals, the board may adopt regulations establishing restricted seasons and areas necessary for

(A) persons 60 years of age and older to participate in sport, personal use, or subsistence fishing; or

(B) residents under 18 years of age and nonresidents under 16 years of age to participate in sport fishing;

(3) setting quotas, bag limits, harvest levels, and sex and size limitations on the taking of fish;

(4) establishing the means and methods employed in the pursuit, capture, and transport of fish;

(5) establishing marking and identification requirements for means used in pursuit, capture, and transport of fish;

(6) classifying as commercial fish, sport fish, guided sport fish, personal use fish, subsistence fish, or predators or other categories essential for regulatory purposes;

(7) watershed and habitat improvement, and management, conservation, protection, use, disposal, propagation, and stocking of fish;

(8) investigating and determining the extent and effect of disease, predation, and competition among fish in the state, exercising control measures considered necessary to the resources of the state;

(9) prohibiting and regulating the live capture, possession, transport, or release of native or exotic fish or their eggs;

(10) establishing seasons, areas, quotas, and methods of harvest for aquatic plants;

(11) establishing the times and dates during which the issuance of fishing licenses, permits, and registrations and the transfer of permits and registrations between registration areas is allowed; however, this paragraph does not apply to permits issued or transferred under AS 16.43;

(12) regulating commercial, sport, guided sport, subsistence, and personal use fishing as needed for the conservation, development, and utilization of fisheries;

(13) requiring, in a fishery, observers on board fishing vessels, as defined in AS 16.05.475(d), that are registered under the laws of the state, as defined in AS 16.05.475(c), after making a written determination that an onboard observer program

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

(B) will not unduly disrupt the fishery;

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

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

(14) establishing nonexclusive, exclusive, and superexclusive registration and use areas for regulating commercial fishing;

(15) regulating resident or nonresident sport fishermen as needed for the

conservation, development, and utilization of fishery resources;

(16) requiring unlicensed fishing vessels present in or transiting the waters of the state to report to the department the quantity, species, and origin of fish on board; in this paragraph, “unlicensed fishing vessel” means a fishing vessel that is not licensed under AS 16.05.490 — 16.05.530;

(17) promoting fishing and preserving the heritage of fishing in the state.

(b) [Repealed, § 12 ch 52 SLA 1986.]

(c) If the Board of Fisheries denies a petition or proposal to amend, adopt, or repeal a regulation, the board, upon receiving a written request from the sponsor of the petition or proposal, shall in addition to the requirements of AS 44.62.230 provide a written explanation for the denial to the sponsor not later than 30 days after the board has officially met and denied the sponsor’s petition or proposal, or 30 days after receiving the request for an explanation, whichever is later.

(d) Regulations adopted under (a) of this section must, consistent with sustained yield and the provisions of AS 16.05.258, provide a fair and reasonable opportunity for the taking of fishery resources by personal use, sport, and commercial fishermen.

(e) The Board of Fisheries may allocate fishery resources among personal use, sport, guided sport, and commercial fisheries. The board shall adopt criteria for the allocation of fishery resources and shall use the criteria as appropriate to particular allocation decisions. The criteria may include factors such as

(1) the history of each personal use, sport, guided sport, and commercial fishery;

(2) the number of residents and nonresidents who have participated in each fishery in the past and the number of residents and nonresidents who can reasonably be expected to participate in the future;

(3) the importance of each fishery for providing residents the opportunity to obtain fish for personal and family consumption;

(4) the availability of alternative fisheries resources;

(5) the importance of each fishery to the economy of the state;

(6) the importance of each fishery to the economy of the region and local area in which the fishery is located;

(7) the importance of each fishery in providing recreational opportunities for residents and nonresidents.

(f) Except as expressly provided in AS 16.40.120(e) and 16.40.130, the Board of Fisheries may not adopt regulations or take action regarding the issuance, denial, or conditioning of a permit under AS 16.40.100 or 16.40.120, the construction or operation of a farm or hatchery required to have a permit under AS 16.40.100, or a harvest with a

permit issued under AS 16.40.120.

(g) The Board of Fisheries shall consider a request of the commissioner for approval of a petition to the Alaska Commercial Fisheries Entry Commission to establish a moratorium on new entrants into a commercial fishery under AS 16.43.225 at the board's next regular or special meeting that follows the receipt by the board of the request for approval of the petition and that allows time for the notice required under this subsection. The board may consider the request of the commissioner for approval of the petition only after 15 days' public notice of the board's intention to consider approval of the petition. The board shall consider whether the commissioner, in support of the request for approval of the petition, has adequately shown that the fishery meets requirements for a moratorium on new entrants under AS 16.05.050. The board by a majority vote of its members at the meeting when the petition must be considered shall approve or disapprove the petition.

(h) The Board of Fisheries shall adopt by regulation a policy for the management of mixed stock fisheries. The policy shall provide for the management of mixed stock fisheries in a manner that is consistent with sustained yield of wild fish stocks.

(i) Notwithstanding AS 16.43.140(c)(5), the board may adopt, at a regularly scheduled meeting at which the board considers regulatory proposals for management of a specific salmon fishery, a regulation to allow a person who holds two entry permits for that salmon fishery an additional fishing opportunity appropriate for that particular fishery.

**Sec. 16.05.259. No subsistence defense.** In a prosecution for the taking of fish or game in violation of a statute or regulation, it is not a defense that the taking was done for subsistence uses.

**Sec. 16.05.260. Advisory committees.** The Board of Fisheries and the Board of Game may adopt regulations they consider advisable in accordance with AS 44.62 (Administrative Procedure Act) establishing, at places in the state designated by the individual boards, advisory committees to be composed of persons well informed on the fish or game resources of the locality. The boards shall set the number and terms of each of the members of the advisory committees, shall delegate one member of each committee as chairman, and shall give the chairman authority to hold public hearings on fish or game matters. Recommendations from the advisory committees shall be forwarded to the appropriate board for their consideration but if the Board of Fisheries or the Board of Game chooses not to follow the recommendations of the local advisory committee the appropriate board shall inform the appropriate advisory committee of this action and state the reasons for not following the recommendations. The commissioner shall delegate authority to advisory committees for emergency closures during established seasons. The commissioner is empowered to set aside and make null and void only opening of seasons set by the advisory committees under this section. The appropriate board shall adopt the necessary regulations governing these closures.

**Sec. 16.05.270. Delegation of authority to commissioner.** For the purpose of administering AS 16.05.251 and 16.05.255, each board may delegate authority to the commissioner to act in its behalf. If there is a conflict between the board and the commissioner on proposed regulations, public hearings shall be held concerning the issues in question. If, after the public hearings, the board and the commissioner continue

to disagree, the issue shall be certified in writing by the board and the commissioner to the governor who shall make a decision. The decision of the governor is final.

**Article 4. Licensing of Commercial Fishing Crewmembers and Vessels.**

**Sec. 16.05.440. Expiration date for licenses.** Licenses issued under AS 16.05.440 — 16.05.723 expire at the close of December 31 following their issuance or, for licenses that are valid for two years, after December 31 of the year after the year of issuance, and shall be renewed upon application and payment of the license fees required by AS 16.05.440 — 16.05.723.

