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Lieutenant Governor
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Shellene Hutter, Department of Fish and Game

FROM: April Simpson, Office of the Lieutenant Governor
465.4081

A handwritten signature in blue ink, appearing to read "April Simpson".

DATE: May 26, 2023

RE: Filed Permanent Regulations: Board of Fisheries

Board of Fisheries regulations re: Statewide Finish & Supplemental Issues Board
Meeting March 2023 (5 AAC 01 - 99)

Attorney General File:	2022200306
Regulation Filed:	5/26/2023
Effective Date:	6/25/2023
Print:	246, July 2023

cc with enclosures: Colleen Bailey, Department of Law
Judy Herndon, LexisNexis



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

P.O. Box 110300
Juneau, Alaska 99811
Main: 907.465.3600
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May 25, 2023

The Honorable Nancy Dahlstrom
Lieutenant Governor
State of Alaska
P.O. Box 110015
Juneau, AK 99811-0015

Re: *5 AAC 01-99, Board of Fisheries - Statewide Finfish & Supplemental Issues
Board Meeting March 2023*

Our file: 2022200306

Dear Lieutenant Governor Dahlstrom:

The Department of Law has reviewed the attached regulations of the Board of Fisheries against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This letter constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations.

The regulations concern updates to subsistence, sport, commercial and personal use fisheries.

The regulations were adopted by the Board of Fisheries after the close of the public comment period. The September 12, 2022 public notice, the December 13, 2022 supplemental public notice and the April 26, 2023 order certifying changes all state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.060. The corrections are incorporated into the attached copy of the regulations.

Sincerely,

TREG TAYLOR
ATTORNEY GENERAL

By: Rebecca C. Polizzotto
Chief Assistant Attorney General
Legislation, Regulations, and
Legislative Research Section

Digitally signed by
Rebecca C. Polizzotto
Date: 2023.05.25
12:28:58 -08'00'

RCP/bhp

CC w/enclosure: Shellene Hutter
Department of Fish and Game

Steven C. Weaver, Assistant Attorney General
Department of Law

Aaron C. Peterson, Assistant Attorney General
Department of Law

**ORDER CERTIFYING THE CHANGES TO REGULATIONS
OF THE ALASKA BOARD OF FISHERIES**

The attached 22 pages of regulations, changes to 5 AAC for subsistence, sport, commercial and personal use fisheries occurring statewide are certified to be a correct copy of the regulation changes that the Alaska Board of Fisheries adopted at its public hearing held from March 10 - 13th, 2023 in Anchorage, Alaska under the authority of AS 16.05.251 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

On the record, in considering public comments, the Alaska Board of Fisheries paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

DATE: 4/26/2023
Anchorage, Alaska

DocuSigned by:
Doug Vincent-Lang
32E3FEFE58284DB...

Douglas S. Vincent-Lang, Commissioner
Department of Fish and Game

April Simpson for

FILING CERTIFICATION

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on

May 26, 2023 at 3:06 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

for April Simpson
Nancy Dahlstrom, Lieutenant Governor
State of Alaska

Effective: June 25, 2023

Register: 246, July 2023

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, NANCY DAHLSTROM, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

April Simpson, Regulations and Initiatives Specialist

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.



A handwritten signature in blue ink, reading "Nancy Dahlstrom", is written over a horizontal dotted line.

**NANCY DAHLSTROM
LIEUTENANT GOVERNOR**

Title 5. Fish and Game.

Part 1. Commercial and Subsistence Fishing and Private Nonprofit Salmon Hatcheries.

Chapter 01. Subsistence Finfish Fishery.

5 AAC 01.010 is amended by adding new subsections to read:

(p) Subsistence fishing guide services are prohibited.

