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# BERING SEA FISHERMAN

June, 1985  
Volume 6, Number 9

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Anchorage,  
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## Hodel hears oil lease opposition

By Julie Settle

**KING SALMON**—Secretary of the Interior Donald Hodel heard extensive testimony from fishermen and other residents adamantly opposed to the scheduled oil and gas lease sales in Bristol Bay, but maintained his "hands are tied" from halting oil and gas development in western Alaska.

Despite the fact that Bristol Bay fishermen are busily readying their boats and equipment for the salmon season, nearly 200 fishermen and affected residents left their chores to attend the public meeting held in King Salmon. Nineteen of these fishermen presented testimony, and all spoke in favor either of a delay or cancellation of North Aleutian Shelf sale No. 92.

No one at the meeting spoke in favor of proceeding with the lease sale as scheduled.

Prior to the public meeting, Sec-

### Lease delay refused

**WASHINGTON**—The hopes of western Alaska fishermen who want Congress to delay the oil lease sale on the North Aleutian Shelf were shattered June 20 by the House Interior Subcommittee on Appropriations.

The subcommittee voted not to include Bristol Bay's Sale 92 area in the oil development moratorium due to last-minute pressure from Alaska's Congressional delegation and oil companies who favor the lease sale.

The Alaska delegation did not feel that the fishermen's concerns over the possible environmental effects on the fishery resources of the eastern Bering Sea were valid. The delegation supports the lease sale as scheduled, despite the fact that United Fishermen of Alaska, the state of Alaska, the Environmental Protection Agency, National Marine Fisheries Service and Bristol Bay communities have raised significant concerns about oil development in the area.

Lease Sale 92 will hit the auction block in December unless Interior Secretary Donald Hodel recommends a delay.

Those concerned about the impact of oil development on fisheries in this area should write to Sens. Ted Stevens and Frank Murkowski and Rep. Don Young and urge them to ask Hodel to delay the lease sale.

retary Hodel met with Gov. Bill Sheffield, who has consistently and strongly urged that the lease sale in

Bristol Bay be delayed (see Gov. Sheffield's Editorial, page 2). Bob Blake, president of the United

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### Togiak's fishermen score record catch

By Henry Mitchell

**TOGIAK**—The Togiak herring fishery in late May resulted in a harvest of more than 25,000 metric tons of herring taken by the purse seine and gillnet fleets.

Herring were harvested in record time during two short periods. During the first period the gillnet fleet



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## OVERVIEW

Game Board Meeting  
June 1985

- I. Eluska: The Game Board must adopt separate subsistence hunting regulations consistent with Madison, or the "subsistence defense" can be used and many regulations will be unenforceable.
- II. Madison:
- A. Unless sustained yield will be jeopardized, subsistence hunting must be authorized on any game population that has been hunted in the past and used for food, shelter, fuel, clothing, tools, transportation, customary trade, barter, or sharing; subsistence hunting means hunting by any Alaskan for these purposes.
- B. If subsistence hunting of a game population must be restricted (significantly impaired) to protect the resource, then non-subsistence uses (non-state resident hunting) must be eliminated first.
- C. If subsistence hunting on a game population must still be restricted (significantly impaired), then the board must use the three criteria listed in AS 16.05.255(b) to determine how hunting opportunities are to be distributed among Alaskans:
- (1) customary and direct dependence upon the resource as the mainstay of one's livelihood;
  - (2) local residency; and
  - (3) availability of alternative resources.
- III. Therefore, in order to have enforceable regulations, for each game population which has been hunted for food, etc., by Alaskans, the board should:
- A. Adopt separate subsistence regulations.
- B. Examine the current regulations to see if they prohibit any Alaskan from subsistence hunting, fail to provide the same legal subsistence hunting opportunity to all Alaskans, or otherwise significantly impair subsistence uses.
- C. If so, eliminate non-state residents, and see if it is still necessary to significantly impair subsistence uses, to protect the resource.
- D. If so, apply tier 2 standards.

STATE OF ALASKA  
THE LEGISLATURE

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LEGISLATIVE AFFAIRS AGENCY.

M E M O R A N D U M

May 9, 1985

SUBJECT: Sectional analysis of a draft bill entitled  
"An Act relating to fishing and hunting."  
TO: Senator Mitchell Abood  
Chairman, Senate State Affairs Committee  
FROM: Edward H. Hein *EHS*  
Legislative Counsel

Section 1 amends AS 16.05.251(b), which establishes the subsistence fishing priority and requires the Board of Fisheries to adopt subsistence fishing regulations. This bill section would allow the board to provide for the issuance of and set fees for subsistence fishing licenses and would make the adoption of subsistence regulations discretionary, rather than mandatory. Only those subsistence uses specified in statute or regulation would be allowed. The board would be allowed to determine allocations and regulate seasons, catch limits, methods and means of taking, quotas, etc. Fish taken by a subsistence licensee's dependents, as well as by the licensee, would be counted toward the catch limit established by the board. This bill section deletes the ANILCA or "second-tier" criteria for distinguishing among subsistence users.

Sec. 2 amends AS 16.05.255(b), which establishes the subsistence hunting priority and requires the Board of Game to adopt subsistence hunting regulations. This bill section does to subsistence hunting precisely what section 1 does to subsistence fishing.

Sec. 3 amends the definition of "subsistence fishing" to allow the use of hook and line, and rod and reel gear. It also limits subsistence fishing statutorily to state residents. Subsistence hunting is already limited to residents by statute at AS 16.05.257.

Sec. 4 establishes a system for licensing subsistence fishermen and hunters and their dependents. Proposed

AS 16.05.258(a) requires the boards of fisheries and game to provide for the issuance of three types of subsistence licenses: fishing, hunting, and combination. Subsection (b) provides that an applicant for a subsistence license must be a state resident 16 years of age or older; has to claim as dependents all those living in the applicant's household and also all those who depend on the applicant to provide fish or game, which constitutes a minimum part of the dependent's diet; cannot be claimed as a dependent by another applicant; must prove that the applicant and all of the applicant's dependents rely on subsistence-caught fish or game for their diet and don't have access to alternative food resources for any of four reasons; and must notify everyone claimed as a dependent that they cannot apply for a subsistence license.

Subsection (c) establishes new "second-tier" criteria for distinguishing among subsistence users. If a shortage of fish or game necessitated it, the Department of Fish and Game could require that subsistence license applicants also meet maximum income requirements set jointly by the boards of fisheries and game. Subsection (d) requires the boards to establish income limits for subsistence license applicants, based on the cost of living in the applicant's home community or area. Subsection (e) requires applicants to use forms provided by the department.

Subsection (f) prohibits a person from holding both a subsistence license and a sport or commercial or guiding license for taking the same kind of resource. The subsection also applies to dependents of the license holder. E.g.: a person could not hold both a limited entry permit and a subsistence fishing permit, but could hold a limited entry permit and a sport hunting license. Likewise, a person could not obtain a subsistence fishing license if someone the person claims as a dependent holds a sport or commercial fishing license or permit. Subsection (g) prohibits a person from subsistence fishing or hunting unless the person has a current subsistence license in possession or is a dependent hunting or fishing with the license holder. Subsection (h) makes subsistence licenses nontransferable.

Proposed AS 16.05.259(a) provides for expiration of subsistence licenses five years after issuance. Subsection (b) requires annual validation of subsistence licenses by a fish and game employee or agent to assure that license holders

Senator Mitch Abood  
May 9, 1985  
Page 3

continue to meet qualifications for the license. Subsection (c) requires the department to revoke all subsistence licenses of a person who is convicted of a fish or game violation, who makes a false statement on a subsistence license applications, who holds two or more licenses impermissibly, or who alter or lends a subsistence license. Subsection (d) makes persons whose licenses are subject to revocation under subsection (c), and persons convicted of subsistence fishing or hunting without a license, ineligible to apply for a subsistence license, with length of the the period of ineligibility varying with the number of convictions.

Sec. 5 makes it a class B misdemeanor to hold two licenses impermissibly, to subsistence fish or hunt without a license, or to alter or lend a subsistence license.

Sec. 6 excludes subsistence hunting from the provisions of AS 16.05.330 - 16.05.430, which currently govern sport fishing, hunting, and trapping.

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THE LEGISLATURE

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LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

June 13, 1985

SUBJECT: Subsistence fishing and hunting

TO: Kurt Dzinich  
Senate Advisory Council

FROM: Edward H. Hein *EHA*  
Legislative Counsel

Bill Hall of your staff has referred to me several questions from Senator Abood about subsistence fishing and hunting. The questions and my responses follow.

1. What are the present statutes and regulations for the Department of Fish and Game and the Fish and Game Boards regarding subsistence?

I have enclosed copies of the statutes and regulations relating to subsistence.

2. Does the Alaska Supreme Court ruling (the Madison decision) conflict with statutes? How?

3. Do the regulations conflict with State Statutes? In what way?

The decision in Madison v. Alaska Department of Fish and Game, 696 P.2d 168 (Alaska, 1985), does not "conflict" with the statutes. What can be said is that the court in Madison interpreted the subsistence fishing statutes differently than the Board of Fisheries and the Department of Fish and Game has been interpreting them. The court concluded that the statutes did not authorize the board to limit the subsistence priority initially to persons in rural communities, which the board had effectively done through its regulations. The court held that a regulation relating to Cook Inlet subsistence fishing (5 AAC 01.587) is invalid because it is inconsistent with AS 16.05.251(b), 16.05.940(22), and 16.05.940(23), and inconsistent with the legislature's intent in enacting the 1978 subsistence law. The court found

that the intent of the subsistence law was to protect subsistence users and to give them a priority over other fisheries resources users when there is a shortage of these resources. The court also found that qualifying for subsistence use could not be made to depend initially on where in the state a person resided. The state may distinguish among subsistence users and restrict or even eliminate subsistence use of a particular resource when necessary to manage the resources on a sustained-yield basis, but only after eliminating all other types of takings of the resource. Because the criteria for Cook Inlet subsistence fishing set out in 5 AAC 01.597 had the effect of limiting the subsistence priority to residents of rural communities from the outset, the court held the regulation invalid for going beyond the authority conferred to the board by statute.

4. How does the Alaska National Interest Lands Conservation Act (ANILCA) fit in?

Title VIII of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 3111 - 3126 (P.L. 96-487, "ANILCA"), regulates subsistence management and use on federal public land in Alaska. Among the stated goals of this portion of the Act is the "continuation of the opportunity for subsistence uses by rural residents of Alaska, including both Natives and non-Natives". Sec. 801. In order to further the achievement of that goal, the Act establishes a preference for rural subsistence users.

The Act does not define "rural", but the report of the Senate Energy and Natural Resources Committee (Senate Report No. 96-413, November 14, 1979) aids in the understanding of what the Congress had in mind:

Although many residents of cities such as Ketchikan, Juneau, Anchorage, and Fairbanks harvest renewable resources from the public lands for personal or family consumption, by its very nature a "subsistence use" is something done only by Native and non-Native residents of "rural" Alaska. The Committee adopted an amendment to clarify this point by limiting application of the definition to areas of "rural" Alaska including communities such as Dillingham, Behtel, Nome, Kotzebue, Barrow, and other Native and non-Native villages scattered throughout the State. However, the Committee

does not intend to imply that the rural nature of such communities is a static condition; the direction of the economic development and rural character of such communities may change over time. It should be emphasized that this amendment is not intended to impose a "durational" rural residency requirement in the definition or impede the traditional movement of Alaska residents between the rural areas and the major population centers and vice versa. Nor does the amendment prohibit the taking of fish and wildlife on certain public lands by normal residents. Rather, nonsubsistence uses may continue in accordance with existing law but do not enjoy any preference on the public lands, and, consequently, may be restricted pursuant to Section 804 when necessary to protect subsistence resources or to ensure the satisfaction of the subsistence needs of rural residents. (Page 233).

State law until Madison effectively limited the subsistence priority to residents of rural communities. But the Court has said that such a restriction is not allowed under the state statutes unless non-subsistence uses of fish and game are first eliminated and even then, only if sustained-yield is jeopardized. To maintain subsistence management authority on federal land in Alaska the state laws must be consistent with the federal requirements, i.e., must provide a subsistence priority for rural residents. Because Madison ruled that state statutes do not authorize such compliance with ANILCA, there is at least some risk that the state could lose subsistence management authority over federal land in Alaska (and accompanying federal funds) if the legislature fails to amend existing statutes and allow the Boards of Fisheries and Game to comply. ANILCA authorizes "local residents and other persons and organizations aggrieved by a failure of the State or the Federal Government to provide for the priority for subsistence uses" by rural residents to bring an expedited suit in federal district court to require that the priority be protected. Sec. 807. This means that the federal government could be forced by the courts to resume subsistence fish and game management on federal land in Alaska even if the government doesn't want to.

5. What options are currently available to Fish and Game?

Kurt Dzinich  
June 13, 1985  
Page 4

The Department of Fish and Game and the Boards of Fisheries and Game have no option but to comply with state statutes, as interpreted by the Alaska Supreme Court in Madison. They are still under a constitutional duty to manage fish and game resources in accordance with sustained-yield principles. In doing this they may, if necessary, restrict takings for non-subsistence uses, then takings for subsistence uses. Without further authorization from the legislature, the department and the boards may not initially limit the subsistence priority to rural residents as provided in ANILCA.

If you have further questions or comments, please feel free to contact me at your convenience.

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(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.

(b) The Board of Fisheries shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) permitting the taking of fish for subsistence uses unless the board determines, in accordance with the Administrative Procedure Act, that adoption of the regulations will jeopardize or interfere with the maintenance of fish stocks on a sustained-yield basis. Whenever it is necessary to restrict the taking of fish to assure the maintenance of fish stocks on a sustained-yield basis, or to assure the continuation of subsistence uses of such resources, subsistence use shall be the priority use. If further restriction is necessary, the board shall establish restrictions and limitations on and priorities for these consumptive uses on the basis of the following criteria:

- (1) customary and direct dependence upon the resource as the mainstay of one's livelihood;
- (2) local residency; and
- (3) availability of alternative resources.

(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. (§ 3 ch 206 SLA 1975; am § 2 ch 218 SLA 1976; am § 4 ch 151 SLA 1978; am §§ 1, 2 ch 110 SLA 1980; am §§ 8, 9 ch 132 SLA 1984)

**Effect of amendments.** — The 1984 amendment, effective July 3, 1984, in subsection (a), substituted "bag limits, harvest levels, and sex and size limitations" for "and bag limits" in paragraph (3), deleted "engaging in biological research" from the beginning of paragraph (7), substituted "and management, conser-

vation, protection, use, disposal, propagation and stocking of fish" for "fish management, protection, propagation and stocking" in paragraph (7), repealed paragraph (9), and renumbered former paragraphs (10)-(12) as present paragraphs (9)-(11). The amendment also added subsection (c).

#### NOTES TO DECISIONS

Cited in *Langesater v. State*, Ct. App. Op. No. 279 (File No. 7357), 668 P.2d 1359 (1983).

**Sec. 16.05.255. Regulations of the Board of Game.** (a) The Board of Game may adopt regulations it considers advisable in accordance with the Administrative Procedure Act (AS 44.62) for

Effect of amendments. — The 1983 amendment rewrote the existing language of this section and designated that language subsection (a) and added subsection (b).

**Sec. 16.05.255. Regulations of the Board of Game.** (a) The Board of Game may adopt regulations it considers advisable in accordance with the Administrative Procedure Act (AS 44.62) for

(1) setting apart game reserve areas, refuges and sanctuaries in the waters or on the lands 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 game;

(3) establishing the means and methods employed in the pursuit, capture and transport of game;

(4) setting quotas and bag limits on the taking of game;

(5) classifying game as game birds, song birds, big game animals, fur bearing animals, predators or other categories;

(6) investigating and determining the extent and effect of predation and competition among game in the state, exercising control measures considered necessary to the resources of the state and designating game management units or parts of game management units in which bounties for predatory animals shall be paid;

(7) engaging in biological research, watershed and habitat improvement, and game management, protection, propagation and stocking;

(8) entering into cooperative agreements with educational institutions and state, federal, or other agencies to promote game research, management, education, and information and to train persons for game management;

(9) prohibiting the live capture, possession, transport, or release of native or exotic game or their eggs;

(10) establishing the times and dates during which the issuance of game licenses, permits and registrations and the transfer of permits and registrations between registration areas and game management units or subunits is allowed.