**Sec. 16.05.450. Issuance of licenses; disclosure for child support purposes.** (a) The commissioner or an authorized agent shall issue a crewmember fishing license under AS 16.05.480 to each qualified person who files a written application at a place in the state designated by the commissioner, containing the reasonable information required by the commissioner together with the required fee. The commissioner shall require the reporting of the applicant's social security number on the application. The application shall be simple in form and shall be executed by the applicant under the penalty of unsworn falsification in the second degree.

(b) The Alaska Commercial Fisheries Entry Commission shall issue a vessel license under AS 16.05.490 to each qualified vessel for which a written application has been filed, at a place in the state designated by the commission, containing the reasonable information required by the commission together with the required fee. The application shall be simple in form and shall be executed by the applicant under the penalty of unsworn falsification in the second degree.

(c) [Repealed, § 19 ch 105 SLA 1977.]

(d) Upon request, the commissioner shall provide a social security number provided under (a) of this section to the child support services agency created in AS 25.27.010, or the child support enforcement agency of another state, for child support purposes authorized under law.

**Sec. 16.05.475. Registration of fishing vessels.** (a) A person may not employ a fishing vessel in the water of this state unless it is registered under the laws of the state. Vessels registered under the laws of another state, and persons residing in another state, are not excused from this provision.

(b) The term “employ”, as used in this section, shall be defined by the Board of Fisheries through the adoption of regulations under AS 44.62 (Administrative Procedure Act). The definition may include any activities involving the use or navigation of fishing vessels.

(c) The term “registered under the laws of the state”, as used in this section, shall be defined by the Board of Fisheries through the adoption of regulations under AS 44.62 (Administrative Procedure Act). The definition may include any existing requirements regarding registration, licenses, permits, and similar matters imposed by law or regulation together with modifications of them and with any additional requirements the board finds necessary to maximize the authority of the state to apply and enforce fisheries regulations

under 16 U.S.C. 1801-1882 (Magnuson-Stevens Fishery Conservation and Management Act of 1976 (P.L. 94-265, 90 Stat. 331)).

(d) In this section “fishing vessel” means any vessel, boat, ship, or other craft that is used for, equipped to be used for, or of a type which is normally used for

(1) fishing, or

(2) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

**Sec. 16.05.480. Commercial fishing license; disclosure for child support purposes.** (a)

A person engaged in commercial fishing shall obtain a commercial fishing license and shall retain the license in possession and readily available for inspection during fishing operations. An entry permit or interim-use permit entitles the holder to participate as a gear operator in the fishery for which the permit is issued and to participate as a crewmember in any fishery. A crewmember fishing license is not transferable and entitles the holder to participate as a crewmember in any fishery.

(b) A person applying for a commercial fishing license under this section shall provide the person’s social security number. A person applying for a resident commercial fishing license under this section shall also provide proof of residence that the department requires by regulation.

(c) [Repealed, § 12 ch 123 SLA 1978.]

(d) Upon request, the department or the Alaska Commercial Fisheries Entry Commission shall provide a social security number provided by an applicant for a license under this section to the child support services agency created in AS 25.27.010, or the child support agency of another state, for child support purposes authorized under law.

(e) Except as provided under AS 16.05.470 and AS 23.35.060, fees collected from the sale of crewmember fishing licenses under this section may be appropriated into the fish and game fund.

(f) [Repealed, § 7 ch 27 SLA 2001.]

(g) A resident engaged in commercial fishing who is 11 years of age or older and who does not hold an entry permit or an interim-use permit shall, except as provided in (i) of this section, pay a fee of \$60 for an annual crewmember fishing license. A resident engaged in commercial fishing who is less than 11 years of age and who does not hold an entry permit or an interim-use permit shall pay an annual fee of \$5.

(h) A nonresident engaged in commercial fishing who is 11 years of age or older and who does not hold an entry permit or an interim-use permit shall, except as provided in (i) of this section, pay a base fee of \$60 for an annual crewmember fishing license, plus an amount, established by the department by regulation, that is as close as is practicable to the maximum allowed by law. A nonresident engaged in commercial fishing who is less than 11 years of age and who does not hold an entry permit or an interim-use permit shall pay an annual base fee of \$5 plus an amount, established by the department by

regulation, that is as close as is practicable to the maximum allowed by law.

(i) Notwithstanding (g) and (h) of this section, a resident or nonresident engaged in commercial fishing who does not hold an entry permit or an interim-use permit may obtain one seven-day crewmember fishing license under this subsection annually. A person who obtains a seven-day license is not eligible for another seven-day license in the same license year; however, if a person who obtains a seven-day license pays the full fee for an annual crewmember fishing license under (g) or (h) of this section during the same license year, the person is entitled to receive a refund of the fee for the seven-day license. The department shall adopt regulations establishing a refund procedure. During the period for which the seven-day license is valid, a person who holds a seven-day license may not engage in fishing with a rod and reel while present on a commercial fishing vessel. The fee for a seven-day license is \$30.

(j) In this section, “commercial fishing license” includes an entry permit and an interim-use permit issued under AS 16.43 and a crewmember fishing license.

**Sec. 16.05.490. Vessel license.** (a) As a condition to delivery or landing of fish or engaging in commercial fishing in the state, a license is required for a commercial vessel.

**Sec. 16.05.495. Vessel license exemption.** A vessel used exclusively for the commercial capture of salmon in commercial salmon administrative management areas that include state water between the latitude of Point Romanof and the latitude of Cape Newenham, and state water surrounding Nunivak Island, or at a set net site, is exempt from the licensing requirements of AS 16.05.490.

**Sec. 16.05.510. Unlicensed vessel unlawful.** A person may not operate a vessel to which AS 16.05.490 — 16.05.530 apply without a vessel license, whether the absence of a vessel license results from initial failure to purchase or from another reason.

**Sec. 16.05.520. Number plate.** (a) The vessel license includes a permanent number plate. The number plate shall be accompanied by a tab affixed to the number plate designating the year to be fished. A number plate is not transferable, and the number plate shall be considered a permanent fixture upon the vessel upon which the number plate is originally placed. The number plate shall be securely fastened well forward on the port side in plain sight. On a vessel with a superstructure, the number plate shall be fastened on the port side of the superstructure. A number plate remains the property of the state. The Alaska Commercial Fisheries Entry Commission may establish by regulation a reasonable fee for the initial issuance of a permanent number plate. If a permanent number plate is accidentally defaced, mutilated, destroyed, or lost, the person owning or operating the vessel shall immediately apply for and may obtain a duplicate upon furnishing the Alaska Commercial Fisheries Entry Commission with the pertinent facts and a payment of a reasonable fee established by the commission by regulation that is not less than \$2.

(b) If a vessel carrying a number plate is lost, destroyed, or sold, the owner shall immediately report the loss, destruction, or sale to the Alaska Commercial Fisheries Entry Commission.

**Sec. 16.05.530. Renewal of vessel license.** (a) Upon payment of the vessel license fee and filing of the name and address of the owner of the vessel or the owner’s authorized

agent, the name and number of the vessel, a description of the vessel, the vessel license number, if any, the area to be fished, and other reasonable information required by the Alaska Commercial Fisheries Entry Commission, the commission shall issue a permanent number plate and a vessel license. If the vessel has a permanent number plate, the commission shall issue a vessel license and tab designating the year the license is valid. The tab shall be placed in the space provided on the permanent number plate.

