

**Submitted by the Alaska Department of Fish and Game at the request of Board Member Morisky.**

**December 2, 2016**

**Proposed substitute language for Proposal 277**

5 AAC 47.090, 5 AAC 75.075, 5 AAC 75.076, 5 AAC 75.077, 5 AAC 75.085, and 5 AAC 75.995 are amended to read:

**5 AAC 47.090. George Inlet superexclusive guided sport ecotourism Dungeness crab fishery.**

(o) In this section, "sport fishing operator" means an owner of a business that conducts sport fishing services as a **licensed salt water** [REGISTERED] sport fishing operator under 5 AAC 75.075.

**5 AAC 75.075. Salt water sport fishing services and sport fishing guide services; salt water license requirements; regulation of activities.** (a) An owner of a business **shall obtain a current annual salt water sport fishing operator license from** [INTENDING TO CONDUCT SPORT FISHING SERVICES SHALL REGISTER WITH] the department before the business conducts **salt water** sport fishing services. To meet the [REGISTRATION] **licensing** requirements of this section, the owner shall complete and submit **to the department a salt water** sport fishing operator [REGISTRATION] **license application** form provided by the department **along with the applicable fee prescribed in AS 16.05.340(a)**. The following information regarding the business conducting salt water [THE ]sport fishing services must be provided on the [SPORT FISHING OPERATOR REGISTRATION] form:

(1) the name[, PERMANENT RESIDENCE ADDRESS, LOCAL RESIDENCE ADDRESS,] and mailing address of the owner;

(2) the name of the business;

(3) **the Alaska business license number, issued under 12 AAC 12, and expiration date of the business license;** [THE AREAS IN WHICH THE FISHING SERVICES WILL BE PROVIDED.]

(4) **the business's insurance policy number, with the insurance company name and expiration date, of the policy that meets the insurance requirements of AS 16.40.261;**

(5) **any other information required by the department on the license application form to verify that the applicant meets the requirements of AS 16.40.261.**

(b) Before providing **salt water** sport fishing guide services, a person shall complete and submit to the department a current annual **salt water** sport fishing guide **license application** [REGISTRATION] form provided by the department **along with the applicable fee prescribed in AS 16.05.340(a)**. The following information regarding the applicant must be provided on the [SPORT FISHING GUIDE REGISTRATION ]form:

(1) the name[, PERMANENT RESIDENCE ADDRESS,] and mailing address of the applicant;

(2) **the applicant's**

**(A) declaration**

**(i) of citizenship in the United States, Canada, or Mexico; or**

**(ii) that the applicant is a resident alien;**

**(B) current first aid certification;**

**(C) current Alaska sport fishing license number;**

**(3) if operating a vessel, the applicant's current United States Coast Guard license information;**

**(4) any other information required by the department on the license application form to verify that the applicant meets the requirements of AS 16.40.271.**

(c) While [ENGAGED IN ]providing **salt water** sport fishing guide services, a **person** [SPORT FISHING GUIDE ]shall have readily available for inspection and shall display upon request of a [LOCAL ]representative of the department or a peace officer of the state, and while **providing salt water sport fishing guide services** [ON SALT WATER ]or **while on** navigable fresh water within six hours after **providing such services**[BEING ]on salt water, **a person shall have readily available for inspection and shall display upon request of** a law enforcement representative of the National Marine Fisheries Service or a representative of the United States Coast Guard, the following:

(1) the [SPORT FISHING GUIDE'S ]**person's** current

(A) **salt water** sport fishing guide **license** [REGISTRATION FORM VALIDATED BY THE DEPARTMENT]; and

(B) applicable logbooks as required in 5 AAC 75.076[(C)];

(2) a copy of the current **salt water** sport fishing operator **license** [REGISTRATION FORM] of the [SPORT FISHING GUIDE'S]**person's** employer **or the**

**person**[, OR, IF THE SPORT FISHING GUIDE IS ALSO A SPORT FISHING OPERATOR, THE GUIDE'S CURRENT SPORT FISHING OPERATOR REGISTRATION FORM];

(3) **the person's** current sport fishing licenses, **harvest records**, tags, stamps, or permits that are required to engage in the sport fishery for which the **salt water** sport fishing guide services are provided;

(4) an identification card issued to the **person**[SPORT FISHING GUIDE] by a state or federal agency that bears a photograph of the **person**[SPORT FISHING GUIDE];

(5) if on a vessel [THAT PROVIDES SPORT FISHING GUIDE SERVICES IN SALT WATER, ]the sport fishing license, **tags, stamps, permits**, and harvest record of each client on board the vessel.