(b) The Board of Game shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) permitting the taking of game for subsistence uses unless the board determines, in accordance with the Administrative Procedure Act, that adoption of the regulations will jeopardize or interfere with the maintenance of game resources on a sustained-yield basis. Whenever it is necessary to restrict the taking of game to assure the maintenance of game resources on a sustained-yield basis, or to assure the continuation of subsistence uses of such resources, subsistence use shall be the priority use. If further restriction is necessary, the board shall establish restrictions and limitations on and priorities for these consumptive uses on the basis of the following criteria:

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- (1) customary and direct dependence upon the resource as the mainstay of one's livelihood;
- (2) local residency; and
- (3) availability of alternative resources. (§ 3 ch 206 SLA 1975; am § 5 ch 151 SLA 1978)

**Cross references.** — For validity of regulations of former Board of Fish and Game, see sec. 41, ch. 206, SLA 1975 in the Temporary and Special Acts.

**Editor's notes.** — For legislative intent, see § 1, ch. 151, SLA 1978, in the 1978 Temporary and Special Acts and Resolves.

**Legislative history reports.** — For report on ch. 151, SLA 1978 (HB 960), see 1978 House Journal, p. 1154.

**Opinions of attorney general.** — Neither the Board of Game nor the Department of Fish and Game has jurisdiction

over domestic animals. August 29, 1979, Op. Att'y Gen.

Permitting authority over live game, that is, nondomestic animals, rests with the Board of Game as implemented by the Department of Fish and Game. August 29, 1979, Op. Att'y Gen.

For discussion of compatibility of state subsistence-use law with federal standards as set forth in Alaska National Interest Lands Conservation Act (16 U.S.C. § 3115 et seq.), see 1981 Op. Att'y Gen. No. 11.

#### NOTES TO DECISIONS

Establishment of quotas must be in accordance with the Administrative Procedure Act (AS 44.62). State v. Tanana Valley Sportsmen's Ass'n, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

Applied in *Gottardi v. State*, Sup. Ct. Op. No. 2154 (File No. 4436), 615 P.2d 626 (1980).

**Sec. 16.05.256. Nonresident and nonresident alien permits.** Whenever it is necessary to restrict the taking of big game so that the opportunity for Alaska residents to take big game can be reasonably satisfied in accordance with sustained yield principles, the Board of Game may, through a permit system, limit the taking of big game by nonresidents and nonresident aliens to accomplish that purpose. (§ 3 ch 74 SLA 1982)

**Sec. 16.05.257. Subsistence hunting regulations.** (a) The Board of Game, at its regularly scheduled annual meeting and other meetings held under authority of AS 16.05.300(a), shall consider and may adopt regulations providing for subsistence hunting in a game management unit or subunit or a portion of a unit or subunit upon

(1) recommendation of the department, based on biological evidence;

(2) the recommendation of the active local advisory committees for that game management unit or subunit or a portion of a unit or subunit;

(3) the written petition of not less than 100 interested residents of that game management unit or subunit; or

(4) the written petition of not less than 25 interested residents of an area which is requested for establishment as a subsistence area within a game management unit or subunit.

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(b) The regulations may include but are not limited to the following:

(1) the establishment of subsistence hunting areas;

(2) the regulation of transportation methods and means to protect subsistence hunting within subsistence hunting areas, including the prohibition or limitation of pack animals, mechanized vehicles and aircraft, other than watercraft or wheeled vehicles operating on a road maintained by public funds;

(3) the establishment of open and closed seasons and areas to protect subsistence hunting;

(4) the limitation of hunting to only one sex of the animal.

(c) Regulations may not be adopted by the Board of Game under (a), (b) or (f) of this section unless, in addition to the requirements of AS 44.62.180 — 44.62.290, the department

(1) holds public hearings, after reasonable notice, at least 30 days before the meeting at which the regulation is to be adopted, with at least one of the hearings being held in close proximity to the area potentially affected;

(2) presents at the hearings the information provided for in (e) of this section;

(3) makes the information provided for in (e) of this section available to the appropriate advisory committees and to petitioners if consideration of adoption of regulations was prompted by petitions under (a)(3) or (4) of this section; comments shall be received by the board until 10 days before any adoption of regulations.

(d) A petition submitted under (a)(3) — (4) of this section shall contain a complete description of the area requested as a subsistence area and a specification of the species within the area considered necessary for subsistence use. A petition or recommendation made under (a)(2), (3) or (4) of this section must be filed with the department at least 75 days before the meeting of the board at which the petition or recommendation is to be considered.

(e) The department shall investigate, by collecting existing data, and, when necessary, conducting new studies, every petition or recommendation made under (a)(2), (3) or (4) of this section to the extent practicable within the time available and provide the following information:

(1) the concentration of the species to be affected and carrying capacity of the area to be affected;

(2) the current hunting practices in the area, including numbers of animals taken and by what methods and means and whether the take is subsistence or recreational;

(3) the dependence of persons in the area for subsistence use of a species;

(4) the population trends of the affected fish and game in the area;

(5) whether the affected fish and game population is able to support a nonsubsistence harvest: and

(6) other information considered necessary by the section of subsistence hunting and fishing.

(f) The Board of Game at any time may review and change the boundaries of a subsistence area upon

(1) the recommendation of the department, based on biological evidence;

(2) the written petition of not less than 25 interested residents of that area; or

(3) the majority vote of the active local advisory committees for that area.

(g) The department shall submit a report to the legislature during the first 10 days of each legislative session beginning after January 1, 1977. The report shall include, but is not limited to, a listing of the specific subsistence areas established or modified during the preceding year and the species subject to subsistence use within those areas.

(h) In this section

(1) "subsistence hunting" means the taking of game animals by a state resident for subsistence uses by means defined by the Board of Game;

(2) "subsistence hunting area" means an area in which only subsistence hunting of the affected species is permitted and which is managed for maximum food potential.

(i) The Board of Game may not make a decision denying, creating or changing a subsistence hunting area unless the decision is based on specific written findings of fact regarding all the information provided in accordance with (e) of this section. (§ 1 ch 199 SLA 1975; am § 2 ch 269 SLA 1976; am §§ 6-12 ch 151 SLA 1978)

**Editor's notes.** — As to the section of subsistence hunting and fishing, referred to in (e)(6) of this section, see the editor's note to AS 16.05.090.

For legislative intent, see § 1, ch 151, SLA 1978, in the 1978 Temporary and Spe-

cial Acts and Resolves.

**Legislative history reports.** — For report on ch. 199, SLA 1975 (SCS HB 369 am S), see 1975 House Journal, p. 733.

For report on ch. 151, SLA 1978 (HB 960), see 1978 House Journal, p. 1154.

#### NOTES TO DECISIONS

**Regulations adopted under this section must be in accordance with the Administrative Procedure Act (AS 44.62).** State v. Tanana Valley Sportsmen's Ass'n, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

While this section, which authorizes the Board of Game to adopt regulations providing for subsistence hunting, does not specifically refer to the Administrative Procedure Act (AS 44.62), it appears clear that it merely sets forth an additional purpose for which regulations may be promulgated. State v. Tanana Valley

Sportsmen's Ass'n, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

**Issuance of permits based on verbal instructions to agents held improper.** — The issuance of permits for the killing of caribou in certain specified areas of the state based on verbal instructions to the permit agents as to the need of individual applicants does not conform to requirements of the Administrative Procedure Act (AS 44.62). State v. Tanana Valley Sportsmen's Ass'n, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

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(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; and the term "commercial fisherman" includes the crews of tenders or other floating craft used in transporting fish;

(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) "department" means the Department of Fish and Game unless specifically provided otherwise;

(8) "domestic mammals" include musk oxen, bison, and reindeer, if they are lawfully owned;

(9) "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;

(10) "fish derby" means a contest in which prizes are awarded for catching fish;

(11) "fishing derby association" means a civic, service, or charitable organization in the state, not for pecuniary profit, whose primary purpose is to promote interest in fishing for recreational purposes and which has been in existence for five years before applying for a permit under this chapter, but does not include an organization formed or operated for gaming or gambling purposes;

(12) "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 which is completely enclosed by a generally escape-proof barrier;

(13) "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;

(14) "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;

(15) "hunting" means the taking of game under AS 16.05 — AS 16.40 and the regulations adopted under those chapters;

(16) "nonresident" means a person who is not a resident of the state;

(17) "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;

(18) "operator" means the individual by law made responsible for the operation of the vessel;

(19) "resident" means a person who for 12 consecutive months has maintained a permanent place of abode in the state and who has continually maintained a voting residence in the state; and in the case of a partnership, association, joint stock company, trust, or corporation, "resident" means one that has its main office or headquarters in the state; however, a member of the military service who has been stationed in the state for the preceding 12 consecutive months is a resident for the purposes of this paragraph, and the dependent of a resident member of the military service, who has been living in the state for the preceding year is a resident for the purposes of this paragraph, and a person who is an alien but who for one year has maintained a permanent place of abode in the state is a resident for the purposes of this paragraph;

(20) "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;

(21) "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;

(22) "subsistence fishing" means the taking of, fishing for, or possession of fish, shellfish, or other fisheries resources for subsistence

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uses with gill net. seine. fish wheel. long line. or other means defined by the Board of Fisheries:

(23) "subsistence uses" means the customary and traditional uses in Alaska of wild, renewable resources 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; for the purposes of this paragraph, "family" means all persons related by blood, marriage, or adoption, and any person living within the household on a permanent basis;

(24) "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;

(25) "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;

(26) "trapping" means the taking of mammals declared by regulation to be fur bearers;

(27) "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. (§ 2 art I ch 95 SLA 1959; am §§ 1 — 4 ch 131 SLA 1960; am § 1 ch 21 SLA 1961; am §§ 1, 2 ch 102 SLA 1961; § 9 art III ch 94 SLA 1959; am § 23 ch 131 SLA 1960; am § 1 ch 160 SLA 1962; am §§ 13, 14 ch 31 SLA 1963; am § 2 ch 32 SLA 1968; am § 3 ch 73 SLA 1970; am § 1 ch 91 SLA 1970; am § 4 ch 110 SLA 1970; am § 1 ch 90 SLA 1972; am § 5 ch 82 SLA 1974; am §§ 26, 82 ch 127 SLA 1974; am §§ 18 — 20 ch 206 SLA 1975; am § 12 ch 105 SLA 1977; am §§ 14, 15 ch 151 SLA 1978; am § 1 ch 78 SLA 1979; am § 1 ch 24 SLA 1980; § 4 ch 74 SLA 1982; am § 24 ch 132 SLA 1984)

*Effect of amendments.* — The 1984 amendment, effective July 3, 1984, substituted "AS 16.05 — AS 16.40" for "this chapter" in the introductory language and paragraphs (14), (15) and (20); in paragraph (9), substituted "invertebrate, or amphibian" for "invertebrates and amphibians" and "its" for "their" preceding "life cycle" and added the language beginning "and includes any part of such aquatic finfish"; reworded the con-

tents of paragraph (13); inserted "reptile" near the beginning of paragraph (14); substituted "those chapters" for "it" in paragraph (15); substituted "this paragraph" for "this chapter" in three places in paragraph (19); inserted "of" following "taking" in paragraph (22); deleted "for the purposes of this chapter" preceding "does not include aircraft" in paragraph (27); and repealed paragraph (28), defining "visitor."

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**Editor's notes.** — Section 1, ch. 111, SLA 1974, provides: "It is the intent of this Act to authorize the private ownership of salmon hatcheries by qualified nonprofit corporations for the purpose of contributing, by artificial means, to the rehabilitation of the state's depleted and depressed salmon fishery. The program shall be operated without adversely affecting natural stocks of fish in the state

and under a policy of management which allows reasonable segregation of returning hatchery-reared salmon from naturally occurring stocks."

For legislative findings concerning salmon enhancement and purpose of AS 16.10.375 — 16.10.620, see § 1, ch. 59, SLA 1979, in the 1979 Temporary and Special Acts and Resolves.

**Sec. 16.10.375. Regional salmon plan.** The commissioner shall designate regions of the state for the purpose of salmon production and have developed and amend as necessary a comprehensive salmon plan for each region, including provisions for both public and private nonprofit hatchery systems. Subject to plan approval by the commissioner, comprehensive salmon plans shall be developed by regional planning teams consisting of department personnel and representatives of the appropriate qualified regional associations formed under AS 16.10.380. (§ 2 ch 161 SLA 1976; am § 2 ch 154 SLA 1977)

**Sec. 16.10.380. Regional associations.** (a) The commissioner shall assist in and encourage the formation of qualified regional associations for the purpose of enhancing salmon production. A regional association is qualified if the commissioner determines that

(1) it is comprised of associations representative of commercial fishermen in the region;

(2) it includes representatives of other user groups interested in fisheries within the region who wish to belong; and

(3) it possesses a board of directors which includes no less than one representative of each user group that belongs to the association.

(b) In this section "user group" includes, but is not limited to, sport fishermen, processors, commercial fishermen, subsistence fishermen, and representatives of local communities.

(c) A qualified regional association, when it becomes a nonprofit corporation under AS 10.20.005 — 10.20.725, is established as a service area in the unorganized borough under AS 29.03.020 for the purpose of providing salmon enhancement services. (§ 2 ch 161 SLA 1976; am § 2 ch 59 SLA 1979)

**Effect of amendments.** — The 1979 amendment added subsection (c).

**TITLE 5.  
FISH AND GAME**

Editor's Note: Due to the frequency of regulatory changes in fish and game matters, section, subsection, paragraph, and subparagraph designations in 5 AAC have in many cases been re-used following repeal of the earlier material in those provisions.

Editor's Note: Beginning in 1980 with Register 75, history notes are being supplied for fish and game regulations as they are being amended or adopted.

**PART 1.  
COMMERCIAL AND SUBSISTENCE  
FISHING AND PRIVATE NONPROFIT  
SALMON HATCHERIES**

**Chapter**

- 01. Subsistence Finfish Fishing  
(5 AAC 01.001—5 AAC 01.747)
- 02. Subsistence Shellfish Fishery  
(5 AAC 02.001—5 AAC 02.625)
- 03. Kotzebue-Northern Area  
(5 AAC 03.001—5 AAC 03.990)
- 04. Norton Sound-Port Clarence Area  
(5 AAC 04.001—5 AAC 04.510)
- 05. Yukon Area  
(5 AAC 05.001—5 AAC 05.510)
- 06. Bristol Bay Area  
(5 AAC 06.001—5 AAC 06.990)
- 07. Kuskokwim Area  
(5 AAC 07.100—5 AAC 07.510)
- 09. Alaska Peninsula Area  
(5 AAC 09.001—5 AAC 09.930)
- 12. Aleutian Islands Area  
(5 AAC 12.001—5 AAC 12.990)
- 15. Chignik Area  
(5 AAC 15.001—5 AAC 15.990)
- 18. Kodiak Area  
(5 AAC 18.001—5 AAC 18.990)
- 21. Cook Inlet Area  
(5 AAC 21.001—5 AAC 21.992)
- 24. Prince William Sound Area  
(5 AAC 24.001—5 AAC 24.990)
- 27. Herring Fishery  
(5 AAC 27.001—5 AAC 27.985)
- 30. Yakutat Area  
(5 AAC 30.001—5 AAC 30.990)
- 31. Shrimp Fishery  
(5 AAC 31.001—5 AAC 31.550)
- 32. Dungeness Crab Fishery  
(5 AAC 32.001—5 AAC 32.440)
- 33. Southeastern Alaska Area  
(5 AAC 33.001—5 AAC 33.990)

- 34. King crab Fishery  
(5 AAC 34.001—5 AAC 34.960)
- 35. Tanner Crab Fishery  
(5 AAC 35.001—5 AAC 35.640)
- 36. International Water Area  
(5 AAC 36.010—5 AAC 36.050)
- 37. Aquatic Plants  
(5 AAC 37.100—5 AAC 37.900)
- 38. Miscellaneous Shellfish Fishery  
(5 AAC 38.001—5 AAC 38.425)
- 39. General Provisions  
(5 AAC 39.001—5 AAC 39.997)
- 40. Private Nonprofit Salmon Hatcheries  
(5 AAC 40.005—5 AAC 40.990)
- 41. Transportation, Possession and Release  
of Live Fish  
(5 AAC 41.001—5 AAC 41.100)

any means, or for any purpose, is prohibited within 300 feet of any dam, fish ladder, weir, culvert or other artificial obstruction.