(b) For calendar year 2006 and following years, the annual fee for a vessel license issued or renewed under this section is set according to the overall length, as defined by the United States Coast Guard, of the vessel under the following schedule:

(1) 0 — 25 feet .....	\$24
(2) over 25 feet — 50 feet .....	\$60
(3) over 50 feet — 75 feet .....	\$120
(4) over 75 feet — 100 feet .....	\$225
(5) over 100 feet — 125 feet .....	\$300
(6) over 125 feet — 150 feet .....	\$375
(7) over 150 feet — 175 feet .....	\$450
(8) over 175 feet — 200 feet .....	\$525
(9) over 200 feet — 225 feet .....	\$600
(10) over 225 feet — 250 feet .....	\$675
(11) over 250 feet — 275 feet .....	\$750
(12) over 275 feet — 300 feet .....	\$825
(13) over 300 feet .....	\$900.

**Sec. 16.05.665. Falsification of application for license.** (a) A person who knowingly makes a false statement as to a material fact on an application for a license under AS 16.05.440 — 16.05.660 is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000, or by imprisonment for not more than six months, or by both.

(b) A license issued under AS 16.05.440 — 16.05.660 to a person convicted under (a) of this section is void.

(c) A person whose license is void under (a) and (b) of this section may not obtain another license of the same type for a period of not less than two nor more than three years from the date of conviction by the court.

**Sec. 16.05.671. Transportation and sale of certain fish by an agent of the fisherman who caught the fish.** (a) A person may transport and sell commercially taken fish as the agent of the commercial fisherman who caught the fish if the person holds a fish transporter permit issued by the commissioner under this section.

(b) The commissioner may issue a fish transporter permit to a natural person. A fish transporter permit authorizes the permittee to transport and sell commercially taken fish as the agent of the commercial fisherman who caught the fish. A fish transporter may not buy or process fish received for transport unless the fish transporter also holds the appropriate licenses, permits, and other authorizations required to buy or process fish.

(c) A person who applies for a fish transporter permit under this section shall provide



the person's social security number to the department. Upon request of the child support services agency created in AS 25.27.010, or a child support agency of another state, the department shall provide a social security number provided by an applicant for a fish transporter permit under this section to that agency for child support purposes authorized under law.

(d) A commercial fisherman may authorize a fish transporter to transport and sell fish on behalf of the fisherman as the agent of the fisherman. The fish transporter shall complete a fish ticket in accordance with procedures prescribed by the department for each fisherman who transfers fish to the fish transporter. The fish ticket must accompany the fish transferred to the fish transporter while the fish are in possession of the fish transporter. The fish transporter shall present the fish ticket for inspection upon request by a peace officer or representative of the commissioner. The fish transporter shall present the fish ticket to the buyer of the fish at the time of sale. The buyer of the fish shall complete the fish ticket by inserting the buyer's information as required by the department, including the weight or count of fish purchased. The buyer shall return a copy of the fish ticket to the commercial fisherman on whose behalf the fish are sold.

(e) A commercial fisherman who transfers fish to a fish transporter to transport and sell fish on behalf of the fisherman shall provide the fish transporter with all required information that the fisherman would have to provide to the buyer of the fish if the fisherman were to personally sell the fish to the buyer. The fish transporter who sells fish as the agent of a commercial fisherman shall provide all information to the buyer of the fish that the commercial fisherman would have to provide to the buyer if the fisherman were to personally sell the fish.

(f) A commercial fisherman may also hold a fish transporter permit. A commercial fisherman who holds a fish transporter permit may simultaneously transport or sell fish that the fisherman caught as well as fish caught by other commercial fishermen. A commercial fisherman who is simultaneously operating as a fish transporter shall physically possess

(1) the fish ticket completed under (d) of this section for the fish being transported or sold on behalf of another fisherman; and

(2) other documentation that may be prescribed by the commissioner by regulation.

(g) The commissioner may adopt regulations the commissioner considers necessary to implement this section. The regulations may not conflict with regulations or management plans adopted by the Board of Fisheries. The regulations may include

(1) criteria for determining areas or fisheries for which transporter permits may not be issued because

(A) fish transporter operations may alter harvest rates for the area or fishery to the extent that conservation of the resource is jeopardized, may significantly impair the ability of the department to accurately determine catch or effort levels, or may interfere with fishery management, allocation, or enforcement matters;

(B) a fishery is managed through allocations of the harvest to individuals, such

as trip limits or quota shares; or

(C) combining of catches by multiple fishermen on a vessel may impair the ability of the department to accurately determine the incidental catch by each fisherman;

(2) requirements for timely and accurate reporting and record keeping; or

(3) procedures to maintain quality of harvested resources.

(h) Fish transferred to the possession of a fish transporter under the authority of this section are property of the fisherman who caught the fish until the fish are sold to a buyer by the fish transporter on behalf of the fisherman.

(i) In this section, “fish” means fish legally harvested and retained in salmon, herring, or Pacific cod fisheries.

**Sec. 16.05.675. Landing permits.** (a) A person who does not hold a limited entry permit or interim-use permit issued under AS 16.43 or a fish transporter permit issued under AS 16.05.671 may not deliver or land fish in the state unless the person

(1) holds a valid federal permit to operate commercial fishing gear in the fishery conservation zone; and

(2) has been issued a landing permit by the Alaska Commercial Fisheries Entry Commission.

(b) The commissioner may by regulation establish eligibility requirements for the issuance of a landing permit.

(c) The commissioner may authorize the Alaska Commercial Fisheries Entry Commission to issue landing permits for a fishery if the commissioner has made a written finding that the issuance of landing permits for that fishery is consistent with state resource conservation and management goals.

**Sec. 16.05.680. Unlawful practices.** (a) It is unlawful for a person, or an agent or representative of the person,

(1) to employ, in the harvesting, transporting, or purchasing of fish, a fisherman who neither is licensed under AS 16.05.480 nor is the holder of a permit issued under AS 16.43;

(2) to purchase fish from a person who is not

(A) the holder of a limited entry, interim-use, or landing permit issued under AS 16.43;

(B) a fish transporter who is selling the fish as the agent of the holder of a limited entry, interim-use, or landing permit issued under AS 16.43; or

(C) exempt under AS 16.05.660; or

(3) to purchase fish from an association other than one to which a permit has been issued under AS 16.05.662.

(b) A person may not sell salmon that was not harvested under the authority of the entry permit, interim-use permit, or landing permit under which the salmon is sold. For purposes of this subsection, salmon sold by a fish transporter on behalf of the commercial fisherman who harvested the salmon is salmon harvested under the authority of the limited entry, interim-use, or landing permit under which the salmon is sold.

**Sec. 16.05.690. Record of purchases.** (a) Each buyer of fish shall keep a record of each purchase showing the name or number of the vessel from which the catch involved is taken, the date of landing, vessel license number, pounds purchased of each species, number of each species, and the Department of Fish and Game statistical area in which the fish were taken, and other information the department requires. Records may be kept on forms provided by the department. Each person charged with keeping the records shall report them to the department in accordance with regulations adopted by the department.

(b) A person may not knowingly enter false information on a fish ticket or supply false information to a person who is recording information on a fish ticket.

(c) [Repealed, § 1 ch 13 SLA 1997.]

**Sec. 16.05.710. Suspension of commercial license and entry permit.** (a) Upon the conviction of a person for a misdemeanor or felony violation of a commercial fishing law of this state, in a fishery other than a commercial salmon fishery, the court, in addition to other penalties imposed by law,

(1) may suspend one or more of the person's commercial fishing privileges and licenses for a period of not more than one year if the conviction is the person's first or second misdemeanor or felony conviction within a 10-year period for violating a commercial fishing law of this state, in a fishery other than a commercial salmon fishery, or another jurisdiction; or

(2) shall suspend one or more of the person's commercial fishing privileges and licenses for a period of not more than three years if the conviction is the person's third or subsequent misdemeanor or felony conviction within a 10-year period for violating a commercial fishing law of this state, in a fishery other than a commercial salmon fishery, or another jurisdiction.