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

(r) In this section, "compensation"

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

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

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

(2) does not include reimbursement for the actual daily expenses for fuel, food, or bait. (In effect before 1983; am 4/16/83, Register 86; am 4/2/88, Register 105; am 6/2/88, Register 106; am 6/25/89, Register 110; am 7/16/92, Register 123; am/readopt 5/15/93, Register 126; am 7/3/94, Register 130; am 6/17/2001, Register 158; am 7/1/2006, Register 178; am

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7/13/2012, Register 203; am 6/26/2016, Register 218; am 6/28/2019, Register 230; am

5/24/2023, Register 246; am 6 / 25 /2023, Register 246)

Authority: AS 16.05.251 AS 16.05.258

5 AAC 01.220(e) is amended by adding new paragraphs to read:

(15) in the Coastal District and Districts 1 and 2, unless a person is fishing under the ice, the float line and floats of gillnets must be floating on the surface of the water while the net is fishing unless natural conditions cause the net to temporarily sink;

(16) in Districts 3 - 6, unless a person is fishing under the ice, gillnets in operation sunk below the surface must have a keg, buoy, or cluster of floats visible on the surface of the water at each end of the submerged net, and for submerged gillnets over 60 feet in length, a third keg, buoy, or cluster of floats must be attached to the middle of the net.

(In effect before 1982; am 4/14/82, Register 82; am 4/16/83, Register 86; am 6/30/83, Register 86; am 9/22/84, Register 91; am 5/11/85, Register 94; am 5/31/87, Register 102; am 4/2/88, Register 105; am 7/16/92, Register 123; am/readopt 5/15/93, Register 126; am 7/3/94, Register 130; am 8/17/94, Register 131; am 3/24/95, Register 133; am 6/21/97, Register 142; am 6/10/98, Register 146; am 6/17/98, Register 146; am 7/5/2000, Register 155; am 6/17/2001, Register 158; am 5/19/2004, Register 170; am 8/23/2009, Register 191; am 5/19/2010, Register 194; am 5/12/2011, Register 198; am 7/13/2012, Register 203; am 5/24/2015, Register 214; am 5/22/2016, Register 218; am 8/10/2018, Register 227; am 6/28/2019, Register 230; 5/24/2023, Register 246; am 6 / 25 /2023, Register 246)

Authority: AS 16.05.060 AS 16.05.251 AS 16.05.258

((Note to Publisher: please change period at the end of 5 AAC 01.220(c)(14) to a semicolon)))

Chapter 05. Yukon Area.

5 AAC 05.334 is amended by adding a new subsection to read:

(d) In Districts 3 - 6, unless a person is fishing under the ice, gillnets in operation sunk below the surface must have a keg, buoy, or cluster of floats visible on the surface of the water at each end of the submerged net, and for submerged gillnets over 60 feet in length, a third keg, buoy, or cluster of floats must be attached to the middle of the net. (In effect before 1982; am 4/14/82, Register 82; am 6 / 25 /2023, Register 246)

Authority: AS 16.05.251 [AS 16.05.251(a)]

Chapter 06. Bristol Bay Area.

5 AAC 06.361(a) is amended to read:

(a) The purpose of this management plan is to ensure biological spawning escapement requirements of king salmon into the Nushagak-Mulchatna river systems. It is the intent of the Alaska Board of Fisheries (board) that Nushagak-Mulchatna king salmon be harvested in the fisheries that have historically harvested them. This management plan provides guidelines to the department to preclude allocation conflicts between the various users of this resource. The department shall manage Nushagak-Mulchatna king salmon stocks in a conservative manner consistent with sustained yield principles and the subsistence priority. Additionally, the department shall manage the Nushagak fisheries for the following management measures:

(1) to provide consistent sport fishing opportunity within and among seasons, including a level of inriver abundance as a given year's run timing allows, and a predictably open season;

(2) to provide a directed commercial king salmon fishery when surplus is available;

(3) to minimize disruptions to the commercial sockeye salmon fishery;

(4) to provide reasonable opportunity for subsistence harvest of king salmon;

(5) to ensure the subsistence fishery is the last fishery restricted or closed;

(6) to achieve escapement goals for all species in the district;

(7) to maintain a representation of age classes in the escapement similar to the run.

