

CHIGNIK COOPERATIVE SALMON FISHERY

PROPOSAL 329 - 5 AAC 15.358. Chignik Area Cooperative purse seine salmon fishery management plan. Create a new regulation as follows:

(a) The purpose of the management plan under this section is to establish the criteria and management measures for a salmon purse seine cooperative fishery in the Chignik Area.

(b) Chignik Area CFEC salmon purse seine permit holders may receive a permit issued by the commissioner, or the commissioner's designee, to form an annual cooperative fishery only under the following conditions:

(1) at least 51 holders of current and valid CFEC salmon purse seine permits must, together, apply to the commissioner for a permit to fish as a cooperative fishery each year;

(2) an application for an annual cooperative fishery permit must be submitted to the commissioner by March 1; the application must contain the name and CFEC permit number of each applicant; a copy of a cooperative fishery agreement containing the contractual terms upon which the cooperative will be operated must be submitted with the application, including articles of incorporation, corporate by-laws, partnership agreements, or other similar documents that contain the contractual terms of the cooperative;

(3) a holder of a current and valid CFEC salmon purse seine permit who did not apply by the deadline specified in (2) of this subsection, may elect to participate in the cooperative fishery by registering with the department by March 15; a CFEC salmon purse seine permit holder who does not register by the date specified in this paragraph may not participate in the cooperative fishery;

(4) for the 2005 salmon season only,

(A) applications and registrations timely made under the former 5 AAC 15.359(b) for participation in the cooperative fishery qualify for participation under this section;

(B) a CFEC permit holder who originally applied to participate in the cooperative fishery under former 5 AAC 15.359 may withdraw from participation; a notice of withdrawal must be received by the Department of Fish and Game, Division of Commercial Fisheries, 211 Mission Road, Kodiak, AK. 99615-6399 no later than 5:00 p.m. May 16, 2005; for the purposes of this subparagraph, notification may be made in person, at the address given above; by telephone: (907) 486-1825; by facsimile: (907) 486-1824; or by U.S. mail at the address given above;

(5) the contractual terms of the annual cooperative fishery agreement must

(A) provide for participation in the cooperative fishery by registering permit holders who registered after the original deadline, as provided in (3) of this subsection, on the same terms as applicants who did apply by the original deadline;

(B) be consistent with state laws that apply to the salmon fishery resources of the state;

(6) if an annual cooperative fishery permit is approved and issued by the commissioner, or the commissioner's designee, for that year, all permit holders that applied by the original deadline or registered after the original deadline to participate in the cooperative fishery may only participate in that cooperative fishery unless a notice of withdrawal has been given to the department by May 16, 2005, under (b)(4)(B) of this subsection;

(7) a CFEC permit holder who participates in the annual cooperative fishery

(A) in the Chignik Area may not participate in any other commercial salmon net registration area as either a permit holder or crew member from June 1 through August 31 of that year; and

(B) who holds salmon net gear permits for more than one commercial salmon net registration area listed in 5 AAC 39.120(d) , must designate the Chignik Area as the single area for salmon net fishing for that year as specified in 5 AAC 39.115 and 20 AAC 05.1940;

(C) must actively participate in the cooperative fishery to receive any economic benefit; for the purposes of this subparagraph, "actively participate" means to make at least 10 deliveries of salmon to a buyer using the participant's CFEC permit card; it does not mean a CFEC permit holder has to participate in the cooperative fishery from season opening to season closing, and it does not mean that every boat registered for the Chignik salmon fishery be used in the cooperative fishery;

(8) at least one CFEC purse seine permit holder who is a participant in the cooperative must be on board a purse seine vessel engaged in the taking and delivery of salmon for the cooperative.

(c) If an annual cooperative fishery permit application meets the qualifications and requirements of this section, the commissioner, or the commissioner's designee, will issue a permit, which may contain registration requirements, reporting requirements, gear specifications, other than those specified in 5 AAC 15.332, and other requirements or conditions that the commissioner determines necessary for conservation and management purposes.