(b) Upon a first conviction of a person for a violation of AS 11.46.120 — 11.46.130 in which the property is commercial fishing gear as defined in AS 16.43.990, the court shall, in addition to the penalty imposed by law, suspend one or more of the person's commercial fishing privileges and licenses for one year. Upon a second or subsequent conviction for a violation of AS 11.46.120 — 11.46.130 or a similar law of another jurisdiction in which the property is commercial fishing gear as defined in AS 16.43.990, the court shall, in addition to the penalty imposed by law, suspend one or more of the person's commercial fishing privileges and licenses for two years.

(c) If proceedings in which commercial fishing privileges or licenses may be

suspended under this section are pending against a limited entry permit holder, the permit holder's limited entry permit may not be permanently transferred, unless allowed by order of the court in which the proceedings are pending, and a permanent transfer of the permit, unless allowed by order of the court, is void. During the period for which a limited entry permit or the permit holder's right to obtain a limited entry permit or to engage in an activity for which a limited entry permit is required is suspended under this section, a permit card may not be issued to the permit holder and the permit holder's permit may not be transferred or sold.

(d) In this section,

(1) "commercial fishing law" means a statute or regulation that regulates the conduct of a person engaged in commercial fishing activities by establishing requirements relating to fishing licenses and permits; catch records and reports; size, nature, or use of fishing vessels, sites, and gear; time, place, or manner of taking fishery resources; possession, transportation, sale, barter, or waste of fishery resources; or other aspects of commercial fishing;

(2) "commercial fishing license" means a limited entry permit or a crew member license;

(3) "commercial fishing privilege" means the privilege of participating in an activity for which a commercial fishing license is required and the privilege of obtaining a commercial fishing license;

(4) "limited entry permit" means an entry permit or an interim-use permit issued under AS 16.43.

**Sec. 16.05.722. Strict liability commercial fishing penalties.** (a) A person who without any culpable mental state violates AS 16.05.440 — 16.05.690, or a regulation of the Board of Fisheries or the department governing commercial fishing, is guilty of a violation and upon conviction is punishable by a fine of not more than

(1) \$3,000 for a first conviction;

(2) \$6,000 for a second conviction or for a subsequent conviction not described in (3) of this subsection; and

(3) \$9,000 for a third or subsequent conviction within a 10-year period.

(b) In addition, the court shall order forfeiture of any fish, or its fair market value, taken or retained as a result of the commission of the violation. For purposes of this subsection, it is a rebuttable presumption that all fish found on board a fishing vessel used in or in aid of a violation, or found at the fishing site, were taken or retained in violation of AS 16.05.440 — 16.05.690 or a commercial fisheries regulation of the Board of Fisheries or the department. It is the defendant's burden to show by a preponderance of the evidence that fish on board or at the site were lawfully taken and retained.

(c) A person charged with a violation under this section is entitled to a trial by court

but not by jury, and is not entitled to representation at public expense.

**Sec. 16.05.723. Misdemeanor commercial fishing penalties.** (a) A person who negligently violates AS 16.05.440 — 16.05.690, or a regulation of the Board of Fisheries or the department governing commercial fishing, is guilty of a misdemeanor and in addition to punishment under other provisions in this title, including AS 16.05.195 and 16.05.710, is punishable upon conviction by a fine of not more than \$15,000 or by imprisonment for not more than one year, or by both. In addition, the court shall order forfeiture of any fish, or its fair market value, taken or retained as a result of the commission of the violation, and the court may forfeit any vessel and any fishing gear, including any net, pot, tackle, or other device designed or employed to take fish commercially, that was used in or in aid of the violation. Any fish, or its fair market value, forfeited under this subsection may not also be forfeited under AS 16.05.195. For purposes of this subsection, it is a rebuttable presumption that all fish found on board a fishing vessel used in or in aid of a violation, or found at the fishing site, were taken or retained in violation of AS 16.05.440 — 16.05.690 or a commercial fisheries regulation of the Board of Fisheries or the department, and it is the defendant's burden to show by a preponderance of the evidence that fish on board or at the site were lawfully taken and retained.

(b) If a person is convicted under this section of one of the following offenses, then, in addition to the penalties imposed under (a) of this section, the court may impose a fine equal to the gross value of the fish found on board or at the fishing site at the time of the violation:

(1) commercial fishing in closed waters;

(2) commercial fishing during a closed period or season;

(3) commercial fishing with unlawful gear, including a net, pot, tackle, or other device designed or employed to take fish commercially; or

(4) commercial fishing without a limited entry permit holder on board if the holder is required by law or regulation to be present.

(c) Upon a third misdemeanor conviction within a period of 10 years for an offense listed in (b) of this section or any combination of offenses listed in (b) of this section, the court shall impose, in addition to any penalties imposed under (a) of this section, a fine equal to three times the gross value of the fish found on board or at the fishing site at the time of the offense, or a fine equal to \$10,000, whichever is greater.

**Sec. 16.05.735. Management of offshore fisheries.** The state may assume management of a fishery in offshore water adjacent to the state in the absence of a federal fishery management plan for the fishery or in the event that a federal fishery management plan for the fishery delegates authority to the state to manage the fishery in the United States exclusive economic zone.

## Article 6. Miscellaneous Provisions.

**Sec. 16.05.800. Public nuisances.** A net, seine, lantern, snare, device, contrivance, and material while in use, had and maintained for the purpose of catching, taking, killing, attracting, or decoying fish or game, contrary to law or regulation of a board or the commissioner, is a public nuisance and is subject to abatement.

**Sec. 16.05.810. Burden of proof.** The possession of fish or game or a part of fish or game, or a nest or egg of a bird during the time the taking of it is prohibited is prima facie evidence that it was taken, possessed, bought, or sold or transported in violation of this chapter. The burden of proof is upon the possessor or claimant of it to overcome the presumption of illegal possession and to establish the fact that it was obtained and is possessed lawfully. This section does not apply

(1) during the first full 10 days after the time when a taking is prohibited, except as provided in (3) of this section;

(2) if the fish or game or part of fish or game is in a preserved condition whether frozen, smoked, canned, salted, pickled, or otherwise preserved; or

(3) with respect to crab aboard a commercial crab fishing vessel, during the first full three days after the time when a taking is prohibited.