(l) The taking of rainbow trout and steelhead is prohibited.

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

(g) Subsistence fishing by the use of a line attached to a rod or pole is prohibited except when fishing through the ice on the Kotzebue-Northern, Norton Sound-Port Clarence, Yukon, Kuskokwim and Bristol Bay areas.

(h) Each subsistence fisherman shall plainly and legibly inscribe his first initial, last name, and address on his fishwheel, or on a keg or buoy attached to gill nets and other unattended subsistence fishing gear.

(i) All pots used to take fish must contain an opening in the webbing of a side wall of the pot which has been laced, sewn or secured together by untreated cotton twine or other natural fiber no larger than 120 thread, which upon deterioration or parting of the twine produces an opening in the web with a perimeter equal to or exceeding one-half of the tunnel eye opening perimeter.

(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) No person may use a gill net web that contains less than 30 filaments in the taking of salmon for subsistence purposes. (In effect before 1983; am 4/16/83, Reg. 86)

Authority: AS 16.05.060  
AS 16.05.251  
AS 16.05.930(e)

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 or his

local representative, 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 his commercial catch consistent with 5 AAC 01.020.

(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 his 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

Cape Prince of Wales and west of 141° West longitude, including those waters draining into the Chukchi Sea and Arctic Ocean.

Authority: AS 16.05.251(a)(2) and (b)

**5 AAC 01.105. DESCRIPTION OF DISTRICTS AND SUBDISTRICTS.** Districts and subdistricts are as described in 5 AAC 03.200.

Authority: AS 16.05.251(a)(2) and (b)

**5 AAC 01.110. FISHING SEASONS AND WEEKLY FISHING PERIODS.** Fish may be taken at any time except that, during the weekly fishing closures of the commercial salmon fishing season in the Kotzebue district, commercial fishermen may not fish for subsistence purposes.

Authority: AS 16.05.251(a)(2),(7),(10) and (b)

**5 AAC 01.120. LAWFUL GEAR AND GEAR SPECIFICATIONS.** (a) Salmon may only be taken by gill net, beach seine or fishwheel.

(b) Fish other than salmon may be taken by set gill net, drift gill net, beach seine, fishwheel, pot, long line, fyke net, dip net, jigging gear, spear and lead.

(c) A gill net may obstruct not more than one-half the width of any fish stream. A stationary fishing device may obstruct not more than one-half the width of any salmon stream.

(d) In the Kotzebue district, kegs or buoys attached to subsistence gill nets may be any color except red.

Authority: AS 16.50.251(a)(2),(4),(7) and (b)

**5 AAC 01.121. IDENTIFICATION OF GEAR.** In addition to the requirements of 5 AAC 01.010(h)

(1) each fishwheel must have the first initial, last name and address of the operator plainly and legibly inscribed on the side of the fishwheel facing midstream of the river;

(2) for all gill nets and unattended gear that are fished under the ice, the first initial, last name and address of the operator must be plainly and legibly inscribed on a stake inserted in the ice and attached to the gear.

Authority: AS 16.05.251(a)(4),(5),(7) and (b)

**5 AAC 01.125. WATERS CLOSED TO SUBSISTENCE FISHING.** (a) In the Northern district, all waters between the Kalubik River and Bullen Point are closed to subsistence fishing.

(b) In the Kotzebue district, the Noatak River one mile upstream and one mile downstream from the mouth of the Kelly River, and the Kelly River from its mouth to one-fourth mile upstream are closed to subsistence char fishing from June 1 through September 20.

Authority: AS 16.05.251(a)(2),(7),(10) and (b)

**5 AAC 01.130. SUBSISTENCE FISHING PERMITS.** Fish may be taken for subsistence purposes without a subsistence fishing permit.

Authority: AS 16.05.251(a)(2),(3),(4),(7),(10),(12) and (b)

### ARTICLE 3. NORTON SOUND—PORT CLARENCE AREA

#### Section

- 150. Description of the Norton Sound-Port Clarence area
- 155. Description of districts and subdistricts
- 160. Fishing seasons and weekly fishing periods
- 170. Lawful gear and gear specifications
- 171. Identification of gear
- 175. Waters closed to subsistence fishing
- 180. Subsistence fishing permits

**5 AAC 01.150. DESCRIPTION OF THE NORTON SOUND—PORT CLARENCE AREA.** The Norton Sound-Port Clarence area includes all waters of Alaska between the latitude of the westernmost tip of Cape Prince of Wales and the latitude of Canal Point light, including the waters of Alaska surrounding St. Lawrence Island and those waters draining into the Bering Sea.

Authority: AS 16.05.251(a)(2) and (b)

**5 AAC 01.155. DESCRIPTION OF DISTRICTS AND SUBDISTRICTS.** Districts and subdistricts are as described in 5 AAC 04.200.

Authority: AS 16.05.251(a)(2) and (b)

**5 AAC 01.160. FISHING SEASONS AND WEEKLY FISHING PERIODS.** (a) In the Port Clarence district, fish may be taken at any time except that during the period July 1 through

**ARTICLE 4.  
YUKON AREA****Section**

- 200. Description of Yukon area
- 205. Description of districts and subdistricts
- 210. Fishing seasons and weekly fishing periods
- 220. Lawful gear and gear specifications
- 221. Identification of gear
- 225. Waters closed to subsistence fishing
- 230. Subsistence fishing permits
- 240. Marking of subsistence-taken salmon
- 245. Restrictions on commercial fishermen
- 247. Tanana River Subdistrict 6-C subsistence salmon management plan

**5 AAC 01.200. DESCRIPTION OF YUKON AREA.** The Yukon area includes all waters of Alaska between the latitude of Canal Point light and the latitude of the westernmost point of the Naskonat Peninsula, including those draining into the Bering Sea.

Authority: AS 16.05.251(a)(2) and (b)

**5 AAC 01.205. DESCRIPTION OF DISTRICTS AND SUBDISTRICTS.** Districts and subdistricts are as described in 5 AAC 05.200.

Authority: AS 16.05.251(a)(2) and (b)

**5 AAC 01.210. FISHING SEASONS AND WEEKLY FISHING PERIODS.** (a) Unless restricted in this section and 5 AAC 01.225, salmon may be taken in the Yukon Area at any time.

(b) In the following locations, salmon may be taken only during the open weekly fishing periods of the commercial salmon fishing season and may not be taken for 24 hours before the opening and 24 hours after the closure of the commercial salmon fishing season:

- (1) Districts 1, 2, and 3, except

(A) through July 19 in Districts 1 and 2 subsistence fishing periods will be established by emergency order every other weekend during commercial salmon fishing closures;

(B) after July 19 in District 1, except for the set net only locations described in 5 AAC 05.330(a)(1) — (8), and in District 2, a 24-hour subsistence fishing period will be established

by emergency order each weekend during commercial salmon fishing closures:

- (2) District 4, excluding the Koyukuk and Innoko River drainages:

(A) in Subdistrict 4-A from June 15 through August 1, salmon may be taken from 6:00 p.m. Sunday until 6:00 p.m. Tuesday and from 6:00 p.m. Wednesday until 6:00 p.m. Friday;

(B) in Subdistricts 4-B and 4-C from June 15 through September 30, salmon may be taken from 6:00 p.m. Sunday until 6:00 p.m. Tuesday and from 6:00 p.m. Wednesday until 6:00 p.m. Friday;

- (3) District 5, excluding the Tozitna River drainage and excluding Subdistrict 5-B;

(4) District 6, excluding the Kantishna River drainage and that portion of the Tanana River drainage upstream of the mouth of the Salcha River.

(c) During any commercial salmon fishing season closure of greater than five days in duration, salmon may not be taken during the following periods in the following districts:

- (1) repealed 4/14/82;

(2) in District 4, excluding the Koyukuk and Innoko River drainages, salmon may not be taken from 6:00 p.m. Friday until 6:00 p.m. Sunday;

(3) in District 5, excluding the Tozitna River drainage and Subdistrict 5-B, salmon may not be taken from 6:00 p.m. Sunday until 6:00 p.m. Tuesday;

(4) in Subdistricts 6-A and 6-B, excluding the Kantishna River drainage and that portion of the Tanana River drainage upstream of the mouth of the Salcha River, salmon may not be taken from 6:00 p.m. Wednesday until 6:00 p.m. Friday.

(d) In Subdistrict 6-C and that portion of the Tanana River drainage upstream to the mouth of the Salcha River, salmon may not be taken following the closure of the commercial salmon

closed to subsistence fishing, except that whitefish and suckers may be taken under the authority of a subsistence fishing permit designating measures for the protection of other fish:

(1) the following streams and within 500 feet of their mouths:

(A) Birch Creek;

(B) Dall River from June 10 through September 10;

(2) repealed 4/15/81;

(3) repealed 4/15/81;

(4) repealed 4/15/81;

(b) The following drainages located north of the main Yukon River are closed to subsistence fishing:

(1) Kanuti River upstream from a point five miles downstream of the state highway crossing;

(2) Fish Creek upstream from the mouth of Bonanza Creek;

(3) Bonanza Creek;

(4) Jim River including Prospect Creek and Douglas Creek;

(5) South Fork of the Koyukuk River system upstream from the mouth of Jim River;

(6) Middle Fork of the Koyukuk River system upstream from the mouth of the North Fork;

(7) North Fork of the Chandalar River system upstream from the mouth of Quartz Creek.

(c) The main Tanana River and its adjoining sloughs are closed to subsistence fishing between the mouth of the Salcha River and the mouth of the Gerstle River, except that salmon may be taken in the area upstream of the Richardson Highway bridge to the mouth of Clearwater Creek after November 20.

(d) The Tanana River drainage is closed to subsistence fishing for pike between the Kantishna River and the Delta River at Black Rapids on the Richardson Highway and Cathedral Rapids on the Alaska Highway, except that pike may be taken for subsistence purposes in the Tolovana River and adjoining sloughs and lakes between Department of Fish and Game regulatory markers placed approximately two miles upstream and downstream of the village of Minto.

(e) The Delta River is closed to subsistence fishing, except that salmon may be taken after November 20.

(f) Repealed 4/13/80.

(g) The following locations are closed to subsistence fishing:

(1) the following rivers and creeks and within 500 feet of their mouths: Delta Clearwater River (Clearwater Creek at 64° 06' N. lat., 145° 334' W. long.), Richardson Clearwater Creek (Clear Creek at 64° 14' N. lat., 146° 16' W. long.), Goodpaster River, Chatanika River, Chena River, Little Chena River, Little Salcha River, Blue Creek, Big Salt River, Shaw Creek, Bear Creek, McDonald Creek, Moose Creek, Goldstream Creek, Hess Creek and Beaver Creek;

(2) Ray River and Salcha River upstream of a line between ADF&G regulatory markers located at the mouth of the rivers;

(3) Deadman, Jan. Boleo, Birch, Lost, Harding, Craig, Fielding, Two-Mile, Quartz and Little Harding lakes;

(4) Piledriver and Badger (Chena) sloughs.  
Authority: AS 16.05.251(a)(2),(7),(10),  
(12) and (b)

**5 AAC 01.230. SUBSISTENCE FISHING PERMITS.** (a) Except as provided in this section, fish may be taken for subsistence purposes without a subsistence fishing permit.

(b) A subsistence fishing permit is required as follows:

(1) for the Yukon River drainage from the

of a Subdistrict 6-C subsistence salmon fishing permit is 10 king salmon and 75 chum salmon for periods through August 15 and 75 chum and coho salmon for periods after August 15.

(f) A subsistence fisherman taking salmon in Subdistrict 6-C shall report his salmon catch to the department's Fairbanks office by using a designated phone number. Each report must be made within 18 hours of the end of each subsistence salmon fishing period. Immediately after taking salmon, the subsistence fisherman shall record that take on a harvest form provided by the department. (In effect before 1984; am 4/28/84, Reg. 90)

Authority: AS 16.05.060  
AS 16.05.251

Editor's Note: The designated phone number will be announced by the department before the opening of the subsistence salmon fishing season.

## ARTICLE 5. KUSKOKWIM AREA

### Section

- 250. Description of the Kuskokwim area
- 255. Description of districts and subdistricts
- 260. Fishing seasons and periods
- 270. Lawful gear and gear specifications
- 271. Identification of gear
- 275. Waters closed to subsistence fishing
- 280. Subsistence fishing permits

**5 AAC 01.250. DESCRIPTION OF THE KUSKOKWIM AREA.** The Kuskokwim area consists of all waters of Alaska between the latitude of the westernmost point of the Naskonat Peninsula and the latitude of the southernmost tip of Cape Newenham, including the waters of Alaska surrounding Nunivak and St. Matthew Islands and those waters draining into the Bering Sea.

Authority: AS 16.05.251(a)(2) and (b)

**5 AAC 01.255. DESCRIPTION OF DISTRICTS AND SUBDISTRICTS.** Districts and subdistricts are as described in 5 AAC 07.200.

Authority: AS 16.05.251(a)(2) and (b)

**5 AAC 01.260. FISHING SEASONS AND PERIODS.** (a) Unless restricted in this section and 5 AAC 01.275, salmon may be taken in the Kuskokwim area at any time.

(b) In district 1, excluding Kuskokuak Slough, salmon may be taken at any time except

(1) from June 1 through June 25, salmon may not be taken for 24 hours before, during and for six hours after each open commercial salmon fishing period in the district:

(2) from June 26 through July 31, salmon may not be taken downstream of a line crossing the Kuskokwim River at ADF&G regulatory markers located three-fourths of a mile upstream from Brown's Slough in Bethel for 24 hours before, during and for six hours after each open ADF&G commercial salmon fishing period in the district:

(3) from August 1 through August 31, salmon may not be taken for 15 hours before, during and for six hours after each open commercial salmon fishing period in the district.

(c) In district 1, Kuskokuak Slough only, salmon may be taken at any time except

(1) from June 1 through June 25, salmon may not be taken for 24 hours before and during each open commercial salmon fishing period in the district:

(2) from August 1 through August 31, salmon may not be taken for 15 hours before and during each open commercial salmon fishing period in the district.

(d) In districts 4 and 5, salmon may be taken at any time except from June 1 through September 8 salmon may not be taken for 24 hours before, during and six hours after each open commercial salmon fishing period in each district.

(e) Except as provided in 5 AAC 01.275, there is no closed season on fish other than salmon. (In effect before 1982; am 4/14/82, Reg. 82)

Authority: AS 16.05.251(a)(2),(7),(10) and (b)

**5 AAC 01.270. LAWFUL GEAR AND GEAR SPECIFICATIONS.** (a) Salmon may only be taken by gill net, beach seine or fishwheel subject to the restrictions set forth in this section and 5 AAC 01.275, except that salmon may also be taken by spear in the Holitna River drainage.

**ARTICLE 6.  
BRISTOL BAY AREA**

**Section**

- 300. Description of Bristol Bay area
- 305. Description of districts
- 310. Fishing seasons and weekly fishing periods
- 320. Lawful gear and gear specifications
- 325. Waters closed to subsistence fishing
- 330. Subsistence fishing permits
- 340. Marking of subsistence-taken salmon
- 345. Subsistence bag and possession limits

**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 to Cape Menshikof.

Authority: AS 16.05.251(a)(2) and (b)

**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. (In effect before 1983; am 4/16/83, Reg. 86)

Authority: AS 16.05.251

**5 AAC 01.310. FISHING SEASONS AND WEEKLY FISHING PERIODS.** (a) Unless restricted in this section and 5 AAC 01.325, or unless restricted under the terms of a subsistence fishing permit, fish may be taken at any time in the Bristol Bay area.

(b) Within any district, salmon may only be taken during open weekly commercial salmon fishing periods except as follows:

(1) during the period from June 16 through 9:00 a.m. July 17, salmon for subsistence purposes may be taken in the Nushagak district from the Department of Fish and Game regulatory marker two statute miles below Bradford Point to a marker at Red Bluff on the west shore of Wood River, only during the following periods: 9:00 a.m. Monday to 9:00 a.m. Tuesday, 9:00 a.m. Wednesday to 9:00 a.m. Thursday, and 9:00 a.m. Friday to 9:00 a.m. Saturday;

(2) during the period from June 23 through 9:00 a.m. July 17, salmon for subsistence purposes may be taken in the Naknek, Egegik and Ugashik Rivers only during the following periods: 9:00 a.m. Tuesday to 9:00 a.m. Wednesday and 9:00 a.m. Saturday to 9:00 a.m. Sunday.