5 AAC 06.361(b) is amended by adding new paragraphs to read:

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

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

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

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

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

5 AAC 06.361(c) is amended to read:

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

5 AAC 06.361(e)(2) is amended to read:

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

5 AAC 06.361(e)(3) is amended to read:

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

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(Eff. 6/19/92, Register 122; am 4/9/95, Register 134; am 5/14/98, Register 146; am 6/3/2001, Register 158; am 7/8/2001, Register 159; am 4/9/2004, Register 170; am 3/30/2007, Register 181; am 4/4/2013, Register 206; am 8/27/2016, Register 219; am 5/31/2019, Register 230; am 6 / 25/2023, Register 246)

Authority: AS 16.05.060 AS 16.05.251

((Note to Publisher: please change period at the end of 5 AAC 06.361(b)(3) to a semicolon)))

5 AAC 06 is amended by adding a new section to Article 3 to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 / 25 /2023, Register 246)

Authority: AS 16.05.060 AS 16.05.251

Chapter 28. Groundfish Fishery.

Chapter 28 is amended by adding a new section to read:

5 AAC 28.015. Guiding policy on groundfish fisheries resource management.

The board of fisheries and the department, when taking actions regarding the management of groundfish fisheries, should consider the following principles and criteria:

(1) conservation of the groundfish resource to ensure sustained yield, which requires that the total allowable catch in any fishery be based upon the biological abundance of the stock;

(2) minimization of bycatch of other associated fish and shellfish and prevention of the localized depletion of stocks;

(3) conservation of the habitat and other associated fish and shellfish species from nonsustainable fishing practices with consideration of ecosystem interactions;

(4) maintenance of slower harvest rates by methods-and-means and time-and-area restrictions to ensure adequate reporting and analysis necessary for management of the fishery and ensuring adherence to annual and seasonal total allowable catch limits;

(5) extension of the length of fishing seasons by methods-and-means and time-and-area restrictions to provide for the maximum benefit to the state and local areas of the state;

(6) harvest of the resource in a manner that emphasizes the quality and value of the fishery product;

(7) provision of opportunities for subsistence, sport, commercial, and personal use fisheries;

(8) cooperation with federal agencies associated with groundfish fisheries;

(9) management of the groundfish fisheries based on information that, in the commissioner's discretion, will tend to promote the purposes of state statutes pertaining to fisheries management. (Eff. 6 / 25 / 2023, Register 246)

Authority: AS 16.05.251

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5 AAC 28.050(b) is amended to read:

(b) All commercial longline or skate gear buoys, or kegs and buoys for groundfish pots, must be marked **as follows:** [WITH THE PERMANENT ADF&G VESSEL LICENSE PLATE NUMBER OF THE VESSEL OPERATING THE GEAR]

(1) at least one buoy on each groundfish pot must be legibly marked with the permanent ADF&G vessel license plate number of the vessel operating the gear on the top one-half of the buoy in numerals at least four inches high, one-half inch wide, and in a color that contrasts with the color of the buoy; the buoy markings must be visible on the buoy above the water surface when the buoy is attached to the groundfish pot;

(2) each end of a groundfish pot longline must have an attached buoy marked with the permanent ADF&G vessel plate number of the vessel operating the groundfish longlined pot gear; the buoy must have the letters LP to designate the gear as longlined groundfish pot gear and the buoy may bear only the number of the vessel operating the gear; the numbers and letters must be marked in the top one-half of the buoy in numbers and letters that are at least four inches high, one-half inch wide, and in a color that contrasts with the color of the buoy; the buoy markings must be visible on the buoy above the water's surface when the buoy is attached to the longlined pot gear; for the purposes of this subsection, "longlined" means more than one groundfish pot is attached to a stationary, buoyed, and anchored line.