**Sec. 16.05.815. Confidential nature of certain reports and records.** (a) Except as provided in (b) and (c) of this section, records required by regulations of the department concerning the landings of fish, shellfish, or fishery products, and annual statistical reports of fishermen, buyers, and processors required by regulation of the department are confidential and may not be released by the department or by the Alaska Commercial Fisheries Entry Commission except as set out in this subsection. The department may release the records and reports set out in this subsection to the Alaska Commercial Fisheries Entry Commission. The department and the Alaska Commercial Fisheries Entry Commission may release the records and reports set out in this subsection to the recipients identified in this subsection if the recipient, other than a recipient under (5) — (9) of this subsection, agrees to maintain the confidentiality of the records and reports. The department and the Alaska Commercial Fisheries Entry Commission may release

(1) any of the records and reports to the National Marine Fisheries Service and the professional staff of the North Pacific Fishery Management Council as required for preparation and implementation of the fishery management plans of the North Pacific Fishery Management Council within the exclusive economic zone;

(2) any of the records and reports to the professional staff of the Pacific States Marine Fisheries Commission who are employed in the Alaska Fisheries Information Network project for the purpose of exchanging information with users authorized by the department;

(3) any of the records and reports to the Department of Revenue to assist the department in carrying out its statutory responsibilities;

(4) records or reports of the total value purchased by each buyer to a municipality that levies and collects a tax on fish, shellfish, or fishery products if the municipality requires records of the landings of fish, shellfish, or fishery products to be submitted to it

for purposes of verification of taxes payable;

(5) such records and reports as necessary to be in conformity with a court order;

(6) on request, the report of a person to the person whose fishing activity is the subject of the report, or to a designee of the person whose fishing activity is the subject of the report;

(7) on request, annual statistical reports of a fisherman, buyer, or processor to the fisherman, buyer, or processor whose activity is the subject of the report, or to a designee of the fisherman, buyer, or processor whose activity is the subject of the report;

(8) any of the records and reports to the Department of Public Safety for law enforcement purposes;

(9) fish tickets, fish ticket information, records required of sport fishing guides, and annual statistical reports of fishermen, buyers, and processors and information in those reports to the law enforcement personnel of the National Marine Fisheries Service and the National Oceanic and Atmospheric Administration for the purpose of enforcing fishery laws in waters of this state and in waters of the exclusive economic zone adjacent to this state;

(10) fish tickets, fish ticket information, and records required of sport fishing guides regarding halibut to the International Pacific Halibut Commission;

(11) any of the records and reports to the child support services agency created in AS 25.27.010, or the child support enforcement agency of another state, for child support purposes authorized under law;

(12) any of the records and reports to the Department of Natural Resources to assist the department in carrying out its statutory responsibilities in regard to sport fishing operations and sport fishing guides within the Kenai River Special Management Area under AS 41.21.500 — 41.21.514; and

(13) fish ticket information and records or reports of the total value purchased by each fisherman, buyer, or processor to the National Marine Fisheries Service for the purpose of enforcing the industry fee system of a fishing capacity reduction program under 16 U.S.C. 1861a (Magnuson-Stevens Fishery Conservation and Management Act).

(b) Except as provided in (c) of this section, records or reports received by the department which do not identify individual fishermen, buyers, or processors or the specific locations where fish have been taken are public information.

(c) Crab stock abundance survey information that reveals crab catch by sampling location is confidential and is not subject to inspection or copying under AS 40.25.110 — 40.25.120 until the close of the fishing season for which the survey was conducted.

(d) Except as otherwise provided in this section, the department shall keep confidential (1) personal information contained in fish and wildlife harvest and usage data; and (2) the records of the department that concern (A) telemetry radio frequencies of monitored

species; (B) denning sites; (C) nest locations of raptors that require special attention; (D) the specific location of animal capture sites used for wildlife research or management; and (E) the specific location of fish and wildlife species. The department may release records and information that are kept confidential under this subsection if the release is necessary to comply with a court order, if the requester is a state or federal agency, if the requester is under contract with the state or federal agency to conduct research on a fish or wildlife population, or if the requester has been authorized by the department to perform specific activities and agrees to use the records and information only for purposes as provided under a contract or agreement with the department. After 25 years, the records and information that are kept confidential under this subsection become public records subject to inspection and copying under AS 40.25.110 — 40.25.140 unless the department determines that the release of the records or information may be detrimental to the fish or wildlife population. In this subsection, “personal information” has the meaning given in AS 40.25.350.

**Sec. 16.05.831. Waste of salmon.** (a) A person may not waste salmon intentionally, knowingly, or with reckless disregard for the consequences. In this section, “waste” means the failure to utilize the majority of the carcass, excluding viscera and sex parts, of a salmon intended for

- (1) sale to a commercial buyer or processor;
- (2) consumption by humans or domesticated animals; or
- (3) scientific, educational, or display purposes.

(b) The commissioner, upon request, may authorize other uses of salmon that would be consistent with maximum and wise use of the resource.

(c) A person who violates this section or a regulation adopted under it is punishable by a fine of not more than \$10,000, or by imprisonment for not more than six months, or by both. In addition, a person who violates this section is subject to a civil action by the state for the cost of replacing the salmon wasted.

## **Article 9. General Provisions.**

**Sec. 16.05.905. Activities by aliens prohibited.** (a) Alien persons not lawfully admitted to the United States are prohibited from engaging in commercial fishing activities or taking marine mammals in the territorial waters of the state as they presently exist or may be extended in the future.

(b) An alien person who violates (a) of this section is guilty of a misdemeanor, and upon conviction is punishable by a confiscation and forfeiture of the fishing vessel used in the violation, or by imprisonment for not more than one year, or by fine of not more than \$10,000, or by all or any two of the foregoing punishments.

**Sec. 16.05.920. Prohibited conduct generally.** (a) Unless permitted by AS 16.05 — AS 16.40 or by regulation adopted under AS 16.05 — AS 16.40, a person may not take, possess, transport, sell, offer to sell, purchase, or offer to purchase fish, game, or marine aquatic plants, or any part of fish, game, or aquatic plants, or a nest or egg of fish or



game.

(b) A person may not knowingly disturb, injure, or destroy a notice, signboard, seal, tag, aircraft, boat, vessel, automobile, paraphernalia, equipment, building, or other improvement or property of the department used in the administration or enforcement of this title except AS 16.51 and AS 16.52, or a poster or notice to the public concerning the provisions of this title except AS 16.51 and AS 16.52, or a regulation adopted under this title except AS 16.51 and AS 16.52, or a marker indicating the boundary of an area closed to hunting, trapping, fishing, or other special use under this title except AS 16.51 and AS 16.52. A person may not knowingly destroy, remove, tamper with, or imitate a seal or tag issued or used by the department or attached under its authority to a skin, portion, or specimen of fish or game, or other article for the purpose of identification or authentication in accordance with this title except AS 16.51 and AS 16.52 or a regulation adopted under this title except AS 16.51 and AS 16.52.

**Sec. 16.05.930. Exempted activities.** (a) This chapter does not prevent the collection or exportation of fish and game, a part of fish or game or a nest or egg of a bird for scientific or educational purposes, or for propagation or exhibition purposes under a permit that the department may issue and prescribe the terms thereof.

(b) This chapter does not prohibit a person from taking fish or game during the closed season, in case of dire emergency, as defined by regulation adopted by the appropriate board.

(c) AS 16.05.920 and 16.05.921 do not prohibit rearing and sale of fish from private ponds, the raising of wild animals in captivity for food, or the raising of game birds for the purpose of recreational hunting on game hunting preserves, under regulations adopted by the appropriate board. In this subsection, “animals” includes all animal life, including insects and bugs.

(d) Nondomestic animals of any species may not be transferred or transported from the state under (a) of this section unless approved by the Board of Game in regular or special meeting. Animals transferred or transported under (a) of this section shall be animals that are certified by the department to be surplus and unnecessary to the sustained yield management of the resource. Each application for a permit under (a) of this section shall be accompanied by a statement prepared by the department examining the probable environmental impact of the action.