(c) From October 1 through December 31, sockeye salmon may be taken along a 100 yard length of the west shore of Naknek Lake near the outlet to the Naknek River as marked by ADF&G regulatory markers. (In effect before 1982; am 4/14/82, Reg. 82)

Authority: AS 16.05.251(a)(2),(7),(10),  
(12) and (b)

**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 gill nets.

(b) Outside the boundaries of any district, salmon may only be taken by set gill net, except that salmon may also be taken by spear in the Togiak River excluding its tributaries.

(c) The maximum lengths for set gill nets used to take salmon are as follows:

(1) in the Naknek, Egegik and Ugashik Rivers, in the Nushagak district as described in 5 AAC 01.310(b)(1) and in Naknek Lake as described in 5 AAC 01.310(c), set gill nets may not exceed 10 fathoms in length;

(2) in the remaining waters of the area, set gill nets may not exceed 25 fathoms in length.

(d) No part of a set gill net may be operated within 300 feet of any part of another set gill net, except that in the Nushagak district from the Department of Fish and Game regulatory marker two statute miles below Bradford Point to a marker at Red Bluff on the west shore of Wood River, no part of a set gill net may be operated within 100 feet of any part of another set gill net.

(e) No set gill net may obstruct more than one-half the width of a stream.

(f) Each set gill net must be staked and buoyed.

(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, and capelin, 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 gill nets used for the subsistence taking of herring or capelin may not exceed 25 fathoms in length. (In effect before 1982; am 4/14/82, Reg. 82; am 4/16/83, Reg. 86)

Authority: AS 16.05.251

5 AAC 01.355. DESCRIPTION OF DISTRICTS. Districts are as described in 5 AAC 12.220.

Authority: AS 16.05.251(a)(2) and (b)

5 AAC 01.360. FISHING SEASONS. (a) In the Unalaska district, salmon may be taken at any time except within 24 hours before and within 12 hours following each open weekly

commercial salmon fishing period within a 50-mile radius of the area open to commercial salmon fishing, or as may be specified on a subsistence fishing permit.

(b) In the Akutan, Umnak and Adak districts, salmon may be taken at any time.

(c) Fish other than salmon may be taken at any time unless restricted under the terms of a subsistence fishing permit.

Authority: AS 16.05.251(a)(2),(7),(10),  
(12) and (b)

**5 AAC 01.370. LAWFUL GEAR AND GEAR SPECIFICATIONS.** (a) Salmon may be taken by seine and gill net, or with gear specified on a subsistence fishing permit.

(b) Fish other than salmon may be taken by gear listed in sec. 10(a) of this chapter, unless restricted under the terms of a subsistence fishing permit.

Authority: AS 16.05.251(a)(4),(7),(12) and (b)

**5 AAC 01.375. WATERS CLOSED TO SUBSISTENCE FISHING.** The waters of Unalaska Lake (at Unalaska Village), its drainages and the outlet stream and within 500 yards of its terminus are closed to subsistence fishing.

Authority: AS 16.05.251(a)(2),(7),(10) and (b)

**5 AAC 01.380. SUBSISTENCE FISHING PERMITS.** (a) Salmon, trout and char may only be taken under the terms of a subsistence fishing permit, except that a permit is not required in the Akutan, Umnak and Adak districts.

(b) Not more than 250 salmon may be taken for subsistence purposes unless otherwise specified on the subsistence fishing permit.

(c) A record of subsistence-caught fish must be kept on the reverse side of the permit. The record must be completed immediately upon taking subsistence-caught fish and must be returned to the local representative of the department no later than October 31.

Authority: AS 16.05.251(a)(2),(3),(4),(7),  
(10),(12) and (b)

## ARTICLE 8. ALASKA PENINSULA AREA

### Section

400. Description of Alaska Peninsula area

410. Fishing seasons

420. Lawful gear and gear specifications

425. Waters closed to subsistence fishing

430. Subsistence fishing permits

**5 AAC 01.400. DESCRIPTION OF ALASKA PENINSULA AREA.** The Alaska Peninsula area includes all Pacific Ocean waters of Alaska between a line extending southeast (135°) from the tip of Kupreanof Point and the longitude of the tip of Cape Sarichef, and all Bering Sea waters of Alaska east of the longitude of the tip of Cape Sarichef and south of the latitude of the tip of Cape Menshikof.

Authority: AS 16.05.251(a)(2) and (b)

**5 AAC 01.410. FISHING SEASONS.** (a) Salmon may be taken at any time except within 24 hours before and within 12 hours following each open weekly commercial salmon fishing period within a 50-mile radius of the area open to commercial salmon fishing, or as may be specified on a subsistence fishing permit.

(b) Fish other than salmon may be taken at any time unless restricted under the terms of a subsistence fishing permit.

Authority: AS 16.05.251(a)(2),(7),(10),  
(12) and (b)

**5 AAC 01.420. LAWFUL GEAR AND GEAR SPECIFICATIONS.** (a) Salmon may be taken by seine and gill net, or with gear specified on a subsistence fishing permit.

(b) Fish other than salmon may be taken by gear listed in sec. 10(a) of this chapter, unless restricted under the terms of a subsistence fishing permit.

(c) No set gill net may exceed 100 fathoms in length.

Authority: AS 16.05.251(a)(4),(7),(12) and (b)

**5 AAC 01.425. WATERS CLOSED TO SUBSISTENCE FISHING.** The following waters are closed to subsistence fishing for salmon:

**ARTICLE 10.  
KODIAK AREA**

**Section**

500. Description of Kodiak area  
 510. Fishing seasons and weekly fishing periods  
 520. Lawful gear and gear specifications  
 525. Waters closed to subsistence fishing  
 530. Subsistence fishing permits  
 545. Subsistence bag and possession limits

**5 AAC 01.500. DESCRIPTION OF KODIAK AREA.** The Kodiak area includes all waters of Alaska south of a line extending east from Cape Douglas (58° 52' N. lat.), west of 150° W. long., north of 55° 30' N. lat.; and east of the longitude of the southern entrance of Imuya Bay near Kilokak Rocks (156° 20' 13" W. long.).

Authority: AS 26.05.251(a)(2) and (b)

**5 AAC 01.510. FISHING SEASONS AND WEEKLY FISHING PERIODS.** (a) Salmon for subsistence purposes may be taken by seines and gill nets daily from 6:00 a.m. until 9:00 p.m. January 1 through December 31, except that purse-seine vessels registered for salmon net fishing may not be used to take salmon for subsistence purposes from June 1 through September 15.

(b) Repealed 6/30/83.

(c) Fish other than salmon may be taken at any time unless restricted by the terms of a subsistence fishing permit. (In effect before 1983, am 6/30/83, Reg. 86)

Authority: AS 16.05.251

**5 AAC 01.520. LAWFUL GEAR AND GEAR SPECIFICATIONS.** (a) Unless restricted by this section or under the terms of a subsistence fishing permit, fish may be taken by gear listed in 5 AAC 01.010(a).

(b) Salmon may only be taken by gill net and seine.

(c) Halibut may be taken only by a single hand-held line with not more than two hooks attached to it.

(d) Subsistence fishermen must be physically

present at the net at all times the net is being fished.

Authority: AS 16.05.251(a)(2),(4),(7), (12) and (b)

**5 AAC 01.525. WATERS CLOSED TO SUBSISTENCE FISHING.** The following waters are closed to the subsistence taking of salmon:

(1) all waters of Mill Bay and all those waters bounded by a line from Spruce Cape to the northernmost point of Woody Island, then to the northernmost point of Holiday Island, then to a point on Near Island opposite the Kodiak small boat harbor entrance and then to the small boat harbor entrance;

(2) all freshwater systems of Little Afognak River and Portage Creek drainage in Discoverer Bay;

(3) repealed 4/13/80;

(4) all waters closed to commercial salmon fishing in the Barbara Cove, Chiniak Bay, Saltery Cove, Pasagshak Bay, Monashka Bay and Anton Larsen Bay as described in 5 AAC 18.350, and all waters closed to commercial salmon fishing within 100 yards of the terminus of Selief Bay Creek and north and west of a line from the tip of Last Point to the tip of River Mouth Point in Afognak Bay;

(5) repealed 4/13/80;

(6) all waters 300 yards seaward of the terminus of Monks Creek.

Authority: AS 16.05.251(a)(2),(7),(10) and (b)

**5 AAC 01.530. SUBSISTENCE FISHING PERMITS.** (a) A subsistence fishing permit is required for taking salmon, trout and char for subsistence purposes. A subsistence fishing permit is required for taking herring and bottom-fish for subsistence purposes during the commercial herring sac roe season from May 1 through June 30.

(b) A subsistence salmon fishing permit allows the holder to take 25 salmon plus an additional 25 salmon for each member of the same household whose names are listed on the permit. An additional permit may be obtained if it can be shown that more fish are needed.

(g) In that portion of the Kenai River from its mouth upstream to the Kenai bridge, herring may only be taken from April 1 through May 31.

(h) Repealed 6/30/83.

(i) Trout, grayling, char and burbot may not be taken for subsistence purposes in freshwater. (In effect before 1981; am 5/6/81, Reg. 78; am 5/17/81, Reg. 78; am 6/30/83, Reg. 86)

Authority: AS 16.05.251

**5 AAC 01.570. LAWFUL GEAR AND GEAR SPECIFICATIONS.** (a) Unless restricted in this section, 5 AAC 01.575, or under the terms of a subsistence fishing permit, fish may be taken by gear listed in 5 AAC 01.010(a).

(b) Salmon may be taken only as follows:

(1) in the Tyonek subdistrict, by set gill nets not exceeding 10 fathoms in length, six inches in mesh size, and 45 meshes in depth;

(2) in the Port Graham subdistrict, by set gill nets not exceeding 35 fathoms in length, six inches in mesh size, and 45 meshes in depth;

(A) repealed 5/17/81;

(B) repealed 5/17/81;

(C) repealed 5/17/81;

(3) no part of a set gill net may be set or operated within 600 feet of any part of another set gill net.

(d) In the Northern and Central districts, subsistence fishermen holding a subsistence permit must be physically present at the net at all times while the net is being fished.

(e) Bottomfish may be taken by legal gear for commercial bottomfish fishing in the area.

(f) In taking smelt

(1) the mesh size of gill nets may not exceed two inches and no gill net may exceed 50 feet in length except in the Kenai River no gill net may exceed 20 feet in length;

(2) dip nets may not be used in waters of the Kenai Peninsula;

(3) subsistence fishermen taking smelt in the Kenai River must be physically present at the net at all times the net is being fished.

(g) In taking herring

(1) the mesh size of gill nets may not exceed two inches and no gill net may exceed 50 feet in length;

(2) subsistence fishermen taking herring in the Kenai River must be physically present at the net at all times the net is being fished.

(h) Halibut may be taken only by a single hand-held line with not more than two hooks attached to it. (In effect before 1981; am 5/6/81, Reg. 78; am 5/17/81, Reg. 78)

Authority: AS 16.05.251(a)(2),(4),(7), (12) and (b)

**5 AAC 01.575. WATERS CLOSED TO SUBSISTENCE FISHING.** (a) The taking of salmon is prohibited in the following waters:

(1) those waters described in 5 AAC 39.290;

(2) all waters of the Northern district not part of the Tyonek subdistrict;

(3) the Seldovia Bay, Barbara Creek, Tutka Bay, Humpy Creek, and Northshore subdistricts of the Southern district;

(4) the Central, Kamishak Bay, Barren Island, Outer and Eastern districts.

(b) The taking of herring and smelt is prohibited in the Central district east of 152° West longitude and south of the latitude of Ninilchik. (In effect before 1981; am 5/6/81, Reg. 78; am 5/17/81, Reg. 78)

Authority: AS 16.05.251(a)(2),(7),(10) and (b)

**5 AAC 01.580. SUBSISTENCE FISHING PERMITS.** (a) Only one subsistence salmon fishing permit may be issued to each household per year

(1) subsistence salmon fishing permits for the Tyonek subdistrict will be issued only to those persons domiciled in the village of Tyonek;

subsistence taking of a range of wild resources in proximity to the community or primary residency.

(b) The board will identify established geographic communities which may be participating in a subsistence system. The board will then apply all of the characteristics in (a) of this section to the communities and to subcommunities, groups and individuals within the communities to determine which uses are customary and traditional and therefore, which communities are eligible for the subsistence priority.

(c) For purposes of this section, a "community" is generally considered to be several households of full-time residents who all reside in a specific geographic area because of common interests. (Eff. 4/14/82, Reg. 82)

Authority: AS 16.05.251(b)

#### ARTICLE 12. PRINCE WILLIAM SOUND AREA

##### Section

- 600. Description of Prince William Sound area
- 605. Description of districts and subdistricts
- 610. Fishing seasons
- 620. Lawful gear and gear specifications
- 625. Waters closed to subsistence fishing
- 630. Subsistence fishing permits
- 640. Marking of subsistence-taken salmon
- 645. Subsistence bag and possession limits
- 647. Copper River subsistence salmon management plan

5 AAC 01.600. DESCRIPTION OF PRINCE WILLIAM SOUND AREA. The Prince William Sound area includes all waters of Alaska between the longitude of Cape Fairfield and the longitude of Cape Suckling.

Authority: AS 16.05.251(a)(2) and (b)

5 AAC 01.605. DESCRIPTION OF DISTRICTS AND SUBDISTRICTS. The Upper Copper River district consists of all waters of the main Copper River from the confluence of the Slana River downstream to an east-west line crossing the Copper River at the confluence of the unnamed stream located approximately one and one-fourth mile below the U.S.G.S. gauging cable across the Copper River, as designated by Alaska Department of Fish and Game regulatory markers

(1) the Chitina subdistrict consists of all waters of the main Copper River from the downstream edge of the Chitina-McCarthy Road Bridge downstream to an east-west line crossing the Copper River at the confluence of the unnamed stream located approximately one and one-fourth mile below the U.S.G.S. gauging cable across the Copper River, as designated by the Alaska Department of Fish and Game regulatory markers:

(2) the Glennallen subdistrict consists of all waters of the main Copper River from the confluence of the Slana River downstream to the downstream edge of the Chitina-McCarthy Road Bridge.

Authority: AS 16.05.251(a)(2) and (b)

5 AAC 01.610. FISHING SEASONS. (a) Unless restricted in this section and 5 AAC 01.625, or unless restricted under the terms of a subsistence fishing permit, fish may be taken at any time in the Prince William Sound area.

(b) Salmon may be taken in the Upper Copper River District only as follows:

(1) in the Glennallen Subdistrict, from June 1 through September 30;

(2) in the Chitina Subdistrict, only when that subdistrict is open to personal use salmon fishing;

(3) when the Copper River subsistence fishery is closed or restricted because of an inadequate escapement of sockeye or chinook salmon, the fishery may be reopened September 1 for the taking of coho salmon, which constitute the majority of the salmon at that time.

(c) Repealed 6/30/83.

(d) Herring spawn on kelp may be taken only during the open commercial herring spawn on kelp season. (In effect before 1983; am 6/30/83, Reg. 86; am 4/28/84, Reg. 90)

Authority: AS 16.05.060  
AS 16.05.251

5 AAC 01.620. LAWFUL GEAR AND GEAR SPECIFICATIONS. (a) Fish may be taken by gear listed in 5 AAC 01.010(a) unless restricted

(1) only one type of gear may be specified on a permit:

(2) only one permit per year may be issued to a household:

(3) permits must be returned to the department no later than October 31, or a permit for the following year may be denied as provided in 5 AAC 01.015(c):

(4) during closed fishing periods, the department's Chitina permit issuing station may be closed or operated at reduced hours to reduce manpower costs.