5 AAC 28.050(f)(1) is amended to read:

(1) in a registration area or a portion of a registration area where a groundfish pot limit is in effect [,]

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(A) each groundfish pot must have one identification tag issued by the department placed on the main buoy or on the trailer buoy if more than one buoy is attached to the pot; the main or trailer buoy may not display more than one tag issued under this subsection, and that tag must be the one that was issued for the year that the fishery is occurring; or

(B) when groundfish pots are operated as a groundfish pot longline, each groundfish pot must have one identification tag issued by the department placed on each pot; any buoy attached to the longline may not display an identification tag, and the pot may not display more than one tag issued under this subsection, and that tag must be issued for the year the fishing is occurring;

(Eff. 7/30/89, Register 111; am 5/2/92, Register 122; am 9/22/93, Register 127; am 6/15/95, Register 134; am 4/4/97, Register 142; am 5/31/98, Register 146; am 5/19/2001, Register 158; am 6 / 25 /2023, Register 246)

Authority: AS 16.05.251

5 AAC 28.130(f) is amended to read:

(f) In the Eastern Gulf of Alaska Area, pots may not be longlined, except that pots may be longlined in the Northern Southeast Inside Subdistrict and Southern Southeast Inside Subdistrict sablefish fishery. [AT LEAST ONE BUOY ON EACH GROUND FISH POT MUST BE LEGIBLY MARKED WITH ONLY THE PERMANENT DEPARTMENT VESSEL LICENSE PLATE NUMBER OF THE VESSEL OPERATING THE GEAR. THE NUMBER MUST BE PLACED ON THE TOP ONE-THIRD OF THE BUOY IN NUMERALS AT LEAST FOUR INCHES HIGH AND ONE-HALF INCH WIDE, MUST BE IN A COLOR

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CONTRASTING TO THE COLOR OF THE BUOY, AND MUST BE VISIBLE ABOVE THE WATER SURFACE WHEN THE BUOY IS ATTACHED TO THE GROUND FISH POT. IF GROUND FISH POTS ARE LONG LINED UNDER THIS SUBSECTION, A BUOY IS NOT REQUIRED FOR EACH POT, BUT AT LEAST ONE BUOY MUST BE ATTACHED TO THE LONG LINE, AND THE BUOY MUST BE MARKED AS DESCRIBED IN THIS SUBSECTION.] In a directed fishery for sablefish, pots used to take sablefish must have at least two circular escape rings with a minimum inside diameter of three and three-fourths inches installed on opposing vertical or sloping walls.

(Eff. 7/30/89, Register 111; am 4/30/91, Register 118; am 4/15/94, Register 130; am 6/15/97, Register 142; am 6/14/2000, Register 154; am 7/5/2000, Register 155; am 7/14/2000, Register 155; am 7/18/2003, Register 167; am 7/13/2012, Register 203; am 5/9/2015, Register 214; am 6/17/2018, Register 226; am 9/25/2022, Register 243; am 6 / 25 /2023, Register 246)

Authority: AS 16.05.251

5 AAC 28.230(c) is amended to read:

(c) A groundfish pot may be attached to a line connected to another groundfish pot.

Groundfish pots may be connected if each end of the buoy line is marked as specified in **5 AAC 28.050** [(d) OF THIS SECTION].

5 AAC 28.230(d) is repealed:

(d) Repealed 6 / 25 /2023.

(Eff. 7/30/89, Register 111; am 4/7/93, Register 126; am 5/22/94, Register 130; am 4/4/97, Register 142; am 5/31/98, Register 146; am 7/5/2000, Register 155; am 7/1/2006, Register 178;

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am 7/20/2006, Register 179; am 3/24/2012, Register 201; am 3/29/2015, Register 213; am 3/29/2018, Register 225; am 3/26/2023, Register 245; am 6/25/2023, Register 246)

Authority: AS 16.05.251

5 AAC 28.330(c) is amended to read:

(c) A groundfish pot may not be attached to a line connected to another groundfish pot, except that in the Cook Inlet Area sablefish fishery, groundfish pots may be connected by a line if at least one buoy is attached to each end of the line and each buoy is marked as specified in **5 AAC 28.050** [(d) OF THIS SECTION]; not [NO] more than 15 groundfish pots may be attached to the same line.

5 AAC 28.330(d) is repealed:

(d) Repealed 6/25/2023.

(Eff. 7/30/89, Register 111; am 4/7/93, Register 126; am 4/4/97, Register 142; am 4/22/99, Register 150; am 6/24/99, Register 150; am 7/5/2000, Register 155; am 3/2/2011, Register 197; am 4/20/2012, Register 202; am 3/15/2017, Register 221; am 6/25/2023, Register 246)

Authority: AS 16.05.251

5 AAC 28.430(b) is repealed:

(b) Repealed 6/25/2023.