(e) This chapter does not prevent the traditional barter of fish and game taken by subsistence hunting or fishing, except that the commissioner may prohibit the barter of subsistence-taken fish and game by regulation, emergency or otherwise, if a determination on the record is made that the barter is resulting in a waste of the resource, damage to fish stocks or game populations, or circumvention of fish or game management programs.

(f) A permit may not be required for possessing, importing, or exporting mink and fox for fur farming purposes.

(g) AS 16.05.330 — 16.05.723 do not apply to an activity authorized by a permit

issued under AS 16.40.100 or 16.40.120, or to a person or vessel employed in an activity authorized by a permit issued under AS 16.40.100 or 16.40.120.

**Sec. 16.05.940. Definitions.** In AS 16.05 — AS 16.40,

(1) “**aquatic plant**” means any species of plant, excluding the rushes, sedges, and true grasses, growing in a marine aquatic or intertidal habitat;

(2) “**barter**” means the exchange or trade of fish or game, or their parts, taken for subsistence uses

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature;

(3) “**a board**” means either the Board of Fisheries or the Board of Game;

(4) “**commercial fisherman**” means an individual who fishes commercially for, takes, or attempts to take fish, shellfish, or other fishery resources of the state by any means, and includes every individual aboard a boat operated for fishing purposes who participates directly or indirectly in the taking of these raw fishery products, whether participation is on shares or as an employee or otherwise; however, this definition does not apply to anyone aboard a licensed vessel as a visitor or guest who does not directly or indirectly participate in the taking; “commercial fisherman” includes the crews of tenders or other floating craft used in transporting fish, but does not include processing workers on floating fish processing vessels who do not operate fishing gear or engage in activities related to navigation or operation of the vessel; in this paragraph “operate fishing gear” means to deploy or remove gear from state water, remove fish from gear during an open fishing season or period, or possess a gill net containing fish during an open fishing period;

(5) “**commercial fishing**” means the taking, fishing for, or possession of fish, shellfish, or other fishery resources with the intent of disposing of them for profit, or by sale, barter, trade, or in commercial channels; the failure to have a valid subsistence permit in possession, if required by statute or regulation, is considered prima facie evidence of commercial fishing if commercial fishing gear as specified by regulation is involved in the taking, fishing for, or possession of fish, shellfish, or other fish resources;

(6) “**commissioner**” means the commissioner of fish and game unless specifically provided otherwise;

(7) “**customary and traditional**” means the noncommercial, long-term, and consistent taking of, use of, and reliance upon fish or game in a specific area and the use patterns of that fish or game that have been established over a reasonable period of time taking into consideration the availability of the fish or game;

(8) “**customary trade**” means the limited noncommercial exchange, for minimal amounts of cash, as restricted by the appropriate board, of fish or game resources; the terms of this paragraph do not restrict money sales of furs and furbearers;

(9) “**department**” means the Department of Fish and Game unless specifically provided otherwise;

(10) “**domestic mammals**” include musk oxen, bison, and reindeer, if they are lawfully owned;

(11) “**domicile**” means the true and permanent home of a person from which the person has no present intention of moving and to which the person intends to return whenever the person is away; domicile may be proved by presenting evidence acceptable to the boards of fisheries and game;

(12) “**fish**” means any species of aquatic finfish, invertebrate, or amphibian, in any stage of its life cycle, found in or introduced into the state, and includes any part of such aquatic finfish, invertebrate, or amphibian;

(13) “**fish derby**” means a contest in which prizes are awarded for catching fish;

(14) “**fish or game farming**” means the business of propagating, breeding, raising, or producing fish or game in captivity for the purpose of marketing the fish or game or their products, and “**captivity**” means having the fish or game under positive control, as in a pen, pond, or an area of land or water that is completely enclosed by a generally escape-proof barrier; in this paragraph, “**fish**” does not include shellfish, as defined in AS 16.40.199;

(15) “**fish stock**” means a species, subspecies, geographic grouping, or other category of fish manageable as a unit;

(16) “**fish transporter**” means a natural person who holds a fish transporter permit issued under AS 16.05.671;

(17) “**fishery**” means a specific administrative area in which a specific fishery resource is taken with a specific type of gear; however, the Board of Fisheries may designate a fishery to include more than one specific administrative area, type of gear, or fishery resource; in this paragraph

(A) “**gear**” means the specific apparatus used in the harvest of a fishery resource; and

(B) “**type of gear**” means an identifiable classification of gear and may include

(i) classifications for which separate regulations are adopted by the Board of Fisheries or for which separate gear licenses were required by former AS 16.05.550 — 16.05.630; and

(ii) distinct subclassifications of gear such as “**power**” troll gear and “**hand**” troll gear or sport gear and guided sport gear;

(18) “**fur dealing**” means engaging in the business of buying, selling, or trading in animal skins, but does not include the sale of animal skins by a trapper or hunter who has

legally taken the animal, or the purchase of animal skins by a person, other than a fur dealer, for the person's own use;

(19) “**game**” means any species of bird, reptile, and mammal, including a feral domestic animal, found or introduced in the state, except domestic birds and mammals; and game may be classified by regulation as big game, small game, fur bearers or other categories considered essential for carrying out the intention and purposes of AS 16.05 — AS 16.40;

(20) “**game population**” means a group of game animals of a single species or subgroup manageable as a unit;

(21) “**hunting**” means the taking of game under AS 16.05 — AS 16.40 and the regulations adopted under those chapters;

(22) “**nonresident**” means a person who is not a resident of the state;

(23) “**nonresident alien**” means a person who is not a citizen of the United States and whose permanent place of abode is not in the United States;

(24) “**operator**” means the individual by law made responsible for the operation of the vessel;

(25) “**person with developmental disabilities**” means a person who presents to the department an affidavit signed by a physician licensed to practice medicine in the state stating that the person is experiencing a severe, chronic disability

(A) attributable to a mental or physical impairment or a combination of mental and physical impairments;

(B) that is manifested before the person reaches 18 years of age;

(C) that is likely to continue indefinitely;

(D) that results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency;

(E) that reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated;

(F) and that the person is not a danger to themselves or others; and

(G) and that the person does not suffer from a mental illness; in this subparagraph, “mental illness” means an organic, mental, or emotional impairment that has substantial adverse effects on a person's ability to exercise conscious control of the person's actions or ability to perceive reality or to reason or understand.

(26) “**person with physical disabilities**” means a person who presents to the department either written proof that the person receives at least 70 percent disability compensation from a government agency for a physical disability or an affidavit signed by a physician licensed to practice medicine in the state stating that the person is at least 70 percent physically disabled;

(27) “**personal use fishing**” means the taking, fishing for, or possession of finfish, shellfish, or other fishery resources, by Alaska residents for personal use and not for sale or barter, with gill or dip net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(28) “**resident**” means

(A) a person who for the 12 consecutive months immediately preceding the time when the assertion of residence is made has maintained the person’s domicile in the state and who is neither claiming residency in another state, territory, or country nor obtaining benefits under a claim of residency in another state, territory, or country;

(B) a partnership, association, joint stock company, trust, or corporation that has its main office or headquarters in the state; a natural person who does not otherwise qualify as a resident under this paragraph may not qualify as a resident by virtue of an interest in a partnership, association, joint stock company, trust, or corporation;

(C) a member of the military service, or United States Coast Guard, who has been stationed in the state for the 12 consecutive months immediately preceding the time when the assertion of residence is made;