(d) For each year that an annual cooperative fishery permit is issued under this section, the Chignik Area cooperative fishery shall be allocated a percentage of the annual Chignik Area commercial sockeye salmon harvestable surplus based on the number of permit holders participating in the cooperative as follows:

(1) if participation in the cooperative is less than 80 percent of the registered Chignik Area CFEC purse seine permit holders, the allocation to the annual cooperative fishery will be nine-tenths of one percent of the harvestable surplus for each participant in the cooperative; and

(2) if participation in the cooperative is at least 80 percent, but less than 85 percent of the registered Chignik Area CFEC purse seine permit holders, the allocation to the annual cooperative fishery will be ninety five hundredths of one percent of the harvestable surplus for each participant in the cooperative;

(3) if the participation in the cooperative is 85 percent or more of the registered Chignik area CFEC purse seine permit holders, the allocation to the annual cooperative fishery will be one prorated share of the harvestable surplus for each participant in the cooperative.

(e) The commissioner may, by emergency order, open and close separate or concurrent fishing periods and areas for the cooperative fishery and the open fishery as necessary to achieve the allocation established in (c) of this section. The allocation established under (c) of this section is secondary to escapement and harvest objectives, and the commissioner may, by emergency order, reduce or expand fishing opportunity to ensure escapement and harvest objectives.

(f) The participants in the cooperative fishery may operate a fixed lead only under the conditions of a commissioner's permit. Notwithstanding 5 AAC 39.260, a vessel attached to a fixed lead or to a seine attached to a fixed lead may be allowed to go dry or be anchored without the vessel engine running in the waters of the Chignik Bay District from Mensis Point to Pillar Rock, as long as the lead and seine are not configured to form a fish trap prohibited under AS 16.10.070 and 16.10.100.

(g) Notwithstanding 5 AAC 39.240, and only under the conditions of a commissioner's permit, a vessel may have on board a purse seine or hand purse seine and up to two fixed leads.

(h) The participants in the cooperative fishery may use net pens to hold live salmon until processing, only under the conditions specified in a commissioner's permit.

(i) Notwithstanding 5 AAC 39.130(c), in the cooperative fishery multiple deliveries from an individual permit holder to a single tender on the same day may be recorded on an individual fish ticket with the estimated pounds and number of fish by species. The CFEC permit holder must report to the department, by 12:00 noon the day following the delivery date, the total pounds and number of fish by species from the catcher vessel's harvest. All fish from each delivery must be attributed to only one CFEC permit holder on an ADF&G fish ticket; no split deliveries may be made.

(j) In this section,

(1) "cooperative fishery" means a commercial purse seine salmon fishery in which, by agreement of the participants, the number of fishing vessels may be reduced with the intent of decreasing overhead expenses associated with commercial fishing and controlling the rate of harvest to achieve a higher quality product;

(2) "open fishery" means a commercial purse seine fishery conducted by CFEC permit holders who do not participate in the cooperative fishery.

ISSUE: A recent Supreme Court decision stated that the intent of the Limited Entry Act is that permit holders actively participate in the fishery for which a permit is held. The board of fisheries took action at a May 4, 2005 teleconference to bring the regulations for the Chignik cooperative fishery into compliance with this ruling.

The board reauthorized the cooperative fishery, with the provision that members must actively participate to receive any economic benefit. The board went on to define active participation as making at least ten deliveries in 2005 under the permit holder's CFEC permit. The board will not allow split deliveries to be made. The board specifically stated that it will not require that every boat registered for the Chignik fishery be used in the cooperative fishery.

The board's emergency regulations will be in effect for the 2005 season. The board expects to review the Chignik Coop fishery again this fall.

WHAT WILL HAPPEN IF NOTHING IS DONE? The regulation will expire after the 2005 season.

WILL THE QUALITY OF THE RESOURCE HARVESTED OR PRODUCTS PRODUCED BE IMPROVED?

WHO IS LIKELY TO BENEFIT?

WHO IS LIKELY TO SUFFER?

OTHER SOLUTIONS CONSIDERED?

PROPOSED BY: Alaska Department of Fish and Game on behalf of the board (HQ-05-F-302)