(Eff. 7/30/89, Register 111; am 4/7/93, Register 126; am 4/14/93, Register 126; am 4/4/97, Register 142; am 7/21/99, Register 151; am 7/5/2000, Register 155; am 3/31/2002, Register 161;

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am 4/9/2005, Register 174; am 4/25/2008, Register 186; am 4/21/2011, Register 198; am 4/20/2012, Register 202; am 6/5/2020, Register 234; am 6 / 25 /2023, Register 246)

Authority: AS 16.05.251

5 AAC 28.530(c) is repealed:

(c) Repealed 6 / 25 /2023.

(Eff. 4/4/97, Register 142; am 7/5/2000, Register 155; am 3/31/2002, Register 161; am 5/1/2011, Register 198; am 6 / 25 /2023, Register 246)

Authority: AS 16.05.251

5 AAC 28.570(e) is repealed:

(e) Repealed 6 / 25 /2023.

(Eff. 4/4/97, Register 142; am 7/5/2000, Register 155; am 5/19/2001, Register 158; am 5/31/2001, Register 158; am 5/15/2004, Register 170; am 4/20/2012, Register 202; am 6 / 25 /2023, Register 246)

Authority: AS 16.05.251

Chapter 39. General Provisions.

Article 1. General.

5 AAC 39.105(d) is amended by adding a new paragraph to read:

(31) an eel stick consists of a single straight or bent pole, equipped with notches or projecting tines, used to take lamprey through the ice. (In effect before 1982; am 7/25/82,

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Register 83; am 4/16/83, Register 86; am 7/12/86, Register 99; am 6/2/88, Register 106; am 6/19/92, Register 122; am 7/16/92, Register 123; am 6/2/95, Register 134; am 9/12/97, Register 143; am 5/31/98, Register 146; am 6/14/2000, Register 154; am 7/5/2000, Register 155; am 6/10/2010, Register 194; am 6 / 25 /2023, Register 246)

Authority: AS 16.05.251

((Note to Publisher: please change period at the end of 5 AAC 39.105(d)(30) to a semicolon)))

5 AAC 39.145(3) is amended to read:

(3) in an area open to commercial, personal use, sport, or subsistence fishing with pot gear, including a pot storage area, a registered commercial fishing vessel or a vessel used for personal use, sport, or subsistence fishing may not have on board the vessel or in the water, in fishing or stored condition, any groundfish or shellfish pot gear that does not have an opening or rigging as specified in [(1) OR (2) OF] this section;

5 AAC 39.145 is amended by adding a new paragraph to read:

(5) all commercial, subsistence, personal use, and sport collapsible groundfish pots, commonly known as slinky pots, must contain two openings in the mesh with each equal to or exceeding 18 inches in length; the openings must each be laced, sewn, or secured together by a single length of untreated, 100 percent cotton twine not larger than 30 thread; the cotton twine may be knotted at each end only; the openings must be on opposite sides of the pot; if placed on the tunnel side the opening must be in an area that does not include the door opening, within six inches of the edge of the pot. (In effect before 1984; am 6/30/84, Register 90; am 9/19/90, Register 115; am 4/30/91, Register 118; am 6/24/93, Register 126; am 7/15/93, Register 127; am

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7/23/94, Register 131; am 5/19/2001, Register 158; am 8/24/2002, Register 163; am 7/31/2003, Register 167; am 7/1/2006, Register 178; am 7/13/2012, Register 203; am 8/27/2016, Register 219; am 6 / 25 /2023, Register 246)

Authority: AS 16.05.251 AS 16.10.125

((Note to Publisher: please change period at the end of 5 AAC 39.145(4) to a semicolon)))

Article 2. Salmon Fishery.