(D) a person who is the dependent of a resident member of the military service, or the United States Coast Guard, and who has lived in the state for the 12 consecutive months immediately preceding the time when the assertion of residence is made; or

(E) an alien who for the 12 consecutive months immediately preceding the time when the assertion of residence is made has maintained the person’s domicile in the state and who is neither claiming residency in another state, territory, or country nor obtaining benefits under a claim of residency in another state, territory, or country;

(29) “**rural area**” means a community or area of the state in which the noncommercial, customary, and traditional use of fish or game for personal or family consumption is a principal characteristic of the economy of the community or area;

(30) “**seizure**” means the actual or constructive taking or possession of real or personal property subject to seizure under AS 16.05 — AS 16.40 by an enforcement or investigative officer charged with enforcement of the fish and game laws of the state;

(31) “**sport fishing**” means the taking of or attempting to take for personal use, and not for sale or barter, any fresh water, marine, or anadromous fish by hook and line held in the hand, or by hook and line with the line attached to a pole or rod which is held in the hand or closely attended, or by other means defined by the Board of Fisheries;

(32) “**subsistence fishing**” means the taking of, fishing for, or possession of fish,

shellfish, or other fisheries resources by a resident domiciled in a rural area of the state for subsistence uses with gill net, seine, fish wheel, long line, or other means defined by the Board of Fisheries;

(33) “**subsistence hunting**” means the taking of, hunting for, or possession of game by a resident domiciled in a rural area of the state for subsistence uses by means defined by the Board of Game;

(34) “**subsistence uses**” means the noncommercial, customary and traditional uses of wild, renewable resources by a resident domiciled in a rural area of the state for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption; in this paragraph, “family” means persons related by blood, marriage, or adoption, and a person living in the household on a permanent basis;

(35) “**take**” means taking, pursuing, hunting, fishing, trapping, or in any manner disturbing, capturing, or killing or attempting to take, pursue, hunt, fish, trap, or in any manner capture or kill fish or game;

(36) “**taxidermy**” means tanning, mounting, processing, or other treatment or preparation of fish or game, or any part of fish or game, as a trophy, for monetary gain, including the receiving of the fish or game or parts of fish or game for such purposes;

(37) “**trapping**” means the taking of mammals declared by regulation to be fur bearers;

(38) “**vessel**” means a floating craft powered, towed, rowed, or otherwise propelled, which is used for delivering, landing, or taking fish within the jurisdiction of the state, but does not include aircraft.

## **Chapter 10. Fisheries and Fishing Regulations.**

### **Article 2. Interference with Commercial Fishing Gear.**

**Sec. 16.10.055. Interference with commercial fishing gear.** A person who wilfully or with reckless disregard of the consequences, interferes with or damages the commercial fishing gear of another person is guilty of a misdemeanor. For the purposes of this section “interference” means the physical disturbance of gear which results in economic loss or loss of fishing time, and “reckless disregard of the consequences” means a lack of consideration for the consequences of one’s acts in a manner that is reasonably likely to damage the property of another.

### **Article 7. Purchase of Fish.**

**Sec. 16.10.265. Purchase of fish from permit holders.** (a) An individual may not, while acting as a fish processor or primary fish buyer, or as an agent, director, officer, member, or employee of a fish processor, of a primary fish buyer, or of a cooperative corporation

organized under AS 10.15, intentionally or knowingly make an original purchase of fish from a seller who does not hold

(1) a landing permit, an entry permit, or an interim-use permit; or

(2) a fish transporter permit under AS 16.05.671.

(b) An individual who violates (a) of this section is

(1) upon a first conviction, guilty of a class B misdemeanor and shall be sentenced to a fine of not less than \$1,000 nor more than \$5,000, and may be sentenced to a definite term of imprisonment of not more than 90 days;

(2) upon a second conviction, guilty of a class A misdemeanor and shall be sentenced to a fine of not less than \$5,000 nor more than \$10,000, and may be sentenced to a definite term of imprisonment of not more than one year;

(3) upon a third or subsequent conviction, guilty of a class A misdemeanor and shall be sentenced to a fine of not less than \$10,000 nor more than \$25,000, and may be sentenced to a definite term of imprisonment of not more than one year.

(c) The commissioner of revenue shall impose upon a fish processor, primary fish buyer, or cooperative corporation organized under AS 10.15, a civil fine equal to the value of fish purchased in violation of this section by (1) the fish processor or primary fish buyer if the fish processor or primary fish buyer is not a corporation; or (2) a director, officer, or employee in a policy-making position of the fish processor, of the primary fish buyer, or of the cooperative corporation. Value is based on the average price paid to fishermen at the time of the violation.

(d) The commissioner of commerce, community, and economic development may suspend or revoke a business license issued under AS 43.70.020 and the commissioner of revenue may suspend or revoke a license to engage in the business of processing or buying raw fish if the licensee or an officer, director, or employee in a policy-making position of the licensee has been convicted of three offenses under this section. Proceedings to suspend or revoke a license are governed by AS 44.62 (Administrative Procedure Act).

(e) An organization may not be criminally prosecuted under (a) of this section.

(f) In this section, "individual" means a natural person.

**Sec. 16.10.267. Possession of permit and identification by seller.** (a) When a fisherman sells fish, the fisherman shall possess

(1) a landing permit, entry permit, or interim-use permit issued or transferred to the fisherman under AS 16.43, or other document authorized by regulation to be used in place of an entry permit or interim-use permit; and

(2) an identification card that has been issued to the fisherman by a state or federal agency or other organization designated by the Department of Public Safety and that

bears a photograph of the fisherman.

(b) If requested by the purchaser of the fish or by a peace officer, the fisherman or fish transporter shall present for inspection the identification card, entry permit, interim-use permit, fish transporter permit, or other document required to be in the fisherman's or the fish transporter's possession under (a) or (d) of this section.

(c) Examples of a suitable identification card required under (a)(2) and (d)(2) of this section are a motor vehicle operator's license issued under AS 28.15.111 and an identification card issued under AS 18.65.310.

(d) When a fish transporter sells fish as the agent of the commercial fisherman who caught the fish, the fish transporter shall possess

(1) a fish transporter permit and the fish ticket completed by the fish transporter under AS 16.05.671(d); and

(2) an identification card that has been issued to the fish transporter by a state or federal agency or other organization designated by the Department of Public Safety and that bears a photograph of the fish transporter.

(e) A person who violates this section is, upon conviction, guilty of a class B misdemeanor and may be sentenced to a definite term of imprisonment of not more than 90 days. In addition

(1) upon a first conviction for a violation of this section, the court may sentence the convicted person to pay a fine of not more than \$5,000 and may order the loss of commercial fishing privileges for a period of not more than three years from the date of conviction;

(2) upon a second conviction for a violation of this section, the court may sentence the convicted person to pay a fine of not more than \$10,000 and may order the loss of commercial fishing privileges for a period of not more than three years from the date of conviction;

(3) upon a third or subsequent conviction for a violation of this section, the court

(A) may sentence the convicted person to pay a fine of not more than \$10,000; and

(B) shall order that the convicted person lose commercial fishing privileges for a period of three years from the date of conviction.

**Sec. 16.10.270. Purchase of fish by the pound.** (a) A fish processor or primary fish buyer shall purchase raw fish by the pound. The poundage of the fish to be purchased shall be determined by weighing the fish unless both the buyer and seller agree in writing upon a sample weighing technique that will fairly determine the average weight of the fish purchased.