(f) The total annual possession limit for an Upper Copper River District subsistence salmon fishing permit is as follows:

(1) 30 salmon for a household with one person:

(2) 60 salmon for a household with two persons:

(3) 10 salmon for each additional person in a household over those specified in (2) of this subsection:

(4) upon request, permits for additional salmon will be issued with the following limits:

(A) no more than a total of 200 salmon for a permit issued to a household with one person:

(B) no more than a total of 500 salmon for a permit issued to a household with two or more persons. (In effect before 1982; am 4/14/82, Reg. 82; am 4/28/84, Reg. 90)

Authority: AS 16.05.251

**5 AAC 01.640. MARKING OF SUBSISTENCE-TAKEN SALMON.** No person may possess salmon taken under the authority of an Upper Copper River District subsistence fishing permit unless the dorsal fin has been immediately removed from the salmon. (Eff. 4/28/84, Reg. 90)

Authority: AS 16.05.251

**5 AAC 01.645. SUBSISTENCE BAG AND POSSESSION LIMITS.** (a) Possession limits for

salmon in the Upper Copper River District are described in 5 AAC 01.630(f).

(b) In locations open to commercial salmon fishing and in conformance with commercial salmon fishing regulations, the annual subsistence salmon limit is as follows:

(1) 15 salmon for a household of one person:

(2) 30 salmon for a household of two persons:

(3) 10 salmon for each additional person in a household over those specified in (2) of this subsection;

(4) no more than five king salmon may be taken per permit.

(c) The daily bag and possession limit for halibut is two. No person may possess sport-taken and subsistence-taken halibut on the same day. (In effect before 1984; am 4/28/84, Reg. 90)

Authority: AS 16.05.251

**5 AAC 01.647. COPPER RIVER SUBSISTENCE SALMON MANAGEMENT PLAN.** (a) The purpose of this plan is to ensure that adequate escapement of salmon in the Copper River system occurs and that subsistence uses, as described under AS 16.05.251 and 5 AAC 99.010, are accommodated.

(b) The following are directives pertaining to the management of Copper River System salmon:

(1) this policy governs only those salmon which pass the department sonar counters located at the Million Dollar Bridge;

(2) the department will manage the Copper River commercial salmon fishery to attain a total escapement into the Copper River of 411,000 salmon to ensure that an adequate escapement reaches the spawning grounds and to provide for hatchery brood stock and for subsistence, personal use, and sport fisheries:

(3) repealed 4/28/84;

(4) repealed 4/28/84.

possess sport-taken and subsistence-taken halibut on the same day.

Authority: AS 16.05.251(a)(3),(7),(10) and (b)

**ARTICLE 14.  
SOUTHEASTERN ALASKA AREA**

**Section**

- 700. Description of the Southeastern Alaska area
- 705. Description of districts and sections
- 710. Fishing seasons
- 720. Lawful gear and gear specifications
- 725. Waters closed to subsistence fishing
- 730. Subsistence fishing permits
- 740. Marking of subsistence-taken salmon
- 745. Subsistence bag and possession limits
- 747. Subsistence fishing policy for the Juneau, Petersburg, Wrangell, Sitka and Ketchikan road systems

**5 AAC 01.700. DESCRIPTION OF THE SOUTHEASTERN ALASKA AREA.** The Southeastern Alaska Area includes all waters between a line projecting southwest from the westernmost tip of Cape Fairweather and Dixon Entrance. (In effect before 1982: am 4/14/82, Reg. 82)

Authority: AS 16.05.251(a)(2) and (b)

**5 AAC 01.705. DESCRIPTION OF DISTRICTS AND SECTIONS.** Districts and sections are as described in 5 AAC 33.200.

Authority: AS 16.05.251(a)(2) and (b)

**5 AAC 01.710. FISHING SEASONS.** (a) Unless restricted in this section, 5 AAC 01.725, or under the terms of a subsistence fishing permit, fish may be taken in the Southeastern Alaska Area at any time.

(b) Repealed 6/30/83.

(c) Herring may be taken at any time, except that vessels licensed as commercial fishing vessels may not be used to take herring for personal use in any district that is open for commercial herring fishing for 72 hours before, during and 72 hours after any open commercial herring fishing period for that district when the vessel has aboard it any person holding a Southeastern Alaska Area winter bait herring or herring sac roe interim-use or entry permit.

(d) Coho salmon may be taken from Salt Lake and Mitchell Bay from August 1 through October 31. (In effect before 1983: am 6/30/83, Reg. 86)

Authority: AS 16.05.251

**5 AAC 01.720. LAWFUL GEAR AND GEAR SPECIFICATIONS.** Fish may be taken by gear listed in 5 AAC 01.010(a) except as may be restricted under the terms of a subsistence fishing permit and except as follows:

(1) in District 13, Redoubt Bay, gill net or seine gear may not be used to take salmon in any waters of the bay closed to commercial salmon fishing:

(2) set gill nets may not be used to take salmon except in the mainstream and side channels, but not the tributaries, of the Chilkat River from the latitude of Zimovia Point to one mile upstream of Wells Bridge:

(3) halibut may be taken only by a single hand-held line with not more than two hooks attached to it:

(4) beach seines and gaffs only may be used to take coho salmon during the season and in the area described in 5 AAC 01.710(d). (In effect before 1982: am 4/14/82, Reg. 82)

Authority: AS 16.05.251(a)(2),(4),(7) and (b)

**5 AAC 01.725. WATERS CLOSED TO SUBSISTENCE FISHING.** The following waters are closed to the subsistence taking of salmon:

(1) in District 1

(A) repealed 4/14/82:

(B) Mahoney Creek in George Inlet;

(C) Naha Bay: Roosevelt Lagoon and within one statute mile of the falls at the outlet of Roosevelt Lagoon;

(2) in District 11

(A) repealed 4/14/82:

Harvestable numbers of salmon in excess to the spawning escapement needs for those streams are normally of such a small magnitude that these numbers alone are not sufficient to support the consumptive demands of those communities. Therefore, permits allowing the use of nets shall not be issued for the streams along the road systems of those communities.

(b) Repealed 4/14/82.

(In effect before 1982; am 4/14/82, Reg. 82)

Authority: AS 16.05.251(a)(2),(3),(4),(7).

(12) and (b)

**CHAPTER 02.  
SUBSISTENCE SHELLFISH FISHERY**

**Article**

1. Statewide Provisions  
(5 AAC 02.001—5 AAC 02.040)
2. Southeastern Yakutat Area  
(5 AAC 02.100—5 AAC 02.135)
3. Prince William Sound Area  
(5 AAC 02.200—5 AAC 02.230)
4. Cook Inlet Area  
(5 AAC 02.300—5 AAC 02.330)
5. Kodiak Area  
(5 AAC 02.400—5 AAC 02.425)
6. Alaska Peninsula-Aleutian Islands Area  
(5 AAC 02.500—5 AAC 02.525)
7. Bering Sea Area  
(5 AAC 02.600—5 AAC 02.625)

**ARTICLE 1.  
STATEWIDE PROVISIONS**

**Section**

1. Application of this chapter
2. Subsistence fishing permitted
10. Methods, means, and general restrictions
15. Subsistence fishing permits and reports
20. Subsistence fishing by commercial fishermen
25. Use of commercially licensed or registered vessels
30. Unlawful possession of subsistence shellfish
40. Policy on closures due to illegal fishing

**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.

Authority: AS 16.05.251

**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.

Authority: AS 16.05.251(a)(2),(3),(4) and (b)  
AS 16.05.920

**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) It is unlawful to buy or sell subsistence-taken shellfish, their parts, or their eggs, unless otherwise specified in this chapter.

(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) Each subsistence fisherman shall plainly and legibly inscribe his first initial, last name and address on a keg or buoy attached to unattended subsistence fishing gear. Subsistence fishing gear may not display a permanent vessel license (ADF&G) number.

(f) A side wall of all subsistence shellfish pots must contain an opening with a perimeter equal to or exceeding one-half of the tunnel eye opening perimeter. The opening must be laced, sewn or secured together by untreated cotton twine or other natural fiber no larger than 120 thread. Dungeness crab and shrimp pots may have the pot lid tiedown straps secured to the pot at one end by untreated cotton twine no larger than 120 thread, as a substitute for the above requirement.

crab for subsistence purposes during the period starting 14 days before an opening until 14 days after the closure of an open king crab fishing season in the area or areas for which the vessel is registered:

(4) no commercially licensed or registered tanner crab fishing vessel may be used to take tanner crab for subsistence purposes during the period starting 14 days before an opening until 14 days after the closure of an open tanner crab fishing season in the area or areas for which the vessel is registered;

(5) no commercially licensed and registered shrimp trawl fishing vessel may be used to take shrimp for subsistence purposes in any district that is open for commercial shrimp trawl fishing for 14 days before, during and 14 days after any open commercial shrimp trawl fishing season for that district. (In effect before 1982; am 7/25/82, Reg. 83)

Authority: AS 16.05.251(a) and (b)

**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.

Authority: AS 16.05.251(a)(4),(10) and (b)

**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.

Authority: AS 16.05.060

AS 16.05.251(a)(2),(7) and (b)

## ARTICLE 2. SOUTHEASTERN YAKUTAT AREA

### Section

- |      |                                                     |
|------|-----------------------------------------------------|
| 100. | Description of the Southeastern Alaska-Yakutat area |
| 105. | Description of districts                            |
| 110. | Subsistence shrimp fishery                          |
| 115. | Subsistence dungeness crab fishery                  |
| 120. | Subsistence king crab fishery                       |
| 125. | Subsistence tanner crab fishery                     |
| 130. | Subsistence clam fishery                            |
| 135. | Subsistence abalone fishery                         |

**5 AAC 02.100. DESCRIPTION OF THE SOUTHEASTERN ALASKA-YAKUTAT AREA.** The Southeastern Alaska-Yakutat area has as its western boundary the longitude of Cape Suckling (143° 53' West longitude), its southern boundary the International Boundary at Dixon Entrance, and its seaward boundary the 400-fathom (732 m) depth contour.

Authority: AS 16.05.251(a)(2) and (b)

(1) the possession limit is 50 abalone per person;

(2) the minimum legal size is three inches (76 mm) in greatest diameter of shell, except in district 13 the minimum legal size is three and one-half inches (89 mm) in greatest diameter of shell;

(3) subsistence fishing is prohibited while engaged in commercial abalone fishing; prior to engaging in the subsistence fishery, commercial abalone fishermen must return the commercial permit to the Department of Fish and Game and land the commercial catch in possession;

(4) repealed 6/30/83.  
(In effect before 1981; am 6/28/81, Reg. 78; am 6/30/83, Reg. 86)

Authority: AS 16.05.251

**ARTICLE 3.  
PRINCE WILLIAM SOUND AREA**

**Section**

- 200. Description of the Prince William Sound area
- 210. Subsistence shrimp fishery
- 215. Subsistence dungeness crab fishery
- 220. Subsistence tanner crab fishery
- 225. Subsistence crab fishery
- 230. Subsistence clam fishery

**5 AAC 02.200. DESCRIPTION OF THE PRINCE WILLIAM SOUND AREA.** The Prince William Sound area has as its western boundary the longitude of Cape Fairfield (148° 50' West longitude), its eastern boundary the longitude of Cape Suckling (143° 53' West longitude) and its seaward boundary the 400-fathom (732 m) depth contour.

Authority: AS 16.05.251(a)(2) and (b)

**5 AAC 02.210. SUBSISTENCE SHRIMP FISHERY.** In the subsistence taking of shrimp, no more than 10 pots in the aggregate may be used. (Eff. 7/25/82, Reg. 83)

Authority: AS 16.05.251(a) and (b)

**5 AAC 02.215. SUBSISTENCE DUNGENESS CRAB FISHERY.** In the subsistence taking of dungeness crab

(1) the daily bag and possession limit is 20 crab per person;

(2) the minimum legal size is six and one-half inches (165 mm) in shoulder width;

(3) only male crab may be taken.  
Authority: AS 16.05.251(a)(2),(3),(4),(7), (10) and (b)

**5 AAC 02.220. SUBSISTENCE TANNER CRAB FISHERY.** In the subsistence taking of tanner crab the daily bag and possession limit is 20 male crab per person. (Eff. 6/30/83, Reg. 86)

Authority: AS 16.05.251

**5 AAC 02.225. SUBSISTENCE KING CRAB FISHERY.** In the subsistence taking of king crab

(1) the daily bag and possession limit is six male crab per person;

(2) all crab pots used for subsistence fishing and left in saltwater unattended longer than a two-week period shall have all bait and bait containers removed and all doors secured fully open. (In effect before 1983; am 6/30/83, Reg. 86)

Authority: AS 16.05.251

**5 AAC 02.230. SUBSISTENCE CLAM FISHERY.** In waters east of 146° West longitude and south of a line from the southernmost tip of Point Bentinck to the southernmost tip of Point Whitshed

(1) razor clams may be taken only under the authority of a subsistence razor clam fishing permit;

(2) only razor clams four and one-half inches or longer in length of shell may be taken or possessed. (Eff. 6/30/84, Reg. 90)

Authority: AS 16.05.251

**5 AAC 02.415. SUBSISTENCE DUNGENESS CRAB FISHERY.** The daily bag and possession limit is 12 dungeness crab per person. Only male dungeness crab may be taken. (Eff. 6/30/84, Reg. 90)

Authority: AS 16.05.251

**5 AAC 02.420. SUBSISTENCE KING CRAB FISHERY.** In the subsistence taking of king crab

(1) the daily bag and possession limit is six crab per person and only male crab may be taken;

(2) all crab pots used for subsistence fishing and left in saltwater unattended longer than a two-week period shall have all bait and bait containers removed and all doors secured fully open;

(3) no more than five crab pots may be used to take king crab;

(4) crab may be taken only from June 1 through January 31, except that from July 15 through January 31 the subsistence taking of king crab is prohibited in waters 25 fathoms or greater in depth, unless the commercial red king crab fishing season is open in the location. (In effect before 1983: a.m. 6/30/83, Reg. 86; a.m. 6/30/84, Reg. 90)

Authority: AS 16.05.251

**5 AAC 02.425. SUBSISTENCE TANNER CRAB FISHERY.** In the subsistence taking of tanner crab

(1) no more than five crab pots may be used to take tanner crab;

(2) from July 15 through February 10, the subsistence taking of tanner crab is prohibited in waters 25 fathoms or greater in depth, unless the commercial tanner crab fishing season is open in the location;

(3) the daily bag and possession limit is 12 crab per person and only male crab may be taken. (In effect before 1983: a.m. 6/30/83, Reg. 86; a.m. 6/30/84, Reg. 90)

Authority: AS 16.05.251

**ARTICLE 6.  
ALASKA PENINSULA - ALEUTIAN  
ISLANDS AREA**

**Section**

- 500. Description of the Alaska Peninsula-Aleutian Islands area
- 505. Subsistence shellfish fishing permits
- 510. Subsistence shrimp fishery
- 515. Subsistence dungeness crab fishery
- 520. Subsistence king crab fishery
- 525. Subsistence tanner crab fishery

**5 AAC 02.500. DESCRIPTION OF THE ALASKA PENINSULA-ALEUTIAN ISLANDS AREA.** The Alaska Peninsula-Aleutian Islands area includes Pacific Ocean waters west of the longitude of Cape Kumlik (157° 27' West longitude), east of 172° East longitude and shoreward of the 800-fathom (1463 m) depth contour, and Bering Sea waters east of 172° East longitude and south of 54° 36' North-latitude.

Authority: AS 16.05.251(a)(2) and (b)

**5 AAC 02.505. SUBSISTENCE SHELLFISH FISHING PERMITS.** Shellfish may be taken for subsistence purposes only under the authority of a subsistence shellfish fishing permit. (Eff. 6/30/84, Reg. 90)

Authority: AS 16.05.251

**5 AAC 02.510. SUBSISTENCE SHRIMP FISHERY.** The operator of a commercially licensed and registered shrimp fishing vessel must obtain a subsistence fishing permit from the department prior to subsistence shrimp fishing during a closed commercial shrimp fishing season or within a closed commercial shrimp fishing district, section or subsection.

(1) The permit shall specify the area and the date the vessel operator intends to fish:

(2) No more than 500 pounds (227 kg) of shrimp may be in possession aboard the vessel.