5 AAC 39.250(d) is amended to read:

(d) The float line and floats of gillnets must be floating on the surface of the water while the net is fishing, unless natural conditions cause the net to temporarily sink. The restriction of this subsection does not apply in the Arctic-Kotzebue Area (5 AAC 03.100), the Norton Sound-Port Clarence Area (5 AAC 04.100), **Districts 1 and 2 of the Yukon Area (5 AAC 05.100) when fishing under the ice, Districts 3 - 6 of the Yukon Area (5 AAC 05.100) all year,** the Kuskokwim Area (5 AAC 07.100), and the Kodiak Area (5 AAC 18.100). (In effect before 1983; am 4/16/83, Register 86; am 3/29/87, Register 101; am 4/2/88, Register 105; am 7/16/92, Register 123; am 7/13/2012, Register 203; am 6 / 25 /2023, Register 246)

Authority: AS 16.05.251

5 AAC 41.075(c) is amended to read:

(c) The following species are classified as banned invasive species:

(1) Class A banned invasive species:

Common Name

Scientific Name

Amphibians

[AMERICAN BULL FROG

LITHOBATES CATESBELANUS]

Pacific chorus frog

Pseudacris regilla or Hyla regilla

Red-legged frog

Rana aurora

Crustaceans

[SIGNAL CRAYFISH

PACIFASTACUS LENIUSCULUS

RED SWAMP CRAYFISH

PROCAMBARUS CLARKII]

Rusty crayfish

Orconectes rusticus

European green crab

Carcinus maenas

Virile crayfish/Northern crayfish

Faxonius virilis

Fish

[ASIAN CARP

HYPOPTHALMICHTYS GENUS

YELLOW PERCH

PERCA FLAVESCENS]

Cyprinid fishes

***Cyprinidae* Family (includes invasive
carps, redbottom shiners, golden shiners,
and fathead minnows)**

American shad

Alosa sapidissima

Eastern Mosquitofish

Gambusia holbrooki

Round goby

Apollonia melanostromus

Mollusks

New Zealand mudsnail	<i>Potamopyrgus antipodarum</i>
Dreissenid mussels	<i>Dreissenidae</i> Family
Quagga mussel	<i>Dreissenia bugensis</i>
Zebra mussel	<i>Dreissenia polymorpha</i>
Conrad's or dark false mussel	<i>Mytilopsis leucophaeta</i>

Asian clam

Corbicula fluminea

(2) Class B banned invasive species:

Common Name

Scientific Name

Amphibians

American bull frog

Lithobates catesbeianus

Crustaceans

Signal crayfish

Pacifastacus leniusculus

Red swamp crayfish

Procambarus clarkii

Fish

Yellow perch

Perca flavescens

Muskellunge

Esox masquinongy

Walleye

Sander vitreus

Bluegill

Lepomis macrochirus

Largemouth bass

Micropterus salmoides

Smallmouth bass

Micropterus dolomieu

Black crappie

Pomoxis nigromaculatus

White crappie

Pomoxis annularis

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Ictalurid fishes

Ictaluridae Family (catfish)

Brook trout

Salvelinus fontinalis

Brown trout

Salmo trutta

White Perch

Morone americana

Pumpkinseed

Lepomis gibbosus

5 AAC 41.075(d) is amended to read:

(d) **A person may not possess** [IN THIS SECTION, “BANNED INVASIVE SPECIES” INCLUDES] any part of **a Class A banned invasive species** [AN ORGANISM], including reproductive or genetic material, at any stage of its life cycle, **except as follows:**

(1) when transporting a specimen to any department office or another location as directed by the department in a sealed container for the purpose of containing, identifying, or reporting the presence of the species; or

(2) under the provisions of an aquatic resource permit as described in 5 AAC 41.005.

5 AAC 41.075 is amended by adding a new subsection to read:

(e) A person may not possess any live Class B banned invasive species at any stage of its life cycle. (Eff. 4/25/2021, Register 238; am 6 /25/2023, Register 246)

Authority: AS 16.05.050 AS 16.05.251

Part 2. Sport Fishing and Personal Use Fishery.

Chapter 75. Statewide Provisions.