(b) A person who violates this section is guilty of a misdemeanor and upon conviction



is punishable by imprisonment for not more than one year, or by a fine of not more than \$5,000, or by both.

**Sec. 16.10.296. Definitions.** In AS 16.10.265 — 16.10.296, unless the context otherwise requires,

(1) “**commissioner**” means the commissioner of labor and workforce development;

(2) “**fish**” means any species of aquatic finfish, invertebrates and amphibians, shellfish, or any other raw fishery resource, in any stage of its life cycle, found in or introduced into the state, and includes fish eggs except fish eggs sold for stock enhancement purposes;

(3) “**fish processor**” means a person engaging or attempting to engage in a business for which a license is required under AS 43.75;

(4) “**primary fish buyer**” means a person, other than a cooperative corporation organized under AS 10.15, engaging or attempting to engage in the business of originally purchasing or buying any fishery resource in intrastate, interstate, or foreign commerce.

### **Chapter 43. Regulation of Entry into Alaska Commercial Fisheries.**

#### **Article 1. Alaska Commercial Fisheries Entry Commission.**

**Sec. 16.43.100. Duties and general powers.** (a) To accomplish the purposes set out in AS 16.43.010, the commission shall

(1) regulate entry into the commercial fisheries for all fishery resources in the state;

(2) establish priorities for the application of the provisions of this chapter to the various commercial fisheries of the state;

(3) establish administrative areas suitable for regulating and controlling entry into the commercial fisheries;

(4) establish, for all types of gear, the maximum number of entry permits for each administrative area;

(5) designate, when necessary to accomplish the purposes of this chapter, particular species for which separate interim-use permits or entry permits will be issued;

(6) establish qualifications for the issuance of entry permits;

(7) issue entry permits to qualified applicants;

(8) issue interim-use permits as provided in AS 16.43.210, 16.43.220, and 16.43.225;

(9) establish, for all types of gear, the optimum number of entry permits for each

administrative area;

(10) administer the buy-back program provided for in AS 16.43.310 and 16.43.320 to reduce the number of outstanding entry permits to the optimum number of entry permits;

(11) provide for the transfer and reissuance of entry permits to qualified transferees;

(12) provide for the transfer and reissuance of entry permits for alternative types of legal gear, in a manner consistent with the purposes of this chapter;

(13) establish and administer the collection of the annual fees provided for in AS 16.43.160;

(14) administer the issuance of commercial fishing vessel licenses under AS 16.05.490;

(15) issue educational entry permits to applicants who qualify under the provisions of AS 16.43.340 — 16.43.390;

(16) establish reasonable user fees for services;

(17) issue landing permits under AS 16.05.675 and regulations adopted under that section;

(18) establish and collect annual fees for the issuance of landing permits that reasonably reflect the costs incurred in the administration and enforcement of provisions of law related to landing permits;

(19) establish a moratorium on entry into commercial fisheries as provided in AS 16.43.225;

(20) when requested by a regional development organization formed under former AS 44.33.895, provide to the organization, without charge, public information contained in the commission's data with respect to relevant fisheries, including limited fisheries, fishery participants, and limited entry permit holders' harvests and earnings; and

(21) administer, when necessary to accomplish the purposes of this chapter, a Bering Sea hair crab fishery vessel permit system under AS 16.43.451 — 16.43.521.

(b) The commission may do all things necessary to the exercise of its powers under this chapter, whether or not specifically designated in this chapter.

## **Article 2. Entry Permit System.**

### **Sec. 16.43.140. Permit required.**

(a) A person may not operate gear in the commercial taking of fishery resources without a valid entry permit or a valid interim-use permit issued by the commission.

(b) A permit is not required of a crewmember or other person assisting in the operation of a unit of gear engaged in the commercial taking of fishery resources as long as the holder of the entry permit or the interim-use permit for that particular unit of gear is at all times present and actively engaged in the operation of the gear.

(c) A person may hold more than one interim-use or entry permit issued or transferred under this chapter only for the following purposes:

(1) fishing more than one type of gear;

(2) fishing in more than one administrative area;

(3) harvesting particular species for which separate interim-use or entry permits are issued;

(4) if authorized by regulations of the commission, fishing an entire unit of gear in a fishery in which the commission has issued entry permits for less than a unit of gear under AS 16.43.270(d); under this paragraph, a person may not hold more than two entry permits for a fishery; however, the person may not

(A) fish more than one unit of gear in the fishery; or

(B) acquire a second entry permit for the fishery after the person has acquired an entry permit that authorizes the use of an entire unit of gear in the fishery;

(5) consolidation of the fishing fleet for a salmon fishery; however, a person may hold not more than two entry permits for a salmon fishery under this paragraph, but the person who holds two entry permits for a salmon fishery may not engage in fishing under the second entry permit.

**Sec. 16.43.150. Terms and conditions of entry permit; annual renewal.** (a) Except as may be otherwise provided under AS 16.43.270(d), an entry permit authorizes the permittee to operate a unit of gear within a specified fishery.

(b) The holder of an entry permit shall have the permit in possession at all times when engaged in the operation of gear for which it was issued.

(c) Each entry permit is issued for a term of one year and is renewable annually.

(d) Failure to renew an entry permit for a period of two years from the year of last renewal results in a forfeiture of the entry permit to the commission, except as waived by the commission for good cause. An entry permit may not be renewed until the fees for each preceding year during which the entry permit was not renewed are paid. However, failure to renew an entry permit in a year in which there is an administrative closure for the entire season for a specific fishery is good cause not to renew the entry permit. The commission shall waive the payment of fees for that year.

(e) An entry permit constitutes a use privilege that may be modified or revoked by the legislature without compensation.

(f) Except for permits that are not transferable under AS 16.43.170(e), an entry permit survives the death of the holder.

(g) Except as provided in AS 16.10.333 — 16.10.338, AS 44.81.215, 44.81.225, and 44.81.231 — 44.81.250, an entry permit may not be

(1) pledged, mortgaged, leased, or encumbered in any way;

(2) transferred with any retained right of repossession or foreclosure, or on any condition requiring a subsequent transfer; or

(3) attached, distrained, or sold on execution of judgment or under any other process or order of any court, except as provided in AS 16.43.170(g) and (h).

(h) Unless an entry permit holder has expressed a contrary intent in a will that is probated, the commission shall, upon the death of the permit holder, transfer the permanent permit by right of survivorship directly to the surviving spouse or, if no spouse survives, to a natural person designated by the permit holder on a form provided by the commission. If no spouse survives and if the person designated on the form, if any, does not survive, the permit passes as part of the permit holder's estate. A designation under this subsection must be acknowledged before a person authorized to administer an oath under AS 09.63.010 or must be witnessed by two persons who are qualified under AS 13.12.505 to witness the will of the permit holder. Except as provided in AS 16.10.333 — 16.10.337, AS 44.81.215, and 44.81.231 — 44.81.250, the permit is exempt from the claims of creditors of the estate.

(i) The holder of a transferable or nontransferable entry permit or of an interim-use permit may voluntarily relinquish the permit to the commission.

## **Article 9. General Provisions.**

**Sec. 16.43.950. Applications of regulations of Board of Fisheries.** Nothing in this chapter limits the powers of the Board of Fisheries, including the power to determine legal types of gear and the power to establish size limitations or other uniform restrictions applying to a certain type of gear. Holders of interim-use permits or entry permits issued under this chapter are subject to all regulations adopted by the Board of Fisheries.