Authority: AS 16.05.251(a)(2),(3),(4),(7),  
(10) and (b)

**5 AAC 02.515. SUBSISTENCE DUNGENESS CRAB FISHERY.** The daily bag and possession limit is 12 dungeness crab per person. Only male dungeness crab may be taken. (Eff. 6/30/84, Reg. 90)

Authority: AS 16.05.251

(3) in the Norton Sound section of the Northern District, a subsistence fishing permit is required and may be obtained from a local representative of the department:

(4) in waters south of 60° North latitude, crab may be taken only from June 1 through January 31. (In effect before 1984: am 6/30/84, Reg. 90)

Authority: AS 16.05.251

5 AAC 02.625. **SUBSISTENCE TANNER CRAB FISHERY.** In waters south of 60° North latitude, the daily bag and possession limit is 12 tanner crab, and only males may be taken. (Eff. 6/30/84, Reg. 90)

Authority: AS 16.05.251

**CHAPTER 39.  
GENERAL PROVISIONS**

## Article

1. General  
(5 AAC 39.001—5 AAC 39.200)
2. Salmon Fishery  
(5 AAC 39.230—5 AAC 39.290)
3. Groundfish Fishery  
(5 AAC 39.380—5 AAC 39.399)
4. Smelt Fishery  
(5 AAC 39.410)
5. Herring Fishery  
(5 AAC 39.510—5 AAC 39.580)
6. Shellfish Fishery  
(5 AAC 39.610—5 AAC 39.680)
7. Commercial Freshwater Fishery  
(5 AAC 39.734—5 AAC 39.780)
8. Subsistence Fishery  
(5 AAC 39.885—5 AAC 39.890)
9. Definitions  
(5 AAC 39.975—5 AAC 39.997)

**ARTICLE 1.  
GENERAL**

## Section

1. Application of this chapter
2. Liability for violations
105. Types of legal gear
107. Operation of net gear
108. Operation of fishwheels
110. Crewmember fishing license requirements
115. Designation of salmon net registration area
120. Registration of commercial fishing vessels
123. Late registration
130. Reports required of processors, buyers and fishermen
140. Inspection of fishery establishments
145. Escape mechanism for shellfish and bottomfish pots
150. Explosives, chemicals and poisons unlawful
155. Seine drums unlawful
160. Maximum length of salmon seine vessel
163. Bottom trawl fisheries management plan
165. Trawl gear unlawful
170. Monofilament purse seine web unlawful
175. Use of lights prohibited
180. Time limit for preservation of salmon

185. Policy on closures due to illegal fishing
190. Driving salmon prohibited
195. Announcement of emergency orders
197. Unlawful possession of fish
198. Foreign fish-processing permits
200. Application of fishery management plans

**5 AAC 39.001. APPLICATION OF THIS CHAPTER.** Requirements in this chapter apply to commercial fishing only, except that 5 AAC 39.105, 5 AAC 39.975, and 5 AAC 39.997 also apply to subsistence fishing, and 5 AAC 39.002 applies to all of 5 AAC 01 — 5 AAC 41. Other subsistence 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. (In effect before 1983: am 6/30/83, Reg. 86)

Authority: AS\_16.05.251

**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. (Eff. 6/30/83, Reg. 86)

Authority: AS 16.05.251

**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 gill net 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 gill net 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 gill net is a gill net that has been intentionally set, staked, anchored, or otherwise fixed:

(3) a drift gill net is a drifting gill net 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 gurdy troll gear consists of a line or lines with lures or baited hooks which are drawn through the water by a power gurdy:

(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 fishwheel is a fixed, rotating device for catching fish which is driven by river current or other means of power:

(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:

(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 from a circular or rectangular frame:

(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:

(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:

(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 bag-shaped net suspended from a frame, which may not exceed five feet in diameter; the frame is attached to a single handle and is operated by hand:

(25) a mechanical jigging machine is a mechanical device with line and hooks used to jig for halibut and bottomfish, but does not include hand gurdies or rods with reels:

(26) an abalone iron is a flat device used for taking abalone and which is more than one inch (25 mm) in width and less than 24 inches (61 cm) in length and with all prying edges rounded

and smooth. (In effect before 1982; am 7/25/82, Reg. 83; am 4/16/83, Reg. 86)

Authority: AS 16.05.251

**5 AAC 39.107. OPERATION OF NET GEAR.**

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

(b) The person who holds a valid interim-use or entry permit card for any net gear shall be physically present during the operation of the gear except that salmon set gill net gear may be unattended in the Kotzebue-Northern, Norton Sound-Port Clarence, Yukon, and Kuskokwim areas.

(c) Each interim-use or entry permit holder shall personally operate or assist in the operation of the net gear. "Personally operate or assist in the operation" means being physically present at the net gear site and operating net gear or assisting or supervising some portion of the immediate operation, except that salmon set gill net gear may be unattended in the Kotzebue-Northern, Norton Sound-Port Clarence, Yukon, and Kuskokwim areas.

(d) No person may operate or assist in the operation of fishing net gear unless the interim-use or entry permit card holder for that gear is in compliance with (c) of this section. (In effect before 1983; am 4/16/83, Reg. 86)

Authority: AS 16.05.251

**5 AAC 39.108. OPERATION OF FISH-WHEELS.** (a) The person who holds a valid interim-use or entry permit card for a fishwheel shall be physically present during the operation of the gear, except that fishwheels may be unattended in the Kotzebue-Northern, Norton Sound-Port Clarence, Yukon, and Kuskokwim areas.

(b) Each interim-use or entry permit holder shall personally operate or assist in the operation of the fishwheel. "Personally operate or assist in the operation" means being physically present at the fishwheel site and operating the fishwheel or assisting or supervising some portion of the immediate fishing operation, except that fishwheels may be unattended in the Kotzebue-Northern, Norton Sound-Port Clarence, Yukon, and Kuskokwim areas.

(c) No person may operate or assist in the operation of a fishwheel unless the interim-use or entry permit card holder is in compliance with (b) of this section. (Eff. 4/16/83, Reg. 86)

Authority: AS 16.05.251

**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) Not more than one crewmember fishing license may be obtained by a person during any one calendar year.

(c) A crewmember licensee who does not hold a valid interim-use or entry permit card may crew in any fishery if the holder of a valid interim-use or entry permit card for that fishery is present and actively engaged in the operation of the fishing gear.

(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(2) and "present and actively engaged in the operation of" means being present at the gear site and operating gear or assisting or supervising some portion of the immediate fishing operation. (In effect before 1982; am 4/14/82, Reg. 82)

Authority: AS 16.05.251(a)(4),(5) and (12)  
AS 16.05.450  
AS 16.05.480

**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.

Authority: AS 16.05.251(4),(5) and (12)

5 AAC 39.680. PERMIT FOR OYSTERS. Repealed 10/12/74.

5 AAC 39.890. RESTRICTIONS. Repealed 6/30/79.

ARTICLE 7. COMMERCIAL FRESHWATER FISHERY

ARTICLE 9. DEFINITIONS

Section

- 734. Identification of gear
- 780. Permit required

Section

- 975. Definitions
- 997. Abbreviations and symbols

5 AAC 39.734. IDENTIFICATION OF GEAR. All freshwater fishing gear, while in operation, must be plainly and legibly marked with the operator's name and permanent vessel license plate number of the vessel fishing the gear or the fishing permit number assigned by the department.  
 Authority: AS 16.05.251(a)(5)

5 AAC 39.975. DEFINITIONS. In 5 AAC 01-5 AAC 39

5 AAC 39.780. PERMIT REQUIRED. (a) Whitefish, sheefish, char, trout, pike, smelt, burbot and lamprey in fresh and salt water may be taken or purchased under the authority of a permit secured from the commissioner or his local representative.

(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;

(b) The permit may be issued to either the fisherman or the buyer.

(2) "bag limit" means the maximum legal take per person per day, even if part or all of the fish are preserved;

(c) These species, when taken incidentally in conjunction with commercial salmon fishing, are legally taken and possessed without a permit, unless otherwise provided in this title.

(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;

(d) The following stipulations apply to both the permit holder or buyer and to fishermen selling their catch to the buyer:

(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;

(1) the time and area of fishing and type and amount of fishing gear may be designated;

(5) repealed 2/18/73;

(2) the species to be harvested may be designated and the number of fish may be limited.  
 Authority: AS 16.05.251(a)(2),(3),(4) and (7)

(6) "gear" means any type of fishing apparatus;

ARTICLE 8. SUBSISTENCE FISHERY

(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;

Section

- 885. (Repealed)
- 890. (Repealed)

(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;

5 AAC 39.885. SEASONS, GEAR AND AREAS. Repealed 6/30/79.

(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 any stream used by salmon for spawning or for traveling to a spawning area;

(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 after use; 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' 52" N. lat. 132° 43' 32" 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' 20" N. lat. 133° 00' 24" 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 Omaney, 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' 30" 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' 40" N. lat. 136° 34' 20" 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 Sargarloaf 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;
- 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' 12" 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:

(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;
- 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 Acheredir 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' 45" N. lat. 169° 57' 30" 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 Ilmali-anuk, 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° 27' 03" N. lat. 167° 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 Kotzebue-Northern 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 camtschatica* (red king crab);
- (B) *Paralithodes platypus* (blue king crab);
- (C) *Lithodes couesi*;
- (D) *Lithodes aequispina* (brown king crab);
- (18) "tanner crab" or "snow crab" means all species of the genus *Chionoectes*;
- (19) "dungeness crab" means the species *Cancer magister*;
- (20) "household" means a person or persons having the same residence;
- (21) "bottomfish" means any marine finfish except halibut, osmerids, herring and salmonids;
- (22) "to operate fishing gear" means
- (A) the deployment of gear 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 gill net containing fish during an open fishing period;

(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) "freshwater of streams and rivers" means freshwater is to be separated from saltwater 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 location of a person's primary residence; evidence of 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; and

(I) whether the person has claimed residence in another location for the purpose of obtaining benefits provided by the governments in that location. (In effect before 1983: am 4/16/83, Reg. 86; am 6/30/83, Reg. 86)

Authority: AS 16.05.251

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 °, ', ", indicate degrees, minutes and seconds, respectively, of longitude or latitude, based on the North American datum of 1927.

(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.

Authority: AS 16.05.251

CHAPTER 40.  
PRIVATE NONPROFIT  
SALMON HATCHERIES

Article

1. General (5 AAC 40.005–5 AAC 40.015)
2. Special Harvest Areas (5 AAC 40.030–5 AAC 40.045)
3. Applicability of Regulations (5 AAC 40.100)
4. Permit Application Procedures (5 AAC 40.110–5 AAC 40.230)
5. Regional Comprehensive Planning (5 AAC 40.300–5 AAC 40.370)
6. (Reserved)
7. (Reserved)
8. General Provisions (5 AAC 40.800–5 AAC 40.990)

ARTICLE 1.  
GENERAL

Section

5. General
7. Gear
10. Modifications of applicable regulations
15. Prohibitions

5 AAC 40.005. GENERAL. (a) The harvest of salmon inhabiting the water of the state, regardless of whether the salmon are naturally or artificially propagated, may be conducted only pursuant to regulations adopted by the Board of Fisheries.

(b) The harvest of salmon returning to a private nonprofit salmon hatchery will be governed by regulations adopted by the Board of Fisheries. The board will, in its discretion, develop harvesting regulations after review of the harvest plans or other materials, information and testimony (if any) presented by the regional associations, hatchery operators, the Department of Commerce and Economic Development, fishermen, processors, and other interested parties.

(c) Where hatchery returns enter a terminal location and can be harvested without significantly affecting wild stocks, a special harvest area will be designated and described by regulation adopted by the board. The board will, in its discretion, adopt additional regulations

**PART 8.  
SUBSISTENCE HUNTING, FISHING,  
AND TRAPPING**

## Chapter

## 99. Subsistence Uses

**CHAPTER 99.  
SUBSISTENCE USES**

## Section

10. Joint Boards of Fisheries and Game subsistence procedures  
20. (Repealed)

**5 AAC 99.010. JOINT BOARDS OF FISHERIES AND GAME SUBSISTENCE PROCEDURES.** (a) In applying a subsistence priority, the Board of Fisheries and the Board of Game will provide for conservation and development of Alaska's fish and game resources according to the following procedures:

(1) each board will assess the biological status of fish or game resources and determine whether a surplus may be harvested during a regulatory year consistent with the conservation and development of the resources on the sustained yield principle and compatible with the public interest;

(2) each board will identify subsistence uses of fish or game resources, recognizing that subsistence uses are customary and traditional uses by rural Alaska residents for food, shelter, fuel, clothing, tools, transportation, making of handicrafts, customary trade, barter and sharing.

(b) Customary and traditional subsistence uses by rural Alaska residents will be identified by use of the following criteria:

(1) a long-term, consistent pattern of use, excluding interruption by circumstances beyond the user's control such as regulatory prohibitions;

(2) a use pattern recurring in specific seasons of each year;

(3) a use pattern consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, and conditioned by local circumstances;

(4) the consistent harvest and use of fish or game which is near, or reasonably accessible from, the user's residence;

(5) the means of handling, preparing, preserving, and storing fish or game which has been traditionally used by past generations, but not excluding recent technological advances where appropriate;

(6) a use pattern which includes the handing down of knowledge of fishing or hunting skills, values and lore from generation to generation;

(7) a use pattern in which the hunting or fishing effort or the products of that effort are distributed or shared among others within a definable community of persons, including customary trade, barter, sharing, and gift-giving; customary trade may include limited exchanges for cash, but does not include significant commercial enterprises; a community may include specific villages or towns, with a historical preponderance of subsistence users, and encompasses individuals, families, or groups who in fact meet the criteria described in this subsection; and

(8) a use pattern which includes reliance for subsistence purposes upon a wide diversity of the fish and game resources of an area, and which provides substantial economic, cultural, social, and nutritional elements of the subsistence user's life.

(c) After identifying subsistence uses based upon the criteria set out in (b) of this section, each board will determine the approximate amount of fish or game necessary to provide fully for reasonable opportunities to engage in these customary and traditional uses.

(d) Each board will adopt regulations that provide an opportunity for the subsistence taking of fish or game resources in amounts sufficient to provide for the customary and traditional uses identified in (b) of this section, and consistent with sound conservation and management practices. In no instance may the subsistence taking jeopardize or interfere with the maintenance of a specific fish stock or game population on a sustained-yield basis.

(e) Each board will, in its discretion, adopt

regulations that provide an opportunity for non-subsistence uses of the resource, to the extent that the non-subsistence uses do not jeopardize or interfere with the conservation and development of fish or game resources on a sustained-yield basis, or with the opportunity for taking these resources for customary and traditional subsistence uses as provided in (d) of this section.

(f) When circumstances such as increased numbers of users, weather, predation, or loss of habitat may jeopardize the sustained yield of a fish stock or game population, each board will exercise all practical options for restricting non-subsistence harvest before subsistence uses are restricted. If all available restrictions for non-subsistence uses have been implemented and further restrictions are needed, each board will reduce the take for subsistence uses in a series of graduated steps, by giving maximum protection to subsistence users who

(1) live closest to the resource;

(2) have the fewest available alternative resources; and

(3) have the greatest customary and direct dependence upon the resource.

(g) In no event, however, will a board allow uses which will jeopardize or interfere with the conservation and management of fish stocks or game populations on a sustained-yield basis. (Eff. 5/30/82, Reg. 82)

Authority: AS 16.05.251(b)  
AS 16.05.255(b)

5 AAC 99.020. DEFINITIONS. Repealed 10/9/83.



# ALASKA SPORTFISHING ASSOCIATION



## PISCATORIAL PATTERN

June 1985

Volume 1 Letter 6

### JUNE MEETING PROGRAM

The June program will feature RAINBOW TROUT. Look for two local experts to share their knowledge and experience on where to find and take these fine fish in Cook Inlet waters. An excellent film is scheduled and our great raffle is on, as usual. In addition, the winner of the \$1000 Bristol Bay fishing trip will be drawn. See you at the International Airport Inn, 7:30 p.m., Tuesday, June 11. BRING A FRIEND -- he will thank you!

### RECORD KING TAKEN IN KENAI RIVER

This writer happened to be in Soldotna when the 97# - 4oz record king was brought in for weighing. A king salmon nearly 5 feet long is truly impressive. Being weighed at the same time was an 83 pounder. Since second run (July) Kenai king salmon average about 5 to 6 pounds heavier than the Kenai River early (June) run fish, could this be an omen of BIG things to come?

### FISHING FORECAST

King Salmon: June is truly king salmon month. With the exception of the late run in the Kenai River and the latter part of the Naknek River run, all southcentral king salmon runs occur in June.