5 AAC 75.003(5) is amended to read:

(5) **in all** [IN STOCKED] waters, if waters become contaminated, or **in stocked waters** during times of low hatchery output, the commissioner may, by emergency order, modify methods and means, reduce bag limits, or institute a catch-and-release fishing only fishery. (Eff. 7/26/90, Register 115; am 3/13/2004, Register 169; am 5/26/2006, Register 178; am 7/1/2007, Register 182; am 6/10/2010, Register 194; am 4/9/2020, Register 234; am 6/25/2023, Register 246)

Authority: AS 16.05.060 AS 16.05.251

((Publisher: please make the following additional punctuation changes in 5 AAC 75.003:

- In 5 AAC 75.003(1)(B), please change the period at the end of the subparagraph to a semi-colon.
- In 5 AAC 75.003(2)(B), please change the period at the end of the subparagraph to a semi-colon.
- In 5 AAC 75.003(3), please make the first word ("For") lowercase and change the period at the end of the paragraph to a semi-colon.
- In 5 AAC 75.003(4), please make the first word ("The") lowercase.
- In 5 AAC 75.003(4)(B), please change the period at the end of the paragraph to a semi-colon.)))

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5 AAC 75.028 is amended to read:

5 AAC 75.028. Use of underwater spear and speargun. Subject to applicable seasons and bag and possession limits, a person who is completely submerged or swimming on the surface may use a spear or speargun in salt water to take fish if the spear or speargun is not tipped with an explosive charge. (In effect before 1988; am 6/10/2010, Register 194; am 6/26/2016, Register 218; am 6 / 25 /2023, Register 246)

Authority: AS 16.05.251

5 AAC 75.077(b)(2) is amended to read:

(2) for the years following the year of initial registration of a vessel, two current year renewal stickers will be issued by the department for that vessel; one current year renewal sticker must be securely affixed on each decal over the previous year renewal sticker and must be displayed in plain view at all times the vessel is used to provide sport fishing guide services, except that a vessel providing sport fishing guide services in the Kenai River Special Management Area (AS 41.21.502) may display the current year Department of Natural Resources Kenai River guide decal as proof of ADF&G registration.

(Eff. 2/10/2005, Register 173; am 3/4/2015, Register 213; am 3/15/2017, Register 221; am 6 / 25 /2023, Register 246)

Authority: AS 16.05.251 AS 16.05.395

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Chapter 77. Personal Use Fishery.

5 AAC 77.010 is amended by adding a new subsection to read:

(n) The use of footgear with absorbent felt or other fiber material on the soles is prohibited while personal use fishing in freshwater. (Eff. 6/20/82, Register 82; am 7/1/86, Register 99; am 7/12/86, Register 99; am 10/26/86, Register 100; am 4/2/88, Register 105; am 6/25/89, Register 110; am 9/19/90, Register 115; am 2/27/91, Register 117; am 7/16/92, Register 123; am 4/1/94, Register 129; am 6/5/94, Register 130; am 9/5/97, Register 143; am 5/31/98, Register 146; am 12/1/2004, Register 172; am 7/13/2012, Register 203; add'l am 7/13/2012, Register 203; am 5/9/2015, Register 214; am 8/27/2016, Register 219; am 6/25/2023, Register 246)

Authority: AS 16.05.251

5 AAC 77.171(a) is amended by adding a new paragraph to read:

(7) unless a person is fishing under the ice, gillnets in operation sunk below the surface must have a keg, buoy, or cluster of floats visible on the surface of the water at each end of the submerged net, and for submerged gillnets over 60 feet in length, a third keg, buoy, or cluster of floats must be attached to the middle of the net.

(Eff. 6/10/98, Register 146; am 6/17/2001, Register 158; am 8/24/2002, Register 163; am 8/23/2009, Register 191; am 5/19/2010, Register 194; am 7/13/2012, Register 203; am 5/22/2016, Register 218; am 6/28/2019, Register 230; am 9/19/2019, Register 231; am 5/24/2023, Register 246; am 6/25/2023, Register 246)

Authority: AS 16.05.251

((Note to Publisher: please change period at the end of 5 AAC 77.171(a)(6) to a semicolon)))