**5 AAC 75.076. Salt water sport fishing guide and operator**[SERVICES AND SPORT FISHING GUIDES] **reporting requirements.** (a) A salt water sport fishing guide shall obtain and complete a State of Alaska, Department of Fish and Game, Division of Sport Fish, **2017** [2016] *Saltwater Charter Logbook and Vessel Registration*, adopted by reference, if operating in salt water[S];

(b) A salt water logbook requires information necessary for the management and conservation of fishery resources **and** [OR THE ]regulation of the guided sport fishing industry, including

(1) the division of motor vehicles boat registration number, issued under 2 AAC 70, or United States Coast Guard documentation number, of the vessels that are used to provide sport fishing guide services in fresh or salt water[S];

(2) the locations where the sport fishing guide services were provided;

(3) the effort, catch, and harvest of sport fish by persons who are clients, owners, or employees of a business that conducts salt water sport fishing services or **by** a person who provides salt water sport fishing guide services; and

(4) any other information the department determines is necessary for the management and conservation of the fishery resource or the regulation of the salt water guided sport fishing industry.

(c) A salt water sport fishing guide shall complete a logbook in the manner and at the location specified in the logbook and present the guide's logbook for inspection **as required in 75.075**[UPON REQUEST FROM A

(1) LOCAL REPRESENTATIVE OF THE DEPARTMENT;

(2) PEACE OFFICER OF THE STATE; AND

(3) LAW ENFORCEMENT REPRESENTATIVE OF THE NATIONAL MARINE FISHERIES SERVICE OR A REPRESENTATIVE OF THE UNITED STATES COAST GUARD WHILE ON SALT WATER OR NAVIGABLE FRESH WATER WITHIN SIX HOURS AFTER BEING ON SALT WATER].

(d) A person may not make a false entry in the logbook required in (a) of this section.

(e) The holder of a **salt water** sport fishing operator **license** issued under 5 AAC 75.075 [IS RESPONSIBLE FOR REPORTING LOGBOOK INFORMATION AND] **shall** return[ING] the completed salt water logbook of each sport fishing guide [IT ] **employed by the business**[S] to the department in the manner and time frame specified in the logbook.

**(f) In this section, "salt water logbook" includes**

**(1) a department issued paper copy booklet for recording guided sport fishing trip information; or**

**(2) a department issued eLogBook software program for electronic recording of guided sport fishing trip information.**

**5 AAC 75.077. Sport fishing guide vessel registration requirements.** (a) Before being used to provide sport fishing guide services, a vessel must be registered annually with the department. A [CURRENTLY REGISTERED SPORT FISH ]business owner, or the owner's authorized agent, shall register each individual vessel operated by the business to provide sport fishing guide services by completing a form provided by the department. At the time of registration, the business owner, or the owner's authorized agent, must provide the current division of motor vehicles boat registration number, issued under 2 AAC 70, or the current United States Coast Guard vessel documentation number of each vessel being registered.

(b) A person may not engage in sport fishing guide services from a powered or unpowered vessel unless the vessel is registered under (a) of this section and displays a sport fishing guide vessel decal with a current annual sticker issued by the department as follows:

(1) upon initial registration of a vessel, two sport fishing guide vessel decals will be issued by the department for that vessel; one decal must be securely affixed on each side of the vessel and must be displayed in plain view at all times the vessel is **used to provide**[ENGAGED IN] sport fishing guide services;

(2) for the years following the year of initial registration of a vessel, two current year renewal stickers will be issued by the department for that vessel; one current year renewal sticker must be securely affixed on each decal over the previous year renewal sticker and must be displayed in plain view at all times the vessel is **used to provide**[ENGAGED IN] sport fish guide services.