The biggest run enters the Susitna River, where fisheries occur in a host of tributary streams. The largest number of fish are taken at Alexander Creek, Doshka River and Lake Creek. These are all fly-in or boat-in fisheries. Adjacent to the Parks Highway there are weekend only fisheries at Willow, Caswell and Montana Creeks for 4 weekends, commencing the second Saturday in June. Last year all streams on the westside between the forelands and the Susitna River were opened to king fishing and good catches were made in the Chuitna (Chuit) and Theodore Rivers. The big problem this year is high, dirty water from the big snow pack and the late breakup. Be sure to verify water conditions before booking a flight into the Susitna fly-in areas.

On the Kenai, Memorial day opening on the lower streams (Anchor, Deep and Ninilchik Rivers) was very slow. These streams should improve dramatically during the next 2 weeks if flows do not stay excessively high. The best king salmon fishing on the peninsula to date has been the troll fishery off Deep Creek, where good numbers have been taken. This fishery should remain good until late June. Early catches in the Kenai River have been sooty, and it is still too soon to determine the size of the early run.

The Naknek River offers good king fishing in June. This is a large, crystal-clear river immediately adjacent to King Salmon and it can be fished from shore near King Salmon Creek.

In the upper Copper River area, the Gulkana River June king fishery is expected to be poor due to high, dirty water.

Rainbow Trout: The Kenai River opens June 15. Remember - no bait is allowed in waters upstream of Skilak Lake.

In upper Cook Inlet, high stream flows are expected to interfere with trout fishing in the Susitna tributaries. Lakes in the Matanuska Valley should produce good catches of trout for those anglers fishing late evenings or early mornings, when light levels are low. Call Fish and Game, 349-4687, for the names of the hottest lakes.

Halibut: Catches are good throughout lower Cook Inlet, with an unusually large number of big halibut being landed.

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#### DEADLINE-\$1000 BRISTOL BAY DRAWING

The deadline to participate in the drawing for the \$1000 fishing trip to Chris Goll's Rainbow River Lodge is June 8. Any member joining, renewing, or extending his membership by that date will be in the drawing. The drawing will be held at the June 11 membership meeting.

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#### NEW ASA MEMBERSHIP BENEFIT

A new benefit is available to members of the ASA. Paid-up members may join the FedAlaska Credit Union by presenting their membership card showing current status. FedAlaska has joined our organization as a business member, showing their support for the goals we are working for.

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#### CHANGE OF ADDRESS

If you have moved, or are about to move, be sure to notify the ASA, either by mail or phone, at 344-5235. The newsletter is mailed 3rd class and is not always forwarded. In addition, it is not necessarily returned if undelivered. Therefore, we have no way of knowing that we have lost contact with you.

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#### BILLING-CURRENT AND EXPIRED MEMBERS

To give you a full year's membership for your dues, we have changed from a calendar to an individual membership year, and are now billing members as their membership comes due. Statements will be mailed the month prior to the expiration date shown on your mailing label, and are due by the 15th of the expiration month. Because your dues support the cost of membership meetings, the newsletter and Fish and Game Magazine, we are unable to continue supplying these to members whose dues have lapsed. If your membership is not renewed, you will receive your last newsletter the month of your expiration, and the Fish and Game magazine subscription will expire.

Current Members: For example, those memberships expiring in June were mailed statements in May, which are due by June 15. Renewals received by this date insure you will continue to receive your newsletter and Fish and Game Magazine without interruption. Without renewal, this will be your last newsletter.

Expiring Members: Recently, a letter and final renewal notice was mailed to those whose memberships expired January 1-May 31, 1985. If dues payment is not received in June, this will be your final newsletter and your Fish and Game Magazine subscription will expire. We appreciate your past membership and sincerely hope you will continue your support for better sport fishing through the efforts of the ASA.

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#### KENAI RIVER ADVISORY BOARD

The Kenai River Advisory Board is continuing its work in implementing a long range management plan for the river. The board has established a series of subcommittees to study specific issues. These meetings are open to the public, and they will result in recommendations to the board. The Advisory Board may have a profound impact on the future activities on the river. Of particular importance just now is the work of the Social and Recreation subcommittee, which is currently taking public testimony on topics such as: boat and motor sizes, speed limits, methods and means of fishing and any other "people vs people" issues of concern. The public testimony will continue through May 31. Beginning June 1 through August 15, they will assemble data and take expert testimony. Beginning August 16, they will put proposals out to the public for input through public hearings. For further information, call Dave Stevens, 265-4526.

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#### LEGISLATIVE UPDATE

The ASA worked on a series of bills this past session. Most of these bills are still in the legislative process. Since the 1985 Legislature has just adjourned the 1st session, all bills remain active through the 1986 2nd session. We will lobby local legislators between sessions and then work for passage next session. Bills of major interest to anglers include:

- HB29 Funding for boat launch and associated facilities at Lower Little Susitna River. In House Finance Committee.
- HB36 Funding for facilities at the confluence of Willow Creek and Susitna River. In House Finance Committee.
- HB43 Funding for access acquisition at several northern Cook Inlet streams, such as Little Willow Creek and Montana Creek. In House Finance Committee.
- HB86 Creates the Willow Creek Recreation Area. In House Resources Committee.
- HB93 Establishing a system of recreational rivers. (A top priority) In House Resources Committee.
- HB142 Creates the Kroto-Desnka Public Use Area. In House Resources Committee.
- HB280 Creates the Fritz Creek Critical Habitat Area. On the Governor's Desk.
- HB324 Creates the Jim-Swan Lakes Recreation Area. In House Resources Committee.

Mitch  
\*

Our top legislative priority was subsistence legislation. The legislature adjourned without action by the senate. Senator Mitch Abood is being "blamed" for inaction when, in fact, he offered Governor Sheffield support for the Governor's bill (HB288), if he would put in a sunset clause, as advocated by ASA. A sunset clause would have assured public hearings and adequate study time prior to reconsideration during the 2nd session. The governor would not accept this compromise. We insisted on the sunset clause because, next year being an election year, it was unlikely any subsequent legislative action would be taken to bring about a long term solution once any interim bill was passed. Meanwhile, flagrant hunting violations are taking place and subsistence permit applications for early kings on eastside set net beaches are coming in to ADF&G. Public Safety and ADF&G will enforce all sport and commercial regulations. Current guesses are that existing gear, such as gill nets and fish wheels, will continue to be the only legal gear for subsistence users. Don't hook and line fish in excess of the sport limit or seasons and expect subsistence to protect you from prosecution -- unless you can afford the court costs.

---

FEATURING BUSINESS MEMBERS

THE FISH SPECIALIST is one of Alaska's longest established fish taxidermists. Ken Guffey, the fish specialist, has been in the business for nearly 20 years in Anchorage, forming his own business at 3421 W.31st, in 1980. He provides both mounts and fiberglass replicas. Ken is responsible for the painting, using the actual fish, the anglers photo, color notes and knowledge of where the fish was caught. Carole, Ken's wife, specializes in putting together the fiberglass casts. Dan Buesseler, master fish mounter, handles all the skin mounts. For more information on field care of fish to be mounted, stop by or call 248-2688. Ken was active in the formation of the ASA and has continued his support as a business member.

The RAINBOW RIVER LODGE, operated by Chris Goll, is one of Bristol Bay's premier lodges. Guests are treated to outstanding fishing for all species present in Bristol Bay. However, Chris specializes in rainbow trout and king and sockeye salmon. This writer has fished with Chris at his lodge and I can tell you the food and hospitality are great. Anglers live "high-on-the-hog" at Rainbow River Lodge. As a long time supporter of the ASA, Chris recently donated a \$1000 fishing trip to our organization to encourage memberships.

Don W. Collinsworth, Commissioner

Public Communications  
Box 3 - 2000  
Juneau, Alaska 99802  
(907) 465-4113



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# Alaska Department of Fish & Game

## NEWS

FOR IMMEDIATE RELEASE

MAY 29, 1985

### GAME BOARD SCHEDULES EMERGENCY MEETING

JUNEAU--The Alaska Board of Game will convene in Juneau for an emergency session beginning June 10, 1985, to adopt emergency regulations providing for subsistence hunting. Without such regulations, Chief Prosecutor Daniel Hickey has concluded that his staff would be unable to prosecute some hunting violations successfully.

In a May 22, 1985, memorandum, the chief prosecutor advised the department that emergency regulations are needed in order to ensure enforceability of all game regulations, some of which cannot be enforced currently. The Department of Law further explained that the board must take these actions because of recent decisions in Madison v. Department of Fish and Game, \_\_\_\_ P.2d \_\_\_\_, Op. No. 2911 (Alaska February 22, 1985) and State v. Eluska, \_\_\_\_ P.2d \_\_\_\_, Op. No. 210 (Alaska App. April 12, 1985). Because the Legislature has not yet enacted corrective legislation, the Department of Law has noted that the board must now provide subsistence hunting regulations for every game population which has been hunted by Alaska residents for food.

-MORE-

The combined effect of both cases will eventually require the board to change current harvest management extensively. Perhaps the most significant problem the board must address at this meeting will be permit and registration hunts. Although the current random drawing and first-come/first-served type distribution methods for harvest opportunity are no longer legally acceptable, the board will have a great deal of difficulty finding an appropriate feasible alternative. Any alternative must be consistent with the three criteria contained in the current statute and discussed by the Supreme Court in Madison: 1) customary and direct dependence upon the resource as the mainstay of one's livelihood; 2) local residency; and 3) availability of alternative resources.

The meeting will begin at 8:30 a.m. in the Conference Room at the ADF&G headquarters office at 1255 West 8th Street, Juneau. The meeting is open to the public, but, due to the emergency nature of the meeting, public testimony will not be taken. The emergency regulations will be effective for 120 days, and if they are later considered for submission as permanent regulatory changes, public comment will be solicited.

#####

STATE OF ALASKA  
DEPARTMENT OF FISH AND GAME  
PUBLIC COMMUNICATIONS SECTION  
P.O. BOX 3-2000  
JUNEAU, ALASKA 99802-2000

OFFICIAL BUSINESS  
STATE OF ALASKA

STATE PENALTY FOR  
PRIVATE USE



SEN MITCH ABOOD  
3102 NORTHWOOD DR  
ANCHORAGE AK 99503

B65505

Don W. Collinsworth, Commissioner

Public Communications  
Box 3 - 2000  
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# Alaska Department of Fish & Game

## NEWS

FOR IMMEDIATE RELEASE

MAY 23, 1985

### EMERGENCY SUBSISTENCE SALMON REGULATION TO BE ISSUED

JUNEAU--In response to a memorandum from the Department of Law, the Department of Fish and Game has begun issuing emergency regulations to provide subsistence fishing permits for locations not open under current regulations.

Chief Prosecutor Dan Hickey has advised the ADF&G that emergency regulations are necessary because of recent judicial decisions in Madison v. ADF&G and State v. Eluska and because the Legislature has not yet enacted corrective legislation. Without such regulations, the Chief Prosecutor has concluded that his staff would be unable to prosecute successfully some subsistence fishing violations.

The emergency regulations, which will incorporate the requirements specified by the Department of Law, will ensure full enforceability of all fishing regulations in Cook Inlet and throughout the state.

Under these emergency regulations, permits will be issued to Alaska residents for subsistence salmon net fishing in Cook Inlet, if that fishing had previously been authorized by state subsistence regulations and the depart-

-MORE-

MAY 23, 1985

ment's records indicate that such fishing actually occurred. The permits will indicate locations and times when subsistence fishing will be allowed, gear specifications, and bag limits.

Rod and reel fishing is defined in Alaska statutes as sport fishing and thus no subsistence permits will be issued for fishing with rod and reel gear.

No Cook Inlet subsistence salmon permits will be issued for fishing during May, since no state regulations have ever allowed subsistence fishing during that month.

Violators of sport, commercial, personal use, or subsistence regulations will be cited by ADF&G personnel and by officers of the Fish and Wildlife Protection Division, Department of Public Safety.

#####

OFFICIAL BUSINESS  
STATE OF ALASKA

STATE PENALTY FOR  
PRIVATE USE



**STATE OF ALASKA  
DEPARTMENT OF FISH AND GAME  
PUBLIC COMMUNICATIONS SECTION  
P.O. BOX 3-2000  
JUNEAU, ALASKA 99802-2000**

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# Alaska Department of Fish & Game

## NEWS

FOR IMMEDIATE RELEASE

MAY 22, 1985

### ADF&G Issues Subsistence Regulations

*Sub*

JUNEAU--Since the Legislature has not yet enacted adequate personal use and subsistence fishing and hunting legislation, the Alaska Department of Fish and Game, under instructions from the Board of Fisheries, has issued emergency fishing regulations for the 1985 season. During the March meeting of the Board of Fisheries, the board instructed ADF&G Commissioner Don Collinsworth to use his limited emergency authority to make the necessary changes in the regulations if the Legislature did not enact personal use and subsistence legislation to correct deficiencies with the current law as identified by the Alaska Supreme Court in its Madison v. ADF&G decision.

Under the emergency regulations, the Naknek, Iliamna drainage, Port Graham, English Bay, and Angoon subsistence fisheries will be open to all Alaska residents.

Cook Inlet personal use coho salmon fisheries will be subsistence fisheries in 1985. In Cook Inlet, the Eastside Beach personal use coho fishery, largely composed of fish

-MORE-

MAY 22, 1985

bound for the Kenai River, will become a subsistence fishery. The 1984 harvest level of 2,500 to 3,500 fish will be increased to 13,000, and the fishery will open on August 17 instead of mid-September. The harvest levels for all other personal use and subsistence fisheries will remain as published in current regulations.

The Copper River dip net and fishwheel fisheries will be subsistence fisheries open to all Alaskans. Alaskans may apply for either a dip net permit or a fishwheel permit, but not both.

As emergency regulatory changes, these regulations are for the 1985 subsistence season only. Subsistence permits are available at regional offices and at field stations in local areas. For additional information contact your local Fish and Game offices.

#####

OFFICIAL BUSINESS  
STATE OF ALASKASTATE PENALTY FOR  
PRIVATE USE

STATE OF ALASKA  
DEPARTMENT OF FISH AND GAME  
PUBLIC COMMUNICATIONS SECTION  
P.O. BOX 3-2000  
JUNEAU, ALASKA 99802-2000



SEN MITCH ABOOD  
3102 NORTHWOOD DR  
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*Sub*

PARK USE PERMIT POLICY AND PROCEDURE  
FOR GUIDES, OUTFITTERS, AND COMMERCIAL ACTIVITIES  
IN THE KENAI RIVER SPECIAL MANAGEMENT AREA

April 12, 1985

Alaska Department of Natural Resources  
Division of Parks and Outdoor Recreation

**RECEIVED**  
MAY 29 1985

PARK USE PERMIT POLICY FOR GUIDES, OUTFITTERS AND COMMERCIAL  
ACTIVITIES IN THE KENAI RIVER SPECIAL MANAGEMENT AREA  
April 12, 1985

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## I. POLICY STATEMENT

### GUIDES AND COMMERCIAL OPERATORS PARK USE PERMIT POLICY

Pursuant to 11 AAC 12.300, 11 AAC 18.025 and 11 AAC 18.030, all guides and outfitters operating in the Kenai River Special Management Area (hereinafter referred to as KRSMA) shall hold a park use permit issued by the Alaska Division of Parks and Outdoor Recreation. This permit system is intended to meet park management objectives of protecting and enhancing recreational and natural values, and compensating the State of Alaska for the commercial use of its land and resources.

General categories of guides include, but are not limited to, non-motorized backcountry guiding services, water/float guiding, sportfish guiding, sport-hunting guides, and air/water taxis. All guides and outfitters operating in the KRSMA in 1985 are required to obtain a valid permit. In 1985, a fee will be charged the applicants that is a fair and reasonable return of revenue in light of the impact of the proposed activity on the park. The number of permits issued in the KRSMA will be unlimited at this time.

Guiding and outfitting on state park lands or waters is a commercial activity, as defined in 11 AAC 12.300, and as such is subject to the provisions of state regulations dealing with commercial activities in state park units (11 AAC 18.030) and state purchasing law AS 37.05.220 - .240 and regulations 2 AAC 15.010 - .120. The KRSMA guide and outfitter park use permit has been established in accordance with 11 AAC 12.300 and 11 AAC 18.030.