(c) If a decal or current year renewal sticker is lost or damaged, a replacement must be obtained from the department and affixed and displayed as required in this section before **the vessel is used to provide**[ENGAGING IN ]sport fish guide services[ WITH THE VESSEL].

(d) A float tube used to provide sport fish guide services is exempt from the registration and decal requirements of this section. For the purposes of this subsection, "float tube" means a tubular floating device designed to support one person in the water and propelled only by power from the arms or legs of the operator.

**5 AAC 75.085. Guided sport ecotourism requirements.** Except as otherwise provided, guided sport ecotourism fishing may occur only as follows:

(1) a person conducting guided sport ecotourism fishing shall obtain an annual **salt water** sport fishing operator **license** [REGISTRATION] as specified in 5 AAC 75.075;

(2) a person holding a valid **salt water** sport fishing guide **license** [REGISTRATION FOR THE FISHERY ]must be present at all times when gear or fish are being handled;

(3) a person on board a vessel engaged in ecotourism fishing may handle gear or fish only if the person is a holder of a sport fishing license;

(4) all requirements of the applicable sport fishery apply except that all participants must comply with rules relating to nonresidents regardless of residency;

(5) unless otherwise permitted, all fish taken must be immediately released unharmed;

(6) a **salt water** sport fishing [SERVICES ]operator or **salt water** sport fishing guide must comply with applicable requirements for their industry.

**5 AAC 75.995. Definitions.** (a) In addition to the definitions set out in AS 16.05.940, in 5 AAC 47 - 5 AAC 75,

...

(34) "charter vessel operator" means a person engaged in carrying **any person on board a** [PASSENGERS ON A CHARTER ]vessel for any valuable consideration that passes directly or indirectly to the vessel's owner, operator, or a person with a financial interest in the vessel[, IN CONSIDERATION OF THE CARRIAGE OF ANY PERSON ON BOARD];

...

(39) "client" means a person who is a member of a fishing party that engages or uses a person to provide sport fishing guide services and who is not a [REGISTERED] sport fishing guide or sport fishing guide crewmember;

...

(41) "sport fishing guide" means a person who **provides** [IS REGISTERED TO PROVIDE] sport fishing guide services to persons who are engaged in sport fishing;

(42) "sport fishing guide services"

(A) means assistance, for compensation or with the intent to receive compensation, to a sport fisherman to take or to attempt to take fish by accompanying or physically directing the sport fisherman in sport fishing activities during any part of a sport fishing trip;

(B) does not include

(i) sport fishing services; or

(ii) services provided by an assistant, deckhand, or similar person who works directly under the supervision of and on the same vessel as a sport fishing guide;

(43) "sport fishing services"

(A) means the indirect provision of assistance, for compensation or with the intent to receive compensation, to a person engaged in sport fishing in taking or attempting to take fish or shellfish by a business that employs a sport fishing guide to provide sport fishing guide services to the person during any portion of a sport fishing trip:

(B) does not include

(i) an activity for which a **salt water** sport fishing guide **license** is required; or

(ii) booking and other ancillary services provided by a tour broker or agent to a sport fishing services operator;

(49) "sport fishing guide crewmember" means a person who, for compensation or with intent to receive compensation for services during a day or any portion of a day, provides assistance **on board a vessel** to clients of **or** a [REGISTERED] sport fishing guide **or** [ON BOARD] a sport fishing guide **operator** [vessel];

...

**(52) "salt water sport fishing guide" has the meaning given in AS 16.40.300;**

**(53) "salt water sport fishing guide services" has the meaning given in AS 16.40.300;**

**(54) "salt water sport fishing services" has the meaning given in AS 16.40.261(f).**

(b) In this chapter, unless the context requires otherwise, "compensation"

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

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

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

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