### PURPOSE OF PARK USE PERMIT

1. To provide a management tool to ensure that guides, outfitters, and other commercial activities operate safely, provide a quality service to the public, protect park resources and reimburse the state for a portion of the cost associated with management of such activities.
2. To provide information to park managers and others on guide and commercial activities in the Alaska State Park System.
3. To provide for effective communications between guides and other commercial operators and the Division of Parks and Outdoor Recreation staff on the management of guiding and commercial activities and other park management policies.
4. To comply with state law and regulations.

## II. PERMIT ISSUANCE PROCEDURE

### PERMIT AVAILABILITY

#### Application Period

Permit applications will be made available to the public year-round, with applications being accepted, processed and issued annually. Guides, outfitters and other commercial activities operating in the KRSMA during 1985 are required to possess a valid park use permit.

Permit applications will be made available to the public at the Kenai Area Office of the DPOR at Morgan's Landing State Recreation Area in Sterling (phone number 262-5581).

Completed application packets must be submitted to the Kenai Area Office along with originals or certified copies of all required documents. The applicant must appear in person at the Kenai Area Office to pick up the permit, permit stickers, and logbook.

### PERMIT PROCESSING

#### Delegation of Authority to Issue Permits

Permits in the KRSMA shall be authorized by the superintendent of the Kenai Area. The authority to issue permits may be delegated in writing to subordinates.

#### Fee Structure

For the 1985 season, resident permit fees will be \$150, while permit fees for non-resident commercial operators will be \$450. The Division anticipates that the permit fee will be changed in 1986 based upon the recommendations of the Alaska Land Use Council and the Kenai River Special Management Area Advisory Board, and with the approval of the Commissioner of the Department of Natural Resources.

#### Revenue Handling Procedure

The guidelines described in Appendix III, Revenue Accounting (source: Alaska Administrative Manual) and referred to hereafter by specific section numbers, detail the procedure for handling fees collected from guides and outfitters permit applications.

The fee required for processing and issuing the permit application must accompany the application. Applications can be submitted in person or by mail. Section no. 7890 details mail collection of permit application fees.

Fee payment can take the form of cash, check, or money order. Receipts should be issued for cash received, following section no. 7886. Checks and money orders are restrictively endorsed at

the time of initial receipt, following section no. 7888. The collection of fees shall be entered in a daily record, following the guidelines in section no. 7892.

Case files containing copies of individual applications, permits and other information shall be maintained at DPOR regional or area offices. This will include a record of numbers and types of permits issued for budgetary and management purposes.

## PERMIT RECIPIENTS

### Definitions

1. Guiding is the provision of personal services or assistance to recreationists in their pursuit of a natural or cultural resource based outdoor recreation experience for compensation of any kind. This includes such personal services as leading, teaching, training, supervision, protection, education, interpretation, transportation, packing, equipment operation, or any other similar service or assistance. It does not include private trips in which only travel or food expenses are shared among party members.
2. Outfitting: The provision of equipment, supplies, or other materials for compensation in any form. This includes such services as rental of boats, tents, and other equipment or gear, whether such gear is actually stored on or off state park lands and waters when rented specifically for use in the Kerai River Special Management Area. Outfitting excludes the provision of personal services to the client except for incidental instructions as to equipment operation.
3. Resident: A person who for 12 consecutive months has maintained a permanent place of abode in the state and who has continually maintained his voting residence in the state and; in the cuase of partnership, association, joint stock company, trust or corporation, "resident" means one that has its main office or headquarters in the state; however, a member of the military service how has been stationed in the state for the preceding 12 consecutive months is a resident for the purposes of this park use permit, and the dependent of a resident member of the military service, who has been living in the state for the preceding year is a resident for the purpose of this park use permit, and a person who is an alien but who for one year has maintained a permanent place of abode in the state is a resident for the purpose of this park use permit.

### Pre-qualification Criteria

To pre-quality for issuance of a 1985 permit, all permit applicants shall be required to submit the information listed below. Non-fishing commercial operators will be required to provide the

information described except for numbers 4 and 7. Verification of original certificates, or certification thereof, must be submitted at the time of application. Pre-qualification information includes:

1. Completion of park use permit application in full.
2. A photostatic copy of the Alaska Business License for the individual guide's business. (Must be SIC code no. 7990 or no. 7999).
3. A photostatic copy of the Certificate of Authority to collect the Kenai Peninsula Borough Sales Tax for the individual guide's business (Blue Card).
4. A photostatic copy of the Alaska Commercial Fisheries Entry Commission Vessel License (ADF&G vessel license plate number) for each vessel to be used in guiding activities (with current registration).
5. Vessel AK numbers for any powerboat to be used in guiding activities with current registration.
6. A photostatic copy of the applicant's valid U.S. Coast Guard Commercial 6 passenger license to operate or navigate passenger carrying vessels for hire on the Kenai River. This is required by federal law of all powerboat operators (any type of vessel powered by any motor). Non-motorized boating operations not carrying a motor do not need this license.
7. Valid Alaska Sport Fishing License. (Class 1, 3E, 5, 7, 9, 5A, 12, or 14).
8. Valid American Red Cross Basic First Aid certification or equivalent.
9. Proof of liability insurance covering the commercial boat operation to a minimum of \$100,000 per individual and \$500,000 per event, and naming the State of Alaska, Division of Parks and Outdoor Recreation as "the additional name insured". Prior to commencement of operations under this permit the permittee shall furnish all required insurance and such insurance shall be approved. All certificates must provide a 30-day prior written notice to the Kenai Area Superintendent, Division of Parks and Outdoor Recreation, Box 1247, Soldotna, Alaska 99669, of cancellation, non-renewal or material alteration of such insurance. Failure to furnish satisfactory evidence of insurance or lapse of insurance is grounds for termination of this permit.
10. Payment of a Park Use Permit fee of \$150 for an Alaska resident KRSMA guide or \$450 for a non-resident KRSMA guide.

## Reporting Procedures

All guides and commercial operators permitted to operate in the KRSMA are required to submit the appropriate logbook in a timely manner. In order to receive a permit for the 1986 season, these requirements must be fulfilled by October 31, 1985, unless otherwise specified. Reports should be filed at the Kenai Area office in person or sent by mail to the Kenai Area Office, Alaska Division of Parks and Outdoor Recreation, Box 1247, Soldotna, Alaska 99669.

## PERMIT REVIEW

### Terms and Enforcement

Guides, outfitters, and other commercial activity park use permits are to be issued for a calendar year period. Commercial operators shall have a valid park use permit in their possession prior to operation. Persons operating without a valid park use permit in the KRSMA will be cited under the authority of 11 AAC 12.300. Conviction for violation of 11 AAC 12.300 may be grounds for denial of a park use permit application. Further reasons for the suspension or revocation of a KRSMA guide park use permit are listed below:

- A. Grounds for automatic suspension or revocation:
  - 1) Loss or expiration of U.S. Coast Guard "6 - Pack" license.
  - 2) Loss of required level of liability insurance coverage.
  - 3) Loss of Alaska sport fishing license by court conviction.
  - 4) Failure to pay commercial use permit fees.
  - 5) Conviction of gross public safety violation relating to boating activity (i.e., DWI boat operation, reckless endangerment).
  - 6) Failure to accurately maintain and submit required logbook records.
  - 7) Guiding in a powerboat with a "drift only" permit.
  
- B. Grounds for possible suspension or revocation:
  - 1) Repeated or willful non-compliance with park use permit stipulations.
  - 2) Conviction of two Alaska State Park violations within a one year period, or three convictions within a five year period.
  
- C. Grounds for immediate temporary suspension of the guide park use permit by the Kenai Area Superintendent for up to five guiding days:
  - 1) Gross violation within the KRSMA of laws protecting public peace and dignity.
  - 2) Citation of any fishing regulation violation (i.e., over-limit, failure to log, wanton waste).

- 3) Allowing clients to take over-limit, or to continue fishing from the guide boat after retaining a king salmon.
- 4) Fishing or allowing clients to fish from a registered guide vessel in a closed area, or during a closed season, or during non-guide hours, or on non-guide days, or retaining protected species, or using illegal gear or methods.
- 5) Use of a motor in a "drift only" area except in an emergency.
- 6) Allowing a non-permitted guide to operate a registered guide vessel for guiding activities without a permitted guide aboard except in an emergency.

#### Permit Compliance Evaluation

During the term of the permit, the area superintendent or their designee shall review the permittee's operation to verify compliance with the provisions of the permit. Non-compliance with the stipulations of a permit, or violation of appropriate state regulations, may be grounds for revocation of a permit, or non-renewal of a permit in the following year. Appendix II contains a "Permit Compliance Checklist" for use by the officer reviewing the operating history of a guide or outfitter.

#### Appeal Process

A permit applicant or holder whose application or permit is denied, suspended or revoked by the area superintendent may make an appeal of that decision to the director's office, or to the commissioner of the Department of Natural Resources in a case concerning the director. Members of the public who disagree with an action taken by the division concerning an issued permit may undertake the same appeals process. Appeals will be considered only if made in writing and postmarked or received by the division within 30 days after the date the decision being appealed was issued.

APPENDIX I

STATE OF ALASKA  
DEPARTMENT OF NATURAL RESOURCES  
KENAI RIVER SPECIAL MANAGEMENT AREA  
STATE PARK USE PERMIT

Nature of activity \_\_\_\_\_ Permit number \_\_\_\_\_

\_\_\_\_\_ Issue date \_\_\_\_\_

Permittee name \_\_\_\_\_ Expiration date \_\_\_\_\_

Name of business \_\_\_\_\_

Mailing address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Physical address (street location)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone number, business \_\_\_\_\_

home \_\_\_\_\_

message \_\_\_\_\_

Alaska Business License No. \_\_\_\_\_

Category \_\_\_\_\_ Year \_\_\_\_\_

Kenai Peninsula Borough Sales Tax Registration Number \_\_\_\_\_

Alaska Sport Fishing License Number \_\_\_\_\_

Res. Class 1, 3B, 5 \_\_\_\_\_

Non-Res. Class 7, 9, 5A, 12, 14 \_\_\_\_\_

Alaska Department of Fish and Game Logbook issued \_\_\_\_\_

Permit Fee \_\_\_\_\_

Receipt Number \_\_\_\_\_

Date \_\_\_\_\_

Alaska Resident Kenai River Guide \$150 \_\_\_\_\_

Non-resident Kenai River Guide \$450 \_\_\_\_\_

Proof of minimum liability insurance, (100K per person, 500K per event)  
verified \_\_\_\_\_

American Red Cross Standard First Aid certification (or equivalent)  
Verified \_\_\_\_\_

Expiration date \_\_\_\_\_

Powerboat operation authorized:      Yes      No  
If yes, U.S.C.G. Commercial 6 Passenger License to operate or navigate  
passenger-carrying vessels for inland waters:

Number \_\_\_\_\_

Expiration date \_\_\_\_\_

Limitations (as stated on the license): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Registered Guide Vessels (vessels use for guiding purposes)*

U.S. Coast Guard AK # \_\_\_\_\_ and current registration  
verified \_\_\_\_\_ (motorized vessels).

3 digit (12") Guide vessel number assigned \_\_\_\_\_

Kenai River Guide Sticker issued (2 each) \_\_\_\_\_

Alaska Commercial Fisheries Entry Commission vessel license number (ADF&G)  
with current decal \_\_\_\_\_ verified.  
(use additional sheets as necessary)

*Registered Guide Vessels (vessels use for guiding purposes)*

U.S. Coast Guard AK # \_\_\_\_\_ and current registration  
verified \_\_\_\_\_ (motorized vessels).

3 digit (12") Guide vessel number assigned \_\_\_\_\_

Kenai River Guide Sticker issued (2 each) \_\_\_\_\_

Alaska Commercial Fisheries Entry Commission vessel license number (ADF&G)  
\_\_\_\_\_ with current decal \_\_\_\_\_ verified.

\*\*\*\*

*Registered Guide Vessels (vessels use for guiding purposes)*

U.S. Coast Guard AK # \_\_\_\_\_ and current registration  
verified \_\_\_\_\_ (motorized vessels).

3 digit (12") Guide vessel number assigned \_\_\_\_\_

Kenai River Guide Sticker issued (2 each) \_\_\_\_\_

Alaska Commercial Fisheries Entry Commission vessel license number (ADF&G)  
\_\_\_\_\_ with current decal \_\_\_\_\_ verified.

\*\*\*\*

*Registered Guide Vessels (vessels use for guiding purposes)*

U.S. Coast Guard AK # \_\_\_\_\_ and current registration  
verified \_\_\_\_\_ (motorized vessels).

3 digit (12") Guide vessel number assigned \_\_\_\_\_

Kenai River Guide Sticker issued (2 each) \_\_\_\_\_

Alaska Commercial Fisheries Entry Commission vessel license number (ADF&G)  
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\*\*\*\*

*Registered Guide Vessels (vessels use for guiding purposes)*

U.S. Coast Guard AK # \_\_\_\_\_ and current registration  
verified \_\_\_\_\_ (motorized vessels).

3 digit (12") Guide vessel number assigned \_\_\_\_\_

Kenai River Guide Sticker issued (2 each) \_\_\_\_\_

Alaska Commercial Fisheries Entry Commission vessel license number (ADF&G)  
\_\_\_\_\_ with current decal \_\_\_\_\_ verified.

This Park Use Permit is issued in accordance with 11 AAC 12.300 and 11 AAC 18.030.

\_\_\_\_\_ (individual) known as \_\_\_\_\_  
\_\_\_\_\_ (business name) is hereby authorized to use  
state park lands and water of the Kenai River Special Management Area for \_\_\_\_\_  
\_\_\_\_\_ purposes in a manner  
consistent with the stipulations in Attachment A and subject to all existing  
local, state and federal laws and regulations.

This Permit is non-transferable and is suspendable or revokable at the discretion of the Director of the Division of Parks and Outdoor Recreation. Further, the permittee shall not sub-let or enter into any third party agreements involving the privileges authorized by this permit.

The permittee understands that the issuance of this permit does not confer any right of renewal or preference for renewal despite investments made by the permittee or for other reasons.

The permittee also understands that guiding, outfitting or other commercial activities conducted within the boundaries of the Kenai National Wildlife Refuge requires an additional Special Use Permit from the U.S. Fish and Wildlife Service.

This permit is accepted as stated.

\_\_\_\_\_  
Permittee Signature Title Date

\_\_\_\_\_  
Authorizing Officer Title Date

This is to certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned, a Notary Public in and for the State of Alaska duly commissioned and sworn as such, that the above permittee, known to be or identified to me by \_\_\_\_\_, personally came and appeared and executed the above permit document with their signature.

WITNESS MY HAND AND NOTARIAL SEAL the day and year first above in this certificate written.

\_\_\_\_\_  
Notary Public in and for Alaska  
My Commission expires: \_\_\_\_\_

## APPENDIX II

### PARK USE PERMIT

#### Stipulations for Guides and Outfitters in the Kenai River Special Management Area

1. SUPERVISION

A permitted guide must be aboard a guide vessel whenever it is on the river being used for guiding activities.

2. GUIDE VESSEL IDENTIFICATION

A guide vessel shall be identified by Kenai River Guide Stickers on both sides of the vessel aft the midpoint and directly forward of the assigned three digit guide vessel number to be permanently displayed in 12 inch minimum size figures of contrasting color to the color of the vessel hulk.

3. SAFETY EQUIPMENT

The permittee is responsible to insure that the guide vessel, or vessels, is equipped, maintained and operated in accordance with all applicable state and federal laws and regulations. This includes loading of the vessel not to exceed the U.S. Coast Guard/Manufacturer's Capacity Information Plate.

4. FISHING FROM A GUIDE VESSEL

The permittee is not allowed to fish from a registered guide vessel during the months of June and July while guiding in the Kenai River Special Management Area.

5. LAWFUL OPERATIONS

The permittee agrees to operate in accordance with the regulations of the Alaska Department of Fish and Game and all other local, state and federal laws and regulations.

6. LOG BOOK

The permittee shall maintain and submit the appropriate log books. (The ADF&G Fishing Guide log book shall be maintained in the 1985 season as applicable.)

7. LIABILITY INSURANCE

Prior to commencement of operations under this permit the permittee shall furnish proof to the authorizing officer that they have insurance against loss to publicly-owned resources, public liability insurance to cover commercial boating operations and such insurance shall be approved by